

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission :
On Its Own Motion of the Federal :
 :
Communications Commission's :
Triennial Review Order with respect : **03-0594**
To Potential Impairment :
Determinations Regarding Unbundled :
Local Switching for Enterprise Market :
Customers In Specific Markets :

ORDER

By the Commission:

On August 21, 2003, the Federal Communications Commission ("FCC") released its Triennial Review Order and adopted new rules concerning incumbent local exchange carriers' ("ILECs") obligations to unbundle certain elements of their networks under Section 251(c)(3) of the Telecommunications Act of 1996, 47 U.S.C. §251(c)(3), and make those unbundled network elements ("UNEs") available to competitive local exchange carriers ("CLECs").

This proceeding addressed issues related to the FCC's requirement that the Commission "complete the proceedings necessary to satisfy the requirements in paragraphs . . .(d)(3) [(enterprise market switching determinations)] . . . [of Section 51.319 of the FCC's rules]" and file a petition with the FCC within ninety days from the effective date of the Triennial Review Order for waiver in specific markets of its finding that requesting carriers are not impaired without access to local switching for enterprise customers. 47 C.F.R. § 51.319(d)(5). Thus, this proceeding generally addressed any assertion that requesting carriers are impaired without access to local switching for enterprise customers (DS1 and above loops) in specific markets.

In this proceeding's Initiating Order, the Commission directed competitive local exchange carriers (CLECs) that intended to contest the finding of the Federal Communications Commission ("FCC") in its Triennial Review Order that CLECs are not impaired without access to enterprise market switching to file a notice indicating their intent to submit evidence of non impairment in specific locations.

The Commission provided notice to all carriers that have been granted certificates of service authority to provide local exchange telecommunications services pursuant to Section 13-405 of the Illinois Public Utilities Act.

On October 6, 2003, CIMCO Communications Inc. filed the required notice, indicating its intent to contest the FCC's non-impairment finding in the service territory of SBC Illinois in the Chicago Market Service Area (LATA 358). No other Illinois CLEC filed a rebuttal notice.

The Administrative Law Judge held a status hearing on October 8, 2003, where a schedule was agreed upon by the parties.

On October 31, 2003, CIMCO Communications Inc. filed a motion to withdraw its rebuttal notice indicating that it had reached an agreement with SBC Illinois that removed the need for CIMCO to obtain a finding of impairment in the Chicago Market Service Area.

Therefore, this Commission will not undertake an inquiry at this time regarding the FCC's national finding of no impairment for enterprise market switching and will not petition the FCC within 90 days to waive its national findings for specific markets.

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

- (1) the Commission has jurisdiction the subject matter herein;
- (2) the Commission takes administrative notice of: the Communications Act of 1934 (47 U.S.C. Section 151 et seq.) as amended by the Telecommunications Act of 1996 (P.L. 104-104), and the Triennial Review Order;
- (3) no CLEC in Illinois filed the required notice and testimony indicating that it wished to contest the FCC non-impairment finding;
- (4) the Commission will not undertake an inquiry at this time regarding the FCC's finding of no impairment for enterprising market switching and will not petition the FCC within 90 days to waive its national finding for specific markets.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that this matter is hereby dismissed.

IT IS FURTHER ORDERED that this Commission will not undertake an inquiry at this time regarding the FCC's national finding of no impairment for enterprising market switching and will not petition the FCC within 90 days to waive its finding for specific markets.

IT IS FURTHER ORDERED that, subject to the provisions of Section 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 12th day of November, 2003.

(SIGNED) EDWARD C. HURLEY

Chairman