

Bench Date: October 23, 2013

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CHIEF CLERK'S OFFICE CHIEF CLERK'S OFFICE October 11, 2013

SUBJECT: Staff recommends that the Commission initiate a rulemaking to amend 83 Ill. Adm. Code 705, "The Preservation of Records of Telephone Utilities"

Background

Section 13-512 of the Illinois Public Utilities Act ("PUA") requires that the Commission biennially review all telecommunications-related Administrative Rules issued under Article XIII of the PUA, and amend or repeal any rule determined to be no longer in the public interest due to the availability of competitive telecommunications services.

The most recent biennial review conducted pursuant to Section 13-512 was completed in 2012. This review identified seven (7) Code Parts as potential candidates for repeal or amendment. Part 705 was identified as a candidate for amendment.

Part 705 sets forth requirements for the retention and preservation of various types of records by "telephone utilities." Part 705 took effect on September 1, 1962, and has remained unchanged since that date. Several factors combine to warrant an update of Part 705. Summarized briefly, the most significant of these are:

1. The advent of computers and explosive growth in the capacity and use of digital storage media have transformed record creation and retention practices. Part 705 requires amendment to account for the digital revolution of the last several decades.
2. Increased telecommunications competition (and increased reliance upon that competition to achieve Illinois telecommunications public policy goals) has altered the types and volumes of records that must be retained to ensure that Commission requirements are met.
3. Increased professionalization of record retention processes and practices enables the Commission to make greater use of carrier

internal record retention practices to ensure retention of all required records.

4. The Federal Communications Commission has overhauled federal record retention policies and rules for telecommunications carriers. Revision of Part 705 to modernize this Commission's requirements in a similar fashion would reduce unnecessary burdens on carriers.

Proposed Revisions to Part 705

Appendix A: Schedule of Records and Periods of Retention

The core of the current Part 705 is Appendix A, which lists a large number of records in a variety of categories. Each listed record is accompanied by a required retention period. For reasons summarized above, this approach is unduly prescriptive, resulting in outmoded and unnecessary recording and retention requirements.

Staff proposes to eliminate Appendix A and substitute a revised section 705.40 (Preservation of Records) as the central element of Part 705. This would streamline record keeping requirements while maintaining specified retention periods for documents necessary for Commission purposes:

Section 705.40 Preservation~~Index~~ of Records

- a) Each telecommunications carrier subject to this part shall keep a plan of its record management and retention policy at its principal place of business which may be readily identified and made available to representatives of the Illinois Commerce Commission. The Commission shall reserve the right to add records to the telecommunications carrier's retention policy or change retention periods through further amendment to this Part if upon review the records or retention periods are found to be insufficient for the Commission's purposes.
- b) All records which are herein required to be preserved in accordance with the telecommunications carrier's record management and retention policy shall be so arranged, filed and currently indexed by the telecommunications carrier utility that they may readily be identified and made available to representatives of the Illinois Commerce Commission.
- c) Each telecommunications carrier subject to this part shall keep, as part of its record management and retention policy,

all records necessary to demonstrate the telecommunications carrier's compliance with the Act. All such records shall be retained for a period of not less than two years. Each telecommunications carrier also shall keep, as part of its record management and retention policy, the following records for the specified retention periods:

1. Minute books of shareholders' meetings, Board of Directors' meetings, and Board of Directors' committee meetings shall be retained permanently.
2. Supporting documentation for all reports provided to the Commission pursuant to statute, rule or Commission order shall be retained for a minimum period of 6 years.

Section 705.5 Applicability

Staff proposes insertion of a new section 705.5 to clarify that Commission record retention requirements apply to every telecommunications carriers subject to Commission jurisdiction under Article XIII of the PUA:

This Part applies to all telecommunications carriers subject to regulation by the Illinois Commerce Commission (Commission) under the provisions of Article XIII of the Public Utilities Act [220 ILCS 5/Art. XIII].

Consistent with this proposed new section clarifying the application of Part 705, all appearances of the outmoded terms "utility," "telephone utility" or "public utility" in Part 705 would be replaced with the term "telecommunications carrier(s)."

Section 705.50 Preservation of Records on Microfilm

Staff proposes that the Commission delete section 705.50 in its entirety. In the digital age, microfilm is an obsolete record storage medium.

Section 705.80 Retention Periods Designated "Destroy at Option"

Staff proposes that the Commission delete section 705.80. Elimination of Appendix A renders section 705.80 superfluous since this provision refers to the "Destroy at Option" time periods set forth in Appendix A.

Section 705.90 Schedule of Records and Periods of Retention

Staff proposes that the Commission delete section 705.90. Elimination of Appendix A would render section 705.90 superfluous since it refers to the records and retention time periods contained in Appendix A.

Miscellaneous Revisions

Staff proposes additional minor miscellaneous revisions to existing language in Part 705 where necessary to achieve consistency with the above proposed revisions.

Informal Workshops

Commission staff convened four informal workshops (August 1 and 29, 2013, and September 13 and 30, 2013) to discuss with all interested parties revisions to various Commission Code Parts required by PUA Section 13-512 and the enactment of Public Act 98-0045. The revisions to Part 705 proposed herein fully reflect the input and opinions of interested parties participating in these Staff informal workshops.

Staff Recommendation

For reasons discussed herein, Staff recommends that the Commission initiate a rulemaking to amend 83 Ill. Adm. Code 705, "The Preservation of Records of Telephone Utilities."

Submitted by:


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