

REGULATORY OVERVIEW – Q3 2003



ILLINOIS

01-0539

Carrier to Carrier Service Quality Rules

This rulemaking imposes performance measurements on CLECs. Judge has asked for additional briefing on impact of TRO. Initial briefs filed and reply briefs due soon.

01-0662

Investigation concerning Illinois Bell Telephone Company's compliance with Section 271 of the Telecommunications Act of 1996.

ICC issued order on 5/13/03 finding Illinois Bell to be in compliance. ICC issued Order May 13, 2003 and FCC expected to issue positive ruling soon.

02-0864

SBC / Illinois Bell TELRIC Filing

SBC testimony and studies received. Discovery completed and staff and intervenor testimony filed. Case abated given Illinois legislation. Oral arguments have been made before the 7th Circuit and a decision is awaited.

00-0812

Verizon TELRIC Docket

Proceeding bifurcated into two phases. Phase I focus on access LRSICs. Phase I order issued on 5/21/03. Approved rate reduction of \$25 million. Phase II to focus on Verizon TELRIC studies and will be moving forward. Asked for interim rates based on FCC proxies. Await order.

Illinois Cases Presently on Appeal

Pronto Appeal – also impacted by TRO – additional briefing requested.

Generic Review of EELs and UNE-P Tariff

00-0700: Unbundled Local Switching / Shared Transport: Court Action pending

99-0593 ICC Investigation into Special Construction Charges

ILLINOIS TRO Matters

Initial Triennial Review Workshop

The Illinois Commerce Commission Staff hosted a workshop on September 10, 2003, to discuss potential ICC proceeding(s) that might be undertaken as a result of the FCC's TRO.

ICC Triennial Review Cases

The Illinois Commerce Commission will initiate four cases on the Commission's own motion for the following:

[1] Batch Cut Migration Process

[2] Potential Impairment Determinations Regarding Unbundled Local Switching for Enterprise Market Customers In Specific Markets

[3] Potential Non-Impairment Determinations Regarding Unbundled Local Switching for Mass Market Customers In Specific Markets

[4] Local Loops and Dedicated Transport

Schedules and multiple rounds of testimony, briefings, and hearing dates have been set.

Five state TRO Meetings to be held in Chicago

October 16 and 17, 2003 Illinois Commerce Commission Offices 160 North LaSalle, 8th Floor, Chicago, IL 60601

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INDIANA

40611-S1

In the Matter of the Commission Investigation and Generic Proceeding on Ameritech Indiana's Rates for Interconnection, Service, Unbundled Elements, and Transport and Termination under the Telecommunications Act of 1996 and Related Indiana Statutes. Phase II.

IURC stayed portions of February 17, 2003 order requiring end-to-end unbundling of Project Pronto, but otherwise left the order intact.

41657

Ameritech Compliance with 271

IURC issued qualified positive recommendation to FCC on August 6, 2003, withholding any findings on billing issues and completion of OSS test, and advising FCC that there was no statewide remedy plan in place and IURC would rely on FCC for enforcement support if SBC failed to comply with its obligations to competitors in absence of effective remedy plan. IURC mandated certain changes to Time Warner plan to make it moderately less unpalatable to CLECs, including placing plan under Commission oversight and eliminating its 4-year expiration date.

42236

Complaint of Time Warner Telecom Against Ameritech Indiana Regarding Its Unlawful Market Practice of Issuing Equipment Vouchers in Violation of the Indiana Code and Opportunity Indiana II and Petition for Emergency Suspension of Any and All Ameritech Indiana Equipment Voucher Marketing Practices Pending Commission Investigation

Hearings held this summer and now in post hearing briefing stage.

42405

Opportunity Indiana III Alternative regulation expires at the end of the year.

Pertinent Dates:

8/29 SBC files plan

9/30 OUCC/CAC file plan

10/30 MCI (and others) respond

12/1 Staff files

12/30 MCI (and others) respond

2/4 Hearings begin

42393

SBC TELRIC case

Hearings held at end of September before the Indiana Utility Regulatory Commission to determine rates for unbundled network elements and collocation. Approximately twenty witnesses testified in the case. The parties are currently working on a set of sensitivity analyses that are due on October 22nd. If SBC's and the CLECs' sensitivity runs do not match, there will be a technical conference on October 28th to address the differences. Proposed orders are due October 30th, and exceptions to proposed orders on November 14th. The IURC has stated that it will issue a final decision by December 31, 2003.

42218

This Winback case has been fully briefed since January. We are still waiting for a commission order.

42144

Commission opened docket last year to consider establishing an Indiana-specific USF. Major ILECs and small rural companies filed a settlement agreement, proposing to create a USF for

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purposes of absorbing rate shock for rural customers while rates are adjusted. Proposed orders have been filed and we are waiting for a decision.

Confidentiality issues

The commission denied confidentiality treatment of annual reports and local competition reports this year. Carriers have appealed and worked out a settlement in the local competition docket. On the annual reports, rehearings have been denied.

INDIANA TRO Matters

On August 27, 2003, the Indiana Utility Regulatory Commission initiated a docket to address issues related to the FCC's Triennial Review Order released August 21, 2003. A prehearing in the 90-day presiding is set for October 14th. CLECs' responses to SBC's petition in the 9-month proceeding are due on October 20th, and a prehearing for that part of the TRO is set for October 27th. SBC is attempting, as elsewhere, to bifurcate the proceedings.

On Tuesday, September 9, 2003 IURC issued a notice in its Triennial Review proceeding seeking to identify initial parties to the ninety-day and nine-month processes. The notice solicited recommendations pertaining to the scope of the proceedings and the procedures to be followed.

MICHIGAN

U-13531

In the matter of the application of SBC Ameritech Michigan for approval of revised cost studies related to certain telecommunications services.

This cost case comprises a wider range of issues than the abated Illinois case and the Indiana case. On Tuesday, September 30, 2003, the Michigan Public Service Commission issued an order seeking comments pertaining to several actions and orders (most notably, the FCC's Triennial Review Order and TELRIC Notice Of Proposed Rulemaking) that have recently taken place that have the potential to impact the immediate proceeding. A prehearing conference is scheduled for October 15th.

MICHIGAN TRO Matters

At the prehearing in the TRO cases in Michigan on October 13, certain schedules were set:

On October 24, SBC will designate its position on MM switching - a general scoping of the case to help the parties focus discovery and anticipated testimony. Also, on October 17, SBC will let parties know when it will provide a similar scope of the case for loops and transport.

While SBC wanted to bifurcate the proceeding to first determine the trigger issues and/or geographic market issues, SBC was pretty much shouted down by all other participants (and ALJ) in an off the record discussion. On the record, SBC maintained its position on the bifurcated proceeding, but in a "collaborative spirit" agreed to the schedule set forth below. MM switching/loop/transport case:

U-13796

On May 28, 2003 the Michigan Public Service Commission issued an order seeking comment on the FCC's adoption of rules in its Triennial Review proceeding.

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On August 26, 2003 the MPSC issued an order seeking supplemental comments on the Federal Communications Commission's Triennial Review Order issued on August 21, 2003.

The MPSC issued a Notice of Opportunity to Comment on the Triennial Review Order on September 18, 2003. Initial Comments were due October 3, 2003. Comments sought revolve around relevant geographic areas.

Case No. U-13796 (MM switching, loops and transport):

There will be collaboratives to attempt to narrow the issues and work out discovery issues on October 28-29, Nov 13 (at 1pm), and Nov 14.

Second Prehearing, if necessary, December 4, 9:00am

First round of testimony: December 19

Second round of testimony: February 10

Third round of testimony: March 5

Hearings: March 15-19

Initial briefs: March 29

Reply briefs: April 9

PFD: May 10

Exceptions to PFD: May 21

Reply to Exceptions: June 1

Final order: July 2

Batch Hot cut case (Case No. U-13891):

It was the understanding that there would likely be regional collaboratives. Teleconference among participants on status of collabs from Michigan

perspective: Oct 23, 10am eastern

Second Prehearing, if necessary, January 8, 9:00am

First round of testimony: January 23

Second round of testimony: February 20

Third round of testimony: March 12

Hearings: March 23-24

Initial briefs: TBD

Reply briefs: TBD

PFD: TBD

Exceptionns to PFD: TBD

Reply to Exceptions: TBD

Final order: July 2

Other MICHIGAN Issues

In July 2003 J. Peter Lark was appointed chair of the Michigan Public Service Commission by Governor Granholm. Mr. Lark replaced Commissioner David Svanda

U-13013

On August 1, 2003 the Michigan Public Service Commission's rules regarding telecommunications service quality became effective. The rules cover a wide spectrum of matters, including repair and installation; engineering standards; customer billing; billing accuracy; and emergency repairs.

The MCI arbitration order can be found at:

<http://efile.mpsc.cis.state.mi.us/efile/docs/13758/0073.pdf>

The PDAP in that case can be found at:

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<http://efile.mpdc.cis.state.mi.us/efile/docs/13758/0067.pdf>

OHIO

00-942-TP-COI

In the Matter of the Review of Ameritech Ohio's TELRIC Costs for Unbundled Network Elements and 271: Application by SBC Communications Inc., Ameritech Ohio, and Ameritech Long Distance for Provision of In-Region, InterLATA Services in Ohio

On June 26 the PUCO approved 271 application. The Bearing Point test has not yet been finished in Ohio. Date was initially set for October 1, 2003.

02-3207-AU-PWC

Legislature gave the PUCO jurisdiction over municipal right of way fees. This is a joint complaint by various CLECs challenging the ordinance established by the City of Toledo. PUCO Order stated that the ordinance rate was unreasonable. PUCO interpreted the statute as stating that the PUCO does not have the authority to establish or adjust the ordinance rate.

The PUCO found that ordinances did not comply with statutes. This case is now on appeal and the Ohio Supreme Court will issue a finding as to the authority of the PUCO to rule on right of way fees.

03-324-AU-PWC

In the Matter of the Complaint of WorldCom, Inc., AT&T Corp., and Time Warner Telecom of Ohio, L.P. vs. The City of Dayton, Ohio, Regarding Right of Way Fees

Briefs and reply briefs have been filed in this case. The PUCO issued an order wherein they determined the ordinance rates were unreasonable.

03-802-TP-CSS

In the Matter of the Complaint of Nuvox Communications of Ohio vs. SBC, Ohio, Regarding Unreasonable Assessment of Power Charges for Collocation

Briefs and reply briefs were filed in this case and numerous companies intervened. An Accessible letter has been distributed on revised power charge procedures. A settlement may be reached soon wherein the parties' file an interconnection agreement amendment

99-998-TP-COI

Reachout Local Service Rules

April 7, 2003 Order establishing new retail local service rules. The matter is set for rehearing for the amended carrier rules. Retail rules are in effect. With TRO cases forthcoming the carrier rule rehearing may take quite some time.

OHIO TRO Matters

On October 2nd the PUCO created three entries.

Mass Market case 03-2040. PUCO will start with SBC, Verizon, CBT, and Sprint. CLECs can intervene up to October 24th.

PUCO issued discovery to most carriers. Answers must be received by October 31st. Various parties have requested rehearing on basis that this method of handling discovery is problematic.

Loop Transport Case 03-2041. Any ILECs that file must do so by November 3rd.

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90 Day Proceeding: 02-2042.

WISCONSIN

6720-TI-161

Investigation Into Ameritech Wisconsin's Unbundled Network Elements

Compliance filings have been made, reviewed, and comments filed since September 10, 2002. After the July 9, 2003 Order, Petitions for Rehearing and Reconsideration were filed. In addition, a Motion to Modify the Administrator Process was filed, and granted in large part. Pursuant to that ruling, the CLECs obtained the right to serve direct discovery on SBC on the issues delegated to the Telecommunications Division Administrator. The second round was served on October 8th, and SBC's responses are due on October 21st. The Administrator will thereafter set a schedule for comments on SBC's compliance filing.

On October 8, 2003, SBC Wisconsin issued an Accessible Letter reaffirming its offer made to all Wisconsin CLECs to amend their Interconnection Agreement to incorporate the newly ordered UNE rates borne from Docket 6720-TI-161. SBC Wisconsin issued its original Accessible Letter on July 31, 2003, whereby it offered to amend all existing Wisconsin ICAs to incorporate the Public Service Commission of Wisconsin determinations in Docket 6720-TI-161, including but not limited to changes to the rates SBC Wisconsin may charge for UNEs. The Order requires SBC Wisconsin to amend all existing ICAs, notwithstanding change-of-law provisions contained in such ICAs, to incorporate PSCW determinations in the proceeding regarding TELRIC pricing and required offerings. SBC Wisconsin wants CLECs to execute amendments to ICAs by November 15, 2003 so that SBC Wisconsin can process the required rate changes and determine the appropriate retroactive true-ups.

SBC has also announced that it believes that it is not required to make the Commission-ordered true-up to MCI and MCI alone, and has lobbied other CLECs not to get involved in the dispute as to SBC's true-up obligations. SBC's position stems from an out-of-context misinterpretation of a single sentence in the PSCW's July 9, 2003 UNE Compliance Order. MCI is currently working on a response to SBC's statement of position.

6720-TI-170

Petition of Wisconsin Bell, Inc., for a Section 271 Checklist Proceeding Also: Application by SBC Communications, Inc., Ameritech Wisconsin, and Ameritech Long Distance for Provision of In-Region, Interlata Services in Wisconsin

The PSCW made a positive recommendation to the FCC on SBC Wisconsin's Section 271 application, withholding comment on the remedy plan issue. Although the Commission found that there were no systemic billing problems, it then immediately opened up PSCW Docket No. 6720-TI-183 to investigation SBC Wisconsin's billing systems.

6720-TI-160

Investigation Into Ameritech Wisconsin Operational Support Systems

Testing is not complete. New date set for 8/29/03. This docket is limited to amending the Final Decision (Phase I) in this docket issued on September 25, 2001. On July 8, 2003, SBC Wisconsin and various CLECs that are party to this docket filed a *Joint Motion for Expedited Amendment of the June 16, 2003 Order*. The Joint Motion sought expedited treatment since the parties have agreed to revise and implement new business rules pertaining to two performance measures.

6720-TI-177

Investigation Into Loop Conditioning Procedures

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Briefing is complete. Commission Staff recently circulated their summary of the record, which will be provided to the Commissioners. We have no word on when the Commission will actually take the issue up.

3775-TI-101

On October 8th, the Commission ruled 2-1 (Chairperson Bridge dissenting) that MCI was in full compliance with Wisconsin's Lifeline rules in offering two Lifeline packages to Wisconsin consumers, rather than providing a set discount on each and every bundled offering.

6720-T1-183

The Wisconsin Public Service Commission has investigated SBC Wisconsin's wholesale billing practices. The investigation arises out of the Commission's SBC Wisconsin 271 review. In that review numerous parties complained of problems with the wholesale billing systems. The investigation will attempt to develop solutions to these problems, possibly through evidentiary hearings. Collaboratives were held in September and October. It appears unlikely that there will be any issues set for hearing. While SBC has occasionally agreed to provide CLECs with more information regarding their billing concerns, it generally asserted that in light of the Michigan 271 approval, there are no billing problems, and therefore nothing to resolve.

6720-T1-173

Petition of SBC for Suspension of Wisconsin Statute §196.196(1) with Regard to Small Business Customers as it pertains to the price regulation of business customers with one to three access lines. SBC contends that competition has increased in the market for small business customers to the point that it is no longer in the public interest to regulate the rates it charges these customers for basic telecommunication services. SBC's rates for access lines provided to business customers with up to three access lines are capped by a formula tied to the rate of inflation less a 3% productivity offset. Incentives and disincentives related to service quality and infrastructure investment can be factored in. If SBC's petition is granted, these lines will be treated the same as access lines provided to business customers with more than three access lines, and rates will be subject to only minimal Commission jurisdiction.

WISCONSIN TRO Matters

On Thursday, July 24, 2003 the Wisconsin Public Service Commission opened an investigation to look into issues respecting the Triennial Review Order as they pertain to unbundling obligations. The Public Service Commission of Wisconsin issued a notice in early September seeking comments on the FCC's Triennial Review Order, and held a prehearing conference on September 30th. The Commission has set a schedule for the 90-day proceeding, but has yet to issue any notices regarding the 9-month inquiries. As in the other SBC-Midwest states, SBC is attempting to bifurcate the proceedings.

Other WISCONSIN Items

Wisconsin cell phone users will pay a new surcharge to help cover a federally mandated program allowing law enforcement to pinpoint 911 calls from mobile phones, under legislation the governor signed Monday. The monthly fee will start in 2005.