

Section 773.150 Interexchange Carrier Participation

Carriers (including LECs and IXC) may carry presubscribed intraMSA calls if they have effective intrastate tariffs to provide such services and if they have made the necessary arrangements with the LEC.

Section 773.160 Presubscription Charges and Cost Recovery

- a) Each LEC shall allow customers to change presubscription selections once at no charge within six months following implementation within an exchange of presubscription consistent with this Part, and shall allow each new customer to select presubscription arrangements at no charge at the time network access service is initiated. At other times, each LEC may impose a reasonable, tariffed charge for changes in a customer's presubscription selections.
- b) Each LEC may seek to recover reasonable separated intrastate costs limited to initial incremental expenditures related directly to the provision of presubscription that would not be required absent the provision of presubscription consistent with this Part.
- c) In determining presubscription cost recovery, each LEC shall amortize all separated intrastate presubscription costs over at least a three year period.
- d) Each LEC that provides noncompetitive services and is not an average schedule company shall use the following procedures for recovery of intrastate presubscription costs:
 - 1) A tariffed presubscription cost recovery charge shall be applied to all switched originating intra-MSA intrastate minutes of use subject to presubscription and originated by the LEC's customers, whether carried by the LEC or another IXC. If the LEC is a PTC, such charges shall not apply to customers of other LECs with which the LEC has a PTC arrangement;
 - 2) The LEC shall submit the proposed presubscription cost recovery charge and full cost documentation as part of its tariff filing made to implement presubscription consistent with this Part;
 - 3) In non-equal access exchanges where both inter- and intraMSA equal access are implemented concurrently, LECs should develop separate inter- and intraMSA cost recovery charges, consistent with FCC requirements and this Part.
- e) Each LEC that is an average schedule company shall, through its concurrence in the Illinois Small Company Exchange Carrier Association (ISCECA) intrastate switch-

ing tariffs, use the following procedures for recovery of intrastate presubscription costs:

- 1) An addition to the local switching rates shall be applied to all switched intrastate minutes of use subject to presubscription and originated by the LEC's customers;
- 2) ISCECA shall submit the proposed addition to its local switching rates and full cost documentation through a tariff filing made to recover intrastate presubscription costs consistent with this Part;
- 3) The addition to the local switching rates shall apply for the amortization period only. At the end of the amortization period, ISCECA shall file the appropriate local switching tariff reflecting the removal of such addition to its local switching rates.

Section 773.170 Information Requirements

- a) Within 15 days after receiving a bona fide request, a LEC shall notify all IXCs currently purchasing Feature Group D access service ("FGD service") from the LEC in the affected exchange(s) of the bona fide request.
- b) Each LEC shall provide the following information to all IXCs purchasing FGD service or which place orders for FGD service from the LEC in each exchange where presubscription consistent with this Part is to be implemented:
 - 1) Presubscription conversion schedules, to be provided at least three months prior to the cutover date;
 - 2) Ordering procedures, terms, and conditions for the IXC to be eligible for customer presubscription to the IXC, to be provided at least three months prior to the cutover date;
 - 3) Customer lists, within 15 business days after receipt of a written request from an IXC that has made a bona fide request or has otherwise established eligibility for customer presubscription, to be used by the IXC only in connection with presubscription solicitation. Customer lists shall be provided upon request for a period of six months prior to and six months after the implementation of presubscription in an exchange.
- c) Each LEC shall serve all presubscription tariff filings, waiver petitions, and extension of time petitions on all IXCs currently purchasing FGD service from the LEC in the affected exchange(s) and on all other entities that have requested such service.

ATTACHMENT B

INTERCONNECTION

April 7, 1995 Interim Order in Docket 94-0049
August 9, 1995 Second Interim Order in Docket 94-0049
October 3, 1995 Order in Docket 94-0049
83 Il. Adm. Code Part 790: Interconnection

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission :
On Its Own Motion :
: 94-0049
Adoption of rules on line-side :
interconnection and reciprocal :
interconnection :

INTERIM ORDER

By the Commission:

On February 8, 1994, the Illinois Commerce Commission ("Commission") entered an Order initiating this rulemaking proceeding. The Order contemplated that the rulemaking would cover two issues: (1) the development and adoption of rules for line side interconnection with local exchange carriers ("LECs"); and (2) the development and adoption of rules on reciprocal interconnection for special access and switch access transport.

The following parties intervened or entered appearances in this proceeding: Illinois Bell Telephone Company ("Illinois Bell"); The Illinois Independent Telephone Association ("IITA"); The Central Telephone Company of Illinois ("Centel"); MCI Telecommunications Corporation ("MCI"); Citizens Utility Board ("CUB"); GTE North Incorporated and GTE South Incorporated ("GTE"); Illinois Consolidated Telephone Company ("ICTC"); AT&T Communications of Illinois, Inc. ("AT&T"); The City of Chicago ("Chicago"); The Illinois Attorney General, on Behalf of the People of the State of Illinois ("Attorney General" or "AG"); TC Systems - Illinois, Inc. ("TCG"); The Cable Television and Communications Association of Illinois ("CTC"); Sprint Communications LP ("Sprint"); The Illinois Telephone Association ("ITA"); LDDS Communications, Inc. ("LDDS"); The Cook County State's Attorney, People of Cook County ("Cook County"); MFS Intelenet of Illinois ("MFS"); Southwestern Bell Mobile Systems, Inc. ("d/b/a Cellular One - Chicago"); LCI International Telecom Corp. ("LCI"); Zankle Worldwide Telecom Group; and Jim Meyers.

Pursuant to notice as required by law and the rules of the Commission, hearings were held in this proceeding before duly authorized Hearing Examiners at the Commission's offices in Chicago, Illinois on April 19, July 5, and October 12 through November 15, 1994. On November 15, 1994, the record was marked "Heard and Taken".

This docket was consolidated for hearings with Dockets 94-0048, 94-0096, 94-0117, 94-0146 and 94-0301 for purposes of developing a complete record without needless duplication.

Testimony in those proceedings are made a part of the record in this proceeding also.

The record consists of nine witnesses for Illinois Bell; five witnesses for Staff; seven witnesses for AT&T; four witnesses for MCI; five witnesses for GTE; three witnesses for TCG; two witnesses for MFS; one witness for CUB; one witness for IITA; two witnesses for Centel; two witnesses for Sprint; one witness for ICTC; one witness for LDDS; and the testimony of Jim Meyers, a private citizen who presented testimony on his own behalf.

Initial Briefs addressing issues in Docket 94-0049 were filed by Staff, Illinois Bell, GTE, AT&T, Sprint/Centel, MCI, AG, IITA, ICTC, CUB, CTC, LDDS, MFS, and TCG. A Hearing Examiners' Proposed Order was served on January 24, 1995. Briefs on Exceptions and Replies thereto have been considered by the Commission.

The Proposed Rule that results from this Order is attached as Appendix A.

I. INTRODUCTION

Line side interconnection is a term which describes the ability of a competitor or customer to interconnect its facilities with the portion of the LEC network which extends from the central office to the customer's premises.

Originally, the Commission intended that this proceeding also consider several issues which were unresolved in Docket 92-0398 which was completed in 1993. That proceeding established rules for special access and switch access transport interconnection and those rules are currently set forth in Illinois Administrative Code Part 790.

II. LINE SIDE INTERCONNECTION RULEMAKING

A. Linkage Between The Line Side Interconnection Rule And InterMSA Relief

Illinois Bell maintains that the line side interconnection rules should apply only in exchanges where a LEC is permitted to offer interMSA services. The rationale for this position is fully set forth and described in the Commission's Order issued in Dockets 94-0096/94-0146 et. al., and is expressly incorporated herein by reference. Not all of Illinois Bell's arguments in support of its position will be repeated here. In short, Illinois Bell argues that because of its concentration of revenues and because of its customers' strong preference for "one-stop shopping" there is a substantial risk that Illinois Bell

will suffer significant financial harm if it is required to facilitate local competitive entry through network unbundling before it is able to compete for interMSA services.

GTE also argues that the rule not be implemented until it receives authority to offer interMSA services. GTE offers many of the same arguments in support of its position as Illinois Bell, including the risk of financial harm arising from an inability to offer one-stop shopping.

This position is opposed by the interexchange carriers ("IXCs") and new LECs who participated in this proceeding, including AT&T, MCI, Sprint, TCG, and MFS. Staff also opposes this position. Once again, the arguments of these parties will not be repeated here because they are fully set forth in the Commission's Order in Dockets 94-0096/94-0146 et. al. and are expressly incorporated herein by reference. In summary, these parties argue that unbundling of the local loop and switch port is essential for local exchange competition and that competition should not be delayed indefinitely until Illinois Bell and GTE obtain interLATA relief.

Conclusion

For the reasons set forth in our Order in Docket 94-0096/94-0146 et. al., we reject the arguments of Illinois Bell and GTE that implementation of this rule should be delayed until those firms are authorized to provide interLATA services.

B. Collocation

Staff initially proposed that LECs should offer both physical collocation and virtual collocation arrangements for line side interconnection. Staff now recommends that the physical collocation requirement be deleted from the proposed rule and that only virtual collocation be required. Staff witness Starkey explained that physical collocation should not be required because these arrangements have been challenged successfully in Federal Court, Bell Atlantic v. FCC, 24 F.3d 1441 (D.C. Cir. 1994), and were recently stayed by an Illinois Appellate Court. In view of this clarification by Staff, Illinois Bell argues that the proposed rule should state specifically that physical collocation is not required.

Conclusion

The Commission recently opened a proceeding to consider the implications of the recent legal developments. Accordingly, we will not adopt Illinois Bell's suggestion at this time.

C. Loop Subelements

The positions of the parties regarding the issue of unbundling was discussed at length in the Commission's Order in Docket 94-0096/94-0146 et. al.. The evidence and arguments of the parties are incorporated by reference herein. We will only summarize the positions.

Staff proposes that LECs be required to unbundle local access lines into loops and ports. In addition, Staff proposes more comprehensive unbundling of the local loop into "loop subelements". Loop subelements are defined in Section XXX.10 as "components of the loop offered as individual and separately available services and/or separately available interconnection points". As Staff explains it, the rule does not mandate a specific interface or interconnection point. Instead, it requires that the interconnector and LEC come to a mutual agreement regarding the technical characteristics of loop subelements. The IXCs and new LECs participating in this proceeding support the loop subelement unbundling proposal. AT&T, MCI and TCG contend that loop subelements will be useful to potential local exchange competitors because they will allow the competitor to self-provision as much of a local loop as possible and to purchase the remaining piece of the local loop from the LEC.

Illinois Bell, GTE and Sprint/Centel oppose loop subelement unbundling. These parties contend that there is no actual demand for the offering. The most the record contains is conjecture about how potential PCS and CATV providers hypothetically might use loop subelements. This type of speculative demand is insufficient to establish that the proposal would have any positive benefits for the citizens of Illinois. Illinois Bell also argues the proposal would impose unnecessary implementation and administrative costs because it would require Illinois Bell to develop unique interconnection arrangements at any of its 24,000 above-ground cabinets or 240 controlled environmental vaults in the state. Illinois Bell contends that these costs outweigh the scant benefits that loop subelements might provide.

Illinois Bell also maintains that the Commission can proceed in measured, incremental steps by implementing loop/port unbundling now and evaluating whether more extensive loop unbundling is required at a later date. Finally, Illinois Bell contends that Staff's definition of loop subelements is impermissibly vague because it does not specify the locations at which parties can request interconnection and it therefore imposes an unrealistic and unmanageable burden on LECs.

GTE argues that there is no showing of an unmet demand for unbundled services and that market negotiation and Section 5/13.505.6 are sufficient to satisfy any extant demand.

Sprint/Centel argues that the loop subelement unbundling requirement should be deleted until the Commission has established appropriate rules and standards to govern the interconnection of subelements and the operation of telephone networks in an unbundled environment.

AT&T responds that unbundling is necessary to eliminate the local exchange bottleneck and facilitate the development of competition. AT&T's comprehensive proposal for unbundling was presented in Docket 94-0146. AT&T notes that no party, including Illinois Bell, has asserted that it is impossible to achieve the interconnection required by the proposed rule. Instead the comments were directed at the intricacies of how unbundling should be accomplished. AT&T agrees that uniform procedures should be established and proposes that an industry working group be formed to craft such standards within six months of this proceeding.

Conclusion

In addition to the Commission's general authority to order carriers to interconnect their networks, derived from Sections 7-102, 8-502 and 8-506 of the Public Utilities Act, the statutory authority underlying the proposed rule is found in Section 5/13-505.5 and, primarily Section 5/13-505.6, which provide as follows:

Section 5/13-505.5:

Requests for new noncompetitive services

Any party may petition the Commission to request the provision of a noncompetitive service not currently provided by a local exchange carrier within its service territory. The Commission shall grant the petition, provided that it can be demonstrated that the provisioning of the requested service is technically and economically practicable considering demand for the service, and absent a finding that provision of the service is otherwise contrary to the public interest. The Commission shall render its decision within 180 days after the filing of the petition unless extension of the time period is agreed to by all the parties to the proceeding.

Section 5/13-505.6:

Unbundling of noncompetitive services

A telecommunications carrier that provides both noncompetitive and competitive telecommunications services shall provide all noncompetitive telecommunications services on an unbundled basis to the same extent the Federal Communications Commission requires that carrier to unbundle the same services provided under its jurisdiction. The Illinois Commerce Commission may require additional unbundling of noncompetitive telecommunications services over which it has jurisdiction based on a determination, after notice and hearing, that additional unbundling is in the public interest and is consistent with the policy goals and other provisions of this Act.

The Commission does not find the assorted generic arguments against including loop subelements in the rule to be persuasive. The Commission emphasizes that the rule does not require loop subelement unbundling. The rule is primarily procedural. It provides an appropriate vehicle to handle requests for unbundled services in a manner consistent with Sections 5/13-505.5 and 5/13-505.6 of the Act. It affords a great deal of flexibility to the parties to negotiate an appropriate agreement. The only thing the rule actually mandates is that, if a customer requests access to a particular portion of a loop, the local exchange provider would not be able to deny the customer that service unless the local provider could prove that offering the service was either technically and/or economically impracticable or otherwise contrary to the public interest. The contentions raised in this proceeding could be considered at that time in the context of a specific purchaser seeking a specific service. This is fully consistent with the statute. With respect to the need to develop technical standards, the Commission certainly would welcome any voluntary effort by the industry to develop them, and AT&T's suggestion for an industry working group is excellent. However, we are not persuaded that the difficulties are so insurmountable that deletion of this provision is required.

The Commission finds more persuasive the argument of those parties advocating more granular unbundling of network facilities, that it is appropriate to include loop subelements in the proposed rule. Staff's proposal recognizes that a loop is not a single functionality. The loop network serving subscribers' premises consists of feeder plant and distribution plant. Feeder plant is composed of a high capacity medium, either large cables incorporating many individual wire pairs, or fiber optic or coaxial cable facilities originating in a LEC central office that carry individual subscriber pairs via dedicated channels. Distribution plant is

comprised of smaller wire cables, attached to the end of the feeder plant, that run down streets, roads and alleys to interface with a drop wire that terminates at a network interface at individual subscribers' premises. MCI Ex. 2.0 at 9-10.

The unbundling of the loop into feeder and distribution components may serve the public interest by facilitating competition. For example, a new LEC may wish to purchase unbundled distribution plant from the incumbent LEC and connect the unbundled distribution loops directly to its switching office. The new LEC would provide its own feeder plant from the digital loop carrier terminal or cross-connect to its switching office. By providing its own feeder plant, the new LEC could avoid the cost of an additional transport link between the central office and the new LEC's switching office. Requiring a new LEC to purchase network components that it does not need unnecessarily raises the costs of entry and imposes a barrier to entry.

Staff's example regarding PCS does not appear to be purely hypothetical. With PCS, a relatively large number of radio sites are connected to a central location for switching and interconnection with long distance and wireline LEC. Connection of the radio sites can be accomplished in a number of ways. The PCS provider could connect its radio sites directly to a LEC end office using the LEC's facilities. In the alternative, the provider could connect radio sites to an intermediary location, where traffic is aggregated, using a wireless technology (i.e., the distribution function) and obtain service from the LEC for retransmission to the LEC end office (i.e., the feeder function). Staff Ex. 2.0 at 18-19. It is quite possible that this type of arrangement could be in the public interest.

The Commission commends Staff for its recognition of the need to develop policies which can accommodate changing technology in the telecommunications industry. It is quite possible that promulgating a rule which reflects a commitment to open-minded consideration of requests for unbundled services, and the establishment of a specific procedure for handling such requests, will make the State of Illinois particularly attractive to new market entrants and the deployment of new technologies.

D. Application Of The Line Side Unbundling Rule

The next issue concerns which LEC's should be subject to the line-side unbundling requirement. There are essentially four positions on this issue. First, new LECs, including MFS, TCG and MCI, contend that they should not be required to unbundle local loops from switch ports because they have "no monopoly control over essential facilities". TCG makes the additional argument that the

unbundling proposal "does not easily translate to its network" because its network is different from LECs' networks.

Second, small LECs like ICTC and the IITA argue that loop/port unbundling is an experiment which should be tried first in MSA-1 and should be imposed in more rural areas of the state only if it proves to be an effective mechanism for encouraging competition without creating an undue burden on incumbent LECs. They point out that there is a need to assess the impact on small companies and their customers before imposing a "one-size-fits-all policy". They note that the Commission permitted an exemption for non-Tier 1 LECs from the special and switched access interconnection rule in Docket 92-0398 and argue that the same reasoning applies to line-side interconnection.

Third, Illinois Bell, Staff and Sprint/Centel take the position that all LEC's - incumbent LECs as well as new LECs - should be covered by the proposed rule. In support of this position, these parties argue that a customer would benefit if its carrier is able to offer services over the unbundled loops and ports of other carriers. They also argue that widespread application of this unbundling requirement would enhance competition by creating an opportunity for more carriers to compete for the business of any particular customer. Finally, Staff and Illinois Bell assert that the broad application of the unbundling requirements would give all LECs an appreciation of the complexities involved in unbundling and therefore would make it more likely that they will be reasonable in making unbundling requests of other LECs.

Fourth, AT&T's position is that Tier 1 LECs should be required to file tariffs for unbundled network components within 180 days of the effective date of the rule. With respect to non-Tier 1 LECs, AT&T does not believe it necessary to relieve non-Tier 1 LECs from the obligation to provide unbundled ports, loops, or loop subelements when a request for such service is received from a new entrant, but recommends that non-Tier 1 LECs be required to file tariffs for unbundled loops and ports within 180 days of a bona fide request.

Conclusion

While uniformly applicable statewide rules certainly have value, we believe Staff may be somewhat overzealous regarding this issue. We are persuaded that the line-side interconnection rules should be applicable, at this time, only to Tier 1 LECs and new LECs. We have added new Section 790.305 which is a temporary 3-year exclusion for the small and mid-size LECs. The rule would become fully applicable to these carriers as of January 1, 1998.

The Commission recognizes that its Orders in these proceedings will be creating substantial revisions to the practices and procedures of telecommunications carriers throughout the state. We believe that we are establishing many progressive policies intended to make the benefits of competition ultimately available to all the citizens of Illinois. Nevertheless, we also must recognize that these changes implicate many interrelated policies and may impose substantial costs.

Numerous statutory provisions and existing Commission rules recognize a need to adjust regulatory policies to reflect the unique circumstances of the small and medium sized LECs which serve the primarily rural areas of the state. For example, the reduced regulatory oversight over small LECs required by Section 13-504 also excludes from application to small companies Sections 13-505.1, 13-505.4, 13-505.6 and 13-507. Imputation rules adopted by the Commission in Docket 92-0210, and LRSIC cost of service rules adopted in Docket 92-0211 are not applicable to them. This suggests that the Commission must scrutinize procedural requirements to ensure that they are not burdensome. It is still unclear how well the bona fide request process will work. We believe, therefore that it is inappropriate to place upon these companies the immediate burden of proving that such a request is not technically and economically practicable or contrary to the public interest, particularly within the short time frames contemplated in the rules. At least some experience with the process will be beneficial.

The Commission also is concerned that proceedings which focused on the emerging competition in MSA-1 easily could fail to address the significantly different circumstances in rural areas. The uncertainty which developed in the record regarding the PTC arrangements is an example of an issue with unique implications for the small and medium sized LECs, which may not have received the attention it deserved. We believe that the three-year temporary exclusion for non-Tier 1 LECs is an appropriate transition to ensure that the interconnection requirements, particularly loop subelement unbundling, are workable; that implementation of presubscription progresses smoothly; and that issues of particular importance to rural areas such as toll rate deaveraging are thoroughly addressed.

The Commission concludes, however, that the requirements of this rule should be fully applicable to the new LECs. We are persuaded that in those areas of the State for which a competitive local exchange carrier is certificated, customer choice and fair competition will be enhanced by establishing a symmetrical regulatory environment for each carrier with respect to network unbundling. This should include equivalent rights, obligations and

remedies pursuant to this rule. We note with approval that both MFS and MCI have already pledged to voluntarily unbundle their networks, and we do not believe that application of the rule to the new LECs will impose any unique or undue burdens upon them.

E. Standards For Interconnection Arrangements

Section XXX.110 requires LECs to provide the same installation, repair and maintenance intervals to bundled and unbundled services. Illinois Bell contends that a LEC's ability to provide equivalent service will in many cases depend upon cooperation from the interconnector. For example, Illinois Bell argues that when an interconnector requests an LEC to install an unbundled loop at an end user's premises, the LEC will need the interconnector to make necessary arrangements so that the LEC can gain access to the end user's premises. Without this type of cooperation, Illinois Bell contends, the LEC should not be held to the standard set forth in Staff's proposed Section XXX.110.

Section XXX.110 also requires that each optional feature or service available with a bundled local exchange service also should be available with the corresponding unbundled service "under identical rates, terms and conditions". Illinois Bell agrees that optional features offered with bundled services also should be made available with the corresponding unbundled service, but does not agree that they should be made available under identical rates, terms and conditions. Illinois Bell's primary concern is that the rule could be construed to be a pricing rule which would prohibit the Commission from making an independent determination as to rates, terms and conditions for unbundled services in the context of the relevant tariff filing. Illinois Bell states that there are reasons why rates, terms and conditions for unbundled components may not be "identical" and that the Commission should be free to consider these circumstances on a case-by-case basis.

Conclusion

We do not agree that Illinois Bell's language specifically mandating "cooperation" is necessary. Illinois Bell has identified a problem which is purely conjectural at this time.

We do not agree that it is necessary to eliminate the language regarding "identical rates, terms, and conditions" from the rule. A Company can identify appropriate reasons for a departure from this provision at the time it makes its tariff filing.

F. The Bona Fide Request Process

There are two issues associated with Staff's proposed bona fide request process. First, in order to avoid imposing unnecessary expense and administrative burdens on LECs, Staff proposes that the obligation to unbundle only arise after an interconnector has made a bona fide request for unbundled loops or ports. This approach is supported by Illinois Bell and Sprint/Centel. AT&T and MCI, on the other hand, take the view that LECs must offer unbundled loops and ports in all exchanges within six (6) months of the effective date of the rule. (AT&T limits this obligation to Tier-1 LECs; non-Tier-1 LECs would be obligated to unbundle only after a bona fide request). In their view, the bona fide request process creates unnecessary hurdles to obtaining unbundled loops and ports.

The second issue concerns Illinois Bell's suggestion that the definition of the term "bona fide request" in Section XXX.10 be changed to require the requesting party to state in writing that it will purchase unbundled loops and ports. The previous definition required the requesting party only to state that it "intends to" purchase unbundled loops and ports. Illinois Bell argues that the original language was far too loose because it would require LECs to spend significant time and money with absolutely no commitment from the requesting party that it ultimately would purchase the unbundled loops and ports. Staff agreed that this was a problem and therefore supported Illinois Bell's proposal.

MCI and AT&T argue that a requesting party should not be required to commit to the purchase of unbundled functionality until it knows what price it will have to pay. In response, Illinois Bell, Staff and GTE state that this concern is cared for in at least two ways. First, unbundled loops and ports will be offered under tariff and therefore the prices of those offerings will be subject to the "just and reasonable" standard under the Act. Section 5/9-101. Second, the prices of the services can themselves be subject to negotiation under the rule. Requesting parties can ask the LECs to quote a range of likely prices for the services before the LEC spends time and money to implement unbundling.

Conclusion

The Commission finds that the bona fide request language proposed by Staff and Illinois Bell is reasonable and should be adopted. We agree with Staff and Illinois Bell that there are two protections which will significantly diminish or eliminate the concern that interconnectors will be required to order unbundled services before they know the price. These protections include the normal tariff review process and the interconnectors' ability to

request price quotes from LECs before issuing firm bona fide requests for loop and port unbundling.

With respect to the argument of AT&T and MCI that there should be no bona fide process at all, the Commission disagrees. The Commission is persuaded that LECs will incur substantial costs to implement unbundled loops and ports and that this effort should not be needlessly undertaken. The bona fide request process is a targeted and reasonable mechanism to ensure that LECs are required to provide unbundled functionality only where it actually is needed.

G. The Waiver Process

Section XXX.120(e) provides LECs thirty days to determine whether a request for a local loop or a loop subelement interconnection arrangement is feasible or whether a waiver is required. Illinois Bell contends that, if loop subelements are required, thirty days is simply not enough time for LECs to evaluate the request, to conduct the site inspection and to complete the negotiations contemplated under the rule. According to Illinois Bell, the time frame is so short that normal occurrences such as vacations, illnesses or holidays easily could prevent LECs from completing the necessary work within the required time period and that the rule actually could have the unintended consequence of increasing the number of waiver requests filed. For this reason, Illinois Bell requests that the time within which to file a waiver be increased from thirty to ninety days.

Illinois Bell also requests that the phrase "technically and economically practicable" which appears on the fifth line of Section XXX.120(e) be changed to read "technically or economically practicable". Staff agrees that technical practicability and economic practicability are two separate standards, either one of which will justify a waiver. However, Staff proposes to use the phrase "technically and/or economically practicable.

Conclusion

We agree that thirty days is inadequate to assess whether there is a need to file for a waiver. We believe that sixty days is more appropriate. Since a longer time period likely will reduce the number of waivers that LECs ultimately file with the Commission, and thereby will reduce the administrative burden on scarce Commission resources, the Commission finds that the sixty day period is reasonable.

We also find that technical practicability and economic practicability are two separate, independent grounds for a waiver

request and that the rule should properly read "technically or economically practicable". This is consistent with Section 5/13-505.5, regarding a request for a new noncompetitive service. The Commission must conclude that a requested service is technically practicable, economically practicable, and not otherwise contrary to the public interest. If the evidence does not support all three of these conclusions, the petition must be denied. Accordingly, to be consistent with the statutory approach, it should only be necessary for a telecommunications carrier to demonstrate the absence of one of these necessary conclusions in order to be granted a waiver under the rule. Use of the word "or" is therefore appropriate. Staff's suggested use of "and/or" may introduce a certain lack of clarity regarding this point. These changes are incorporated in the final rules attached to this Order.

III. RECIPROCAL TRUNK SIDE INTERCONNECTION RULEMAKING

This proceeding also originally contemplated an examination of whether it is appropriate to adopt rules which would allow LECs to interconnect reciprocally with interconnectors for special access and switched access transport interconnection. Rules granting interconnection rights for special access and switched access transport were established in Docket 92-0398 and are currently set forth in Part 790 of the Commission's rules. The issue of whether LECs should have reciprocal rights to interconnect their facilities in the central offices of interconnectors was raised originally in Docket 92-0398, but Staff recommended that the issue be examined later in the context of the rulemaking on the line-side interconnection.

Illinois Bell contends that LECs should have the same rights as interconnectors under Part 790 of the Commission Rules. Specifically, Illinois Bell argues that LECs should have the right to virtually collocate their special access and switched access transport facilities in the central offices of interconnectors, just as interconnectors may virtually collocate their facilities in the central offices of Illinois Bell today. Illinois Bell proposes that this be accomplished by amending Sections 790.110(a) and 790.240 to require non-Tier 1 LECs which operate in the territory of a Tier 1 LEC to provide virtual collocation arrangements to terminate special access and switched access transport facilities.

According to Illinois Bell, the principal beneficiaries of this modification would be the customers who use switched and special access. Illinois Bell argues that if reciprocal interconnection were available, an LEC could provide a customer with service to a location which may not be on the LEC's network but is on the network of an interconnector. Similarly, an LEC could provide service to a particular location using two separate

facilities routed over two separate paths and could obtain one of the facilities from an interconnector. According to Illinois Bell, this type of "route diversity" would provide an incremental degree of protection from network outages.

Staff opposes the reciprocal interconnection request of Illinois Bell on the grounds that physical and virtual collocation arrangements are currently under review by courts at both the federal and state level and that additional collocation obligations should not be imposed until those questions are resolved.

In response, Illinois Bell points out that it is only requesting virtual collocation and that there are no pending challenges or other legal impediments which prevent virtual collocation arrangements. Illinois Bell also observes that Staff's position is somewhat inconsistent because Staff is actively advocating that virtual collocation be required for the new line side interconnection arrangements.

Conclusion

The Commission recently opened a proceeding to consider the implications of recent legal developments concerning the existing Part 790 rule. In addition, uncertainties related to these legal developments may have resulted in confusion among the parties as to the appropriateness of addressing the issue in this proceeding. Consequently, the Commission does not believe that a full record has been developed on the issue and so will not adopt Illinois Bell's suggestion. The scope of Docket 94-0480 should be expanded to consider this issue.

IV. FINDINGS AND ORDERING PARAGRAPH

The Commission, having considered the entire record herein and being fully advised in the premises thereof, is of the opinion and finds that:

- (1) The Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) The recital of facts and conclusions of law reached in the prefatory portion of this Order are supported by the record or are matters of which the Commission may take notice and are hereby adopted as findings of fact and conclusions of law;
- (3) Amendments to 83 Ill. Adm. Code Section 790, "Interconnection" as shown in the attached Appendix A, should be submitted to the Secretary of State for

publication in the Illinois Register, thereby initiating the first notice under Section 5-40 of the Illinois Administrative Procedure Act.

IT IS THEREFORE ORDERED that the Notice of Proposed Amendments to 83 Ill. Adm. Code 790, "Interconnection" as shown in the attached Appendix A shall be submitted to the Secretary of State for publication in the Illinois Register, thereby initiating the first notice required by Section 5-40 of the Illinois Administrative Procedure Act, and that all other submissions necessary for compliance with the Illinois Administrative Procedure Act be made.

IT IS FURTHER ORDERED that the documents and information designated by the Hearing Examiners as confidential and proprietary are hereby afforded proprietary status and motions to that effect are hereby granted.

IT IS FURTHER ORDERED that all motions not previously disposed of are hereby disposed of consistent with the findings with this Order.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Admin. Code 200.880, this Order is not final and is not subject to the Administrative Review Law.

By Order of the Commission this 7th day of April, 1995.

(SIGNED) DAN MILLER
Chairman

(S E A L)

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 790
INTERCONNECTION

SUBPART A: GENERAL PROVISIONS

Section
790.5 Applicability
790.10 Definitions

SUBPART B: SPECIAL ACCESS AND PRIVATE LINE INTERCONNECTION

Section
790.100 Special Access and Private Line Interconnection--
Interconnection Architecture
790.110 Special Access and Private Line Interconnection--
Availability of Expanded Interconnection
790.120 Special Access and Private Line Interconnection--
Standards for Interconnection Arrangements
790.130 Special Access and Private Line Interconnection--
Pricing and Rate Structure Issues

SUBPART C: SWITCHED TRANSPORT INTERCONNECTION

Section
790.200 Switched Transport Interconnection--Interconnection
Architecture
790.210 Switched Transport Interconnection--Availability of
Expanded Interconnection
790.220 Switched Transport Interconnection--Standards for
Expanded Interconnection Arrangements
790.230 Switched Transport Interconnection--Pricing and Rate
Structure Issues
790.240 Switched Transport Interconnection--Implementation of
Switched Transport Interconnection

SUBPART D: REPORTING REQUIREMENTS LINE-SIDE
INTERCONNECTION

Section
790.300 Reporting Requirements Line-side Interconnection--
Interconnection Architecture
790.310 Line-side Interconnection--Standards for
Interconnection Agreements
790.320 Line-side Interconnection--Implementation of Line-side
Interconnection

SUBPART E: REPORTING REQUIREMENTS

Section
790.400 Reporting Requirements

AUTHORITY: Implementing Sections 8-501, 8-502, 8-503, 8-504, 8-506, 13-505.1, and 13-505.5 and authorized by Section 10-101 of the Public Utilities Act (~~Ill. Rev. Stat. 1991, ch. 111 2/3, pars. 8-501, 8-502, 8-503, 8-504, 8-506, 13-505.1, and 10-101, as amended by P.A. 87-856, effective May 14, 1992~~) [220 ILCS 5/8-501, 8-502, 8-503, 8-504, 8-506, 13-505.1, 13-505.5, and 10-101].

SOURCE: Adopted at 18 Ill. Reg. 6147, effective May 1, 1994; amended at ___ Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 790.5 Applicability

This Part shall apply to any telecommunications carrier, as defined in Section 13-202 of the Public Utilities Act ("Act") (~~Ill. Rev. Stat. 1991, ch. 111 2/3, par. 13-202, as amended by P.A. 87-856, effective May 14, 1992~~) [220 ILCS 5/13-202] providing local exchange telecommunications services as defined in Section 13-204 of the Act (~~"local exchange carrier" or "LEC" that is also a Tier 1 LEC as defined in Section 790.10~~). In addition, this Part shall apply to any entity certificated by the Illinois Commerce Commission ("Commission") under Section 13-401, 13-403, 13-404, or 13-405 of the Act.

(Source: Amended at ___ Ill. Reg. _____, effective _____)

Section 790.10 Definitions

"Bona fide request" is a request by which an interconnector states, in writing, that it will purchase "loops" and/or "ports" within six months of the date of the request.

"Bona fide request for loop subelements" is a request by which an interconnector states, in writing, that it will purchase specific "loop subelements" within six months of the date of the request.

"Central office" or "CO" means a location within a local exchange area where subscriber lines or interoffice trunks are connected to a local exchange carrier's switch.

"Competitive access provider" or "CAP" means any entity other than the principal provider of telecommunications service that is certificated to provide telecommunications services within the local exchange.

"Contribution charge" means a charge that recovers specifically identified subsidies or non-cost based allocations that are embedded in rates for special access or private line services or switched transport services.

"Cross-connect charge" means the amount of money assessed the interconnecting parties on a monthly basis by the LEC for connection to LEC services or elements of services at a location described in Section 790.120(f).

"End-user" means any entity other than a telecommunications carrier that requires access to a LEC location described in Section 790.120(f) in order to connect its own communications equipment for the purposes of providing service to its own community of users.

"FCC Expanded Interconnection Rule" means the order entered by the Federal Communications Commission ("FCC") on September 17, 1992, in CC Docket 91-141, "In the Matter of Expanded Interconnection with Local Telephone Company Facilities," and amended by the FCC on December 18, 1992, and on September 2, 1993, in CC Dockets 91-141 and 90-286 in the "Second Report and Order and Third Notice of Proposed Rulemaking, and as amended by the FCC in the "Second Memorandum Opinion and Order on Reconsideration in CC Docket 91-141, released on September 2, 1993. (47 CFR § 64.1401 - 64.1402; 47 CFR § 65.702; 47 CFR § 69.4, 69.121 - 69.123 as of October 1, 1993; this incorporation does not include any later amendments or editions.)

"Incumbent local exchange carrier" is a LEC which provided local exchange services in an exchange on or before December 31, 1993.

"Interconnection" means the point in a network where one telecommunications carrier or end-user interfaces with the LEC's network or the network provided by another telecommunications carrier under the provisions of this Part.

"Interconnector" is a telecommunications carrier or end-user that has interfaced with the LEC's network under the provisions of this Part.

"Interexchange carrier" or "IXC" means any telecommunications carrier that is certificated to provide interexchange services (see Section 13-403 of the Act) within Illinois as defined in Section 13-205 of the Act.

"Local exchange carrier" or "LEC" means a telecommunications carrier under the Act ~~that is a principal provider of that provides~~ local exchange telecommunications services as defined in Section 13-204 of the Act.

"Loop" or "unbundled transport path" is a transmission path capable of transporting analog or digital signals from the network interface at a customer's premises to a distribution frame, digital signal cross-connect panel, or similar demarcation which is accessible to the interconnector.

"Loop subelements" are components of the "loop" offered as individual and separately available services and/or separately available interconnector points.

"Physical collocation" means the type of interconnection provided by an LEC to an interconnector where the interconnector locates its equipment within space assigned by the LEC for the interconnector's exclusive use and where the interconnector has physical access and control over its equipment subject to the provisions of this Part and any applicable tariff.

"Port" or "unbundled switching facility" is a mechanism allowing access to the functions of the switch including, but not limited to, dial tone generation, an individual network address, and the ability to originate and/or terminate both local and interexchange calls. In addition, port services include access to network support functions such as 911 and directory assistance services, as well as a directory listing as described in 83 Ill. Adm. Code 735.130, whenever such services are offered to a comparable bundled switched service. Port services

also include the ability to transport analog or digital signals from the switch to a demarcation point which is accessible to the interconnector.

"Serving wire center" means the location in the LEC network that serves a telecommunications carrier's (such as an interexchange carrier) point of presence.

"Special access or private line" means a transmission path that connects customer-designated premises directly through a LEC's hub or hubs where bridging or multiplexing functions are performed, or to connect a customer-designated premises and a serving office, and includes all exchange access not utilizing the LEC's end office switches.

"Switched access" means a two-point communications path between a customer-designated premises and an end-user's premises that provides for the use of common terminating, switching, and trunking facilities and for the use of common subscriber plant of the LEC and provides for the ability to originate calls from an end-user's premises to a customer-designated premises, and to terminate calls from a customer-designated premises to an end-user's premises in the local access transport area where it is provided.

"Tier 1 LEC" means a LEC having annual gross revenues from regulated telecommunications operations of \$100 million or more.

"Virtual collocation" refers to the type of interconnection provided by an LEC to an interconnector that is economically, technically, and administratively comparable to the manner in which the LEC's facilities interconnect with its own network, and it may, at the interconnector's discretion, include an arrangement where the interconnector is provided equipment in a location described in Section 790.120(f) under an arrangement whereby the interconnector may not have ownership of the equipment and does not have physical access or control, other than through remote monitoring, subject to the provisions of this Part and any applicable tariff.

(Source: Amended at ___ Ill. Reg. _____, effective _____
_____)