

customer pursuant to its filed tariff.¹ The tariff states in pertinent part:

A maximum of 750 feet of cable or wire facilities which are required for central office circuits will be provided at no additional charge. Except as otherwise specified, construction charges may apply for all other cable or wire facilities provided in connection with pole line entrance facilities.

According to BellSouth's Answer, the Complainant's residence is more than 750 feet from BellSouth's facilities. BellSouth averred that it must build a new pole route and install 3,673 feet of wire to provide service to the Complainant from the nearest BellSouth facilities. BellSouth stated, however, that it is only billing the Complainant for 750 feet of rural C wire, 250 feet of buried facilities and associated trenching costs, three telephone poles, one guy and one anchor.² According to BellSouth, it is not charging the Complainant for 2,173 feet of the extension because this portion may benefit other customers and is therefore considered service in general. Another 750 feet of the extension is being provided free of charge pursuant to the above-cited tariff provision. Thus, a total of 2,923 feet of the extension required to serve Mr. Downey is being provided free of charge.³

On March 30, 1999, the Complainant, Commission staff and BellSouth personnel participated in an on-site informal conference at the Complainant's home. The purpose of the informal conference was to discuss the construction plans and costs for serving the Complainant as submitted by BellSouth in its Answer.

On April 22, 1999, the Commission issued an order requiring any party desiring a formal hearing in this matter to make a written request for such hearing within 10 days. As

¹ General Subscriber Services Tariff A5.1.3.B.3.

² Answer at 3.

³ Answer at 4-5.

neither party requested a public hearing, the case was submitted to the Commission for a decision.

Based upon the evidence of record in this case, the Commission finds that the construction charge as estimated by BellSouth was properly charged to the Complainant.

807 KAR 5:061, Section 8 of the Commission's regulations states the following:

(2) Each telephone utility shall make an extension of 750 feet or less, free of charge, from existing plant facilities to provide service to applicants who shall apply for and contract to use the service for up to one (1) year and guarantee payment for the service.

(3) Other extensions:

(a) 1. When an extension to serve an applicant or a group of applicants amounts to more than 750 feet per applicant, the utility may, if not inconsistent with its filed tariff, require the total cost of excessive footage over 750 feet per customer to be paid to the utility by the applicant or applicants, based on average estimated cost per foot of the total extension.

The regulation clearly authorizes BellSouth to charge applicants the estimated construction charge for extensions greater than 750 feet provided that its filed tariff is not inconsistent. A review of BellSouth's tariff indicates that its provisions are in fact consistent with the regulation.

In accordance with the regulation, the General Subscriber Services Tariff A5.1.3.B.3, cited at page 2, states that the company will provide up to 750 feet of wire facilities at no charge to the applicant. It also states that construction charges may apply for all other cable and wire facilities, i.e. those greater than 750 feet, provided in connection with pole line entrance facilities. Moreover, at A5.1.2.A.1 the tariff states: Construction charges are payable upon application for service or when billing is rendered as the Company may, at its option, require. These provisions prescribe conditions of service which have been duly filed with the Commission pursuant to KRS 278.160(1). As they are part of BellSouth's filed tariff, the provisions were properly applied to the Complainant's

application for service.

According to the record, there is an estimated construction charge of \$1,312.56 to provide service to the Complainant. BellSouth's Answer states that the amount includes the cost of installing 750 feet of aerial facilities, 250 feet of buried facilities, three poles, one guy and one anchor. A total of 2,923 feet of the necessary extension is being provided at no charge to the Complainant. The Commission finds that pursuant to its regulation and BellSouth's tariff, BellSouth is permitted to charge the Complainant the estimated cost of constructing an extension in excess of 750 feet in advance of providing service.

With regard to the possibility of refunds to the Complainant should other customers be served from the line in question, the Commission states only that such a refund, if any, would be made pursuant to 807 KAR 5:061, Section 8(3)(a)(2) and any applicable tariff provisions. The regulation states the following:

Each year for a refund period of not less than ten (10) years, the utility shall refund to any customer who paid for the excessive footage the cost of 750 feet of the extension in place for each additional customer connected to the extension installed and not to extensions or laterals therefrom.

Based upon the evidence of record and being otherwise sufficiently advised, the Commission HEREBY ORDERS that the requested relief is denied and the complaint is dismissed.

Done at Frankfort, Kentucky, this 18th day of May, 1999.

By the Commission

ATTEST:

Executive Director