

RESOLUTION R-33-04

**A RESOLUTION AUTHORIZING A REQUEST FOR EXCLUSION
FROM THE PRIMECO AND CELLULAR DEFENDANT SUBCLASSES**

WHEREAS, the City of Wheaton (hereinafter "City") has received Notice of Pendency of Class Action in the lawsuit styled as *PrimeCo Personal Communications, L.P., et al. v. Illinois Commerce Commission, et al.*, No. 98 CH 5500 (Cir. Ct. Cook County) (the "PrimeCo Litigation"); and

WHEREAS, the City has tentatively been included as a defendant in the Landline Defendant Subclass pursuant to the Notice of Pendency of Class Action attached hereto as Exhibit 1 and made a part hereof; and

WHEREAS, the Mayor and City Council find and hereby declare that it is in the best interests of the City to be excluded from the Landline Defendant Subclass;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY MAYOR AND CITY COUNCIL OF THE CITY OF WHEATON, DUPAGE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION ONE: The recitals set forth hereinabove shall be and are hereby incorporated as if said recitals were fully set forth within this Section One.

SECTION TWO: The City hereby exercises its right to request exclusion from the Landline Defendant Subclass and authorizes and directs the City Manager, as its authorized representative, to execute any and all documents necessary or desirable to effectuate said exclusion. The City Attorneys are further authorized to undertake any and all actions legally necessary or desirable to effectuate said exclusion.

SECTION THREE: Any policy or resolution of the City that conflicts with the provisions of this resolution shall be and is hereby repealed to the extent of such conflict.

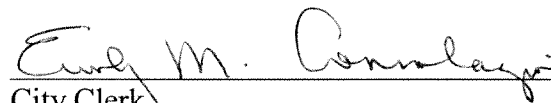
SECTION FOUR: This resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

ADOPTED THIS 3rd day of May, 2004.

Mayor



ATTEST:


City Clerk

Ayes:

Roll Call Vote:

Councilman Mouhelis

Councilman Bolds

Councilwoman Corry

Councilman Johnson

Mayor Carr

Councilwoman Johnson

Councilman Mork

Nays:

None

Absent:

None

Motion Carried Unanimously