STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission :  
On Its Own Motion :  
:  09-0382
Revision of 83 Ill. Adm. Code 732. :  

FIRST NOTICE ORDER

By the Commission:

On August 19, 2009, the Commission entered an Order commencing this docket for the purpose of amending 83 Ill. Adm. Code 732 entitled “Customer Credits.” Section 13-512 of the Public Utilities Act (“PUA”) requires that all Commission rules issued pursuant to Article XIII of the PUA, applicable to the operations or activities of telecommunications carriers, be reviewed every two years. Section 13-512 requires repeal or modification of any such rule determined to no longer serve the public interest due to the availability of competitive telecommunications services.

On August 10, 2009, the Staff of the Telecommunications Division submitted a Staff Report recommending that 83 Ill. Adm. Code 732 be amended. In its Report, Staff described in general terms the amendments it would propose and summarized the results of the industry workshops that were conducted. The Staff Report recommended (1) the addition of a new Section 732.05 (“Application of Process”) to reflect the statutory exemption of Illinois telephone cooperatives from requirements concerning customer credits, (2) the deletion of three superfluous references or requirements that were effective until June 30 or July 30, 2003 (3) the deletion of part of Section 732.35 as given the current prevalence of comprehensive interconnection agreements, such detailed reimbursement procedures are no longer necessary or salutary in Part 732, and further stated that such amendments were the subject of general agreement among stakeholders reached in the course of the workshop process.

On November 18, 2009, the Staff filed ICC Staff Ex. 1.0, the Direct Testimony of Jeffrey H. Hoagg, which further described the proposed amendments to the rule, and the rationale for each. In the second set of proposed revisions to Code Part 732, additional obsolete references in Section 732.40 were also proposed to be eliminated. Mr. Hoagg’s testimony included an attachment containing Staff’s proposed amendments to Part 732 shown in legislative format.

On December 9, 2009, a hearing was convened before the assigned Administrative
Law Judge, in the course of which ICC Staff Ex. 1.0 was admitted into evidence, and the parties indicated that they supported Staff’s proposed amendments to the rules. The parties further stated that they supported entry of a First Notice Order in this proceeding.

Section 5-40(b) of the Illinois Administrative Procedure Act, 10 ILCS 100/5-40(b) provides that administrative agencies wishing to promulgate or amend administrative rules must give at least 45 days’ notice of intended action to the general public which notice shall include the text of the rule; a citation to the statutory authority under which the rule is promulgated; a complete description of the rule; a description of any published study or report used in developing the rule; a regulatory flexibility analysis; and the time, place and manner in which interested persons may submit comments.

Mr. Hoagg’s testimony addresses each of these requirements, except for the regulatory flexibility analysis. We observe, however, that the purpose of the proposed amendments is to add language to reflect a statutory exemption, eliminate superfluous references, and rescind certain unnecessary reimbursement procedures. Accordingly, we believe that a recitation to that effect is sufficient to satisfy the regulatory flexibility requirement.

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

(1) the Commission has jurisdiction over the parties hereto and the subject matter herein;

(2) the recitals of fact set forth in the prefatory portion of this order are supported by the record and are hereby adopted as findings of fact;

(3) the proposed amendment of 83 Ill. Adm. Code 732, as reflected in the attached Appendix, should be submitted to the Secretary of State to begin the first notice period.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the proposed amendment of 83 Ill. Adm. Code 732, as reflected in the attached Appendix, be submitted to the Secretary of State, pursuant to Section 5-40(b) of the Illinois Administrative Procedure Act.
IT IS FURTHER ORDERED that this Order is not final; it is not subject to the Administrative Review Law.
By order of the Commission this 10th day of March, 2010.

(SIGNED) MANUEL FLORES

Acting Chairman