

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Reversal and Remand of the)	
Order on Remand issued by the)	
Illinois Commerce Commission)	
in Docket 01-0120)	
)	
)	Docket 01-0120
Remand with directions to conduct a hearing)	
and determine whether the remedy plan)	
should have been extended beyond October 8, 2002,)	
through December 30, 2002)	

**VERIFIED STATEMENT OF THE STAFF OF THE ILLINOIS COMMERCE
COMMISSION IN COMPLIANCE WITH JANUARY 11, 2006 ORDER**

Staff of the Illinois Commerce Commission (“Staff”) submits this verified statement in compliance with the January 11, 2006 Order in this docket. The January 11, 2006 Order stated: “The parties shall file verified prehearing memoranda setting forth their legal positions, and the factual bases for those positions, or stating that their legal positions and factual bases have been set forth in previously-filed verified prehearing memoranda, within ten date of this Order.” In response to this directive, Staff states as follows:

1. Staff’s legal positions, and the factual bases for those positions, are set forth in:
 - (a) the “Prehearing Memorandum of the Staff of the Illinois Commerce Commission”, dated November 22, 2005 and filed on November 22, 2005;
 - (b) the “Direct Testimony of Samuel S. McClerren”, dated December 14, 2005 (Staff Exhibit 1.0);
 - and (c) such testimony, other exhibits and pleading as were filed during the initial proceeding and the first remand proceeding in this docket and bear on the question of whether the wholesale

performance remedy plan adopted in the July 10, 2002 Order in this Docket (“01-0120 Remedy Plan”) should have been extended beyond October 8, 2002, including without limitation the (i) “Direct Testimony of Samuel S. McClerren”, dated July 13, 2001, ICC Staff Exhibit 1.00, and (ii) the “Direct Testimony of Melanie K. Patrick, Ph.D.”, Staff Exhibit 2.0, with attachment 2.1, filed on July 13, 2001; and (iii) the “Direct Testimony of Rod Cox”, CLEC Exhibit 5.0, dated July 13, 2001..

2. In addition, Staff agrees with and adopts the legal positions for extending the 01-0120 Remedy Plan beyond October 8, 2002, and the factual bases for those positions, set forth in the “Pre-Hearing Memorandum of McLeodUSA Telecommunications Services, Inc., MCI Inc., Forte Communications, inc. and CIMCO Communications, Inc.”, dated November 22, 2005 and the Appendices thereto, filed November 22, 2005.

3. If and to the extent not fully articulated in the documents referred to in paragraphs 1 and 2 above, Staff additionally states as follows:

(a) In its July 10, 2002 Order in this proceeding, the Commission stated:

We conclude, therefore, that unless otherwise directed by the Commission, the Remedy Plan adopted pursuant to this Order shall serve as the basis for the aforementioned “performance assurance plan” referenced by Ameritech for Section 271 approval purposes. The Commission does not believe it is in either its own interest or any of the parties’ interest to re-litigate the nuances of the remedy Plan in the current Section 271 proceeding. Therefore, the Commission wishes to clarify that any future references (in either concurrent or prospective dockets before the Commission) to a Remedy Plan in place in Illinois, either voluntarily or pursuant to Commission Order, shall mean the Remedy Plan adopted pursuant to this Order. (July 10, 2002 Order, p. 20)

(b) As Staff outlined in its Prehearing Memorandum, it is no longer an open issue in this docket that the Commission had authority to extend the remedy plan by amending its previous order. In addition, any arguments questioning Commission authority that

may have been raised on appeal have been resolved by the Appellate Court or waived and therefore are not properly before the Commission in this proceeding.

4. On January 5, 2006, Staff filed in this docket the “Rebuttal testimony of Samuel S. McClerren”, Staff Exhibit 2.0, with exhibits in rebuttal to the direct testimony filed in this second proceeding on remand by Illinois Bell Telephone Company.

5. Staff hereby reserves the right to present additional legal and factual arguments in response or reply to legal and factual arguments made by any party to this proceeding.

Respectfully submitted,

Staff of the
ILLINOIS COMMERCE COMMISSION

By: /s/ _____
One of Its Attorneys

Nora A. Naughton
Stefanie R. Glover
Illinois Commerce Commission
Office of General Counsel
160 North LaSalle St., C-800
Chicago, Illinois 60601
312 / 793-2877

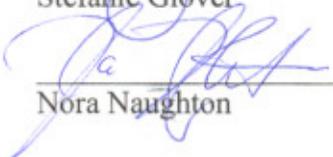
VERIFICATION

STATE OF ILLINOIS)
)
COUNTY OF COOK) SS.

Stefanie Glover and Nora Naughton, on oath, each hereby state that they are the attorneys for the Staff of the Illinois Commerce Commission ("Staff"); that each is authorized to make this verification on behalf of Staff; that each has read the foregoing "Verified Statement of the Staff of the Illinois Commerce Commission in Compliance with January 11, 2006 Order" and is familiar with the contents thereof, as well as the contents of Staff's Pre-hearing memorandum referred to therein; and that the factual matters set forth therein and in Staff's Pre-Hearing memorandum are true and correct to the best of their knowledge, information and belief.



Stefanie Glover



Nora Naughton

Subscribed and sworn to before me
this 23rd day of January, 2006



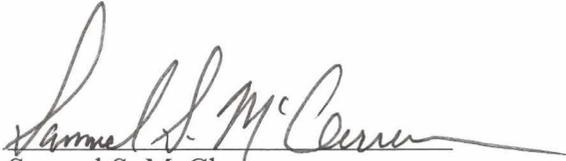
Notary Public



VERIFICATION

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON) SS.

Samuel S. McClerren, on oath, hereby states that he is a witness for the Staff of the Illinois Commerce Commission (“Staff”) and as such, he is authorized to make this verification on behalf of Staff; that he has read the foregoing “Verified Statement of the Staff of the Illinois Commerce Commission in Compliance with January 11, 2006 Order” and is familiar with the contents thereof, as well as the contents of Staff’s Pre-hearing memorandum referred to therein; and that the factual matters set forth therein and in Staff’s Pre-Hearing memorandum are true and correct to the best of his knowledge, information and belief.



Samuel S. McClerren

Subscribed and sworn to before me
this 23rd day of January, 2006



Notary Public

