

**State of New Hampshire**  
**Before the New Hampshire Public Utilities Commission**

Joint Petition of Hollis Telephone Company, )  
Inc., Kearsarge Telephone Company, )  
Merrimack County Telephone Company, and )  
Wilton Telephone Company, Inc., for Authority )  
to Block the Termination of Traffic from )  
Global NAPS, Inc., to Exchanges of the Joint )  
Petitioners in the Public Switched Telephone )  
Network )

Plaintiffs, )

v. )

GLOBAL NAPS, INC., )

Defendant )

Case No. DT 08-028

**REPLY OF DEFENDANT TO INTERVENOR'S MOTION TO STRIKE  
DEFENDANT'S OPPOSITION**

In its motion to strike Global's opposition to its request to terminate services to Global, FairPoint seeks to obfuscate the unique issues crucial to the resolution of this dispute. Instead of discussing the facts in this dispute, FairPoint seeks again to piggy back on this Commission's grant of TDS' request to block Global's traffic, springing from TDS' tariff claims. FairPoint Motion to Strike (Filed June 4, 2010), (FP Mot.) at 2. But there are numerous reasons why the dispute between FairPoint and Global is wholly different, factually and legally, from Global's dispute with TDS, a telephone company that is not an ILEC and not obligated to interconnect<sup>1</sup> under an ICA approved by this

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<sup>1</sup> See TCA, 251(c)(2).

Commission, which in this case exempts from traditional charges traffic that touches the internet at any point in its transmission.

Unlike TDS, FairPoint, having supplanted Verizon as the inheritor of the Bell monopoly in New Hampshire, is obligated by federal law to interconnect with Global on the basis of negotiated, cost-based, non-discriminatory rates compatible with sections 251 and 252 of the Act. Given that it has entered into an ICA with Global pursuant to the TCA, Fairpoint cannot collect a money award or obtain the more drastic relief of blocking interstate traffic until and unless it has litigated its claim to \$4 million dollars in access fees and been awarded some such amount by this Commission. FairPoint cannot get away from the well-settled rule enunciated in *Core*,<sup>2</sup> which states that it must prevail on its claim before being entitled to relief. Thus, the fact that this Commission has never adjudged FairPoint's claim in light of the FairPoint-Global ICA is fatal.

When it intervened in this proceeding, FairPoint argued to this Commission that "Global NAPs is obligated under the Interconnection Agreement to pay for access services." Brief in Support of Joint Petitioners (JP Br.) (filed September 29, 2008), at 7. However, it admitted in its brief to this Commission that it had agreed not to bill Global more for termination of "internet traffic" than FCC orders allow, citing section 8.1 of the parties' ICA, dealing with internet traffic. *See id.*, at 3. In tiny print, it explained that the contract defines "Internet traffic" as any traffic "transmitted to or returned from the

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<sup>2</sup> *Core Communications, Inc. v. Verizon Pa., Inc.*, 493 F.3d 333 (3d Cir. 2007) ("[I]nterpretation and enforcement actions that arise after a state commission has approved an interconnection agreement *must be litigated* in the first instance before the relevant state commissions.") (emphasis added). *See also Z-Tel Communications, Inc. v. SBC Communications, Inc.*, 331 F.Supp.2d 513, 549 (E.D. Tex. 2004) ("Under the Telecommunications Act, state regulatory bodies are charged with making the initial 'determination' of any disputes between parties regarding the interpretation and enforcement of interconnection agreements."); *Indiana Bell Telephone Co., Inc. v. McCarty*, 30 F.Supp.2d 1100, 1104 (S.D.Ind.1998) (Dismissing ICA claims, stating: ". . . circumventing the commission would jeopardize the entire system of review established by the Act.").

internet *at any point during the duration of the transmission.*” JP Br., at 3, fn.1 (citing section 2.43 of glossary). It did not explain, however, how it could calculate \$4 million of access charges when the FCC has stated that IP telephony is exempt from traditional access charges,<sup>3</sup> as are intermediate carriers of traffic such as Global.<sup>4</sup>

FairPoint’s only argument in this regard was its contention that Global had supposedly admitted that it did not know whether its traffic “may have used internet protocol.” JP Br., at 7. But that is the opposite of what Global had stated. Global told this Commission that all its traffic came to it in packets from Enhanced Service Providers, as voice and data, meaning that it must have touched the internet at some point.<sup>5</sup> Global Response to Stip. 9. Global also stated that its ESP customers were VoIP providers. *Id.* The only fact of which it admitted no direct knowledge was whether its traffic *originated* in internet protocol, Response to Stip. 13, an issue that was non-dispositive in this case. Certainly, this Commission has never found as a matter of fact that Global’s traffic does not touch the internet.

Reminded of these uncomfortable facts in Global’s last motion in opposition, FairPoint now seeks to disavow the interconnection agreement entirely, claiming that it can and is suing purely under its tariffs, stating “FairPoint’s . . . claims are and always

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<sup>3</sup> See *In the Matter of Petition for Declaratory Ruling that AT&T’s Phone-to-Phone IP Telephony Services Are Exempt from Access Charges*, FCC WC Docket No. 02-361, FCC 04-97, ¶ 9 (released April 21, 2004) (*IP-in-the-Middle*) (citing *Developing a Unified Inter-carrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, 16 F.C.C. Rcd 9610, 9657, ¶ 133 (2001)) (“[IP] telephony . . . is exempt from the access charges that traditional long-distance carriers must pay”).

<sup>4</sup> *IP-in-the-Middle*, at fn. 92 (“To the extent terminating LECs seek application of access charges, these charges should be assessed against interexchange carriers *and not against any intermediate LECs that may hand off the traffic to the terminating LECs . . .*”); See also *Proposed Order In The Matter Of The Investigation, Examination And Resolution Of Payment Obligation Of Global NAPs - Maryland, Inc. For Intrastate Access Charges Assessed By Armstrong Telephone Company – Maryland* (M.D.P.S.C. December 30, 2009), at 24.

<sup>5</sup> See *Minnesota Public Utilities Commission v. FCC*, 483 F.3d 570, 574 (8<sup>th</sup> Cir. 2007) (“VoIP is an internet application utilizing ‘packet-switching’ to transmit a voice communication over a broadband internet connection. In that respect, it is different from the ‘circuit-switching’ application used to route traditional landline telephone calls.”).

have been grounded in their tariffs.” FP Mot., at 7. But ICA claims must always be grounded in the ICA’s text. FairPoint’s new position is completely inconsistent not only with FairPoint’s actual actions, but also with the ICA, which provides in clause 1.2 that in the event of conflict, the “Principal Document,” (i.e. the ICA), shall take “precedence” over the tariffs.<sup>6</sup> Obviously, there is a conflict when the Principal Document says that compensation for traffic employing internet protocol shall not exceed that allowed by FCC rulings while the tariff includes rates thirty or forty time higher than anything the FCC has allowed for any form of internet traffic. Thus, having agreed in the ICA to bill internet traffic pursuant to FCC-approved rates, FairPoint has no option to rely on its tariffs instead.<sup>7</sup>

That conclusion is also borne out by the case law. In *U.S. West Communications Inc. v. Hix*, 183 F.Supp.2d 1249, 1266 (D.Colo. 2000), the Colorado district court concluded:

The Court finds that allowing a CLEC that has executed an interconnection agreement to use a tariff to supplement or supplant any term, condition, or price that is covered by the agreement VIOLATES the Act. That is because such a provision would eviscerate the provisions of 251 and 252 of the Act which require that the parties negotiate the terms of an interconnection agreement and arbitrate those terms that they are not able to agree to. As one court stated the issue, "permitting CLECs to incorporate non-negotiated tariff provisions into their interconnection agreements bypasses the Act entirely and ignores the procedures and standards that Congress has established." *MCI Telecommunications Corp. v. GTE Northwest, Inc.*, 41 F.Supp.2d 1157, 1178 (D.Or.1999).

Writing for the Seventh Circuit Court of Appeals, Judge Posner cited *Hix* with approval, and stated that filing a tariff would not allow a party to an interconnection

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<sup>6</sup> Clause 1.2 is part of Exhibit 1 to Global’s Opposition to FairPoint’s Request to Terminate Service (filed May 25, 2010) (Global Opp.).

<sup>7</sup> The ICA also contains an integration clause stating that the ICA contains the entire agreement between the parties. ICA, §1.3.

agreement to shield its actions from federal law requirements by pretending that it was advancing pure tariff claims:

. . . . since interconnection agreements are complex and have to be approved by a state commission and disputes over their meaning are very likely to present issues related to the commission's federal statutory authority—for example whether the contractual interpretation urged by one of the parties would result in price discrimination, 47 U.S.C. § 252(d)(1)(A)(ii)—the referral of interpretive disputes to the state commission, unless they seem contrived or are otherwise easy to resolve, is a sensible procedure . . . And if this is right, then a carrier seeking to enforce an interconnection agreement must not be permitted to prevent referral by filing a tariff and suing to enforce it rather than the interconnection agreement. *U.S. West Communications, Inc., v. Hix*, 183 F.Supp.2d 1249, 1266 (D.Colo.2000); see *Global NAPs, Inc. v. FCC*, 247 F.3d 252, 255-56 (D.C.Cir.2001).<sup>8</sup>

He also agreed with the *Hix* rule that a tariff cannot trump an ICA, stating:

. . . . if an interconnection agreement specifies a particular price for a particular service, the seller cannot, simply by filing a tariff, prevent the buyer from challenging the price in the tariff as discrepant with the price in the interconnection agreement.<sup>9</sup>

Despite being bound by the words of the ICA with respect to compensation for internet traffic, FairPoint makes no effort to explain the meaning of the contract or to tie its conclusions to specific evidence or admissions in the record. Nor have any of FairPoint's contentions regarding its entitlement to access charges been examined. Global was not given any opportunity to propound discovery to FairPoint much less examine a single FairPoint witness. Global has also been unable to investigate the propriety of FairPoint's charges, as the record is barren of information concerning what FairPoint charges other carriers like Global or what its internal documents say about the meaning of the contract clause concerning internet traffic.

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<sup>8</sup> *Illinois Bell Tel. v. Global NAPs Illinois Inc.*, 551 F.3d 587, 594 (7<sup>th</sup> Cir. 2008).

<sup>9</sup> *Id.*, at 593.

In contrast to FairPoint, Global has submitted testimony from its trial in New York<sup>10</sup> which further confirms that its traffic touches the internet and negates FairPoint's theory of recovery. Global has proffered the testimony of its Vice President of Sales and Marketing stating that it carries VoIP traffic,<sup>11</sup> as well as testimony of a supplier of Global's equipment who explained that this equipment is used to switch packets arriving over the internet from a packetized network to another type of network, such as a TDM network.<sup>12</sup>

Faced with these issues, FairPoint ultimately retreats to the notion that it is equitably entitled to some payment for terminating Global's traffic. FP Mot., at 8; *see also* JP Br., at 7. This issue has, of course, been addressed by Global's offer, months ago, to pay FairPoint \$.00045 per MOU for termination of its VoIP traffic.<sup>13</sup> FairPoint fails to note this offer in its latest brief or to acknowledge that it, on the other hand insists on being paid the full \$4 million in tariff charges, not some compromised figure. FairPoint should not be allowed to have it both ways: demand \$4 million, reject Global's offer, and then complain that Global has not paid anything. Global cannot be expected to arrive at a negotiated or FCC-acceptable rate in the face of FairPoint's all-or-nothing posture.

Furthermore, as Global pointed out, FairPoint does not pay Global anything for its dial-up traffic which Global terminates for its subscribers. Global Opp., at 10.

FairPoint's response is that Global has never billed it for such traffic,<sup>14</sup> but the relevant point of course is that FairPoint clearly understands that non-payment for a termination

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<sup>10</sup> *Manhattan Telecommunications Corp. (MetTel) v. Global NAPs Inc.*, 08-civ-3829 (JSR) (Findings of Fact and Conclusions of Law issued March 31, 2010 S.D.N.Y.).

<sup>11</sup> (Masuret, Trial Tr. 182-83, Sept. 9, 2009) (attached to Motion for Stay Reconsideration or Rehearing (filed December 2, 2009) as Ex. J), Reattached here.

<sup>12</sup> (Eccles, Trial Tr. 253, Sept. 10, 2009) (attached to Motion for Stay Reconsideration or Rehearing as Ex. L), Expanded version attached here as Ex. A.

<sup>13</sup> *See* Ex. 2 to Global Opp.

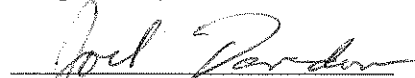
<sup>14</sup> FP Mot., at 7.

service does not give rise to a right to block traffic. Additionally, FairPoint's response in no way explains how it could justify blocking traffic both in and out of the state even though it asserts no non-payment by Global in regard to dial-up traffic terminated by Global (not FairPoint).

FairPoint makes one final attempt to attack Global's argument that a cut off of service such as the one proposed is prohibited by the TCA. It states that section 214, which Global cites for the proposition that the TCA prohibits unauthorized diminution of service, deals with extension of lines. FP Mot., at 8. Nonetheless, section 214(a)(3) states that a carrier cannot, on its own initiative, discontinue service to a community. Furthermore, the FCC has extended § 214 to "providers of interconnected VoIP service." *In the Matter of IP-Enabled Services*, 24 F.C.C.R. 6039; 2009 WL 1362812 (2009). Thus, FairPoint cannot argue that section 214 of the TCA is inapplicable here.

In conclusion, given the fact that the FairPoint-Global dispute involves an ILEC, an ICA with an internet traffic exception and the blocking of interstate traffic to an entire state prior to issuance of any award by the state commission, it would be unacceptable to grant FairPoint's requested remedy without a hearing to determine whether such a remedy is warranted.

Respectfully Submitted,



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Dated: June 9, 2010



**CERTIFICATE OF SERVICE**

I hereby certify that I have caused copies of the foregoing to be served on the attached service list.

Executed this day, June 9, 2010.

  
\_\_\_\_\_  
Victoria Romanenko

State of New Hampshire  
Before the New Hampshire Public Utilities Commission

DT 08-028

Joint Petition of Hollis Telephone Company, Inc., Kearsarge Telephone Company, Merrimack County Telephone Company, and Wilton Telephone Company, Inc., for Authority to Block the Termination of Traffic from Global NAPs, Inc. to Exchanges of the Joint Petitioners in the Public Switched Telephone Network

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# EXHIBIT A

99ASMAN1  
1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x  
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3 MANHATTAN TELECOMMUNICATIONS CORP.,

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4 Plaintiff,

5 v.

08 CV 3829 (JSR)

6 GLOBAL NAPS, INC.,

7 Defendant.  
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8 -----x

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9 New York, N.Y.  
10 September 10, 2009  
10 9:30 a.m.  
11

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12 Before:

12  
13 HON. JED S. RAKOFF

13  
14 District Judge  
14

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20 Attorneys for Defendant  
20 BY: JOEL DAVIDOW  
21 MATTHEW P. THIELEMANN  
21

99ASMAN1

Eccles - direct

- 1 BY MR. DAVIDOW:  
2 Q. By whom are you employed, Mr. Eccles?  
3 A. I work for Convergent Networks.  
4 Q. What is your title there?  
5 A. I am vice president of software development.  
6 Q. Could you describe your education after high school?  
7 A. I have a Bachelor of Science in electrical engineering from  
8 Rensselaer Polytechnic Institute.  
9 Q. When did you first get involved in the telecommunications  
10 industry in any form of work?  
11 A. I first worked at Boston Technology starting in 1995,  
12 working on voice mail systems for telecommunications providers  
13 around the world. I started to work at Convergent in '99, so  
14 14 years.  
15 Q. What is the business of Convergent?  
16 A. Convergent is an equipment provider and along with  
17 providing equipment, selling equipment, we also obviously  
18 maintain the equipment through service contracts.  
19 Q. Is there software involved in your business?  
20 A. A good portion of our business is writing and developing  
21 software for telecommunications applications, both hardware and  
22 software.  
23 Q. I forgot to ask you, where is your business located  
24 physically?  
25 A. The business is located in Billerica, Massachusetts,

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99ASMAN1

Eccles - direct

1 outside Boston.

2 Q. Could you describe in some general way kinds of equipment  
3 or equipment plus software that you sell?

4 A. Yes, our main sort of work-horse product is a switch which  
5 changes or switches from TDM, which are sort of conventional  
6 telephone pipes, to packet switch, either ATM or IP, and so we  
7 will connect voiceover IP to the telephone network or to a core  
8 switching of ATM. And we also make -- there is a large number  
9 of peripheral equipment pieces which go along with the switch,  
10 different sort of data base boxes, things to handle protocols.  
11 It's a large solution that sort of surrounds the switch. The  
12 switch is 23 inches wide with 20 slots in there so there are 20  
13 separate computers running inside of this switch, and it's big  
14 iron I guess I would say. It's 20 inches high, 23 inches wide,  
15 and 20 inches deep. It's got a lot of software, a lot of  
16 hardware in it.

17 Q. About how many substantial customers do you have for these  
18 products?

19 A. The main customers that we have are Global Naps is our  
20 largest customer. There is a company called COMM Partners,  
21 which is based in Las Vegas. There is Broad Voice which is  
22 another large customer of ours, and some other smaller  
23 customers around single pipe in Kentucky.

24 Q. Is the equipment you are discussing, does it have a purpose  
25 in a particular industry? Is there some particular industry

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99ASMAN1

Eccles - direct

1 you have to be in to want this equipment?

2 A. Yes, you are a telecommunications provider or a voiceover  
3 IP provider would want this equipment.

4 Q. What would be the advantages to a voiceover IP provider of  
5 having this equipment?

6 MR. KLEIN: Objection, foundation, vague.

7 THE COURT: Overruled.

8 You may answer it.

9 A. The equipment essentially what it does is it allows -- it  
10 enables in a phone call coming in over the Internet to be  
11 switched either to another carrier through IP or to another  
12 carrier, as I said, through ATM or to another carrier through  
13 TDM. So that is the main purpose of it, is to enable this  
14 switching of packetized voice network to another type of  
15 network, either another packet network or a TDM network. In  
16 the process of doing that what it does is it corrects for a lot  
17 of problems which can occur in a packetized network.

18 Q. What are the advantages of a packetized network?

19 A. A packetized network can give you -- it gives you a number  
20 of advantages over a TDM network. In a TDM network you have  
21 fixed connections between point A and point B. In a packetized  
22 network you have diverse paths which go between, so if I need  
23 to get from point A to point B I can take different paths to  
24 get there and I don't have to buy these dedicated pipes between  
25 carriers. It also has the advantage of compressing the voice

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1 so you can change -- basically you can take if a call, if the  
2 data for a call is a certain size, in a normal phone call it's  
3 56, 56K bits per second, you can shrink that. You can take the  
4 voice and compress it down than an actually useless band width  
5 than you would in a TDM network.

6 Q. Does the actual sound or is the actual sound of the call  
7 coming across this divide changed?

8 THE COURT: I am not sure what that question means.  
9 You mean to the listener?

10 MR. DAVIDOW: Yes.

11 A. Every piece of equipment changes the data that it touches.  
12 It either helps things to improve it or it can also introduce  
13 errors into it. In this case essentially what it does is it  
14 takes the packetized voice and brings it in. It corrects for  
15 if packets are lost in transmission there is something called  
16 packet lost concealment, which will make an effort to introduce  
17 to fill that Void where the missing data was in. So  
18 approximate the voice on each side and it's a very small piece  
19 of data which is put in there but in that case the voice is  
20 improved over what was delivered across the packetized network.  
21 There is also, you know, accounting for different delays in a  
22 packetized network which the switch will essentially collect  
23 data and then play it out at a later time. It's a very small  
24 delay but this is called network jitter and what happens is if  
25 packets are delayed getting from point A to point B, the switch

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1 allows for this by collecting packets and then --  
2 THE COURT: This is, I think, more than the court  
3 needs to know.  
4 I thought you were asking a much more simple question,  
5 and maybe I misunderstood, about whether, for example, and you  
6 are probably not old enough to remember 45 and 78 and 33 RPM  
7 records but if you played, say, a 33 record on a 78 machine the  
8 voices came in a totally different pitch and speak.  
9 THE WITNESS: Right.  
10 THE COURT: Your device doesn't do that, does it?  
11 THE WITNESS: No.  
12 THE COURT: The person still sounds like the person  
13 after they have run through your equipment to someone who is  
14 familiar with their voice, right?  
15 THE WITNESS: Correct.  
16 THE COURT: So you are on these corrections and so  
17 forth but in the broader perspective the voice still sounds  
18 like the person who was speaking, yes?  
19 THE WITNESS: Yes.  
20 THE COURT: Okay.  
21 THE WITNESS: I do remember the 33.  
22 THE COURT: You are older than you look.  
23 MR. DAVIDOW: Your Honor, I am going to go on with  
24 this a little bit with this so if I may something briefly about  
25 the relevance.

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99A4MAN2

Eccles - direct

1 money?

2 MR. KLEIN: Objection; leading.

3 THE COURT: Overruled. I think it's self-evident.

4 You may answer.

5 A. Yes. There is different reasons for compression and it  
6 does use less band width than uncompressed data. So there is a  
7 cost savings associated with that when you are trying to --  
8 every bit that goes across from between you and your in this  
9 case Internet service provider is, you pay by the bit, and in a  
10 compressed voice path, you send less bits and less money.

11 THE COURT: To return for one/half second, again this  
12 is just off the top of my head, I am not making any rulings, on  
13 the point you have of course repeatedly raised, I am sure the  
14 Texas judge was reluctant and I am certainly reluctant to enter  
15 into areas that the FCC could and should have addressed and  
16 that were before the FCC, but if someone is owed some money and  
17 they are not paid their money and they sue and someone says we  
18 don't owe them the money, that's essentially what this lawsuit  
19 is about, they can't be asked to stay on hold forever awaiting  
20 an FCC ruling. There comes a point where under the most  
21 elementary principles of law, a court has to rule on their  
22 request.

23 I take your point about if a court in so ruling can  
24 avoid issues where there is an administrative agency that might  
25 have addressed the issue, that may be prudent, but it cannot be

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# Exhibit J

9994MAN1  
1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x  
2  
3 MANHATTAN TELECOMMUNICATIONS CORP.,

4  
4 Plaintiff,

5  
5 v.

08 CV 3829 (JSR)

6  
6 GLOBAL NAPS, INC.,

7  
7 Defendant.

8  
8 -----x

9  
9 New York, N.Y.  
10 September 9, 2009  
10 11:20 a.m.

11  
12 Before:

13  
13 HON. JED S. RAKOFF

14  
14 District Judge

15  
15 APPEARANCES

16  
16 KLEIN LAW GROUP PLLC  
17 Attorneys for Plaintiff  
17 BY: ANDREW M. KLEIN  
18 ALLEN C. ZORACKI  
18 BRADLY G. MARKS

19  
19 KILE GOEKJIAN REED McMANUS PLLC  
20 Attorneys for Defendant  
20 BY: JOEL DAVIDOW  
21 MATTHEW P. THIELEMANN

999SMAN2

Masuret - direct

- 1 A. Yes. I graduated from Boston College High School and then  
2 on to Boston College where I received a BS in business.  
3 Q. And how long have you been in the telecommunications  
4 business?  
5 A. I have been in the telecom since 1990.  
6 Q. Approximately 19 years?  
7 A. Yes.  
8 Q. Were they all with Global Naps?  
9 A. No, they were not.  
10 Q. Who else did you work for in telecom?  
11 A. I worked for U.S. Telecenters for approximately 2 years. I  
12 went on to work for Ray Calvin Datacom for approximately 3  
13 years. I went on to U.S. Robotics for approximately 2 years,  
14 and that should bring us up to May '98 where I went to work for  
15 Global Naps.  
16 Q. What are your duties at Global Naps?  
17 A. I do the selling of the Global Nap products to the customer  
18 base.  
19 Q. What kind of telecommunications business is Global Naps in?  
20 A. Currently I would say that we have two product lines. The  
21 first would be an inbound application where we provide  
22 telephone service or DID service, which stands for direct  
23 inward dialing service, to Internet service providers seem to  
24 be the company that is most attracted to that product. And the  
25 second product line could be described as a forwarding of

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Masuret - direct

1 voiceover IP traffic.

2 Q. Is the first business sometimes called dial-up Internet?

3 A. Yes, the application is dial-up Internet that would go over  
4 that product, yes.

5 Q. And in regard to your voiceover Internet protocol business,  
6 your VoIP business, who are your customers? Who pays you for  
7 that forwarding?

8 A. The customer base I would refer to as enhanced service  
9 providers.

10 Q. And how many customers do you have for your whole income as  
11 a VoIP program?

12 A. It has ranged over the course of the past many years but  
13 it's always been a relatively small number. So I would say  
14 approximately 85 to 95 -- 85 to 90 percent of our business  
15 comes from three of the enhanced service providers and there  
16 are approximately two or three additional enhanced service  
17 providers or VoIP carriers, pure VoIP carriers that account for  
18 the rest.

19 Q. And let's start with your top three. Who are they?

20 A. The top three would be Transcom, COMM Partners --

21 Q. Would you spell that?

22 A. COMM Partners. I believe they are referred to in this case  
23 as TPC, the letters TPC, and the last company of the big three  
24 would be Point One, also known as UNE-Point.

25 Q. What is the central location of Transcom?

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Masuret - direct

- 1 A. Texas.  
2 Q. What is the central location of COMM Partners?  
3 A. Las Vegas.  
4 Q. What is the central location of Point One?  
5 A. Texas.  
6 Q. Could you describe the remainder of your customers, the  
7 smaller ones, in terms of name and location?  
8 A. Sure.  
9 NTERA is no longer a customer now. They went bankrupt  
10 I would like to approximate maybe 3 or 4 years ago. I can't be  
11 exactly sure of that date. We also terminate traffic for Magic  
12 Jack, also known as YMAX, and we also terminate traffic for  
13 Broad Voice. There is one more account that has turned up a  
14 couple of months ago and their name is Raynwood Communications.  
15 Q. Do you have any end-user customers, that is, businesses or  
16 people who want to make telephone calls for purposes of your  
17 VoIP business?  
18 A. No, we do not have any direct end users if that is what you  
19 are asking.  
20 Q. Do you deliver any calls in which you were paid by minute  
21 of use as you met with them?  
22 A. We offer a flat rate product.  
23 Q. And what do you mean by a flat rate product?  
24 A. Similar to, say, a residential product that you may have at  
25 home where you pay a flat monthly price and you can terminate

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Masuret - direct

1 Q. Where are your major switching locations?

2 A. The major facilities that we bring traffic back into where  
3 our switches are located, there are three main areas currently.  
4 They are Quincy, Massachusetts, New York, New York, and Reston,  
5 Virginia.

6 Q. When you speak of carrying voiceover Internet traffic, do  
7 you carry, for want of a better word, more than one kind of  
8 VoIP?

9 A. I would say that voiceover IP traffic can come in different  
10 flavors, so I would describe the first type of voiceover IP as  
11 a nomadic VoIP application where the user -- the most common  
12 name that you might hear would be a Vonage application where  
13 the user can get a phone number that is a virtual phone number.  
14 It does not have to be affiliated with any specific location  
15 where they would be making a phone call from. So that is why  
16 we call it nomadic in nature.

17 The second type of voiceover IP application I would  
18 refer to as more of a static application and a cable company  
19 would probably fall into that sort of a category where the  
20 physical location making the call is more stationery.

21 And the third type of voiceover IP would be more of  
22 the conversion to IP takes place in the middle of a call and at  
23 the same time because all the traffic that is associated with  
24 Global Naps comes to us from an enhanced service provider, it's  
25 that core or that middle piece, this IP, which is where the

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