

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission :
On Its Own Motion :
vs :
Illinois Bell Telephone Company : 02-0427
: :
Investigation of intrastate access :
charges :

ORDER

By the Commission:

In a Staff Report dated June 14, 2002, the Staff of the Telecommunications Division of the Illinois Commerce Commission ("Commission") details perceived deficiencies in certain tariffs containing noncompetitive rates and charges filed by Illinois Bell Telephone Company ("Ameritech" or "Company") pursuant to Orders in Dockets 97-0601/0602/0516 Consolidated.

Dockets 97-0601, 97-0602, and 97-0516 were consolidated and the proceedings were subsequently divided into separate phases due to the complexity and number of issues involved. The first phase addressed tariff compliance issues related to incumbent LECs' mirroring of interstate access charge tariffs on the intrastate level. Phase I, for which a final order was issued on December 16, 1998, also addressed the justness and reasonableness of Ameritech's LS2 (intrastate Local Switching) rate increases.

On March 29, 2000, the Commission entered the Final Order in Phase II of Dockets 97-0601/0602/0516 Consolidated ("Phase II Order"). The Phase II proceeding investigated non-cost based access charge rate elements, implicit universal service subsidies, criteria for rate rebalancing proposals, and the identification and pricing of services to be included in the definition of universal service.

In the Staff Report, Staff recommends that the Commission investigate Ameritech Tariff IL. C. C. No. 21, pages 207 through 231 inclusive, which represent the interim switched access rates filed in response to the Order on Reopening in the consolidated dockets entered on May 16, 2000. These rates are currently in effect. According to Staff, there is a significant variance between the long run service increment cost studies ("LRSICs") filed to support the current interim rates and those LRSICs submitted to Staff to support the permanent rates.

AT&T sent a letter dated January 8, 2001, to the Commission concerning Ameritech Illinois' compliance with the Phase II Order and the Order on Reopening. This

letter details why AT&T believes the current rate for LS (ILL. C. C. No. 21, Page 214) contains trunk port costs already being recovered in the trunk port rates (ILL. C. C. No. 21, page 215). AT&T provided additional information in a subsequent letter to the Commission, dated August 14, 2001. These letters are attached to the Staff Report.

AT&T's letters assert that the Commission's Phase I Order of December 16, 1998, had determined that intrastate LS2 rates were unjust and unreasonable. The Order on Reopening in Phase II ordered interim rates based on studies "already on file" with the Commission. It has been alleged that those studies "already on file" contained costs for port charges that had been disallowed in the Interim Order dated December 16, 1998. AT&T alleges that Ameritech is double-recovering trunk port costs.

It is the opinion of Staff that AT&T's assertions regarding Ameritech Illinois' LS rate have merit. Discussions between Staff and Ameritech Illinois regarding the LS rate did not alleviate the concerns brought forth in AT&T's letters. Based on its review, Staff believes that the LS rate should be addressed in a formal proceeding.

AT&T requests the Commission to "investigate the extent to which Ameritech Illinois' LS rates are unjust and unreasonable, and order refunds to the extent necessary." If Ameritech's interim LS rate is reduced, Staff also recommends that those reductions be "flowed through" to end users as directed in the March 29, 2000 Order.

After reviewing the Staff Report, the Commission is of the opinion that sufficient cause exists to investigate the tariffs identified by Staff and AT&T to determine whether the rates and charges contained in these tariffs are just and reasonable as required by the Sections 13-503 and 9-101 of the Public Utilities Act ("Act").

As provided in Section 13-101 of the Act, the provisions of the Act are applicable to noncompetitive telecommunications rates and services. Section 9-250 of the Act provides:

Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that the rates or other charges, or classifications, or any of them, demanded, observed, charged or collected by any public utility for any service or product or commodity, or in connection therewith, or that the rules, regulations, contracts, or practices or any of them, affecting such rates or other charges, or classifications, or any of them, are unjust, unreasonable, discriminatory or preferential, or in any way in violation of any provisions of law, or that such rates or other charges or classifications are insufficient, the Commission shall determine the just, reasonable or sufficient rates or other charges, classifications, rules, regulations, contracts or practices to be thereafter observed and in force, and shall fix the same by order as hereinafter provided.

The Commission shall have power, upon a hearing, had upon its own motion or upon complaint, to investigate a single rate or other charge, classification, rule, regulation, contract or practice, or any number thereof, or the entire schedule or schedules of rates or other charges, classifications, rules, regulations, contracts and practices, or any thereof of any public utility, and to establish new rates or other charges, classifications, rules, regulations, contracts or practices or schedule or schedules, in lieu thereof.

Under other provisions of Article IX, the Commission has the authority to order refunds in certain instances. See Sections 9-252, 9-252.1, and 9-253. If, after notice and hearing, the Commission finds that the rates and charges that are the subjects of this proceeding are not just and reasonable, the Commission will then entertain argument on the issue of any appropriate remedies available to customers affected by the rates and charges.

The Commission, being fully advised in the premises, is of the opinion and finds that:

- (1) Illinois Bell Telephone Company 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 Illinois Bell Telephone Company and the subject matter of this proceeding;
- (3) the Staff Report dated June 14, 2002 should be made a part of the record of this proceeding;
- (4) 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;
- (5) the Commission should initiate an investigation pursuant to Section 9-250 of the Public Utilities Act to determine whether the rates and service provided by Illinois Bell Telephone Company pursuant the following tariffs are just and reasonable and in compliance with law:

IL. C. C. No. 21, pages 207 through 231 inclusive
ILL. C. C. No. 21, Page 214

- (6) if any rates listed in Finding (5) above are found to be not just and reasonable, the Commission will consider the issue of appropriate remedies as described in Sections 9-252, 9-252.1, and 9-253 of the Act.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that, pursuant to Section 9-250 of the Public Utilities Act, an investigation is initiated into whether the access rates for Illinois Bell Telephone Company in the enumerated tariff pages are just and reasonable and in compliance with the provisions of law as specified in Finding (5) above.

IT IS FURTHER ORDERED that Illinois Bell Telephone is made a respondent to this proceeding and that Illinois Bell appear at a time and place established by the Administrative Law Judge appointed in this proceeding and show cause and present evidence why the tariff provisions referenced in Finding (5) above are not unjust, unreasonable, discriminatory or preferential, or insufficient, and not in violation of any provisions of law.

IT IS FURTHER ORDERED that, if any rates and charges are found to be unjust, unreasonable, discriminatory or preferential, or insufficient, and in violation of any provisions of law, the Commission shall determine the just, reasonable, or sufficient rates and charges as authorized by Section 9-250 of the Act.

IT IS FURTHER ORDERED that, if any rates and charges are found to be unjust, unreasonable, discriminatory or preferential, or insufficient, and in violation of any provisions of law, the Commission shall determine whether any refunds or other remedies are appropriate pursuant to Sections 9-252, 9-252.1, or 9-253 of the Act and, if justified, the amount of any refunds appropriate pursuant to these Sections.

IT IS FURTHER ORDERED that the Chief Clerk serve a copy of this Order on the designated agent of Illinois Bell Telephone Company.

IT IS FURTHER ORDERED that Illinois Bell Telephone Company provide to the Chief Clerk, no more than seven business days after the date of this Order, a complete list of all municipalities within which the respondent provides service. Include all such municipalities irrespective of whether the municipality itself is a customer, and irrespective of whether all or merely a fraction of the residents and other entities within the municipality are customers of the respondent. The purpose of this ordering paragraph is to allow the Commission to fulfill the notice requirements of Section 10-108 of the Public Utilities Act.

IT IS FURTHER ORDERED that the Staff Report dated June 14, 2002 be made a part of the record in this proceeding.

IT IS FURTHER ORDERED that this Order is not final; it is not subject to the Administrative Review Law.

By Order of the Commission this 19th day of June, 2002.

(SIGNED) Richard L. Mathias

Chairman