

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Gallatin River Communications :
L.L.C. and Central Telephone :
Company of Illinois :
 :
 :
Joint Petition for Order approving : 98-0321
a purchase and sale of assets and :
related agreements under Section :
7-102 of the Public Utilities Act; :
granting to Gallatin River :
Communications L.L.C. of :
certificates of exchange service :
authority and interexchange :
service authority under Sections :
13-403, 13-404, and 13-405, and the :
discontinuance by Central :
Telephone Company of Illinois of :
service under Section 13-406, of :
the Public Utilities Act; and :
granting all other just and :
necessary relief; and Joint Petition :
for Order approving designation of :
Gallatin River Communications :
L.L.C. as an eligible :
telecommunications carrier :
covering the service area :
consisting of all of the exchanges :
to be acquired from Central :
Telephone Company of Illinois :
upon the closing of this purchase :
and sale of assets. :

ORDER

DATED: October 21, 1998

TABLE OF CONTENTS

I. INTRODUCTION	1
A. Procedural History.....	1
B. The Petitioners	3
1. Centel-Illinois	3
2. Gallatin.....	3
C. The Proposed Acquisition	3
II. ISSUES RESOLVED BY THE PARTIES	5
A. Certificates of Service Authority and Discontinuance of Service by Centel-Illinois	5
B. Location of Books and Records	6
C. ETC Status.....	6
D. Service Quality Report	8
E. Competition Issues.....	8
F. Competitive Services.....	9
G. Affiliate Transactions	9
H. Consumer Services Issues.....	10
I. RTFC Loan and Issuance of Member Interests	11
III. DISPUTED ISSUES	13
A. Mirroring of Interstate Access Tariffs by Gallatin	13
1. AT&T's Position.....	14
2. Gallatin's and Staff's Responses to AT&T	15
3. Commission Conclusion.....	16
B. Informational Earnings Report.....	18
IV. FINDINGS AND ORDERING PARAGRAPHS.....	19

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By the Commission:

I. INTRODUCTION

A. Procedural History

On April 23, 1998, Gallatin River Communications L.L.C. ("Gallatin") and Central Telephone Company of Illinois ("Centel-Illinois" and, together with Gallatin, the "Petitioners") filed with the Illinois Commerce Commission ("Commission") a Verified Joint Petition seeking approval of the acquisition by Gallatin of substantially all of the assets of Centel-Illinois and other related relief. The Petitioners requested, inter alia, that the Commission enter an order (1) approving Centel-Illinois' sale, and Gallatin's purchase, of substantially all of the assets of Centel-Illinois, pursuant to an Asset Purchase Agreement dated as of April 21, 1998; (2) granting Gallatin certificates of exchange service authority and interexchange service authority pursuant to Sections 13-403, 13-404 and 13-405 of the Public Utilities Act ("Act"), 220 ILCS 5/1-101 et seq.; (3) approving the designation of Gallatin as an eligible telecommunications carrier ("ETC") for the service area consisting of all of Centel-Illinois' exchanges; (4) authorizing Centel-Illinois to discontinue its provision of noncompetitive services under Section 13-406 of the Act; and (5) granting such other relief as may be necessary and appropriate.

Pursuant to notice required by law and the rules and regulations of the Commission, prehearing conferences were held by a duly authorized Hearing Examiner of the Commission at its offices in Springfield, Illinois, on May 14, 1998 and July 16, 1998. On July 1, 1998, AT&T Communications of Illinois, Inc. ("AT&T") filed a petition to intervene in this docket. No party objected to AT&T's motion to intervene, and the Hearing Examiner granted AT&T leave to intervene at the July 16, 1998 prehearing conference. The Staff of the Commission ("Staff") also appeared and participated in this docket.

An evidentiary hearing was held at the Commission's Springfield offices on August 25, 1998. Petitioners, AT&T, and Staff appeared and presented witnesses. Four witnesses testified on behalf of the Petitioners: James D. Ogg, Managing Director—Operations Support of Madison River Telephone Company, L.L.C. ("Madison River"), which is the ultimate parent of Gallatin; Paul H. Sunu, Madison River's Managing Director—Finance and General Counsel; Earl D. Bishop, Director—Analysis and Planning for Madison River; and Jack R. Schutz, State Vice President—Indiana/Illinois of United Telephone Company of Indiana, Inc., d/b/a Sprint. The following five witnesses testified on behalf of Staff in this proceeding: Judith R. Marshall, Samuel S. McClarren and Jason P. Hendricks, each an Economic Analyst in the Commission's Telecommunications Division; Robert Plaza, a Financial Analyst in the Finance Department of the Commission's Financial Analysis Division; and Cindy Jackson from the Office of Consumer Programs in the Commission's Consumer Services Division. Cathleen Conway testified on behalf of AT&T. At the conclusion of the August 25, 1998 evidentiary hearing, the Hearing Examiner marked the record Heard and Taken.

Petitioners, Staff, and AT&T filed initial briefs as well as reply briefs. Petitioners also filed a draft proposed order. The Hearing Examiner's Proposed Order was served

on the parties. Petitioners, Staff and AT&T filed Briefs on Exceptions as well as Reply Briefs on Exceptions, all of which were considered in preparation of this Order.

B. The Petitioners

1. Centel-Illinois

Mr. Schutz testified that Centel-Illinois is an Illinois corporation providing local exchange telecommunications service in 24 exchanges. These exchanges serve the areas of Avon, Cameron, Dixon, Forest City, Galesburg, Grand Detour, Green Valley, Harmon, Havana, Knoxville, Lacon, Livingston, Manito, Mount Carroll, Nelson, North Pekin, Pekin, Savanna, South Pekin, Staunton, Talbott, Thompson, Topeka, and Wataga. Centel-Illinois is a "telecommunications carrier" under Section 13-202 of the Act and received designation by the Commission as an ETC on December 17, 1997, in Docket No. 97-0576. As of March 31, 1998, Centel-Illinois served approximately 64,961 customers and 80,181 access lines.

2. Gallatin

Mr. Ogg testified that Gallatin is a newly formed Delaware limited liability company owned entirely by Gallatin River Holdings, L.L.C. ("GRH"), which is in turn owned by Madison River. At the evidentiary hearing, the Petitioners presented a copy of Gallatin's Certificate of Authority to Transact Business In Illinois. Another subsidiary of Madison River, MEBTEL, Inc., is an incumbent local exchange carrier that provides local exchange and exchange access service to approximately 9,000 access lines in North Carolina.

Mr. Ogg testified that Madison River has an experienced and well-qualified management team. Mr. Ogg himself has over 39 years of telecommunications experience including service as President of Centel-Illinois and Vice President and General Manager of Centel-Virginia/North Carolina. Mr. J. Stephen Vanderwoude, the Chairman and Chief Executive of Madison River, has over 31 years of telecommunications experience, including serving as President and Chief Operating Officer of Centel Corporation and President and Chief Operating Officer of the Local Telecommunications division of Sprint Corporation. Mr. Vanderwoude and Mr. Ogg previously were responsible for the telephone operations of the exchanges now served by Centel-Illinois. The Petitioners also presented evidence regarding the significant qualifications and experience of other members of Madison River's management team such as Mr. Sunu, Donald Robertson and Mr. Bishop. Gallatin will have access to the services of Madison River's management and will obtain certain other management and administrative services from an affiliated company pursuant to a services agreement.

C. The Proposed Acquisition

Gallatin proposes to purchase, and Centel-Illinois proposes to sell, substantially all of the existing assets of Centel-Illinois pursuant to an asset purchase agreement. Mr. Ogg testified that among the closing conditions for the transaction is the receipt of requisite approvals by this Commission and by the Federal Communications Commission ("FCC"). Mr. Ogg and Mr. Bishop later testified that the requisite approvals from the FCC had been obtained during the pendency of this proceeding. Mr. Ogg stated that if the proposed transaction is approved and the necessary certificates of service authority and related approvals are granted, Gallatin will become the primary provider of local exchange telecommunications service in the 24 exchanges currently served by Centel-Illinois. Gallatin will offer employment to all of Centel-Illinois' current employees and will file tariffs that match the existing local exchange service and local and intraLATA calling rates of Centel-Illinois. Gallatin plans to file intrastate access tariffs that mirror its interstate access tariffs, which Gallatin believes is consistent with existing Commission policies and orders. Ms. Jackson testified that it appears that the Petitioners have made every effort to make the transition transparent to their customers.

Mr. Ogg testified that Madison River's focus on providing high-quality local exchange services is especially important for subscribers in this service area in light of the changing competitive conditions and technologies. The Petitioners stated that Gallatin planned to improve service quality by aggressively investing in infrastructure upgrades, such as in further deployment of central office host and remote switching and expanded deployment of fiber cable in subscriber plant. Mr. Ogg described Gallatin's plans to control costs by using a small, efficient management and administrative services structure.

Initially Gallatin proposed to fund the acquisition through a combination of equity contributed by GRH to Gallatin and a loan from GRH to Gallatin. Under this initial proposal, Gallatin's assets would secure a loan by the Rural Telephone Finance Cooperative ("RTFC") to GRH. GRH would, in turn, lend a portion of the proceeds from the RTFC loan to Gallatin and contribute the remainder, together with additional funds, to Gallatin as an equity contribution. Staff Witness Plaza objected to this proposal on the grounds that, absent a showing of benefits to ratepayers, Gallatin's assets should not secure the debt of GRH, a nonutility holding company.

In response to Mr. Plaza's objection, Gallatin revised its financing proposal such that Gallatin would receive all of the proceeds of the RTFC loan. Mr. Sunu testified that this revision resulted in an initial capital structure of approximately 80-percent debt and 20-percent equity structure. However, Mr. Plaza was concerned that Gallatin would be overleveraged as a result of this proposal and stated that Gallatin should increase the amount of equity and/or decrease the amount of debt in Gallatin's capital structure.

Based on Mr. Plaza's testimony, Gallatin further revised its proposal to reduce the amount of debt that Gallatin would incur pursuant to the RTFC loan, and to increase the amount of equity capital to be contributed by GRH to Gallatin, such that,

upon the closing of the acquisition, Gallatin's capital structure would be approximately 51-percent debt and 49-percent equity. Mr. Sunu testified that, under this revised proposal, Gallatin's assets would not be used to secure debt incurred by any other company. Mr. Plaza found that Gallatin's proposal, as revised by Mr. Sunu, adequately answered his concerns regarding Gallatin's proposed structure and the RTFC loan.

II. ISSUES RESOLVED BY THE PARTIES

In the course of this proceeding, Gallatin agreed to numerous conditions to this order approving the acquisition. As a result, nearly all of the issues raised in this proceeding have, through testimony and briefs, been resolved by the parties themselves. These issues are discussed below.

A. Certificates of Service Authority and Discontinuance of Service by Centel-Illinois

The Petitioners requested that the Commission grant to Gallatin Certificates of Service Authority under Sections 13-403, 13-404 and 13-405 of the Act and approve the discontinuance of service by Centel-Illinois pursuant to Section 13-406 of the Act. Gallatin presented evidence regarding the qualifications and experience of its management as discussed above. In addition, Gallatin stated that it planned to employ Centel-Illinois's existing technical staff upon the closing of the acquisition. Staff Witness Marshall stated that Gallatin sufficiently demonstrated its managerial and technical qualifications to provide telecommunications services. No party challenged Gallatin's managerial and technical qualifications for the requested certificates of service authority.

Prior to Gallatin's revision of its proposed capital structure, Ms. Marshall stated that Gallatin had the ability to possess the financial resources to provide telecommunications service if it revised its capital structure to meet with Staff's and ultimately the Commission's approval. As discussed above, Gallatin revised its capital structure in response to Staff's concerns. Mr. Sunu testified that each of Gallatin's proposals resulted in a reasonable capital structure and that the revised capital structure resulted in an additional equity contribution well in excess of the minimum recommended by Mr. Plaza, and a debt level substantially below the maximum recommended by Mr. Plaza. After reviewing Gallatin's revised proposal, Mr. Plaza stated that it satisfied his concerns regarding financial issues. Under the revised proposal, no party challenged Gallatin's financial qualifications for the requested certificates of service authority.

Mr. Schutz testified that, under the asset purchase agreement, Centel-Illinois will discontinue the provision of noncompetitive services upon the closing of the acquisition at which time Gallatin will assume the responsibility for the uninterrupted provision of such services to customers in each of the 24 affected exchanges. Ms. Marshall stated that no customers will be deprived of any necessary or essential telecommunications

services if the Commission approves the acquisition. No party challenged the propriety of allowing Centel-Illinois to discontinue the provision of noncompetitive services in Illinois.

Gallatin's management team is made up of individuals with significant demonstrated expertise in business affairs generally and the telecommunications industry in particular. The record indicates that Gallatin has, or will possess as of the closing of the acquisition, the necessary managerial and technical qualifications to provide telecommunications services in the public interest. In addition, the Commission finds that, under its revised capital structure, Gallatin possesses sufficient financial resources to provide telecommunications service in the public interest. Upon the closing of the acquisition, the Commission finds that Gallatin is qualified to hold the requested certificates of service authority, and Centel-Illinois may discontinue providing noncompetitive services in Illinois.

B. Location of Books and Records

The Petitioners requested permission for Gallatin to keep its books and records at its principal place of business outside Illinois pursuant to 83 Ill. Admin. Code Part 250. Gallatin's corporate headquarters are located in Chapel Hill, North Carolina. Mr. Ogg stated that Gallatin would bear the reasonable additional expenses incurred by the Commission in conducting an audit or investigation of Gallatin caused by such location. Staff has no objection to Gallatin maintaining its books and records outside Illinois. The Commission finds it appropriate to grant Gallatin permission to keep its books and records outside Illinois provided that, in accordance with Section 5-106, Gallatin shall be liable for reasonable costs and expenses associated with the audit or inspection of Gallatin's books and records kept outside Illinois. Gallatin shall promptly reimburse the Commission for such expenses upon receipt of a proper invoice from the Commission.

C. ETC Status

The Petitioners requested that Gallatin be designated by the Commission as an ETC for the purpose of receiving high-cost, low-income, and rural health-care funding assistance under 47 U.S.C. §§ 214(e)(2) and 254, with the same waivers (other than a waiver of toll-control service, which is no longer required by the FCC) for Gallatin as the Commission granted to Centel-Illinois in Docket No. 97-0576.

The Petitioners provided Staff with information regarding Gallatin's planned provision of services following the acquisition. In compliance with 47 U.S.C. §254(c) and 47 C.F.R. §54.101(a), the FCC designated the following services to be supported by Universal Service: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multifrequency (touch tone) or its functional equivalent; (4) single-party service or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to directory assistance; (8) access to interexchange services; and (9) toll limitation for qualifying low-income customers.

Based on information provided to Staff by Gallatin, Mr. Hendricks stated that Gallatin planned to provide all of the services required by the FCC over its own facilities in all of the exchanges currently owned by Centel-Illinois, except that Gallatin had requested a waiver of the toll-blocking requirement in the Lacon exchange because that exchange did not have 9-1-1 or E9-1-1 and calls to emergency services might constitute toll calls. Staff Witness Jackson verified that the Lacon exchange does not have 9-1-1 service and recommended that this waiver be granted until such time as 9-1-1 service becomes operational in the Lacon exchange area.

Ms. Jackson reviewed Gallatin's plans to ensure that they met with FCC requirements regarding (1) advertising the availability of services and charges using media of general distribution; (2) the offering of Lifeline and Link Up support to qualifying low-income consumers; (3) the prohibition on disconnection of low-income consumers for nonpayment of toll charges;(4) the prohibition of the collection of a deposit from low-income consumers who subscribe to toll limitation service; and (5) offering of toll blocking in areas where 9-1-1 and E9-1-1 are not available. Ms. Jackson stated that Gallatin's plans satisfied her concerns regarding these requirements and that, for the areas she was responsible for reviewing, she recommended that the Commission grant the Petitioners request that Gallatin be designated as an ETC.

Mr. Hendricks noted that the FCC had not yet issued a definition of local usage, although Gallatin had stated that it would comply with the FCC's local usage definition when it was issued. Mr. Hendricks therefore recommended that the Commission specify in this Order that it expected Gallatin to comply with the FCC's local usage definition when that definition was issued. Mr. Hendricks testified that this recommendation was consistent with the Commission's order designating Centel-Illinois as an ETC in Docket 97-0576, and Mr. Ogg stated that Gallatin would comply with such a condition.

Mr. Hendricks recommended that the Commission grant Gallatin's request to be designated as an ETC under 47 U.S.C. § 214(e)(2) for its service area consisting of all of Centel-Illinois' exchanges. Mr. Hendricks also recommended that, consistent with the Commission's Order in Docket No. 97-0576, the Commission should make clear that it reserved the right to petition the FCC for a modification of this rural service area definition if additional information arose demonstrating that such definition unreasonably limited a new entrant's ability to be designated as an ETC in rural areas. Mr. Ogg stated that Gallatin agreed with Mr. Hendricks' recommendation.

Gallatin agrees to comply with the rules and requirements for advertising the availability of services designated for support and the charges and rules related to universal service support for low-income consumers when such rules are adopted by the Commission. Gallatin has also agreed to advertise the availability of the eligible services and charges and will provide information regarding universal service support for low-income consumers in newspapers of general circulation within its service area

at least once quarterly, through a bill insert to its customers at least once a year, and through a notice in the next editions (based on publishing deadlines) of its White Pages telephone directories.

The Commission agrees with Staff and the Petitioners that, effective upon the closing of the acquisition, Gallatin should be designated as an ETC for the service area consisting of the exchanges currently served by Centel-Illinois. In addition, Gallatin has clearly demonstrated that exceptional circumstances do exist with respect to the provision of toll blocking service in the Lacon exchange as discussed above and the Commission grants a waiver of this requirement in the Lacon exchange until such time as 9-1-1 or E9-1-1 service becomes available in that exchange.

The Commission reserves the right to petition the FCC for a modification of this "rural service area" definition if additional information arises demonstrating that such definition unreasonably limits a new entrant's ability to be designated as an ETC. In addition, we expect that Gallatin will comply with the FCC's definition of "local usage" upon the FCC's issuance of this definition, as Gallatin has agreed to do.

D. Service Quality Report

Staff Witness McClarren recommended that the Commission condition the approval of the petition on Gallatin's being required to provide a six-month service-quality report following the acquisition. Mr. McClarren stated that he had no preconceived expectations regarding the level of quality that Gallatin would provide but that the Commission should positively monitor service quality in recent acquisitions. Mr. Ogg agreed that Gallatin would provide a service-quality report covering Gallatin's first two full calendar quarters of operation within thirty days after the end of the covered period. Mr. McClarren stated that this was acceptable to him. The Commission finds it appropriate to condition approval of the acquisition on Gallatin providing the Commission with a service-quality report covering Gallatin's first two full calendar quarters of operation within thirty days after the end of the covered period.

E. Competition Issues

Mr. Hendricks examined the competitive effect of the proposed acquisition and raised questions with respect to two issues — whether Gallatin would be an incumbent local exchange carrier subject to the interconnection requirements of 47 U.S.C. §§ 251(c) and 252, and whether Gallatin would honor the existing interconnection agreements that requesting carriers had entered into with Centel-Illinois with respect to the 24 exchanges. In response, Mr. Ogg opined that following the closing of the acquisition Gallatin would be an incumbent local exchange carrier subject to all of the obligations placed upon an incumbent local exchange carrier pursuant to 47 U.S.C. §§ 251(c) and 252.

Mr. Ogg also testified that Gallatin would assume the existing interconnection agreements between Centel-Illinois and requesting carriers. In addition, Mr. Ogg and Mr. Hendricks testified that Dakota Services Limited had elected to cancel its contract with Centel-Illinois, and therefore Mr. Ogg stated that Gallatin would not be assuming this agreement. Finally Mr. Ogg indicated that Gallatin would be willing to negotiate in good faith new interconnection agreements with the relevant requesting carriers, in the event that such carriers objected to the assignment of their respective agreements to Gallatin. Mr. Hendricks testified that he could not conclude that the acquisition would impede competition in the relevant exchanges.

Because neither Gallatin nor Madison River currently competes with Centel-Illinois in any market within Illinois (or elsewhere), the Commission does not believe that the acquisition will have any negative effect on competition.

F. Competitive Services

Gallatin plans to continue providing the competitive services provided by Centel-Illinois. In response to requests by Mr. Hendricks, Mr. Bishop provided imputation tests for certain of these competitive services. Mr. Hendricks found that Gallatin passed these imputation tests. With respect to imputation tests for the remaining services, long-run service incremental cost ("LRSIC") studies for all competitive services, and an aggregate revenues test, Staff testified that, for an interim period following the acquisition, relying on such tests and studies previously provided by Centel-Illinois would be appropriate. Gallatin agreed that it would provide updated LRSIC studies and imputation tests for each of its competitive services, and an updated aggregate revenue test, as requested by Mr. Hendricks, by the third full calendar quarter following the close of the acquisition.

G. Affiliate Transactions

Staff raised a number of issues regarding transactions between Gallatin and its affiliates. Ms. Marshall noted that Gallatin planned to purchase management, administrative and other services from its affiliate, Madison River Communications, Inc. ("MRCI"), pursuant to a proposed Services Agreement, and therefore an allocation of costs to affiliates would occur. Ms. Marshall stated that Gallatin's relationships with its affiliates had the potential to result in cross-subsidies if the Commission did not impose appropriate safeguards. Ms. Marshall noted that the Commission's rules regarding common-cost allocation and affiliate transactions were prescribed by 83 Ill. Admin. Code Part 711, the Commission's Cost Allocation Manual ("CAM") for large companies. Gallatin must comply with Part 711. However, due to Gallatin's size, it is not required to file a CAM with the FCC or to have an annual independent audit to assure compliance with the CAM.

Ms. Marshall stated that the Commission would have jurisdiction over transactions between Gallatin and MRCI, Madison River, and its affiliates. In order to

verify charges and allocations, Ms. Marshall believed that it would be necessary to analyze the books and records of not only Madison River and MRCI but also all of the affiliates used to allocate costs and activities. In response to Ms. Marshall's concerns, Mr. Sunu stated that Gallatin would provide Staff with access to the accounting books and records of Madison River and all of its utility and nonutility subsidiaries (including MRCI, MEBTEL, Inc., GRH and Gallatin itself), as well as to the personnel of these companies. Ms. Marshall also requested that Staff have access to the workpapers of Gallatin's independent auditors. Mr. Sunu stated that Gallatin could not itself provide such access as the workpapers are the property of the independent auditors, but that Gallatin would use reasonable efforts to work with its independent auditors to facilitate requests by Staff for the workpapers of the independent auditors. Ms. Marshall recommended that Gallatin be required to provide a CAM that would govern transactions between Gallatin and its affiliates. Mr. Sunu agreed that Gallatin would provide a CAM for Staff review within 90 days following the closing of the acquisition. Ms. Marshall stated that her concerns on this subject were met by the various conditions to which Gallatin agreed.

H. Consumer Services Issues

Ms. Jackson testified for the Staff regarding various consumer services issues. Ms. Jackson discussed Gallatin's plans to participate in the Illinois Telecommunications Access Corporation ("ITAC") and Universal Telephone Assistance Corporation ("UTAC"), and its plans regarding 9-1-1 and E9-1-1 service. Ms. Jackson stated that she was satisfied with Gallatin's commitment to continue participation in ITAC and UTAC and to provide support and coordination for existing and future 9-1-1 systems. Ms. Jackson also discussed certain issues related to the Petitioners' communications with customers regarding the acquisition. Ms. Jackson stated that Gallatin should provide Staff copies of information given to current Centel-Illinois customers regarding the pending acquisition. Mr. Ogg responded that Gallatin would provide copies of such information to Staff.

Ms. Jackson reviewed Gallatin's plans with respect to consumer-billing issues and in general found those plans acceptable. However, Ms. Jackson stated that (1) Gallatin should provide for Staff review a copy of Gallatin's final notice for disconnection prior to implementation and (2) Gallatin should give a customer at least sixty days' notice prior to changing such customer's bill date or due date, rather than thirty days as proposed by Gallatin. Mr. Ogg agreed that Gallatin would comply with both of Ms. Jackson's recommendations.

Ms. Jackson reviewed Gallatin's complaint resolution process and found it acceptable. Ms. Jackson requested that Gallatin provide Staff with the name, address and telephone number of its liaison to the Consumer Services Division. Mr. Ogg agreed that Gallatin would provide this information prior to the closing of the acquisition.

I. RTFC Loan and Issuance of Member Interests

As discussed above, Gallatin plans to fund the acquisition in part through a secured loan from the RTFC. Staff Witness Plaza argued that Section 6-102 requires that Gallatin obtain approval for the RTFC loan and that Gallatin should be required to pay fees on the issuance of debt to the RTFC pursuant to Section 6-108. In its initial brief, Staff also argued that Section 6-108 requires Gallatin to pay a fee on the capital contribution to be made by GRH to Gallatin.

Section 6-102 allows a public utility to "issue stocks and stock certificates, and bonds, notes and other evidences of indebtedness payable at periods of more than 12 months after the date thereof for any lawful purpose", if the utility first obtains the approval of the Commission for such issuance and the proposed use of the proceeds. Section 6-108 requires the Commission to charge

every public utility receiving permission under this Act for the issue of stocks, bonds, notes and other evidences of indebtedness an amount equal to 10 cents for every \$100 of the par or stated value of stocks, and 20 cents for every \$100 of the principal amount of bonds, notes or other evidences of indebtedness

220 ILCS 5/6-108.

Telecommunications carriers are not "public utilities," but Section 13-101 states that the provisions of the Act pertaining to public utilities and public utility rates and services apply equally to noncompetitive telecommunications rates and services. The Commission has applied Sections 6-102 and 6-108 to telecommunications carriers that provided noncompetitive telecommunications services at the time of the relevant issuance. See, e.g., GTE South Inc., No. 98-0222, 1998 Ill. PUC LEXIS 412 (Ill. C.C. May 20, 1998)(approving bond issue and requiring payment of fees pursuant to Section 6-108); El Paso Tel. Co., No. 94-0003, 1994 Ill. PUC LEXIS 89 (Ill. C.C. Feb. 24, 1994)(approving RTFC loan and requiring payment of fees pursuant to Section 6-108).

The Petitioners argued that Gallatin will not be a telecommunications carrier providing noncompetitive services until after the closing, and therefore that Sections 6-102 and 6-108 will not apply to it until the closing. Gallatin also stated that it would have already received the proceeds of the loan and the issuance of membership interests prior to the closing. In support of its position, Gallatin pointed out that Ameritech Metro was not required by the Commission to obtain Section 6-102 approval, or pay Section 6-108 fees, when it received a loan from Ameritech Illinois in connection with the Commission's approval of Ameritech Metro's purchase of the Metro exchanges from Centel-Illinois in Docket 97-0171. The Commission notes that the order in Docket No. 97-0171 does not address the issues of loan approval and fees, nor is any reason given to explain the absence of such a discussion. In addition, with respect to the issuance of member interests, Gallatin stated that the statutory language of these

sections applies to the issuance of "stocks" and does not make any reference to ownership interests in other types of business associations, including membership interests in limited liability companies. The Petitioners noted that in 1993 the legislature enacted amendments incorporating references to limited liability companies in numerous sections of the Act, but not to Section 6-108 or 6-102.

Staff countered by arguing that the timing of when Gallatin actually receives the loan is irrelevant. Although Gallatin may receive the loan before being certificated and providing services, the reality is that Gallatin is requesting to become a certificated telecommunications carrier eligible to provide services in Illinois and it can only do so by receiving the loan. According to Staff, Gallatin wants the Commission to believe that all of the transactions which are to take place prior to Gallatin providing service are separate, unrelated transactions when in fact they are all logically part of one large transaction whereby Gallatin achieves the legal, financial, and physical ability to provide telecommunications service in Illinois. In order for Gallatin to accomplish its goal, Staff believes that Gallatin must comply with those sections of the Act requiring the payment of fees. Staff also notes in its reply brief that Section 6-108 applies to all "evidence of indebtedness," which it believes includes Gallatin's aforementioned debt. With regard to the issuance of member interests, Staff believes that such equity interests in a limited liability company should be considered analogous to stocks of a corporation, and therefore, Section 6-108 fees should be paid upon their issuance.

Despite Gallatin's position on the payment of the fees, Mr. Sunu stated that, to obtain approval of the acquisition, Gallatin would pay to the Commission an amount equal to twenty cents per \$100 in principal amount of the RTFC loan to Gallatin and would seek approval for the RTFC loan under Section 6-102. The parties agreed that the amount of the fee with respect to the RTFC loan was as stated in Petitioners' Exhibit 4.2.3, a confidential and proprietary exhibit to Mr. Sunu's surrebuttal testimony. The principal amount of the RTFC loan is as stated in Petitioners' Exhibit 4.2.1, a confidential and proprietary exhibit to Mr. Sunu's surrebuttal testimony.

Furthermore, in its reply brief, without conceding that Sections 6-102 and 6-108 were applicable, Gallatin agreed to pay an amount equal to ten cents for every \$100 of the par value of the membership interests issued by Gallatin to GRH. The amount of proceeds from such issuance is stated in Petitioners' Exhibit 4.2.1. Staff and Gallatin agreed that the amount to be paid by Gallatin in respect of its issuance of membership interests was equal to \$1.20.

The proceeds of the RTFC loan and the issuance of membership interests are to be used (i) for financing Gallatin's acquisition of substantially all of the telephone assets of Centel-Illinois and related expenses and the purchase of RTFC subordinated capital certificates and (ii) for working capital/initial capitalization purposes. As noted above, Gallatin's revised proposal regarding capital structure was acceptable to Staff. The Commission's opinion is that the proceeds of such issuances are reasonably required for the proposed uses. In light of the agreement of the parties on this point,

the Commission makes no determination as to the validity of Gallatin's arguments regarding the applicability of Sections 6-102 and 6-108. Accordingly, to the extent such approval is required, the Commission approves the RTFC loan to, and the issuance of membership interests by, Gallatin in the respective amounts requested by Gallatin, and the proposed uses of proceeds of such loan and issuance.

III. DISPUTED ISSUES

Only two issues remain unresolved following the reply briefs. The first regards intrastate access charges to be assessed by Gallatin and the second concerns the filing of a rate case or, in the alternative, an informational earnings report. These issues are addressed separately.

A. Mirroring of Interstate Access Tariffs by Gallatin

Mr. Bishop testified that Gallatin petitioned the FCC to allow Gallatin to join the National Exchange Carrier Association ("NECA") common line and traffic sensitive pools, and that the FCC granted Gallatin's petition allowing it to do so on July 31, 1998. Mr. Bishop testified that neither AT&T nor any other prospective access customer of Gallatin participated in the FCC proceeding. Ms. Conway testified that AT&T was aware of the opportunity to file comments with the FCC on Gallatin's request to join NECA, but AT&T chose not to.

Mr. Bishop stated that Gallatin planned to file intrastate access tariffs that mirrored its interstate (NECA) access tariffs with the exception of (i) the carrier common line charge ("CCLC"), which it would eliminate entirely, (ii) the local switching 2 ("LS2") rate element, which would be adjusted by removing non-traffic-sensitive central office equipment charges ("NTS/COE"), and (iii) the Residual Interconnection Charge ("RIC"), which would be reduced to \$0.007682 per minute of use to reflect a change in the invested capital tax that eliminated invested capital tax expenses and franchise fees (the "Invested Capital Tax") in accordance with the Commission's order in Docket No. 97-0632. See Implementation of the Telecommunications Municipal Infrastructure Maintenance Fee Act, Docket No. 97-0632, order entered on August 26, 1998.

Gallatin proposed to reduce its RIC by the same amount of the Invested Capital Tax expense savings which Centel-Illinois applied to its intrastate access charges when it eliminated its RIC and Information Surcharge ("IS") rate elements (Centel-Illinois' RIC and IS made up a smaller portion of its intrastate access charges; which enabled Centel-Illinois to eliminate these rate elements entirely). Staff agreed with Gallatin that its proposed adjustment to the RIC was appropriate and consistent with the Commission's order in Docket No. 97-0632.

Gallatin and Staff stated that Gallatin's plans to file intrastate access tariffs that mirror its interstate access tariffs (with the elimination of the CCLC and the adjustments to the LS2 and RIC elements) are consistent with the Commission's mirroring policy.

Mr. Bishop testified that he expected that Gallatin's mirrored NECA rates would result in intrastate switched access revenues that are "somewhat" higher than those currently received by Centel-Illinois. Mr. Bishop also stated that he expected that Gallatin's special-access revenues would be "somewhat" lower than Centel-Illinois'. Mr. Ogg testified that a particular interexchange carrier's utilization patterns would determine whether the charges applicable to that interexchange carrier are higher or lower than the charges such interexchange carrier incurred from Centel-Illinois.

1. AT&T's Position

AT&T believes that Gallatin's proposed access rates are unreasonable, unjustified, and discriminatory. AT&T argued that the Commission should order one of three alternatives: (1) Gallatin should mirror its interstate NECA tariff but without a RIC or IS; (2) Gallatin should adopt Centel's intrastate switched access tariff; or (3) Gallatin should mirror its interstate NECA tariff but reduce the RIC rate by \$0.00426 per minute of use to ensure no unjustified access revenue increases.

AT&T witness Conway stated that the unfettered approval of the Petition would result in a net increase in switched access revenues of \$1.1 million per year. AT&T stated that this increase resulted from the RIC and IS elements being present in the NECA tariff but having been reduced to zero in the current Centel-Illinois tariff. Ms. Conway stated that the RIC and IS were non-cost-based rate elements.

AT&T stated that the Commission has full jurisdiction with respect to intrastate rates and its approval of the acquisition, and argued that the Commission should exercise this jurisdiction and determine the appropriate intrastate access rates for Gallatin. AT&T also argued that Section 9-250 requires that the Commission, whenever it determines that a carrier's rates are unjust, unreasonable or discriminatory, "shall determine the just, reasonable or sufficient rates" and "shall fix the same by order." AT&T also argued that 83 Ill. Admin. Code Part 285 requires that the Petitioners file a rate case prior to adopting the NECA tariffs in Illinois. Ms. Conway stated that the Commission's mirroring policy required carriers to mirror the structure rather than the rate levels of their intrastate tariffs, and that the relief requested by AT&T was consistent with the Commission's mirroring policy.

AT&T also argued that Gallatin's mirroring of the NECA tariffs was discriminatory because it favored one class of customers (end users) over another class of customers (interexchange carriers). Ms. Conway testified that because Gallatin is regulated at the federal level as a rate-of-return company (under the NECA tariffs), rather than as a price-cap company, Gallatin will not be allowed to assess the higher End User Common Line ("EUCL") charges that applied for nonprimary residential lines and for multiline business lines. AT&T argues that the difference in EUCL charges between the Centel-Illinois and NECA interstate tariffs is discriminatory when coupled with a difference in switched access rates between the same tariffs.

2. Gallatin's and Staff's Responses to AT&T

Gallatin and Staff disagreed with AT&T's proposals. Staff pointed out that the issues raised by AT&T are being examined in the Commission's open dockets on access charge policy (Docket Nos. 97-0601, 97-0602 and 97-0516). In response to AT&T's concerns, Mr. Bishop agreed that Gallatin would participate in the Commission's current industry-wide proceedings addressing its intrastate access charge policy, and that Gallatin would abide by applicable Commission orders established in those dockets. Staff stated that these dockets were the appropriate forum in which the Commission should examine AT&T's proposals regarding access charges, in order that these questions could be addressed on an industry-wide basis for all incumbent local exchange carriers in Illinois.

Gallatin and Staff both believe that AT&T's proposals are contrary to the Commission's intrastate access charge policy, while Gallatin's plans to mirror its NECA tariff are in compliance with the Commission's intrastate access charge policy. Gallatin stated that AT&T's concerns as to the NECA tariff itself should have been addressed at the federal level when Gallatin filed for permission to adopt the NECA tariff.

Part 285 sets forth certain information that a utility must submit to the Commission "at the time of its filing for an increase in base rates when such increase results in an increase in total jurisdictional annual revenue of 1.0% or more." 83 Ill. Admin. Code 285.130. Gallatin pointed out that it was not seeking any increase in its base rates. Staff Witness Hendricks testified that Part 285 "is only for existing companies increasing rates, not for new companies" instituting their rates for the first time. Gallatin stated that it was not aware of any case where the Commission had decided that the initial setting of rates upon an acquisition of a utility triggered the Part 285 requirements. No party contested this statement. The Commission notes, however, that Gallatin has not demonstrated that an acquisition proceeding is the proper forum in which to set rates. Gallatin also pointed out that Section 9-201, which forms the statutory basis for 83 Ill. Admin. Code Part 285, requires that, unless otherwise ordered by the Commission, no change in a rate is allowed to be made by a public utility except upon 45 days' notice. Gallatin stated that the Commission decision in the Ameritech Metro docket did not waive the 45 days' notice provision, which Gallatin interprets to mean that no waiver was necessary to allow Ameritech Metro's initial tariffs to take effect on the first day of its operations. See Ameritech Illinois Metro, Inc., Docket No. 97-0171, entered on October 22, 1997, at 11-14 (findings and ordering paragraphs do not waive 45-day requirement). Mr. Bishop and Mr. Ogg also testified that Centel-Illinois recently increased its intrastate access rates by approximately 60 percent without triggering the Part 285 requirements, and no party disputed this testimony.

Gallatin argued that the record did not establish that any significant increase would result from Gallatin's mirroring the NECA rates. As discussed above, Gallatin showed that some of its intrastate access rates are higher than those of Centel-Illinois

and some of those rates are lower than those of Centel-Illinois, and a particular interexchange carrier's utilization patterns would determine whether the charges applicable to that interexchange carrier were higher or lower than the charges such interexchange carrier incurred from Centel-Illinois. Mr. Bishop testified that the mirroring of the interstate NECA tariff would not result in undue hardship on any of Gallatin's customers. The Commission observes that how Mr. Bishop determined that no undue hardship would result is unclear.

Gallatin disputed Ms. Conway's estimate of the difference in annual switched access revenues between Gallatin and Centel-Illinois. Gallatin claimed that Ms. Conway provided inadequate support or documentation for her estimate. Gallatin also argued that the four identified assumptions upon which Ms. Conway based her estimate were incorrect and instead asserted that: (1) Gallatin was not requesting and would not receive unfettered approval of the petition, (2) the number of switched access minutes used by Ms. Conway was overstated by approximately 12%, (3) the estimate did not take into account Gallatin's adjustment to the RIC in respect of the changes to the Invested Capital Tax, and (4) Ms. Conway relied on an incomplete rate comparison that did not include Centel-Illinois' tandem switching rates (but did include Gallatin's tandem switching rates). Gallatin argued that the second and third assumptions resulted in an overstatement of more than \$305,000, or 25%, and that the effect of the first and fourth assumptions would result in an additional, unquantified, overstatement. Based on the direction and perceived magnitude of error on each of the identified assumptions, and the perceived lack of support and documentation for the estimate, Gallatin argues that Ms. Conway's estimate should be entitled to no weight. In addition, Gallatin avers that because Ms. Conway's estimate related only to switched access rates, it did not take into account that Gallatin expects to receive approximately \$200,000 less in special access revenue than Centel-Illinois received, nor did it take into account the fact that interexchange carriers can and likely will vary their utilization in response to price differences between switched and special access services.

Gallatin claims that AT&T did not present any evidence that Gallatin's rates would be unjust, unreasonable, and discriminatory. Gallatin noted that its rates would be subject to continuous scrutiny by the Commission not only by virtue of the scheduled earnings report that it agreed to as a condition to approval of the acquisition but also by virtue of the quarterly and annual reports that Gallatin is required to file with the Commission pursuant to its rules applicable to Illinois local exchange carriers. Gallatin contends that AT&T did not point out a single service for which Gallatin was proposing to charge different access rates to similarly situated customers.

3. Commission Conclusion

Gallatin has proposed in its filing to mirror its interstate access rates subject to adjustments developed by the Commission in previous dockets. The Staff, having reviewed Gallatin's proposal and the Commission rules and precedents believes the proposal is consistent with the Commission's policies. What Gallatin and Staff do not

appreciate, however, is the primary purpose of this proceeding. Gallatin would not be before the Commission if not for its desire that the Commission approve its acquisition of Centel-Illinois' assets. Therefore, the principal issue in this docket is the acquisition of assets, not the setting of rates. Gallatin argues that it is not subject to Part 285 requirements because it is a new entrant and can therefore set rates at any level so long as that level has been approved by the FCC. Had Gallatin adopted all of Centel-Illinois' rates and charges and, on the day following approval of the acquisition sought to raise its access charges, Gallatin would be subject to all relevant statutory provisions and Commission rules governing such rate changes. Gallatin should not be allowed to circumvent the formal rate setting process by attempting to raise access charges in a proceeding concerning acquisition of assets. The Commission does not mean to imply by this statement that Petitioners intended to act improperly. Rather, the Commission must simply require Gallatin to follow the same rules and procedures as other similarly situated telecommunications firms when setting rates.

In support of its position, Gallatin points out that the Commission allowed Ameritech Metro to mirror its interstate access rates in setting its intrastate access rates when Ameritech Metro acquired four exchanges from Centel-Illinois in 1997. Therefore, according to Gallatin, the Commission should allow Gallatin to do the same when it acquires Centel-Illinois' remaining exchanges. What Gallatin fails to recall, however, is a statement made by its own witness, Earl Bishop, that Ameritech Metro's "mirrored access charges were substantially lower than those of Centel-Illinois." (Petitioners' Ex. 6.1, p. 5). This fact makes Ameritech Metro's situation distinguishable from Gallatin's proposal. Rather than adopt Centel-Illinois' existing intrastate access rates, Ameritech Metro chose to implement intrastate access rates that are lower than Centel-Illinois'. Gallatin proposes to do the opposite.

Gallatin has also repeated throughout this proceeding that all Illinois carriers can, and regularly do, change their intrastate access tariffs without filing a rate case so long as such changes comply with the statutes and rules in Illinois. This statement suggests that carriers may raise their access rates at will when in fact Commission approval is required. Under Section 9-201(a) of the Act, no change may be made to any rate except after 45 days notice to the Commission and the public. During that time, interested members of the public may file comments with the Commission and Staff may recommend that the Commission investigate the proposed rate change. In addition, all rates must be just and reasonable under Section 13-103(a).

The Commission also notes that under Section 7-102 of the Act, the petition in question should only be granted if "the public will be inconvenienced thereby." No showing has been made that setting certain access charges at levels higher than those charged by Centel-Illinois will convenience the public. Such an issue is more appropriately addressed in a rate setting process rather than an asset acquisition proceeding.

Since the Commission finds that raising access charges during the course of an asset acquisition proceeding is inappropriate without an accompanying rate process, the Commission makes no finding as to whether Gallatin's mirroring proposal is consistent with Commission policy. Until the Commission allows Gallatin to implement access charges different from those charged by Centel-Illinois, Gallatin should use the same access charges used by Centel-Illinois. Such charges shall be considered just and reasonable and the Commission finds that the public will be inconvenienced thereby, until shown otherwise.¹

B. Informational Earnings Report

Gallatin and Staff are in disagreement over whether Gallatin should be required to file a rate case using the first full calendar year of Gallatin's operations as the test period, or an informal report regarding its earnings and revenue requirement covering the first full calendar year of Gallatin's operations due on April 1 of the following year. Ms. Marshall initially sought a rate case but later added that such an informational earnings report may be an acceptable alternative. Gallatin recommended that the Commission adopt Ms. Marshall's alternative proposal.

Ms. Marshall testified that Gallatin's informational filing should contain the following schedules with a copy of all supporting workpapers: (a) Revenue and Financial Summaries (A Schedules) per Part 285.1000-.1015; (b) Rate Base (B Schedules) per Part 285.2000-.2125; (c) Operating Income (C Schedules) per Part 285.3000-.3130; (d) Rate of Return (D Schedules) per Part 285.4000-.4025; and (e) Supplemental Filing Requirements (S Schedules) per Part 285.205-.210, on or before April 1 following such year. Mr. Hendricks also requested that Gallatin provide updated LRSIC studies for its noncompetitive services along with the informational filing.

Mr. Ogg agreed that Gallatin would file the informal earnings report recommended by Staff, including the schedules requested by Ms. Marshall, and updated LRSIC studies for its noncompetitive services, by April 1 of the year following its first full calendar year of operations.

Ms. Marshall stated that she expected that the informal earnings report would be available for review by interested parties in addition to Staff. In its reply brief, Gallatin agreed that the filing would be available to the public, although the confidential and proprietary information contained in the filing would not be available to the public unless provided pursuant to a confidentiality and nondisclosure agreement between Gallatin and the interested parties, and the Commission's rules regarding such information. This condition was consistent with Staff's position on this issue.

¹ The Commission notes that in its Brief on Exceptions and Reply Brief on Exceptions, Staff did not take exception to requiring Gallatin to adopt the intrastate access rates of Centel-Illinois and indicated that it believed that the conclusions reached are supported by the record.

Ms. Marshall stated that filing an informational report would be less burdensome for Gallatin than a full rate case because it would not require the prefiled testimony, notice, and hearing costs associated with a rate case. Ms. Marshall testified that the informal report would not require that a docket be initiated but would provide information useful to either a Staff Report or a complaint that could result in a docketed earnings investigation. Mr. Ogg stated that requiring a rate case at such an early date would be a wasteful and time-consuming process for both Gallatin and the Commission and that the informal earnings review suggested by Ms. Marshall was a much more efficient approach to meeting Staff's concerns. Mr. Ogg stated that the Commission can take appropriate action, after it has the opportunity to review the actual data contained in the informal earnings report, rather than requiring the significant expense and time commitment involved in a rate case without first reviewing any actual data.

Staff initially sought a rate case because Gallatin's own calculations indicated over-earnings in Gallatin's first year of operation. Although Staff would consider the filing of an informational report as an alternative in the event that the Commission determines a rate case is not required, Staff still believes that a full rate case is warranted because Gallatin would then be required to file LRSIC studies, have its weighted cost of capital analyzed, and file information necessary for Staff and other interested parties to determine Gallatin's revenue requirement.

The Commission finds that the informal earnings review suggested by Ms. Marshall and recommended by Gallatin is the appropriate mechanism to ensure that Gallatin's rates are just and reasonable. The earnings review mechanism assures the Commission that it will have access to any information it needs to take further action if it finds, after reviewing Gallatin's data, that such action is warranted. The informational report should be filed with the Commission much in the same way that an annual report is filed with the Commission — a docketed proceeding would not be initiated by its filing, but the Commission or an interested party could use the information contained in the report to institute a docketed proceeding. Confidential treatment pursuant to the Commission's rules will be accorded to all confidential or proprietary data included in the informational report filed by Gallatin. Because it is uncertain whether Staff's initial determination of over-earning by Gallatin stemmed from the proposed use of the higher mirrored intrastate access charges, which has been rejected by the Commission, the Commission does not find it appropriate to require Gallatin to file a rate case at this time. Gallatin is free to file a rate case on its own, however, instead of the informal earnings report when such report is due, in the event that Gallatin believes higher rates or charges are justified.

IV. FINDINGS AND ORDERING PARAGRAPHS

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

- (1) Gallatin River Communications L.L.C. seeks to acquire substantially all of the assets of Central Telephone Company of Illinois, and, as such, will become a telecommunications carrier within the meaning of Section 13-202;
- (2) Central Telephone Company of Illinois is a corporation which provides telecommunications services in Illinois, and, as such, is a telecommunications carrier within the meaning of Section 13-202;
- (3) the Commission has jurisdiction over the parties to this docket and the subject matter hereof;
- (4) the findings of fact and conclusions of law set forth in the prefatory portion of this Order are supported by the record herein and are hereby adopted as findings of fact and conclusions of law;
- (5) the proposed acquisition by Gallatin River Communications L.L.C. of assets of Central Telephone Company of Illinois, and the transactions contemplated to effectuate that acquisition, are reasonable, will convenience the public, and should be approved pursuant to Section 7-102;
- (6) the proposed loan of money by the Rural Telephone Finance Cooperative to Gallatin River Communications L.L.C. to finance the purchase of substantially all of the assets of Central Telephone Company of Illinois and the purchase of the subordinated capital certificates of the Rural Telephone Finance Cooperative and for working capital purposes is reasonable, will convenience the public, and should be approved to the extent necessary pursuant to Section 6-102;
- (7) the proposed issuance of membership interests by Gallatin River Communications L.L.C. to Gallatin River Holdings, L.L.C. to finance the purchase of substantially all of the assets of Central Telephone Company of Illinois and the purchase of the subordinated capital certificates of the Rural Telephone Finance Cooperative and for working capital purposes is reasonable, will convenience the public, and should be approved to the extent necessary pursuant to Section 6-102;
- (8) the fees payable to the Commission pursuant to Section 6-108 with respect to (i) the issuance of membership interests by Gallatin River Communications L.L.C. are one dollar and 20 cents, and (ii) the loan to Gallatin River Communications L.L.C. by the Rural Telephone Finance Cooperative are correctly calculated in Petitioners' Exhibit 4.2.3; such fees should be paid to the Commission no later than thirty (30) days after service of this Order;

- (9) upon completion of the proposed acquisition and the transactions related thereto, Gallatin River Communications L.L.C. will possess sufficient technical, financial, and managerial resources to provide interexchange and local exchange telecommunications service; the Commission should grant to Gallatin River Communications L.L.C. Certificates of Service Authority pursuant to Sections 13-403, 13-404 and 13-405;
- (10) upon the completion of the proposed acquisition and the transactions related thereto, discontinuance of the provision of noncompetitive telecommunications service by Central Telephone Company of Illinois will not deprive customers of any necessary or essential telecommunications service or access thereto, is not contrary to the public interest, and should be permitted pursuant to Section 13-406;
- (11) effective upon the closing of the acquisition, Gallatin River Communications should be designated as an eligible telecommunications carrier for the service area currently served by Central Telephone Company of Illinois as described in Appendix A to the Commission's order dated December 17, 1997, in Docket No. 97-0576;
- (12) the designation of Gallatin upon the closing of the acquisition as an eligible telecommunications carrier is consistent with the Act and the FCC's applicable rules and is in the public interest;
- (13) in the interest of public safety, continued access to emergency services, and based upon the exceptional circumstances demonstrated in this record, Gallatin River Communications L.L.C. should be granted a waiver of the requirement to provide toll blocking service as defined by the FCC in the Lacon exchange until such time as 9-1-1 or E9-1-1 is in service in Marshall and Woodford Counties, Illinois;
- (14) effective upon the closing of the acquisition, Gallatin River Communications L.L.C. should comply with the various requirements associated with being a designated eligible telecommunications carrier as set forth in the FCC's Rules and the additional requirements and commitments relating to its status as an eligible telecommunications carrier and described in the prefatory portion of this Order;
- (15) Gallatin River Communications L.L.C. should be granted permission pursuant to 83 Ill. Adm. Code Part 250 to keep its books and records outside of the State of Illinois;
- (16) the relief requested in this docket by Gallatin River Communications L.L.C. and Central Telephone Company of Illinois should be granted on the conditions that:

- (a) Gallatin River Communications L.L.C. files with the Commission an informal, undocketed, informational earnings report covering its first full calendar year of operations and containing the following schedules with a copy of all supporting workpapers: (a) Revenue and Financial Summaries (A Schedules) per Part 285.1000-.1015;(b) Rate Base (B Schedules) per Part 285.2000-.2125; (c) Operating Income (C Schedules) per Part 285.3000-.3130; (d) Rate of Return (D Schedules) per Part 285.4000-.4025; and (e) Supplemental Filing Requirements (S Schedules) per Part 285.205-.210, together with long run service incremental cost studies for its noncompetitive services, in each case subject to the Commission's rules regarding proprietary and confidential information, such filing to be made on or before April 1 following such year; in the event that Gallatin River Communications L.L.C. believes higher rates or charges are justified, it may file a rate case in place of such earning report on or before April 1 following such year;
 - (b) Gallatin River Communications L.L.C. provides to Staff long run service incremental cost studies, and imputation and aggregate revenue tests, for its competitive services by the end of the third full calendar quarter following the close of the acquisition;
 - (c) Gallatin River Communications L.L.C. provides to Staff a service quality report covering Gallatin River Communications L.L.C.'s first two full calendar quarters of operation within thirty days after the end of the covered period;
 - (d) Gallatin River Communications L.L.C. allows Staff access to the accounting books and records of Gallatin, Madison River and Madison River's subsidiaries and to personnel of these companies;
 - (e) Gallatin River Communications L.L.C. provides a cost allocation manual within 90 days following the closing of the acquisition to Staff for its review;
- (17) any other relief necessary or appropriate to consummate the transactions and carry out the purposes referred to in findings 5-16 above should be approved;
 - (18) any petitions, objections or motions in this docket not specifically disposed of herein should be disposed of in a manner consistent with the conclusions herein; and
 - (19) the consent, authority, and approval of the Commission should be granted to Gallatin River Communications L.L.C. and Central Telephone Company

of Illinois to do any and all other things not contrary to law or to the rules and regulations of the Commission that are incidental, reasonably necessary or appropriate to the performance of any and all acts authorized by the Commission in this Order.

IT IS THEREFORE ORDERED that the proposed acquisition by Gallatin River Communications L.L.C. of substantially all of the assets of Central Telephone Company of Illinois should be, and hereby is, approved.

IT IS FURTHER ORDERED that all transactions necessary or appropriate, or contemplated by Gallatin River Communications L.L.C. and Central Telephone Company of Illinois, to effectuate consummation of the proposed acquisition should be, and hereby are, approved.

IT IS FURTHER ORDERED that the proposed loan of money by the Rural Telephone Finance Cooperative to Gallatin River Communications L.L.C. to finance the purchase of substantially all of the assets of Central Telephone Company of Illinois and the purchase of the subordinated capital certificates of the Rural Telephone Finance Cooperative and for working capital purposes should be, and hereby is, approved.

IT IS FURTHER ORDERED that all transactions necessary or appropriate to, or contemplated by Gallatin River Communications L.L.C. to effectuate consummation of the proposed loan should be, and hereby are, approved.

IT IS FURTHER ORDERED that the proposed issuance of membership interests by Gallatin River Communications L.L.C. to Gallatin River Holdings, L.L.C. to finance the purchase of substantially all of the assets of Central Telephone Company of Illinois and the purchase of the subordinated capital certificates of the Rural Telephone Finance Cooperative and for working capital purposes should be, and hereby is, approved.

IT IS FURTHER ORDERED that all transactions necessary or appropriate to, or contemplated by Gallatin River Communications L.L.C. to effectuate consummation of the proposed issuance of membership interests should be, and hereby are, approved.

IT IS FURTHER ORDERED that Gallatin River Communications L.L.C. shall pay to the Illinois Commerce Commission the fees described in Finding (8) no later than thirty (30) days after service of this Order.

IT IS FURTHER ORDERED that Gallatin River Communications L.L.C. should be, and hereby is, granted certificates of service authority pursuant to Sections 13-403, 13-404, and 13-405 of the Public Utilities Act effective on the closing of the proposed acquisition and that its certificates are as follows:

CERTIFICATE OF INTEREXCHANGE SERVICE AUTHORITY

IT IS HEREBY CERTIFIED that Gallatin River Communications L.L.C., a Delaware limited liability company, is authorized pursuant to Section 13-403 of the Public Utilities Act to provide interexchange telecommunications services within the State of Illinois.

CERTIFICATE OF SERVICE AUTHORITY

IT IS HEREBY CERTIFIED that Gallatin River Communications L.L.C., a Delaware limited liability company, is authorized pursuant to Section 13-404 of the Public Utilities Act to provide resold interexchange telecommunications services and resold local exchange telecommunications services within the State of Illinois.

CERTIFICATE OF EXCHANGE SERVICE AUTHORITY

IT IS HEREBY CERTIFIED that Gallatin River Communications L.L.C., a Delaware limited liability company, is authorized pursuant to Section 13-405 of the Public Utilities Act to provide facilities based exchange services in the following exchange service areas served by Central Telephone Company of Illinois as of the date hereof: Avon, Cameron, Dixon, Forest City, Galesburg, Grand Detour, Green Valley, Harmon, Havana, Knoxville, Lacon, Livingston, Manito, Mount Carroll, Nelson, North Pekin, Pekin, Savanna, South Pekin, Staunton, Talbott, Thompson, Topeka, and Wataga.

IT IS FURTHER ORDERED that Central Telephone Company of Illinois should be, and hereby is, authorized to discontinue the provision of noncompetitive telecommunications service in Illinois, effective upon consummation of the proposed acquisition.

IT IS FURTHER ORDERED that upon closing of the acquisition, Gallatin River Communications L.L.C. is designated an eligible telecommunications carrier under 47 U.S.C. § 214(e) for its service area consisting of the service area served by Central Telephone Company of Illinois as described in Appendix A to the Commission's order dated December 17, 1997 in Docket No. 97-0576;

IT IS FURTHER ORDERED that Gallatin River Communications L.L.C. is granted a waiver of the requirement to provide toll blocking service as defined by the Federal Communications Commission to low-income customers in the Lacon exchange until such time as 9-1-1 or E9-1-1 is in service in Marshall and Woodford counties, Illinois.

IT IS FURTHER ORDERED that Gallatin River Communications L.L.C. is granted permission pursuant to 83 Illinois Administrative Code Part 250 to keep its books and records outside the State of Illinois.

IT IS FURTHER ORDERED that Gallatin River Communications L.L.C. should comply with the requirements of Finding (14) above.

IT IS FURTHER ORDERED that Gallatin River Communications L.L.C. should adhere to the provisions to which it agreed as set forth in Finding (16) above.

IT IS FURTHER ORDERED that Gallatin River Communications L.L.C. shall file with the Commission any necessary tariffs, consisting of its rates, rules and regulations, as approved in this order, to be effective upon the consummation of the proposed acquisition, before commencing any of the proposed interexchange or local exchange services.

IT IS FURTHER ORDERED that any petitions, objections or motions made in this docket and not otherwise specifically disposed of herein shall be, and hereby are, disposed of in a manner consistent with the conclusions contained herein.

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 final; it is not subject to the Administrative Review Law.

By order of the Commission this 21st day of October, 1998.

Chairman