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Illinois Commerce Commission on Its Own Motion	)	
	)	Docket No. 00-0555
Establishing Rules for Reciprocal Compensation for Internet Service Provider-Bound Traffic.	)	

AMERITECH ILLINOIS' STATEMENT OF POSITION ON SCOPE OF THIS PROCEEDING

Pursuant to the March 9, 2001, Notice of Hearing Examiner's Ruling, Illinois Bell Telephone Company ("Ameritech Illinois") respectfully submits its comments on the scope of this proceeding, and on the changes that would follow if the Commission were to amend its Initiating Order.

As we demonstrate below, the purpose of this proceeding as set forth in the Initiating Order is exactly what it should be – to establish a just and reasonable mechanism for inter-carrier compensation on ISP-bound traffic – and the scope of the proceeding as defined in the Initiating Order matches that purpose. Consequently, any substantive amendment to the Initiating Order would inappropriately divert attention from, and inevitably delay the solution to, the problem that impelled the Commission to open the docket in the first place. Ameritech Illinois therefore maintains that the Initiating Order should not be amended. If the Commission nonetheless decides to amend the Initiating Order, however, the amendment should be along the lines proposed by Staff, rather than by the Joint Movants, because Staff's proposal at least comes much closer to keeping the focus of the proceeding where it belongs – on the question of inter-carrier compensation on ISP-bound traffic. Ameritech Illinois further states as follows:

1. This docket exists because the Commission recognized that "existing per-minute-of-use reciprocal compensation rates may not be the most appropriate mechanism for recovering costs associated with the delivery of ISP-bound traffic," and so directed Staff to initiate "a generic proceeding in which to further investigate the issue of traffic routed to an ISP in order to ensure that just and reasonable rates are in place in Illinois." (Docket 00-0555, Order, August 17, 2000 ("Initiating Order"), at 1.) Thus, this docket was opened for one reason and one reason only: to solve the vexing and now longstanding problem of inter-carrier compensation on ISP-bound traffic. The Commission should not do anything that would blur the focus of this proceeding, or that would have any potential to further delay resolution of the problem that precipitated it.

2. On February 13, 2001, some six months after the docket was opened, the Joint Movants moved to dismiss or expand the scope of the proceeding. The core contention of the movants – telecommunications carriers for which every day that this proceeding is protracted is another day of reaping the windfall profits that the current treatment of ISP-bound traffic bestows – was that "any effort to re-examine the current reciprocal compensation rate structure necessarily implicates a wide variety of legal, economic and policy issues," and that "the scope of the rulemaking, as described in the Initiating Order, [would] unnecessarily preclude consideration of numerous relevant facts and arguments." (Motion at ¶ 2.)

3. That contention can mean two different things – and neither of them warrants an amendment to the Initiating Order. Specifically:

4. The contention may mean that the best solution to the problem of ISP-bound traffic may impact traffic in addition to ISP-bound traffic, and, to that extent, non-ISP traffic must be understood to be within the bounds of this proceeding. Thus, for example, the

Commission may determine, as other State commissions have, that the best solution to the problem of inter-carrier compensation on ISP-bound traffic is a bifurcated reciprocal compensation rate structure for all local traffic. Ameritech Illinois wholeheartedly agrees that the best solution to the problem of ISP traffic may – indeed, probably will – impact other traffic. But there is no need to amend the Initiating Order in order to accommodate such a solution, because the proceeding as defined in the Initiating Order is already broad enough to encompass any reasonable method of achieving the purpose of the proceeding. That purpose is "to determine the just and reasonable reciprocal compensation mechanism for ISP-bound traffic" (Initiating Order at 2, 3), and in determining that mechanism, the Commission has said it will consider such "innovative reciprocal compensation techniques (*e.g.*, alternatives to the traditional per-minute-of-use structure)" as the parties may proffer (*id.* at 2.) Nothing in the Initiating Order places out of bounds any reasonable solution to the problem of reciprocal compensation on ISP-bound traffic, and nothing in the Initiating Order suggests that the solution can affect only ISP-bound traffic. Thus, for example, this Commission can, if it sees fit, adopt a scheme of symmetrical bifurcated reciprocal compensation rates for all local traffic under the current Initiating Order, just as other State commissions have adopted such a scheme in dockets that, like this one, were established to solve the ISP problem. (*See* Ameritech Illinois' February 27, 2001, Response, at ¶ 6.)

5. Alternatively, Joint Movants may be saying not just that the most appropriate solution to the problem at hand may impact traffic in addition to ISP-bound traffic, but also that there are *additional* reciprocal compensation issues that also should be addressed. Joint Movants have suggested, for example, that the application of reciprocal compensation to wireless telecommunications presents unique problems that should be considered in this docket.

Ameritech Illinois submits that it would be a mistake for the Commission to expand the scope of this docket to address any such *additional* issues, because (a) there is no reciprocal compensation issue – wireless or otherwise – that approaches in magnitude or urgency the issue of inter-carrier compensation on ISP-bound traffic, and (b) any expansion of this docket to include matters beyond the issue that precipitated the docket in the first place would inevitably delay the Commission's resolution of that issue.

6. The Commission's experience in interconnection arbitrations to which Ameritech Illinois has been a party confirms that there is no pressing reciprocal compensation issue other than the one that is already the subject of this docket – certainly none that has appeared so significant to the Commission as to prompt a rulemaking, or even consideration of a rulemaking. In particular, the Joint Movants' suggestion that there are important generic reciprocal compensation issues affecting wireless traffic is demonstrably wrong: Ameritech Illinois is currently engaged in an arbitration of an interconnection agreement with one of the major wireless carriers in the State – Verizon Wireless – and there is no issue in that arbitration of the sort that Joint Movants intimate.[1] Nor, for that matter, has the Commission seen evidence of any such issue in any arbitration to which Ameritech Illinois has been a party. The inescapable fact of the matter is that the question of inter-carrier compensation on ISP-bound traffic is in a class of its own, and the importance of the question clearly warrants a docket of its own.

6. The Commission's decision to establish a docket to solve the problem of inter-carrier compensation on ISP-bound traffic was, then, entirely appropriate. And this docket is, *by*

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[1] The Verizon Wireless/Ameritech Illinois arbitration is Docket 01-0007. The twenty issues in 01-0007 (plus sub-issues) are set forth in Ameritech Illinois' Response to Verizon Wireless' Petition for Arbitration, filed February 2, 2001. There is an issue in 01-0007 having to do with whether, under the governing FCC rules, Ameritech Illinois should pay Verizon Wireless the end office rate or the tandem rate when Verizon Wireless terminates local calls that originate on Ameritech Illinois' network. But there is no reciprocal compensation issue in 01-0007 that is in any way peculiar to wireless carriers or that would even arguably be taken up in a rulemaking or generic proceeding on reciprocal compensation.

definition, broad enough to permit the Commission to consider anything and everything it needs to consider in order appropriately to address that problem. Consequently, any amendment of the Initiating Order would be either unnecessary or inappropriate – unnecessary if it were limited to ensuring that all reasonable solutions to the ISP problem are eligible for consideration, and inappropriate if it were not so limited.

7. The proposed rewrite of the Initiating Order that the Joint Movants filed on March 15 is of the latter sort, and should therefore be rejected. It would eliminate virtually every reference to ISP traffic in the Initiating Order, thereby muddying the focus that the Commission prudently directed this proceeding to have, and would expand the docket to include any and all matters that anyone can think of relating to reciprocal compensation. Thus, Joint Movants' proposal would convert what is now a rulemaking about inter-carrier compensation on ISP-bound traffic that may yield a rule that affects all local traffic into an unbounded rulemaking about reciprocal compensation in general. Such a transformation would be contrary to the Commission direction that resulted in the initiation of this docket, *i.e.*, the Commission's direction to Staff to "initiate a generic proceeding in which to further investigate the issue of reciprocal compensation for traffic routed to an ISP." (Initiating Order at 1, paraphrasing Commission Order in 00-0027, the Focal/Ameritech Illinois arbitration.) And given that Joint Movants have not suggested that *they* have any reciprocal compensation issues that they would like to raise on their own behalf (as opposed to issues they contend affect wireless carriers), one must wonder whether the Joint Movants' proposal could possibly be prompted by any motive other than delay.

8. Ameritech Illinois believes there is no need to amend the Initiating Order, for the reason explained above: The Initiating Order as is allows the Commission to do whatever it

needs to do (and to consider whatever it decides it needs to consider) in order to solve the problem of inter-carrier compensation on ISP traffic. If the Commission nonetheless wishes to amend the Initiating Order in order to make that explicit, however, it can do so by adopting Staff's proposed Amended Initiating Order, with a few changes. The changes that Ameritech Illinois suggests appear on Exhibit A hereto, which is Staff's Draft Amended Initiating Order, with the proposed changes superimposed. With the proposed changes, the amended Initiating Order (which appears without redlining as Exhibit B hereto) would make crystal clear that the outcome of this proceeding may be a rule that impacts all local traffic, but at the same time would not authorize the introduction of "additional" reciprocal compensation issues into the proceeding.

WHEREFORE, Ameritech Illinois respectfully urges the Commission to deny Joint Movants' Motion to Dismiss Or, In The Alternative, To Expand Scope Of Proceeding and to leave the Initiating Order as is or, if the Commission determines that the Initiating Order should be amended to clarify that this proceeding may result in a rule that affects all local traffic, to adopt Staff's proposed Amended Initiating Order with the changes proposed by Ameritech Illinois and reflected in Exhibits A and B hereto. Above all, Ameritech Illinois again urges the Commission to take all appropriate measures to ensure that it accomplishes as soon as practicable the stated purpose of this proceeding – to establish a just and reasonable system of inter-carrier for ISP-bound traffic.

Dated: March 19, 2001

Respectfully submitted,

AMERITECH ILLINOIS

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that he caused copies of the attached, Ameritech Illinois' Statement of Position on Scope of This Docket to be served on each of the persons on the attached Service List by depositing the same in the U.S. Mail on March 19, 2001, and, in the case of persons whose names are asterisked, via e-mail on that same date.

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