

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

* * * * *

In the Matter of:

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

O R D E R

Introduction

On July 26, 1985, the Commission issued an Order in this case requesting comment on alternative interpretations of its Order of November 20, 1984, relating to intraLATA toll settlements. Subsequently, on August 13, 1985, the Kentucky Exchange Carrier Telephone Industry, composed of all local exchange carriers in Kentucky except Cincinnati Bell, filed a motion with the Commission requesting that the Commission rescind its Order of July 26, 1985, and allow interLATA toll settlement agreements based on an industry Joint Report. On October 3, 1985, a formal conference was held involving the Commission, various local exchange carriers, and other interested parties, at which the Joint Report was thoroughly examined.

Discussion

The Commission is of the opinion that the Joint Report filed by the Kentucky telephone industry provides a reasonable basis for intraLATA toll settlements, essentially consistent with the Commission's Order of November 20, 1984, with two exceptions.

First, the Joint Report includes the following language which the Commission finds unacceptable:

5. Telephone companies should be entrusted by state Public Service Commission with the right and responsibility to establish, by agreement, equitable arrangements for sharing jointly produced revenues in a manner not inconsistent with the public interest.¹

Neither this nor any similar language is acceptable to the Commission in any intraLATA toll settlement agreements among local exchange carriers under jurisdiction, as it implies a forbearance or improper delegation of regulatory responsibility. The Commission is required to regulate utilities in the public interest and it would be inappropriate to vest the obligation to determine the public interest in the regulated entities. The Commission has indicated in other Orders in this case that it intends to exercise full regulatory authority in this area and, therefore, will not approve any intraLATA toll settlement agreements containing such language and will require that all intraLATA toll settlement agreements be filed with the Commission.

In addition, the Joint Report includes a non-partners clause that is not acceptable to the Commission.² All local exchange carriers under the jurisdiction of the Commission with the exception of Cincinnati Bell, have indicated their intent

¹ Joint Report of the Ad Hoc Committee of the Southern Telephone Industry Coordinating Committee Effective June 1, 1985, p. 1.

² Ibid, pgs. 6-7.

to participate in the intraLATA toll settlement plan outlined in the Joint Report and the Commission is of the opinion that such participation by all the local exchange carriers is essential. Therefore, the Commission will require participation by all local exchange carriers which sponsored the Joint Report.

The Joint Report does not indicate the term of intraLATA toll settlement agreements and the Commission will not require that a definite term be stated. However, the Commission advises all parties that intraLATA toll settlement agreements based on the Joint Report will be subject to review and possible modification or termination by the Commission contingent on future revenue requirement filings by local exchange carriers affecting toll revenues and any future change in toll rates. Likewise, without such a change in circumstances, the Commission expects all the local exchange carriers which sponsored the Joint Report to adhere to their agreement.

Findings and Orders

The Commission, having considered the evidence of record and being advised, is of the opinion and finds that:

1. Clauses implying regulatory forbearance or delegation should not be included in any intraLATA toll settlement agreements, as discussed herein.

2. IntraLATA toll settlement agreements should be filed with the Commission prior to their execution.

3. Non-partners clauses should not be included in any intraLATA toll settlement agreements.

4. IntraLATA toll settlement agreements are subject to modification and/or termination by the Commission.

5. The Joint Report, filed August 18, 1985, should be approved with the above modifications on and after the date of this Order.

IT IS THEREFORE ORDERED that:

1. IntraLATA toll settlement agreements shall not include clauses implying regulatory forbearance or delegation.

2. IntraLATA toll settlement agreements shall be filed with the Commission prior to their execution by the local exchange carriers.

3. IntraLATA toll settlement agreements shall not include non-partners clauses.

4. IntraLATA toll settlement agreements shall be subject to modification and/or termination by the Commission.

5. The Joint Report, filed August 13, 1985, with the above modifications is hereby approved on and after the date of this Order.

Done at Frankfort, Kentucky, this 5th day of December, 1985.

PUBLIC SERVICE COMMISSION

Richard D. Ideman
Chairman

[Signature]
Vice Chairman

[Signature]
Commissioner

ATTEST:

Secretary