

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ADJUSTMENT OF RATES OF AT&T)
COMMUNICATIONS OF THE SOUTH) CASE NO. 9889
CENTRAL STATES, INC.)

O R D E R

On April 10, 1987, AT&T Communications of the South Central States, Inc., ("AT&T") filed an application for adjustment of rates to become effective for service rendered on and after May 1, 1987. Therein AT&T proposed a rate adjustment which would result in an overall reduction in revenues which in turn would reduce AT&T's earnings and return on investment. The proposed rates would represent AT&T's maximum allowable rates for which AT&T requested approval of a rate flexibility tariff that would allow it to reduce rates by as much as 10 percent in the future, subject to certain conditions.

On April 30, 1987, the Commission suspended the proposed rates for 5 months or until October 1, 1987. Subsequently, after receiving comments from the parties of record, the Commission, by Order dated June 1, 1987, approved AT&T's proposed rates, effective for service rendered on and after June 1, 1987, but deferred action on the proposed rate flexibility tariff pending receipt of comments from the intervenors in this proceeding.

Intervenors filing comments were the Attorney General of the Commonwealth of Kentucky ("AG"), U.S. Sprint Communications

Company ("Sprint"), MCI Telecommunications Corporation ("MCI") and the Kentucky Long Distance Association. After review of the intervenors' comments the Commission determined that a hearing would be required in this matter before a decision could be rendered. Accordingly, a procedural schedule was established which provided for the submission of testimony and the propounding of data requests by all parties.

A hearing for the purpose of considering the merits of AT&T's proposed rate flexibility tariff was held on January 13, 1988. Parties participating in the hearing were AT&T, Sprint, MCI and the AG. Appearing as a witness for AT&T was Mr. L.G. Sather, Staff Manager for AT&T's Marketing Plans and Implementation Division. MCI withdrew the testimony of its witness, Mr. Loren Burnett, Senior Manager of Telco Cost Management for MCI's Southeast Division, and requested that the Commission treat the testimony as commentary. All information requested at the hearing has been submitted and briefs were filed by February 1, 1988.

DISCUSSION

AT&T'S Tariff Proposal

AT&T's proposed rate flexibility tariff applies only to its MTS¹ rates and would not affect WATS² or 800 service rates. The tariff would establish AT&T's current MTS rates as the maximum allowable rates and no rate could be increased above these levels without a general rate proceeding before the Commission. The

¹ Message Telecommunications Service.

² Wide Area Telecommunications Service.

proposal would allow AT&T to reduce its rates by as much as 10 percent below its maximum allowable rates with the condition that no rate would be reduced below AT&T's variable cost of service. AT&T would define variable cost as access charges composed of carrier common line, traffic sensitive elements, and billing and collection charges levied by the local exchange companies. Any reduction would be across the board on a statewide basis; there would be no deaveraging of rates as reductions were made. AT&T would give the Commission notice of the proposed rate change 30 days prior to the effective date of the proposed change.

The rate flexibility tariff would establish the current rates as the upper limit or "cap" for AT&T's MTS rates and 10 percent below the cap would be established as the lower limit or "floor" for the rates. Once rates were reduced, AT&T would then be able to increase rates to the current rate cap without the need for a formal rate proceeding. In short, AT&T would, under the proposed tariff, have the flexibility to move its rates between the floor and the cap with the possibility of not having a formal rate case before the Commission.

Intervenors' Objections

Generally, the intervenors have argued that AT&T's proposal conflicts with the Commission's Findings and Orders in Administrative Case No. 273 ("Admin. 273").³ The AG contends that any adjustment in rates which is authorized without compliance

³ An Inquiry into Inter- and IntraLATA Intrastate Competition in Toll and Related Service Markets in Kentucky.

with the regulations promulgated in 807 KAR Chapter 5 conflicts with the Order in Admin. 273. The AG opines that the adjustment of rates authorized herein on June 1, 1987, is in conflict with Admin. 273 because the Commission allowed AT&T certain deviations from the filing requirements set out in 807 KAR 5:001. The AG contends that the proposed tariff does not include an adequate notice provision as required by 807 KAR 5:011. Also, the AG argues that AT&T could abuse its monopoly power by over-pricing its low mileage bands and under-pricing its higher mileage, more competitive rate bands.

Sprint has argued that AT&T's proposed tariff constitutes a request for reduced regulation of its rates and, as such, raises significant questions of law and fact considering AT&T's status as a dominant carrier. Sprint also maintains that AT&T's proposed variable cost rate floor would need to include allocated ULAS⁴ payments on a per minute basis.

MCI claims that AT&T has used the ULAS tariff in an anti-competitive manner to the detriment of MCI and, therefore, cannot be entrusted to administer a tariff such as the proposed rate flexibility tariff. MCI contends that the Kentucky interLATA toll market has changed so little since Admin. 273 that no lessening of the regulation currently imposed on AT&T is warranted. MCI, like Sprint, claims that ULAS charges should be included in AT&T's variable cost floor. MCI also argued that any

⁴ Universal Local Access Service.

rate flexibility be limited to a downward rate flex and that any increases would be subject to full Commission review.

At the hearing of January 13, 1988, MCI, based on recent developments in Administrative Case No. 316,⁵ requested that a decision in this case be deferred until Case No. 316 was completed. MCI indicated that its opposition, or lack thereof, to AT&T's proposed rate flexibility tariff could be dependent on the outcome of that case. The Commission views this docket and Case No. 316 to be separate, unrelated investigations and finds no reason to delay its decision herein pending the completion of Case No. 316.

REVIEW AND DECISION

Regulatory Policy

In its Order of September 11, 1987, the Commission defined the scope of the rate flexibility issue and thereby limited this proceeding to the determination of whether AT&T's proposed tariff conflicts with the Commission's Findings and Orders in Admin. 273. In Admin. 273 the Commission found AT&T to be a dominant carrier for regulatory purposes and ordered that dominant carriers be subject to all regulatory requirements of KRS Chapter 278 as promulgated in 807 KAR Chapter 5.

Within the scope of this proceeding the Commission finds no conflict between AT&T's proposal and the Findings and Orders in Admin. 273. AT&T's proposed tariff does not result in reduced or relaxed regulation of AT&T's rates or earnings for several

⁵ An Audit of Universal Local Access Service Channel Reports.

reasons: (1) AT&T cannot increase rates above the currently approved maximum allowable rates except by Commission approval upon a general rate application; (2) the Commission has the authority to reduce AT&T's rates after investigation and determination of excessive earnings; (3) the Commission has the authority to suspend any rate adjustment proposed by AT&T including those proposed within the 10 percent flex band; (4) the Commission will require that AT&T produce cost support for any proposed rate changes within the 10 percent flex band; and (5) the Commission will continue to monitor AT&T's operations and the effects thereto of all relevant proceedings before the Commission. Therefore, the Commission does not consider approval of this tariff to result in a change in AT&T's regulatory status.

The Commission views the proposed tariff as a means of providing AT&T a very limited degree of pricing flexibility. In no way does this degree of flexibility represent a move away from, or a lessening of, traditional rate of return regulation of AT&T. The tariff does introduce rate, or price, caps and floors; however, any movement within the 10 percent flex band will be subject to the Commission's review. There will be no deaveraging; therefore, current rate relationships will be maintained. For the Commission to limit the flex to reductions only would greatly reduce AT&T's incentive to voluntarily reduce its rates. What the tariff should accomplish will be to reduce rates to AT&T's customers that would likely not be reduced, or would be reduced only as a result of a more lengthy, formal regulatory proceeding, absent the approval of the tariff. If the Commission has reason

to believe that AT&T is misusing or abusing the provisions of the tariff, appropriate action will be taken.

Variable Cost and Price Floors

For the purposes of this application, the Commission will accept AT&T's definition of variable cost as "access charges composed of carrier common line, traffic sensitive elements, and billing and collection charges levied by the local exchange carriers."⁶ The Commission will allow AT&T to file new MTS rates and may, upon 30 days review, permit rates to be changed within a range 10 percent below the maximum allowable rates, so long as the following conditions are met: (1) no price change results in any rate below variable cost during any rate period; (2) any price change is proportionately distributed across rate bands subject to condition No. 1 above; and (3) any price reduction is accompanied by a variable cost analysis similar in format to that filed in this case. Attachment 1 illustrates the price ranges within which AT&T will be allowed to change MTS rates.

In examining AT&T's future rate proposals, the Commission will consider revenues and variable cost in each MTS rate band using an average call duration of 5 minutes. The results of such an analysis show that currently some rate bands cannot withstand the test enumerated in condition No. 1 above. Therefore, although price ranges are stated in Attachment 1, the Commission will not permit any price changes in these rate bands, until such time as

⁶ Application of AT&T in Case No. 9889, Exhibit 2, page 4.

AT&T can demonstrate that variable cost has declined to the point that these rate bands meet the test of condition No. 1 above.

The Commission will not consider ULAS a variable cost because, in its present form, neither revenue requirements nor any carrier's payment changes with message volumes. However, the Commission will advise all parties that it may reconsider this decision if a usage based allocator is adopted in Administrative Case No. 311.⁷

Notice Requirements

Proposed changes within the 10 percent flex band will be treated as tariff changes, rather than requests to adjust rates; therefore, a notice of intent to file will not be required 4 weeks prior to the filing of the proposed rates. For rate decreases within the flex band, no customer notification will be required. For any increases within the flex band, the Commission will require AT&T to provide timely notification to its customers pursuant to 807 KAR 5:011, Section 8. AT&T should file proof of publication prior to the effective date of the proposed tariffs.

SUMMARY

The Commission, after consideration of the evidence of record and being advised, is of the opinion and finds that:

1. The rate flex tariff proposed by AT&T does not conflict with the Findings and Orders in Administrative Case No. 273, is in the public interest and, therefore, should be approved.

⁷ Investigation of InterLATA Carrier Billed Minutes of Use as a ULAS Allocator.

2. Rates should only be flexed to the extent that a 5 minute call within any calling period would be priced at or above variable cost.

3. When AT&T proposes a rate change within the 10 percent flex band it should file a variable cost analysis.

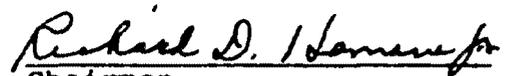
4. When AT&T proposes to increase rates within the 10 percent flex band it shall give notice to its customers pursuant to 807 KAR 5:011, Section 8.

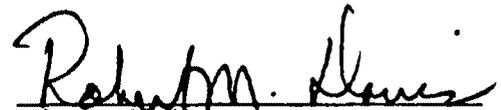
5. AT&T should file revised tariff pages as necessary within 30 days from the date of this Order, such tariffs to be effective February 10, 1988.

Accordingly, each of the above findings is HEREBY ORDERED.

Done at Frankfort, Kentucky, this 9th day of February, 1988.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director

MTS Rate Range
(Day Rate Period)

<u>Mileage Band</u>	<u>First Minute</u>		<u>Each Additional Minute</u>	
	<u>Max. Rate</u>	<u>Min. Rate</u>	<u>Max. Rate</u>	<u>Min. Rate</u>
1-10	\$.26	\$.234	\$.19	\$.171
11-16	.26	.234	.19	.171
17-22	.31	.279	.24	.216
23-30	.31	.279	.24	.216
31-40	.40	.360	.32	.288
41-55	.40	.360	.32	.288
56-70	.48	.423	.35	.315
71-85	.48	.423	.35	.315
86-100	.55	.495	.38	.342
101-124	.55	.495	.38	.342
125-148	.59	.531	.40	.360
149-196	.59	.531	.40	.360
197-244	.63	.567	.44	.396
245-292	.63	.567	.44	.396
293-354	.66	.594	.47	.423
355-430	.66	.594	.47	.423