

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 December 16, 1987, the Commission initiated this investigation and review of South Central Bell Telephone Company, Inc.'s ("SCB") rates and charges pursuant to KRS 278.260. In that Order the Commission directed SCB to file a recent 12-month test period income statement, rate base, capital, and capital structure as well as propose any adjustments the Company deemed appropriate. The Order further stated that the Commission would consider an incentive regulation plan as part of the investigation.

On January 20, 1988, SCB filed its response to information requested in the December 16, 1987 Order. On February 22, 1988, the Commission issued an Order finding that additional information would be required to analyze SCB's rates and charges and its proposed incentive plan and therefore established a procedural schedule affording opportunities for parties to participate in discovery, to hold informal conferences, and to conduct a hearing. That schedule established September 6, 1988 as the date by which the case would be concluded.

Subsequent to an extensive phase of discovery, an informal conference was convened on April 20, 1988. The purpose of the

conference was to afford all parties an opportunity to discuss information in the record and to discuss procedural matters. On April 20, 1988, SCB filed a Motion to modify the procedural schedule established by the Commission in its February 22, 1988 Order.

On April 22, 1988, the Commission suspended the procedural schedule it had adopted in its February 22, 1988 Order pending consideration of several Motions, including SCB's Motion to modify the procedural schedule.

In an effort to conclude this case, on July 13, 1988 SCB filed a revision to its January 20, 1988 response and proposed incentive plan. This revised plan, styled Motion of South Central Bell Telephone Company to Conclude this Docket and to Adopt a Revised Incentive Plan, will produce an annual benefit of \$20.4 million to the Kentucky ratepayers, consisting of an amortization of the depreciation reserve deficiency and an initial reduction in local rates of \$5.5 million.

On July 15, 1988, the Commission established a procedural schedule for the purpose of affording inquiry into the impact of SCB's Motion and revised proposal. Such procedural schedule established an opportunity for filing comments on SCB's Motion and proposal, for filing reply comments, and for a hearing to present testimony and argument concerning whether the Motion should be granted or denied. The Commission amended the procedural schedule by Order dated July 20, 1988 to include a period of discovery.

On July 29, 1988, AT&T Communications of the South Central States, Inc. ("AT&T"), filed a Motion to modify the procedural

schedule and continue the hearing, requesting a delay in the schedule of approximately 90 days. As grounds for its Motion, AT&T stated that no intervenors had seen SCB's revised proposal prior to the time it was filed and that the Commission's procedural schedule set a hearing date for 40 days after the filing of such proposal. AT&T further stated that its proposed modifications to the procedural schedule would allow all parties to fully examine SCB's proposal including the exact parameters and the underlying assumptions. Finally, AT&T stated that unless it gains a complete understanding of the proposal through the adoption of its Motion, AT&T must oppose SCB's proposal.

On August 1, 1988, MCI Telecommunications Corporation ("MCI") filed a Motion for an extended discovery schedule and postponement of the hearing, requesting that further discovery be permitted and that the hearing be postponed for approximately 90 days. In support of its Motion, MCI stated that it has serious concerns with SCB's revised proposal and that the Commission's schedule does not provide meaningful discovery. Further, MCI alleges that the schedule violates its due process rights.

In their Motions, AT&T and MCI stated that the Department of Defense authorized them to represent that it concurs with the Motions.

On August 1, 1988, SCB filed its response stating that if the Motions were granted the procedural schedule as modified would deprive Kentucky ratepayers of an immediate rate reduction and would be repetitive of a procedure already followed by the Commission. SCB delineates the extent to which AT&T and MCI have

been afforded an opportunity to participate in this investigation and have so participated. SCB emphasized that the proceeding was initiated by the Commission pursuant to KRS 278.260 and that the process due to an intervenor in such an investigation has been provided to MCI and AT&T. The Attorney General of the Commonwealth, Utility and Rate Intervention Division, made no response to the Motions.

Upon consideration of the Motions of AT&T and MCI and SCB's response, the Commission is of the opinion and finds that AT&T's Motion and MCI's Motion should be denied. Kentucky Revised Statute 278.260 enumerates the procedural requirements for conducting an investigation. The Commission cannot enter an Order affecting the rates or service of a utility without a formal public hearing. The time and place for such hearing is to be fixed by the Commission and the Commission must give not less than 20 days notice to the utility. Exceeding the requirements of this statute, the Commission has since initiated this investigation in December 1987, established procedural schedules which afford the intervenors opportunities for discovery and opportunities to present comments. The Commission is of the opinion that SCB's revised proposal should be considered, and therefore established a procedural schedule, including a public hearing, the time and place for which were set 40 days after the revised proposal was filed. The Commission's actions have not precluded comment by any party on the revised proposal and all intervenors are encouraged to participate in the hearing. With all the procedural safeguards established by the Commission for this investigation, AT&T and MCI

could cite no statutory or case authority for the proposition that their due process rights have been infringed. Therefore, the Commission finds that it is in the public interest to maintain the procedural schedule adopted on July 15, 1988 and July 20, 1988 for consideration of SCB's Motion and revised proposal.

IT IS THEREFORE ORDERED that:

1. AT&T's Motion to modify the procedural schedule and continue hearing is hereby denied.

2. MCI's Motion for extended discovery schedule and postponement of hearing is hereby denied.

3. The procedural schedule as adopted on July 15, 1988 and July 20, 1988 is hereby reaffirmed.

Done at Frankfort, Kentucky, this 5th day of August, 1988.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST: ..

Executive Director