STATE OF ILLINOIS

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ILLINOIS COMMERCE COMMISSION

Office of General Counsel

January 15, 2001

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Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street SW
Room TW-B204
Washington DC 20554

01-331

Re: ***FCC Docket No. 01-331 / Notice of Proposed Rulemaking for a select group of wholesale performance measures***

Initial Comments of the Illinois Commerce Commission

Dear Secretary Salas:

On November 19, 2001, the Commission released a Public Notice in the above-captioned matter. The Commission specifically sought comment on whether the Commission should adopt a select group of measurements and standards for evaluating incumbent local exchange carrier (incumbent LEC) performance in the provisioning of facilities that are used by their carrier-customers to compete for end-user customers. In response to the Public Notice and in accordance with Section 1.51(c) of the Commission's rules, 47 C.F.R. §1.51(c), the Illinois Commerce Commission ("ICC") submits its Initial Comments.

Need for New Proceeding

As an initial matter, the ICC respectfully questions the need for this proceeding. The Commission states that it "...solicits comment in this proceeding because it believes national performance measures could rationalize potentially divergent requirements in an efficient way, thus serving a deregulatory purpose while nevertheless advancing the procompetitive scheme of the Act." (par. 3). The ICC is unclear how the development of "national performance measures" will, in and of itself, "advance the procompetitive scheme of the Act" in the State of Illinois. The ICC has already overseen the development of a wholesale performance measure program for the State's only Bell Operating Company, SBC/Ameritech Illinois.

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One of the conditions the ICC placed on the SBC/Ameritech merger[1] orders a process to develop and institute wholesale performance measures. The ICC ordered a collaborative effort among SBC/Ameritech Illinois, CLECs and ICC Staff that resulted in several workshops. The collaborative process was ordered to give SBC/Ameritech Illinois, CLECs, and ICC Staff the opportunity to meet and discuss issues relative to performance measures. The ICC ordered that the collaborative process take the 122 performance measures developed in the Texas 271 review and make them applicable to Illinois. The ICC also ordered that parity be the appropriate standard where possible, and where not possible, to adopt benchmark measures as an alternative.

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The collaborative meetings were very successful in adapting the 122 performance measures into primarily parity-based, Illinois-specific measures. All parties had the opportunity to provide input to the wholesale performance plan, and all issues, except the remedy plan, were collaboratively addressed. The remedy plan issue is pending in a formal proceeding in ICC Docket 01-0120. While a final order in Docket 01-0120 is projected for mid-2002, SBC/Ameritech Illinois has been providing credits to CLECs (Tier 1) and making remedy payments to the State (Tier 2) since September 2000, as shown in Attachment 1.

Also, the ICC has developed a wholesale performance plan for the State's second largest carrier, Verizon. As a result of Merger Condition 2 in the Bell Atlantic/GTE merger proceeding[2], Docket 98-0866, a wholesale performance plan was successfully developed through a collaborative effort of Verizon, CLECs and ICC Staff.

Finally, the Illinois General Assembly recently mandated wholesale performance measures for all wholesale providers in the state.[3] As a result, the ICC initiated a rulemaking proceeding in Docket 01-0539 to adopt such a wholesale measure program, with associated remedies for non-performance, for all wholesale providers in the state.

As the ICC noted in its initial comments in CC Docket No. 01-0339, any set of national performance measures should be created with the understanding that states that have already undergone the process of establishing performance measures will be able to keep them in place. In other words, any new national performance measures adopted by the Commission should serve as a minimum set of measures available to states that either have not undertaken the task of establishing wholesale performance measures or to states that simply elect to adopt the national set of wholesale performance measures in lieu of their own set.

Scope of Proceedings

The Commission seeks "...comment on the use and scope of any performance requirements and, as a threshold mater, on how to balance competitors' concerns about poor

[1] The ICC entered an order in Docket No. 98-0555 approving the merger between SBC and Ameritech on September 23, 1999.
[2] The ICC entered an order in Docket No. 98-0866 approving the merger between GTE and Bell Atlantic (known now as "Verizon") on October 29, 1999.
[3] See 220 ILCS 5/13-712(g).

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provisioning of UNEs, interconnection trunks and collocation with the incumbent LECs and about the number and cost of state and federal measurements and standards." (par. 6). The Commission then provides, from pre-ordering, ordering, provisioning, and maintenance and repair functions, a list of 12 measures. The Commission states, "The list is intended to cover activities that could be relatively easily measured and that appear to be particularly critical to carriers' ability to compete effectively but that would not increase regulatory burdens on carriers." (par. 27). The ICC agrees that the 12 measures listed appear to be significant measures, but believes there is no basis to conclude that these are the 12 most important measures. A measure that is significant to one CLEC may not be significant to another CLECs competitive efforts.

Additionally, the ICC believes that a proposed set of only 12 measures are very likely unable to cover all critical areas of CLEC-ILEC interactions. Examples of important areas that are missing from the proposed set of 12 measures include: OSS interface availability; order flow through; billing accuracy, completeness, and timeliness; local service center speed of answer; local operations center average speed of answer; trunk blockage; local number portability; and directory assistance database updates. Before the Commission can determine any positive effects of reducing the number of performance measures currently in place, it must be able to show that the costs of eliminating numerous performance measures do not outweigh any potential benefits of having a smaller "regulatory burden" on the ILECs.

Nature of Proceedings

The Commission seeks "...comment on whether we should establish a joint federal-state task force that could, among other things, develop and implement directives that may result from this proceedings. (par. 20). The ICC encourages a joint federal-state process, which would be especially beneficial for states that do not yet have a comprehensive set of performance measures in place.

Summary

SBC/Ameritech Illinois and Verizon are already subject to comprehensive wholesale measurement programs. In addition, the ICC expects the completion of an associated remedy plan for SBC/Ameritech Illinois in the near future. The ICC believes it would be a duplicative effort to "reinvent the wheel" by changing the current wholesale measurement programs and their associated monitoring and reporting systems.

The ICC believes its collaboratively developed wholesale performance measure programs strike a careful balance between the critical needs of the CLECs and the costs to the ILECs. The ICC also believes the wholesale performance program in place for SBC/Ameritech Illinois is crucial to the successful review of the upcoming Section 271 proceeding. In the event the Commission decides to create a new set of national benchmarks, those national benchmarks should be minimum benchmarks for the states to consider.

Sincerely,

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/s/ *Thomas G. Aridas*

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cc:

Hon. Chairman Michael K. Powell
Hon. Comm. Gloria Tristani
Hon. Comm. Kathleen Q. Abernathy
Hon. Comm. Michael J. Copps
Hon. Comm. Kevin J. Martin
Carmell Weathers, Network Services Division
Sanford Williams, Network Services Division

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SBC/Ameritech Illinois

Wholesale Remedy Plan Penalties
Tier 1 – Credits to CLECs
Tier 2 – Payments to the State Treasury

Illinois

Tier 1 and Tier 2 Liquidated Damages Payments

Month	Amount of Payments		
	Tier 1	Tier 2	Total
Jul-00	$3,450	$705,500	$708,950
Aug-00	$121,900	$810,500	$932,400
Sep-00	$141,870	$1,268,500	$1,410,370
Oct-00	$367,590	$1,390,300	$1,757,890
Nov-00	$425,223	$991,000	$1,416,223
Dec-00	$317,407	$1,181,300	$1,498,707
Jan-01	$1,076,625	$1,814,900	$2,891,525
Feb-01	$903,854	$2,247,300	$3,151,154
Mar-01	$1,098,006	$1,979,400	$3,077,406
Apr-01	$1,029,830	$2,570,800	$3,600,630
May-01	$1,861,719	$1,903,000	$3,764,719
Jun-01	$636,925	$1,575,200	$2,212,125
Jul-01	$537,756	$950,800	$1,488,556
Aug-01	$113,050	$436,500	$549,550
Sep-01	$123,291	$378,200	$501,491
Total	$8,758,496	$20,203,200	$28,961,696

NOTE: Amounts reported in each of the above months reflect payments made for that month and any subsequent revisions.