

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INQUIRY INTO INTRALATA TOLL)
COMPETITION, AN APPROPRIATE) ADMINISTRATIVE
COMPENSATION SCHEME FOR COMPLETION) CASE NO. 323
OF INTRALATA CALLS BY INTEREXCHANGE) PHASE II
CARRIERS, AND WATS JURISDICTIONALITY)

O R D E R

INTRODUCTION

This investigation was initiated on October 6, 1988 to reconsider Commission policies concerning intraLATA¹ competition and other matters. It was divided into three phases, with this phase to address whether local exchange carriers should be compensated by interexchange carriers for incidental intraLATA traffic carried over services authorized for interLATA use, and the framework for any such compensation.

In recent years, the Commission has allowed interexchange carriers to tariff services for interLATA use that are also capable of completing intraLATA calls. The Commission did so in order to make these services available to the general public and avoid placing interexchange carriers at any competitive disadvantage vis-a-vis one another. In each instance, however, the Commission advised that incidental intraLATA traffic might be

¹ Local Access and Transport Area.

subject to compensation in addition to access charges. Issues related to the matter of additional compensation were deferred to this investigation.

After being held in abeyance since October 11, 1989, this phase of the investigation was reopened on July 15, 1991. A set of interrogatories designed to assist the Commission in deciding issues related to additional compensation was propounded. Responses were filed by Alltel Kentucky, Inc. ("Alltel") on August 13, 1991; AT&T Communications of the South Central States, Inc. ("AT&T"), Cincinnati Bell Telephone Company ("Cincinnati Bell"), GTE South Incorporated ("GTE South"), LDDS of Kentucky, Inc. and LDDS of Indiana, Inc. (jointly "LDDS"), MCI Telecommunications Corporation ("MCI"), and South Central Bell Telephone Company ("South Central Bell") on August 14, 1991; US Sprint Communications Company Limited Partnership ("US Sprint") on August 15, 1991; and the Independent Telephone Group² on August 16, 1991.

The schedule of procedure adopted by the Commission required that any request for a public hearing was to be filed no later than October 18, 1991. On that date, South Central Bell filed

² Ballard Rural Telephone Cooperative Corporation, Inc.; Brandenburg Telephone Company, Inc.; Duo County Telephone Cooperative Corporation, Inc.; Foothills Rural Telephone Cooperative Corporation, Inc.; Harold Telephone Company, Inc.; Logan Telephone Cooperative, Inc.; Mountain Rural Telephone Cooperative Corporation; North Central Telephone Cooperative, Inc.; Peoples Rural Telephone Cooperative Corporation, Inc.; South Central Rural Telephone Cooperative Corporation, Inc.; Thacker-Grigsby Telephone Company, Inc.; and West Kentucky Rural Telephone Cooperative Corporation, Inc.

comments stating that a public hearing was not necessary, based on the premise that additional compensation would be required. LDDS filed a request for a public hearing and establishment of a schedule of procedure without any qualifications. MCI filed a response to South Central Bell's comments and a motion to conclude this phase of the investigation on October 25, 1991. On November 6, 12, and 22, 1991, LDDS, AmeriCall Systems of Louisville, and AT&T, respectively, filed comments in support of MCI's motion. South Central Bell filed a response opposed to MCI's motion on December 16, 1991 and MCI replied on February 20, 1992.

No public hearing has been held and the Commission finds that a public hearing is not necessary for a decision in this investigation, as the record is complete. The positions of the parties on the issues are clear and unambiguous. Accordingly, all motions for a public hearing are denied.

DISCUSSION

The threshold question before the Commission is whether compensation in addition to access charges should be required for incidental intraLATA traffic. The details of a compensation plan are relevant only given an affirmative decision on this issue.

Positions of the Parties

Generally, the local exchange carriers favor additional compensation. For example, Alltel states that "the Commission should require that any carrier that engages in the provision of unauthorized intraLATA traffic provide compensation to the local exchange carriers that would at a minimum compensate the local

exchange carriers for the revenues forgone as a result of the unauthorized carriage of intraLATA traffic."³ Similarly, GTE South states that "it is proper for the Commission to adopt a plan that would enable the interexchange carriers to provide compensation to the local exchange carriers in excess of access charges for this traffic."⁴ The Independent Telephone Group agrees that additional compensation should be required to make-up for "lost revenues due unauthorized traffic."⁵ Along the same lines, South Central Bell states that "the Commission should adopt a plan to compensate the local exchange carriers for unauthorized intraLATA traffic."⁶

On the other hand, Cincinnati Bell states that "the Commission's Order in Administrative Case No. 323, Phase I, of May 6, 1991, which authorized the phase-in of intraLATA toll competition and approved the Joint Motion non-traffic sensitive cost recovery plan, adequately addresses compensation requirements."⁷ The Independent Telephone Group and South Central Bell also recognize that the Joint Motion will allow interexchange

³ Response of Alltel to the Commission's Order dated July 15, 1991, Item 2(a), filed on August 14, 1991.

⁴ Response of GTE South to the Commission's Order dated July 15, 1991, Item 2(a), filed on August 14, 1991.

⁵ Response of the Independent Telephone Group to the Commission's Order dated July 15, 1991, page 1, filed on August 16, 1991.

⁶ Response of South Central Bell to the Commission's Order dated July 15, 1991, Item 2(a), filed on August 14, 1991.

⁷ Response of Cincinnati Bell to the Commission's Order dated July 15, 1991, Item 2(a), filed on August 14, 1991.

carriers to participate in the intraLATA market and moot the issue of additional compensation.⁸ Although not explicitly stated, it is clear that Alltel and GTE South are aware of the same effect from their participation in other phases of this investigation.

As would be expected, the interexchange carriers oppose additional compensation. AT&T states that "access charge revenues without additional compensation levels have been more than adequate to meet the authorized revenue requirements of the local exchange companies of Kentucky."⁹ Likewise, LDDS, MCI, and US Sprint contend that no additional compensation should be required. MCI argues that no additional compensation should be required due to the Commission's decision to allow intraLATA competition and the apparent lack of financial harm to the local exchange carriers as a result of incidental intraLATA traffic.¹⁰

Analysis and Decision

The Commission finds that no additional compensation for incidental intraLATA traffic should be required.

A number of regulatory actions have been taken since the Commission began allowing interexchange carriers to tariff services for interLATA use capable of completing intraLATA calls, including but not limited to intraLATA competition. The finding

⁸ Response of the Independent Telephone Group to the Commission's Order, pages 1-2 and Response of South Central Bell, Item 2(a).

⁹ Response of AT&T to the Commission's Order dated July 15, 1991, Item 2(a), filed on August 14, 1991.

¹⁰ Response of MCI to the Commission's Order dated July 15, 1991, Item 2(a), filed on August 14, 1991.

in Phase I of this investigation that intraLATA competition is in the public interest suggests that additional compensation for incidental intraLATA traffic prior to the introduction of such competition is not reasonable. Presumably, per unit and apart from price changes, the social value of incidental traffic carried before is equal to the social value of non-incidental traffic carried after the introduction of intraLATA competition. From the perspective of intraLATA competition, incidental intraLATA traffic is moot and additional compensation would be no more than an ex post facto penalty.

Obviously, a local exchange carrier charges more for a toll minute of use than for an access minute of use. To that extent, the local exchange carriers can claim some revenue loss. However, such a claim does not recognize other relevant variables. Absent the possibility of incidental intraLATA use, the minute of use at issue may have never existed and the local exchange carrier would have earned neither a toll charge nor an access charge. In other words, incidental intraLATA use may have stimulated demand and resulted in more revenue than would have been otherwise obtained. Whether this degree of stimulation occurred is not known, but no local exchange carrier has sought rate relief based on revenue erosion due to incidental intraLATA traffic.

In the event of additional compensation, South Central Bell proposed "to flow one hundred percent of any compensation revenues collected through to ratepayers, outside the incentive regulation

plan."¹¹ South Central Bell's ratepayers include interexchange carriers. Moreover, whether funds available from additional compensation flow through the incentive regulation plan and are shared between stockholders and ratepayers or treated outside the incentive regulation plan, a logical guide for dispersal of the funds is the schedule of rate priorities associated with the incentive regulation plan. Under that schedule, any funds collected from interexchange carriers as additional compensation would, in large part, be returned to interexchange carriers. In this and any other scenario where additional compensation is collected from interexchange carriers and returned in whole or in part to interexchange carriers, little of practical consequence is achieved.

ORDERS

The Commission, being otherwise sufficiently advised, HEREBY ORDERS that:

1. LDDS's motion for a public hearing is denied.
2. MCI's motion to conclude this phase of the investigation is granted.
3. Interexchange carriers shall not be required to compensate local exchange carriers for incidental intraLATA traffic carried over services authorized for interLATA, beyond access charges that have already been paid.
4. Phase II of this investigation is closed.

¹¹ Response of South Central Bell to AT&T's Information Request dated August 29, 1991, Item 10, filed on September 30, 1991.

Done at Frankfort, Kentucky, this 24th day of July, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director, Acting