

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF INTERLATA CARRIER)
BILLED MINUTES OF USE AS A ULAS) ADMINISTRATIVE
ALLOCATOR) CASE NO. 311

O R D E R

INTRODUCTION

Procedure Background

The Commission's Orders of September 29, 1988 and August 29, 1989 deferred certain issues to a formal conference for review and recommendations. These issues are:

1. The implementation of the non-premium access discount in the ULAS¹ allocation plan.
2. The definition of measurement of terminating switched access minutes of use.
3. ULAS reporting procedures and formats. That is, the need for out-of-period adjustments to carrier ULAS usage reports, the cycle of carrier ULAS usage reports, and ULAS charges determination.

In each instance, the Commission provided specific technical suggestions to be considered at the formal conference.

On September 13, 1989, South Central Bell Telephone Company ("South Central Bell") filed a sample ULAS tariff and administrative guide based on the Commission's decisions and

¹ Universal Local Access Service.

technical suggestions, as ordered by the Commission to facilitate discussion at the formal conference. The Commission advised the parties of record that other issues related to ULAS tariff requirements and implementation guidelines could be considered at the formal conference on December 11, 1989. The formal conference was held on January 22, 1990 and the transcript was filed on February 1, 1990. Also on February 1, 1990, South Central Bell filed a revised ULAS tariff and administrative guide based on the discussion of issues at the formal conference. A staff report concerning the formal conference was filed on February 9, 1990. MCI Telecommunications Corporation ("MCI") filed objections to South Central Bell's ULAS tariff filing on February 28, 1990. Also on February 28, 1990, South Central Bell's ULAS tariff filing was suspended, pending this decision. On March 15, 1990, South Central Bell responded to MCI's objections and on March 23, 1990 MCI replied to South Central Bell's comments. On April 2, 1990, US Sprint Communications Company, Limited Partnership, filed a brief comment.

Participants at the formal conference were Commission Staff; the Attorney General of the Commonwealth of Kentucky, by and through his Utility and Rate Intervention Division; AT&T Communications of the South Central States, Inc.; AmeriCall Systems of Louisville; LDDS, Inc.; MCI; South Central Bell; and US Sprint Communications Company, Limited Partnership.

DISCUSSION

ULAS Discount

In the Order dated September 29, 1988, the Commission found that a discount should apply to non-premium minutes of use in end offices where Feature Group D is not available.² Also, regarding implementation of the discount, the Commission suggested that:

[T]he most appropriate method is to apply a 55 percent discount to interLATA³ terminating switched access minutes of use, in proportion to the amount of interLATA non-premium originating switched access minutes of use in end offices where Feature Group D is not available.⁴

At the formal conference, no one raised any objection or offered any alternative to the Commission's suggestion.⁵ Therefore, the Commission finds that the discount should be implemented as described above and in the Order of September 29, 1988, where it is more fully explained.

Access Minutes Measurement

In the Order of September 29, 1988, the Commission suggested that access minutes should be defined based on access services tariffs, in order to avoid any confusion and the use of different definitions by reporting carriers.⁶

² Administrative Case No. 311, Order dated September 29, 1988, pages 27-28, footnotes omitted.

³ Local Access and Transport Area.

⁴ Administrative Case No. 311, Order dated September 29, 1988, page 28, footnotes omitted.

⁵ Transcript of the Formal Conference, pages 5-7.

⁶ Administrative Case No. 311, Order dated September 29, 1988, pages 30-31.

Initially, South Central Bell proposed to define access minutes based on its interstate tariff. However, at the formal conference, the consensus was that the definition should be based on the intrastate tariff.⁷ Also at the formal conference, South Central Bell agreed to use the intrastate definition. Therefore, the Commission finds that access minutes should be defined based on South Central Bell's intrastate access services tariff.

Reporting Requirements

In the Order of September 29, 1988, the Commission suggested that out-of-period adjustments might be necessary to assign usage to the reporting period in which it occurred.⁸ Also, although the Commission found that usage reports should be filed and charges determined on a quarterly basis,⁹ the Commission later indicated willingness to modify the reporting cycle in order to minimize "real time" billing lag, subject to conditions.¹⁰

At the formal conference, no one proposed to change the reporting cycle, which drives the calculation of charges and billing. Therefore, the Commission finds that the existing reporting cycle should be retained.

⁷ Transcript of the Formal Conference, pages 7-39.

⁸ Administrative Case No. 311, Order dated September 29, 1988, pages 34-35.

⁹ Ibid., page 34.

¹⁰ Ibid., Order dated August 29, 1989, pages 15-16.

Considerable discussion was devoted to out-of-period adjustments.¹¹ Aside from deliberate non-reporting or misreporting, or inadvertent misreporting, a consensus evolved that out-of-period adjustments could be minimized if usage were determined based on a uniform bill date. Under this approach, the bill date would govern the period in which usage is reported, irrespective of the period in which the usage actually occurred. This approach to usage reporting should simplify ULAS administration and leave a simpler audit trail than an approach that would require numerous out-of-period adjustments to match usage with reporting periods. Therefore, the Commission finds that the bill date approach to usage reporting should be adopted.

Other Matters

Other matters arose at the formal conference that the Commission will address.

Prior to the formal conference, South Central Bell and various other parties reached agreement on certain tariff changes.¹² These and other changes were discussed at the formal conference. A number of tariff changes are editorial in nature and pose no serious concerns. Some, however, can be considered significant. These are:

¹¹ Transcript of the Formal Conference, pages 39-71.

¹² Ibid., pages 71-72.

1. A clarification of the tariff to indicate that it applies to facilities-based interLATA carriers, as intended by the Commission.¹³ The Commission finds that this clarification is reasonable.

2. A clarification of the mathematics of calculating usage among interLATA carriers when a non-reporting interLATA carrier is involved.¹⁴ This clarification was necessary to avoid over-recovery of revenue requirements and the Commission finds that it is reasonable.

3. A clarification of the tariff to indicate that interLATA carriers should report switched access usage by billing local exchange carrier rather than by local exchange carrier, because some render carrier access bills on behalf of others.¹⁵ The Commission finds that this clarification is reasonable.

4. A clarification of the tariff to indicate that interLATA carriers should report customer billed minutes of use as a state total rather than by local exchange carrier, because interLATA carriers cannot obtain local exchange carrier-specific customer

¹³ Ibid., page 72. It should be noted that the Commission is considering whether WATS resellers should be subject to ULAS charges in Administrative Case No. 328, Investigation Into Whether WATS Resellers Should be Included in the ULAS Allocation Process. Obviously, decisions made in this case will not prejudice decisions in that case. WATS is an acronym for Wide Area Telecommunications Service.

¹⁴ Ibid., pages 72-73.

¹⁵ Ibid., pages 81-82 and 91.

billed minutes of use.¹⁶ The Commission finds that this clarification is reasonable.

5. A clarification of the tariff to indicate that interLATA carriers should report local exchange carrier-specific percent interstate usage factors, if available.¹⁷ Otherwise, an aggregate percent interstate usage factor can be reported for the state. The Commission finds that this clarification is reasonable.

6. A clarification of the tariff to require local exchange carriers to retain billing and accounting information for audit purposes.¹⁸ The Commission finds that this clarification is reasonable.

7. A clarification of the mathematics of calculating ULAS charges to state all terms in the calculation. The Commission finds that this clarification is reasonable.¹⁹

In a matter related to Item 2 above, initially, South Central Bell proposed to assign a non-reporting interLATA carrier the highest minutes of use among the reporting interLATA carriers. Objections were raised to this approach at the formal conference because it could grossly distort billing relationships.²⁰ As a result, South Central Bell agreed to assign the most recent reported usage plus 5 percent to encourage timely reporting.

¹⁶ Ibid., pages 82-83.

¹⁷ Ibid., pages 83-85 and 94-106.

¹⁸ Ibid., pages 89-91.

¹⁹ Ibid., pages 107-110.

²⁰ Ibid., pages 72-81 and 91-94.

Although it did not object at the formal conference, MCI later objected to the 5 percent "penalty":

MCI believes that this penalty should be reversible upon proper reporting at a later date. In addition, MCI believes that 5 percent credit should be given by the Pool Administrator if a bill is not generated within five days from the date the bill is due to be rendered under the tariff.

Finally, MCI believes that an early payment discount of 5 percent should be provided to ULAS payments paid by the 15th of the month.²¹

An interLATA carrier should not be allowed to avoid ULAS charges through non-reporting. Therefore, the Commission finds that assigning a non-reporting interLATA carrier its most recent reported usage is reasonable and that retroactive bill adjustments upon reporting should not be required, except when the report shows usage growth of more than 5 percent compared to the previous unassigned reporting period.²² Also, apart from assignment of usage, an interLATA carrier that might seek to avoid ULAS charges through non-reporting places other interLATA and local exchange carriers at financial risk, and creates administrative expense that would not otherwise exist. Therefore, the Commission finds that the 5 percent penalty for non-reporting is reasonable and should induce interLATA carriers to file timely usage reports. Of course, any interLATA carrier that believes usage has been

²¹ Correspondence filed on February 28, 1990, from Kendrick R. Riggs, counsel for MCI, to Lee M. MacCracken, Executive Director, Public Service Commission, pages 1-2.

²² It should be noted that procedures concerning newly certificated interLATA carriers are different. See Transcript of the Formal Conference, pages 92-93.

improperly assigned or that the penalty has been improperly applied can petition the Commission for relief if the dispute cannot be resolved with the ULAS administrator.

The Commission will reject MCI's suggestion that a 5 percent credit apply when ULAS bills are not rendered on time and that a 5 percent early payment discount apply. In the former instance, there is no evidence that ULAS bills are not rendered on a timely basis and, in both instances, recovery of ULAS revenue requirement could be adversely affected.

Some discussion occurred at the formal conference concerning the late payment penalty contained in the ULAS tariff.²³ The parties did not agree to a rate of interest on late payments. However, the parties did agree that the late payment penalty should model the access services tariff and MCI later specified the interstate access services tariff.²⁴ The Commission finds that the late payment penalty should model South Central Bell's intrastate access services tariff and that it should be applied as proposed by South Central Bell. This decision is consistent with other decisions in this Order that use the intrastate access services tariff for guidance. Also, the Commission will note that

²³ Transcript of the Formal Conference, pages 110-115.

²⁴ Correspondence filed on February 28, 1990, from Kendrick R. Riggs, counsel for MCI, to Lee M. MacCracken, Executive Director, Public Service Commission, page 1.

other intrastate access services tariffs contain late payment provisions similar in terms and rates of interest to that proposed by South Central Bell in the ULAS tariff,²⁵ and that similar rates of interest apply to late payments made by interLATA carriers as apply to late payments made local exchange carriers.²⁶

Considerable discussion of the late payment penalty relative to billing disputes occurred at the formal conference.²⁷ Prospectively, the Commission finds that South Central Bell's proposed tariff is reasonable in this area. Retrospectively, the parties are advised that any disputes that cannot be settled should be brought to the Commission for resolution in another proceeding.

The parties agreed to retroactive adjustments to ULAS principal payments based on the terminating switched access

²⁵ For example, compare South Central Bell's Universal Local Access Service Tariff, PSC Ky. Tariff 2J, Section J2.4.E with its Access Services Tariff, PSC Ky. Tariff 2E, Section E2.4.1.B.3; Cincinnati Bell Telephone Company ("Cincinnati Bell") Access Services Tariff, PSCK No. 1, Section 2.4.1.B.3.b; and Duo County Telephone Cooperative Corporation, Inc.'s ("Duo County") Access Services Tariff, PSC Ky. No. 1A, Section 2.4.1.B.3.b.

²⁶ For example, compare South Central Bell's Access Services Tariff, PSC Ky. Tariff 2E, Section E2.4.1.B.3 with Section E8.2.3.A.3.b; Cincinnati Bell's Access Services Tariff, PSCK No. 1, Section 2.4.1.B.3.b with Section 8.2.3.C.2; and Duo County's Access Services Tariff, PSC Ky. No. 1A, Section 2.4.1.B.3.b with Section 8.2.3.C.2.

²⁷ Transcript of the Formal Conference, pages 110-142 and 157-160.

minutes of use allocation method.²⁸ The adjustment for December 1987 through June 1989 was planned for February 1990. The adjustment for July 1989 through March 1990 is planned for April or May 1990, depending upon the availability of necessary information. Also, the parties agreed to file usage reports based on terminating switched access minutes of use beginning March 1, 1990.²⁹

Finally, a question arose at the formal conference as to whether the administrative guide should be a part of the ULAS tariff.³⁰ The Commission finds that this is not necessary, but that carriers subject to ULAS charges should be provided with a current copy of the administrative guide and that any changes to the administrative guide should be brought to the attention of the Commission. Furthermore, the administrative guide is intended as tariff clarification and should not impose any obligations that are not contained in the ULAS tariff and/or Orders of the Commission.

The Tariff Filing

The Commission has reviewed South Central Bell's ULAS tariff filing and finds that it is consistent with past decisions in this case and the findings contained in this Order, except as follows:

²⁸ Ibid., pages 142, 147-153 and 157-158.

²⁹ Ibid., pages 143-147.

³⁰ Ibid., pages 53-55 and 153-157.

1. The reference to "The BellSouth Telephone Companies Tariff FCC No. 4" in paragraph J3.2.B.1 should be changed to "the South Central Bell Telephone Company Kentucky Access Services Tariff, PSC Ky. Tariff 2E."

2. The following or similar provision should be added to paragraphs J3.3.D and J3.4.E: "All information and/or records considered and designated as proprietary or confidential by an ILC, LEC, and/or Pool Administrator furnished to the KPSC or an agent of the KPSC subject to the Kentucky Open Records Act shall be accompanied by a petition for proprietary or confidential treatment."



IT IS THEREFORE ORDERED that:

1. South Central Bell's ULAS tariff filing is approved, except as discussed herein, effective March 1, 1990, as agreed among the parties at the formal conference.

2. South Central Bell shall file revised tariff pages within 10 days from the date of this Order incorporating the changes directed herein.

Done at Frankfort, Kentucky, this 1st day of August, 1990.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman

ATTEST:


Executive Director

Commissioner