

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF BELLSOUTH TELECOMMUNICATIONS, )  
INC. D/B/A SOUTH CENTRAL BELL TELEPHONE )  
COMPANY FOR EXEMPTION FROM THE REGULATION ) CASE NO. 92-353  
FOR ITS CUSTOMER DIALED ACCOUNT RECORDING )  
SERVICES )

O R D E R

On August 17, 1992, BellSouth Telecommunications, Inc., d/b/a South Central Bell Telephone Company ("SCB") petitioned the Commission for exemption from regulation of its Customer Dialed Account Recording voice mail service ("CDAR"). On September 29, 1992 and October 5, 1992 respectively, Advanced Telecommunications Corporation ("ATC") and the Attorney General of the Commonwealth of Kentucky ("AG") moved to intervene. Both motions were granted. On October 6, 1992, March 1, 1993, and April 14, 1993, the Commission requested information from SCB, which responded on November 5, 1992, March 23, 1993, and May 14, 1993, respectively. A public hearing was held on August 17, 1993.

BACKGROUND

On August 1, 1991, the Commission initiated Administrative Case No. 338<sup>1</sup> to investigate the provision of enhanced services within the state. In its Order, the Commission adopted the Federal Communications Commission's ("FCC") definition of "enhanced

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<sup>1</sup> Administrative Case No. 338, Inquiry Into The Provision of Enhanced Services in Kentucky.

services" set forth in 47 C.F.R. Sec. 64.702(a). The FCC distinguished enhanced services from basic services by their functional characteristics.

The FCC's enhanced service definition refers to three service classes: "... services, offered over common carrier transmission facilities that ... (1) Employ computer processing applications that act on the format, content, code, protocol, or similar aspects of subscriber's transmitted information; (2) Provide the subscriber with additional, different, or restructured information; (3) Involve subscriber interaction with stored information."<sup>2</sup>

#### DISCUSSION

CDAR is a feature that permits the calling party to add a number (up to eight digits) to the otherwise available Station Message Detail Recording ("SMDR") of any call made by that party. CDAR, in conjunction with SMDR, allows individuals to customize the details of their telephone calls to indicate when calls are generated for particular customers of that party.

In evaluating SCB's petition for regulatory exemption, the Commission is bound by KRS 278.512 and 278.514. The Commission may exempt telecommunications services and products or may reduce regulation if it determines that exemption or alternative regulation is in the public interest. The statute identifies eight criteria to be considered by the Commission when making this

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<sup>2</sup> 47 C.F.R. Sec. 64.702(a).

determination and permits consideration of any other factor deemed in the public interest.

Three criteria focus on the existing conditions of the market. The Commission is to consider the extent to which competing telecommunications services are available in the relevant market, the existing ability and willingness of competitive providers to make functionally equivalent or substitute services readily available, and the number and size of competitive providers.

SCB identified several alternatives to CDAR.<sup>3</sup> Private branch exchanges ("PBXs") have had this type of basic account detail for many years. Interexchange carriers ("IXCs") also offer account code billing services.

The overall impact of the proposed regulatory change on the availability of existing services at reasonable rates is also to be weighed by the Commission. SCB states that CDAR is used in conjunction with SMDR, which is a tariffed service.<sup>4</sup> To the extent that tariffed network services are used with CDAR, CDAR stimulates usage of the regulated network and contributes revenues toward SCB's joint and common costs. SCB's provision of existing network services at reasonable rates is not endangered by the exemption of CDAR.

The Commission fully considered whether adequate safeguards exist to assure that rates for regulated services do not subsidize

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<sup>3</sup> Petition at 3.

<sup>4</sup> Petition at 2.

exempt services. There are two possible methods by which exempt services could be subsidized by tariffed network services: (1) insufficient expenses and capital costs could be allocated to exempted services relative to tariffed network services and (2) tariffed network services could be priced below some optimal level.

There are several existing safeguards that protect Kentucky ratepayers against subsidization. These safeguards include the FCC's Joint Cost and Affiliated Transaction Accounting Rules (Part 32 and Part 64 of the FCC's Rules and Regulations); the Cost Allocation Manual, which describes how SCB complies with the cost allocation rules of Part 64; the annual independent third party audit, which assures compliance with Parts 32 and 64; the annual Form M reporting requirements; and the quarterly and annual Automated Reporting and Information System reporting requirements. In addition, the Commission receives monthly financial data from SCB and holds quarterly monitoring meetings with it. In SCB's opinion, these safeguards are adequate to assure that subsidization does not occur between the regulated and non-regulated services.

When a regulated service is initially offered, a study is filed with the tariff which compiles and lists the various costs involved in providing the service, as well as estimated demand and revenue figures. The forecasts may be for periods as long as five years. Subject to Commission review, the tariffs may be updated at any time in response to changing cost and market conditions. It is possible for tariffed network services to be incorrectly priced

when market conditions change relative to demand and revenue forecasts.

SCB stated that it monitors market conditions relevant to each of its services on an ongoing basis. There is a product manager for each SCB service. Product managers have a variety of tools, including market studies, which can be used to monitor specific service markets. Product managers have definite market evaluation cycles. However, the record is not clear on either evaluation frequency or whether evaluations are coordinated across product lines.<sup>5</sup>

The safeguards inherent in the FCC's guidelines, along with federal and state monitoring policies, should be adequate to assure that expenses and investments are being properly allocated between regulated and non-regulated services. However, there is not a coordinated systematic effort to keep the Commission apprised of specific market changes or market evaluation results. On the other hand, SCB's CDAR service has a de minimis effect on SCB's tariffed network services. Requiring SCB to file updated tariffed network service forecast reports for those services used in conjunction with CDAR would be onerous.

The Commission has considered the impact that exempting CDAR will have upon universal service. SCB contends that the federal and state accounting guidelines and reporting and monitoring procedures adequately protect universal service goals. Given

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<sup>5</sup> Transcript of Evidence at 61-69.

existing federal and state safeguards, exempting SCB's CDAR service will not endanger the provision of universal service at reasonable rates.

Conversely, regulation of SCB's CDAR service may actually hamper SCB's ability to compete in a competitive market environment. There are many competitors in the dialed account recording market, either offering competing services or customer premises equipment with dialed account recording capabilities. Within the specific context of this proceeding, the Commission finds that SCB does not exercise significant market power in Kentucky's dialed account recording market.

The competitive nature of the dialed account recording market should provide adequate safeguards to protect customers from unfair treatment, poor service quality, or excessive prices. However, all customers are encouraged to exercise their option of filing complaints regarding the exempt services with the company and the Commission if deemed necessary.

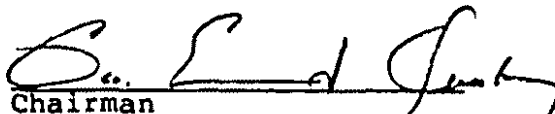
Although SCB's investment, revenues and expenses associated with enhanced services will not be considered by the Commission in determining rates for SCB's services, the Commission retains jurisdiction over exempted services pursuant to KRS 278.512 and KRS 278.514. SCB shall continue to fulfill all reporting requirements of KRS Chapter 278 and Commission Orders.

The Commission has carefully reviewed SCB's petition in accordance with the criteria contained in KRS 278.512 and finds that exemption of SCB's CDAR service, as described in this

proceeding, is in the public interest. Therefore, the Commission being otherwise sufficiently advised, HEREBY ORDERS that the enhanced services specifically described in SCB's petition are exempted from regulation, pursuant to KRS 278.512 and KRS 278.514.

Done at Frankfort, Kentucky, this 7th day of April, 1994.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director