

ILLINOIS BELL TELEPHONE COMPANY)
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)
Annual Rate Filing for Noncompetitive)
Services under Alternative Form of Regulation)
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2009 APR 13 A 9:42
Docket No. 09-0188
CHIEF CLERK'S OFFICE

PETITION TO INTERVENE

Clinton A. Krislov, of Krislov & Associates, Ltd., hereby petitions to intervene in the above captioned proceeding, pursuant to the Rules of Practice of the Illinois Commerce Commission ("Commission"), 83 Ill. Admin. Code, Section 200.200. In support of his Petition, Mr. Krislov states as follows:

1. Mr. Krislov is an Illinois resident, a customer of Illinois Bell Telephone Company d/b/a AT&T Illinois ("Bell"), and Class Counsel in *In re Illinois Bell Telephone Link-Up II and Late Charge Litigation* (Ill. Cir. Ct. No. 05 CH 013088), a dispute regarding Bell's mailing practices and late payment charges Bell collected from customers.

2. On April 1, 2009, Bell filed its Annual Rate Filing for Noncompetitive Services under an Alternative Form of Regulation ("Annual Rate Filing"), moving that same day for a protective order barring public disclosure of certain information contained in the report, including "detailed revenue data." (Bell's Motion for Protective Order (April 1, 2009), p. 1.)

3. Bell's desire to keep portions of its Annual Rate Filing concealed runs counter to the Illinois General Assembly's clearly articulated policy of public disclosure for these proceedings, pursuant to 220 ILCS 5/9-102:

Every public utility shall file with the Commission and shall print and keep open to public inspection schedules showing all rates and other charges, and classifications, which are in force at the time for any product or commodity furnished or to be furnished by it, or for any service performed by it, or for any service in connection therewith, or

performed by any public utility controlled or operated by it.

4. Specifically, Bell's April 1, 2009 Motion for Protective Order does not sufficiently explain in any detail, let alone give a legitimate reason, why certain exhibits should be kept from public disclosure, pursuant to the Public Utilities Act, 220 ILCS 5/4-404, or pursuant to the Commissions Rules of Practice, 83 Ill. Admin. Code 200.430. The effect of sealing these documents from public view is antithetical to this Commission's purpose and has a pernicious effect. *See, e.g., Citizens Utility Bd. v. Illinois Commerce Com'n*, 275 Ill. App. 3d 329, 341 (1st Dist. 1995) (Appellate Court reversed Commission's confidential treatment of portions of utility's rate filing because "the public cannot intelligently determine whether or not Edison has engaged in price discrimination or other unfair practices. (220 ILCS 5/9-241.) Indeed, it is impossible to verify whether Edison has granted a particular customer any unreasonable preferences or advantages under Rate CS since the actual charges, and the supporting papers used in calculating those charges, will be insulated from public scrutiny.").

5. Indeed, Bell recently used this Commission's acquiescence to concealment as a substantive determination on the merits that its total and itemized revenues were determined to be confidential as proprietary financial data. In the *In re Illinois Bell Telephone Link-Up II and Late Charge Litigation* case, before the Chancery Court, Bell argued that the revenues it received from late payment charges were submitted to the Commission in Bell's annual rate filing "as confidential and [Bell] requested proprietary treatment of the information, and the ICC explicitly granted this request, ordering that the information be designated proprietary pursuant to 220 ILCS section 5/404." (Bell's Motion to Confirm Confidential Designation of Non-Public Financial Information, p. 3 (attached hereto as "Exhibit 1").)

6. Bell's concealment of these revenues blocks the Commission's **public** determination of whether Bell's rates are reasonable, which is directly tied to Bell's revenues and operating profits. See *Cerro Copper Products v. Illinois Commerce Commission*, 83 Ill.2d 364, 371 (1980) (noting that the "fundamental purpose" of a utility providing a rate schedule is to determine whether the rate of return for the utility is reasonable).

7. Therefore, no basis exists for keeping private those portions of Bell's rate filing that disclose its revenue and late payment charges collected during any previous year, which is of particular concern to the citizens of Illinois because their telephone rates are directly tied to Bell's revenue and operating profits set forth in the Annual Rate Filing.

8. Nor are any revenue figures proprietary in any way. These amounts reveal nothing that is entitled to be kept secret; and while competitors may desire to know this information, consumers have a bona fide interest in knowing the contents of Bell's Annual Rate Filing, which "binds both the utility and the customer and governs their relationship." *Adams v. Northern Illinois Gas Co.*, 211 Ill.2d 32, 55 (2004) (citing *Danisco Ingredients USA, Inc. v. Kansas City Power & Light Co.*, 267 Kan. 760, 765 (1999)).

9. Nor should this information be concealed from competitors, either. If indeed some other company is willing to charge consumers less than Bell's secret charges, the competitor should have that data for legitimate consumer-benefitting reasons.

10. Mr. Krislov, as a utility consumer, Bell customer, and Class Counsel, will be affected by any order the Commission enters regarding Bell's Annual Rate Filing, including the Commission's decision of whether to publicly disclose its contents. Accordingly, Mr. Krislov is sufficiently interested in this proceeding.

11. No other party to this action will adequately represent Mr. Krislov's interests, and

as of this date of filing, no other party will represent the interests of any other Bell customer.

12. Mr. Krislov will accept service by electronic means as provided in the Commission's Rules of Practice, 83 Ill. Admin. Code Section 200.1050.

13. If this Petition to Intervene is granted, please add the following persons to the official service list for this proceeding:

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WHEREFORE, for the above-stated reasons, the Proposed Intervenor respectfully requests that the Commission grant this Petition to Intervene, and that Clinton A. Krislov be made a party to the above-captioned proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Clint Krislov", is written over a horizontal line.

Clinton A. Krislov
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STATE OF ILLINOIS)
)
COUNTY OF COOK)

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VERIFICATION

Clinton A. Krislov, an attorney, on oath, states that he has read the foregoing Petition to Intervene and is familiar with its contents, and that the matters set forth in the Petition to Intervene are true to the best of his knowledge, information and belief.

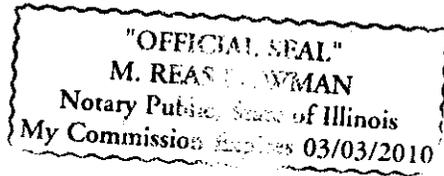


Clinton A. Krislov

Subscribed and sworn before me
this 10th day of April, 2009.



Notary Public



CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing Petition to Intervene to be served on:

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by causing a copy of said document to be delivered via email on April 10, 2009



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