

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CINCINNATI BELL TELEPHONE COMPANY'S)	
PROPOSED OFFERING FOR AN)	CASE NO.
EDUCATIONAL RATE FOR ASYMMETRICAL)	2002-00388
DIGITAL SUBSCRIBER LINE TURBOSPEED SERVICE)	

O R D E R

Cincinnati Bell Telephone Company (Cincinnati Bell) filed a proposed tariff seeking to offer asymmetrical digital subscriber lines (ADSL) TurboSpeed Service at a reduced rate to students, faculty and staff associated with higher educational institutions that subscribe to the service offering. The Commission suspended the tariff and required Cincinnati Bell to submit a memorandum of law arguing the applicability of KRS 278.170(1).

According to the proposed tariff, ADSL TurboSpeed service would be made available at a rate of \$2.20 less per month than otherwise available when offered through a higher educational institution that had agreed to certain terms and conditions associated with the proposed rate. These terms and conditions require the college or university to undertake all marketing and promotional activities and provide additional ordering functions for subscribers including subscriber eligibility for the service. Thus, any higher educational institution that has an intranet or a local area network available for use by its students, faculty and staff is a potential partner, according to Cincinnati Bell, in providing the higher education ADSL TurboSpeed service.

Cincinnati Bell argues that the higher education ADSL service offering does not give an unreasonable preference or advantage to any person in violation of KRS 278.170(1). This statute states:

No utility shall, as to rates or service, give any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage, or establish or maintain any unreasonable difference between localities or between classes of service for doing a like and contemporaneous service under the same or substantially the same conditions.

Cincinnati Bell argues that no unreasonable discrimination would occur for two reasons. First, Cincinnati Bell is permitted by KRS 278.030(3) to establish reasonable classifications of its service, patrons, and rates. Second, Cincinnati Bell argues that the partnership created with higher educational institutions wherein the services are made available only to qualified educational subscribers is not a same or substantially the same condition as other residential customers. Thus, the difference in the rates between two classes of service is not in violation of KRS 278.170(1).

Moreover, Cincinnati Bell asserts that the provision of this service through the higher educational institutions will increase its ADSL take-rate and therefore be in the public interest.

Cincinnati Bell has created a separate class of services for which a reduced rate is reasonable pursuant to KRS 278.030(3) which states:

Every utility may employ in the conduct of its business suitable and reasonable classifications of its service, patrons and rates. The classifications may, in any proper case, take into account the nature of the use, the quality used, the quantity used, the time when used, the purpose for which used, and any other reasonable consideration.

The nature of the use is primarily to access institutional services and databases offered by the subscribing university and the primary purpose of the service is educational. The

higher educational institution s role in promoting the service and subscribing customers makes this service a separate class of residential ADSL TurboSpeed. Thus, no violation of KRS 278.170(1) has occurred.

Accordingly, IT IS THEREFORE ORDERED that Cincinnati Bell s tariff for ADSL TurboSpeed service for higher educational institutions is approved effective the date of this Order.

Done at Frankfort, Kentucky, this 17th day of March, 2003.

By the Commission

ATTEST:


Executive Director