COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of

AN INVESTIGATION OF TOLL AND ACCESS CHARGE PRICING AND TOLL SETTLEMENT AGREEMENTS FOR TELEPHONE UTILITIES PURSUANT TO CHANGES TO BE EFFECTIVE JANUARY 1, 1984	)	CASE NO. 8838

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O R D E R

PROCEDURAL BACKGROUND

On May 19, 1983, the Commission established this proceeding to investigate intrastate toll and access charge pricing and toll settlement procedures. All jurisdictional telephone companies within Kentucky were made parties to the case. In establishing this case the Commission recognized the potential impact of two major events: the divestiture by AT&T of its local operating companies pursuant to the entry of the Modified Final Judgment ("MFJ") to be effective January 1, 1984,[1] and the February 28, 1983, Order of the Federal Communications Commission ("FCC") in CC Docket No. 78-72 MTS and WATS Market Structure. The MFJ required that a system of access charges replace the previous process of separations and settlements for reimbursing local telephone companies for their portion of certain long distance calls, and the FCC Order adopted, for interstate purposes, a radical shift in the way these costs were to be recovered.

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1 United States v. American Telephone and Telegraph Co., 552 F. Supp. 131 (D.D.C. 1982), aff'd sum nom. Maryland v. United States, 103 Sup. Ct. 1240 (1983).

In addition to the jurisdictional telephone companies, the Commission granted intervenor status to the following parties: Call U.S. of Kentucky, Inc., Telamarketing Communications, the Attorney General's Division of Consumer Intervention ("AG"), Lexington-Fayette Urban County Government, City of Louisville, Jefferson County, GTE Sprint ("Sprint"), MCI Telecommunications Corporation ("MCI"), Kentucky Association of Radio Common Carriers ("KARCC"), Beep-Alert of Kentucky, Inc., and Reo-Cap, Inc.

The history of this proceeding is lengthy and complex, especially in light of the fact that the case spans a period of 18 months. Throughout the past year and a half, the federal regulatory environment has been in a constant state of flux. Numerous FCC decisions related to interstate access charges have been rendered pursuant to its jurisdiction. Often, pursuant to those FCC Orders the Local Exchange Companies ("LECs") modified their intrastate tariffs, over which this Commission has jurisdiction, in order to maintain their proposal to mirror[2] their interstate tariffs at the intrastate level. Other branches of government have also had their impact, as in the case of legislation proposed by Congress and numerous divestiture-related memoranda and orders rendered by Judge Harold Greene in Federal district court proceedings involving the AT&T divestiture. Where at all possible, the Commission has taken steps to modify its procedural

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[2] Mirroring is more fully described and discussed at page 6.

schedule for this case in recognition of these myriad events and developments relevant to the subject matter of this proceeding.[3]

At the outset of the case, the Commission foresaw many of the potential impacts and broad policy implications the proceeding would delve into and held a preliminary hearing on August 30, 1983, to obtain advice and comment from the LECs and other interested parties and to assist customers in becoming more informed regarding those matters. The Commission's Order dated September 20, 1983, required the LECs to provide notice to the public of each company's access charge proposals.

On October 18, 1983, the FCC suspended the interstate access charge tariffs that had been scheduled to go into effect on January 1, 1984, until April 3, 1984. Despite the FCC's suspension of the interstate tariffs, some action was required to replace the old settlements and division of revenue procedures because of the impending divestiture of the local operating companies by AT&T.

On October 21, 1983, the Commission issued an Order requiring that intrastate separations and settlements continue without changes to the existing revenue distribution to each LEC. After hearings were held on November 22, 1983, and December 12, 1983, the Commission entered an Order on December 29, 1983, allowing certain aspects of the proposed access charges to take

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3 Orders of Procedure setting forth dates for filing of tariffs, prefiling of testimony, discovery, hearings and submission of briefs were entered on August 29, 1983, January 3, 1984, April 3, 1984, and September 21, 1984.

effect on an interim basis. That Order essentially required a continuation of the status quo in intrastate toll compensation for all LECs.[4] Finally, on January 19, 1983, the Commission amended its Interim Order so as to permit certain telephone companies to use on an interim basis the National Exchange Carriers Association ("NECA") billing and collection tariffs, rather than SCB's.

In the first half of 1984, numerous FCC decisions in CC Docket No. 78-72 and CC Docket No. 83-1145 were issued. A partial listing of those decisions follows:

> On February 15, 1984, the FCC released its Second Reconsideration Order, FCC 84-36, modifying and revising portions of its interstate access charge plan. These modifications included, among other things, deferral of end user charges for residential and single line business customers until June 1, 1985, and a revision of the non-premium access rates. Revised tariffs consistent with this Order were to be filed, to be effective by April 3, 1984.
>
> In CC Docket No. 83-1145, the FCC released separate Memorandum Opinion and Orders on February 17, 1984, and March 7, 1984, setting forth the results of its investigation relative to the proposed interstate

4 The December 29, 1983, Order also suspended the LECs' proposed access charge tariffs, but permitted, subject to certain restrictions, the tariffs to be instituted subject to refund pending the issuance of a final Order. For example, end user charge tariffs were not permitted to take effect and a 6.5 cent carrier common line charge ("CCLC") was adopted for all LECs except General Telephone Company of Kentucky ("General"). Additionally, the sequence of revenue distribution from the intraLATA pool pursuant to the Interim Compensation Annex executed between various LECs and South Central Bell Telephone Company ("SCB") was modified. The Commission also required the LECs to establish separate accounts for all access charge expenses and revenues.

access and divestiture-related tariffs previously suspended by its action of October 18, 1983.

> On March 27, 1984, the FCC released a Memorandum Opinion and Order in CC Docket No. 83-1145, FC 84-104, extending the effective date for access tariffs filed on behalf of the NECA and individual exchange carriers until not later than June 13, 1984.

> On March 28, 1984, a Memorandum Opinion and Order was released by the FCC, under the joint caption of CC Docket Nos. 78-72 and 83-1145, outlining the interim arrangements to be in effect at the interstate level until such time as appropriate tariffs take effect.

> On May 15, 1984, the FCC released a Memorandum Opinion and Order, under the joint caption of CC Docket Nos. 78-72 and 83-1145, FCC 84-201, indicating that switched access tariffs filed on behalf of the NECA and individual exchange carriers would have become effective on May 25, 1984, assuming all modifications mandated by the FCC in that Order were complied with. Provisions relating to special access tariffs were not addressed, with the FCC indicating that question would be addressed by subsequent action.

Following the May decisions at the FCC, SCB, General and Cincinnati Bell Telephone Company ("Cincinnati Bell") filed revised access charge tariffs on May 30, 1984, June 14, 1984, and May 25, 1984, respectively, designed, for the most part, to mirror their interstate access charge tariffs, as had been the LECs' practice on several prior occasions when FCC access charge decisions had been rendered.

On June 19, 1984, the Commission suspended SCB's revised access charge and related tariffs for 5 months pursuant to KRS 278.190. On June 29, 1984, similar action was taken on General's revised access charge tariff filing.

The LECs, with the exception of the Independent Group,[5] were cross-examined on their prefiled testimony and the general concept of the access charge structure at a hearing held May 31, 1984. Intervenors and the Independent Group were cross-examined on their prefiled testimony at hearings held July 31 and August 1, 1984. All parties desiring to file a brief were ordered to do so by October 10, 1984.[6] An extension of time to file briefs was granted until October 19, 1984. The case now stands submitted for the Commission's decision.

INTRODUCTION

As the procedural background makes clear, this case was instituted primarily in response to changes in the structure of the telephone industry brought about at the national level. The most obvious and important of these changes have been the AT&T divestiture and the adoption at the federal level of a policy favoring a competitive structure in the interexchange toll market. Both of these events changed the relationship between telephone companies providing local exchange services and the companies providing exclusively long distance (interexchange toll) services. In particular, the processes of toll settlements and

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5 Independent Group: Ballard Rural Telephone Coop., Duo County Telephone Coop., Foothills Rural Telephone Coop., Harold Telephone Company Highland Telephone Coop., Leslie County Telephone Company, Lewisport Telephone Company, Logan Telephone Coop., Mountain Rural Telephone Coop., North Central Telephone Coop., Peoples Rural Telephone Coop., Salem Telephone Company, South Central Rural Telephone Coop., Thacker-Grigsby Telephone Company, West Kentucky Rural Telephone Coop.

6 Order dated September 21, 1984.

division of revenues by which LECs were compensated for use of their facilities in originating and terminating toll calls became obsolete. Continuation of the division of revenue process was specifically prohibited by the MFJ. Therefore, this system had to be replaced by explicit access charges to be paid by interexchange carriers to LECs to compensate these companies for toll access to their local networks. The structure of these charges for interstate toll calling is the responsibility of the FCC. How interexchange carriers should compensate Kentucky's LECs for intrastate toll calling is within the jurisdiction of this Commission. Although the federal regulatory environment has been constantly changing, interstate access charges are in place and their basic structure appears to be largely determined, at least for the present. In Kentucky, an interim intrastate access charge system was instituted, while a permanent system could be investigated and devised in this proceeding.

The telephone companies have, for the most part, proposed the adoption of the interstate access charges for use at the intrastate level. As the record makes abundantly clear, the telephone companies have focused their attention and energy in this case on such adoption, or mirroring, of the interstate system. Most have apparently not seriously considered the possibility (much less the desirability) of an alternative structure.

Relatively early in its investigation, the FCC identified four distinct alternative structures for access charges. The option that was ultimately chosen was the so-called "Pure 2" approach. This structure involves placing toll costs that vary

with usage (traffic sensitive costs such as switching) on the interexchange carriers and fixed costs not varying with usage (primarily those associated with the local loop from the central office to subscribers' premises) on end users through a monthly flat charge.

This structure represents a significant departure from current practices. Currently, toll rates are set at a level to make a contribution to the fixed costs (non-traffic sensitive ("NTS") costs) of local exchange facilities. The interstate structure would essentially eliminate this contribution. This aspect of the interstate structure was not necessitated by the conversion to explicit access charges, but was a conscious policy decision made by the FCC. This approach was most forcefully urged by AT&T and the other interexchange carriers, and understandably so. This structure shifts what would otherwise be a cost to these carriers of doing business from them directly to end users.

The FCC recognized that this constituted a departure from current and past practice in this regard. The FCC has also recognized (at least implicitly) that this aspect of its plan is not an integral and unavoidable outcome of the shift to access charges. While maintaining the appropriateness of its chosen approach, the FCC recognized such a massive shift of cost responsibility would have significant impact upon users and suppliers of telephone service. The FCC has attempted to minimize this impact by phasing in the planned shift in responsibility for NTS costs. This will be done by utilizing the so-called CCLC. This

charge maintains toll service's responsibility for NTS costs, but will be reduced over time, thus phasing out this responsibility. As this reduction occurs, the cost responsibility will be placed on end users via the customer access line charge ("CALC"), which is a flat rate monthly charge. This charge would be placed on every telephone subscriber, regardless of whether or not any toll calls are made. Currently, at the interstate level, CALCs have been placed on business users having more than a single line. In the future, single line business and residential users will pay such charges. The level of these charges will increase as the CCLC, and thus toll service's responsibility for contributing to NTS costs, is phased down.

In this proceeding, the telephone companies have overwhelmingly urged adoption of the FCC plan for intrastate use. It should be emphasized that several important effects would occur if this Commission chose to adopt the interstate structure.

First, mirroring would involve a relatively high CCLC, which the telephone companies allege will result in bypass (i.e., use of facilities other than those of the LECs to complete and/or originate toll calling). This results from the FCC's decisions to lengthen the time period over which the CCLC will be phased down and CALCs phased in. By virtue of their proposals to mirror the interstate tarrifs, the LECs in this proceeding have essentially acquiesced in this. The result is an apparent inconsistency on the part of the LECs. At the same time that they argue retaining NTS cost responsibility on toll through the CCLC will exacerbate the bypass problem, they are willing to impose these

charges for a relatively lengthy time period. The companies resolve this by urging the transition be as short as possible, and by arguing that it is sufficient at this time to send a "signal" to potential bypassers that their responsibility for NTS costs will be reduced in the future. This position seems at variance with repeated insistence of many telephone companies throughout this proceeding that bypass is an urgent and imminent threat to LEC revenues.

It should also be recognized that adopting the FCC plan for intrastate use in Kentucky will double the impact of the lump sum CALCs placed on end users. The adverse effects of this magnification of charges imposed by the interstate jurisdiction upon telephone subscribers, particularly low income subscribers, is obvious. While the Kentucky Public Service Commission cannot directly affect decisions made at the federal level, it can choose not to magnify the impact of charges levied by the FCC.

Further, the fundamental issue of what constitutes an appropriate structure of access charges has not been virtually resolved, as one might conclude from a reading of the testimony of telephone company witnesses in this proceeding. Nothing near unanimity exists concerning what constitutes a desirable access structure. The Commission notes that a number of independent observers of the telephone industry seriously question the wisdom and viability of the FCC interstate structure. It is possible that in mirroring the interstate plan, this Commission would be adopting a structure that may not survive in its present general form, even at the federal level. Of course, this possibility is

in addition to the certain complications arising from the need to alter intrastate tariffs every time changes occur at the interstate level. If recent history is any guide, changes will occur frequently.

As consistently as most LECs and all interexchange carriers have urged mirroring of most elements of the interstate access service tariffs, they have also insisted that access charges should be cost based. In light of this, one would expect that the intrastate access service tariffs proposed by the LECs would be based on studies or estimates of the cost of providing access services within Kentucky. This is not the case. Instead, these tariffs are designed to recover revenue associated with intrastate interLATA toll services that LECs no longer provide. The revenue requirement presented by the LECs stems from the old system of toll separations and settlements, and is essentially calculated to maintain the LECs in a revenue position comparable to that experienced under this system in 1983. The relationship of revenue requirement to the LECs' actual cost of providing access is unknown. The proposed access services tariffs are not based upon any known intrastate costs. Therefore, even if it is accepted that access charges should be based on costs, there is no evidence in the record of this case that the proposed access service tariffs do not overrecover or underrecover the actual costs of providing access services.

In light of the forceful nature of the insistence of most LECs that access charges must be cost based, it is difficult to understand the LECs' lack of effort to obtain actual cost

information. The Commission cannot make decisions on the basis of information it does not have. For the purposes of this Order, the term "costs" will be used loosely when referring to the costs of providing access services. As has been the case throughout this proceeding, this term should be understood to refer, in many instances, to the LECs' calculation of revenue requirement.

GENERAL POLICY CONSIDERATIONS

Two fundamental decisions must be made by this Commission in order to determine the appropriate structure of an intrastate access charge system to permanently supplant division of revenue and toll settlement procedures. First, for any given level of NTS toll revenue requirements, an appropriate allocation of these requirements must be made between end users and interexchange carriers. Second, upon determining an appropriate allocation of NTS revenue requirements between these two classes of users of local exchange facilities, an appropriate structure of rates must be devised to recover the assigned revenue requirements. Both of these fundamental issues have been vigorously contested in this case.

Intrastate NTS Cost Allocation

The allocation of the non-traffic sensitive costs associated with the access line from the LEC's end office to the customer's premises has been a preeminent issue. The telephone companies in this proceeding have been virtually unanimous in supporting a shift of NTS revenue requirements from toll service to local service. The major exception among the carriers has been the Independent Group. Additionally, although Continental

Telephone Company ("Continental") favors some transfer of toll-allocated NTS costs to local service, it does not hold the opinion that responsibility for all such costs should be shifted.

Those carriers recommending the shifting of NTS costs propose to do so by mirroring, for the most part, interstate access charges. These proposals thus impose, either currently or in the future, flat rate end user charges (CALCs). As the interstate CCLC is phased down, increasing amounts of intrastate NTS costs would be placed on end users. The various telephone companies, including both LECs and interexchange carriers, advance several theoretical and practical arguments in support of transferring NTS revenue requirements currently placed on toll to end users.

Fundamentally, these parties argue that the existence of competition in toll services dictates that prices be related to costs. According to SCB,

> The nation's telecommunications policy now dictates a competitive rather than monopoly environment for the interexchange market and as with any competitive service, pricing should be cost related. Access services are no different.[7]

An integral part of the carriers' position is that the current contribution by toll services to LEC NTS costs constitutes a subsidy. According to this view, technology and the introduction of interexchange competition--particularly in the form of bypass of LEC facilities--combine to make continued subsidization impossible. As expressed by AT&T Communications of the South Central States, Inc., ("ATTCOM"),

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7 SCB Brief, page 8.

> . . .competition and technology have restructured the industry and their combined force drives prices for all services toward economic costs, while moving cost responsibility toward those who cause the costs to be incurred. The indefinite continuation of the toll subsidy in carrier access charges is no longer tenable and cost-based access charges must be implemented.[8]

ATTCOM and other carriers arrive at the conclusion that toll contribution to NTS plant constitutes subsidization by asserting that end users cause these costs to be incurred by the LEC. ATTCOM's opinion is again representative when it states,

> Charges to recover NTS costs should be assessed on a flat rate basis against end users since these costs are incurred at the time those customers connect to the network and are incurred regardless of the amount or type of usage.[9]

In addition to arguing that NTS costs properly should be imposed on end users, the telephone companies contend that it is economically efficient that these costs be recovered on a flat rate basis. This is supported on the general economic principle that costs that do not vary with usage should not be recovered through usage charges.

The portion of NTS costs that ultimately should be allocated to end users was not explicitly stated by all companies advocating this approach. Disagreement exists among those companies which did explicitly offer a recommendation concerning this. For example, ATTCOM is apparently of the opinion all such costs should be transferred to end users. Continental suggests

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8 ATTCOM Brief, page 4.

9 Ibid., page 8.

that this transfer of NTS revenue requirements should vary by company, depending upon each company's vulnerability to bypass. As stated in Continental's brief,

> Uneconomic bypass may be a significant and imminent threat to some local exchange carriers. One way to avoid uneconomic bypass is to reduce the contribution to NTS costs included in toll and access-charge rates. Where bypass is a significant and imminent threat, Continental suggests that NTS costs allocated to toll and access-charge rates be gradually reduced from the current Subscriber Plant Factor (SPF) allocation to a Subscriber Line Usage (SLU) allocation.[10] Since the interexchange carriers are receiving a service when they access a local exchange customer, they should be required to pay some compensation toward the recovery of non-traffic sensitive costs. At a minimum, this contribution should be based on their relative usage of the local network.[11]

The transfer to local exchange service of NTS costs currently allocated to toll service through end user charges is directly opposed by the Independent Group and the Attorney General. Dr. Ben Johnson, witness for the AG, disagrees with the opinion that toll competition and the threat of bypass dictate that NTS costs be shifted from toll services to local exchange. In his view, such a shift is not only unnecessary, but will have adverse impact on universal service, as well as other public policy goals. He also disagrees with the assessment that end users cause NTS costs to be incurred by the LECs, and that these

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[10] SLU is a method of allocating NTS costs between toll and local services according to the relative usage of the NTS plant by the two services. SPF is an allocation that essentially takes SLU results and assigns toll service more NTS cost responsibility than the raw relative usage factor would.

[11] Continental Brief, page 5.

costs should therefore appropriately be placed on end users. It is his opinion that these NTS costs are properly viewed as joint or common costs incurred in the provision of access to both toll and local services.

With respect to the proper allocation of these costs, Dr. Johnson states that,

> Economic theory suggests that there is no single, inherently "correct" method of allocating these joint costs among the various services that benefit from the joint production process. However, just because the costs are not allocable does not mean that they should be recovered entirely through the rates for only one of the joint services; i.e., local exchange (which is the effective result of imposing flat end-user charges).[12]

Accordingly, both services should properly be priced to make a contribution to these common costs. This is currently the case, and sharing of responsibility for these costs is a long-standing practice in the telephone industry. Eliminating the contribution from toll service to these costs would be a failure to ". . .recognize the substantial benefits received by interexchange carriers as a result of the virtually universal access provided by the local exchange network. . .,"[13] and would improperly grant these carriers "free" access to the facilities of the LECs.

Dr. Johnson contends that, contrary to the assertions of the telephone companies, presenting end users with the bulk (or entirety) of these NTS costs via flat rate charges is not economically efficient. Due to the presence of positive

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[12] Testimony of Dr. Ben Johnson, page 3.

[13] Ibid., page 17.

externalities in the provision of access to the telephone network, setting prices equal to costs will result in inefficiently high prices for this service. Dr. Johnson also points out that the NTS costs that would ultimately be paid by end users are average embedded costs. Economic efficiency dictates that subscribers shall be faced with prices as close as possible to marginal cost rather than average costs. Dr. Johnson contends that the marginal cost subscribers cause LECs to incur is substantially below average costs, and is already being recovered through local exchange rates. In summarizing his position, Dr. Johnson states,

> It is true that NTS costs are largely unaffected by the use or nonuse of the local network by long-distance companies. But it is also true that these costs are largely unaffected by the decisions of local subscribers to use or not to use these facilities, for much the same reason: the vast majority of the costs are fixed and sunk. Hence, it is just as inappropriate (or appropriate) "from a cost standpoint" to charge end users for the local network, as it is to charge the long-distance companies. Of course, someone must bear these joint costs, if the local telephone utility is to survive.
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> In my judgment, the historical method of requiring long-distance carriers and their customers, as well as local subscribers, to share these costs is both reasonable and appropriate. This method has been tremendously successful in advancing universal service, and it is consistent with the manner in which joint costs are recovered in a competitive environment.[14]

The Commission has carefully considered the positions of all parties in this proceeding. It is the Commission's opinion

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[14] Ibid., page 26.

that the major arguments advanced by the telephone companies to support the transfer of NTS costs from toll to local service are flawed. First, the Commission does not accept the notion that all NTS costs associated with the local loop are properly attributable to local exchange service. It is the Commission's opinion that these costs are common costs that are incurred in the provision of fixed telephone plant that provides both toll and local exchange services. As both toll and local service give rise to the costs, neither should be relieved of responsibility for helping to defray these costs. While the threat of bypass may put an effective ceiling on the proportion of these costs that can be allocated to toll service, there is no evidence to indicate that that proportion should be zero, as several parties advocate it should ultimately be.

The Commission concurs with Dr. Johnson's assessment that in competitive markets, demand conditions play a major role in determining the allocation of common costs among the products or services giving rise to these costs. It is generally recognized that regulation should emulate competition wherever possible. Therefore, it is instructive to consider what this allocation of common costs would likely be if <u>all</u> telecommunications services, <u>including local exchange</u>, were provided under fully competitive conditions. The Commission does not find it plausible that local exchange carriers would recover all fixed costs via flat end user charges. A firm attempting to do this would undoubtedly be subject to severe competitive pressures. As pointed out by Dr.

Johnson, recovery of fixed costs via flat charges is, in fact, not the norm in competitive markets.

In accordance with these findings, it is entirely appropriate that toll services be priced to make a contribution to the common cost of LEC NTS plant. It has not been established in this proceeding that the current level of toll contribution to NTS costs constitutes a subsidy. The parties arriving at this conclusion generally do so by allocating all common costs to local exchange service. In fact, a showing of subsidy must demonstrate that the current toll contribution to common costs exceeds its properly allocated share of those costs. There has been no such demonstration in this case.

The interstate plan, supported by most of the telephone companies in this proceeding, would ultimately give interexchange carriers essentially free use of the fixed plant of the LECs. This would clearly be an anomalous outcome. No party to this proceeding held the position that such a circumstance would prevail in competitive markets. According to Dr. Johnson,

> . . .businesses in a normal competitive environment need to get revenues from whatever sources they can in order to cover their costs, because of the competitive pressures that are present. So they're not going to be giving away the use of a valuable fixed asset, even though it's a fixed asset, and there may be no additional costs incurred, due to sharing it. They would, nevertheless, get whatever they could from the companies that wanted to share use of that fixed asset.[15]

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[15] Transcript of Evidence ("T.E."), August 1, 1984, p. 81.

The response of those parties supporting elimination of interexchange carrier responsibility for any NTS costs to this objection was voiced by several witnesses. For example, Sprint's witness, Ms. Mary T. Brackbill stated, "[T]he [NTS] plant exists and is in place for the use of the end users regardless of whether the interexchange carriers use it. . .."[16] According to ATTCOM's witness, Mr. Neal Brown, ". . .they [NTS facilities of the LECs] are used strictly 100% by the local customer, by the end user and not by any carrier."[17]

The Commission considers this justification for the contemplated free ride of the interexchange carriers to be inadequate. As Ms. Brackbill acknowledged, if the NTS facilities of the LECs were not in place and available for use by the interexchange carriers, these carriers would have to build such facilities to conduct their business.[18] With respect to the assertion made by Mr. Brown, the Commission considers it to be incorrect on its face. Interexchange carriers use a variety of facilities to supply toll service to their customers. To offer this service they utilize NTS facilities of the LECs. Quite obviously, the only instances in which interexchange carriers would not utilize these facilities to offer their service would be cases of bypass of the LEC. The inadequacy of these arguments is further

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[16] T.E., July 31, 1984, Volume I, p. 90.

[17] T.E., August 1, 1984, p. 214.

[18] _Ibid_., p. 89.

highlighted by the following exchange that occurred during cross-examination of General's witness, Mr. Larry J. Sparrow,

> Q. Well, to get a little bit closer to home, do you expect the cable television industry to give away access to its co-ax, for example? In other words, its there. They had to serve their cable TV customers, therefore, the rest of the world may make use of that without a charge.
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> A. They may sell it on a--I'm sure they would want to get as much contribution as they can from that.[19]

Mr. Sparrow's assessment is undoubtedly correct. In a similar manner the LECs should endeavor to maximize the contribution of interexchange carriers--which, of course, ultimately means the customers of these carriers--to the NTS costs of local exchange plant. The effective constraint the LECs may face in this regard is the issue of bypass.

The Commission also finds unpersuasive the telephone companies' arguments that considerations of economic efficiency dictate that all NTS costs be allocated to end users. Dr. Johnson is correct in pointing out that pricing for economic efficiency involves marginal costs. Significantly, his assessment that local exchange service is already priced to cover its marginal cost for each subscriber was not disputed by the telephone companies. During cross-examination, Dr. Johnson stated,

> . . .The economic cost or the cost to society [of supplying telephone service] will increase by

[19] T.E., May 31, 1984, p. 190.

roughly $4 a month when a typical local customer agrees to subscribe to this service--hooks in.[20]

While this was acknowledged to be a general estimate, there is no evidence in the record to indicate it is grossly inaccurate. This figure makes clear that local exchange service is already making a significant contribution to common costs. As economic efficiency is promoted by setting prices as close as possible to marginal costs, loading all (or even a significantly greater share) of common costs on this service will result in decreased economic efficiency, rather than increased efficiency.

The major telephone companies advocate that local exchange service ultimately be priced to cover all NTS costs, which are common costs. Economic theory teaches that, when joint or common costs are present, it is economically efficient to recover all those costs from a single service only if demand for that service is totally inelastic (i.e., unresponsive to price changes). Demand for local exchange service is not totally inelastic, and there has been no representation to this effect by any party in this proceeding.

Dr. Johnson's contentions concerning the significance of externalities in the proper pricing of telephone service were also not refuted by the telephone companies. Externalities in consumption occur when the benefits society as a whole receives from an individual's consumption of a good or service differ from the private benefits the individual realizes. In the case of

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[20] T.E., July 31, 1984, p. 137.

telephone service, the existence of these externalities in telephone access means that if local exchange prices are set above, or even equal to, marginal costs, fewer people will subscribe to telephone service than is socially desirable. This again indicates that loading increasing amounts of NTS costs on local exchange service will not enhance economic efficiency.

The Commission does not disagree with the telephone companies' position that prices should be related to costs. What has been at issue is the proper determination of the costs of local exchange service, as well as toll service. As already stated, the Commission rejects the contention that local exchange service is responsible for all NTS costs. These are common costs. However, there exists no single correct allocation of these fixed costs between the services giving rise to them. In making this determination, the Commission must weigh objectives that are sometimes conflicting, such as economic efficiency and the universal service objective. Interestingly, several of the telephone companies have argued that there is no conflict between these objectives in the decision before the Commission.[21] It is argued that transferring NTS costs to end users through access charges, as well as being economically efficient, will serve the universal service objective. This notion that higher local exchange rates will promote universal service derives from the companies' assessment of the bypass issue. The argument is made

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[21] See, for example, Brief of SCB, p. 9.

that if toll service is not relieved of responsibility for NTS costs, heavy toll users will resort to self supply, bypassing the facilities of local exchange carriers.

In this proceeding the LECs have not disavowed their support for the objective of universal service. However, the Commission does not agree with those companies who argue that raising local exchange rates through the imposition of end user access charges will serve that objective. The Commission cannot rely on the assurances of the telephone companies in this regard. There is no credible evidence specific to Kentucky to demonstrate that the increases in local exchange rates associated with the eventual imposition of all NTS costs to that service would not adversely impact the universal service objective.

The Commission recognizes bypass as a legitimate concern of the telephone companies, and does not disagree that there exists the potential for significant revenue loss and the possibility of stranded investment. At the same time, the Commission emphatically rejects the idea that transferring responsibility for NTS costs from toll service to local service is the only available, or the most desirable, solution. It appears from this record that the telephone companies have not adequately explored even the most obvious alternative responses to bypass, such as tapered toll rates embodying discounts to heavy users. In any event, an impartial appraisal of this issue must lead to the conclusion that there are no definitive answers concerning the cause, magnitude, and effects of bypass. This is not, by any reasonable assessment, a resolved issue; multiple conflicting

analyses, opinions, and findings exist. For the purposes of this proceeding, those parties who rely heavily on bypass to justify a transfer of NTS costs of the ultimate magnitude entailed in the mirroring of interstate access charges properly bear a very substantial burden of proof. This burden has not been met.

There are several specific deficiencies in the major telephone companies' analysis of this issue. Among these is a failure to adequately recognize that considerations other than price alone may be significant in any potential bypasser's deliberations concerning the attractiveness of self supply. For example, bypass may occur because the LEC simply does not offer a service the user either desires or requires. Another example might be where a user's requirements for security may not be met by the local carrier's offerings.

A second problem with this analysis is the lack of adequate recognition that some unknown portion of existing and potential bypass is economic, as opposed to uneconomic, in nature. Economic bypass occurs when a service can be supplied at a cost lower than that of the local telephone company. Uneconomic bypass occurs when an alternate supplier provides a service at a cost that is lower than the local carrier's price, but higher than the local carrier's cost. There is general agreement that economic bypass is innocuous, and does not represent a threat to telephone company revenues. The LECs could only prevent this type of bypass by supplying services below costs, and this deficiency would have to be made up through rates charged to other subscribers. There is also general agreement that

uneconomic bypass, in principle, is undesirable. If sufficient uneconomic bypass occurs, stranded investment may result, and virtually the same level of fixed costs would be spread over a smaller base of remaining subscriber. The debate in this case should center on the magnitude of any existing and potential uneconomic bypass.

The telephone companies assert that significant bypass is currently occurring, and provide examples of this activity. A major flaw with this evidence, as pointed out by the AG, is that the amount that is economic, as opposed to uneconomic, is unknown.[22] This fact is explicitly recognized in the testimony of Cincinnati Bell witness Robert Sigmon when he states, "Until Cincinnati Bell's access charges are based on economic costs, it cannot be determined whether economic or uneconomic bypass occurred."[23] Indeed, all the observed bypass may be economic in nature. Attempting to forestall economic bypass through relieving toll service of responsibility for NTS costs would be a misguided exercise at best, and highly detrimental to the objective of universal service at worst.

The Commission also finds it curious that the LECs have, in this proceeding, focused to a great degree on private point to point bypass rather than bypass involving direct connection of a heavy toll user to an interLATA carrier's point of presence. The Commission notes that the LECs have expressed the opinion, in

[22] AG Brief, p. 14.

[23] Testimony of Mr. Robert E. Sigmon, p. 4.

previous proceedings, that the latter variety is the source of greatest concern and potential revenue loss. For example, the study Strategic Assessment of Bypass presented by SCB in Case No. 8847, Notice of South Central Bell Telephone Company of an Adjustment in its Intrastate Rates and Charges, focused exclusively on bypass of LEC facilities in accessing an interLATA carrier's point of presence. This study expressed the concern that AT&T potentially could engage in significant bypass of LEC facilities. In this case, Mr. E. C. Roberts, witness for SCB, distinguished between point to point bypass and bypass of the switched toll network. Discussing the latter type during cross-examination he stated,

> . . .as far as the switched type services, the MTS, the WATS, which are usage sensitive and as the usage grows and if the prices are. . .set. . .at levels that more than cover the cost and those customers can build their own facilities or ask some other vendor to build facilities to get them to a carrier and that is cheaper for them then. . .the MTS and WATS rates. . .that is indeed a threat. . .and a likelihood if we don't watch our pricing.[24]

The Commission is of the opinion that the LECs' apparent emphasis on making message toll service ("MTS")[25] and wide area telecommunications service ("WATS") rates competitive with all forms of bypass alternatives is misplaced. MTS and WATS are not substitutes for private line services. They represent differing

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[24] T.E., May 31, 1984, pp. 109-110.

[25] MTS toll service is "ordinary" toll service, where the customer is charged on a per call basis.

types of service in an integrated telecommunications network. MTS and WATS allow access to the switched toll network, whereas private line services are isolated from both the switched local and toll network. In general, heavy MTS and WATS users who may be point to point bypass candidates can be expected to compare the LECs' private line offering with the cost of point to point bypass alternatives prior to making an economic decision to bypass. Indeed, during cross-examination, Mr. Roberts agreed that, as a general proposition, customers tend to migrate from MTS to WATS to private line services as usage demands increase.[26] It thus follows that customers most likely to consider point to point bypass will generally not be MTS or WATS users, but private line users. In light of this, point to point bypass concerns should focus on ensuring that private line rather than MTS and WATS pricing is competitive with point to point bypass alternatives.

Upon careful consideration of the evidence and for the reasons discussed above, the Commission finds that the shift from settlements procedures to an access charge environment does not currently necessitate a reduction in the amount of existing toll support for the NTS costs of the local network. Accordingly, the Commission rejects any intrastate CALCs (flat rate end user access charges) proposed in this proceeding.

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[26] Ibid.

Recovery of NTS Costs Allocated to Interexchange Carriers

Usage Sensitive Charge

The Commission in determining the proper rate structure for recovering toll-allocated intrastate NTS costs has before it two fundamentally different proposals. The first proposal is the continuation of a variant of the interim access rate structure. This rate structure would recover the residual intrastate NTS revenue requirement through the CCLC. The CCLC is an FCC rate structure designed to recover the NTS costs through usage sensitive charges until such time as the CALC is in place. In this proceeding most of the exchange and interexchange carriers advocated using this rate structure as only a transition to the new access environment, phasing out the intrastate CCLC as the FCC phases out its interstate equivalent.

However Continental and the Independent Group proposed continued use of the CCLC as a method for recovering intrastate NTS costs. Continental stated,

> The carrier common line charge would be set residually after comparing the Company's business as usual revenue requirement to a price-out of its revenue, based upon estimated units and the traffic sensitive and billing and collection rate filed in its interstate access service tariff.[27]

Under the rate structure proposed by Continental each LEC would set its own CCLC, according to the characteristics of its territory. The Independent Group proposed a mirroring of the CCLC and recovering the residual NTS revenue deficiency by establishing a

[27] Continental Brief, p. 4.

Kentucky Universal Service Fund which would "be funded by all local exchange carriers placing a surcharge. . .per access minute on all interexchange carriers for intrastate usage."[28] Revenue disbursement from the fund for LECs would equal "the amount of settlements they would have received under a business as usual approach using average schedule calculations based upon those in effect in December of 1983."[29] Both Continental and the Independent Group felt that end user charges for some carriers posed a greater threat to the achievement of universal service than did bypass. Therefore they would retain usage sensitive rates in full or in part indefinitely. In addition the Independent Group felt that individual LEC's CCLC could result in toll de-averaging, further burdening rural customers.[30]

The Commission is of the opinion that continuing the full recovery of NTS costs with usage sensitive rates could result in substantial bypass and inefficient utilization of the local network for some local exchange carriers. Though the Commission concurs with Continental and the Independent Group's contention that the threat of bypass differs among LECs, it also remains correct that the adoption of usage-based charges does lead to underutilization of the network and loss of efficiency.[31]

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[28] T.E., July 31, 1984, p. 14.

[29] T.E., August 1, 1984, p. 14.

[30] T.E., July 31, 1984, p. 13.

[31] It is also correct that the CCLC as proposed would not vary by time of day and distance. This could result in cases where the CCLC would exceed the revenues generated by the interLATA call.

Furthermore the Commission concurs with the Independent Group's concern that CCLCs set for each LEC provides a positive inducement for statewide toll deaveraging, thus doubly burdening rural users. Therefore adoption of Continental's proposal would encourage both underutilization of the network and the deaveraging of statewide toll rate. However the adoption of the Independent Group's proposal is not viable as a long run access charge structure either. The phasing out of the CCLC leads to larger and larger surcharges on usage and the ultimate frustration of the Commission's desire to replace usage-based charges with flat rates (discussed later in this Order) for recovering of NTS revenue requirements. The ultimate effect of the surcharge would be to encourage bypass for certain carriers. Therefore the Commission rejects the Continental and Independent Group proposals for permanent adoption of CCLCs.

Flat Rate Charge

For the most part, the telephone companies in this proceeding have argued that NTS costs should be recovered on a flat rate basis from end users. For several reasons, the Commission has determined that the current responsibility of interexchange carriers and their customers to pay a portion of the NTS costs associated with local exchange plant should be maintained. However, the Commission does see merit in the general principle of recovering the revenue requirement associated with NTS plant through flat rates, wherever possible. This is currently being done in the case of end users through the payment of local exchange rates. Ideally, recovery of intrastate toll-related NTS

costs allocated to interexchange carriers should also be recovered through flat rates. Abstracting from any issue of cost allocation, if it is appropriate to levy flat rate charges on end users to recover assigned revenue requirement, it is similarly appropriate to levy flat rate charges on interexchange carriers to recover the assigned portion of costs.

The Commission has before it the proposal of the AG witness, Dr. Johnson, which would impose flat rate charges on the interexchange carriers to recover their allocated portion of intrastate NTS costs. The relative share of the toll-related NTS to be paid by each interexchange carrier would be determined by "each carrier's total installed capacity relative to the capacity of other interLATA carriers."[32] The measure of capacity under the proposed tariff structure would be based on voice equivalent channels. Each interexchange carrier would be assessed a flat monthly charge based upon its voice equivalent channels. Dr. Johnson did not propose a specific rate but instead proposed to vary the rate quarterly to insure the recovery of "the total pool of intrastate toll-related NTS costs."[33] Dr. Johnson contends that the proposed rate structure would be analogous to the demand charges long assessed large users in the gas and electric industry.[34]

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[32] Testimony of Dr. Ben Johnson, p. 5.

[33] Ibid., p. 37.

[34] T.E., July 31, 1984, p. 273.

In support of the Universal Access Service Line ("ULAS") tariff, Dr. Johnson asserts that there are serious conceptual problems with the access charge approach adopted by the FCC and proposed for adoption by the large LECs in this proceeding. As a result of the conceptual flaws in the FCC tariff Dr. Johnson contends that the Commission would be seriously hampered in its efforts to attain its policy objectives of equity, efficiency, universal service and fair competition. Dr. Johnson, in contrasting the FCC plan with the ULAS tariff, asserts that the FCC approach "sacrifices universal service"[35] while it fails to "deal effectively with the problem of bypass. . ."[36] because the "FCC has significantly diluted the elements of the plan that were supposed to mitigate bypass."[37] Whereas the ULAS tariff removes the incentive for carrier bypass through the use "of charges that are by design difficult to avoid. . .,"[38] thus maintaining interexchange carriers' contributions to NTS costs and positively encouraging universal service. Dr. Johnson goes on to assert that by mirroring FCC access tariffs "the Commission would have to revise the intrastate tariff every time the FCC changes its mind" thus reducing "the Commission's regulatory role to one of simply rubber stamping. . .,"[39] but resulting in substantial

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[35] Ibid., p. 3.

[36] Ibid., p. 2.

[37] Ibid.

[38] Ibid., p. 21.

[39] Ibid., p. 33.

administrative burdens being placed on the Commission. Dr. Johnson concludes that the proposed ULAS tariff structure would permit the Commission to better meet its "policy objectives of universal service, equity, efficiency and fair competition."[40]

Considerable opposition was expressed by both the local exchange companies and the inter-exchange carriers to the AG's proposed tariff. SCB, ATTCOM, General and Sprint contend that the ULAS tariff ". . .is a transparent effort to continue a system of [toll] subsidies"[41] which is inappropriate in the new competitive environment. Furthermore ATTCOM and Sprint opposed the adoption of the ULAS tariff contending that the adoption of the tariff is "inconsistent with the [Commission] policy changes regarding competition. . ."[42] within the state. Further Sprint contends that the rate design would have a disproportionate cost impact on Other Common Carriers ("OCCs") because of lower traffic volumes on their trunks and the need for idle circuits to maintain quality of service. Sprint asserts that, "the tariff discourages carriers from placing facilities in Kentucky. . .."[43] ATTCOM goes on to argue that the results of implementing the ULAS tariff would be for "interexchange carriers to minimize capacity" which "could result in an inefficiency [inefficient] network."[44]

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40 Ibid., p.5.

41 ATTCOM Brief, p. 21

42 Ibid., p. 20.

43 Sprint Brief, p. 36.

44 ATTCOM Brief, p. 22.

The Commission does not concur with the interexchange carriers' and LECs' contention that the purpose of the ULAS tariff is to continue toll "subsidy." The Commission remains of the opinion that toll contribution to joint and common costs are appropriate under its stated policy of competition. In Administrative Case No. 273, An Inquiry into Inter- and IntraLATA Intrastate Competition in Toll and Related Services Markets in Kentucky, the Commission indicated that it did not intend to sacrifice universal service merely to insure the success of competition. The development of competition should not rely on a rate structure which insulates interexchange carriers from costs which they at least would partially assume if not for the monopoly local exchange. To the extent that the ULAS tariff requires interexchange carriers to assume these costs the Commission is of the opinion that it is appropriate. The Commission realizes that the adoption of the ULAS tariff may provide some incentive for OCCs to initially locate their facilities in other states. However the Commission is of the opinion that objections raised by Sprint are of short run validity but are interdependent for the long run. Selection of location for facilities is dependent upon not only the actions of this Commission but also upon actions of other state commissions, FCC actions, market growth and engineering considerations. This Commission is not willing to compromise universal service on the premise that all the controlling factors in OCCs' location decisions can be overcome by the rejection of the ULAS tariff. As to ATTCOM's concerns about an inefficient network, the Commission can only state that it will continue to

enforce its quality of service standards where applicable. Where these standards do not apply then that carrier or carriers will be subject to market forces which will determine the appropriateness of their quality of service.

ATTCOM contends that the proposed ULAS tariff is simply a tax on interexchange carriers and is therefore illegal. ATTCOM states, "Indeed, its identity as a tax is highlighted in <u>bold relief</u> by the progressivity of its charges based upon a carrier's relative ability to contribute toward the costs of maintaining universal service." (Emphasis added.) [45]

The Commission rejects ATTCOM's contention that a capacity-related charge is a tax. This Commission, as many other state commissions, has historically provided for demand charges on large users in both the gas and electric industry. Many of the same issues such as the proper allocation of capacity costs (joint costs) have been thoroughly explored in these industries. The Commission is not aware of any party in those proceedings contending that a capacity-related rate is a tax.

ATTCOM's assertion that the ULAS tariff proposed by Dr. Johnson is a tax is not by any precedent or authority. ATTCOM's position is fundamentally unsound, particularly in light of the following definition:

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[45] ATTCOM Brief p. 22.

[T]he term "taxation" has been held to define the power by which the sovereign raises revenue to defray the necessary expenses of government." (Emphasis supplied.)[46]

The Johnson plan is not intended or designed to recover any of the expenses of government. Rather it is a means by which private firms are being compensated by their customers for the use and benefit of access to the NTS facilities which the LECs own. No part of the ULAS tariff compensation will be paid to the government.

Sprint, General, SCB and ATTCOM allege that the adoption of the ULAS tariff will not only fail to prevent carrier bypass but will actually encourage customer bypass. In support of this position Sprint quoted from a report by G. Brock of the FCC Office of Plans and Policy where he concluded,

> Using pessimistic but plausible assumptions, no equilibrium level exists and an attempt to provide the current revenue requirements from usage charges will cause the switched network to unravel in a cycle of increased access charges, increased bypass and decreased demand, increased access charges, and so forth with no stopping point.[47]

Sprint then alleges that any flat access charge will have to be converted into a usage sensitive toll rate by the interexchange carriers with the same customer bypass. ATTCOM, General and SCB go on to conclude that once a customer leaves the switched network the loss is virtually permanent. Therefore these carriers contend that adoption of the ULAS tariff will exacerbate bypass,

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[46] 71 AmJur2d State and Local Taxation, p. 342.

[47] Sprint Brief, p. 42.

loss of revenue by the LECs and permanent rate increases for the consumers.

The Commission as it has stated before in this Order and in other Orders is concerned with the potential impact of bypass on the long run viability of the LECs. However these concerns will not and should not degenerate into relieving the interexchange carriers of their responsibility for paying toll's share of NTS costs. The Commission concurs with Dr. Johnson's assessment that carrier bypass presents the largest bypass problem to LECs and that a rate structure has to be constructed which will not permit the interexchange carrier to avoid these costs. The Commission is of the opinion that the ULAS tariff provides this rate structure. The Commission simply does not agree with Sprint that a flat access charge has to be converted into a usage-sensitive toll rate. Considerable pricing flexibility is available to the interexchange carriers for the purpose of recovering these costs. The Commission continues to be of the opinion that specific rates and rate design have to be developed to address the issue of private bypass and applied to meet the specific circumstances of the customer.

SCB, General, Continental and Cincinnati Bell opposed the adoption of any rate structure for recovering NTS costs other than partial mirroring of the FCC rate structure. These carriers contend that the administrative cost of developing, implementing and maintaining a separate access rate structure for Kentucky would be substantial. SCB's witness, Mr. Roberts, testified,

> It would cause two processes to be set up to administer such a tariff--two systems. Our people would

have to be trained to handle two separate systems. This is not only a difficult task, but it would be a costly task for the company.[48]

Dr. Johnson countered the LEC arguments by stating,

> Another serious problem with attempting to mirror the interstate tariffs is that it requires the intrastate tariffs to be revised each time the interstate tariff is modified.[49]

Dr. Johnson went on to state,

> . . .although from the utilities' perspective there may be some administrative advantages in using the interstate tariffs for intrastate purposes, from the Commission's perspective there are offsetting administrative disadvantages.[50]

Dr. Johnson concluded that the Commission should consider its regulatory goals in adopting an access rate structure and minimize the administrative costs of the system.

The Commission concurs that an additional rate structure will add incrementally to the administrative cost burden of the companies. However the Commission is aware that on a selected basis many of the LECs have both proposed and adopted non-uniform access tariff elements. For the most part the personnel and equipment necessary for implementing the ULAS tariff are already employed by the LECs so the additional cost will be minimal. Finally the Commission is firmly convinced that its regulatory objectives should be its first consideration when adopting the access rate structure and not solely administrative costs.

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48 T.E., May 31, 1984, p. 20.

49 Testimony of Dr. Ben Johnson, p. 33.

50 Ibid.

The Commission is of the opinion and finds that the ULAS tariff should be adopted in Kentucky. The advantage of discouraging carrier bypass while maintaining a contribution to the joint costs of providing the local exchange network more than offsets any additional administrative costs and competitive losses. The Commission is strongly of the opinion that the level of residential telephone penetration must be maintained and expanded in areas where universal service has not been achieved. The ULAS tariff provides this opportunity.

However, there are numerous technical issues to be resolved prior to implementation of this plan. For this reason, and in light of the novel aspects of this plan and lack of experience with it, the Commission finds it appropriate to recover only a portion of the NTS costs assigned to interexchange carriers via this mechanism. This portion will be a residual revenue requirement that remains after revenues associated with the approved intrastate CCLC, which is equal to or less than the FCC approved CCLC, are recovered. This will ensure that unintended side effects are of smaller magnitude and will afford the Commission, interexchange carriers, and LECs opportunity to gain experience with a flat rate recovery mechanism. As the CCLC is phased down at the interstate level, and at the intrastate level through mirroring, some or all of the associated revenue requirements can be transferred for recovery via flat rate channel charges.

Recovery of Traffic Sensitive Costs

All parties were in agreement on a basic approach to the allocation and recovery of traffic sensitive costs associated

with toll usage. This basic approach is that these costs should be assigned to interexchange carriers on a usage basis and recovered from their customers' toll rates. This can be accomplished by mirroring the traffic sensitive elements of the interstate access charge tariffs.

The Commission finds that, in the case of Traffic Sensitive ("TS") elements, there exists no evidence to indicate that a departure from the interstate structure and rates is warranted. Accordingly, the Commission will approve the TS tariffs as proposed by the LECs, but for administrative purposes will defer implementation until April 1, 1985.

The Access Discount

The Commission has determined in this Order that facilities-based carriers will pay discounted access charges for Feature Group A ("FG-A") and Feature Group B ("FG-B") access, and that such charges will mirror the discount authorized by the FCC for interstate access rates. There are a variety of technical reasons which justify this discount.

The OCCs generally receive FG-A access, which constitutes line-side connections that are normally related to local-grade access. ATTCOM, on the other hand, receives trunk-side, or toll-grade connections referred to as Feature Group C ("FG-C"). FG-A access requires OCC customers to input 22 to 24 digits, compared to the 8 to 11 digits which ATTCOM customers must dial. Additionally, OCC customers must have pushbutton or tone access since rotary dial telephones cannot access the OCC switch. This is because dial pulse signals cannot be transmitted to the OCC switch

under FG-A. ATTCOM customers, on the other hand, can access ATTCOM toll switches with either rotary dial or pushbutton telephones since both types of signals can be transmitted with FG-C.

Further, FG-A type connections cannot provide automatic number identification ("ANI"), and therefore OCC customers must input a personal identification number ("PIN") for billing purposes. The OCCs must then incur the expense of additional holding time on calls because of the extra digits that must be input. ATTCOM, on the other hand, receives ANI through its FG-C access.

Additionally, the FG-A interconnection does not in many cases allow the OCC to identify the central office from which its customers are calling, a situation which can create difficulty with OCC traffic forecasting and also can increase the potential fraudulent use of OCC facilities. FG-A access also cannot provide answer supervision, which triggers the timing and billing mechanism, thus creating potential problems in determining the difference between completed and uncompleted calls. These problems simply do not exist with FG-C as used by ATTCOM. Finally, FG-A access provides inferior transmission performance, relative to FG-C access, in terms of potential noise, echo, and loss problems, which to the extent these problems occurs require the OCC to incur additional expense for equipment to compensate for these conditions (e.g., "conditioning" equipment).

In some situations, FG-B is available to the OCCs. FG-B is a trunk-side interconnection which provides both direct and tandem routing of calls. FG-B, however, presents problems to the

OCCs because of the nonuniformity of the features such as ANI and rotary dial access. For example, FG-B direct access will allow access to an OCC switch from rotary dial telephones, but the ANI available under FG-B direct has a different signaling arrangement than ANI provided under FG-C, thus increasing holding time. Additionally, the type of routing (direct or tandem) is determined by the facilities available in each end office.

Where FG-B tandem is utilized, ANI is not available, nor can a rotary dial telephone be used to access the OCC switch without the use of a tone generator. Without ANI, OCC customers must input their PIN, resulting in the problems already discussed herein. Finally, FG-B tandem utilizes local switching and trunking, thereby requiring conditioning equipment to compensate for potential noise, echo, and loss problems.

In summary, even though under some circumstances FG-B provides a better quality of access than FG-A, the lack of availability and nonuniformity of features available under FG-B present serious problems to the OCCs. FG-A and FG-B interconnections are simply not equal in quality of transmission, the uniformity of features and services, and availability in every end office of FG-C, available only to ATTCOM as an interLATA carrier. Furthermore the OCCs have engineered their systems for FG-A access. ATTCOM's contention that the OCCs can reconfigure their systems for FG-B ignores the substantial costs involved with such an endeavor, particularly since an additional reconfiguration will be required with the advent of equal access. Therefore the

Commission rejects the assertion that FG-B provides OCCs local access equivalent to ATTCOM's.

For all these technical reasons, the Commission has determined that an access discount equal to that directed by the FCC for interstate access is appropriate for OCCs on an intrastate, interLATA basis. However, as equal access, or Feature Group D ("FG-D") becomes available to the OCCs, the inferior access problems will no longer exist, and it is reasonable that the discount be eliminated in each central office as FG-D becomes available in that office.

REVENUE REQUIREMENT AND ACCESS COMPENSATION

Introduction

At this time, the Commission will restrict itself to a tentative analysis of revenue requirement and an outline of the access compensation plan that will replace the interim access compensation plan. To the extent that specific revenue requirement is discussed in this Order, it is based on data furnished to the Commission by Cincinnati Bell and SCB in response to the Commission's Order of December 29, 1983, which established the Commission's interim access compensation plan and required data on interLATA access compensation and intraLATA pool compensation among the LECs for the year 1984. SCB has filed data for the period January-August, reporting its own information and information for all other LECs except Cincinnati Bell, which is not associated with any LATA. Cincinnati Bell has filed its own data for the period January-August.

Since a full 12-month data base is not available at this time, the Commission has annualized the information filed by Cincinnati Bell and SCB for the purpose of the illustrative discussion of revenue requirement in this Order. As additional data are filed from month to month, the annualized information discussed in this Order will be adjusted to reflect actual inter-LATA access compensation and intraLATA pool compensation for the year 1984. The Commission anticipates that the annualized data discussed in this Order will not change substantially as additional information is filed and that complete information for the year 1984 will be available early in the first quarter of 1985.

As such, this case does not involve rate adjustments to recover increased revenue requirement. Instead, it involves a redistribution of existing revenue requirement between the inter-LATA and intraLATA markets and the establishment of rates necessary to recover the redistributed revenue requirement. Moreover, the use of annualized data in this Order is an unavoidable condition of the record in this case, where, unlike corporate financial records in general, less than a 12-month data base is available at this time. In part, this is a consequence of the statutory time limitation imposed on the Commission by General's and SCB's access service tariff exhibits in the case. Had these LECs not exercised the 5-month and 20-day statutory notice option, then additional time would be available to the Commission during which a 12-month data base could be accumulated.

As all parties to this case are aware, on December 29, 1983, the Commission adopted an interim access compensation plan

based in part on interLATA access service tariffs, effective January 1, 1984, and in part on an intraLATA compensation pool, pending conclusion of this case. Since its Interim Order, several additional hearings have been held and additional information and briefs have been filed. The Commission is now prepared to outline an access compensation plan that will replace the interim access compensation plan. At the same time, the Commission is of the opinion that the interim access compensation plan must continue until technical details of the access compensation plan discussed in this Order are addressed. As in the case of revenue requirement data, technical details of the access compensation plan discussed in this Order should be available in the first quarter of 1985. The Commission should be able to implement the access compensation plan discussed in this Order on or about April 1, 1985.

InterLATA and IntraLATA Revenue Requirement

In this Order, the Commission will establish interLATA and intraLATA revenue requirement based on 1984 settlements using 1983 settlement methodology, as reported by SCB in response to the Commission's Order of December 29, 1983, except in the cases of Cincinnati Bell, General, and SCB, where information is available that permits adjustments to interLATA and intraLATA revenue requirement. Accordingly, the Commission finds annualized interLATA and intraLATA revenue requirement to be $169,715,117, as detailed in Table 1 attached to this Order, not including Cincinnati Bell, which is not associated with any LATA. In the case of Cincinnati Bell, interLATA and intraLATA revenue

requirement will be set at $6,269,000, consistent with its showing in this case.[51]

In the absence of cost separations, the only basis on which the Commission can determine revenue requirement is the revenue necessary to maintain "business as usual" operations among the LECs, i.e., the revenue that would otherwise have been received from the former separations and settlement process. In addition, adoption of this approach to revenue requirement will allow the Commission to maintain revenue stability among the LECs. This has been and continues to be a priority objective of the Commission. Furthermore, the Commission advises all parties to this case that although it recognizes that a business as usual approach to revenue requirement is an imperfect short term solution to a long term problem, it will continue to utilize this approach and revise revenue requirement on a periodic basis to match business as usual conditions, until such time as the LECs develop and implement a cost separations approach to revenue requirement. In a subsequent section the Commission has determined that each LEC should develop company-specific information. Needless to say, the Commission's continued use of a business as usual approach to revenue requirement will require continued reporting by SCB and Cincinnati Bell on monthly settlements using 1983 settlement methodology.

The Commisssion will emphasize that it does not expect a business as usual approach to revenue requirement to continue

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[51] See Exhibit A, Second Revised Testimony of Robert E. Sigmon.

indefinitely. All LECs should begin to develop a cost separations methodology as soon as possible, in anticipation of the time when each LEC may be required to stand alone relative to the interLATA and intraLATA marketplaces. Logically, it appears to the Commission that a cooperative effort among the LECs would be reasonable. Such a cooperative effort would encourage administrative efficiency and permit cost sharing among the LECs.

Under both the Commission's interim access compensation plan and the compensation plan outlined in this Order, each LEC's revenue requirement will be recovered from the interLATA and intraLATA markets without the imposition of end user charges. This requires an allocation of revenue requirement between the interLATA and intraLATA markets for the purpose of interLATA access compensation and intraLATA pool compensation. The Commission will first discuss interLATA access compensation.

InterLATA Revenue Requirement and Access Compensation

In this Order, the Commission will establish interLATA revenue requirement based on interLATA access compensation for the year 1984, as reported by SCB in response to the Commission's Order of December 29, 1983, except in the cases of Cincinnati Bell, General, and SCB, where information is available that permits adjustments to interLATA revenue requirement. In the case of Cincinnati Bell, interLATA revenue requirement will be set at $4,268,000, consistent with its showing in this case.[52] In the case of General, interLATA revenue requirement will be set

[52] Ibid.

at $19,993,124, consistent with its showing in this case.[53] In the case of SCB, interLATA revenue requirement will be set at $37,200,000, consistent with the Commission's finding in Case No. 8847.

The Commission acknowledges that SCB proposed to reduce its interLATA revenue requirement to $34,400,000 in this case. However, the Commission finds that SCB failed to provide sufficient evidence to justify such a reduction. The only evidence in the record of the case to support such a reduction in interLATA revenue requirement is represented in testimony unsupported by any financial exhibits necessary to a determination of revenue requirement.[54] Therefore, the Commission will deny SCB's proposed reduction in its interLATA revenue requirement.

Table 2 attached to this Order details interLATA access compensation and revenue requirement under the Commission's interim access compensation plan. It shows annualized interLATA access compensation in the amount of $58,613,314 and annualized interLATA revenue requirement in the amount of $61,829,519, not including Cincinnati Bell, which is not associated with any LATA.

Several notes concerning Table 2 are in order.

First, in the case of Cincinnati Bell, annualized network compensation is shown as $720,000, as reported by Cincinnati Bell in response to the Commission's Order of December 29, 1983. The

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[53] See Exhibit 1, General Telephone Company of Kentucky, Transmittal dated June 14, 1984.

[54] See Testimony of Mr. E. C. Roberts, Jr.

Commission will take notice of other information filed in this case that indicates network compensation in the amount of $1,006,000[55] and will require Cincinnati Bell to file a reconciliation concerning network compensation. Also, as compared to its interLATA revenue requirement, Cincinnati Bell shows a residual interLATA access compensation sufficiency in the amount of $200,304. Information filed by Cincinnati Bell in this case indicates that its proposed access service tariff will eliminate this sufficiency.[56] However, the extent to which it is eliminated is dependent upon Cincinnati Bell's reconciliation of network compensation and rate decisions that may be made after review of that information by the Commission.

Second, in the case of General, annualized network compensation is shown as $6,653,208, as reported by SCB in response to the Commission's Order of December 29, 1983. The Commission will take notice of other information filed in this case and in Case No. 8998, Application of General Telephone Company of Kentucky and AT&T Communications of the South Central States, Inc., for Approval of the Lease of Certain Property to AT&T Communications of the South Central States, Inc., that indicates network compensation in the amount of $7,945,996.[57] Therefore, the Commission

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[55] See Exhibit A, Second Revised Testimony of Robert E. Sigmon.

[56] Ibid.

[57] See Case No. 8838, Exhibit 1, General Telephone Company of Kentucky, Transmittal dated June 14, 1984, and Case No. 8998, Exhibit 1, General Telephone Company of Kentucky, Transmittal dated July 23, 1984.

will require General to file a reconciliation concerning network compensation. Also, as compared to its interLATA access compensation, General shows a shortfall or residual interLATA revenue requirement in the amount of $475,344. Information filed by General in this case and in Case No. 8998 indicates that its proposed access service tariff will eliminate this deficiency.[58] However, the extent to which it is eliminated is dependent upon General's reconciliation of network compensation and rate decisions that may be made after review of the information by the Commission.

Third, in the case of SCB, as compared to its interLATA access compensation, SCB shows a shortfall or residual interLATA revenue requirement in the amount of $2,740,861. Information filed by SCB in this case indicates that its proposed access service tariff will exacerbate this deficiency,[59] unless the Commission imposes end user charges, which it will not do.

The residual interLATA revenue requirement under the Commission's interim access compensation plan is $3,216,205, not including Cincinnati Bell, which is not associated with any LATA. The entire residual is attributable to General and SCB. Under its interim access compensation plan, the Commission provided a "make-whole" compensation mechanism through which this deficiency could be recovered. In this Order, the Commission has outlined

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[58] See Exhibits 1 and 2, General Telephone Company of Kentucky, Transmittal dated June 14, 1984.

[59] See South Central Bell Telephone Company, Kentucky Priceout Intrastate InterLATA, Net Access Revenues, filed May 30, 1984.

an alternative recovery mechanism that will be implemented upon the completion of technical conferences and the development of an appropriate tariff.

The residual interLATA revenue requirement that exists under the Commission's interim access compensation plan will grow under access service tariffs proposed by the LECs in this case. It can also be expected to grow in the future as non-traffic sensitive expenses continue to be reallocated in the interstate jurisdiction and the LECs file with this Commission to mirror interstate tariffs, as they have done in this case. Moreover, it will not be limited to General and SCB, but will be shared by all LECs.

Table 3 attached to this Order details LEC residual interLATA revenue requirement under access service tariffs proposed to be effective coincident with this Order and the implementation of the access compensation plan outlined in this Order. It shows residual interLATA revenue requirement in the amount of $6,132,760, based solely on a reduction of the CCLC from $0.065 per minute of use to $0.0524 per minute of use as proposed by all LECs, except Cincinnati Bell, which proposed a CCLC of $0.0406 per minute of use, Continental, which proposed to maintain its CCLC at $0.065 per minute of use, and General, which proposed a CCLC of $0.04163 per minute of use. It should be noted that since no LEC will be permitted a CCLC greater than the CCLC authorized by the FCC for interstate application, Continental will not be allowed to maintain its CCLC at $0.065 per minute of use and that its residual interLATA revenue requirement is based

on a CCLC of $0.0524 per minute of use. Also, since LECs will be permitted a CCLC less than the CCLC authorized by the FCC for interstate application on showing no residual interLATA revenue requirement, Cincinnati Bell's and General's residual interLATA revenue requirement is based on respective CCLCs of $0.0406 and $0.04163 per minute of use.

Table 3 shows only the impact of a reduced CCLC because the Commission has insufficient data to also reflect modified traffic sensitive and billing and collection charges, except in the cases of Cincinnati Bell, General, and SCB. In order to obtain the complete data necessary to establish the flat rate carrier channel charge outlined in this Order, the Commission will require SCB to file information on behalf of all other LECs that shows the residual interLATA revenue requirement impact of all access service tariff rate categories.

Last, on the subject of interLATA revenue requirement and access compensation, under the Commission's interim access compensation plan, interLATA access compensation was determined on a "bill and keep" basis. Various of the LECs have filed briefs in this case stating the position that interLATA access compensation should continue on a bill and keep basis. The Commission has no objection to allowing this arrangement to continue, except in the instance of the flat rate carrier channel charge, where a pool is necessary to assure efficient recovery and disbursement of the residual interLATA revenue requirement to insure all LECs meet their interLATA revenue requirement found in this Order or as it may be adjusted by new data available in the first quarter of

1985. Moreover, the Commission is of the opinion that SCB should be designated to administer the interLATA pool.

IntraLATA Revenue Requirement and Pool Compensation

In this Order, the Commission has based interLATA revenue requirement on interLATA access compensation for the year 1984. Likewise, the Commission will base intraLATA revenue requirement on intraLATA pool compensation for the year 1984, as reported by SCB in response to the Commission's Order of December 29, 1983, except in the case of Cincinnati Bell, which did not participate in the intraLATA pool and where information is available that permits adjustments to intraLATA revenue requirement. In the case of Cincinnati Bell, annualized intraLATA revenue requirement will be set at $2,001,000, consistent with its showing in this case.[60]

Table 4 attached to this Order details intraLATA pool compensation and revenue requirement under the Commission's interim access compensation plan. It shows annualized intraLATA pool access compensation, network and administrative expense reimbursement, and residual distribution in the amount of $103,612,580, not including Cincinnati Bell, which did not participate in the intraLATA pool. This amount added to net intraLATA pool make-whole compensation of $14,273,018 results in an annualized intraLATA revenue requirement in the amount of $107,885,598, not including Cincinnati Bell, which did not participate in the intraLATA pool. (Annualized 1984 settlements

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[60] See Exhibit A, Second Revised Testimony of Robert E. Sigmon.

using 1983 settlement methodology total $169,715,117. Thus, under the Commission's interim access compensation plan, annualized intraLATA pool make-whole compensation in the net amount of $4,273,018 is required.)[61]

Funds for intraLATA pool compensation are generated through toll service schedules that apply in the intraLATA market. All LECs concur with these toll service schedules developed by SCB. In view of these facts, it is incumbent upon SCB to certify to the Commission that its toll service schedules generate funds sufficient to meet the intraLATA revenue requirement stated in this Order. In the event that a significant difference exists, toll service schedule rate adjustments may be in order, although information available to the Commission leads it to anticipate that in total no substantial toll service schedule rate adjustments will be necessary.

Under the Commission's interim access compensation plan, SCB was designated as administrator of the intraLATA pool. Various of the LECs have filed briefs in this case stating the position that the intraLATA pool arrangement should continue. The Commission is of the opinion that an intraLATA pool should continue and that SCB should continue as administrator of the intraLATA pool. However, the Commission is also of the opinion that certain modifications should be made to the intraLATA pool and that certain clarifications should be made concerning its operation.

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61 [$169,715,117 - ($61,829,519 + $103,612,580)].

First, under its interim access compensation plan, the Commission provided a make-whole compensation mechanism to assure revenue stability among the LECs. In view of the substantial uncertainty concerning revenue requirement at the time of the Commission's Interim Order, the make-whole compensation mechanism was a prudent condition for allowing access service tariffs to become effective. Under the access compensation plan outlined in this Order, a make-whole compensation mechanism is no longer necessary and should be discontinued, as 1984 baseline net make-whole compensation has been incorporated into the intraLATA revenue requirement previously established and stated above.

Second, intraLATA pool compensation should occur on the basis of, first, intraLATA access compensation based on each LEC's access service tariff traffic sensitive, billing and collection, and special access rates, second, in the case of cost schedule LECs, intraLATA network and administrative expense reimbursement, and, third, an intraLATA LEC-specific CCLC-type compensation rate designed to residually match each LEC's intraLATA revenue and revenue requirement. Any revenue remaining in the intraLATA pool after intraLATA compensation has been made in this manner may continue to be distributed among the LECs in proportion to their share of intraLATA subscriber access lines.

The elimination of the make-whole compensation mechanism and introduction of an intraLATA CCLC-type compensation rate requires that the LECs share rewards and risks in the intraLATA market. Insofar as economic or competitive conditions are favorable within the intraLATA market as a whole or within particular

LEC service areas, the LECs collectively and individually will benefit from growth in the use of the intraLATA toll service network. The reverse condition is also true. That is, insofar as economic or competitive conditions are unfavorable within the intraLATA market as a whole or within particular LEC service areas, the LECs will share the risk of a real or relative decline in earnings. The Commission is of the opinion that there is no more reasonable solution to the issue of intraLATA pool compensation at the present time.

The Commission recognizes that the approach to intraLATA pool compensation outlined in this Order approximates the operation of the intraLATA pool under its interim access compensation plan, except in the instance of the make-whole compensation mechanism, which the Commission finds to be no longer necessary. Nonetheless, as a matter of record, the Commission will require SCB to file a technical description of procedures necessary to implement and administer intraLATA pool compensation as outlined in this Order. Furthermore, the Commission will also require all LECs to file a statement of agreement with the intraLATA pool compensation plan outlined in this Order.

RATES AND TARIFFS

Introduction

On December 29, 1983, the Commission approved interim intrastate access service tariffs for Cincinnati Bell, General, and SCB. In addition, the Commission required all other LECs to concur in SCB's interim intrastate access service tariff. Later, on January 10, 1984, the Independent Group petitioned the

Commission to allow its members to use NECA billing and collection rates, as opposed to those contained in SCB's intrastate access service tariff. On January 13, 1984, Continental joined in the Independent Group's petition. Subsequently, on January 19, 1984, the Commission issued an Amended Interim Order granting the Independent Group's petition.

Since the Commission's Interim Order, various intrastate access service tariff changes have been filed with the Commission by Cincinnati Bell, General, and SCB. As well, SCB has filed NECA access service tariff changes on an informational basis. In general, access service tariff changes have been made to mirror changes required by the FCC in interstate access service tariffs in various Orders in CC Docket No. 78-72, MTS/WATS Market Structure, and, especially, in CC Docket No. 83-1145, Investigation of Access and Divestiture-Related Tariffs.

The Commission will permit the LECs under its jurisdiction to mirror their interstate and the NECA access service tariffs, at least in the short term, except as modifications are required by the Commission in this Order. However, the Commission cautions the LECs that its recognition of the concept of mirroring and the administrative efficiencies that may result from mirroring do not mean that the LECs can automatically change access service tariff rates, rules, and regulations to mirror changes made in interstate access service tariffs. Instead, the Commission's statutory and administrative requirements will apply to access service tariff rates, rules, and regulations in the same manner as they apply to all other LEC tariffs. Furthermore, in

the long term, the Commission advises the LECs that as they develop and implement a cost separations approach to revenue requirement, it is less likely that mirroring will be a viable option.

Although specific information is not available in the record of this case, it is recognized by the Commission that the cost of providing interLATA access service is likely to vary considerably among the LECs. Under the pre-divestiture separations and settlements process, Cincinnati Bell, Continental, General, and SCB received intrastate toll settlements on a cost plus earned rate of return basis, while all other LECs under the jurisdiction of the Commission received intrastate toll settlements on an average schedule basis. In the post-divestiture environment, it is the opinion of the Commission that it is essential that the LECs develop and implement an intrastate cost separations methodology that can be used to design intrastate access service tariff rates and charges, rather than relying on mirrored interstate access service tariff rates and charges. The former cost settlement LECs have begun to develop cost separations methodology. The Commission commends these efforts in the belief that intrastate cost separations are more likely to address bypass and other concerns expressed by the LECs than the simple mirroring of interstate access service rates and charges, and suggests that the former average settlement LECs should begin a similar effort.

Cincinnati Bell

As indicated above, on December 29, 1983, the Commission approved Cincinnati Bell's Access Service Tariff, PSCK No. 1, as filed on September 30, 1983, on an interim basis and subject to refund, effective January 1, 1984, except Section 3, Carrier Common Line Access Service, where the CCLC was set at $0.065 per minute of use, and except Section 4, End User Access Service, which was disallowed.

On January 16, 1984, Cincinnati Bell filed revised pages to the September 30, 1983, version of its access service tariff, Section 4, End User Access Service. The change was to reference Cincinnati Bell's access service tariff as filed in Ohio and thereby incorporate end user rates under consideration in Ohio at that time. Subsequently, on April 13, 1984, Cincinnati Bell refiled its access service tariff to mirror numerous changes required by the FCC in Cincinnati Bell's interstate access service tariff. Indeed, the revised access service tariff consisted of no more than references to Cincinnati Bell's interstate access service tariff, except in instances where it proposed deviations. On April 20, 1984, Cincinnati Bell filed revised pages to the April 13, 1984, version of its access service tariff, Section 3, Carrier Common Line Access Service, to adjust its interstate CCLC to a level necessary to recover intrastate CCLC revenue requirement, and Section 4, End User Access Service, to mirror its Ohio end user rates. Later, on May 25, 1984, Cincinnati Bell again refiled its access service tariff to again mirror numerous changes required by the FCC in Cincinnati Bell's interstate

access service tariff, except Section 3, Carrier Common Line Access Service, where the interstate CCLC was adjusted to a level necessary to recover intrastate CCLC revenue requirement, and Section 4, End User Access Service, which was deleted, and other miscellaneous areas where it proposed deviations.

In general, Cincinnati Bell's access service tariff mirrors its own interstate and the NECA access service tariff, except Section 3, Carrier Common Line Access Service, where the interstate CCLC has been adjusted to a level necessary to recover intrastate CCLC revenue requirement, Section 4, End User Access Service, which is deleted, Section 7, Special Access Service, which states that rates apply to carriers rather than carriers and customers, as required by the FCC for interstate application, Section 8, Billing and Collection Services, where rates are based on local rather than national average cost, and Section 12, Specialized Service Or Arrangements, where Cincinnati Bell would not tariff special assembly arrangements, as required by the FCC in the interstate market.

The Commission has the following reservations concerning Cincinnati Bell's access service tariff as filed May 25, 1984:

First, various changes must be made to the access service tariff consistent with the access compensation plan outlined in this Order. Most significantly, Cincinnati Bell must incorporate the flat rate carrier channel charge discussed elsewhere in this Order. This change cannot be accomplished until on or about April 1, 1985.

Second, consistent with discussion elsewhere in this Order, Cincinnati Bell must provide a reconciliation of network compensation in order that the Commission can make a determination that Cincinnati Bell's CCLC is set at the appropriate level. Insofar as the reconciliation of network compensation leads to a change in Cincinnati Bell's CCLC, the change will be ordered and must be incorporated in its access service tariff.

Third, Section 7, Special Access Service, is under reconsideration by the FCC. The Commission anticipates that at such time as the FCC completes its investigation, Cincinnati Bell will refile Section 7 on both an interstate and intrastate basis. At this time, the revenue effect of any forthcoming changes is entirely unknown. However, any revenue effect must be reconciled with Cincinnati Bell's revenue requirement through an adjustment to its intrastate CCLC, except to the extent that it might exceed $0.0524, in which case a residual amount would apply to the flat rate carrier channel charge. In view of these considerations, the Commission is of the opinion that approval of Section 7 would be premature.

Fourth, in no case will the Commission permit rates, rules, and regulations contained in Cincinnati Bell's or any other LEC's access service tariff to reference its interstate or the NECA access service tariff with no additional information. All access service tariff rates, rules, and regulations must be stated, or, in the event they are referenced to another access service tariff, then the referenced material must be filed and

maintained by Cincinnati Bell or any other LEC as an addendum to its access service tariff.

As indicated elsewhere in this Order, it is the opinion of the Commission that its interim access compensation plan must continue until technical details of the access compensation plan outlined in this Order are addressed. In addition, the access compensation plan outlined in this Order will require various changes in Cincinnati Bell's access service tariff that must be made by Cincinnati Bell and reviewed by the Commission before the access service tariff can be approved. Therefore, the Commission will not approve Cincinnati Bell's access service tariff as filed on May 25, 1984. Instead, the Commission will require that Cincinnati Bell's access service tariff as filed on September 30, 1983, continue in effect on an interim basis and subject to refund, until such time as the Commission approves an access service tariff consistent with the access compensation plan outlined in this Order.

General

In the case of General, on December 29, 1983, the Commission approved General's Facilities for Intrastate Access Tariff, P.S.C. Ky. No. 6, as filed on September 30, 1983, on an interim basis and subject to refund, effective January 1, 1984, except Section 13, End User Facilities for Intrastate Access, which was disallowed. Subsequently, on April 13, 1984, and June 14, 1984, General refiled its Facilities for Intrastate Access Tariff, in order to mirror numerous changes required by the FCC in General's Facilities for Interstate Access Tariff. The changes required by

the FCC included nomenclature, definitions, and rate changes, as well as the addition of new tariff language, the relocation of various provisions in the tariff, and the deletion of various tariff sections.

In general, General's Facilities for Intrastate Access Tariff mirrors its own and the NECA access service tariff, except Section 12, Carrier Common Line Service, where the CCLC has been adjusted to a level necessary to recover intrastate revenue requirement, and Section 13, End User Facilities for Intrastate Access, which does not provide for any end user charges.

The Commission has the following reservations concerning Generals's access service tariff:

First, various changes must be made to the access service tariff consistent with the access compensation plan outlined in this Order. Most significantly, General must incorporate the flat rate carrier channel charge discussed elsewhere in this Order. This change cannot be accomplished until on or about April 1, 1985.

Second, consistent with discussion elsewhere in this Order, General must provide a reconciliation of network compensation in order that the Commission can make a determination that General's CCLC is set at the appropriate level. Insofar as the reconciliation of network compensation leads to a change in General's CCLC, the change will be ordered and must be incorporated in its access service tariff.

Third, Section 4, Special Access, is under reconsideration by the FCC. The Commission anticipates that at such time as the

FCC completes its investigation, General will refile Section 4 on both an interstate and intrastate basis. At this time, the revenue effect of any forthcoming changes is entirely unknown. However, any revenue effect must be reconciled with General's revenue requirement through an adjustment to its intrastate CCLC, except to the extent that it might exceed $0.0524, in which case a residual amount would apply to the flat rate carrier channel charge. In view of these considerations, the Commission is of the opinion that approval of Section 4 would be premature.

As indicated elsewhere in this Order, it is the opinion of the Commission that its interim access compensation plan must continue until technical details of the access compensation plan outlined in this Order are addressed. In addition, the access compensation plan outlined in this Order will require various changes in General's access service tariff that must be made by General and reviewed by the Commission before the access service tariff can be approved. Therefore, the Commission will not approve General's access service tariff as filed on June 14, 1984. Instead, the Commission will require that General's access service tariff as filed on September 30, 1983, continue in effect on an interim basis and subject to refund, until such time as the Commission approves an access service tariff consistent with the access compensation plan outlined in this Order.

SCB

In the case of SCB, on December 29, 1983, the Commission approved SCB's Access Services Tariff, P.S.C. Ky. Tariff G, as filed on October 3, 1983, on an interim basis and subject to

refund, effective January 1, 1984, except Section G4, Carrier Common Line Access Service, where the CCLC was set at $0.065 per minute of use. Subsequently, on April 13, 1984, and May 30, 1984, SCB refiled its access service tariff, in order to mirror numerous changes required by the FCC in SCB's interstate access service tariff. The changes required by the FCC included nomenclature, and changes in rates and rate application.

In addition to a revised access service tariff, SCB proposed changes in the rate treatment of WATS in this case. On October 3, 1983, SCB filed revised pages to its General Subscriber Services Tariff, Section A19, WATS, that had the effect of shifting WATS flat rate monthly and installation charges to its access service tariff. This shift in WATS rate treatment was approved by the Commission's Interim Order in this case on December 29, 1983. On April 13, 1984, and May 30, 1984, SCB filed revised pages to its General Subscriber Services Tariff, Section A19, WATS, that have the effect of restoring WATS flat rate monthly and installation charges to its General Subscriber Services Tariff.

SCB's WATS proposal is essentially a tariff correction that restores its competitive position relative to ATTCOM, which mirrors SCB's General Subscriber Services Tariff, Section A19, WATS, as it existed prior to the Commission's Interim Order in this case. The Commission has no objection to this tariff correction and and can find no objection in the record of this case from any intervenor. Therefore, the Commission will allow it.

The Commission has the following reservations concerning SCB's access service tariff:

First, various changes must be made to the access service tariff consistent with the access compensation plan outlined in this Order. Most significantly, SCB must incorporate the flat rate carrier channel charge discussed elsewhere in this Order. This change cannot be accomplished until on or about April 1, 1985.

Second, Section G7, Special Access Service, is under reconsideration by the FCC. The Commission anticipates that at such time as the FCC completes its investigation, SCB will refile Section G7 on both an interstate and intrastate basis. At this time, the revenue effect of any forthcoming changes is entirely unknown. However, any revenue effect must be reconciled with SCB's revenue requirement through an adjustment to its intrastate CCLC, except to the extent that it might exceed $0.0524, in which case a residual amount would apply to the flat rate carrier channel charge. In view of these considerations, the Commission is of the opinion that approval of Section G7 would be premature.

As indicated elsewhere in this Order, it is the opinion of the Commission that its interim access compensation plan must continue until technical details of the access compensation plan outlined in this Order are addressed. In addition, the access compensation plan outlined in this Order will require various changes in SCB's access service tariff that must be made by SCB and reviewed by the Commission before the access service tariff can be approved. Therefore, the Commission will not approve

SCB's access service tariff as filed on May 30, 1984. Instead, the Commission will require that SCB's access service tariff as filed on October 3, 1983, continue in effect on an interim basis and subject to refund, until such time as the Commission approves an access service tariff consistent with the access compensation plan outlined in this Order.

NECA Access Service Tariff

All LECs except Cincinnati Bell, General, and SCB have indicated to the Commission that they want to adopt the NECA access service tariff for intrastate use. However, no LEC has sponsored the NECA access service tariff for intrastate use, although SCB has filed the NECA access service tariff with the Commission for informational purposes.

The Commission is of the opinion that this situation must be corrected. If LECs under the jurisdiction of the Commission want to adopt the NECA access service tariff for intrastate use, then they must either individually or as a group file and maintain a version of NECA access service tariff applicable to the intrastate jurisdiction. Otherwise, the Commission will require that they concur with Cincinnati Bell's, General's, or SCB's access service tariff.

Furthermore, any version of the NECA access service tariff filed with the Commission must be consistent with the access compensation plan outlined in this Order.

Other Tariff Proposals

Disconnection of Local Exchange Service

The Billing and Collection Tariffs proposed by the various LECs in this proceeding included a provision that would permit the LECs to disconnect local exchange service for nonpayment of interexchange carrier services billed by the LEC. Similar provisions were included in the interstate access charge proposals made by the LECs to the FCC.

During the period of interstate tariff review at the FCC this provision was drawn into question by several commenters who contended LECs should not be permitted to discontinue local exchange service for nonpayment of interexchange service bills. In the Section-by-Section Review contained in Appendix D to the February 17, 1984, Order issued in CC 83-1145, the FCC questioned whether nonpayment of interexchange service constituted a valid basis for disconnection of local service since interexchange service is unrelated to a customer's local service in the post-divestiture era. The FCC also observed that a "serious question of fairness to customers is raised where a subscriber's local telephone service is placed in jeopardy by a telco in its capacity as collection agent or holder of IC receivables."[62] However, because the FCC recognized that OCCs with line-side connections could deny interexchange service to delinquent customers by refusing calls from that customer's access code, whereas, AT&T may not have that ability in all cases, the FCC required the LECs

[62] February 17, 1984, Order in CC 83-1145, Appendix D, p. 8-11.

to submit technical justification for the disconnection provision.

Subsequently, the FCC reviewed the technical justification submitted and determined that it was "materially incomplete" and that "no technical limitations to this effect have been demonstrated."[63] The FCC found that "less drastic measures" could be taken to overcome any operational problems.[64] Various petitions to reconsider the FCC's decision were filed. After considering those petitions, the FCC decided to require all exchange carriers to remove any language permitting termination of local service for nonpayment of interstate toll charges from the interstate access charge tariffs.[65] However, the FCC stated that if state commissions authorized disconnection the FCC would not, at least temporarily, bar such action while the FCC continued to consider the feasibility of a nationwide prohibition of local service disconnections.[66]

KRS 278.160(2) provides,

> No utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

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[63] April 27, 1984, Order in CC 83-1145, Appendix B, p. 8-2.

[64] Ibid.

[65] May 16, 1984, Order in CC 83-1145, p. 2.

[66] Ibid.

This statute contemplates that a utility's customer shall be required to pay for service on a consistent basis along with all other customers according to a utility's own filed schedules or tariffs. Termination of service is a right of a utility to discontinue service for nonpayment of service it provides to that customer. 807 KAR 5:006, Section 11 (3)(a), prescribes the reasons and methods by which a telephone utility may discontinue service to its customers, including nonpayment of bills. According to A. J. G. Priest in his treatise, Principles of Public Utility Regulation, "a public service company may not use 'We'll disconnect you' to force payment for appliances, repairs to equipment or some other independent obligation."[67]

Particularly in a post-divestiture environment, where provision of local exchange services are separated from the competitive, interexchange function and these services are provided by separate entities, each firm should stand on its own. Thus, an LEC customer should not obtain or continue service contingent on paying both charges owed the LEC and a separate competitive firm providing interLATA toll services. If an LEC were permitted to disconnect local exchange service for nonpayment of charges owed another firm for its services there would be an improper intertwining of the two firms. In effect, an LEC and its customers would become risk-takers in competitive, interexchange firms.

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67 Priest, A. J. G., Principles of Public Utility Regulation, Vol. I, p. 257.

The LECs also provided insufficient evidence that, considering all costs, additional expenses and possible forgone revenue, the difference between billing and collection revenues with and without disconnection would be materially different. For example, there has been no evidence presented to show that the billing and collection charges are profitable when local exchange and other LEC revenue is lost due to disconnection for nonpayment of interexchange carrier's charges. Any revenues expected under the billing and collection tariffs were calculated on the basis of ATTCOM's subscription to the service, but in pricing the service no evidence was presented that the LECs attempted to estimate what alternatives were available to ATTCOM or what the cost of alternatives would be so as to be more certain ATTCOM would find the LEC billing and collection services attractive on an economic basis.[68]

For all of the above-stated reasons the Commission finds that LECs may not disconnect local exchange service for nonpayment of an interexchange carrier's charges. Accordingly, all provisions in the LECs' tariffs should be modified to delete such language.

Purchase of Accounts Receivable

The LECs' Billing and Collection Tariffs also include a proviso that bill processing will only be available if the LEC purchases the accounts receivable. Evidently, some of the LECs considered that by purchasing accounts receivable they would be

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[68] T.E., May 31, 1984, pp. 140-141.

able to deny or discontinue service to a delinquent customer.[69] In light of the Commission's prior decision to reject disconnection of local exchange service for nonpayment of interexchange carriers' charges, this rationale for purchase of accounts receivables is irrelevant.

None of the LECs demonstrated a cost benefit to purchase of accounts receivable versus billing without purchase,[70] although Cincinnati Bell stated that billing without purchase was technically feasible.[71] When asked whether additional costs, such as increased working capital and credit and collection personnel, would be incurred as a result of purchase of accounts receivable versus billing without purchase, SCB was unable to provide a response.[72]

At the time of the May 31, 1984, hearing, General could not state whether working capital was considered in the calculation of billing and collection rates and expected to execute a contract that would specify all the critical terms that would bear upon the Commission's evaluation of whether the tariff rate for purchase of accounts receivable was reasonable and

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[69] Testimony of Mr. Alfred A. Banzer, page 23.

[70] Responses of General, Continental, Cincinnati Bell, and SCB to Commission Order dated October 14, 1983.

[71] Response of Cincinnati Bell to Commission Order dated October 14, 1983, Item 6(c). Indeed, Cincinnati Bell has even proposed separate tariff rates for bill processing when acting as billing agent rather than purchaser of accounts receivable.

[72] T.E., May 31, 1984, pp. 139-140.

compensatory to the LEC.[73] The percentage of accounts considered uncollectible by General was set nationally at 1 percent and did not specifically consider whether Kentucky experience was better or worse in that regard.[74]

Another concern was raised regarding whether the purchase of accounts receivable could increase the riskiness of the LECs' operations. SCB's witness, Mr. Roberts, stated that purchasing accounts receivable could increase the riskiness of his company.[75] In effect, the purchase of accounts receivable would perpetuate the former system whereby local exchange and interexchange functions were intertwined.

In light of the above-stated concerns and the factors bearing upon the issue which have not been fully considered by the LECs or adequately delineated for the Commission's review, the Commission finds that LECs should not be permitted to purchase the accounts receivable of interexchange carriers, but may serve as agents for collection of those accounts. Accordingly, all provisions in the LECs' tariffs should be modified to delete such language. The Commission recognizes that tariff provisions describing services offered at the proposed rates may require modification.

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[73] Ibid., p. 224.

[74] Ibid., p. 230.

[75] Ibid., p. 136-137.

End User Deposits

SCB's Access Services Tariff, PSC Ky. Tariff G, Section G8, as revised, provides for SCB to determine and collect a deposit from end users for service provided by interexchange carriers, SCB's "customer," when necessary. The only interexchange carrier certificated thus far in Kentucky, ATTCOM, has a provision in its General Services Tariff A, Section A2, which permits ATTCOM to charge a deposit to any applicant for service without a satisfactory credit standing or subscriber whose credit has become impaired. Should ATTCOM, or any other interexchange carrier certificated in the future with a similar tariff provision, subscribe to the SCB Bill Processing Service, there is the potential for end users to be requested to make a deposit by both ATTCOM and SCB. In order to avoid this problem, and to be consistent with Commission decisions regarding purchase of accounts receivable, the Commission finds that the SCB tariff should be revised to include the following language:

> No end user deposits will be collected by the Company where the customer has itself collected a deposit from end users. When ordering Bill Processing Service, customers shall attach an affidavit stating that no end users deposits have or will be collected by the customer for those end user accounts which Bill Processing Service is being requested.

Any other local exchange carrier with separate billing and collection tariffs should modify them in accordance with the above discussion as well. Of course, since the Commisison has disallowed purchase of accounts receivable, any deposits collected from end users on behalf of interexchange carriers should not

be retained by the LECs. These funds should be transmitted to interexchange carriers since they will ultimately be bearing the risk of failure to collect amounts owed by end users to them.

Automatic Mirroring

As part of its proposal to mirror its interstate tariffs for intrastate purposes, Cincinnati Bell proposed that the Commission adopt a system whereby Cincinnati Bell's intrastate tariff would refer to its interstate tariff.[76] As a consequence, intrastate rates would automatically adjust to those prescribed by the FCC. Although certain aspects of the interstate tariffs are being permitted to take effect in Kentucky, this is occurring in large part because company-specific information is not available upon which to base intrastate rates. The Commission expects that in the future it will have available sufficient information upon which to base its decision and that mirroring, therefore, is just a temporary phenomenon. The Commission does not expect to abdicate its decision-making responsibilities in structuring access charges, and, consequently, the Commission finds that Cincinnati Bell's automatic mirroring proposal should be denied.

Application of Access Charges to Radio Common Carriers

The initial tariffs proposed by the LECs would have potentially applied Feature Group E access charges and/or Feature Group A access charges to radio common carriers ("RCCs"). On May 9, 1984, SCB filed a letter requesting permission to withdraw its

[76] Testimony of Mr. R. William Stropes, p. 8.

Feature Group E tariffs and indicated the Feature Group A tariffs would not be applied to RCCs. Instead, the contract for interconnection in effect since November of 1983 would be continued. Upon the basis of the SCB letter and the FCC's order in CC Docket No.78-72 released February 15, 1984, the KARCC filed a motion on May 15, 1984, to withdraw from this proceeding. The Commission held both the SCB and KARCC requests in abeyance pending the outcome of this case on the merits and denied the motions at that time.[77] Subsequently, Beep-Alert and Reo-Cap filed a notice of withdrawal in light of the current inapplicability of access charges to RCCs.[78]

Since the Commission is allowing the LECs to substantially mirror its interstate access charge tariffs, SCB will be permitted to withdraw its Feature Group E access charge tariffs, consistent with the FCC's decision discussed above. Likewise, Feature Group A access charges will not apply to RCCs at this time. The Commission reserves the right to modify this decision in the future. In light of these decisions, the Commission finds that KARCC, Reo-Cap and Beep-Alert should be granted leave to withdraw from this proceeding.

OTHER ISSUES

Implementation of Channel Charge

In this Order the Commission has directed that the jurisdictional LECs will recover intrastate NTS costs through

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[77] Order dated May 25, 1984.

[78] Notice of Withdrawal filed August 27, 1984.

mirroring the interstate CCLC (except for those utilities charging a lesser CCLC charge) at the intrastate level, and the residual by means of a flat charge on carriers based on their total installed channel capacity as recommended in the testimony of AG witness Dr. Johnson. Therefore interLATA carriers will be assessed a charge per channel based on the number of voice equivalent channels originating and/or terminating at the carrier's points of presence within Kentucky.

The Commission further accepts Dr. Johnson's definition of a voice equivalent channel as follows:

> The term 'Voice Equivalent Channel' refers to a path between two geographic locations capable of transmitting and receiving one and only one voice or equivalent band. The path may be comprised of physical or derived facilities consisting of any form or configuration of plant typically used in the telecommunications industry. The following conversion will be used to compute the voice equivalent channel count for derived facilities:
>
> 1) Group Level = 12 voice equivalent channels
>
> 2) Mastergroup Level = 60 voice equivalent channels
>
> 3) Supergroup Level = 600 voice equivalent channels
>
> 4) Speed of Digital transmission "Divided by 64 KBPS"[79]

The Commission will modify this definition to the extent that, as ATTCOM has pointed out, the definitions of Mastergroup and Supergroup levels have been reversed, therefore the Mastergroup Level is defined to be 600 voice equivalent channels, and

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[79] Testimony of Dr. Ben Johnson, Exhibit BJ-1, Schedule 2, p. 7 of 13.

the Supergroup Level is defined to be 60 voice equivalent channels.[80]

Further, the Commission has determined that the definition of the voice equivalent for digital transmission should be adjusted for the use of some portions of the system for system information other than data transmission. For example, T-2 type of digital carrier would be assessed a rate of 96 voice equivalent channels, while the simple application of dividing the BIT rate by 64 KbpS would produce 98.625 voice equivalent channels. In each such case, the usable channel equivalency will be defined as the speed of digital transmission divided by 64 KbpS, adjusted for the generally-recognized available voice equivalency.[81] The amount of the revenue requirement to be provided by these channel charges is defined elsewhere in this Order.

The Commission is aware that Dr. Johnson's proposed tariff must be fine tuned in order to implement channel charges. The principal issues which must be resolved are:

1) A "Pool Administrator" must be designated. The Pool Administrator will be responsible for administering the enabling tariffs performing the necessary computations to determine the carrier channel charge, and distributing revenues collected under the tariff to the LECs;

2) Enabling tariffs must be developed which will set forth the conditions and specific rules for reporting of channels

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[80] T.E., July 31, 1984, pp. 297-298.

[81] T.E., August, 1, 1984, pp. 91-92.

by interLATA carriers, development of the revenue requirement which must be recovered by the monthly channel charges, administration and division of the revenue derived therefrom, and reporting requirements for information which must be supplied to the various parties, including the Commission;

3) A method, or possibly alternative methods, to arrive at accurate and equitable calculations of each carrier's channel count and means to report such count to the Pool Administrator;

4) The specific revenue requirement which will be recovered thru monthly channel charges must be developed as outlined elsewhere in this Order; and

5) A time frame for implementation of this plan must be developed.

In order to resolve the first issue, the Commission has determined that SCB will be the Pool Administrator. SCB has traditionally provided separations and settlement services to the telephone utilities within Kentucky, and therefore has the experience and expertise to function as a Pool Administrator. The records and operations of the Pool Administrator will be available and reported to the Commission, and to the LECs and interLATA carriers generally upon the terms set forth in Dr. Johnson's proposed tariff. Additionally, SCB will be responsible for developing and providing to the Commission, and subject to the Commission's approval, data which reflect the cost of providing the Pool Administrator service.

To fully implement the remaining issues, the Commission has determined that the beginning of the second quarter of 1985,

or April 1, 1985, is a reasonable time frame to begin the operation of the program. To accomplish this, SCB, in conjunction with the other LECs, should file with the Commission, and parties of record, a proposed tariff with an effective date of April 1, 1985, not later than 30 days from the date of this Order. Within 30 days of that filing, parties of record wishing to comment on the proposed tariff will file those comments with the Commission and all parties.

Within 30 days following the filing of comments, a conference of parties of record will be held to discuss any problems or differences relative to the proposed tariff. If necessary, the Commission will hold a public hearing to decide any issues which cannot be resolved by the conference. All parties should expect that the proposed tariff will generally follow the outline of that contained in Dr. Johnson's testimony. This procedure should allow a final tariff to be filed and actually implemented not later than April 1, 1985.

Jurisdictional Reporting

Various tariffs have been proposed by the LECs to address the issue of reporting interstate and intrastate usage and ultimately, its effect upon billing access charges as either interstate or intrastate. These provisions, as originally filed, would have provided for the same terms in both the interstate and intrastate jurisdictions. The tariffs required an interexchange customer to estimate the percentage of interstate and intrastate use when ordering access charge services. Quarterly results of actual usage would subsequently be furnished by interexchange

carriers to LECs. These data would then be used in billing for the next quarter. Interexchange carriers were further required to maintain their records supporting the percentages supplied to LECs for at least 1 year so that audits by the LECs, an outside auditor or state or federal regulatory agencies could verify the data supplied, if necessary. The percentage determined for each jurisdiction would be used to prorate to the interstate and intrastate tariff where access services provided are mixed.

The FCC's April 27, 1984, Order in 83-1145 required the LECs to substantially modify Sections 2.3.14 and 3.2.15.[82] The FCC rejected the idea of "projected" usage as the basis for initial reporting in the instance of carriers subscribing to Feature Group A and B. The FCC also required that the interstate usage would be based upon the relative percentage of each interexchange carriers' interstate line orders to its total line orders for those carriers subscribing to Feature Groups A and B. That percentage would then be applied to total minutes of use to determine the jurisdictional split of traffic to which interstate charges would apply. Additionally, the FCC commented upon the "intrusiveness" of the auditing procedures by which LECs proposed to verify jurisdictional reports.

In evaluating what procedures are reasonable and necessary to assure accurate jurisdictional reporting, the Commission is concerned that the FCC's method is subject to potential manipulation and may result in jurisdictional misreporting. The FCC's

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[82] Order dated April 27, 1984, in CC-83-1145, Appendix B, p. 2-8.

April 27, 1984, Order permits "reasonably approximated usage based on actual usage data" to accomplish the jurisdictional split in lieu of its interim "line order" approach.[83] The Commission notes that the interexchange carriers will be meeting with staff as a result of the October 26, 1984, decision in Administrative Case No. 273 to determine an appropriate means to separate traffic between interLATA and intraLATA. The Commission expects that the first step in that direction will be to agree on a proper split between interstate and intrastate traffic. Therefore, the Commission finds that the methodology developed as a result of the conference(s) should be used for access charges billing and jurisdictional reporting as well. Once that methodology has been established by the Commission, the LECs shall modify their access charge tariffs to incorporate the methodology therein and file the revised tariffs with the Commission within 20 days. In order to assure that questions regarding jurisdictional reports can be fairly and accurately resolved, the Commission finds that interexchange carriers should maintain complete, detailed and accurate records, workpapers and supporting documentation for its jurisdictional reports to LECs and the Commission for at least 1 year.

Company-Specific Cost Information

During this proceeding it has come to the Commission's attention that the level of information regarding the costs of

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[83] Ibid., pp. 2-9.

providing access services varies considerably among the 22 LECs. Under the former settlements or division of revenue procedure, there were 4 companies settling on the basis of their own costs --SCB, General, Cincinnati Bell and Continental--while the remaining 18 companies settled on the basis of "average" schedule costs. Some cost companies have further refined their cost information so as to be able to specify interLATA and intraLATA costs.

In the current environment, LECs will best be prepared to meet the challenge presented by such potential issues as bypass by knowing their own costs and using that information to design rates. It is absolutely essential that the Commission have such information available in evaluating the various rate proposals made by the LECs. General and Continental already have such information. SCB is currently paying for the development of the Separations Information System ("SIS") through its funding of Bell Communications Research. Cincinnati Bell was permitted to continue receiving centralized services and it is expected that they too will have SIS available for Cincinnati Bell's use. SCB estimated that SIS would be usable in the fourth quarter of 1984.[84] Thus, all the former cost companies should be able to develop access charges based upon their interLATA and intraLATA costs in any future access charge proceeding.

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[84] SCB's response to Oral Requests for Information made May 31, 1984, Item 5.

Although the 4 cost companies serve approximately 90 percent of the customers in Kentucky, it will still be necessary for the 18 average schedule companies to develop information that reflects their particular circumstances. As an aid in developing that information, these companies should consider joint development of an overall framework or program to which the individual LECs could apply their own data.

The Commission finds that each LEC should develop company-specific cost information. Absent any showing of compelling circumstances, no LEC shall make any proposal to alter or increase the access charge structure and rates approved herein.

Default Traffic

The MFJ requires SCB to modify central offices, meeting certain size and technology criteria, to provide OCCs equal access to the local exchange network. In addition to SCB other local exchange carriers are anticipating the provision of equal access in the near future to OCCs. All carriers converting to equal access will provide a presubscription period during which customers in that central office can elect an interexchange carrier to receive their interLATA calls on a 1+ basis. However if a customer does not select a carrier then all of the customer's calls will be routed to a default carrier. SCB, Cincinnati Bell and General have advocated using ATTCOM as the default carrier.

The Commission is of the opinion that the default traffic is a valuable commodity in the competitive interexchange market. Currently only one carrier, ATTCOM, has the ubiquity and capacity to serve as a default carrier. Therefore the Commission will

require all default traffic to be routed to ATTCOM. However the Commission does intend to reconsider the allocation of default traffic in the future and may choose a different system of allocation.

Regulation of Lease Arrangements

General, Continental, and Cincinnati Bell have entered into agreements to lease some of their present facilities to ATTCOM. The Commission is of the opinion that these lease arrangements and any future lease arrangements between local exchange carriers and interexchange carriers should be subject to Commission review and regulation. The Commission is further of the opinion that revenues and expenses associated with the leasing of interexchange facilities should be reflected above the line and included in the determination of revenue requirements for rate-making purposes and access charges.

In addition the Commission intends to review the special contracts entered into with cellular mobile telephone firms and with RCCs. It may be appropriate to incorporate the revenues and expenses associated therewith in future access charge proceedings.

Accounting Requirements

The Kentucky Commission generally concurs with the FCC's final Order in CC Docket No. 83-1347; FCC 84-486, dated November 6, 1984, amending Part 31 of the Uniform System of Accounts to establish new accounts to record the carriers' interstate access revenue and expenses. Further, the Commission is of the opinion that accounting requirements must be imposed on both local

exchange carriers and interexchange carriers in order to monitor the financial impact associated with the transition to an intrastate access charge environment similar to the requirements imposed on an interstate basis. Therefore, each local exchange company shall, in addition, establish accounts and subaccounts to record the intrastate revenue and expenses associated with the major exchange access charge classifications and lease arrangements by interexchange carriers, including each individual billing and collection function. On the other hand, each interexchange carrier shall establish accounts and subaccounts to record the payments associated with the major intrastate exchange access charge classifications and lease arrangements by local exchange carrier, including payments for each individual billing and collection function. The Commission may require periodic reporting of access charge revenues from local exchange carriers and of access charge payments from interexchange carriers as implementation of this access charge plan occurs.

In addition, the Commission is of the opinion that the local exchange carriers should establish and maintain separate records for all costs incurred in the provision of equal access. The Commission may require periodic reporting of such costs as equal access occurs.

ORDERS

Having considered the evidence of record, and in accordance with the above-stated findings:

IT IS THEREFORE ORDERED that the interexchange carriers shall continue to contribute to intrastate NTS cost recovery through access service tariffs approved herein.

IT IS FURTHER ORDERED that proposed intrastate CALCs (flat rate end user access charges) be and they hereby are denied.

IT IS FURTHER ORDERED that the Continental and Independent Group proposals to adopt a permanent CCLC rate structure be and they hereby are denied.

IT IS FURTHER ORDERED that the ULAS tariff proposed by the AG shall be adopted for recovering from interexchange carriers the residual interLATA revenue requirement.

IT IS FURTHER ORDERED that the traffic sensitive elements of the LECs' proposed access charge tariffs be and they hereby are approved, but for administrative purposes the effectiveness will be delayed until April 1, 1985.

IT IS FURTHER ORDERED that an access discount equal to that directed by the FCC for interstate access be and it hereby is approved for application to the intrastate interLATA access charge tariffs.

IT IS FURTHER ORDERED that the discount provided to non-dominant interexchange carriers for access to a particular end office will cease when Feature Group D interconnection becomes available, regardless of the type of connection maintained by an OCC.

IT IS FURTHER ORDERED that interLATA and intraLATA revenue requirements for this case shall be based upon 1984 settlements using 1983 settlement methodology.

IT IS FURTHER ORDERED that SCB's proposed reduction in its interLATA revenue requirement to $34.4 million be and it hereby is denied.

IT IS FURTHER ORDERED that interLATA access compensation shall continue on a bill and keep basis, except in the instance of the flat rate carrier channel charge.

IT IS FURTHER ORDERED that intraLATA pool compensation should take place in the following sequence: first, recovery of each LEC's access service tariff traffic sensitive, billing and collection, and special access rates, second, for cost schedule companies, intraLATA network and administrative expense reimbursement and third, an LEC-specific intraLATA CCLC-type compensation rate designed to residually match each LEC's intraLATA revenue and revenue requirement. Any remaining revenue in the intraLATA pool shall be distributed among the LECs in proportion to their share of intraLATA subscriber access lines.

IT IS FURTHER ORDERED that upon the implementation of the intraLATA access compensation plan outlined in this Order the make-whole compensation mechanism shall be discontinued.

IT IS FURTHER ORDERED that SCB's proposal to restore WATS flat rate monthly and installation charges to its General Subscriber Services Tariff be and it hereby is approved.

IT IS FURTHER ORDERED that Cincinnati Bell shall continue to provide information on interLATA access compensation and intraLATA toll compensation as required by the Commission's Order of December 29, 1983, and this Order.

IT IS FURTHER ORDERED that SCB shall continue to provide information on interLATA access compensation and intraLATA pool compensation as required by the Commission's Order of December 29, 1983, and this Order.

IT IS FURTHER ORDERED that Cincinnati Bell shall file with the Commission a reconciliation of its interLATA network compensation within 30 days from the date of this Order.

IT IS FURTHER ORDERED that General shall file with the Commission a reconciliation of its interLATA network compensation within 30 days from the date of this Order.

IT IS FURTHER ORDERED that SCB shall file with the Commission a priceout of LEC access service tariffs designed to show the residual interLATA revenue requirement impact of all access service tariff rate categories by LEC within 30 days from the date of this Order.

IT IS FURTHER ORDERED that SCB shall file with the Commission a priceout of intraLATA toll schedules designed to show total intraLATA toll revenue available for intraLATA pool compensation within 30 days from the date of this Order.

IT IS FURTHER ORDERED that SCB shall develop and file with the Commission an intraLATA pool compensation agreement consistent with the provisions of this Order within 30 days from the date of this Order.

IT IS FURTHER ORDERED that SCB shall develop and file with the Commission a description of the procedures necessary to implement and administer the intraLATA pool compensation agreement ordered above within 30 days from the date of this Order.

IT IS FURTHER ORDERED that upon the Commission's approval of the intraLATA compensation agreement ordered above, all LECs except Cincinnati Bell shall file with the Commission a statement of agreement to participate in the intraLATA compensation plan.

IT IS FURTHER ORDERED that Cincinnati Bell's Access Service Tariff, PSCK No. 1, as filed on May 25, 1984, be and it hereby is denied.

IT IS FURTHER ORDERED that Cincinnati Bell's Access Service Tariff, PSCK No. 1, as filed on September 30, 1983, and made effective on an interim basis and subject to refund by the Commission's Order of December 29, 1983, shall continue in effect on an interim basis, except for the billing and collection provisions modified herein, and shall be collected subject to refund.

IT IS FURTHER ORDERED that Cincinnati Bell shall file with the Commission a revised Access Service Tariff, PSCK No. 1, to incorporate the provisions of this Order within 30 days from the date of this Order.

IT IS FURTHER ORDERED that General's Facilities for Intrastate Access Tariff, P.S.C. Ky. No. 6, as filed on June 14, 1984, be and it hereby is denied.

IT IS FURTHER ORDERED that General's Facilities for Intrastate Access Tariff, P.S.C. Ky. No. 6, as filed on September 30, 1983, and made effective on an interim basis and subject to refund by the Commission's Order of December 29, 1983, shall continue in effect on an interim basis, except for the billing and collection provisions modified herein, and shall be collected subject to refund.

IT IS FURTHER ORDERED that General shall file with the Commission a revised Facilities for Intrastate Access Tariff, P.S.C. Ky. No. 6, to incorporate the provisions of this Order within 30 days from the date of this Order.

IT IS FURTHER ORDERED that SCB's Access Services Tariff, P.S.C. Ky. Tariff G, as filed on May 30, 1984, be and it hereby is denied.

IT IS FURTHER ORDERED that SCB's Access Services Tariff, P.S.C. Ky. Tariff G, as filed on October 3, 1983, and made effective on an interim basis and subject to refund by the Commission's Order of December 29, 1983, shall continue in effect on an interim basis, except for the billing and collection provisions modified herein, and shall be collected subject to refund.

IT IS FURTHER ORDERED that SCB shall file with the Commission a revised Access Services Tariff, P.S.C. Ky. Tariff G, to incorporate the provisions of this Order within 30 days from the date of this Order.

IT IS FURTHER ORDERED that LECs planning to use the NECA access service tariff shall file with the Commission on an individual or collective basis an intrastate version of the NECA access service tariff that incorporates the provisions of this Order within 30 days from the date of this Order.

IT IS FURTHER ORDERED that LECs may not disconnect local exchange customers for nonpayment of an interexchange carrier's charges and any contrary access charge tariff provisions shall be deleted.

IT IS FURTHER ORDERED that LECs shall not purchase the accounts receivable of interexchange carriers and any contrary access charge tariff provisions shall be deleted.

IT IS FURTHER ORDERED that SCB, and any other LEC with separate billing and collection tariffs, shall revise their bill processing tariffs so as to avoid double collection of deposits, in accordance with the Commission's findings herein.

IT IS FURTHER ORDERED that any deposits collected from end users on behalf of interexchange carriers shall be transmitted by the LECs to the interexchange carriers.

IT IS FURTHER ORDERED that Cincinnati Bell's proposal to automatically mirror at the intrastate level its interstate tariffs be and it hereby is denied.

IT IS FURTHER ORDERED that SCB's proposal to withdraw its Feature Group E access charge tariffs be and it hereby is approved.

IT IS FURTHER ORDERED that Feature Group A access charges shall not apply to RCCs at this time.

IT IS FURTHER ORDERED that KARCC, Reo-cap and Beep-Alert be and they hereby are granted leave to withdraw from this proceeding.

IT IS FURTHER ORDERED that billing for access charges and jurisdictional reporting for intrastate purposes shall conform to the methodology to be established through a conference(s) mechanism as a result of the October 26, 1984, decision in Administrative Case No. 273.

IT IS FURTHER ORDERED that the LECs shall modify their access charge tariffs to incorporate the methodology for jurisdictional reporting determined through such conference(s) and file such revised tariffs within 20 days after a methodology is established.

IT IS FURTHER ORDERED that each LEC shall immediately begin to develop company-specific cost information. Absent a showing of compelling circumstances no LEC shall make any proposal to alter or increase the access charge structure and rates approved herein.

IT IS FURTHER ORDERED that all default traffic shall currently be routed to ATTCOM.

IT IS FURTHER ORDERED that present and future lease arrangements between LECs and interexchange carriers shall be subject to Commission review and regulation and the revenues and expenses associated with the leasing of interexchange facilities should be reflected above the line.

IT IS FURTHER ORDERED that each LEC shall establish accounts and subaccounts to record the intrastate revenue associated with the major exchange access charge classifications and lease arrangements to interexchange carriers, including each individual billing and collection function.

IT IS FURTHER ORDERED that each interexchange carrier shall establish accounts and subaccounts to record the payments associated with the major intrastate exchange access charge classifications and lease arrangements by local exchange carrier,

including payments for each individual billing and collection function.

IT IS FURTHER ORDERED that LECs shall establish and maintain separate records for all costs incurred in the provision of equal access.

IT IS FURTHER ORDERED that SCB shall provide the Pool Administrator to effect the channel charge imposed upon LECs.

IT IS FURTHER ORDERED that the operations of the Pool Administrator shall be reported to the Commission generally upon the terms set forth in Dr. Johnson's proposed tariff.

IT IS FURTHER ORDERED that April 1, 1985, is the date at which the operation of the channel charge shall begin.

IT IS FURTHER ORDERED that LECs shall file with the Commission, and serve upon all parties of record, a proposed tariff to implement channel charges imposed upon interexchange carriers with an April 1, 1985, effective date, not later than 30 days from the date of this Order.

IT IS FURTHER ORDERED that any party desiring to comment on the proposed channel charge tariffs shall file such comments within 30 days from the date of the tariff filing.

IT IS FURTHER ORDERED that any outstanding motions not explicitly reviewed herein be and they hereby are denied.

Done at Frankfort, Kentucky, this 20th day of November, 1984.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

Secretary

Table 1

Total Revenue Requirement
1984 Settlements/1983 Settlement Methodology
(January-August Annualized)

Company	Revenue Requirement
Alltel	$ 1,250,964
Ballard	405,384
Brandenburg	1,378,056
Cincinnati	6,269,000
Continental	8,064,996
Duo County	624,372
Foothills	1,100,616
General	42,462,000
Harold	528,948
Highland	252,144
Leslie County	622,788
Lewisport	147,684
Logan	466,632
Mountain	937,872
North Central	206,316
Peoples	535,344
Salem	118,704
S. Central Bell	107,460,977
S. Central Rural	1,502,736
Thacker-Grigsby	745,956
Uniontown	50,964
W. Kentucky	851,664
Total (except Cincinnati)	$169,715,117

Source: Staff Data Request dated December 29, 1983.

Table 2

Interlata Access Compensation and Revenue Requirement

Interim Compensation Plan

(January-August Annualized)

Company	Interlata Access Compensation	Network Compensation	Total Interlata Access Compensation	Interlata Revenue Requirement
Alltel	$ 245,453	$	$ 245,453	$ 245,453
Ballard	36,965		36,965	36,965
Brandenburg	411,134		411,134	411,134
Cincinnati	3,748,304	720,000	4,468,304	4,268,000
Continental	1,653,771	165,636	1,818,807	1,818,807
Duo County	331,958		331,958	331,958
Foothills	99,029		99,029	99,029
General	12,864,572	6,653,208	19,517,780	19,993,124
Harold	49,733		49,733	49,733
Highland	67,020		67,020	67,020
Leslie County	66,276		66,276	66,276
Lewisport	27,327		27,327	27,327
Logan	66,933		66,933	66,933
Mountain	133,358		133,358	133,358
North Central	147,000		147,000	147,000
Peoples	49,404		49,404	49,404
Salem	9,650		9,650	9,650
S. Central Bell	34,459,139		34,459,139	37,200,000
S. Central Rural	936,909		936,909	936,909
Thacker-Grigsby	57,792		57,792	57,792
Uniontown	6,831		6,831	6,831
W. Kentucky	74,816		74,816	74,816
Total	$51,795,070	$6,818,244	$58,613,314	$61,829,519

(except Cincinnati)

Source: Staff Data Request dated December 29, 1983.

Table 3

Interlata Access Compensation
Proposed Tariffs
(January-August Annualized)

Company	Interlata Revenue Requirement	Proposed Interlata Access Compensation	Residual Interlata Revenue Requirement
Alltel	$ 245,453	$ 214,732	$ 30,721
Ballard	36,965	32,762	4,203
Brandenburg	411,134	361,513	49,621
Cincinnati	4,268,000	4,268,000	
Continental	1,818,807	1,598,831	219,976
Duo County	331,958	292,549	39,409
Foothills	99,029	86,734	12,295
General	19,993,124	19,993,124	
Harold	49,733	43,329	6,404
Highland	67,020	60,494	6,526
Leslie County	66,276	58,059	8,217
Lewisport	27,327	24,136	3,191
Logan	66,933	59,050	7,883
Mountain	133,358	118,338	15,020
North Central	147,000	128,264	18,736
Peoples	49,404	43,507	5,897
Salem	9,650	8,538	1,112
S. Central Bell	37,200,000	31,623,000	5,577,000
S. Central Rural	936,909	827,095	109,814
Thacker-Grigsby	57,792	50,831	6,961
Uniontown	6,831	5,959	872
W. Kentucky	74,816	65,914	8,902
Total (except Cincinnati)	$ 61,829,519	$ 55,696,759	$ 6,132,760

Source: Staff Data Request dated December 29, 1983.

Table 4
Intralata Access Compensation and Revenue Requirement
Interim Access Compensation Plan
(January-August Annualized)

Company	Intralata Access Compensation	Network & Admin. Expense	Residual Distribution	Subtotal Intralata Compensation	Interlata Revenue Requirement
[illegible]el	$ 1,011,896	$	$ 67,0001	$ 1,078,897	$ 245,543
Ballard	283,69		27,047	310,741	36,965
Brandenburg	960,396		80,192	1,040,588	411,134
Cincinnati	2,214,458			2,214,458	4,268,000
Continental	4,328,531	1,215,552	333,116	5,877,199	1,818,807
Duo County	279,294		39,194	318,488	331,958
Foothills	840,770		53,456	894,226	99,029
General	18,064,005	8,580,000	1,400,205	28,044,210	19,993,124
Harold	452,681		24,368	477,049	49,773
Highland	162,281		22,796	185,077	67,020
Leslie County	434,673		28,131	462,804	66,276
Lewisport	107,846		6,237	114,083	27,327
Logan	296,528		26,555	323,083	66,933
Mountain	665,151		48,090	714,060	133,358
North Central	55,323		17,298	73,621	147,000
Peoples	367,163		26,183	393,346	49,404
Salem	89,076		8,976	98,052	9,650
[illegible] Central Bell	41,071,961	15,742,044	4,346,495	61,160,500	37,200,000
S. Central Rural	517,917		97,647	615,564	936,909
Thacker-Grigsby	578,808		29,144	607,952	57,792
Uniontown	34,442		3,653,	38,095	6,831
W. Kentucky	725,226		60,719	785,945	74,816
Total	$71,327,662	$25,537,596	$6,747,322	$103,612,580	$61,829,519
(except Cincinnati)					

Source: Staff Data Request dated December 29, 1983.

Table 4 (Continued)
Intralata Access Compensation
and Revenue Requirement
Interim Access Compensation Plan
(January-August Annualized)

Company	Intralata Pool Compensation and Interlata Revenue Requirement	1984 Settlements/1983 Settlement Methodology	"Make-Whole" Compensation	Intralata Revenue Requirement
Alltel	$ 1,324,350	$ 1,250,964	($ 73,386)	$ 1,005,511
Ballard	347,706	405,384	57,678	368,419
Brandenburg	1,451,722	1,378,056	(73,666)	966,922
Cincinnati	6,482,458	6,269,000	(213,458)	2,001,000
Continental	7,696,006	8,064,996	368,990	6,246,189
Duo County	650,446	624,372	(26,074)	292,414
Foothills	993,255	1,100,616	107,361	1,001,587
General	48,037,334	42,462,000	(5,575,334)	22,468,876
Harold	526,782	528,948	2,166	479,215
Highland	252,097	252,144	47	185,124
Leslie County	529,080	622,788	93,708	556,512
Lewisport	141,410	147,684	6,274	120,357
Logan	390,016	466,632	76,616	399,699
Mountain	847,418	937,872	90,454	804,514
North Central	219,621	206,316	(13,305)	59,316
Peoples	442,750	535,344	92,594	485,940
Salem	107,702	118,704	11,002	109,054
S. Central Bell	98,360,500	107,460,977	9,100,477	70,260,977
S. Central Rural	1,552,473	1,502,736	(49,737)	565,827
Thacker-Grigsby	665,744	745,956	80,212	688,164
Uniontown	44,926	50,964	6,038	44,133
W. Kentucky	860,761	851,664	(9,097)	776,848
Total (except Cincinnati)	$165,442,099	$169,715,117	($4,273,018)	$107,885,598

Source: Staff Data Request dated December 29, 1983.

GLOSSARY

ANI	Automatic [Calling] Number Identification. Central office equipment which allows automatic identification of the number from which a call is placed.
BOC	Bell Operating Company. A local exchange company divested from AT&T such as SCB.
CALC	Customer Access Line Charge. FCC rate designed to recover toll-related NTS costs from end users.
CCLC	Carrier Common Line Charge. FCC rate designed to recover NTS costs from interexchange carriers on a usage sensitive basis.
FCC	Federal Communications Commission
FG-A	Feature Group A. Line-side interconnection of an interexchange carrier with a local exchange company.
FG-B	Feature Group B. Trunk-side interconnection of an interexchange carrier with a local exchange company; can be routed tandem or direct.
FG-C	Feature Group C. AT&T's trunk-side interconnection to the local exchange companies.
FG-D	Feature Group D. Equal access interconnection. BOCs must provide equal access beginning September 1984.
LATA	Local Access and Transport Area. Used synonymously with "exchange," it defines the areas within which BOCs may provide certain telecommunications services and between which they may not.
LEC	Local Exchange Carrier. Any carrier that provides telecommunications services that relate to origination and termination of traffic within a LATA.
MFJ	Modification of Final Judgment. The consent decree ordering divestiture of the BOCs by AT&T.
MTS	Message Telecommunications Service. Interexchange service, the rates for which are time-of-day, duration-, and distance-sensitive.
NECA	National Exchange Carrier Association. Association mandated by the FCC to develop and file the interstate access tariffs.
NTS	Nontraffic Sensitive. The type of local exchange plant for which costs do not vary with usage, such as telephone instruments, protection block, drop line and cable pair.

OCC — Other Common Carrier. An interexchange carrier other than AT&T and the traditional partnership, such as MCI, Sprint and U.S. Tel.

PIN — Personal Identification Number. Must be manually input by OCC customers to identify the party to be billed.

SLU — Subscriber Line Usage. A separations formula used for jurisdictional allocation of TS costs.

SPF — Subscriber Plant Factor. A formula used for jurisdictional allocation of NTS costs.

TS — Traffic Sensitive. The type of local exchange plant for which costs vary with usage, such as switching and trunking equipment.

WATS — Wide Area Telecommunications Service. Bulk-billed flat rated interexchange service.