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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
USCOC OF ILLINOIS RSA #1, LLC,)
USCOC OF ILLINOIS RSA #4, LLC,)
USCOC OF ROCKFORD, LLC, and)
USCOC OF CENTRAL ILLINOIS, LLC)
) No. 04-0653
Petition for Designation as an)
Eligible Telecommunications)
Carrier under 47 U.S.C.)
Section 214(e)(2).)

Chicago, Illinois
December 8th, 2004

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

JOHN T. RILEY, Administrative Law Judge

APPEARANCES:

SIDLEY ,AUSTIN, BROWN & WOOD, LLP, by
MR. G. DARRYL REED
10 South dearborn Street
Chicago, Illinois 60603
(312) 853-7766
for Petitioner;

MS. STEFANIE GLOVER
160 North LaSalle Street, C-800
Chicago, Illinois 60601
(312) 793-8185
for Staff;

1 APPEARANCES CONT'D:

2

MR. JOSEPH D. MURPHY
3 306 West Church Street
Champaign, Illinois 61820
4 for IITA, et al.;

5

MR. GARY L. SMITH
1204 South 4th Street
6 Springfield, Illinois
(217) 789-0500
7 for Bergen Telephone Company, et al.

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21 SULLIVAN REPORTING COMPANY, by
Amy M. Aust, CSR
22 License No. 084-004559

1 JUDGE RILEY: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call Docket
3 04-0653. This is the petition of USCOC of Illinois
4 RSA No. 1, LLC, USCOC of Illinois RSA No. 4, LLC,
5 USCOC of Rockford, LLC, and USCOC of Central
6 Illinois, LLC, petition for designation as an
7 Eligible Telecommunications Carrier under 47 U.S.C.
8 Section 214(e)(2).

9 Beginning with counsel for the
10 Petitioner, Mr. Reed, would you enter an appearance
11 for the record.

12 MR. REED: Yes, please. G. Darryl Reed from
13 the law firm of Sidley, Austin, Brown & Wood, LLP,
14 Bank One Plaza, 10 South Dearborn, Chicago, Illinois
15 60603, (312) 853-7766.

16 JUDGE RILEY: And for Staff, please.

17 MS. GLOVER: Yes. For Staff, Stephanie Glover,
18 160 North LaSalle, Suite C-800, Chicago, Illinois
19 60601.

20 JUDGE RILEY: And for IITA --

21 MR. MURPHY: On behalf of the Illinois
22 Independent Telephone Association, Adams Telephone

1 Cooperative Association, Cambridge Telephone Company,
2 Cast Telephone Company, CR Telephone Company, Jeniseo
3 (phonetic) Telephone Company, Grafton Telephone
4 Company, Laharp (phonetic) Telephone Company, McDonna
5 Telephone Cooperative, McNabb (phonetic) Telephone
6 Company, Midcentury Telephone Cooperative, Mulltree
7 (phonetic) Independent Telephone Company, Oden
8 Telephone Exchange, Inc., Reynolds Telephone Company,
9 the El Passo Telephone Company, Wabash Telephone
10 Cooperative and Yates City Telephone Company, Joseph
11 D. Murphy, 306 West Church Street, Champaign,
12 Illinois 61820.

13 JUDGE RILEY: Thank you. And, Mr. Smith, on
14 behalf of the Intervenors.

15 MR. SMITH: Good morning, Judge. My name is
16 Gary Lloyd Smith. My business address is 1204 South
17 4th Street, Springfield, Illinois 62703. Business
18 telephone number is (217) 789-0500. I'm appearing
19 today on behalf of Bergen Telephone Company -- that's
20 B-e-r-g-e-n -- Glassford Telephone Company, Leaf
21 River Telephone Company, Montrose Mutual Telephone
22 Company, New Windsor Telephone Company, Onita

1 (phonetic) Telephone Exchange, Sharon Telephone
2 Company, Viola Home Telephone Company and Wood Hall
3 Community Telephone Company.

4 JUDGE RILEY: Thank you. Ms. Hertel, you are
5 next.

6 MS. HERTEL: Thank you. Appearing on behalf of
7 SBC Illinois, Nancy Hertel, H-e-r-t-e-l, 225 West
8 Randolph Street, Location 25D, Chicago, Illinois
9 60606; and my business phone number is
10 (312) 727-4517.

11 JUDGE RILEY: Thank you. Mr. Rud?

12 MR. RUDD: Appearing on behalf of Gallaton
13 (phonetic) River Communications, LLC, David Rudd,
14 R-u-d-d, 625 South 2nd Street, Springfield, Illinois
15 62704.

16 JUDGE RILEY: Thank you. And Mr. Sivil?

17 MR. CIVIL: Your Honor, Kevin Sivil appearing
18 on behalf of Citizens Telecommunication Company of
19 Illinois and eight separate frontier ILEC entities in
20 Illinois that were listed in our petition to
21 intervene.

22 JUDGE RILEY: Okay.

1 MR. CIVIL: My address is 2378 Wilshire,
2 Boulevard, Mound, Minnesota, 55364, phone number,
3 (952) 491-5564.

4 JUDGE RILEY: Thank you. Is there anyone who
5 has not entered an appearance?

6 Then I guess that's everyone who is
7 going to participate.

8 Mr. Reed, you are certainly as aware
9 as anyone of the number of petitions for leave to
10 intervene that have been filed in this matter. What
11 is the Petitioners' response to any or all of those
12 petitions?

13 MR. REED: We have no objection to the entry of
14 all of the petitions to intervene that have been
15 filed to date.

16 JUDGE RILEY: No objection at all?

17 MR. REED: No, sir.

18 JUDGE RILEY: All right. Then, do any of the
19 Intervenors have anything to say, or do they not want
20 to rock the boat.

21 MR. SMITH: I would ask that the petitions be
22 granted.

1 JUDGE RILEY: Staff, is there any response?

2 MS. GLOVER: Staff has no objection.

3 JUDGE RILEY: No objection from Staff, then I
4 will grant all of the petitions for leave to
5 intervene that have been filed thus far.

6 Having dispensed with that then, we
7 need a schedule. This is -- let me interrupt by a --
8 preface that by saying that I had originally call- --
9 set this for a hearing. Obviously, we are not
10 prepared to go to hearing today.

11 I would think that the Intervenors
12 have quite a bit to say about the petition itself, or
13 at least they're going to be given the opportunity to
14 do so.

15 And as a result, this will be
16 conducted as a status.

17 Jump into -- are the Intervenors going
18 to be filing testimony.

19 MR. SMITH: Well, Judge, I think before we get
20 to that juncture in the proceeding, I filed a
21 motion --

22 JUDGE RILEY: All right.

1 MR. SMITH: -- with regard to the pleadings and
2 trying to segment the proofs. I believe there's some
3 discovery that's being circulated. I'm contemplating
4 filing some data requests, but I haven't had the time
5 yet to see what Mr. Murphy has submitted so that I'm
6 not asking quite the same thing. I'm going to ask
7 for some things that are company specific as to my
8 clients.

9 So I think we need to allow sufficient
10 time to go through some basic discovery at this
11 point.

12 MR. REED: Your Honor, I would propose, in
13 light of the motions that have been filed, number
14 one, I would ask that the judge set a schedule for
15 the filing of responses to the motion -- replies and
16 responses to the motion.

17 JUDGE RILEY: All right.

18 MR. REED: Secondly, in light of the issues
19 that are likely to arise from the filing of the
20 petition, we would rec- -- Petitioner would recommend
21 that the parties be given adequate time to conduct
22 discovery prior to the filing of the Petitioners'

1 direct testimony.

2 In that regard, the Petitioners' would
3 propose, at this stage, to file direct testimony on
4 February the 10th. That would give the parties
5 sufficient time to conduct adequate discovery and
6 allow the Petitioners to respond to any other
7 outstanding motions, as well as to give the judge an
8 opportunity to address the merits of both the motions
9 in the event there are any subsequent motions that
10 are derived from the discovery to address those as
11 well.

12 JUDGE RILEY: All right. Okay. Then I clearly
13 jumped the gun talking about testimony, huh?

14 Is there any objection to Mr. Reed's
15 proposal? Anyone on the line?

16 (No response.)

17 JUDGE RILEY: Okay.

18 MR. SMITH: I don't have any objection. Do you
19 anticipate the need for a protective order --

20 MR. REED: We have --

21 MR. SMITH: -- or just a confidentiality
22 agreement will do or...?

1 MR. REED: We have drafted a confidentiality
2 agreement that we propose to circulate to the -- to
3 the service list. We think it is all encompassing.
4 Obviously parties certainly have a right to address
5 the merits of the protective order once it has been
6 served.

7 We are willing to work diligently with
8 the Intervenor to resolve any issues that may arise
9 with respect to said protective order -- excuse me,
10 with respect to said protective agreement.

11 With respect to our protective order,
12 at this juncture, we think it may be a bit premature,
13 but obviously we'll reserve the right to seek one if,
14 in the event, such an occasion arises.

15 MR. SMITH: Does Staff contemplate any
16 discovery?

17 MS. GLOVER: We're reserving our right.

18 MR. SMITH: We believe we got a "me too", I
19 think.

20 MS. GLOVER: You did get a "me too" and we
21 don't want to foreclose, you know, issuing the
22 requests following the initial filing of testimony

1 from Petitioner. So we'd like to allow for that
2 within the schedule.

3 MR. SMITH: Okay. I guess, essentially,
4 Mr. Reed's proposing about 60 days to, perhaps,
5 address the motion and conduct some discovery before
6 he files his direct testimony. And, I mean, that
7 seems reasonable to me.

8 MR. MURPHY: I think that sounds reasonable. I
9 guess -- I think we'll all know a lot more about what
10 this case is after we get the answers to the
11 discovery and after Mr. Reed files his direct
12 testimony. And, I guess, what I would propose is,
13 let's get that far, set a status that follows, you
14 know, ten days or two weeks after his direct
15 testimony and then talk about what other data
16 requests might come out of the direct testimony and
17 then schedule for the response of the testimony.

18 JUDGE RILEY: All right. I should advise all
19 the parties that I will be gone -- I will be out of
20 the country the second half of February and I will
21 not return to the office I don't think until about
22 March 1.

1 MR. SMITH: Okay.

2 JUDGE RILEY: Okay. Did -- okay. We with the
3 matter -- you've got two motions pending, as a matter
4 of fact.

5 MR. SMITH: Correct.

6 JUDGE RILEY: A motion for severance and a
7 motion for --

8 MR. MURPHY: More specificity I believe it was.

9 MR. SMITH: Well, it wasn't really a motion for
10 severance, it was a change of location and a motion
11 for more specific --

12 JUDGE RILEY: Motion for severance and to make
13 more definite and certain.

14 MR. SMITH: Correct.

15 JUDGE RILEY: Okay. And then you got the
16 motion for change of location?

17 MR. SMITH: And I believe Mr. Reed said he
18 wanted time to respond.

19 JUDGE RILEY: Okay.

20 MR. SMITH: Then, I guess, we get a short
21 response thereafter.

22 JUDGE RILEY: Right. Mr. Reed, how much time

1 would you need to respond to Mr. Smith's motions.

2 MR. REED: In light of the fact I will be
3 indisposed after next Friday the 17th until the 1st
4 of the year, I would propose to file a response to
5 the outstanding motions by next Thursday, which would
6 be the 16th.

7 And that time frame is obviously
8 consistent with the --

9 JUDGE RILEY: Okay.

10 MR. REED: -- time lines set forth within the
11 Commission's rules of practice.

12 JUDGE RILEY: Well within it, yes. And,
13 Mr. Smith, you wanted to --

14 MR. SMITH: December the 16th?

15 MR. REED: That is correct.

16 MR. SMITH: Okay.

17 JUDGE RILEY: And you wanted to file a response
18 there, too, Mr. Smith?

19 MR. SMITH: Yes. Let me get the other calender
20 out here, see what I can do. The 16 to -- why don't
21 we say the 27th, is that okay?

22 JUDGE RILEY: December 27?

1 MR. SMITH: Serve these electronically.

2 JUDGE RILEY: I should ask for those of you
3 participating telephonically, would there be any
4 response to Mr. Smith's motions from you?

5 MS. HERTEL: This is Nancy Hertel, I don't
6 anticipate that there will be.

7 JUDGE RILEY: I suppose that's -- is the
8 response the same for Mr. Rudd and Mr. Sivil,

9 MR. SIVIL: This is Mr. Sivil, yes, your Honor.

10 MR. RUDD: This is David Rudd, yes, your Honor.

11 JUDGE RILEY: Okay.

12 MR. MURPHY: I would point out, your Honor, we
13 may have some reply depending on the Petitioners'
14 response.

15 JUDGE RILEY: Okay.

16 MR. SMITH: Well, in light of the issues raised
17 and the time lines we've had or set out here, Judge,
18 when would you anticipate a ruling?

19 JUDGE RILEY: Probably within the -- well, let
20 me look at my calender. If I get the responses --
21 your response in by the 27th, I could have a ruling
22 by the end of the first week in January. That would

1 take us to the 7th.

2 Now, with regard to this discovery and
3 the data request going back and forth, that will be
4 an ongoing process during the month of January, I
5 take it?

6 MR. MURPHY: The initial discovery requests are
7 out and they're currently returnable in December, but
8 yeah. I mean --

9 JUDGE RILEY: Okay.

10 MR. MURPHY: -- I don't see anything in the
11 motion that's affecting discovery.

12 JUDGE RILEY: All right.

13 MR. SMITH: No, and I expect to send something
14 out in the next week. I don't know if anybody else
15 is anticipate any -- anticipating any. So I think
16 that keeps things pretty well -- within the schedule
17 proposed by Mr. --

18 JUDGE RILEY: I was going to say we're still
19 within our time line then, yeah. Okay.

20 MR. SMITH: Assuming you rule on the motion on
21 January 6th or 7th and Petitioner was required to
22 replead, I mean, that would essentially give them the

1 month before their testimony is due.

2 JUDGE RILEY: All right.

3 MR. REED: Well, you know, suffice it to say
4 depending on whatever the judge rules on the motions
5 to the extent that we need to revisit the schedule,
6 then certainly we have an ability to do so under the
7 Commission's rules. So I don't think we need to even
8 address that issue.

9 JUDGE RILEY: Okay.

10 MR. REED: It is what it is.

11 JUDGE RILEY: Then what we have so far are
12 Petitioners' response to Mr. Smith's motions as of
13 December 16th. Mr. Smith's reply, December 27th.

14 Mr. Murphy, you said that there may be
15 a reply?

16 MR. MURPHY: Yeah, I would just characterize
17 December 27th as any replies.

18 JUDGE RILEY: All right. Fine. And then I
19 will endeavor to issue a ruling by January 7. I
20 don't see any difficulty in me doing that.

21 And then the next date that we had on
22 our schedule was Mr. Reed was going to file testimony

1 by February 10th.

2 MR. REED: That's correct.

3 JUDGE RILEY: And as I indicated -- or as I
4 stated, that since still be out of the office --

5 MR. MURPHY: Starting when?

6 JUDGE RILEY: As of December -- as of
7 February 11th and returning March 2nd.

8 MR. MURPHY: Want to have a status on the 3rd?
9 Welcome back.

10 JUDGE RILEY: As a matter of fact, that
11 wouldn't be a bad idea.

12 MR. SMITH: You don't a chance to look over the
13 mail for a day or anything?

14 JUDGE RILEY: Well, I'll be back in on the 2nd
15 so...

16 MR. SMITH: 3rd or 4th, I mean, if you want to
17 give it a -- 4th okay, it will give you --

18 JUDGE RILEY: I got an extra day. Well --

19 MR. SMITH: After being gone a month, I'd
20 assume you'd have some things you'd --

21 JUDGE RILEY: It's not as much as a question of
22 catching up on mail, as it is just fighting jet lag

1 at that point.

2 But I will be back in town. I should
3 be pretty much over it by then.

4 All right. I'll take your advise and
5 give me myself the extra day. We'll make it Friday,
6 March 4th for another status.

7 MR. SMITH: 10:30?

8 JUDGE RILEY: 10:30 okay with everyone?

9 MS. GLOVER: That's fine.

10 JUDGE RILEY: All right. Mr. Reed, can we keep
11 this conference bridge number?

12 MR. REED: No, I'd have to set up another one,
13 but I'll be more than happy to do so.

14 JUDGE RILEY: Okay. Who was the individual in
15 the last case who --

16 MR. SMITH: Mr. Troy Folder (phonetic).

17 JUDGE RILEY: Right. We relied upon him every
18 single session. So I think you're going to be our
19 designee this time, Mr. Reed.

20 MR. REED: I certainly don't have a problem
21 with that, your Honor.

22 JUDGE RILEY: I appreciate that.

1 Okay. Does everyone have the dates
2 that we talked about? Unless I hear otherwise, I'll
3 assume everybody's on the same page with us.

4 Okay. Do we need to delve into
5 anything else here?

6 MR. REED: Not that I'm aware of, your Honor.

7 MR. SMITH: I can't think of any other
8 housekeeping motions. I think we're on track.

9 JUDGE RILEY: Okay. Telephonic people, do you
10 have all the dates?

11 MR. RUDD: Yes, your Honor.

12 MS. HERTEL: Yes, your Honor, this is Nancy.

13 JUDGE RILEY: Okay. All right. Then we'll let
14 the parties set about their business and we will
15 reconvene on March 4th, Friday at 10:30 a.m. for
16 another status and we'll see where we are.

17 Thank you very much.

18 (Whereupon, the above-entitled
19 matter was continued to March
20 4th, 2005, at 10:30 a.m.)

21

22