COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF CINCINNATI BELL TELEPHONE COMPANY FOR AUTHORITY TO INCREASE AND ADJUST ITS RATES AND CHARGES AND TO CHANGE REGULATIONS AND PRACTICES AFFECTING SAME	))))))	CASE NO. 98-292

O R D E R

INTRODUCTION

On February 12, 1999, Cincinnati Bell Telephone Company (CBT) filed a petition for rehearing of certain findings in the January 25, 1999 Order. More specifically, CBT requested that the Commission reconsider its decisions regarding (1) the addition of an earnings sharing mechanism to CBT s alternative regulation plan, (2) the yellow pages revenue imputation adjustment, (3) the failure to permit exogenous changes and the banking of rate increases for use in a future period in CBT s alternative regulation plan, and (4) rate uniformity among CBT s jurisdictions. CBT also alluded to the Commission s failure to adopt information filed on January 6, 1999, which demonstrated an intrastate revenue deficiency of $3.6 million absent the yellow pages revenue imputations.

DISCUSSION

Earnings Sharing

Regarding the adoption of an earnings sharing formula, CBT argued that the Commission failed to develop a record that considers the impact of earnings sharing on CBT and its customers. CBT asserts that earnings sharing could jeopardize future enhancements to the local network and its efforts to adjust rates toward cost. Finally, CBT asserts that an earnings sharing mechanism would result in a perpetual rate case atmosphere for CBT. The lack of a productivity factor in CBT s plan was discussed at length in the proceeding, and the Commission determined that some measure of productivity could be derived through an earnings sharing mechanism. However, the Commission will grant CBT s request for rehearing on this issue to determine the impact on CBT and its customers and to address possible alternative mechanisms.

Yellow Pages Revenue Imputation

CBT made several arguments in support of its request for rehearing of the yellow pages revenue imputation adjustment. CBT contends that the development and marketing of a yellow pages directory has never been considered an element of basic local service; that an imputation adjustment conflicts with Section 254(e) of the Telecommunications Act of 1996 (the Act); that the adjustment requires further payments to CBT by Cincinnati Bell Directory Company (CBD), putting CBD at a competitive disadvantage with other yellow page publishers; and lastly, that the amount of the imputation is not supported by the record.

The Commission disagrees. There is a link between yellow pages and local service. CBT must be adequately compensated for the value it imparts to CBD in the directories publication. The Commission has linked the provision of yellow pages with basic local service on numerous occasions.[1] In United States v. American Telephone and Telegraph Company, 522 F. Supp. 131 (D.D.C. 1982), the divestiture court awarded the directory publishing and advertising business to the Bell Operating Companies because it would provide contribution to local service.

The Commission does not agree with CBT s argument that the imputation adjustment conflicts with Section 254(e) of the Act. Section 254(e) relates to the proper use of Federal universal service support, carrier eligibility for such support, and the requirement that such support be explicit. It does not relate to appropriate charges between two affiliates.

CBT argues that the imputation would harm CBD because of additional payments CBD would have to make to CBT. CBT appears not to understand that imputation is only for rate-making purposes. This Commission has never required that such payments actually be made, but that ratepayers receive the benefit of the revenues as though the payment had been transferred.

Finally, CBT argues that the imputation is not supported by the record. It is clear to the Commission that the new contract between CBT and CBD has had a significant negative impact on the revenue flowing from CBD to CBT and on this Commission s desire to provide contribution to local rates from yellow pages publication. The level of the imputation is based on the revenue booked to directory revenues during the test period and the test period imputation and subsequent increased revenues recorded for

[1] See Case No. 10105, Investigation of the Kentucky Intrastate Rates of South Central Bell Telephone Company at 7, and Case No. 10117, Adjustment of Rates of GTE South Incorporated at 52.

the calendar years 1994 through 1996. These numbers were discussed during the hearing. The Commission is of the opinion that the $2.6 million imputation made during the 1994 test period, when approximately $3.0 million was recorded to the directory account, is an appropriate surrogate amount for imputation in this case given that booked revenues steadily rose during the 1994-1996 time frame. In fact, given the increased booked revenues, it is reasonable to assume that the imputation would be greater. This imputation helps to maintain the contribution to local rates during the 1997 test year despite the decrease in booked revenue from approximately $5.1 million in 1996 to approximately $2.0 million in 1997.

CBT has presented no new evidence. Therefore, the Commission denies CBT s request to rehear the imputation adjustment.

<u>Exogenous Changes and Rate Increase Banking</u>

The Commission rejected CBT s inclusion of exogenous changes and rate increase banking in its alternative regulation plan. The rationale for these modifications is set forth in the January 25, 1999 Order. CBT presented no new evidence. Its request for rehearing is denied.

The Commission, on its own motion, makes an additional modification to CBT s proposed alternative regulation plan. All tariffs must be filed with 30 days' notice to the Commission prior to their effective date. The one day notice proposed by CBT affords inadequate review to the Commission and will not reasonably protect CBT s ratepayers. Competitive pressure eventually may lead to reduced notice, but the commission will evaluate such competition in future proceedings. The Commission consistently has rejected reduced notice periods for incumbent local exchange carriers tariffs. Thus, the

January 25, 1999 Order is modified to reject CBT s proposed one day notice for its tariffs.

Rate Uniformity

CBT contends that the imputation has created a need to alter rate design and that it threatens to destroy rate uniformity. CBT argues that if the imputation is eliminated or significantly reduced, many of the issues threatening rate uniformity would be eliminated. The Commission has denied CBT s request to rehear the imputation issue. However, in reviewing CBT s request for rehearing, the Commission discovered a significant difference in the level of expenses submitted in the June 1998 filing and revisions submitted on January 6, 1999 in response to requests at the hearing. Specifically, the restructuring expense charges totaled $10.3 million on a total CBT basis according to the June 1998 filing, but the restructuring adjustment was $15.8 million on a total CBT basis according to the December 10, 1998 and January 6, 1999 filings. This difference has an impact of approximately $800 thousand revenue and could reduce the revenue sufficiency found by the Commission to approximately $2.2 million. Thus, rehearing is granted for the purpose of determining the nature of the difference between the original June 1998 filing and the revised December 1998 and January 1999 filings regarding restructuring expenses.

CBT presented additional methodologies (labeled Scenarios 2 and 3) on January 6, 1999. For reasons discussed in the January 25, 1999 Order, this late-filed material will not be considered. Furthermore, the Commission will consider rate design proposals from CBT regarding the appropriate rate elements to change in order to produce the ultimate revenue sufficiency ordered by the Commission.

The Commission having considered the petition for rehearing and having been otherwise sufficiently advised, HEREBY ORDERS that:

1. Rehearing is granted on the issue of an earnings sharing mechanism to determine the impact on CBT and its customers and to consider possible alternatives.

2. The informal conference scheduled for March 16, 1999 is cancelled.

3. CBT s petition to rehear the directories revenue imputation adjustment is denied.

4. CBT s petition to rehear the modifications to its alternative regulation plan regarding exogenous changes and rate increase banking is denied.

5. The January 25, 1999 Order is hereby modified, on the Commission s own motion, to reject CBT s proposed one day notice for its tariffs. CBT shall file its tariffs with 30 days' notice prior to their effective date.

6. Rehearing is granted to determine the appropriate level of restructuring expense as described herein.

7. To the extend that CBT may propose reductions to different rate elements than those contained in the January 25, 1999 Order, rehearing is granted.

8. Within 30 days of the date of this Order, CBT shall file testimony regarding the impact of an earnings sharing mechanism and any proposed alternative mechanism; the appropriate level of restructuring expenses, including workpapers; and any proposals for rate element changes.

9. Within 10 days of the date of this Order, CBT shall revise its tariff to eliminate one day notice.

Done at Frankfort, Kentucky, this 4th day of March, 1999.

By the Commission

ATTEST:

Executive Director