

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AT&T COMMUNICATIONS OF THE	)	
SOUTH CENTRAL STATES, INC.	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO. 89-042
	)	
SOUTH CENTRAL BELL	)	
TELEPHONE COMPANY, INC.,	)	
	)	
DEFENDANT	)	

O R D E R

Introduction

On February 27, 1989, AT&T Communications of the South Central States, Inc. ("AT&T") filed a complaint against South Central Bell Telephone Company ("South Central Bell"). In the complaint, AT&T alleges that South Central Bell is blocking certain intraLATA<sup>1</sup> traffic without Commission authorization. On March 7, 1989, the Commission ordered South Central Bell to satisfy or answer the complaint. On March 17, 1989, South Central Bell filed a response to the complaint. On April 14, 1989, AT&T filed a motion moving the Commission to order South Central Bell to cease and desist. On April 28, 1989, South Central Bell filed a response to the motion.

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<sup>1</sup> Local Access and Transport Area.

## Discussion

### Background

In Administrative Case No. 273,<sup>2</sup> the Commission authorized interLATA competition. This decision enabled AT&T, MCI Telecommunications Corporation ("MCI"), US Sprint Communications Company ("US Sprint"), and other carriers to compete for business in the interLATA market. Also, in Administrative Case No. 273, the Commission declined to authorize intraLATA competition. This decision reserved the intraLATA market to local exchange carriers such as South Central Bell. At the same time that the Commission made these decisions, it recognized that certain access connections used by interLATA carriers could complete unauthorized intraLATA calls.<sup>3</sup> However, the Commission declined to require interLATA carriers to block unauthorized intraLATA traffic due to the prohibitive cost of such blocking. Instead, the Commission relied on interLATA carrier integrity and end user education to minimize unauthorized intraLATA traffic. On the other hand, the Commission ordered local exchange carriers to block unauthorized

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<sup>2</sup> Administrative Case No. 273, An Inquiry Into Inter- and IntraLATA Intrastate Competition in Toll and Related Services Markets in Kentucky.

<sup>3</sup> For example, Feature Group A access, which provides line side access to local exchange carrier end office switches with an associated seven digit local telephone number for customer use in originating and terminating communications. Also, Feature Group B access, which provides trunk side access to local exchange carrier end office switches with an associated 950-0XXX or 950-1XXX access code for customer use in originating and terminating communications.

intraLATA traffic "at equal access offices unless and until intraLATA competition is introduced."<sup>4</sup>

Subsequent to the Commission's action in Administrative Case No. 273, on February 13, 1987, AT&T made a tariff filing to introduce Megacom and Megacom 800 Service. Megacom Service is a custom switched telecommunications service that allows outward calling to stations located throughout the Commonwealth. Megacom 800 Service is a custom switched telecommunications service that allows inward calling from stations located throughout the Commonwealth.

After suspension and investigation, on November 23, 1987, in Case No. 9874,<sup>5</sup> the Commission approved Megacom and Megacom 800 Service, along with other similar service offerings that had been consolidated for review purposes.<sup>6</sup> In the relevant Order, the Commission acknowledged that these service offerings could complete unauthorized intraLATA calls. Nonetheless, the tariff filings were found to be in the public interest and were approved subject to certain conditions. Among the conditions were the

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<sup>4</sup> Administrative Case No. 273, Order on Rehearing dated October 26, 1984, page 25.

<sup>5</sup> Case No. 9874, AT&T Tariff Filing Proposing Megacom/Megacom 800 Service.

<sup>6</sup> Case No. 9902, US Sprint Tariff Filing Proposing to Rename its WATS Products, Change Billing Calculation Methods for WATS, Introduce UltraWATS, Travelcard, Direct 800, and Ultra 800; and Case No. 9928, MCI Tariff Filing to Establish Prism Plus, Prism I, and Prism II Service. WATS is an acronym for Wide Area Telecommunications Service.

recording and reporting of unauthorized intraLATA traffic, compensation for unauthorized intraLATA traffic, and notice to end users that the service offerings are not authorized for intraLATA use.

Subsequent to the Commission's action in consolidated Case Nos. 9874, 9902, and 9928, on February 16, 1989, in Administrative Case No. 323,<sup>7</sup> the Commission vacated a blocking requirement related to unauthorized intraLATA traffic. The blocking requirement was applicable to AT&T and had been ordered in Case No. 9519.<sup>8</sup>

#### Complaint

Against the above discussed background, AT&T alleges that South Central Bell blocks the intraLATA traffic of its customers who use Megacom, Megacom 800, and other services, and does so despite numerous requests from AT&T and its customers to discontinue the practice. Furthermore, AT&T alleges that South Central Bell has no authority "to block intraLATA traffic provided by interexchange carriers such as AT&T"<sup>9</sup> and that such blocking is unlawful because it violates various Commission Orders.

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<sup>7</sup> 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.

<sup>8</sup> Case No. 9519, AT&T Communications' Tariff Proposal for Software Defined Network Service.

<sup>9</sup> Complaint of AT&T, page 5.

Therefore, AT&T moves the Commission to direct South Central Bell "to immediately cease and desist from blocking completion of intraLATA calls associated with AT&T's tariffed intrastate services."<sup>10</sup>

South Central Bell's answer to AT&T's complaint relies heavily on interpretation of the cases discussed in the background section of this Order. South Central Bell contends that these cases demonstrate that:

1. South Central Bell is authorized to carry intraLATA traffic.
2. AT&T is not authorized to carry intraLATA traffic.
3. AT&T must inform its customers that Megacom and Megacom 800 Service are not authorized for intraLATA use.
4. South Central Bell is authorized to block unauthorized intraLATA traffic.

In the area of Administrative Case No. 273, South Central Bell observes that the Commission granted intraLATA authority to local exchange carriers and did not grant intraLATA authority to interLATA carriers, even though the Commission recognized that interLATA carriers could use feature group access connections to complete intraLATA calls. Instead, the Commission ordered interLATA carriers to file plans for advising end users of their

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<sup>10</sup> Ibid., page 6.

lack of intraLATA authority.<sup>11</sup> Also, South Central Bell observes that the Commission ordered local exchange carriers to block unauthorized intraLATA traffic. Accordingly, South Central Bell contends that it is not blocking intraLATA traffic in the sense of call denial. Instead, South Central contends that it is blocking access to interLATA carrier network facilities and completing calls that would otherwise be unauthorized over its own network facilities.

In the area of Case Nos. 9874, 9902, and 9928, South Central Bell concedes that subsequent to Administrative Case No. 273 the Commission approved various service offerings that can complete intraLATA calls. However, South Central Bell argues that nothing in these cases grants interLATA carriers the authority to carry intraLATA traffic. Instead, South Central Bell contends that these service offerings were approved to provide interLATA service subject to certain conditions, including compensation for unauthorized intraLATA traffic.

On other issues, South Central Bell takes exception to AT&T's assertion of a competitive disadvantage and claim of compensation for unauthorized intraLATA traffic. South Central Bell contends that no competitive disadvantage exists vis-a-vis other interLATA carriers and that the Commission has not yet determined the appropriate level of compensation of unauthorized intraLATA traffic.

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<sup>11</sup> Administrative Case No. 273, Order dated May 25, 1984, page 39.

Finally, South Central Bell moves the Commission to dismiss the complaint.

AT&T's motion for a cease and desist Order responds to South Central Bell's answer to its complaint. AT&T contends that South Central Bell has misconstrued the blocking requirement ordered in Administrative Case No. 273, on the basis that the context of the blocking requirement implies the blocking of message telecommunication service. AT&T does not contest the blocking of message telecommunications service. Instead, AT&T contends that the blocking requirement cannot be extended to service offerings approved subsequent to the decision in Administrative Case No. 273. AT&T notes that the Commission did not order blocking in Case No. 9874 and vacated the blocking requirement in Case No. 9519. AT&T suggests that these actions indicate that blocking is no longer required since the Commission established Administrative Case No. 323.

The Commonwealth of Kentucky purchases ESSX<sup>12</sup> from South Central Bell and Megacom Service from AT&T. ESSX is a central office based switching system and is a substitute for private branch exchange service, which is premises located. Through its control of the central office, South Central Bell is able to block the Commonwealth's intraLATA calls that could be completed over Megacom Service and route these calls over its own network

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<sup>12</sup> Electronic Switching Service Exchange.

facilities. Such a blocking capability does not exist with private branch exchange service.

In fact, South Central Bell blocks the Commonwealth's intraLATA traffic and routes it over South Central Bell's network facilities. AT&T objects to this practice, stating:

. . . South Central Bell is only able to block traffic completed via an ESSX serving arrangement because it chooses to use ESSX as a bottleneck facility. This monopoly practice by South Central Bell leads to obvious discriminatory results based on the central<sup>13</sup> office serving arrangement and should not be permitted.

In its response to AT&T's motion, South Central Bell contends that it has not misconstrued the blocking requirement ordered in Administrative Case No. 273, as AT&T charges. Instead, South Central Bell contends that AT&T has misconstrued the Commission's Order in consolidated Cases No. 9874, 9902, and 9928, insofar as AT&T sees approval of service offerings that can complete intraLATA calls as a grant of intraLATA authority. To the contrary, South Central Bell contends that approval of such service offerings does not mean that such usage is permitted or authorized and cites the Commission's ruling that "AT&T, US Sprint, and MCI should inform prospective customers that the use of these services to complete intraLATA calls is not authorized by the Commission."<sup>14</sup>

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<sup>13</sup> AT&T Motion to Cease and Desist, page 6.

<sup>14</sup> Order in Consolidated Case Nos. 9874, 9902, and 9928 dated November 23, 1987, page 9.



On access charges, South Central Bell clarifies its position. In its complaint, AT&T observed that it compensates local exchange carriers for intraLATA traffic through access charges. In its answer to the complaint, South Central Bell took exception to the impression that access charges constituted appropriate compensation for unauthorized intraLATA traffic. In its motion, AT&T charged that the absence of a Commission ruling on appropriate compensation was no justification for South Central Bell's blocking of intraLATA traffic. In its response to the motion, South Central Bell responds that it did not use the absence of a Commission ruling to justify its blocking of unauthorized intraLATA traffic, but pointed out only that no ruling on appropriate compensation has been made.

On the issue of redirecting the Commonwealth's intraLATA traffic, South Central Bell states its assumption that AT&T has complied with Commission instructions and advised the Commonwealth that the use of Megacom Service to complete intraLATA calls is not authorized by the Commission.

Finally, South Central Bell moves that AT&T's motion for a cease and desist Order and complaint should be dismissed, based on the summation that:

1. South Central Bell is authorized to provide intraLATA service and AT&T is not.
2. South Central Bell is authorized to block unauthorized intraLATA traffic.

3. Megacom and Megacom 800 Service are not authorized for intraLATA use.

4. The issue of intraLATA call completion is under investigation in Administrative Case No. 323.

#### Decision

The Commission concludes that South Central Bell's reading of the relevant Orders is substantially correct. Therefore, AT&T's complaint must be dismissed.

The facts are clear. In Administrative Case No. 273, the Commission granted interLATA authority to interLATA carriers such as AT&T and intraLATA authority to local exchange carriers such as South Central Bell. Also, in Administrative Case No. 273, while the Commission did not require interLATA carriers to block unauthorized intraLATA traffic due to technical limitations and cost considerations, the Commission did require interLATA carriers to file plans for advising end users of their lack of intraLATA authority. At the same time, the Commission required local exchange carriers to block unauthorized intraLATA traffic where technically feasible at reasonable cost -- i.e., at equal access offices.

In Administrative Case No. 273, the Commission recognized that interLATA carriers could generate unauthorized intraLATA traffic through certain feature group access connections. However, such traffic was viewed as incidental to the provision of interLATA service and not a grant of authority to generate

unauthorized intraLATA traffic in the normal course of business. Indeed, in addition to the compliance plans mentioned above, the Commission admonished interLATA carriers that it would monitor unauthorized intraLATA traffic and revisit the issue, if necessary, and ordered interLATA carriers to bill unauthorized intraLATA calls at prevailing intraLATA rates.<sup>15</sup> A review of unauthorized intraLATA traffic generated through feature group access connections is now underway in Administrative Case No. 323 and compensation for such traffic may be ordered.

Subsequent to Administrative Case No. 273, the Commission has approved various service offerings that can generate unauthorized intraLATA traffic.<sup>16</sup> However, in each instance, approval was conditioned on the recording and reporting of unauthorized intraLATA traffic, compensation for unauthorized intraLATA traffic, and notice to end users that the service offering is not authorized for intraLATA use. As with feature group access connections, a review of compensation arrangements for

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<sup>15</sup> Administrative Case No. 273, Order dated May 25, 1984, pages 17-21.

<sup>16</sup> In addition to the AT&T, MCI and US Sprint services already cited, these include AT&T Readyline 800 Service, approved in Case No. 10106, AT&T Tariff Filing Proposing AT&T Readyline 800 Service; Litel Telecommunications Corporation's National 800 Service, approved in Case No. 89-083, The Tariff Filing of Litel Telecommunications Corporation to Establish National 800 Service; MCI 800 Service, approved in Case No. 10049, MCI Tariff Filing to Introduce Metered Use Option H; MCI Vnet Service, approved in Case No. 89-011, MCI Telecommunications Corporation's Tariff Filing to Establish Vnet Service; and US Sprint Fonline 800 Service, approved in Case No. 89-002, US Sprint Fonline 800 Service.

unauthorized intraLATA traffic generated through these service offerings is underway in Administrative Case No. 323. In any event, approval of these service offerings was not intended as a grant of authority to generate unauthorized intraLATA traffic in the normal course of business. As in Administrative Case No. 273, unauthorized intraLATA traffic generated through these service offerings is viewed as incidental to the provision of interLATA service. Likewise, the elimination of the blocking requirement associated with AT&T's Software Defined Network Service was not intended as a grant of authority to generate unauthorized intraLATA traffic in the normal course of business. Instead, it was intended to place AT&T's service offering on an equal footing with MCI's Vnet Service, which is generically similar to Software Defined Network Service. In the Vnet case, the Commission did not impose a blocking requirement.<sup>17</sup>

Clearly, South Central Bell is authorized to block unauthorized intraLATA traffic, irrespective of whether such traffic is classified as message or wide area telecommunications service, or classified under some other service name. Furthermore, such blocking does not place AT&T at any competitive disadvantage. AT&T is not at a competitive disadvantage vis-a-vis

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<sup>17</sup> Ibid., Case No. 89-011.

South Central Bell, because AT&T does not compete with South Central Bell. Likewise, AT&T is not at a competitive disadvantage vis-a-vis other interLATA carriers, because unauthorized intraLATA traffic generated by other interLATA carriers is subject to blocking by local exchange carriers.

Finally, although the Commission is sympathetic to the concern raised over South Central Bell's blocking of unauthorized intraLATA traffic switched through ESSX, it is not clear that such blocking represents unreasonable discrimination vis-a-vis private branch exchange users. Instead, it represents a technical capability to implement an order of the Commission that may not exist in all circumstances involving private branch exchanges. In any event, the Commission cannot use South Central Bell's blocking of unauthorized intraLATA traffic in an isolated situation to reverse long standing regulatory policy. Such a policy change would require extensive investigation and result in higher than otherwise necessary rates to South Central Bell's non-ESSX customers through lost intraLATA toll contribution.

#### Findings and Orders


The Commission, having considered AT&T's complaint and South Central Bell's answer, and AT&T's motion and South Central Bell's response, and being sufficiently advised, is of the opinion and finds that:

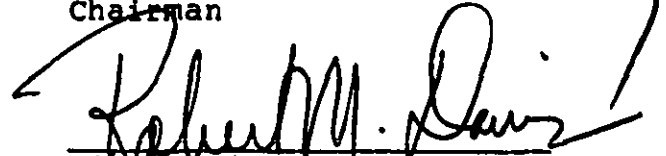
1. AT&T's complaint against South Central Bell should be dismissed.
2. AT&T's motion for a cease and desist order should be denied.

Accordingly, the above findings are HEREBY ORDERED.

Done at Frankfort, Kentucky, this 12th day of June, 1989.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Executive Director