

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission	:	
On Its Own Motion	:	
	:	
Investigation concerning Illinois Bell	:	Docket No. 01-0662
Telephone Company's compliance	:	
with Section 271 of the	:	
Telecommunications Act of 1996	:	

REPLY OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION
TO THE MOTION TO HOLD ISSUANCE OF FINAL ORDER IN ABEYANCE
AND CONDITIONAL REQUEST FOR FURTHER HEARINGS

NOW COMES the Staff of the Illinois Commerce Commission (“Staff”), through its counsel, hereby states, pursuant to 83 Illinois Administrative Code Section 200.190, and in reply to various parties’ Responses to the pending Mc Leod Motion to Hold Issuance of Final Order In Abeyance and Conditional Request For Further Hearings, as follows:

1. On May 9, 2003, various parties filed responses to the above-referenced Motion. Several parties, supporting Mc Leod’s motion, noted that (a) SB 885, if adopted, would require the implementation of rates that violate Checklist Item 2, and (b) that a “price squeeze” would ensue, in violation of the doctrine enunciated in Sprint Communications Company, L.P. v. FCC, 274 F. 3d 549 (D.C. Cir. 2001).
2. The Staff takes no position on this motion, and neither supports nor opposes it.

3. The Staff, however, notes that Section 271 authority is not necessarily a permanent state of affairs; the FCC unquestionably has the power to suspend or revoke such authority. 47 U.S.C. §271(d)(6)(A)(iii).

4. Indeed, Section (d)(6) provides as follows:

If at any time after the approval of an application under paragraph (3), the Commission determines that a Bell operating company has ceased to meet any of the conditions required for such approval, the Commission may, after notice and opportunity for a hearing--

- (i) issue an order to such company to correct the deficiency;
- (ii) impose a penalty on such company pursuant to title V [47 USCS § 501 et seq.]; or
- (iii) suspend or revoke such approval.

47 U.S.C. §271(d)(6)(A)

5. Accordingly, if the consequences alleged likely to occur – namely, a Checklist Item 2 violation or price squeeze – do indeed occur, the Commission is not without a remedy; it can petition the FCC for an investigation and the imposition of sanctions enumerated in Section 271(d)(6)(A).

Respectfully submitted,

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