

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF THE KENTUCKY)
INTRASTATE RATES OF SOUTH CENTRAL) CASE NO. 10105
BELL TELEPHONE COMPANY, INC.)

O R D E R

On April 29, 1988, MCI Telecommunications Corporation ("MCI") filed a Motion to Compel South Central Bell Telephone Company, Inc. ("SCB") to answer information previously requested by MCI on three topics: directory advertising, budgets, and affiliated transactions.

On May 9, 1988, SCB filed a response to MCI's Motion to Compel and on May 17, 1988, MCI filed a reply to SCB's response. The Commission finds as follows:

DIRECTORY ADVERTISING

MCI's Motion requests that the Commission compel the production of numerous items of information concerning BellSouth Advertising and Publishing Company ("BAPCO"). In its response, SCB objected to providing this information on the grounds that it could cause competitive harm and that KRS Chapter 278 provides no authority for the regulation of advertising and publishing companies. Thus, according to SCB, the requests are irrelevant, especially since the calculation for a BAPCO adjustment imputing revenues of BAPCO to SCB has already been provided to the Commission.

MCI, in its reply, states that BAPCO is an issue in the case, that MCI is not a competitor in directory advertising, that it is willing to sign a confidentiality agreement, and finally that the request can be modified to be less burdensome.

After much consideration, the Commission is of the opinion and finds that MCI's information requests concerning BAPCO are superfluous and, therefore, MCI's Motion to Compel discovery of Items 1 through 3 and 5 through 10 of its March 16, 1988 information request should be denied. However, the Commission has reviewed the calculation of the BAPCO adjustment provided by SCB and requires that SCB file the following information.

1. The backup calculation and supporting documentation for the level of BAPCO net investment used in SCB's calculation on page 93 of 95 of its initial response to the Commission's Order in this case.

2. A full description of how the capital, net investment, revenues and expenses of L.M. Berry and Company concerning its relationship with BellSouth Corporation and BAPCO are reflected in the accounts of SCB and in the calculation described above.

BUDGETS

In its Motion to Compel, MCI also requests that SCB provide its 1987 and 1988 Operational Budget along with reconciliation of the 1987 Budget to actual operations. SCB claims that this information is irrelevant and that competitive harm could ensue if it were disclosed to MCI.

SCB has already provided the 1988 budget in its response to Item No. 44 of the Commission's Information Request of

February 26, 1988. SCB requested this budget information be held confidential, and the Commission has afforded confidential treatment pursuant to 807 KAR 5:001, Section 7. MCI has stated that it is willing to enter into a protective agreement with SCB to protect SCB's claim of proprietary interests.

SCB objects to entering into a protective or proprietary agreement with MCI because MCI is a "competitor" in the intraLATA toll market with its Prism I and Prism II and other services. MCI countered SCB's assertions by stating that it was intervening in this proceeding as a ratepayer, not a competitor, that a proprietary agreement would provide adequate protection against competitive harm and that in other instances before this Commission competitors have entered into protective agreements.

After much consideration, the Commission is of the opinion and finds that SCB's claim that this information is irrelevant is not correct. However, given the sensitivity of this information and MCI's current and potential competing services, the Commission is of the opinion that SCB's objection to entering into a protective agreement is justified at this time. SCB's intraLATA toll market is a significant share of its total business, and some of MCI's services do result in unauthorized intraLATA toll traffic, and no compensation scheme has yet been established to pay the local exchange carriers for the unauthorized traffic. Moreover, the Commission advises that it is initiating an investigation in the very near future to determine, in part, if intraLATA toll competition should be permitted.

Because of the potential magnitude of the problem that could occur should sensitive information be used inappropriately by a competitor, the Commission will not require SCB to submit this information to MCI. However, the Commission will require SCB to submit the 1987 Operational Budget along with reconciliation of actual 1987 to budget for the Commission's review.

AFFILIATED INTERESTS

MCI's Motion also asked for information concerning SCB's affiliated interests. In its response, SCB objected to the provision of this information, stating again that the information could result in competitive harm and also that some of the information constituted "legal advice" which was not appropriate.

As with the budget material, the Commission is of the opinion and finds that it will not require SCB to provide this information to MCI, but will require that the information be provided to the Commission for its review. Therefore, the Commission requires SCB to provide responses to MCI's requests numbered 20, 21, 23, and 35.

MCI further requested in number 34 that SCB provide a list of all Bellcore projects for the 1988 calendar year which involve activities for which SCB would have to obtain waiver from the Federal Communications Commission ("FCC") or Judge Greene of the D. C. District Court in order to participate. SCB states that, "[w]hether an activity to be undertaken is in compliance with the MFJ [Modified Final Judgment] or with orders of the FCC is clearly a legal question." The Commission agrees with SCB. However, the Commission does see that there could be relevancy to this question

if SCB's Kentucky ratepayers are asked to pay for Bellcore activities which are outside the currently authorized and approved scope of telecommunications pursuant to the MFJ and the FCC. Therefore, the Commission requires that SCB provide this information to the Commission for its review for projects included in SCB's actual expenses for the test year ended October 31, 1987.

SUMMARY

IT IS THEREFORE ORDERED that:

1. The Motion of MCI to Compel SCB to answer data requests filed April 29, 1988 be and it hereby is denied, to the extent stated above.

2. SCB shall file the information requested herein within 15 days of the date of this Order.

Done at Frankfort, Kentucky, this 14th day of July, 1988.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director