

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission)	
On Its Own Motion)	
)	
-vs-)	Docket No. 09-0317
)	
Norlight, Inc. d/b/a Cinergy Communications:)	
Investigation into whether Intrastate)	
Access Charges of Norlight, Inc.)	
d/b/a Cinergy Communications)	
are just and reasonable)	

Draft Proposed Order

By the Commission:

On July 8, 2009, the Illinois Commerce Commission (“Commission”), on its own motion, issued a citation order initiating this proceeding for the stated purpose of: “determin[ing] whether rates charged by Norlight, Inc. d/b/a Cinergy Communications (“Norlight”) for intrastate access are just and reasonable[,]” within the meaning of section 9-250 of the Public Utilities Act (“Act”). In the Initiating Order, the Commission directed Norlight to: “appear ... and present evidence as to why the rates charged by [Norlight] for intrastate access are just and reasonable.” The Commission’s stated basis for requiring Norlight to make such a showing was the fact, as set forth in a Staff Report dated June 26, 2009, that Norlight charged at least 4 cents per minute on an average blended or composite rate basis. AT&T Communications of Illinois, Inc., Sprint Communications, L.P. and McLeodUSA Telecommunications Services, Inc. were granted leave to intervene in this proceeding.

On August 27, 2009, the Administrative Law Judge (ALJ) assigned to the proceeding convened a status hearing in the matter, in the course of which counsel for

Norlight represented for the record that the company had filed tariffs reducing its intrastate access rates to those charged by the Illinois Bell Telephone Company (AT&T), an incumbent local exchange carrier (ILEC) that serves much of the state.

On September 29, 2009, Staff filed the Verified Statement of Jeffrey H. Hoagg. In his Verified Statement, Mr. Hoagg stated that Staff reviewed the revisions to the tariffs filed by Norlight, and the rates for intrastate access contained in such tariffs. The revisions in question are to Norlight's Ill. C.C. Tariff No. 4. Specifically, Mr. Hoagg observes that Norlight has filed 3rd Revised Sheet 2, cancelling 2nd Revised Sheet 2; 2nd Revision Sheet 50; and 2nd Revision Sheet 51. Mr. Hoagg states that the revised tariff sheet directly relevant to this proceeding, 2nd Revision Sheet 50, contains the revised rates for intrastate access and related services that Norlight intends to charge on a going forward basis. Mr. Hoagg confirmed that these rates directly mirror, and are identical to, the rates for identical services charged by AT&T. Mr. Hoagg further stated that the fact that these rates mirror AT&T's rates is significant, because the Commission has previously found AT&T's rates for these services to be just and reasonable in contested proceedings.¹

Mr. Hoagg concluded that the intrastate access rates charged by Norlight as established in its revised tariffs are just and reasonable within the meaning of Section 9-250 of the Illinois Public Utilities Act, insofar as such rates mirror those already found to be just and reasonable. Mr. Hoagg recommended that the investigation which is the

¹ See Order, Illinois Commerce Commission On Its Own Motion vs. Illinois Bell Telephone Company; et al., Investigation into Non-Cost Based Access Charge Rate Elements in the Intrastate Access Charges of Incumbent Local Exchange Carriers in Illinois; Illinois Commerce Commission On Its Own Motion, Investigation into Implicit Universal Service Subsidies in Intrastate Access Charges and to Investigate how these Subsidies should be Treated in the Future; Illinois Commerce Commission On Its Own Motion, Investigation into the Reasonableness of the LS2 Rate of Illinois Bell Telephone Company, ICC Docket Nos. 97-0601; 97-0602; 97-0516 (Consolidated); 2000 Ill. PUC Lexis 1004 (March 29, 2000) (hereafter

purpose of this proceeding no longer need be pursued and that the Commission dismiss the proceeding without prejudice.

The interveners, AT&T Communications of Illinois, Inc., Sprint Communications, L.P. and McLeodUSA Telecommunications Services, Inc., raised no objection to the rates for intrastate access contained in the revised tariffs filed by Norlight.

Based on the entire record of this proceeding, the Commission is satisfied that Norlight's revisions to its tariffs and the rates for intrastate access contained in such tariffs are found to be just and reasonable within the meaning of Section 9-250 of the Illinois Public Utilities Act, insofar as such rates mirror those already found by the Commission to be just and reasonable. Therefore, the investigation initiated by the Commission pursuant to Section 9-250 of the Illinois Public Utilities Act to determine whether rates charged by Norlight for intrastate access are just and reasonable no longer needs be pursued. The Commission finds that this proceeding should be dismissed without prejudice.

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) Norlight, Inc. d/b/a Cinergy Communications ("Norlight") is engaged in the business of providing telecommunications services to the public in the State of Illinois and, as such, is a telecommunications carrier within the meaning of Section 13-202 of the Public Utilities Act;
- (2) the Commission has jurisdiction over Norlight; Inc. d/b/a Cinergy Communications and the subject matter of this proceeding;

"ICC Access Charge Order") (setting cost-based access charge rates for AT&T).

- (3) the recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (4) the revisions to Norlight's Ill. C.C. Tariff No. 4, specifically, the 3rd Revised Sheet 2, cancelling 2nd Revised Sheet 2; 2nd Revision Sheet 50; and 2nd Revision Sheet 51 are found to be just and reasonable within the meaning of Section 9-250 of the Illinois Public Utilities Act, insofar as such rates mirror those already found by the Commission to be just and reasonable.
- (5) the investigation initiated by the Commission pursuant to Section 9-250 of the Illinois Public Utilities Act to determine whether rates charged by Norlight for intrastate access are just and reasonable is no longer needed and the this proceeding should be dismissed without prejudice.

IT IS THEREFORE ORDERED that the revisions to Norlight's Ill. C.C. Tariff No. 4 are found to be just and reasonable within the meaning of Section 9-250 of the Illinois Public Utilities Act.

IT IS FURTHER ORDERED that this proceeding be dismissed without prejudice.

IT IS FURTHER ORDERED that any objections, petitions, or motions in this proceeding that remain undisposed of are hereby disposed of consistent with the ultimate conclusions herein contained.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code Section 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this _____ day of _____, 2010.

(SIGNED)

Chairman