

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE TARIFF FILING OF SOUTH)
CENTRAL BELL TELEPHONE COMPANY)
TO RESTRUCTURE AND REPRICE ITS) CASE NO. 10402
1.544 MEGABIT SERVICE)

AND

THE TARIFF FILING OF SOUTH)
CENTRAL BELL TELEPHONE COMPANY)
TO RESTRUCTURE ITS LIGHTGATE) CASE NO. 10403
SERVICE TARIFF)

O R D E R

Introduction

On April 10, 1989, the Commission entered Orders approving South Central Bell's MegaLink and LightGate service offerings, including resale restrictions. On May 1, 1989, AT&T Communications of the South Central States, Inc. ("AT&T") filed a motion for reconsideration. On May 12, 1989, South Central Bell Telephone Company ("South Central Bell") filed a response to AT&T's motion for reconsideration. On May 22, 1989, the Commission granted rehearing for the purpose of further consideration of AT&T's motion for reconsideration and South Central Bell's response.

Discussion

South Central Bell's MegaLink and LightGate service offerings are intraLATA¹ network services that provide end users with

¹ Local Access and Transport Area.

alternative serving arrangements and various voice and data transmission options.

AT&T opposed South Central Bell's proposed resale restrictions throughout the respective investigations. However, the Commission ruled that "removal of resale restrictions would be premature in view of its investigation in Administrative Case No. 323."²

Administrative Case No. 323 notwithstanding, AT&T moves the Commission to reconsider the issue of resale restrictions and allow the use of MegaLink and LightGate "as part of interLATA service offerings."³ AT&T does not dispute that matters related to intraLATA competition are best left to consideration in Administrative Case No. 323. Instead, AT&T contends that the use of MegaLink and LightGate as part of interLATA service offerings does not relate to intraLATA competition.

To support its position, AT&T filed an exhibit to its motion for reconsideration titled Kentucky Integrated Network. The document is a South Central Bell proposal to the Commonwealth to develop a statewide integrated voice, data, and image communications network. AT&T contends that the document demonstrates that although tariffed as intraLATA services, the

² Orders in Cases No. 10402 and 10403, page 2. Administrative Case No. 323, An Inquiry Into IntraLATA Toll Competition, An Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality. WATS is an acronym for Wide Area Telecommunications Service.

³ AT&T Motion for Reconsideration, page 1.

primary use of MegaLink and LightGate will be as substitutes for access services to provide interLATA service. Given the condition that MegaLink and LightGate are substitutes for access services, AT&T argues that:

Retention of blanket resale prohibitions precludes the State and other customers from obtaining end-to-end interLATA network provisioning from interLATA carriers utilizing local private line services such as MegaLink and LightGate, placing both the customer and interLATA carriers in a competitively disadvantageous situation vis-a-vis the use of MegaLink and LightGate services offered by South Central Bell. . . .⁴

Also, AT&T challenges the testimony of South Central Bell's witness in the MegaLink and LightGate investigations, Mr. John F. Dorsch, Operations Manager, Rates and Economics Department.⁵ AT&T contends that the proposal made to the Commonwealth contradicts Mr. Dorsch's testimony that MegaLink and LightGate are intraLATA services not intended for use with interLATA networks. Accordingly, AT&T argues that the Commission's decision regarding resale restrictions should be modified to the extent that Mr. Dorsch's testimony provided a basis for the Commission's decision.

South Central Bell responds that AT&T's motion for reconsideration "should be denied as no valid grounds supporting reconsideration have been raised."⁶ South Central Bell contends that AT&T has misrepresented resale restrictions, stating:

The private line resale prohibition prevents no customer (including AT&T) from utilizing these services for their own purposes. Moreover, AT&T. . . has the option to act

⁴ Ibid., pages 2-3.

⁵ Ibid., pages 3-5.

⁶ Response of South Central Bell to AT&T's Motion for Reconsideration, page 1.

as the agent for any customer and order private line services for that customer. Therefore, no Kentucky customer is denied the opportunity to purchase private line services. . .

In support of South Central Bell's proposal, it argues that although AT&T characterizes the proposal as an interLATA network proposal, it actually "represents a proper combination of intraLATA services which South Central Bell is authorized to provide."⁸ South Central Bell concludes that AT&T has misunderstood key provisions of the proposal and cites as an example the inference AT&T draws that access in the context of the proposal means interLATA access when it actually "denotes access from the customer premises to the South Central Bell wire center."⁹ Finally, South Central Bell contends that the proposal does not introduce any new evidence, as scenarios pursued at hearing "are virtually identical to portions of the proposal to the State of Kentucky."¹⁰

The Commission agrees with South Central Bell. MegaLink and LightGate are tariffed and marketed as intraLATA service

⁷ Ibid., page 2.

⁸ Ibid. Emphasis in original.

⁹ Ibid., pages 2-3. Emphasis deleted.

¹⁰ Ibid. pages 3-4.

offerings. As such, MegaLink and LightGate are not available for resale.¹¹ Moreover, authorization of resale would be premature in view of the Commission's pending investigation in Administrative Case No. 323. Contrary to AT&T's position, use of MegaLink and LightGate as part of interLATA service offerings does relate to intraLATA competition. Such use would give AT&T and other interLATA carriers a presence and leverage in the intraLATA market that was not contemplated in Administrative Case No. 273.¹² As AT&T should know, the terms and conditions articulated in Administrative Case No. 273 will continue to be the relevant regulatory framework until and unless modified as a result of the investigation in Administrative Case No. 323.

The Commission does not agree with AT&T's representation that MegaLink and LightGate will be used as substitutes for access services to provide interLATA service. Under the MegaLink and LightGate tariffs, an end user can obtain service and create "hubs" to link various intraLATA locations. However, connection

¹¹ Generally, resale of intraLATA services is not authorized. Exceptions have been authorized in Administrative Case No. 261, An Inquiry Into the Resale of Intrastate Wide Area Telecommunications Service and Administrative Case No. 293, An Inquiry Into Local Resale of Exchange Services by STS Providers and COCOT Providers. STS is an acronym for shared tenant service and COCOT is an acronym for customer owned coin operated telephones.

¹² Administrative Case No. 273, An Inquiry Into Inter- and IntraLATA Intrastate Competition in Toll and Related Services Markets in Kentucky.

to an interLATA carrier's point of presence must be obtained through access services and interLATA service must be obtained through an interLATA carrier. Such integrated arrangements are appropriate and represent a reasonable combination of distinct interLATA and intraLATA service offerings.

Also, the Commission does not agree that restrictions on the resale of MegaLink and LightGate place either end users or interLATA carriers at a competitive disadvantage vis-a-vis South Central Bell. First, end users are not providers of telecommunications services and cannot be at a competitive disadvantage vis-a-vis either interLATA carriers such as AT&T or intraLATA carriers such as South Central Bell. InterLATA carriers and intraLATA carriers are not at a competitive disadvantage vis-a-vis one another due to their providing service in different market areas. Moreover, as South Central Bell notes, AT&T can subscribe to its private line services for AT&T's use. Also, AT&T can market South Central Bell's private line services to end users for their use under agency agreements. Accordingly, no customer is denied the opportunity to purchase private line services.

Finally, in the Commission's view, South Central Bell's proposal to the Commonwealth represents a reasonable combination of interLATA and intraLATA service offerings that does not violate any rule or regulation. Such a proposal could have been made by any common carrier under the Commission's jurisdiction. Furthermore, the proposal does not constitute any new evidence to lead the Commission to reconsider its original decision in these cases.


Findings and Orders

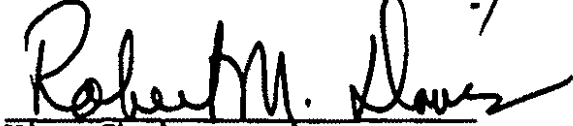
The Commission, having considered AT&T's motion and South Central Bell's response, and being sufficiently advised is of the opinion and finds that AT&T's motion for reconsideration should be and is denied.

BE IT SO ORDERED.

Done at Frankfort, Kentucky, this 9th day of June, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director