

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

AN INVESTIGATION OF TOLL AND )  
ACCESS CHARGE PRICING AND TOLL )  
SETTLEMENT AGREEMENTS FOR ) CASE NO. 8838  
TELEPHONE UTILITIES PURSUANT )  
TO CHANGES TO BE EFFECTIVE )  
JANUARY 1, 1984 )

O R D E R

Introduction

On January 17, 1986, the Commission issued an Order in this case allowing intraLATA toll settlements based on the Joint Report of the Kentucky Telephone Industry, effective June 1, 1985. In the same Order, the Commission rejected toll settlement agreements among intraLATA pool members filed by South Central Bell Telephone Company ("SCB"), as these agreements contained provisions not included in the Joint Report, pending further order of the Commission. This Order addresses changes to intraLATA toll settlement agreements that the Commission will require.

Discussion

First, the agreements contain references to Exchange Carrier Association and other unspecified interstate tariffs filed with the Federal Communications Commission.<sup>1</sup> In prior Orders in

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<sup>1</sup> Exhibit C, Basis of Compensation, IntraLATA Switched Toll Services Annex, page 2, paragraph A.5 and page 3, paragraph B.2.a.

this case, the Commission has found that local exchange carriers ("LECs") under its jurisdiction should file intrastate access services tariffs. Furthermore, the Commission has found that insofar as intrastate tariffs include references to interstate tariffs, any referenced material must be also filed with the Commission.<sup>2</sup> Therefore, in the opinion of the Commission, relevant portions of interstate tariffs referred to in intraLATA toll settlement agreements should be attached to these agreements as addenda.

The intraLATA toll settlement agreements filed by SCB also include the following provision, which, in the opinion of the Commission, should be deleted from the agreements:

Any fund participant who directly or through an affiliated entity engages in a facility based interexchange carrier venture that is competing for the intraLATA toll revenues shared by the fund participants will not be entitled to the residual revenue described in Paragraph B.7 above.<sup>3</sup>

At this time the Commission has not allowed any LEC to engage in facilities-based competition either interLATA or intraLATA. Neither has the Commission allowed interexchange carriers to compete in the intraLATA market. Thus, the above quoted provision is premature. If approved, it could provide a loophole through which established Commission policy concerning

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<sup>2</sup> For example, Order entered February 15, 1985, page 68.

<sup>3</sup> Op. cit., page 8, paragraph B.8.

intrastate competition and intraLATA toll settlements could be circumvented. The Commission will not permit such a loophole. Changes in the status of intrastate competition and the structure of intraLATA toll settlements must be preceded by explicit Commission consideration.

Also, the intraLATA toll settlement agreements filed by SCB contain a late payment penalty applicable to LEC remittances to the intraLATA pool administrator, subject to the discretion of the pool administrator.<sup>4</sup> In principle, the Commission does not object to a late payment penalty provision. However, in the opinion of the Commission, such a provision should not be subject to the discretion of the pool administrator. Therefore, the provision should be modified to state specific terms and conditions. Either late payment fees apply or they do not apply under definite terms and conditions.

#### Findings and Orders

The Commission, having considered the evidence of record and being advised, is of the opinion and finds that:

1. Addenda should be added to intraLATA toll settlement agreements incorporating relevant interstate tariff provisions referenced in the agreements.

2. Provisions concerning intraLATA toll competition should be deleted from intraLATA toll settlement agreements.

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<sup>4</sup> Ibid., page 10, paragraph D.3.

3. Provisions concerning discretionary late payment fees in intraLATA toll settlement agreements should be modified to state specific applicable terms and conditions.

4. SCB should file revised intraLATA toll settlement agreements within 30 days from the date of this Order.

IT IS THEREFORE ORDERED that:

1. Addenda shall be added to intraLATA toll settlement agreements incorporating relevant interstate tariff provisions referenced in the agreements.

2. Provisions concerning intraLATA toll competition shall be deleted from intraLATA toll settlement agreements.

3. Provisions concerning late payment fees shall be modified to state definite applicable terms and conditions.

4. SCB shall file revised intraLATA toll settlement agreements within 30 days from the date of this Order.

Done at Frankfort, Kentucky, this 4th day of April, 1986.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Secretary