

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ESTABLISHMENT OF A COST)	
RECOVERY MECHANISM FOR LONG-)	ADMINISTRATIVE
TERM LOCAL NUMBER PORTABILITY)	CASE NO. 374

O R D E R

On its own motion, the Commission initiated this proceeding on April 27, 1998 to investigate cost recovery issues related to the implementation of long-term local number portability ("LNP"). On May 12, 1998, the Federal Communications Commission ("FCC") issued its Third Report and Order in CC Docket No. 95-116 in the matter of telephone number portability.¹ This order created a federal mechanism for the identification and recovery of all costs incurred in providing LNP.² The FCC also determined that local exchange carrier ("LEC") costs would be recovered through specific federal charges.³

The FCC cited Section 251(e)(2) of the Telecommunications Act of 1996 in finding that it possessed the proper jurisdiction to oversee the LNP cost recovery. That provision states, "The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers

¹ Telephone Number Portability, FCC Order 98-82.

² FCC *Third Report and Order*, ¶ 29, CC Docket No. 95-116, In the Matter of Telephone Number Portability, May 12, 1998.

³ Id.

on a competitively neutral basis as determined by the Commission."⁴ This interpretation has been upheld by the United States Supreme Court in AT&T v. Iowa Utils. Board, 119 S.Ct. 721 at 729 (1999). Finally, the FCC reasoned that an exclusive federal recovery system for LNP would best suit the competitive neutrality mandate granted it by the Telecommunications Act.⁵

Subsequently, BellSouth Telecommunications, Inc., Cincinnati Bell Telephone Company, and AT&T Communications of the South Central States, Inc. filed motions to hold this docket in abeyance until all appeals of the FCC order, if any, had been exhausted. The motions were granted on June 14, 1998.

On December 14, 1998, the FCC released a Memorandum Opinion and Order in CC Docket No. 95-116 in the matter of telephone number portability. This document provided guidance to LECs regarding the types of LNP costs that could be recovered and the tariffs they should file to recover those costs. In its order, the FCC discussed the "federal charges recovery system."⁶ However, the FCC also announced it will consider the "allocation factors used by state commissions to price unbundled network elements ("UNEs") for interconnection agreements" when it reviews the reasonableness

⁴ 47 U.S.C. § 251(e)(2).

⁵ FCC *Third Report and Order*, supra.

⁶ FCC, *Memorandum Opinion and Order*, ¶ 11, CC Docket No. 95-116, In the Matter of Telephone Number Portability, December 14, 1998.

of incremental overhead allocations.⁷ The FCC then advised LECs to supply the FCC with "a list of overhead allocation factors used by states in any UNE pricing decisions."⁸

Thus, while it appears that LNP cost recovery will be accomplished through federal mechanisms, it also appears that the FCC has provided for state input. The state commissions may still have a role with their establishment of allocation factors for UNE decisions, though it appears that federal programs will dominate LNP cost recovery by LECs.⁹ Any actions by this Commission regarding LNP recovery will occur in the future.

IT IS THEREFORE ORDERED that this proceeding is dismissed without prejudice to the Commission's institution of a proceeding for LNP cost recovery issues in the future.

Done at Frankfort, Kentucky, this 2nd day of June, 1999.

By the Commission

ATTEST:

Executive Director

⁷ Id. at ¶ 36.

⁸ Id.

⁹ Id. at ¶ 57.