

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

**ILLINOIS BELL TELEPHONE COMPANY (AT&T ILLINOIS) )**  
**and XO COMMUNICATIONS SERVICES, INC. (XO) )**  
**Joint Petition for Approval of 14<sup>th</sup> Amendment to the Interconnection ) 06-0344**  
**Agreement pursuant to 47 U.S.C. § 251 and § 252. )**

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**VERIFIED STATEMENT OF A. OLUSANJO OMONIYI**

My name is A. Olusanjo Omoniyi and I am employed by the Illinois Commerce Commission as a Policy Analyst in the Telecommunications Division. I graduated from Southern Illinois University at Carbondale with a Bachelor of Arts degree in Cinema & Photography and Bachelor of Science degree in Radio-Television in 1987. In 1990, I obtained a Master of Arts degree in Telecommunications and a Juris Doctor in 1994 also from Southern Illinois University at Carbondale. Among my duties as a Policy Analyst is to review negotiated agreements and provide a recommendation as to their approval.

**SYNOPSIS OF THE AGREEMENT**

The Amendment<sup>1</sup> between ILLINOIS BELL TELEPHONE COMPANY (“AT&T ILLINOIS” or “Carrier”) and XO COMMUNICATIONS SERVICES, INC. (“XO” or “Requesting Carrier”) is the 14th Amendment to the interconnection Agreement between the parties dated April 24, 2006. Portions of this Amendment were determined through negotiations between the parties, while the remainder was determined through an arbitration proceeding in Docket No. 05-0763. AT&T Illinois and XO are required to file the conforming Amendment with the Commission for review pursuant to the March 22,

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<sup>1</sup> An amendment is an agreement that alters or supplements an existing negotiated agreement between two parties. As with a negotiated agreement, an amendment is arrived at through negotiations under Section 252 of the Telecommunications Act of 1996,

2006 Order in Docket 05-0763. The Amendment updates the parties' underlying Agreement to incorporate the Arbitration Decision in ICC Docket 05-0763 regarding the FCC Triennial Review Remand Order. This Amendment does not modify or extend the Effective Date or Term of the underlying Agreement but, rather is coterminous with the underlying Agreement. Except as modified in this Amendment, all other terms and conditions of the underlying Agreement remain unchanged and in full force and effect.

The purpose of my verified statement is to examine the Amendment based on the standards enunciated in Section 252(e)(2)(A) and (B) of the 1996 Telecommunications Act. Specifically, this Section states that:

- (2) GROUNDS FOR REJECTION - The State commission may only reject—
  - (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that--
    - (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
    - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity; or
  - (B) an agreement (or any portion thereof) adopted by arbitration under subsection (b) if it finds that the agreement does not meet the requirements of section 251, including the regulations prescribed by the Commission pursuant to section 251, or the standards set forth in subsection (d) of this section.

Also, under authority granted to the Commission by Section 252(e)(3) of the 1996 Telecommunications Act, this Amendment has been reviewed for consistency with the requirements of the Illinois Public Utilities Act, 220 ILCS 5, and regulations, rules and orders adopted pursuant thereof.

## **I APPROVAL UNDER SECTION 252(e)**

### **A. DISCRIMINATION**

The first issue that must be addressed by the Commission in approving or rejecting a negotiated agreement under Section 252(e)(2)(A) is whether it discriminates

against a telecommunications carrier that is not a party to the agreement.

Discrimination is generally defined as giving preferential treatment. In previous dockets, Staff has taken the position that, in order to determine if a negotiated agreement is discriminatory, the Commission should determine if all similarly situated carriers are allowed to purchase the service under the same terms and conditions as provided in the agreement. I recommend that the Commission use the same approach when evaluating this Amendment.

A carrier should be deemed to be similarly situated to XO for purposes of this Amendment if telecommunications traffic is exchanged between such carrier and AT&T ILLINOIS for termination on each other's networks and if such carrier imposes costs on AT&T ILLINOIS that are no higher than the costs imposed by XO. If a similarly situated carrier is allowed to purchase the service(s) under the same terms and conditions as provided in this Amendment, then this Amendment should not be considered discriminatory. Evaluating the term discrimination in this manner is consistent with the economic theory of discrimination. Economic theory defines discrimination as the practice of charging different prices (or the same prices) for various units of a single product when the price differences (or same prices) are not justified by cost. See, Dolan, Edwin G. and David E. Lindsey, *Microeconomics*, 6<sup>th</sup> Edition, The Dryden Press, Orlando, FL (1991) at pg. 586. Since Section 252(i) of the 1996 Telecommunications Act allows similarly situated carriers to enter into essentially the same contract, this Amendment should not be deemed discriminatory.

**B. PUBLIC INTEREST**

The second issue that needs to be addressed by the Commission in approving or rejecting a negotiated agreement under Section 252(e)(2)(A) is whether it is contrary to the public interest, convenience, and necessity. I recommend that the Commission examine the Amendment on the basis of economic efficiency, equity, past Commission orders, and state and federal law to determine if the Amendment is consistent with the public interest.

Nothing in this Amendment leads me to the conclusion that the Amendment is inequitable, inconsistent with past Commission Orders, or in violation of state or federal law. Therefore, I recommend that the Commission approve this Amendment.

**C. SECTION 251 COMPLIANCE**

Finally, the last issue that needs to be addressed by the Commission in approving or rejecting the arbitrated portion of an agreement or amendment under Section 252(e)(2)(B) is whether it is in compliance with Section 251 of the Telecommunications Act. In previous dockets, Staff has taken the position that to determine whether the arbitrated portion of an interconnection agreement or amendment is in compliance with Section 251 of the Telecommunications Act, the interconnection agreement or amendment must be consistent with this Commission's arbitration decision in the underlying arbitration proceeding. There is nothing in this Amendment that would lead me to believe that the Amendment is not fully consistent with this Commission's directives contained in the arbitration decision of March 22, 2006 in Ill.C.C. Docket 05-0763. Accordingly, I find that there is nothing in this Amendment

that would lead me to conclude that it is not in compliance with Section 251 of the Telecommunications Act.

## **II IMPLEMENTATION**

In order to implement the AT&T ILLINOIS-XO 14<sup>th</sup> Amendment, the Commission should require AT&T ILLINOIS to, within five (5) days from the date the Amendment is approved, modify its tariffs to reference the Amendment for each service affected. Such a requirement is consistent with the Commission's Orders in previous negotiated agreement dockets and allows interested parties access to the Amendment. The following sections of AT&T ILLINOIS' tariffs should reference the AT&T ILLINOIS -XO Agreement: Agreements with Telecommunications Carriers (ICC No. 16 Section 18).

Also, in order to assure that the implementation of the Amendment is in public interest, AT&T ILLINOIS should implement the Amendment by filing a verified statement with the Chief Clerk of the Commission, within five (5) days of approval by the Commission, that the approved Amendment is the same as the Amendment filed in this docket with the verified petition; the Chief Clerk should place the Amendment on the Commission's web site under Interconnection Agreements.

For the reasons enumerated above, I recommend that the Commission approve this Amendment pursuant to Section 251 and Section 252(e) of the 1996 Telecommunications Act.

