

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

2002 DEC 20 A 11:19
CHIEF CLERK'S OFFICE

Illinois Bell Telephone Company)		
Application for review of alternative regulation plan.)	98-0252	
)		
Illinois Bell Telephone Company)		
Petition to rebalance Illinois Bell Telephone Company's Carrier Access and Network Access Line Rates.)	98-0335	
)		
Citizens Utility Board and)		(cons.)
)		
The People of the State of Illinois)		
-vs-)		
Illinois Bell Telephone Company)	00-0764	
)		
Verified Complaint for a Reduction in Illinois Bell Telephone Company's Rates and Other Relief.)		

GCI/CITY OF CHICAGO REPLY IN SUPPORT OF THEIR MOTION FOR SECOND INTERIM ORDER ON SERVICE QUALITY

Now come the Cook County State's Attorney's Office (CCSAO), Richard A. Devine, State's Attorney of Cook County, the People of the State of Illinois, by James E. Ryan, Attorney General (AG), the Citizens Utility Board (CUB) and the City of Chicago (City) (Collectively GCI/City), who respectfully reply to Illinois Bell Telephone Co. ("IBT"), Staff and ATT/WorldCom's responses to their request that the Illinois Commerce Commission (ICC or Commission) enter a Second Interim Order in this docket addressing solely the issue of service quality.

RESPONSE TO STAFF AND ATT/WORLD COM

1. Staff and ATT/WorldCom agree that a Second Interim Order on Service Quality is an appropriate Commission action at this time, with two minor caveats. Staff would like the

Commission to modify the August 13, 2002 Proposed Order to remove the service quality penalty from the price cap formula, and both Staff and ATT/WorldCom would like the Commission to include the wholesale service quality plan adopted in ICC Docket 01-0120 in the alternative regulation plan.

2. GCI/City do not oppose the request that the wholesale service quality plan be incorporated into the alternative regulation plan, and do not oppose the language proposed by ATT/WorldCom at page 6 of their Response.
3. In response to Staff's reference to removing the service quality penalty from the price cap formula, GCI/City also recommended that alternative in their testimony and briefs. GCI/City could accept either including the service quality penalty in the price cap formula as contained in the August 13, 2002 Proposed Order, or Staff's proposal.

RESPONSE TO ILLINOIS BELL TELEPHONE CO.

4. IBT argues that GCI/City's Motion "addresses a problem that does not exist" because, it asserts, IBT's service quality is currently "excellent." IBT Response at 2. GCI/City are gratified that IBT is currently meeting its service quality obligations, and acknowledge that if IBT continues to meet all standards, the penalty provisions they request will never be applied. However, the possibility that the penalty provisions will never be used is not justification for not adopting them any more than the possibility of not having had a recent automobile accident justifies foregoing automobile insurance.
5. In accordance with the mandate in the Public Utilities Act that an alternative regulation plan insure that service quality is maintained during the course of a plan (220 ILCS 5/13-

506.1(b)(6)), the changes GCI/City request will insure that the Company has the necessary and appropriate financial incentives to continue providing acceptable service quality. A Second Interim Order as requested is necessary so that both the Company and the Commission will have known and predictable consequences *if* service quality degrades, thereby providing the necessary and appropriate incentive to maintain service quality.

6. IBT argues that recently revised service quality rules (Parts 730 and 732) obviate the need for the Second Interim Order on Service Quality because penalties can be imposed pursuant to those rules. IBT Response at 3-6. Unlike the price cap formula in the alternative regulation plan, however, the revisions to Part 730 do not provide specific and predictable financial consequences for failure to maintain service quality. The first notice rule on penalties provides that

Upon complaint or its own motion and after notice and a hearing, the Commission may assess fines, penalties or impose other enforcement mechanisms against a carrier that fails to meet the requirements or standards established in this Part... In addition, carriers subject to alternative regulation may have fines, penalties and other enforcement mechanisms determined in a company specific docket and fines, penalties and other enforcement mechanisms as part of an alternative regulation plan.

83 Ill. Adm. Code 730.120 (proposed on first notice in ICC Docket 00-0596, Order entered October 23, 2002, Appendix A at 12). Clearly, the penalties determined under this rule are uncertain, the time frame potentially lengthy, and the standards for assessing penalties or other enforcement mechanisms untested. By contrast, as the rule recognizes, it is appropriate for companies operating under alternative regulation to have company specific provisions in their plan.

7. IBT further argues that the record in this docket is no longer current or relevant.

GCI/City maintain that the record contains valuable and relevant evidence that the existing service quality incentives were inadequate in that during the course of the plan severe service quality degradation occurred. The evidence supports the need for definite and predictable consequences for service quality lapses. The record demonstrates that service quality performance can change, often abruptly, and that current, adequate performance does not guarantee adequate future performance.

8. IBT finally argues that the Commission has the discretion not to enter a Second Interim Order. GCI/City do not dispute that the Commission has discretion to enter rulings as it deems appropriate. See IBT Response at 9. The import of GCI/City's motion, however, is that it would be wise and good regulatory policy for the Commission to adopt the service quality provisions in the August 13, 2002 Proposed Order, even if the other aspects of IBT's current alternative regulation plan are unchanged. Given IBT's troubled service quality performance history demonstrated in the record and experienced by the citizens of Illinois, the Commission should exercise its discretion to enter the order requested by GCI/City.

9. Finally, GCI/City note that the Commission has entered interim orders when it has found it appropriate. For example, an interim order was entered in this docket to address the distribution of merger savings (see Order dated August 13, 2002). Further, in ICC Docket 00-0233/00-0335, at least three interim orders were entered, and in docket 96-0486/0569, the "TELRIC" Docket, the order setting rates was originally fashioned as a "Second Interim Order." See Order dated February 17, 1998. Finally, in ICC Docket 83-0142, 48 interim orders were issued in order to address issues in a manageable and effective manner.

WHEREFORE, the Cook County State's Attorney's Office, the People of the

State of Illinois by the Illinois Attorney General's Office, the City of Chicago and the Citizens Utility Board respectfully request that the Commission grant their Motion for a Second Interim Order on Service Quality in this proceeding.

Respectfully submitted,

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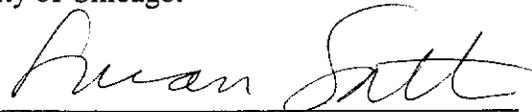
STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Bell Telephone Company)	
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Application for Review of Alternative Regulation Plan)	Docket No. 98-0252
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Petition to Rebalance Illinois Bell Telephone Company's Carrier Access and Network Access Line Rates)	Docket No. 98-0335
)	
Citizens Utility Board and People of the State of Illinois, ex rel. James E. Ryan, Attorney General of the State of Illinois,)	
Complainants)	
)	
vs.)	Docket No. 00-0764
)	
Illinois Bell Telephone Company d/b/a Ameritech Illinois,)	(consolidated)
Respondent)	

NOTICE OF FILING

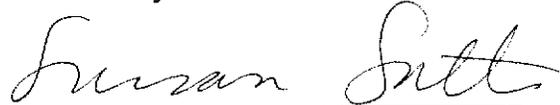
PLEASE TAKE NOTICE that on this date December 19, 2002, we filed with the Chief Clerk of the Illinois Commerce Commission the enclosed Reply in Support of Their Motion for Second Interim Order on Service Quality on behalf of GCI/City of Chicago.



Susan L. Satter
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CERTIFICATE OF SERVICE

I, Susan L. Satter, an Assistant Attorney General, hereby certify that I caused to be served the above identified documents upon all active parties of record on the attached service list by United States Mail, first class postage prepaid on December 19, 2002. and/or by electronic mail to all active parties. Hard copies will be served by United States Mail.



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