

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

ILLINOIS BELL TELEPHONE COMPANY)
)
) Docket No. 01-0302
Annual Rate Filing for)
Noncompetitive Service Under an)
Alternative Form of Regulation)

**EXCEPTIONS AND BRIEF ON EXCEPTIONS
OF THE CITIZENS UTILITY BOARD AND THE
PEOPLE OF THE STATE OF ILLINOIS**

The Citizens Utility Board (“CUB”), through its attorney, and the People of the State of Illinois, by James Ryan, Attorney General of the State of Illinois (“AG”), hereby file their Exceptions and Brief on Exceptions in the above captioned matter.

INTRODUCTION

On June 1, 2001, the hearing examiners served the Hearing Examiners’ Proposed Order (“HEPO”), which addressed exogenous factor treatment and Illinois Bell Telephone Company’s (“IBT”) rate rebalancing petition, IBT’s calculation of the Installation Within 5 Business Days benchmark, merger savings, IBT’s designation of new services or rates, and its calculation of volume discounts. CUB/AG take exception to the HEPO conclusion on all but the last issue.

I. THE HEPO ENCOURAGES REPEATED LITIGATION OF WHETHER THE COMMISSION’S CARRIER ACCESS RATE ORDER SHOULD BE REVENUE NEUTRAL.

In ICC Dockets 97-0601/0602/0516 (consol.), the Commission ordered IBT to reduce its carrier access rates to levels that mirror the rates set by the FCC. Although IBT had argued that it was entitled to offset the rate reductions with rate increases for other services, the Commission

expressly rejected that request. Order at section III.G.3 and Ordering paragraphs (13) and J (excerpt attached). That was the Commission's first consideration of the issue.

Subsequently, IBT filed a petition to "rebalance" rates, or increase residential network access line rates by \$2.00 per line per month, increase other charges, and decrease other charges, including some optional, per call vertical services. IBT justified the increases it requested by arguing that they were necessary, at least in part, to offset the reductions in the carrier access line charges ordered in ICC Docket 97-0601/0602/0516 (consol.). That request is pending before the Commission as part of the Alternative Regulation Review Docket. 98-0252/0335/00-0764 (consol.). It is the second time the Commission has been requested to consider this issue.

In the HEPO, it is suggested that if IBT is not satisfied with the result of the Commission's second consideration of whether to allow rates to increase beyond that allowed by the Alternative Regulation Plan, it is "reasonable" to consider it a third time in a petition for exogenous change treatment next year. CUB/AG object to this invitation to (1) ignore prior Commission decisions, (2) engage in repetitive litigation, and (3) as Staff pointed out, present an untimely request.

The HEPO states that "IBT did not seek exogenous change factor treatment in this annual rate filing." HEPO at 4. It adds that IBT "stated that it would seek exogenous change treatment in next year's annual filing" if the Commission does not grant its rate rebalancing request. Id. Staff opposed IBT's stated intention to revisit the regulatory treatment of the carrier access line reductions as "unwise" and argued that "such deferral would be untimely and inappropriate." HEPO at 4. IBT responded that if it were barred from raising exogenous change treatment in its next annual rate filing, it would raise it here. The HEPO concludes: "The Carrier Access Order mandated access charge reductions which could reasonably be considered in an exogenous change petition." HEPO at 5. It further states: "IBT's proposal to defer any request for exogenous change treatment until next year's filing, to the extent it is necessary or appropriate pursuant to the Hearing Examiners' Proposed Order in Docket 98-0252/0335/00-

0764 consol., the ‘Alternative Regulation Review HEPO’, is reasonable under the particular circumstances of this case.” HEPO at 5-6.

CUB/AG submit that whether IBT should or should not seek exogenous change treatment in the future is beyond the scope of this docket and should not be resolved here. More importantly, the Commission should not encourage the Company to make a third attempt to increase retail rates, outside the price index, to achieve revenue neutrality in connection with carrier access rates, especially when the Commission has already expressly rejected the notion that IBT is entitled to “revenue neutrality” in conjunction with the ordered reduction in its carrier access rates to levels that mirror the rates set by the FCC. The text of the Commission Order in ICC Docket 97-0601/0602/0516 (Consol.) addressing IBT’s request for revenue neutrality is attached as Exhibit A. Specifically, in that Order the Commission said in part:

... It is crucial to note that nowhere in Ameritech's alternative regulation plan is it entitled to the revenue neutrality it is seeking in this docket. **In fact, in all the years Ameritech has mirrored its interstate rates (and GTE was supposed to mirror its interstate rates) as a result of our mirroring policy, we have never implemented mechanisms to keep Ameritech (or GTE) revenue neutral as a result of any reduction in intrastate access revenues caused by our mirroring policy.** ... In fact, in our Phase I Order in this docket, we rejected Ameritech's revenue neutral methodology for calculating and implementing its intrastate PICC, instead adopting the IXC mirroring methodology. Given the rates of return reported by Ameritech, which are a matter of record in this proceeding, we are convinced that any reduction in access revenues experienced by Ameritech will not impact its overall financial viability.

(emphasis added.) - —The rate rebalancing petition is ready for ruling, in that a Hearing Examiners Proposed Order has been issued, and exceptions are scheduled. In the interests of administrative economy, that decision should settle the question of whether IBT is entitled to revenue neutrality. But even if the Commission declines to accept Staff’s argument that IBT be barred from making yet a third attempt to increase retail rates to make up for these carrier rate reductions, the Commission should refrain from concluding that the carrier access rate reduction

could reasonably be viewed as calling for exogenous change treatment. Suggesting that exogenous change treatment is “reasonable” prejudices the issue, and encourages the Company to disregard Commission precedents and Orders and waste administrative resources in presenting the same issue a third time. Further, the annual report filed by the Company in April with the Commission demonstrates that its return on equity in 2000 was 28.60%, making exogenous treatment even more unnecessary.

CUB/AG propose that the Order in this docket decline to comment on whether IBT should seek exogenous change treatment of carrier access rate reductions. IBT has already brought the matter to the Commission’s attention in two other dockets. If the Commission encourages IBT, or any party, to repeatedly present issues that have been previously resolved, the administrative process will be bogged down in reconsideration after reconsideration, and the resources and time of the Commission and the parties will be unreasonably taxed. Further, there is value in finality, so that all parties can know that an issue, once resolved, is not subject to endless relitigation.

PROPOSED LANGUAGE:

On page 5, the Commission Conclusion should be modified as follows:

The Carrier Access Order mandated access charge reductions which have been the subject of at least two IBT requests for revenue neutrality. could reasonably be considered in an exogenous change petition. However, because IBT has not filed an exogenous change petition in this Docket and such a petition, the Commission declines to consider whether such a Petition now or in the future would be reasonable or appropriate in light of our prior orders. such a modification in this Docket. We recognize that both rate rebalancing and exogenous change treatment for rate reductions were disputed issues in the Alternative Regulation Review proceeding. We agree with IBT that duplicative litigation of identical issues should be avoided whenever possible, particularly when a complete record has been developed in another proceeding. Therefore, IBT’s proposal to defer any request for exogenous change treatment until next year’s filing, to the extent it is necessary or appropriate pursuant to the Hearing Examiners’ Proposed Order in Docket 98-0252/98-0335/00-0764 consol., the “Alternative Regulation Review HEPO”, is reasonable under the particular circumstances of this case.

In the alternative, the Commission should adopt Staff's recommendation, and state that revenue neutrality will not be considered in any future annual rate filing because it has already been reviewed by the Commission on numerous occasions:

~~The Carrier Access Order mandated access charge reductions which have been the subject of at least two IBT requests for revenue neutrality. could reasonably be considered in an exogenous change petition. However, because IBT has not filed an exogenous change petition in this Docket and such a petition, the Commission concludes that we have had ample opportunity to consider the issue. Therefore, we find that it would be inappropriate and untimely to present the same issue in the form of an exogenous change petition in a future annual rate filing. declines to consider such a modification in this Docket. We recognize that both rate rebalancing and exogenous change treatment for rate reductions were disputed issues in the Alternative Regulation Review proceeding. We agree with IBT that duplicative litigation of identical issues should be avoided whenever possible, particularly when a complete record has been developed in another proceeding. Therefore, IBT's proposal to defer any request for exogenous change treatment until next year's filing, to the extent it is necessary or appropriate pursuant to the Hearing Examiners' Proposed Order in Docket 98-0252/98-0335/00-0764 consol., the "Alternative Regulation Review HEPO", is reasonable under the particular circumstances of this case.~~

II. CONSISTENCY WITH PRIOR ORDERS REQUIRES THAT THE COMMISSION FLOW-THROUGH MERGER SAVINGS TO CONSUMERS PENDING REVIEW OF THE MERGER SAVINGS AUDIT.

The HEPO would allow IBT to retain merger savings for an indefinite period of time, pending litigation of the audit of the savings. Asserting that this docket is "not well-suited to address complex accounting and other issues", the HEPO does not address the issues at all, leaving IBT to retain all merger savings pending future review. The HEPO should be substantially revised because it fails to develop an approach that will pass merger savings on to current consumers, is consistent with the Merger Order, and still incorporates the audit review process.

The Merger Order stated:

In the annual price cap filings, AI is required to **flow-through merger savings** net of reasonable costs in the manner here described until such time as an updated price cap formula has been developed.

ICC Docket 98-0555, Order at 149 (Sept. 23, 1999) as amended by Amendatory Order on Reopening at 7-8 (emphasis added). Although the Commission ordered a separate review of the audit of actual savings and the claimed merger savings in the last annual rate filing docket (ICC Docket 00-0260), in that docket IBT reported net costs of only \$1.2 million, and there were no savings to flow-through to consumers. The issue of how to flow savings through to consumers pending the audit review was not raised and not addressed, as there was no practical reason to press the issue in the absence of any recorded savings.

As Staff pointed out, however, in this docket IBT reported significant savings as well as costs. In order to effectuate the Commission's intent that consumers share the benefits of the merger as soon as possible, a transitional merger savings adjustment should be made in each annual rate filing, subject to reconciliation after the conclusion of the audit review docket. Because these savings figures were developed by IBT, and it is unlikely that IBT has overstated savings, this approach is fair to IBT and fair to consumers as an interim measure until a final determination on actual savings is made and a more permanent merger savings approach is developed in the audit review proceedings and the Alt. Reg. Review docket.

Adopting a merger savings adjustment in the annual rate filing dockets, based on IBT's figures, subject to review, will also counter-balance the incentive to delay inherent in the review recommended in the HEPO. If IBT can retain merger savings indefinitely, pending review in a litigated proceeding, the Company will have no incentive to expedite the review process.¹ On the other hand, if the Company is already sharing merger savings with consumers, with its costs amortized over 10 years, it is more likely to want to expedite the review process, and even if it does not, consumers will not be as harmed by the delay. The Commission has recognized the

¹ As the Commission is aware, the review of the 1999 data has been delayed by IBT's refusal to pay the auditor's litigation expenses, and the issue of whether it must pay that amount is currently before the Commission. ICC Docket 00-0260 on Reopening.

importance of incentives in the alternative regulation context, and should be aware of the incentives that could result from any particular treatment of merger savings.

The HEPO rejects CUB/AG’s recommendation that merger costs be amortized over ten years to correspond with expected merger savings because it is “not supported” by the Merger Order and “should be the subject of a proceeding where all parties have an opportunity to address them in detail.” HEPO at 11. These conclusions are not supported by the Merger Order or the record in this docket.

Parties have had the opportunity to intervene and participate, and have addressed the cost issue based on the evidence that the Commission directed IBT to present. As pointed out in CUB/AG’s Initial Comments, a 10-year amortization of costs is consistent with IBT’s and SBC’s position in the Merger Docket that savings would accrue over 10 years, and the positions of Staff and GCI that costs should therefore be amortized over 10 years. Since the Commission did not reach a decision on the cost issue in the Merger Order, the instant docket is the appropriate place to make that determination -- now that IBT has made a preliminary identification of merger-related savings and costs that should be flowed-through to ratepayers. Further, a ten year amortization of merger costs is consistent with the data before the Commission in the Merger Order. In the event that the audit review proceeding leads to a different amortization period for any individual account, or shows that savings should be greater, there can be a future true-up adjustment.

CUB/AG set out a simple method to calculate the transitional merger savings to flow-through to consumers in this docket on pages 10-11 of their Proprietary Initial Comments. Without challenging the validity of IBT’s numbers (which will be examined in an audit review docket), the merger savings adjustment in this docket should be:

$$\begin{aligned}
 & \text{***\$} & \text{***} & \text{(col. a)} \\
 & \text{minus } 1/10 \text{ of the costs (***\$} & \text{***} & \text{(col. b) /10)} \\
 & \text{times (Part 64 allocation factor ***} & \text{***} & \text{(col. d))} \\
 & \text{times (intrastate separations factor ***} & \text{***} & \text{(col. f))}
 \end{aligned}$$

times .50, equals: \$23.761671 million in net savings to ratepayers.

See columns and specific numbers on Exhibit 9 (proprietary) to IBT's Annual Rate Filing. This approach utilizes IBT's figures, preserves the validity of IBT's figures for future review, spreads costs over an appropriate period of time, eliminates at least some of the delay in flowing-through savings to ratepayers, and provides IBT with an appropriate incentive to pursue prompt resolution of the audit savings and costs issues.

A further problem with delay stems from the rapid rate at which IBT has been reclassifying services as competitive, and the recent legislation which would reclassify IBT's business service as competitive as of the effective date of the Act. 220 ILCS 13-502.5 (b)(HB 2900, awaiting signature by the Governor). First, by amortizing costs over 10 years, the Commission insures that costs are not "front loaded" on to the bills for non-competitive services. Such front-loading would unfairly reduce the annual flow-through to current customers. As services are reclassified as competitive, the savings would disappear as rates are set on one-day's notice.. This would result in a subsidy of competitive services because the costs associated with the merger will be unfairly borne by services classified as noncompetitive, in violation of section 13-507 of the Act. 220 ILCS 5/13-507. By insisting on timely sharing, the Commission can avoid these inequities.

PROPOSED LANGUAGE

On page 10, second paragraph, the following changes should be made:

CUB/AG addressed this issue differently, contending that the costs associated with savings initiatives should be amortized over 10 years. CUB/AG pointed out that a 10 year amortization of costs is consistent with IBT's and SBC's position in the Merger Docket that savings would accrue over 10 years and with the positions of Staff and GCI that costs should therefore be amortized over 10 years. They argued that it was not fair or equitable to front-load these costs, when the resulting savings will be realized over a longer period of time. Their calculation of 1999-2000 merger savings was based on IBT's Exhibit 9, with costs divided by 10 before they are subtracted from savings, resulting in a savings adjustment of \$23.761671 million, net of costs.

IBT responded that this issue has no place in this proceeding. ...

On pages 11-12, the Commission Conclusion should also be changed:

Commission Conclusion

~~Although we adhere to our view that We conclude in this proceeding, as we did in Docket 00-0260, that annual filing dockets are not well-suited to address complex accounting and other issues associated with merger-related savings we also adhere to our view that merger-related savings should be flowed-through to consumers on an annual basis. We will not require the flow-through of merger-related savings at this time, pending the completion of the annual audit for year 2000. As before, We conclude that the savings IBT has identified will be netted against the costs IBT has identified, amortized over a ten year period, for the purpose of flowing-through savings to consumers. We will initiate a contested case proceeding for the 2000 annual audit and adjust the amount of savings being flowed-through to ratepayers by the result of that docket in the future. We find that by flowing savings through to consumers now, we are insuring that consumers receive a timely benefit from the merger, and are providing IBT and the parties with the appropriate incentives in connection with the audit review proceedings. Similarly, Although we do not accept Staff's position that the justification for each cost element is properly the subject of the annual filing process, we adopt the 10 year amortization, which Staff supported in the alternative. A 10-year amortization of costs is consistent with IBT's and SBC's position in the Merger Docket that savings would accrue over 10 years. The issue of whether each cost element can be justified, This issue will undoubtedly be reviewed in the annual audit and should be addressed by the parties after the audit has been completed. The other proposals of Staff and CUB/AG which would result in an increase in the net merger savings calculated by IBT are not supported by the terms of the Commission's Order in Docket 98-0555 and, at a minimum, should be the subject of a proceeding where all parties have an opportunity to address them in detail. We also agree with IBT that revised wholesale tariffs are not appropriately the subject of this proceeding.~~

III. THE HEPO ERRONEOUSLY ACCEPTS NEW PRICING OPTIONS AS THE EQUIVALENT OF NEW SERVICES.

The HEPO reviews the four services that IBT characterizes as “new” and concludes that the Company described three of them adequately to treat them as “new services” that can be priced without regard to the price index. One service, the Extended Intercept Service for DID, provides new features not previously available. Two other services, the flat rate ISDN and the “WORKS” package, are admittedly new pricing plans, and the fourth, the payphone use surcharge, was not described. The HEPO would allow all but the last, undescribed service to be treated as new services.

The HEPO in this docket references a conclusion in the Alternative Regulation Review HEPO that “IBT has demonstrated that new calling plans such as ‘The Works’ are optional

services that should properly be treated as new.” HEPO at 13. CUB/AG oppose this conclusion because (1) the Alternative Regulation HEPO has no legal significance and is subject to exceptions and final Commission decision; (2) the instant HEPO does not state why new calling plans such as “the Works” should be considered new services when they are merely repackaging of existing services; and (3) the evidence in another docket cannot be considered evidence in this docket, particularly prior to the entry of an Order, and when the services listed as new were not a subject of testimony or briefs and no party requested administrative notice of any orders or evidence from another docket.

The price cap plan was intended to control prices through an index linked to inflation and productivity. New services were exempted from the price cap for one year because a “new service” does not have an existing price. It was not meant to be an avenue for price increases outside the formula. With the exception of the Extended Intercept Service for DID, the services identified as “new” in this filing are existing, non-competitive services. Yet, the HEPO would condone offering them as “new services” at prices outside the price index by considering them “optional services”. However, many “optional” services such as call waiting and caller-ID are non-competitive services, are part of the price index, and are included in the “Other” basket. As such, their prices are supposed to be constrained by the price index. The HEPO does not define “optional” services, but implies that almost anything that is priced at a new and different level is “optional” because similar services that fall under the price cap formula also exist. CUB/AG maintain that this interpretation of the Plan would allow the Company to price non-competitive services without regard to the price index and undermine the effectiveness of the Plan. To protect the integrity of the Plan, the Commission should order the Company to either add the effect of these price changes to the appropriate basket or remove the price changes.

PROPOSED LANGUAGE

Commission Conclusion

The Alternative Regulation Review HEPO concluded that IBT has demonstrated that new calling plans such as “The Works” are optional services that should properly be treated as new. We agree with this conclusion here. The Commission does not accept IBT’s view that new services include new prices for existing services. New services provide customers with new capabilities or new pricing options that are not currently offered. Expanded DID service options also appears to be an enhancement of an existing product and therefore entitled to exemption. By contrast, Similarly, flat rate ISDN service and “the WORKS” package are is a pricing options for existing services and are subject to the price index formula. not previously available. Expanded DID service options also appears to be an enhancement of an existing product and therefore entitled to exemption. However, IBT does not address why the payphone user surcharge should be considered a new service. Accordingly, the Commission finds that the payphone user surcharge is not exempt from the price cap.

IV. QUALITY OF SERVICE

In response to Staff’s and CUB/AG’s contention that an additional -.25% service quality penalty should be imposed in the Order as a result of the Company’s application of an inappropriate definition of the Installation Within 5 Days measure and its failure to meet the benchmark, the Examiners again reference the HEPO in the Alternative Regulation Review docket and conclude:

Consistent with past practices and the conclusion on this issue in the Alternative Regulation Review HEPO, the Commission rejects Staff’s and CUB/AG’s proposal that a .25 reduction in rates be imposed to reflect IBT performance on the Installation Within 5 Days criterion.

HEPO at 8. While the Proposed Order in the Alternative Regulation Review docket clarifies the definition of this measure to exclude vertical service installations on a going-forward basis, it rejects the notion that IBT acted in bad faith during the life of the Price Cap plan in its calculation of the measure and should be punished financially. Alt. Reg. HEPO at 107. As a result, the Examiners in this docket similarly refuse to impose a service quality penalty, and

conclude that “[a]ny future annual filings shall be consistent with the Alternative Regulation review Order.” HEPO at 8.

As noted earlier in this Brief, the Examiners’ reliance on a Proposed Order as a basis for rejecting an argument in this proceeding is legally flawed because the Alternative Regulation HEPO has no legal significance and is subject to exceptions and final Commission decision. Imposing a -.25% adjustment to the PCI in no way changes the rules in the middle of the game, as IBT suggests. Staff first learned that IBT was incorrectly calculating the measure more than a year ago, and has made it clear to the Company in formal Commission filings that the inclusion of vertical services in the calculation of this measure was inconsistent with both the spirit and letter of 83 Ill. Admin. Code Part 730.540(a), the Commission rule that defines this service quality criterion. Nevertheless, the Company stubbornly continues to include vertical service installation times in the overall calculation of regular service installations. As Staff, and CUB/AG noted in their Initial Comments in this docket, IBT has effectively masked its poor performance with respect to the installation within 5 days service quality measure and, accordingly, for the past six years has avoided the imposition of a .25% service quality penalty deduction for this measure in the calculation of the annual price cap index.

Again, data provided in discovery in this proceeding confirms that IBT continues to include vertical service installations within the calculation of the Installation Within 5 Days measure, and continues to miss the 95.44% benchmark. In response to Attorney General data request number AG-2, the Company indicated that its installation performance for access lines only during the year 2000 averaged around 83.87%. See IBT response to AG-2, attached to the CUB/AG Comments as Appendix A. This performance level does not even satisfy the proposed 90% benchmark in the Alt. Reg. HEPO. Given these facts, there is no sound basis in policy or

law for not imposing the additional -.25% service quality penalty for the Installation Within Five Days measure.

PROPOSED LANGUAGE

Accordingly, the Commission Conclusion in the Service Quality section of the HEPO should be stricken and replaced with the following language:

For more than a year, IBT has been on notice that inclusion of vertical services in the calculation of this measure was inconsistent with both the spirit and letter of 83 Ill. Admin. Code Part 730.540(a), the Commission rule that defines this service quality criterion. Nevertheless, the Company stubbornly continues to include vertical service installation times in the overall calculation of regular service installations. As Staff, and CUB/AG noted in their Initial Comments in this docket, IBT has effectively masked its poor performance with respect to the installation within 5 days service quality measure and, accordingly, for the past six years has avoided the imposition of a .25% service quality penalty deduction for this measure in the calculation of the annual price cap index. Contrary to the Company's representation in its Annual Filing materials that it missed only the Out-of-Service>24 Hours measure, IBT in fact missed the Installation Within 5 Days measure as well, and an additional -.25% service quality penalty should be assessed. In total, a -.50% deduction for the service quality component of the PCI should be included in the Commission's calculation of this year's PCI.

V. MISCELLANEOUS

In the section entitled Impact of other Pending Proceedings, the HEPO concludes that the issues in this docket should be decided under the Plan as it exists now. CUB/AG agree with this conclusion, but would delete the first sentence in the Commission Conclusion on page 14, which references the Alternative Regulation Review HEPO. Because the HEPO has no legal significance, and a final Order has not been issued in ICC Docket 98-0252/0335/00-0764, it is inappropriate to reference it. CUB/AG also propose that the Findings and Ordering Paragraphs be modified to be consistent with the above exceptions:

PROPOSED LANGUAGE

The first paragraph on page 14 should be modified as follows:

~~The Alternative Regulation Review HEPO rejects IBT's rate rebalancing proposal. Consistent with the analysis and conclusions in the Alternative Regulation Review HEPO, the Commission agrees with Staff and CUB/AG that the issues in this annual filing should be decided based on the Plan as it exists today.~~

On page 14, numbered paragraphs (7), (8) and (9) should be deleted and replaced with the following:

(7) Illinois Bell Telephone Company has not requested exogenous treatment in this annual rate filing. The question of whether exogenous treatment is appropriate for carrier access charge reductions is therefore not before the Commission and will not be addressed;

(8) Of the four services IBT identifies as new services, only one, the Extended Intercept Service provides a service previously unavailable to IBT's consumers, and qualifies as a new service that can be priced outside the price index. The "WORKS" and the flat rate ISDN service are pricing options for non-competitive services, and therefore are still subject to the price index mechanism. The Payphone User Surcharge referenced herein shall not be considered a new service for the purposes of this Order;

(9) IBT is ordered to refund \$23.761671 million in net savings to ratepayers subject to later reconciliation after the conclusion of the audit review dockets to be opened to examine the merger costs and savings claimed by IBT;

VI. CONCLUSION

For the foregoing reasons, CUB/AG request that the Commission adopt the foregoing exceptions.

Respectfully submitted,

CITIZENS UTILITY BOARD

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June 8, 2001

EXCERPT

EXCERPT

EXCERPT

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission)	
On Its Own Motion)	
)	97-0601
vs.)	97-0602
)	97-0516
Illinois Bell Telephone Company; et al.)	Consolidated
)	
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)	

ORDER

EXCERPT : Section III.G.3 in its entirety and Ordering Paragraphs (13) and J.

3. Revenue Neutrality

In 1994, we granted Ameritech an alternative form of regulation which relaxed its regulatory constraints and gave it unlimited earnings potential. In exchange for that alternative regulation, however, Ameritech lost its right to the opportunity to earn a Commission-authorized rate of return. It is crucial to note that nowhere in Ameritech's alternative

regulation plan is it entitled to the revenue neutrality it is seeking in this docket. In fact, in all the years Ameritech has mirrored its interstate rates (and GTE was supposed to mirror its interstate rates) as a result of our mirroring policy, we have never implemented mechanisms to keep Ameritech (or GTE) revenue neutral as a result of any reduction in intrastate access revenues caused by our mirroring policy. As it has in the past, Ameritech has ample opportunity to adjust rates for its other services to the extent it believes it can support a revenue neutral offset to access revenue reductions, and those same mechanisms are available to it here. We are not, however, required to institute a new mechanism by which Ameritech may offset any access revenue decreases by increasing other rates. In fact, in our Phase I Order in this docket, we rejected Ameritech's revenue neutral methodology for calculating and implementing its intrastate PICC, instead adopting the IXC mirroring methodology. Given the rates of return reported by Ameritech, which are a matter of record in this proceeding, we are convinced that any reduction in access revenues experienced by Ameritech will not impact its overall financial viability. Indeed, we agree with Staff witness Ms. Yow that the increased demand for toll services that will almost certainly occur as a result of lower access charges may be sufficient to offset – or go a long way toward offsetting – any revenue loss from reducing access charges.

We do not need to determine whether reducing access rates to LRSIC-based levels will trigger exogenous factor treatment for Ameritech, and we decline to do so at this time. That determination is better left for a later time once the financial impact, if any, of our mandated access charge reductions can be determined. In addition, a number of events might occur that could impact the recoverability of any access charge revenue reductions ordered here. The Commission could revise the alternative regulation plan. The merger of Ameritech and SBC could result in cost savings that offset or negate any negative financial impact to Ameritech. The FCC could revise its stance on using a market-based approach to accomplish access charge reductions. Because of all of these factors, it is unnecessary to address the possible treatment of the effect of this order as an exogenous factor in any alternative regulation filing.

The issue of revenue neutrality is closer in the case of GTE because, unlike Ameritech, GTE continues to be rate-of-return regulated, which means that GTE is guaranteed the opportunity to earn an authorized rate of return. That Commission-authorized rate of return was established

in 1994 at the conclusion of GTE's last rate case. One might argue that GTE is entitled to enjoy charging the access rates that were established in that case until the next rate case, which, as a result of the Commission's approval of GTE's merger with Bell Atlantic, will be filed in approximately three years. The Commission concludes that GTE, which provides many services besides switched access, can afford itself the opportunity to offset any reduction in access revenues until the time of the rate case. At that time the Commission will have the opportunity to establish just and reasonable rates for all of GTE's services and to assure the company of the opportunity to earn the rate of return approved at that time. Given these circumstances, the Commission concludes that revenue neutrality, which is not a statutory requirement, is not a sufficient reason to forestall this opportunity to remove non-cost based rate elements from access charges from GTE's access rates and move those charges closer to forward looking costs.

Consequently, based on the above, we reject Ameritech's and GTE's requests for revenue neutrality. We likewise reject Ameritech's proposal in this proceeding to recover any access reductions by increasing its NAL rates. We agree with AT&T witness Ms. Conway that this proposal is better addressed in the context of Ameritech's rate rebalancing docket (ICC Docket No. 98-0335), where Ameritech can update its LRSIC studies. The Commission can then determine whether such increases are warranted in light of the fact that Ameritech's NALs are already priced above LRSIC and the fact that Ameritech's residential NAL rates are currently capped as a result of its alternative regulation plan. Likewise, a determination of whether the excess contribution contained in GTE's switched access rates constitutes "implicit support" as GTE contends can only be made after a review of GTE's relevant cost studies, presumably within the GTE rate case filed pursuant to our order in Docket 98-0866.

ORDERING PARAGRAPHS:

(13) Ameritech, GTE and Gallatin River are not entitled to revenue neutral mechanisms to offset any access revenue reductions experienced as a result of this Order.

J. Ameritech, GTE and Gallatin River are not entitled to revenue neutral mechanisms to offset any access revenue reductions experienced as a result of this Order.

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

ILLINOIS BELL TELEPHONE COMPANY)
)
) Docket No. 01-0302
Annual Rate Filing for)
Noncompetitive Service Under an)
Alternative Form of Regulation)

NOTICE OF FILING

PLEASE TAKE NOTICE that on June 8, 2001 the Citizens Utility Board (“CUB”), through its attorney, and the People of the State of Illinois, ex rel. James Ryan, Attorney General of the State of Illinois (“AG”) caused to be filed their Brief on Exceptions in the above-captioned proceeding via the eDocket.

Dated: June 8, 2001

Karen L. Lusson

CERTIFICATE OF SERVICE

I, Karen L. Lusson, certify that the foregoing documents, together with a Notice of Filing, were sent to all parties of record listed on the attached service list by email on June 8, 2001.

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