

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CINCINNATI BELL TELEPHONE COMPANY'S )  
AVOIDED COST STUDY ) CASE NO. 97-402

O R D E R

On April 24, 1998, the Commission ordered that the wholesale discount rate for competitive local exchange carriers ("CLECs") purchasing services from Cincinnati Bell Telephone Company ("CBT") should be 15.37 percent. On May 14, 1998, CBT filed its request for rehearing. On June 3, 1998, the Commission granted rehearing to further consider CBT's arguments and scheduled an informal conference. An informal conference was held on July 7, 1998 at the Commission's offices.

At the informal conference CBT reiterated its position concerning the calculation of the wholesale discount rate. CBT also agreed that the 1996 data used to calculate the wholesale discount rate should be replaced with 1997 data. On August 10, 1998, CBT filed its calculation of the wholesale discount rate using 1997 data. CBT calculated that the wholesale discount rate should be 12.32 percent when CBT provides Operator Services and Directory Assistance ("OS/DA") and 12.77 percent when OS/DA is provided by the CLEC.

CBT argues that the Commission's Order would cause CBT to violate the duties imposed upon it by the Telecommunications Act of 1996 ("the Act") and that it exceeds the Commission's authority under the Act by denying CBT the right to negotiate two-

tiered discount rates with interconnecting carriers. The Commission is simply setting the wholesale discount rate that is available to CLECs. CLECs and CBT may negotiate all rates and terms of contracts and if, in fact, a CLEC or CBT is willing to accept terms and rates that are not in violation of the Act, the parties may do so. CBT and CLECs have already done this. The Commission ordered in Administrative Case No. 355<sup>1</sup> that an interim wholesale discount rate available to CLECs from CBT should be 17 percent until CBT filed an avoided cost study. CBT has negotiated rates different than this interim rate and the Commission has approved these contracts.

CBT also argues that the proper cost recovery under Section 252 of the Act is achieved by allowing separate discount rates for local service based on whether or not CBT furnishes OS/DA. Section 252 (d)(3) of the Act states, "a state commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier." See also Section 251(c)(4)(A).

The Commission has established a uniform wholesale discount rate for all services. This avoids the need to allocate avoided costs among all services subject to resale. Given the lack of evidence about avoided costs at the present time, the Commission considers this the most expeditious method to determine the wholesale discount rate. Therefore, the Commission will establish a single uniform rate for all of CBT's services subject to resale.

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<sup>1</sup> Administrative case No. 355, An Inquiry into Local Competition, Universal Service, and the Non-Traffic Sensitive Access Rate.

Furthermore, CBT's argument for a two-tiered discount rate for OS/DA is not supported by the Act. Wholesale rates must be based on costs avoided in retail charges. CBT has no retail service that provides service to end-users without OS/DA. Thus, the establishment of a rate based on avoided costs of service without the provision of OS/DA is not supported by the Act.

CBT finally argues that the Commission has no reasonable basis for using the 75 percent avoided operator services cost factor for CBT. The information filed by CBT, for which it requested confidential treatment, is insufficient to show that a factor other than a 75 percent avoided cost factor should be used. The 75 percent factor was developed in the record of Case No. 96-431,<sup>2</sup> and was based on the Commission's judgment and analysis of the future resale market. CBT has not provided information that alters this judgment. Furthermore, the Federal Communications Commission ("FCC") used a similar approach in CC Dockets 96-98 and 95-185,<sup>3</sup> though the Commission believes that the FCC's presumption that all of the costs in call completion services and number services are avoidable is incorrect because some resellers will rely on the Incumbent Local Exchange Carrier to provide OS/DA services.

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<sup>2</sup> Case No. 96-431, Petition by MCI for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications Inc. Concerning Interconnection and Resale Under The Telecommunications Act of 1996.


<sup>3</sup> CC Dockets 96-98 and 95-185, FCC 96-323, First Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Order Released August 8, 1996.

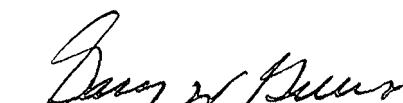
Therefore, based on the Commission's decisions herein and the updated data submitted by CBT for which confidential treatment has been granted, the Commission HEREBY ORDERS that the wholesale discount rate is 16.74 percent.

Done at Frankfort, Kentucky, this 3rd day of December, 1998.

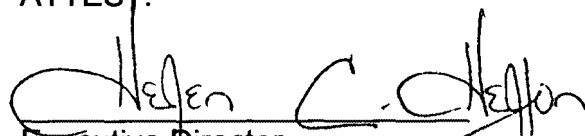
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Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director