

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION BY KENTUCKY ALLTEL, INC.	)	CASE NO.
REGARDING SERVICE STANDARDS	)	2005-00107

O R D E R

On March 11, 2005, Kentucky ALLTEL, Inc. (“ALLTEL”) filed a petition requesting relief from certain service level obligations imposed by the Commission in Case No. 2001-00399.¹ ALLTEL specifically requests that its current service objective requirements that were adopted from Verizon South, Incorporated (“Verizon”) be removed. ALLTEL asks the Commission to apply, instead, the same service level standards imposed on other Incumbent Local Exchange Carriers (“ILECs”).

In Case No. 2001-00399, the Commission required that, as a condition of the transfer of Verizon’s Kentucky assets to ALLTEL, ALLTEL continue adhering to the same service objective standards previously imposed on Verizon.² Similarly, the Verizon performance standards were a condition of the Commission approving the merger of GTE Corporation with Bell Atlantic Corporation.³ The higher service level standards were first established in response to a management audit that reviewed GTE Corporation’s local exchange operating company, GTE South Incorporated (“GTE

¹ Case No. 2001-00399, Petition by ALLTEL Corporation to Acquire the Kentucky Assets of Verizon South, Incorporated.

² Case No. 2001-00399, Order dated February 13, 2002 at 6.

³ Case No. 1999-00296, Joint Application of Bell Atlantic Corporation and GTE Corporation for Order Authorizing Transfer of Utility Control, Order dated September 7, 1999.

South”).⁴ As further justification for its decision to retain higher service levels in Case No. 2001-00399, the Commission noted service-related concerns that arose with an ALLTEL affiliate’s operations in Nebraska after an acquisition. It was pursuant to all of these circumstances that the Commission maintained higher service performance levels by requiring ALLTEL to file monthly service level reports by DAC using the two prior years of Verizon’s performance as a benchmark for ALLTEL’s service objectives. Further, ALLTEL was required to file a report of corrective action if it failed to meet any Commission service objective for three consecutive months.

ALLTEL’s Petition

In its petition, ALLTEL asserts that applying the higher performance standards is no longer warranted. ALLTEL claims that after more than two and one-half years of operations since its Verizon acquisition, ALLTEL has not experienced or displayed any conversion-related service issues as anticipated by the Commission. ALLTEL further advises the Commission that it has consistently met or exceeded each of the generic telephone utility service standards⁵ for 21 of the 30 months preceding the filing of its petition.

ALLTEL also contends that other market participants, including cable, wireless, and Voice-over-Internet Protocol (“VoIP”) providers, are not subject to any service

⁴ 1996-1997 PSC Management Audit of GTE South. Numerous recommendations were made regarding quality of service issues and in particular investment-related concerns pertaining to GTE South’s rural customers and failures to meet the Commission’s service objectives. Reporting requirements by Dispatch Administration Level (“DAC”) were recommended in order to more adequately monitor service quality concerns including significant installation and repair problems identified in GTE South’s Eastern District.

⁵ The service performance levels contained in 807 KAR 5:061.

standards and holding ALLTEL to the “most onerous standards” is inequitable and places it at a competitive disadvantage. Finally, ALLTEL suggests that while competition would justify the elimination of all service objective requirements, at the very least, ALLTEL should be subject to the generic telephone utility service standards contained in 807 KAR 5:061.

Support for ALLTEL’s Petition

On May 23, 2005, the Commission Staff issued a data request to gather empirical evidence and additional information to support ALLTEL’s petition. ALLTEL filed its response to the Staff’s data request on June 25, 2005, and it is summarized herein.

ALLTEL provided documentation of the Nebraska Public Service Commission’s (“Nebraska Commission”) extensive review of an ALLTEL affiliate’s service quality levels. ALLTEL provided decisions of the Nebraska Commission including an Order dated June 29, 2004 closing the proceeding and relieving ALLTEL from further performance reporting requirements. ALLTEL explained what was meant by “conversion-related” service issues which were the primary focus of the Nebraska Commission’s inquiry.⁶

ALLTEL described service issues experienced since acquiring the Verizon territory. ALLTEL showed that its overall service levels steadily increased and were maintained except for certain explainable events that included a severe winter ice storm

⁶ According to ALLTEL, “conversion-related” describes issues that could arise in converting the Verizon systems to the ALLTEL systems which it advised did not occur in Kentucky. The Commission notes that ALLTEL did, however, report to the Commission service-related issues resulting from pending service orders it claims were left behind by Verizon after the transfer. See ALLTEL monthly service results for August 2002 filed with the Commission on October 7, 2002.

and a labor strike. ALLTEL also mentioned that customer complaints filed with the Commission dramatically decreased from an average of over 80 per month in 2003 to about 22 per month in 2005.

ALLTEL argued that its current service standards were arbitrarily higher and onerous because they were “more rigorous” than those imposed on any other service provider, including any other Incumbent Local Exchange Carrier (“ILEC”). ALLTEL explained that it agrees competitors are not, and should not be, subject to any regulatory service quality standards⁷ while asserting that such requirements are no longer appropriate for any provider in today’s competitive marketplace. ALLTEL, however, stated that it was willing to accept the same regulatory standards in place for other ILECs in Kentucky. ALLTEL alleged that its higher service standards are unreasonably burdensome because of the resources needed to track, measure, and report requirements that no longer reflect competitive realities. According to ALLTEL, the abundance of choice in the telecommunications market effectively regulates service quality, and the elimination of unnecessary regulations is overdue.

Commission Discussion and Findings

The Commission acknowledges ALLTEL’s steady improvement in overall service objective performance since acquiring the Verizon territory in Kentucky. Although ALLTEL experienced some transitional issues resulting from the acquisition, they do not appear to have been “conversion-related” or systemic in nature. Furthermore, ALLTEL has weathered several service affecting situations that were explainable and

⁷ This statement, contained in ALLTEL’s response to the Commission data request, Item 4(b), appears to contradict its response to Item 4(a) where ALLTEL confirms that Competitive Local Exchange Carriers (“CLECs”) “should be subject to the same service standards” as ILECs.

unavoidable. The Commission commends ALLTEL for its commitment to provide a level of performance demanded by its customers.

At the same time, the Commission remains obligated to ensure that safe, adequate, efficient, and reasonable telecommunications service is provided to all consumers throughout Kentucky. Therefore, although ALLTEL's petition will be granted in part, the Commission finds it necessary to require reporting to ensure that the utility obligations discussed herein are carried out.

The Commission notes that ALLTEL repeatedly compares its situation to other market participants like CLECs, wireless service, cable, and VoIP providers. However, there is a significant difference between ALLTEL, as the incumbent utility service provider, and any competing service provider. ALLTEL is the successor in interest to a utility network constructed, maintained and continues to be supported by decades of guaranteed revenues, and is thereby vested with the duty to provide basic telecommunications service to requesting subscribers throughout its service territory on a fair, just, and reasonable basis, regardless of location or economic status. With the second largest service territory in Kentucky, ALLTEL's "carrier-of-last-resort" obligation affects a substantial portion of the Commonwealth and its telecommunications customers.⁸ Although it is true that other competitive market participants avoid the Commission's monitoring of service levels, they also lack any benefit of guaranteed revenues or the obligation to serve and are, thereby, free to enter and exit the market as necessary. This distinction between incumbent providers and competitors cannot be overlooked or understated and justifies reasonable differences in regulatory treatment.

⁸ ALLTEL's service territory covers about 28 percent of Kentucky and includes over 18 percent of the total access lines reported by ILECs to the Commission for 2004.

Along the same lines, ALLTEL claims that its reporting requirements are “arbitrary,” “onerous,” and “unreasonably burdensome” and place it at a competitive disadvantage. ALLTEL points to the additional resources it must expend to track, measure, and report requirements that it believes are no longer relevant. Although the Commission recognizes that monitoring and reporting service performance levels requires resources, the Commission disagrees that such activities are no longer relevant in a competitive market. As mentioned above, the performance standards imposed by the Commission on incumbent local telecommunications providers are designed to monitor the safe, adequate, efficient and reasonable provision of service and assist the Commission in ensuring that “carrier-of-last-resort” obligations are satisfactorily maintained. Furthermore, ALLTEL’s higher performance requirements are the direct result of an independent review that identified specific and significant service quality deficiencies. ALLTEL and its predecessors acknowledged and voluntarily accepted remedies for these issues. The Commission’s performance objectives, including those for ALLTEL, monitor only the most basic aspects of provisioning telephone service that include installation and repair intervals, customer service answer times, and general availability of the network. Continuing to monitor fundamental service functions of incumbent providers is not only necessary but essential to protect Kentucky consumers and to ensure ubiquitous availability of basic telecommunications services.

Additionally, ALLTEL asserts that the competitive market is sufficient to address any concerns the Commission may have regarding service performance levels. ALLTEL advises that an abundance of choice for consumers means the

telecommunications market effectively regulates service quality. This may be true where “abundant” competition exists. However, the existence of competition, in general, cannot address performance levels where customer choice is limited or alternatives do not exist at all. In fact, competition can have exactly the opposite affect on service quality by attracting resources from areas with less market demands to those with greater demands. For customers without reasonable access to substitute services or where competitive options exist but remain uneconomical, it is necessary and essential that the Commission ensure utility service remains available and provided safely, efficiently, adequately and reasonably.

After reviewing the record in this case, the Commission finds that adjusting ALLTEL’s performance objective requirements is warranted. However, the Commission further finds that ALLTEL should comply with the same service objective reporting requirements established for BellSouth Telecommunications, Inc. (“BellSouth”) as revised in Case No. 1999-00434,⁹ rather than the “generic” service objectives contained in 807 KAR 5:061.¹⁰ This will continue the Commission’s long standing obligation to ensure safe, adequate, efficient and reasonable utility service throughout the Commonwealth of Kentucky. ALLTEL will be released from higher service level requirements but will be required to provide greater detailed reporting by exchange rather than more aggregated DAC levels. This will give the Commission the ability to

⁹ Case No. 1999-00434, Review of BellSouth Telecommunications, Inc.’s Price Regulation Plan, Order dated August 3, 2000.

¹⁰ Although BellSouth’s subscriber base and service territory are larger than ALLTEL’s, similar treatment is supported as each serves a range of metropolitan/rural areas with exchanges geographically dispersed throughout Kentucky and comparable potential service quality concerns.

monitor service performance throughout the state, even in the most rural exchanges. Exchange level information should already exist in its raw form and require minimal additional resources for reporting to the Commission.

More specifically, the Commission finds that the reporting requirements for 807 KAR 5:061, Section 10(2) – Regrade Requests; and Section 15(1) – Dial-tone Timeliness are no longer necessary as the need for these service level requirements has been eliminated. Reporting for the remaining service objectives and the associated performance standards will continue, as prescribed by 807 KAR 5:061, and will include reports of corrective action taken to address service objectives missed, at the District Level, for two or more consecutive months. In addition, ALLTEL should provide detailed service objective reports for each exchange throughout its service territory for 807 KAR 5:061, Section 10(1) - Percent of Requests for Regular Service Filled in Five (5) Working Days; Section 15(3) – Percent of Toll/Interchange Telephone Calls Encountering Trunks Busy Condition; Section 25(3) – Percent of Out-of-Service Troubles Cleared in 24 Hours; and Section 25(4) – Average Rate of Customer Trouble Reports per 100 Access Lines. The detailed service objective report for each exchange should be in a tabular format and include the exchange/wirecenter name, CLLI Code, NPA/NXX, measures/metrics and performance level. ALLTEL should also identify each exchange/wirecenter that fails to meet the Commission’s service objective performance level for that month and otherwise note any exchanges/wirecenters that have missed the performance level for two or more consecutive months.

The Commission, having considered ALLTEL's proposed modifications to its service objective reporting requirements, HEREBY ORDERS that:

1. ALLTEL's monthly service objective reporting requirements shall be modified, as described herein, effective beginning the month of September 2005.

2. ALLTEL shall no longer be required to meet the service objective performance levels adopted at the time of the Verizon acquisition.

3. ALLTEL shall no longer be required to provide monthly service objective reports pursuant to 807 KAR 5:061, Section 10(2) – Regrade Requests; and Section 15(1) – Dial-tone Timeliness.

4. ALLTEL shall comply with the service objective requirements contained in 807 KAR 5:061, Sections 10(1), 15(2), 15(3), 22(1), 22(2), 25(3) and 25(4) including reports for corrective action for any service objectives, at the District Level, that is missed for two consecutive months.

5. ALLTEL shall provide detailed reports, by exchange, for the service objectives contained in 807 KAR 5:061, Sections 10(1), 15(3), 25(3) and 25(4). The information provided for each exchange shall contain the exchange/wirecenter name, CLLI code, NPA/NXX, measures/metrics and performance level. ALLTEL shall identify each exchange/wirecenter that fails to meet the Commission's service objective performance level and otherwise note any exchanges/wirecenters that have missed the performance level for two consecutive months.

6. Nothing contained in this Order shall preclude the Commission, or its Staff, from requesting, and ALLTEL providing, any additional information deemed necessary for the Commission's review of ALLTEL's service adequacy.

Done at Frankfort, Kentucky, this 21st day of September, 2005.

By the Commission

ATTEST:


Executive Director