

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE SALE AND DETARIFFING OF )  
EMBEDDED CUSTOMER PREMISES )  
EQUIPMENT ) ADMINISTRATIVE  
 ) CASE NO. 269  
PHASE 3 )

O R D E R

Introduction

On November 25, 1983, the Federal Communications Commission ("FCC") released an Order in Common Carrier Docket No. 83-427,<sup>1</sup> in which it deferred decisions concerning the regulation of specialized customer premises equipment ("SCPE") used by the hearing impaired and other disabled persons to state regulatory commissions.

On June 13, 1984, AT&T South, Inc., ("AT&T") filed a petition to detariff SCPE, in Case No. 8970.<sup>2</sup> On April 23, 1986, the Commission deferred action on AT&T's petition, pending the outcome of a generic investigation concerning the detariffing of SCPE.

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<sup>1</sup> Access to Telecommunications Equipment by the Hearing Impaired and Other Disabled Persons.

<sup>2</sup> Petition of AT&T South, Inc., to Detariff Specialized Terminal Equipment for Disabled Customers.

On May 2, 1986, the Commission initiated Phase 3 of this case to investigate detariffing SCPE. The Commission requested comments on certain issues and information concerning SCPE from local exchange carriers subject to its jurisdiction, and invited comments from other interested parties. In addition to affected local exchange carriers, comments were filed by AT&T and the Kentucky Commission on the Deaf and Hearing Impaired. No public hearing has been held, as no party has requested a public hearing and, in the opinion of the Commission, a public hearing is not necessary.

#### Discussion

#### FCC, Commission, and Legislative Actions Concerning SCPE

In general, state regulatory commissions have made SCPE and other telecommunications services available to disabled persons on a discounted or subsidized basis. For example, in Administrative Case No. 220,<sup>3</sup> the Commission decided that local exchange carriers should provide SCPE at direct cost and on a monthly lease basis. In addition, the Commission decided that toll discounts should be granted to disabled persons.

In FCC Docket No. 20828,<sup>4</sup> the FCC preempted state regulatory

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<sup>3</sup> The Establishment of Rates for Deaf Persons Using Teletypewriter Type Service.

<sup>4</sup> Amendment of Section 64.702 of the Commission's Rules and Regulations ("Computer II").

authority and ordered the detariffing of customer premises equipment purchased after January 1, 1983. The FCC gave no special consideration to SCPE and neither did the Commission in Administrative Case No. 257,<sup>5</sup> which implemented the FCC's detariffing plan. Thus, Phase 3 of this case involves embedded SCPE purchased before January 1, 1983.

Subsequent to the FCC's Computer II decision, various public and consumer interest groups became concerned that detariffing SCPE might result in price increases that would make SCPE unaffordable to disabled persons. As a result of this concern, Congress included the following provision in the Telecommunications for the Disabled Act of 1982:

Any common carrier or connecting carrier may provide specialized terminal equipment needed by persons whose hearing, speech, vision, or mobility is impaired. The state commission may allow the carrier to recover in its tariffs for regulated service reasonable and prudent costs not charged directly to users of such equipment.<sup>6</sup>

In effect, this provision of the Telecommunications for the Disabled Act of 1982 allows state regulatory commissions to determine whether SCPE should be provided on a subsidized basis and, also, allows state regulatory commissions to determine whether SCPE should be provided on a tariffed or detariffed basis.

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<sup>5</sup> The Detariffing of Customer Premises Equipment Purchased Subsequent to January 1, 1983, Second Computer Inquiry, FCC Docket No. 20838.

<sup>6</sup> 47 U.S.C. Section 610(g).

The FCC initiated Common Carrier Docket No. 83-427 to implement the Telecommunications for the Disabled Act of 1982. In addition to other matters, the FCC considered SCPE and concluded that although it had preemptive power in the area of customer premises equipment, it should defer decisions concerning the regulation of SCPE to state regulatory commissions, as any other action would appear to contradict the Telecommunications for the Disabled Act of 1982.

#### Detariffing SCPE

SCPE purchased after January 1, 1983, was detariffed in Administrative Case No. 257. Furthermore, in the opinion of the Commission, no substantial public interest would be served by the continued regulation of embedded SCPE.

Embedded SCPE should be detariffed because, first, no party to this case opposes detariffing, including the Kentucky Commission on the Deaf and Hearing Impaired. Also, in addition to AT&T, only four local exchange carriers<sup>7</sup> identified any investment in embedded SCPE and, in each case, net book investment in embedded SCPE is de minimis. Finally, detariffing embedded SCPE would be consistent with Commission decisions in other phases of this case.

Therefore, in the opinion of the Commission, SCPE investment and associated revenues and expenses should be detariffed no later than December 31, 1987, using valuation, accounting, cost

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<sup>7</sup> Cincinnati Bell Telephone Company, Continental Telephone Company of Kentucky, General Telephone Company of the South and North Central Telephone Cooperative, Inc.

allocation, and other applicable procedures specified in the Commission's Order of September 10, 1985, in Phase 1 of this case.

#### Revenue Requirement

The record of evidence indicates that investment, revenues, and expenses associated with SCPE are de minimis. As such, detariffing will not have a ratable impact on revenue requirement in the case of any local exchange carrier. Furthermore, the marketplace availability of all types of CPE should prevent AT&T or any local exchange carrier from obtaining monopoly profits from SCPE.

#### Findings and Orders

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

1. A public hearing in this case is not necessary.
2. SCPE investment and associated revenues and expenses should be detariffed no later than December 31, 1987, using valuation, accounting, cost allocation, and other applicable procedures specified in the Commission's Order of September 10, 1985, in Phase 1 of this case.
3. Upon detariffing, local exchange carriers should file revised tariffs to delete SCPE from regulated service offerings.

IT IS THEREFORE ORDERED that:

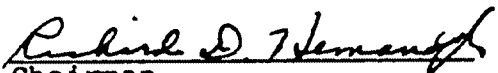
1. A public hearing in this case is not necessary.
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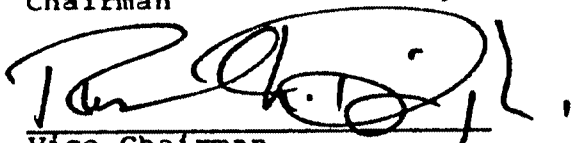
procedures specified in the Commission's Order of September 10, 1985, in Phase 1 of this case.

3. Upon detariffing, local exchange carriers shall file revised tariffs to delete specialized CPE from regulated service offerings.

Done at Frankfort, Kentucky, this 23rd day of January, 1987.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Executive Director