

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DETARIFFING THE INSTALLATION) ADMINISTRATIVE
AND MAINTENANCE OF INSIDE WIRE) CASE NO. 305

O R D E R

Introduction

On January 13, 1987, Cincinnati Bell Telephone Company ("CBT") filed a motion for rehearing on the Commission's Order of December 24, 1986, in this case. Also, on January 13, 1987, South Central Bell Telephone Company ("SCB") filed an application for hearing, if necessary, and for modification or clarification of the December 24, 1986, Order.

Discussion

Rate Uniformity

In its motion for rehearing, CBT requests rehearing on the Commission's Order of December 24, 1986, as it relates to CBT's filing of revised local exchange access rate schedules to reflect any reduced revenue requirement as a result of detariffing the installation and maintenance of inside wire. As reason for its motion, CBT cites the Commission's historical adoption of uniform rates within the Cincinnati metropolitan service area. Furthermore, in the event that rehearing is granted, CBT states that it will file the details of its proposal to the Public Utilities Commission of Ohio concerning rate changes associated with detariffing the installation and maintenance of inside wire,

the Ohio Commission's Order on detariffing the installation and maintenance of inside wire, and tariff revisions required by the Ohio Commission in connection with detariffing the installation and maintenance of inside wire, for Commission consideration on rehearing.

Since the Commission has historically adopted a policy of uniform rates in the Cincinnati metropolitan service area, in the opinion of the Commission, CBT should be granted rehearing on the issue of rate uniformity, in order that CBT may file testimony and other information salient to the issue of rate uniformity.

Inside Wire Tariff Filings

On November 10, 1986, SCB filed tariff revisions to disaggregate its trouble isolation and maintenance plan between tariffed and detariffed segments, effective January 1, 1987, coincident with detariffing the installation and maintenance of inside wire. In its application for hearing, SCB notes that while the Commission denied its proposed rate disaggregation in the Order of December 24, 1986, no mention was made of its proposed service disaggregation. Therefore, SCB requests that the Order of December 24, 1986, be amended to indicate approval of the

proposed tariff pages, excepting the rate disaggregation, and to indicate that trouble determination¹ be continued for current MITIP² customers³

In the opinion of the Commission, SCB's request that the Order of December 24, 1986, be amended to indicate approval of its proposed service disaggregation and application of trouble determination to current trouble isolation and maintenance plan customers should be granted in part and denied in part, without hearing.

The tariff revisions accomplishing SCB's service disaggregation were approved pursuant to 807 KAR 5:011, Section 9(1), effective January 1, 1987, and a rate disaggregation plan was approved on an interim basis by Order dated January 23, 1987, in this case. Therefore, the Order of December 24, 1986, need not be amended to indicate approval of SCB's tariff filing of November 10, 1986, and SCB's request that the Order be amended should be denied on this point.

The concept of trouble determination results from SCB's disaggregation of its trouble isolation and maintenance plan rates and services. While it is not clear that it is necessary to amend

¹ "Trouble determination" denotes the segment of SCB's trouble isolation and maintenance plan that remains subject to tariff regulation after detariffing the installation and maintenance of inside wire on January 1, 1987.

² Maintenance Trouble Isolation Plan.

³ Application for Hearing, if Necessary, and for Modification or Clarification of the December 24, 1986, Order, pages 8-9.

the Order of December 24, 1986, to indicate that trouble determination rates and services should apply to current trouble isolation and maintenance plan customers, such application was contemplated by the Commission in approving SCB's tariff filing of November 10, 1986, and in its Order of January 23, 1987. Therefore, in order to prevent any uncertainty on this matter, in the opinion of the Commission, the Order of December 24, 1986, should be amended to indicate that trouble determination rates and services apply to current trouble isolation and maintenance plan customers.

Ordering Paragraph No. 13

Ordering paragraph no. 13 in the Order of December 24, 1986, states that "LECs⁴ shall not impose any restrictions on the removal, replacement, rearrangement, or maintenance of inside wire installed or maintained under tariff."⁵

In its application for hearing, SCB states that it "currently has Commission-approved tariffs in place which govern procedures and charges for removal, replacement or rearrangement of inside wire"⁶ and that these tariff provisions could be construed as imposing restrictions in violation of the Order of December 24,

⁴ Local exchange carriers.

⁵ Administrative Case No. 305, Detariffing the Installation and Maintenance of Inside Wire, Order dated December 24, 1986, page 21, discussion at pages 13-14.

⁶ Application for Hearing, page 6.

1986. Therefore, SCB requests that the Commission "modify its Order to indicate that companies with approved tariffs for the removal, replacement or rearrangement [of inside wire] need not delete or change them."⁷

In the case of SCB, tariff provisions governing the removal, replacement, or rearrangement of inside wire result from an Order of the Commission in Case No. 8847,⁸ in which the Commission ordered SCB to charge time and materials rates for the removal, replacement, or rearrangement of embedded complex inside wire.⁹ At that time, procedures and charges associated with the removal, replacement, or rearrangement of inside wire were subject to tariff regulation. At this time, procedures and charges associated with the removal, replacement, or rearrangement of inside wire are not subject to tariff regulation. Therefore, in the opinion of the Commission, SCB's request that the Order of December 24, 1986, be modified to continue tariffed restrictions on the removal, replacement, or rearrangement of inside wire should be denied and all LECs should remove any such restrictions from their tariffs.

Ordering Paragraph No. 14.

Ordering paragraph no. 14 in the Order of December 24, 1986, states that "LECs shall not impose any requirement that inside

⁷ Ibid.

⁸ Case No. 8847, Notice of South Central Bell Telephone Company of an Adjustment in its Intrastate Rates and Charges.

⁹ Ibid., Order dated January 18, 1984, discussion at page 79.

wire installed or maintained under tariff be purchased and shall not impose any charge for the use of inside wire installed or maintained under tariff."¹⁰

In its application for hearing, SCB requests that the Commission modify ordering paragraph no. 14 in the Order of December 24, 1986, to "allow South Central Bell and any other LEC that has 'frozen wire charges' to continue to collect those monthly charges for complex inside wiring which are imposed on a customer-specific basis to amortize the cost of the complex inside wire."¹¹

In the case of SCB, "frozen wire charges" result from an Order of the Commission in Case No. 8847, in which the Commission ordered SCB to disaggregate rates and charges associated with complex inside wire and to continue billing complex inside wire charges, at least until complex inside wire is fully amortized.¹²

In the Order of December 24, 1986, the Commission did not contemplate the elimination of "frozen wire charges" or any other rates and charges associated with the amortization of embedded inside wire. Such rates and charges are and will continue to be regulated rates and charges, at least until embedded inside wire is fully amortized. Therefore, in order to prevent any

¹⁰ Administrative Case No. 305, Order dated December 24, 1986, page 21, discussion at pages 13-14.

¹¹ Application for Hearing, Page 4.

¹² Case No. 8847, Order dated January 18, 1984, discussion at pages 78-79.

uncertainty on this matter, in the opinion of the Commission, the Order of December 24, 1986, should be modified to indicate that "frozen wire charges" or any other rates and charges approved by the Commission and associated with the amortization of embedded inside wire are neither eliminated nor detariffed.

Also, in its application for hearing, SCB requests that ordering paragraph no. 14 be vacated insofar as it prohibits SCB from imposing any charge for the use of inside wire.¹³ Similarly, CBT, in its motion for rehearing, "requests the right to charge for the use of and to sell any inside wire until it has been expensed or fully amortized."¹⁴

The provision of ordering paragraph no. 14 that prohibits LECs from imposing any charge on the use of inside wire installed or maintained under tariff stems from a similar provision contained in an Order of the Federal Communications Commission ("FCC") in Common Carrier Docket No. 79-105.¹⁵ However, unlike the FCC, the Commission did not modify its prohibition on imposing any charge for the use of inside wire installed or maintained

¹³ Application for Hearing, pages 5-6.

¹⁴ Motion for Rehearing, page 7.

¹⁵ Common Carrier Docket No. 79-105, Detariffing the Installation and Maintenance of Inside Wire.

under tariff to indicate that the prohibition did not apply to charges associated with the amortization of embedded inside wire.¹⁶

As discussed above, in the Order of December 24, 1986, the Commission did not intend to eliminate or detariff "frozen wire charges" or any other rates and charges associated with the amortization of embedded inside wire. Also, as discussed above, the Commission will modify the Order of December 24, 1986, to indicate that "frozen wire charges" or any other rates and charges approved by the Commission and associated with the amortization of embedded inside wire are neither eliminated nor detariffed. In the opinion of the Commission, this modification is sufficient to address SCB's concern that the Order "unnecessarily deprives South Central Bell of source of revenue which will help defray its regulated revenue requirement."¹⁷ Therefore, SCB's request that ordering paragraph no. 14 be vacated, should be denied. Also, in the opinion of the Commission, this modification is sufficient to address CBT's request for the right to charge for the use of inside wire and for the right to sell inside wire, inasmuch as CBT may propose rates and charges associated with the amortization of inside wire and may propose an inside wire sale plan under the terms of the Order. Therefore, CBT's request for rehearing on inside wire rates and charges and sale of inside wire should be denied.

¹⁶ Ibid., page 21, footnote no. 74.

¹⁷ Application for Hearing, page 5.

Ordering Paragraph No. 17

Ordering paragraph No. 17 in the Order of December 24, 1986, states that "LECs shall not disconnect regulated services for the nonpayment of detariffed installation and maintenance of inside wire charges."¹⁸

In its application for hearing, SCB requests that the Commission vacate ordering paragraph no. 17 in the Order of December 24, 1986, on the basis that "If customers are notified and agree to the potential termination of their telephone service for failure to pay detariffed installation or maintenance charges, South Central Bell should be allowed to enforce the provisions of that agreement."¹⁹

In the opinion of the Commission, the monopoly power represented by an LEC's authority to disconnect a customer for nonpayment under Commission rules and regulations should not be extended to include disconnection of service for nonpayment of detariffed charges that do not represent an asset of value to the LEC. Such an extension of authority would provide LECs that opt to provide installation and maintenance of inside wire services with a collection mechanism unavailable to non-LEC vendors. Also, such an extension of authority would provide LECs that opt to provide installation and maintenance of inside wire services with an unnecessary competitive advantage over non-LEC vendors through lower operating costs in the form of lower uncollectibles losses

¹⁸ Administrative Case. No. 305, page 22.

¹⁹ Application for Hearing, pages 7-8.

and reduced market risk. Furthermore, disconnection of regulated services for nonpayment of detariffed charges would result in an unnecessary loss of revenue to recover regulated revenue requirement. Therefore, SCB's request to vacate ordering paragraph no. 17 in the Order of December 24, 1986, should be denied.

Ordering Paragraph No. 19

Ordering paragraph no. 19 in the Order of December 24, 1986, states that "In the event of a reported service problem, LECs providing maintenance of inside wire service should advise the customer of the possibility of maintenance of inside wire charges and that maintenance of inside wire service can be obtained from non-LEC sources."²⁰

In its motion for rehearing, CBT requests rehearing on ordering paragraph no. 19 in the Order of December 24, 1986, on the grounds that (1) CBT already notifies customers of installation and maintenance of inside wire options through various media, (2) CBT already advises customers of the possibility of maintenance of inside wire charges when service problems are reported, and (3) "The LECs will be offering wire maintenance programs as an unregulated service and in competition with various vendors and it is unfair to require the telephone companies to inform customers on a daily and repetitive basis of competitive sources for wire maintenance."²¹

²⁰ Administrative Case No. 305, page 22.

²¹ Motion for Rehearing, page 8.

In its application for hearing, SCB requests that the Commission vacate ordering paragraph no. 19 in the Order of December 24, 1986, on the grounds that (1) imposing conditions on detariffed maintenance of inside wire services is inconsistent with detariffing maintenance of inside wire services, (2) SCB would suffer the consequences of failure to reach agreements with its customers concerning maintenance of inside wire charges, and (3) should not be required to advise customers that maintenance of inside wire services can be obtained from sources other than SCB.²²

In the opinion of the Commission, CBT's motion for rehearing and SCB's application for hearing raise questions sufficient to merit rehearing on the issue of the requirements contained in ordering paragraph no. 19 in the Order of December 24, 1986. Therefore, CBT's motion for rehearing on this issue should be granted and SCB's application for hearing to vacate ordering paragraph no. 19 should be denied.

Ordering Paragraph No. 22

Ordering paragraph no. 22 in the Order of December 24, 1986, states that "LECs should make every effort to correctly identify a problem as being in the LECs or customers' portion of the network and if the LEC incorrectly identifies a service problem as being

²² Application for Hearing, page 6-7.

the customer's responsibility, then the LEC should reimburse the customer for any reasonable expenses incurred to further isolate the source of the service problem.²³

In its motion for rehearing, CBT requests that ordering paragraph no. 22 "be deleted from the Commission's Order or not applied to Cincinnati Bell."²⁴ CBT further notes that its General Exchange Tariff contains liability provisions adequate to protect customer interests and requests that the Commission clarify the Order to define "reasonable reimbursement" in the cases of misidentified service problems.

In its application for hearing, SCB requests that the Commission vacate ordering paragraph No. 22 in the Order of December 24, 1986, on the grounds that (1) the requirements of ordering paragraph no. 22 are unnecessary, (2) the requirements of ordering paragraph no. 22 are impractical, (3) the Commission cannot enforce the requirements of ordering paragraph no. 22, and (4) there is no evidence of record to support the requirements of ordering paragraph no. 22.²⁵

In the opinion of the Commission, CBT's motion for rehearing and SCB's application for hearing raise questions sufficient to merit rehearing on the issue of the requirements contained in ordering paragraph no. 22 in the Order of December 24, 1986. Therefore, CBT's motion for rehearing to delete ordering paragraph

²³ Administrative Case No. 305, page 23.

²⁴ Motion for Rehearing, page 9.

²⁵ Application for Hearing, pages 1-4.

no. 22 or not apply it to CBT should be denied. Also, SCB's application for hearing to vacate ordering paragraph no. 22 should be denied.

Findings and Orders

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

1. CBT's motion for rehearing on the issue of rate uniformity should be granted.

2. SCB's application for hearing to amend the Order of December 24, 1986, to indicate approval of its tariff filing of November 10, 1986, should be denied.

3. SCB's application for hearing to amend the Order of December 24, 1986, to indicate that trouble determination rates and services apply to current trouble isolation and maintenance plan customers should be granted.

4. SCB's application for hearing to modify the Order of December 24, 1986, to continue tariffed restrictions on the removal, replacement, or rearrangement of inside wire should be denied and all LECs should remove any such restrictions from their tariffs.

5. SCB's application for hearing to modify the Order of December 24, 1986, to indicate that "frozen wire charges" or any other rates and charges approved by the Commission and associated with the amortization of embedded inside wire are neither eliminated nor detariffed should be granted.

6. SCB's application for hearing to vacate ordering paragraph no. 14 in the Order of December 24, 1986, should be denied.

7. CBT's motion for rehearing on the issues of inside wire rates and charges and sale of inside wire should be denied.

8. SCB's application for hearing to vacate ordering paragraph no. 17 in the Order of December 24, 1986, should be denied.

9. CBT's motion for rehearing on the issue of the requirements contained in ordering paragraph no. 19 in the Order of December 24, 1986, should be granted.

10. SCB's application for hearing to vacate ordering paragraph no. 19 in the Order of December 24, 1986, should be denied.

11. CBT's motion for rehearing to delete ordering paragraph no. 22 in the Order of December 24, 1986, or not apply it to CBT should be denied.

12. SCB's application for hearing to vacate ordering paragraph no. 22 in the Order of December 24, 1986, should be denied.

13. Rehearing on the requirements contained in ordering paragraph no. 22 in the Order of December 24, 1986, should be granted.

14. Interested parties may file testimony on the rehearing issues identified in this Order no later than February 18, 1987.

IT IS THEREFORE ORDERED that:

1. CBT's motion for rehearing on the issue of rate uniformity be and it hereby is granted.

2. SCB's application for hearing to amend the Order of December 24, 1986, to indicate approval of its tariff filing of November 10, 1986, be and it hereby is denied.

3. SCB's application for hearing to amend the Order of December 24, 1986, to indicate that trouble determination rates and services apply to current trouble isolation and maintenance plan customers be and it hereby is granted, and the Order is so amended.

4. SCB's application for hearing to modify the Order of December 24, 1986, to continue tariffed restrictions on the removal, replacement, or rearrangement of inside wire be and it hereby is denied, and all LECs shall remove any such restrictions from their tariffs.

5. SCB's application for hearing to modify the Order of December 24, 1986, to indicate that "frozen wire charges" or any other rates and charges approved by the Commission and associated with the amortization of embedded inside wire are neither eliminated nor detariffed be and it hereby is granted, and the Order is so modified.

6. SCB's application for hearing to vacate ordering paragraph no. 14 in the Order of December 24, 1986, be and it hereby is denied.

7. CBT's motion for rehearing on the issuing of inside wire rates and charges and sale of inside wire be and it hereby is denied.

8. SCB's application for hearing to vacate ordering paragraph no. 17 in the Order of December 24, 1986, be and it hereby is denied.

9. CBT's motion for rehearing on the issue of the requirements contained in ordering paragraph no. 19 in the Order of December 24, 1986, be and it hereby is granted.

10. SCB's application for hearing to vacate ordering paragraph no. 19 in the Order of December 24, 1986, be and it hereby is denied.

11. CBT's motion for rehearing to delete ordering paragraph no. 22 in the Order of December 24, 1986, or not apply it to CBT be and it hereby is denied.

12. SCB's application for hearing to vacate ordering paragraph no. 22 in the Order of December 24, 1986, be and it hereby is denied.

13. Rehearing on the requirements contained in ordering paragraph no. 22 in the Order of December 24, 1986, be and it hereby is granted.

14. Interested parties shall file testimony on the rehearing issues identified in this Order no later than February 18, 1987.

15. Rehearing on the issues identified in this Order be and it hereby is scheduled at 9:00 a.m., E.S.T., on March 4, 1987, in the Commission's offices at Frankfort, Kentucky.

Done at Frankfort, Kentucky, this 2nd day of February, 1987.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director