

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

* * * * *

In the Matter of:

NOTICE OF CONTINENTAL TELEPHONE)
COMPANY OF KENTUCKY OF AN) CASE NO. 9011
ADJUSTMENT IN ITS RATES)

REHEARING ORDER

On April 16, 1984, Continental Telephone Company of Kentucky ("Continental") filed notice with the Commission proposing to increase its intrastate telephone rates for service rendered effective May 5, 1984. On October 5, 1984, the Commission issued its Order in this proceeding in which the Commission determined that Continental had a revenue sufficiency of \$591,679 and denied Continental any adjustment in its rates and charges.

On October 19, 1984, Continental filed its petition for rehearing of the Commission's determination of toll service revenues and the disallowance of the proposed reduction in local service revenue derived from the lease of customer premises equipment ("CPE"). On October 25, 1984, the Attorney General ("AG"), the sole intervenor in this proceeding, filed its petition for rehearing stating that the Commission should reduce Continental's rates in order to reflect the revenue sufficiency determined by the Commission. The Attorney General's motion raises no issues not fully explored in the hearing. Its generalizations regarding the Commission's findings provide no basis for

further review by the Commission, much less a basis for rehearing. The Commission will address issues raised by Continental as follows:

Toll Revenue Adjustment

In its application filed April 16, 1984, Continental proposed a test period adjustment to toll service revenue in the amount of \$1,589,822,¹ based on a Subscriber Line Usage ("SLU") to access minutes of use ratio of 95 percent applied to its 1983 toll usage data. This resulted in total adjusted intrastate toll service revenue in the amount of \$8,268,574. Subsequently, at hearing on August 21, 1984, Continental proposed to reduce its test period adjustment to toll service revenue in the amount of \$549,758, based on a revised SLU to access minutes of use ratio of 84.2 percent applied to its 1983 toll usage data. This resulted in total adjusted intrastate toll service revenue in the amount of \$7,718,816.

The Commission, in its Order of October 5, 1984, adjusted Continental's test period toll service revenue in the amount of \$1,977,682, based on a SLU to access minutes of use ratio of 100 percent. This resulted in total adjusted intrastate toll service revenue in the amount of \$8,656,434, and increased Continental's pro forma intrastate net operating income available for return in the amount of \$475,935. In effect, the Commission rejected Continental's proposed SLU to access minutes of use ratios as a

¹ This and subsequent references to toll service revenue are exclusive of private line toll service revenue, which is not a subject of rehearing.

reasonable basis for deflating its 1983 toll usage data, stating that "Continental has not met its burden of proof relative to any adjustment to its 1983 toll usage data..."²

Continental bases its petition for rehearing on the Commission's toll service revenue adjustment on two points. First, "SLU minutes are an inappropriate measure of access minutes and would not have been used by the company if actual minutes had been available."³

The Commission wishes to point out to all parties of record that Continental initiated this case and that, once a case is initiated, the Commission must dispose of it based on the record of evidence as filed by the company and developed by its staff and any participating intervenors through the discovery process and cross-examination of witnesses. If Continental genuinely believes that SLU is an "inappropriate measure of access minutes", then it should not have filed the case using SLU as a surrogate measure for access minutes of use. Furthermore, in the absence of actual Carrier Access Billing System ("CABS") generated access minutes of use, it may be concluded by knowledgeable observers that the case was prematurely filed. In any event, Continental filed the case using SLU as a surrogate measure of access minutes of use. This fact alone made any adjustments to SLU a matter of proof for Continental and a matter of challenge to other parties.

² Order dated October 5, 1984, page 10.

³ Petition for Rehearing, page 2, emphasis added.

The second point on which Continental bases its petition for rehearing on the Commission's toll service revenue adjustment is that "the CABS has become fully operative since the August hearing and it provides access minutes of use for a period from which an annualized estimate can reasonably be made."⁴

The Commission, at the same time it rejected Continental's proposed adjustments to its 1983 toll usage data, advised Continental that "if upon its review of this Order it believes that it can make sufficient evidentiary showing to support an adjustment to its 1983 toll usage data, then the Commission will entertain such evidence upon the filing of a petition for rehearing on this issue."⁵ Continental's petition for rehearing includes explanatory testimony by its primary witness in the case, Mr. William Oberdorfer. Unfortunately, Mr. Oberdorfer's explanatory testimony does not address the requirement for rehearing stated by the Commission. Much of Mr. Oberdorfer's explanatory testimony on the matter of the Commission's toll service revenue adjustment deals with the mathematics of an exhibit filed in the case.⁶ The Commission advises Continental that it was not an explanation of Mr. Oberdorfer's mathematics that was required,

⁴ Ibid.

⁵ Order dated October 5, 1984, footnote 22, page 11.

⁶ Oberdorfer Exhibit I-A, Hearing Data Requests, Item 2.

but rather the workpapers or, preferably, traffic studies underlying Mr. Oberdorfer's exhibit.⁷

In addition to an explanation of mathematics, Mr. Oberdorfer's explanatory testimony seeks to introduce new evidence into the record of this case by way of annualized CABS data for the period January through September, 1984. This strategy poses its own set of problems. First, Continental filed and the Commission used the 1983 toll usage data as the basis for toll service revenue adjustment. The 1983 toll usage data is the record on which rehearing should be made. Furthermore, Continental's shift of the time horizon for the year 1983 toll usage data to 9-month annualized 1984 toll usage data would require that the Commission reopen the case for discovery and the cross-examination of witnesses on entirely new and unexamined information. Finally, as Continental should be well aware, as a result of the divestiture of American Telephone and Telegraph Company and the implementation of access service tariffs, 1984 intralata and interlata revenue streams are highly volatile and subject to numerous retroactive adjustments. Cumulative 1984 month to month annualizations may change dramatically, making any toll service

⁷ At least two specific indications of need for this information were made. To date, the information has not been filed. See Order dated October 5, 1984, page 11, and footnote 21.

revenue adjustment based on a partial 1984 annualization suspect.⁸

In view of the record of evidence in the case and the failure of Continental's petition for rehearing to provide substantial new insight on the record of evidence, the Commission will not grant Continental rehearing on the issue of the Commission's toll service revenue adjustment.

CPE Erosion

Continental proposed in its initial application to reduce local service revenues by \$630,385 to account for projected future revenue loss due to the deregulation of new CPE and competition in the CPE market. In its Order of October 5, 1984, the Commission rejected this adjustment and stated several reasons for this action. In its petition for rehearing Continental gave several counter arguments to the Commission's position, the

⁸ Indeed, although not part of the record in this case, the Commission will take notice of evidence filed in Case No. 8838, An Investigation of Toll and Access Charge Pricing and Toll Settlement Agreements for Telephone Utilities to be Effective January 1, 1984. In that case, by Order dated December 29, 1983, the Commission designated South Central Bell Telephone Company ("SCB") as administrator of the Commission's interim toll compensation plan and required SCB to file monthly information regarding 1984 toll compensation among telephone utilities in Kentucky. A comparison of the information filed by SCB and Continental reveals the following: SCB's 8-month annualized 1984 data shows Continental with intralata and interlata minutes of use of 66,470,300 and total compensation of \$7,696,005. Continental's 9-month annualized 1984 data shows intralata and interlata minutes of use of 58,943,171 and total compensation of \$7,346,152. The 1-month annualization difference shows an intralata and interlata minutes of use difference of 7,527,129 and a total compensation difference of \$349,853.

primary of these being that the adjustment is known and measurable, which Continental asserts the Commission implied by not explicitly stating that the adjustment was not measurable.

First Continental stated that since the Commission's Order recognized the phenomenon of CPE erosion, it was logical to conclude that the Commission agreed with Continental that the loss of terminal equipment revenue is a known and measurable change. While the Commission did recognize the phenomenon, it also made allowances for the known and measurable revenue loss which actually occurred during the test period by using an end of period billing analysis to determine Continental's normalized local service revenue. What the Commission did reject was Continental's methodology of projecting possible future revenue loss. The Commission does not find this "guestimation" to be a valid measurement of future events. Second, Continental stated that the Commission should at least recognize the actual decline in revenue which has occurred after the test period. In essence Continental is requesting the Commission to ignore every other aspect of Continental's operations and allow additional revenues based on an isolated out of test period occurrence. The Commission is of the opinion that to make such an adjustment, especially in isolation of any correlating expense reductions or management efficiencies which Continental's own witness Mr. William Oberdorfer stated they were unable to determine,⁹ is not

⁹ Transcript of Evidence ("T.E."), pages 36-37.

sound rate-making policy. Continental would probably be the first to point this out should the Commission isolate and track an individual expense item and reduce a previously allowed revenue increase based solely on the decline of this one item. The Commission stated that the proper means of measuring the loss of terminal equipment revenue is in a rate case proceeding where the actual loss can be measured and a more accurate matching of revenues and expenses as well as an evaluation of the total over-all operation can be made. However, Continental stated that it wished to avoid this situation by filing what it termed a "relatively small case." However, Continental's own witness, Mr. L. W. Darden, stated that even at the filing of this case, Continental was planning another rate case to be filed "sometime in 1985."¹⁰

The Commission finds these and other arguments made by Continental to be unpersuasive and will, therefore, not allow a rehearing of this issue.

FINDINGS AND ORDERS

The Commission, after examining the evidence of record and being advised is of the opinion and finds that the petition for rehearing filed by Continental and the AG should be denied.

IT IS THEREFORE ORDERED that Continental's petition for rehearing is hereby denied.

IT IS FURTHER ORDERED that the AG's petition for rehearing is hereby denied.

¹⁰ T.E., page 11.

Done at Frankfort, Kentucky, this 8th day of November, 1984.

PUBLIC SERVICE COMMISSION

Richard D. Hemmings

Chairman

Paul W. [unclear]

Vice Chairman

[Signature]

Commissioner

ATTEST:

Secretary