

**BEFORE  
THE ILLINOIS COMMERCE COMMISSION**

Z-TEL COMMUNICATIONS, INC.,	)	
	)	
<i>Complainant,</i>	)	
	)	
vs.	)	Docket No. 02-0160
	)	
ILLINOIS BELL TELEPHONE COMPANY,	)	
d/b/a AMERITECH ILLINOIS,	)	
	)	
<i>Respondent.</i>	)	

**Z-TEL’S RESPONSE TO AMERITECH’S  
EMERGENCY MOTION FOR CLARIFICATION OR MODIFICATION  
OF THE COMMISSION’S ORDER ENTERED ON FEBRUARY 27, 2002.**

Z-Tel, by its attorneys O’Keefe, Ashenden, Lyons and Ward, states as follows for its response to Ameritech’s Emergency Motion for Clarification or Modification of the Commission’s Order Entered on February 27, 2002.<sup>1</sup>

On February 22, 2002 Z-Tel filed its verified complaint seeking an emergency order compelling Ameritech to either fix the line loss notification systems that have failed to work for over a year. Z-Tel’s verified complaint alleges that the failure of Ameritech to provide timely, accurate and reliable line loss information degrades the quality of service that Ameritech provides to its customers (and former customers) and impairs Z-Tel’s ability to compete. Z-Tel alleged that Ameritech’s failures to provide timely,

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<sup>1</sup> With all due respect, Z-Tel objects to the ALJ’s Order issued at 11:39 a.m. on March 12, 2002 ordering responses to Ameritech’s Motion to be filed by 2:00 p.m. on March 12, 2002. Ameritech was aware of the Commission’s Order on February 27, 2002 and held off in filing its motion until almost 5:00 p.m. on the 13<sup>th</sup> day after the order was issued to file its Motion for Clarification. Z-Tel has still not received complete responses to its discovery requests, and must still proceed with filing its direct testimony on March 13, 2002. Compelling a response to Ameritech’s untimely motion in less than 24 from the filing of the motion, and on less than 2.5 hours notice is unreasonable and prejudicial to Z-Tel’s rights to present a fair and complete opposition to Ameritech’s motion. Moreover, compelling Z-Tel to respond to Ameritech’s untimely motion on the day before its Direct Testimony is due, and on less than 2.5 hours notice, is causing considerable prejudice to Z-Tel’s ability to prepare and file its Direct Testimony.

accurate and reliable line loss notification violates Section 13-514 of the Illinois Public Utilities Act.

Z-Tel further alleged that Ameritech's provision of line loss information was discriminatory because, based on Ameritech's tariffs and marketing material, it was clear that Ameritech was providing itself more favorable, more timely, and more accurate information when one of its customers migrated to Z-Tel (or some other carrier.) Ameritech was using this more favorable information to solicit Z-Tel's customers in an attempt to "Winback" the customer. Winback marketing material within 5 days after a customer began receiving information from Ameritech. Often times, Z-Tel did not even receive the line loss notice within 5 days after a customer left Ameritech. As described below, Ameritech continues to provide defective and inaccurate information.

Z-Tel requested an order for Emergency Relief "enjoining Ameritech from engaging in any Winback or direct marketing efforts to Z-Tel's residential or small business customers *until such time as Ameritech provides identical Line Loss Notification to Z-Tel as it provides to its own retail operations.*"

Ameritech responded to the Complaint acknowledging that its Operations Service and Support systems (OSS) were defective and that Ameritech was not providing accurate, timely or reliable line loss notification to Z-Tel.

Based on the allegations of the complaint, and based on Ameritech's Response to Z-Tel's request for Emergency Relief, the Commission issued its order finding that Ameritech's conduct violated Section 13-514 of the Illinois Public Utilities Act. The Commission further enjoined Ameritech from soliciting Z-Tel customers for at least 15

days “from the date that an Ameritech customer switches to Z-Tel *as signaled by the EDI 865 Completion Notice.*”

Ameritech asserts that it is not technically feasible for it to comply with the Commission’s order because Ameritech does not provide its own retail operations with the same 865 Completion Notice that Ameritech provides to its competitors. Therefore, Ameritech requests that the Commission jury-rig a work-around that would allow Ameritech to send Winback notices based on a more favorable system. The Commission should reject Ameritech’s Motion.

A fundamental premise of Z-Tel’s complaint is that Ameritech establishes a series of defective OSS systems that work sometimes and don’t work most of the time. While Ameritech’s competitors struggle to deal with the anticompetitive OSS systems that Ameritech makes available to its competitors, Ameritech’s retail operations are able to rely on more precise, more detailed, and more reliable information to compete. Ameritech has established a discriminatory system of line loss notice for competitors which impair the competitors’ ability to provide quality services to their competitors. Ameritech’s Motion requests that the Commission validate their scheme through a procedure that would sanction Ameritech’s discriminatory OSS systems.

The Commission should affirm its prior order. Ameritech alleges that after an 865 Completion Notice is completed (indicating a disconnect order has been completed and the new install has been completed), an 836 Line Loss Notice is generated to the losing carrier within 1 hour. (Ameritech Motion, p. 6.) While this “one hour” turn-around time is the subject of great debate, the Order should be affirmed and Ameritech should be compelled to abide by the same notification systems that it has established for

its competitors. Ameritech states that it notifies CLECs of a line loss (836) after 1) disconnection and 2) installation of a new line. However, Ameritech's Motion would allow Ameritech to send Winback marketing material after only step 1 – disconnection. Under Ameritech's OSS systems, CLECs are compelled to wait until after a new line is installed before the 836 Line Loss Notice is generated and Winback can begin. Under Ameritech's proposal, Ameritech would be permitted to send Winback based only on a notice of disconnection.

If Ameritech uses an "865 Completion Notice" as the trigger to generate an 836 Line Loss Notice to its competitors, then Ameritech should use an "865 Completion Notice" to generate an 836 Line Loss Notice to its own retail operations. This is consistent with the Commission's Order. If Ameritech is not technically able to do so, then Ameritech should bear the burden of the defects in the design of its systems. Ameritech *can* comply with the Commission's Order. Ameritech can cease soliciting Z-Tel customers until after it uses an 865 Completion Notice to generate an 836 Line Loss Notice for its own retail operations.

If the Commission has any interest in modifying the Order, the Commission could modify the order to require that Ameritech suspend its Winback marketing until such time *as Ameritech provides identical Line Loss Notification to Z-Tel as it provides to its own retail operations*. This is the request for relief originally sought by Z-Tel.

Ameritech continues to provide untimely and unreliable line loss notification to Z-Tel. For the period from March 1, 2002 through March 11, 2002 (after the Commission's Order was entered), Z-Tel received a total of 3197 records purportedly indicating that Z-Tel has lost "3197" customers during that period of time. (Affidavit of

Mike Reith, attached hereto as Exhibit A.) However, 2618 or 81% of those records were duplicate records. (*Id.*) Z-Tel is unable to process Ameritech's line loss notification reports where 81% of the records are inaccurate. (*Id.*) In addition, 42% of the records received from Ameritech were provided to Z-Tel more than 6 days after the Z-Tel customer disconnected from Z-Tel. (*Id.*)

The Commission must refuse Ameritech's offer to validate the discriminatory scheme through which Ameritech impairs competition.

Wherefore, for each of the foregoing reasons, Z-Tel requests that the Commission deny Ameritech's Emergency Motion for Clarification or Modification of the Commission's Order entered February 27, 2002.

Respectfully submitted,

Z-TEL COMMUNICATIONS, INC.



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