

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

A REVIEW OF THE RATES AND CHARGES AND )  
INCENTIVE REGULATION PLAN OF SOUTH CENTRAL) CASE NO.  
BELL TELEPHONE COMPANY ) 90-256

O R D E R

On November 20, 1990, the Commission issued an Order granting the petition of MCI Telecommunications Corporation ("MCI") to depose Thomas Madden of Theodore Barry & Associates ("TB&A"), the independent auditing firm hired to assist the Commission in evaluating the incentive regulation plan of South Central Bell. On November 27, 1990, the Commission received a motion for reconsideration from South Central Bell Telephone Company ("South Central Bell"). On November 29, 1990, the Commission received a supplement to South Central Bell's motion. This motion concerns the payment of expenses to TB&A incurred as a result of the deposition now scheduled for December 21, 1990.

In support of its motion, South Central Bell states that the Commission's Order requires that the depositions be taken in accordance with the Rules of Civil Procedure. South Central Bell states that it expects TB&A to bill it for all expenses associated with the deposition requested by MCI unless otherwise notified by the Commission. South Central Bell believes it is likely that the expenses will include time of preparation for Mr. Madden, the TB&A witness, as well as legal expenses associated with the preparation

and attendance at the deposition by TB&A's counsel. Accordingly, South Central Bell suggested that TB&A submit its expenses associated with the deposition directly to MCI and that any disputes regarding the expenses be resolved by the Commission.

On December 3, 1990, the Commission received MCI's response to South Central Bell's motion. MCI states that it has agreed to pay a fair portion of the fees and expenses reasonably incurred by Mr. Madden in connection with the deposition. MCI contends that TB&A will testify and submit to cross-examination at the January 22, 1991 hearing and that it is likely that the prehearing deposition will benefit the Commission and all parties, including South Central Bell, by limiting the need for lengthy cross-examination at the hearing. Accordingly, MCI states that it is willing to pay reasonable travel and lodging expenses at the site of the deposition and a regular and hourly fee to Mr. Madden for time spent in deposition. Finally, MCI states that under no rule or procedure can it be required to pay legal expenses which TB&A chooses to incur.

The resolution of this issue is, in part, controlled by the Letter of Agreement between the Commission, South Central Bell, and TB&A entered into in April of 1990. The Letter of Agreement contains a procedure whereby TB&A will invoice the Commission and then the Commission Staff will review the invoices and forward them to South Central Bell for payment. It also states that testimony required under the terms of this agreement shall be provided at the hourly compensation rates included in TB&A's proposal. The Request for Proposal issued to obtain the services

of TB&A states that the consulting firm must be willing to stand behind its conclusions by testifying in the next proceeding involving South Central Bell's incentive plan at standard compensation rates. Total payments under this section of the Contract will be for the actual expenses incurred and approved by the Commission Staff.

The Commission, having reviewed the motion and response and the Letter of Agreement, and having been otherwise sufficiently advised, HEREBY ORDERS that:

1. MCI shall pay for reasonable travel and lodging expenses for Mr. Madden and an hourly rate which was agreed to in the Letter of Agreement for the time spent at the deposition. These expenses should be invoiced directly to MCI.

2. Other expenses, including time to prepare for the deposition on the part of TB&A and the legal expenses associated with the deposition, should be recouped by TB&A through the process agreed to in the Letter of Agreement and entered into by South Central Bell, TB&A, and the Commission.

Done at Frankfort, Kentucky, this 17th day of December, 1990.


PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

ATTEST:

  
Executive Director

  
Commissioner