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**

FILED
MAY 2 2 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 28, 2003, pursuant to 170 IAC 1-1.1-4, Indiana Bell Telephone Company, Incorporated ("SBC Indiana") filed its *Motion for Protection of Confidential and Proprietary Information* ("Motion"). In accordance with 170 IAC 1-1.1-4(b), the Motion was accompanied by the sworn statements of Carla L. Holms and Robert L. Walters. The Motion seeks confidential treatment as to the following exhibits that SBC Indiana desires to file in this Cause: Exhibit CLH-1, which is the customer specific offering ("CSO") filing package; Exhibits CLH-2 through CLH-7, which are the documents supporting the cost analysis; Exhibit DFN-1, which contains information concerning the network configuration of The Care Group; and Exhibit RW-1, which contains information concerning the dollar value of the credit given by SBC Indiana to The Care Group upon the execution of three contracts, one of which is at issue in this Cause. The Motion asserts that these Exhibits constitute trade secrets and are exempt from public disclosure pursuant to the trade secret exception to public disclosure found at Indiana Code 5-14-3-4(a) and 24-2-3-2.

On May 7, 2003, Time Warner Telecom of Indiana, L.P. ("TWTC") filed its *Objection to Portions of SBC Indiana's Motion for Confidential Treatment* ("Response"). The Response objects only to a confidentiality determination as to Exhibit RW-1, and states that " ...without knowing the duration of the agreements, the services offered, and the overall value of SBC's contract with The Care Group, a competitor could not gain any independent economic value from disclosure of the dollar value of the credit given to The Care Group."

On May 14, 2003, SBC Indiana filed its *Reply to Time Warner's Response to Motion of SBC Indiana for Protection of Confidential and Proprietary Information* ("Reply").

TWTC's Response seems to argue that the dollar value of the credit given to The Care Group is of no competitive value unless a competitor has information relevant to all three contracts upon which the credit is based. And since only one of the three contracts is applicable to this proceeding, the dollar value of the credit, in the limited context of this Cause, is of no competitive value.

The sworn statement of Robert L. Walters states that the dollar value of the credit is confidential cost information that would be of value to current and future competitors, is not ascertainable by competitors through proper means, and is the subject of extensive efforts by SBC Indiana to maintain its secrecy. Based on the assertion that the dollar value of the credit is integral to the pricing of specific contracts for a specific customer, we find support for a preliminary determination that the dollar value of the credit is trade secret information. While other confidential or non-confidential documents might be identified as bearing on the competitive value of this information, we do not, and probably could not, have enough information to conclude that the dollar amount of the credit has competitive value only in the context of knowing the specific additional information identified by TWTC. Having determined that the information qualifies for trade secret protection, it is not for us to also determine all possible contexts in which other persons might gain competitive value from knowing the information. We find the following statement by SBC Indiana to be persuasive: "The dollar amount of the credit has independent economic value to SBC Indiana's competitors and also to SBC Indiana's other customers with whom SBC Indiana may negotiate at some later date." (Reply, p.3)

The Presiding Officers also note that we recently granted TWTC's motion in this Cause for confidential treatment of that part of Kevin Killworth's deposition testimony wherein he testifies as to the approximate amount of a credit voucher offered by "Ameritech." If Exhibit RW-1 and the confidential information on page 30, line 9 of Kevin Killworth's deposition are referencing the same credit, then we have already addressed the need to treat this information as confidential.

It is determined, on a preliminary basis, that SBC Indiana's Exhibits CLH-1, CLH-2 through CLH-7, DFN-1, and RW-1, all of which are more fully described above, constitute trade secret information. Accordingly, SBC Indiana shall hand deliver these Exhibits to the presiding Administrative Law Judge in a sealed envelope clearly marked "confidential" and with the Cause Number noted thereon. Said Exhibits shall be treated as confidential and exempt from public disclosure in accordance with Indiana Code 5-14-3.

IT IS SO ORDERED.

Judith G. Ripley, Commissioner

William G. Divine, Administrative Law Judge

5/22/03

Date

Nancy E. Manley, Secretary to the Commission