COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE INTRASTATE SWITCHED ACCESS RATES OF ALL KENTUCKY INCUMBENT AND COMPETITIVE LOCAL EXCHANGE CARRIERS	))))	ADMINISTRATIVE CASE NO. 2010-00398

O R D E R

On November 18, 2011, the Federal Communications Commission ("FCC") released an Order that, inter alia, comprehensively reformed intercarrier compensation ("ICC").[1] The most notable change regarding compensation reform is that the FCC has determined that reciprocal compensation and terminating access charges, both interstate and intrastate, should incrementally move to a "bill and keep" regime. In making the determination that intrastate rates should move towards bill-and-keep, the FCC found that its statutory authority in the 1996 Telecommunications Act allows it to preempt states' jurisdiction over intrastate access rates.[2]

[1] See In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform: Mobility Fund, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011), ("ICC/USF Order").

[2] Id. at ¶¶ 760-781.

The FCC capped all terminating access and reciprocal compensation rates on December 29, 2011.[3] The FCC then established a timeline whereby the rates will transition to zero. The transition is as follows:[4]

Date	For Price Cap Carriers and CLECs that benchmark access rates to price cap carriers	For Rate-of-Return Carriers and CLEC's that benchmark access rates to rate-of return carriers
July 1, 2012	Intrastate terminating switched end office and transport rates, originating and terminating dedicated transport, and reciprocal compensation rates, if above the carrier's interstate access rate, are reduced by 50 percent of the differential between the rate and the carrier's interstate access rate.	Intrastate terminating switched end office and transport rates, originating and terminating dedicated transport, and reciprocal compensation rates, if above the carrier's interstate access rate, are reduced by 50 percent of the differential between the rate and the carrier's interstate access rate.
July 1, 2013	Intrastate terminating switched end office and transport rates and reciprocal compensation, if above the carrier's interstate access rate, are reduced to parity with interstate access rate.	Intrastate terminating switched end office and transport rates and reciprocal compensation, if above the carrier's interstate access rate, are reduced to parity with interstate access rate.
July 1, 2014	Terminating switched end office and reciprocal compensation rates are reduced by one-third of the differential between end office rates and $0.0007	Terminating switched end office and reciprocal compensation rates are reduced by one-third of the differential between end office rates and $0.0005.
July 1, 2015	Terminating switched end office and reciprocal compensation rates are reduced by an additional one-third of the original differential to $0.0007.	Terminating switched end office and reciprocal compensation rates are reduced by an additional one-third of the original differential to $0.0005.

[3] Id. at ¶ 801.

[4] Id. at ¶ 801, fig. 9.

July 1, 2016	Terminating switched end office and reciprocal compensation rates are reduced to $0.0007.	Terminating switched end office and reciprocal compensation rates are reduced to $0.0005.
July 1, 2017	Terminating switched end office and reciprocal compensation rates are reduced to bill-and-keep. Terminating switched end office and transport are reduced to $0.0007 for all terminating traffic within the tandem serving area when the terminating carrier owns the serving tandem switch.	Terminating end office and reciprocal compensation rates are reduced by one third of the differential between its end office rates ($0.005) and $0.0007.
July 1, 2018	Terminating switched end office and transport are reduced to bill-and-keep for all terminating traffic within the tandem serving area when the terminating carrier owns the serving tandem switch.	Terminating switched end office and reciprocal compensation rates are reduced by an additional one-third of the differential between its end office rates as of July 1, 2016 and $0.0007.
July 1, 2019		Terminating switched end office and reciprocal compensation rates are reduced to $0.0007.
July 1, 2020		Terminating switched end office and reciprocal compensation rates are reduced to bill-and-keep.

The FCC requires these changes in rates to intrastate toll traffic to be made through tariff filings.[5] The FCC, however, has made it clear that, regarding reciprocal compensation, parties are also free to negotiate agreements that differ from the filed rates or use change-of-law provisions in existing interconnection agreements to implement any changes.

The FCC will allow carriers to recover some of the lost access income from its end users through a monthly administrative recovery charge ("ARC").[6] The carrier may increase the ARC by $.50 annually but may not charge the ARC to any Lifeline

[5] Id. at ¶ 812.

[6] Id. at §§ 849-866.

customer. The ARC is capped at $2.50 a month for price cap carriers and $3.00 for rate of return carriers. The ARC cannot be assessed on customers paying $30.00 or more for inclusive monthly phone service. A carrier will have to cease charging the ARC if the recovery from the ARC exceeds the amount for which the carrier was eligible to recover.

The Commission initiated this proceeding to review the access charge regime in Kentucky which would inter alia review access rates as well as the need to reform or eliminate the non-traffic sensitive rate element. The Commission also noted that it would "use this administrative proceeding to investigate access charge reform within Kentucky, as well as use it as a formal method of monitoring, analyzing, and applying changes implemented by the FCC through the National Broadband Plan ("NBP") and the Connect America Fund."[7]

The Commission will play an important role in the filing of tariffs containing the new rates. The FCC tasked the Commission with the responsibility to ensure that the carriers comply with the transition timing and intrastate access charge reductions. The Commission has the duty to: (1) monitor compliance with the rate transition; (2) review how carriers reduce rates to ensure consistency with the uniform framework; and (3) guard against attempts to raise capped intercarrier compensation rates and unanticipated types of gamesmanship.[8] The Commission is also to review negotiated interconnection agreements to ensure that they comply with the compensation framework.

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[7] November 5, 2011, Order at 5-6.

[8] Id. at ¶ 813.

The Commission finds that, pursuant to the ICC/USF Order, the Commission has limited jurisdiction to issue an Order affecting intrastate terminating access rates. This affects a significant portion of the issues in this current proceeding and it is appropriate that all interested parties are given an opportunity to comment on the Commission's finding and to make recommendations as to how the proceeding should progress in light of the ICC/USF Order.

Based upon the foregoing, IT IS THEREFORE ORDERED that:

1. Within 30 days of the date of this Order, all parties should file comments with the Commission.

2. The comments should address the Commission's finding that it has limited jurisdiction over intrastate terminating access rates and should contain suggestions for how this proceeding should progress.

3. The comments should address the non-traffic sensitive rate element.

4. The comments should address any intentions to implement the Access Recovery Charge ("ARC").

By the Commission

ENTERED
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