

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GENERAL ADJUSTMENT OF ELECTRIC RATES)
OF THE KENTUCKY POWER COMPANY) CASE NO. 9061

O R D E R

IT IS ORDERED that Kentucky Power Company ("KPC") shall file an original and 12 copies of the following information with the Commission by November 1, 1984, with copies to parties of record. The following requests relate to KPC's responses to oral requests during the hearing on October 9-12, 1984.

1. In Item No. 13, sheet 1 of 2, the second column is entitled "OPC \$\$." Define the term "OPC \$\$" and provide a narrative description detailing precisely how the amounts in this column are determined.

2. In Item No. 13, if any capacity costs are included in the column "OPC \$\$", state for which sales capacity costs are included and provide an explanation of how the capacity costs are determined.

3. Is an average or incremental fuel cost concept used in calculating the costs associated with each sale listed in Item No. 13?

4. In Item No. 13, sheet 2 of 2, Section F, provide a detailed explanation of the amounts shown for the unit power sale to VEPCO.

5. In Item No. 9, 1984 Load Forecast, Exhibit 4, provide a revised exhibit 4 containing the same data but covering the years 1979 through 1994.

5a. Provide an explanation of how the projected utilization factor was derived for the years 1984 through 1986 and explain and justify why this factor is projected to significantly increase for the years 1987-1994.

Done at Frankfort, Kentucky, this 25th day of October, 1984.

PUBLIC SERVICE COMMISSION

Richard D. Heman, Jr.
For the Commission

ATTEST:

Secretary

reasonable cost, should be perceived by the OCCs to be in their own interest, since this would reduce the likelihood of imposition of a compensation plan. The OCCs have clearly indicated that they do not feel that a compensation program is desirable. The OCCs should also recognize that future events could result in the Commission imposing some or all of Multi-Com's proposal.

Multi-Com also proposed that resellers be included in any compensation program, arguing there is no basis on which to distinguish between LECs and WATS resellers for the purpose of determining which carriers should appropriately be compensated.¹¹ However, cross examination of Multi-Com's witness, Jeffrey Zahner, established that WATS resellers differ from LECs in several respects material to this issue.¹² In particular, WATS resellers obviously do not provide local exchange service, and the diversion of toll traffic from WATS resellers does not hold the same potential for adverse consequences on local monopoly ratepayers as does diversion of traffic from LECs. Accordingly, the Commission finds that any compensation program implemented should include only LECs as recipients of revenue.

In post hearing briefs, MCI, Western Union, and Sprint take the position that the compensation proposals before the Commission are equivalent to penalties levied upon the OCCs. This characterization of the compensation method as a penalty is

¹¹Supplemental Testimony of Jeffrey M. Zahner filed August 27, 1984.

¹²T.E., Volume II, pp. 177-188.

in error. On its face, it is clear that a properly constructed compensation program is merely a removal and transfer of revenues the OCCs have not been authorized to obtain. Such a program would place the OCCs in a revenue position comparable to that which would exist if they had trunk side connections and thus were unable to complete unauthorized intraLATA calls. This does not constitute a penalty, but instead a partial remedy for the inability of companies utilizing line side connections to properly comply with the Commission's temporary ban on intraLATA toll competition. Compensation would prevent a windfall to the OCCs at the expense of the LECs that are authorized to carry this traffic and obligated to provide service to all customers within their certificated territory.

It has also been suggested that any compensation requirement should include ATTCOM.¹³ In support of this, Sprint cites an example where intraLATA calls can be completed by ATTCOM consumers. The Commission finds Sprint's example to be a highly unusual one which will not occur under most circumstances. It is often possible to cite extreme cases which are not relevant. Sprint also fails to provide evidence that this type of calling will be anything other than truly de minimis.

Sprint points out that ATTCOM's affiliate, AT&T Information Services, Inc., ("ATTIS") is a WATS reseller which can complete intraLATA calls. Sprint argues that this fact requires ATTCOM be made a party to any compensation plan instituted.

¹³Ibid., pp. 38-39.

Since ATTIS is not currently engaged in WATS resale in Kentucky, this argument is premature. It is not necessary to the Commission to judge the merits of this argument at this time. Accordingly, the Commission currently excludes ATTCOM from participation in any compensation program.

Several parties argue that, in addition to a transfer of unauthorized revenues to authorized carriers, the OCCs should be required to terminate service to consumers who persistently place intraLATA calls over their networks. While such a provision has some appeal as a method to enforce the current ban on intraLATA competition, the Commission finds this option to be undesirable for several reasons. First, the evidence indicates that a compensation program, if needed, constitutes a more cost-effective manner of accomplishing the Commission's goals.¹⁴ Additionally, as pointed out by Sprint, termination of a consumer's intrastate toll service would necessarily result in termination of interstate service.¹⁵ In this instance, the Commission agrees that jurisdictional considerations may circumscribe the Commission's authority to take such a course of action. However, the Commission does not foreclose the possibility of imposing this requirement at a later date if, for whatever reason, the measures adopted in this Order are unsuccessful in dealing with the problem of unauthorized intraLATA calling.

¹⁴ See, for example, Pre-filed Testimony of MCI witness, Richard W. Braun, pp. 16-17.

¹⁵ Sprint Brief, p. 43.

Sprint has stated the opinion in this case that it should be classified as a reseller and that "the resale activities of OCCs which are partially facilities based should be treated on the same basis as those of 'pure' resellers."¹⁶ The Commission advises Sprint that such issues are proper concerns in the certificate case it currently has pending before the Commission and can be dealt with in that proceeding if Sprint so desires.

ADVERTISING AND CONSUMER EDUCATION

OCCs

All parties to the proceeding agreed that consumer education should be an integral part of the Commission's strategy in the transition to competition in the interexchange market. There was disagreement over the specific method which the Commission could and should employ in designing a consumer education program.

The Commission is of the opinion that an OCC consumer education and advertising program is appropriate in implementing a competitive interexchange market in Kentucky. The Commission does not intend to become a censoring agency but it is the Commission's responsibility to insure that consumers are not misled in this critical period of introducing competition in Kentucky. Therefore, it will require each OCC to notify its current and potential consumers of the Commission's intraLATA policy. All advertising designed for Kentucky-specific consumers shall

¹⁶Ibid., p. 40.

contain notice of the Commission's intraLATA policy. Specific details on the wording and other aspects of this program will be determined through staff conferences with each of the OCCs. The Commission will require that OCC customer relations and sales personnel be instructed to provide similar information in any Kentucky-specific marketing programs and consumer contacts. Failure to meet these Commission advertising requirements could result in decertification of the offending OCC.

ATTCOM

ATTCOM petitioned the Commission to reconsider the requirement that ATTCOM advertise if it is not certified to carry intraLATA traffic. In the rehearing, ATTCOM reiterated its position that it is unable to carry intraLATA toll traffic and therefore should be exempted from the advertising requirements placed on OCCs. In support of this position ATTCOM states, "In logic and fairness, therefore, neither AT&T Communications nor its Kentucky ratepayers should be burdened with the obligations and cost of advertising the intraLATA prohibition."¹⁷ However, ATTCOM contends that the advertising requirement should remain on the OCCs because "equal access will not occur at the identical times for all citizens of Kentucky."¹⁸

The AG and Sprint are opposed to lifting the advertising requirements on ATTCOM. Both the AG and Sprint took similar

¹⁷ATTCOM Brief, p. 11.

¹⁸Ibid., p. 12.

positions that lifting the ban would result in "an unjustifiable competitive handicap in an equal access environment."¹⁹ "That advantage would be particularly unfair for presubscriptions."²⁰ In their opinion, the Commission's effort to encourage competition would be better served by imposing Kentucky-specific advertising requirements on ATTCOM.

The Commission is once again attempting to balance numerous factors in coming to an appropriate decision on ATTCOM's advertising requirement. If equal access were universally available or were scheduled to be universally available on a specific date in the future, the Commission would agree with ATTCOM's position. However, the problem is that a phasing in of equal access will occur while the Commission maintains a consumer education and advertising requirement on the OCCs. If the Commission totally eliminates the requirement that ATTCOM inform the public of its limited authorization, it may appear to the public that ATTCOM is exempt from the intraLATA prohibition, irrespective of the fact that it is technically impossible for ATTCOM to complete such calls. The Commission is of the opinion that any resulting misconception and confusion would be unacceptable with regard to consumers who are served by offices being converted to equal access. The intense nature of competition for these customers, and the importance of the presubscription process dictate that accurate information on the capabilities of each interLATA

¹⁹AG Brief, p. 6.

²⁰GTE Sprint Brief, p. 49.

carrier be made available. Accordingly, ATTCOM shall be required to notify these consumers that it is authorized to carry only interLATA toll traffic. This requirement shall be restricted to mailings and other material specifically directed to consumers served by offices undergoing the equal access conversion, and who are being presented with the choice of presubscribing to an interLATA carrier. As with the OCCs, the specific form this notification shall take will be determined through conferences with the Commission staff. The Commission will also require that ATTCOM customer relations and sales personnel be instructed to provide similar information in any equal access marketing programs and consumer contacts.

FINDINGS AND ORDERS

The Commission, after consideration of the evidence of record and being advised, is of the opinion and finds that:

1. SCB's motion to hold various requests for certification in abeyance should be denied for the reasons set forth above.
2. A requirement that the OCCs physically block intra-LATA calls should be rejected on rehearing since no new evidence has been presented to indicate that the rejection of this solution in the May 25, 1984, Order was in error.
3. The costs imposed by a comprehensive blocking solution are unjustified in light of the impending phase-in of equal access, the temporary nature of the Commission's ban on intraLATA competition, and the impediment such costs would present to the

development of the OCCs as viable long-term competitors to ATTCOM.

4. Physical blocking of unauthorized intraLATA traffic at equal access Feature Group D connections by the LECs is appropriate unless and until intraLATA competition is introduced.

5. Any OCC seeking intrastate interLATA authority in Kentucky should provide valid estimates of the volume of Kentucky intraLATA traffic carried over its network.

6. OCCs seeking intrastate interLATA certification should be required to agree to supply the information discussed in the prior finding as a precondition to obtaining a certificate and as a condition for retaining it.

7. WATS resellers should not be included as recipients of revenue in any compensation program that may be implemented.

8. The issues raised by Sprint as to 1) whether it will be treated as a reseller until such time as it begins facilities-based activities in Kentucky and 2) whether resale activity by an OCC which is partially facilities-based should be treated on the same basis as those of "pure" resellers, are proper concerns to be raised in Sprint's certificate case and should be raised therein.

9. An OCC consumer education and advertising program is appropriate in implementing a competitive interexchange market in Kentucky.

10. Each OCC should notify its current and potential customers of the Commission's intraLATA policy.

11. All advertising designed for Kentucky-specific consumers should contain notice of the Commission's intraLATA policy.

12. Specific details on the wording and other aspects of the consumer education program should be determined through conferences with Commission staff.

13. OCC customer relations and sales personnel should provide information regarding the Commission's intraLATA policy in any Kentucky-specific marketing program and consumer contacts.

14. ATTCOM should notify its current and potential consumers, in areas served by an office undergoing equal access conversion, that it is authorized to carry only interLATA toll traffic.

15. ATTCOM's notification should be restricted to material directed to consumers served by offices undergoing equal access conversion and who are being presented with the choice of presubscribing to an interLATA carrier.

16. Specific details on the form of this notification should be determined through conferences with Commission staff.

17. ATTCOM customer relations and sales personnel should be instructed to provide similar information in any equal access presubscription marketing programs and consumer contacts.

18. Multi-Com's proposals involving limited imposition of blocking requirements restricted to the cases of direct access lines, OCC-provided autodialers, and banded WATS service have considerable merit, but should not be imposed at this time.

19. It is appropriate for OCCs to institute, wherever possible and on a voluntary basis, the measures discussed by Multi-Com.

IT IS THEREFORE ORDERED that SCB's motion to hold various requests for certification in abeyance be and it hereby is denied.

IT IS FURTHER ORDERED that a requirement that OCCs physically block intraLATA calls be and it hereby is rejected on re-hearing.

IT IS FURTHER ORDERED that the LECs shall physically block intraLATA calls at equal access offices unless and until intraLATA competition is introduced.

IT IS FURTHER ORDERED that any OCC seeking intrastate interLATA authority in Kentucky shall provide valid estimates of the volume of Kentucky intraLATA traffic carried over its network within 3 months from the date of any certificate granted or 3 months from the date of this Order, whichever occurs first.

IT IS FURTHER ORDERED that OCCs seeking intrastate interLATA certification shall be required to agree to supply the information discussed in the prior ordering paragraph as a pre-condition to obtaining a certificate and as a condition to retaining it.

IT IS FURTHER ORDERED that WATS resellers shall not be included as recipients of revenue in any compensation program that may be implemented.

IT IS FURTHER ORDERED that the issues raised by Sprint as to 1) whether it will be treated as a reseller until such time as

it begins facilities-based activities in Kentucky and 2) whether resale activity by an OCC which is partially facilities-based should be treated on the same basis as those of "pure" resellers, are proper concerns to be raised in Sprint's certificate case and shall be addressed therein.

IT IS FURTHER ORDERED that an OCC consumer education and advertising program shall be implemented in a competitive inter-exchange market in Kentucky.

IT IS FURTHER ORDERED that each OCC shall notify its current and potential customers of the Commission's intraLATA policy.

IT IS FURTHER ORDERED that all advertising designed for Kentucky-specific consumers shall contain notice of the Commission's intraLATA policy.

IT IS FURTHER ORDERED that specific details on the wording and other aspects of the consumer education program shall be determined through conferences with Commission staff.

IT IS FURTHER ORDERED that OCC customer relations and sales personnel shall be instructed to provide information regarding the Commission's intraLATA policy in any Kentucky-specific marketing program and consumer contacts.

IT IS FURTHER ORDERED that ATTCOM shall notify its current and potential consumers, in areas served by offices undergoing equal access conversion, that it is authorized to carry only interLATA toll traffic.

IT IS FURTHER ORDERED that ATTCOM's notification shall be restricted to material directed to consumers served by offices

undergoing equal access conversion and who are therefore being presented with the choice of presubscribing to an interLATA carrier.

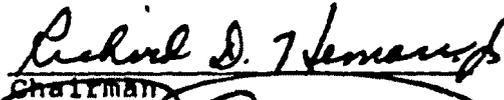
IT IS FURTHER ORDERED that specific details on the form of this notification shall be determined through conferences with Commission staff.

IT IS FURTHER ORDERED that ATTCOM customer relations and sales personnel shall be instructed to provide similar information in any equal access presubscription marketing programs and consumer contacts.

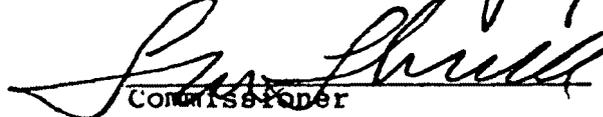
IT IS FURTHER ORDERED that in light of the other measures being required herein to enforce the prohibition on intraLATA competition, the Commission's Order of May 25, 1984, insofar as that Order required each OCC to bill its consumers the intrastate MTS rate for unauthorized intraLATA traffic, be and it hereby is rescinded.

Done at Frankfort, Kentucky, this 26th day of October, 1984.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary