

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF CINCINNATI BELL )  
TELEPHONE COMPANY FOR AUTHORITY TO )  
INCREASE AND ADJUST ITS RATES AND CHARGES ) CASE NO. 94-355  
AND TO CHANGE REGULATIONS AND PRACTICES )  
AFFECTING SAME )

O R D E R

On March 8, 1995, Cincinnati Bell Telephone Company ("Cincinnati Bell"), through counsel, requested an informal conference to discuss the agreements reached between Cincinnati Bell and intervenors for Gallatin, Grant, and Pendleton counties, AT&T Communications of the South Central States, Inc., and TKR Cable. Cincinnati Bell asked that all parties be invited to the informal conference and that it be held Wednesday, March 15, 1995.

On March 10, 1995, the Attorney General, by and through his Public Service Litigation Branch ("Attorney General"), filed a motion "to prevent ex parte contacts and bar any staff conferences in these proceedings." The Attorney General stated that Cincinnati Bell was seeking to present an "unlawful contested settlement" to the Staff in violation of Louisville Gas and Electric Company v. Commonwealth, Ky.App., 862 S.W.2d 897 (1993), and Kentucky American Water Company v. Commonwealth of Kentucky, ex rel. Frederic J. Cowan, Attorney General, Ky., 847 S.W.2d 737 (1993). The Attorney General further contended that there was no reason to hold an

informal conference and that it was for an improper and "blatently unlawful" purpose.

On March 13, 1995, Cincinnati Bell responded in opposition to the Attorney General's motion stating that it had requested an informal conference pursuant to 807 KAR 5:001, Section 4(4), and 807 KAR 5:001, Section 4(6). These sections state as follows:

(4) Conferences with commission staff. In order to provide opportunity for settlement of a proceeding or any of the issues therein, an informal conference with the commission staff may be arranged through the secretary of the commission either prior to, or during the course of hearings in any proceeding, at the request of any party.

(6) Stipulation of facts. By a stipulation in writing, filed with the secretary, the parties to any proceeding or investigation by the commission may agree upon the facts or any portion of the facts involved in the controversy, which stipulation shall be regarded and used as evidence at the hearing.

Cincinnati Bell opines that all parties to the proceeding were invited to all settlement conferences. The courts in Kentucky American and LG&E did not find that informal conferences to which all parties of record have been invited violates due process, according to Cincinnati Bell.

Cincinnati Bell's request for an informal conference should be granted. Commission Staff has not participated in settlement discussions. The agreement to be presented by Cincinnati Bell and some of the parties is not an attempt to avoid an evidentiary hearing or shift the burden of proof away from Cincinnati Bell.

On March 9, 1995, the Commission received a letter from William F. Threlkeld requesting full intervention in this proceeding. Mr. Threlkeld has a special interest which is not

otherwise adequately represented, and his intervention will likely present issues and develop facts which will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceeding.

IT IS HEREBY ORDERED that:

1. The motion of the Attorney General to bar an informal conference is denied.

2. The motion of the Attorney General to prevent ex parte contacts is moot. The Commission and its Staff and all other persons associated with this proceeding and any Commission proceeding are under a continuing obligation to prevent ex parte contacts.

3. An informal conference is scheduled for March 15, 1995, at 1:30 p.m., Eastern Standard Time, in Conference Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky 40601.

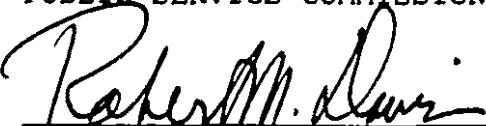
4. The motion of William F. Threlkeld to intervene is granted. William F. Threlkeld shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.

5. Should William F. Threlkeld file documents of any kind with the Commission in the course of these proceedings, he shall also serve a copy of said documents on all other parties of record.

Done at Frankfort, Kentucky, this 14th day of March, 1995.

ATTEST:

  
Executive Director

PUBLIC SERVICE COMMISSION  
  
For the Commission