

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Bell Telephone Company)
)
) Docket No. 00-0393
Proposed Implementation of High Frequency)
Portion of Loop (HFPL) / Line Sharing Service)

STAFF'S OBJECTION TO COVAD / RYTHYMS' FIRST SET OF DATA REQUESTS

The Staff of the Illinois Commerce Commission, pursuant to Sections 200.340 and 200.370 of the Rules of Practice before the Illinois Commerce Commission, hereby objects to Covad / Rythym's First Set of Data Requests, and, in support thereof, states as follows:

1. The Data Request in question seeks to discover a "copy of the memorandum to the Commissioners setting forth Staff's position as to whether Ameritech's proposed line sharing tariff (which was ultimately suspended) should be suspended. If more than one memorandum was provided to the Commission, your response should include all such memoranda." See Covad / Rythym's First Set of data Requests to the Staff of the Illinois Commerce Commission.

2. The memorandum in question is not part of the public record, and the Staff believes that no reference was made to it by the Chairman, or any other Commissioner in the Order initiating this docket.

3. Section 7(f) of the Freedom of Information Act exempts from public inspection of any sort, and therefore, *a fortiori*, from discovery "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or

policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body.” 5 ILCS 140/7(f).

4. The memorandum in question constitutes “recommendations ... and other records in which opinions are expressed, or policies or actions are formulated” in this matter, and thus falls within the exemption provided under Section 7(f). Perhaps needless to say, it is a “memorand[um] ... in which opinions are expressed, or policies or actions are formulated.”

5. Accordingly, the Staff respectfully objects to production of the data requested.

WHEREFORE , the Staff of the Illinois Commerce Commission respectfully requests that its recommendations be adopted in their entirety consistent with the arguments set forth herein.

Respectfully Submitted,

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