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 AND TO CHANGE REGULATIONS AND PRACTICES AFFECTING SAME	)	CASE NO. 94-355

AND

THE APPLICATION OF BELLSOUTH TELECOMMUNICATIONS, INC. D/B/A SOUTH CENTRAL BELL TELEPHONE COMPANY TO MODIFY ITS METHOD OF REGULATION	)	CASE NO. 94-121

ORDER

INTRODUCTION

On May 23, 1995, the Commission issued its Order authorizing changes in rates but granting no additional revenues for Cincinnati Bell Telephone Company ("Cincinnati Bell"). In that Order the Commission imputed revenues of $443,804 to Cincinnati Bell's regulated revenue requirements from the provision of inside wire maintenance plans during the test period.

Cincinnati Bell filed for rehearing on a number of issues including the imputation of revenues associated with inside wire maintenance plan activities. By Order dated July 3, 1995, rehearing was granted to consider the inside wire issue. The Commission joined BellSouth Telecommunications, Inc. ("BellSouth") and consolidated the issue of

offer warranties, guarantees or inside wire maintenance plans to cover their work, or to join with power utilities or cable television providers to offer a competing service.[2]

Cincinnati Bell also argued that there is no valid reason to segregate the inside wire market into various submarkets by reregulating inside wire maintenance but not other inside wire services.[3] It concurred with the testimony of BellSouth that it would be discriminatory to regulate these services for telephone utilities but not for nonutilities.[4]

BellSouth argued that the monthly maintenance plan is a method of payment for inside wire maintenance and is not a stand-alone service. BellSouth also argued that cable and electric companies have the potential to market such plans. However, BellSouth reiterated that the market for installation and maintenance of inside wire is open and competitive regardless of whether any other vendors have a monthly billing plan. In addition, BellSouth stated that imputation would be a retreat from a series of pro-competitive Commission actions and that imputation could act as a disincentive for utilities if the Commission imputes revenues from only the successful services.[5]

In support of imputation, the Attorney General ("AG") argued that no significant competition exists in the area because no one is offering maintenance plans. The AG requested that BellSouth be required to present the necessary information to enable the Commission to reduce BellSouth's rates, that there be an overearnings investigation for GTE and that its earnings from inside wire maintenance plans be brought above the line,

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2 Direct testimony of Pamela W. Rayone, August 2, 1995 at 6 and 7.

3 Id., at 9.

4 Post-Hearing Brief of Cincinnati Bell Telephone Company at 10.

5 Brief of BellSouth Telecommunications, Inc. at 10 and 11.

the imputation of inside wire maintenance plan activities from its price cap proceeding. GTE South Incorporated ("GTE") thereafter filed for and was granted intervention.

DISCUSSION

On February 24, 1986, the Federal Communications Commission ("FCC") in Common Carrier Docket No. 79-105[1] preempted state regulatory authority over the installation and maintenance of inside wire and ordered detariffing effective January 1, 1987. After its order was overturned on appeal, the FCC reversed its decision on February 22, 1992. This reversal permitted state commissions to regulate the prices, terms and conditions of inside wiring services. The FCC's reversal and the record established at the initial hearing for Cincinnati Bell's rate case led to the Commission's decision to impute revenues from inside wire maintenance plans in determining Cincinnati Bell's intrastate revenue requirements.

Upon rehearing, Cincinnati Bell testified that inside wire maintenance revenue should be nonregulated due to the presence of competition in the business of installing and maintaining inside wire. Specifically, Cincinnati Bell provided evidence that in a 29 month period between 1993 and 1995, it installed inside wiring in only two of 4,428 newly-constructed residences, and that most of this work was being performed by electricians or home builders who were installing other wiring in the homes. Cincinnati Bell argued that these competitors had an excellent opportunity to

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[1] Docket No. 79-105, Detariffing the Installation and Maintenance of Inside Wiring.

and that Cincinnati Bell's rates be reduced based on its revenue sufficiency.[6] The AG argued that other states including Nevada, Connecticut, and Virginia recognize earnings from inside wire maintenance plans above the line, although Tennessee and Florida have chosen to keep the area deregulated.[7]

The AG's discussion of states' differing treatments of inside wire maintenance plans underscores the point that this decision is a policy matter. Upon rehearing, the Comission has reexamined its original decision and concludes that the revenues and expenses from inside wire maintenance should not be imputed above the line, but rather should remain below the line in deregulated operations.

The Commission is persuaded by testimony that imputation of inside wire maintenance plan activities runs counter to recent pro-competitive policies developed at the state and federal levels, and that the relevant market to be considered encompasses more than inside wire maintenance plan activities alone. This Commission has found competition to be preferable to regulation in the toll markets, and will soon be addressing competition for local telephone service. The 1996 Federal Telecommunications Act reinforces and in fact mandates this pro-competitive stance in telecommunications markets.

The Commission believes it is shortsighted only to reregulate by imputation that portion of inside wire activities which may be profitable. Both Cincinnati Bell and BellSouth testified that their initial inside wire installation activity is minimal. The AG

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6 Transcript of Evidence ("T.E."), at 46-48.

7 Brief of the Attorney General, at 7.

concedes that inside wire installation is a very competitive activity, but urges the Commission to delete from its analysis installation of inside wiring and to impute simple, but not complex, inside wire revenues and expenses.[8]

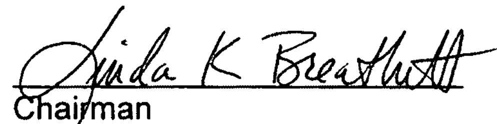
The Commission declines to segregate the market in this manner, and furthermore declines to take any additional steps towards reregulating inside wire activities at this time.

This decision has no effect upon the rates established in this case for Cincinnati Bell because it reduces the revenue sufficiency which was determined to exist. The sufficiency is now $538,350. Nor does it affect the rates of BellSouth or GTE, because no imputation adjustment was previously recognized in establishing their rates.

IT IS THEREFORE ORDERED that these proceedings are hereby concluded. Cincinnati Bell's motion for reconsideration is granted in full.

Done at Frankfort, Kentucky, this 12th day of June, 1996.

PUBLIC SERVICE COMMISSION



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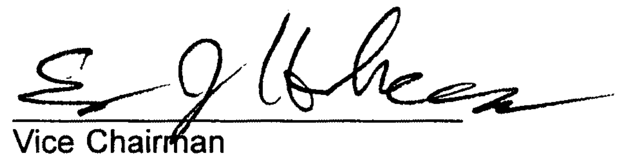

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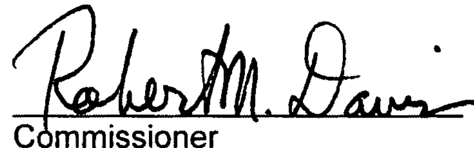

Commissioner

ATTEST:

Executive Director

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[8] T.E. at 61-62.