

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INQUIRY INTO THE DEVELOPMENT OF)	
DEAVERAGED RATES FOR UNBUNDLED)	ADMINISTRATIVE
NETWORK ELEMENTS)	CASE NO. 382

ORDER

In its December 18, 2001 Order, the Commission required Cincinnati Bell Telephone Company (CBT) to submit proposed unbundled network element (UNE) rates with supporting documentation within 90 days from the date of the Order. On March 20, 2002, CBT filed a proposal for establishing UNE rates and responded to several inquiries posed by Commission Staff. During an informal conference held on October 3, 2002, it was agreed that CBT would file, by November 15, 2002, an updated proposal for establishing UNE rates and supporting documents.

CBT has consistently proposed using the UNE rates approved by the Public Utilities Commission of Ohio (PUCO) in Kentucky. According to CBT, applying the Ohio UNE rates in Kentucky would benefit the parties for several important reasons. First, applying the Ohio UNE rates in Kentucky is consistent with the one-market approach taken by Competitive Local Exchange Carriers (CLECs) operating in CBT's market and is compatible with existing interconnection agreements containing a uniform pricing schedule. Second, applying uniform rates enables CLECs and CBT to utilize the existing billing as well as ordering and provisioning systems. Third, adopting Ohio rates for Kentucky minimizes the costs of engaging in a full-blown rate setting proceeding for all interested parties. Fourth, Ohio rates will likely result in lower loop rates in Kentucky

than would be established in a stand-alone Total Element Long Run Incremental Cost (TELRIC) case using Kentucky-specific costs. And, finally, CBT asserts that the Commission is able to meet its objective of establishing rates that are forward-looking, cost-based, and TELRIC-based by adopting the final Ohio UNE rates.

On May 21, 2002, the PUCO approved the stipulation and recommendation filed by CBT, the PUCO staff and several intervenors in the Ohio proceeding. As a result of the stipulation, CBT was directed to rerun certain TELRIC studies making agreed-upon modifications to bring the studies into compliance with the PUCO s orders. CBT also submitted additional studies for dark fiber, E911, E911 optional error correction, loop and port related new costs, non-recurring costs (dark fiber, directory listing, 911 database access, STP port termination), Operator Service System (OSS) access, STP port termination and unbundled loops (4-wired 64 KBPS, 4-wire analog, 4-wire 1.544 Mbps digital DS1, ds3), and collocation (24 Fiber Lightguide, application fee and innerduct within cable vault). The PUCO elected to stay the consideration of these studies until there was sufficient interest by CLECs to warrant additional review. The PUCO also adopted the stipulating parties agreement to defer consideration of CBT s OSS access cost study and not to establish final rates for OSS access without further proceedings. CBT agrees that rates should not be finalized for dark fiber and OSS access but requests that this Commission consider the rates established for the other items.

On August 27, 2002, the PUCO issued a supplemental order in which it approved the TELRIC cost studies resubmitted by CBT as directed in the May 21, 2002 Order. CBT proposes that this Commission approve those studies for use in Kentucky, as well

as those not approved by the PUCO with the exception of rates for dark fiber and OSS access.

NuVox Communications, Inc. (NuVox) has intervened in this proceeding and has provided the Commission with written comments on CBT s proposed UNE rates. NuVox, a CLEC serving in CBT s service area, states that it has no objection to CBT s proposal to use the same Ohio UNE rates in Kentucky. NuVox also asserts that the Commission must maintain its jurisdiction over CBT s Kentucky UNE rates and make clear that such rates are subject to revision in accordance with KRS Chapter 278 upon application by CBT, upon complaint from an interested party, or upon the Commission s own initiative. Also NuVOx requests that the Commission provide a process for review if CBT s Ohio UNE rates change. NuVox believes that if for any reason the rates change in Ohio, then CBT should make a compliance filing in Kentucky containing the changes. Finally, NuVox states that should the Commission defer the final rate determination made by the PUCO, this Commission should make clear that its regulatory policies regarding such matters as combinations of UNEs (e.g., see Case No. 2000-00465,¹ Order dated June 22, 2001), which apply elsewhere within Kentucky, will apply in the CBT service area as well.

The Commission has reviewed the UNE rates and supporting documentation submitted by CBT and has held an informal conference with the parties to discuss the development of the UNE rates. The Commission has also reviewed and monitored the

¹ Case No. 2000-00465, Petition by AT&T Communications of the South Central States, Inc., and TCG Ohio for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. Section 252.

proceedings at the PUCO with regard to the development of the UNE rates for CBT. NuVox is the only party to submit comments in this proceeding and no party has requested a hearing to review the UNE rates submitted by CBT. Therefore, the Commission will render its decision based on the current record.

The Commission finds that the rates and cost studies submitted by CBT should be accepted and approved for use in Kentucky. CBT has developed rates for UNEs and deaveraged those rates into three bands. The Commission agrees that due to the single market approach that CBT and other competitors use that it is in the public's best interest to adopt the rates approved by the PUCO. The Commission has reviewed the rates and monitored the Ohio proceedings and concurs that the rates established are forward-looking, cost-based, and TELRIC-based. Attached as Appendix A are the rates approved by the Commission. Attached as Appendix B is a list of the wirecenters included in each band.

The Commission also requested that CBT submit information on any actions taken by the PUCO regarding performance measures and associated penalties and requested that CBT describe its proposal for measuring its performance. CBT filed its comments on February 14, 2003. CBT indicated that the PUCO has not required CBT to comply with specific performance measures regarding its provisioning of wholesale facilities and services to CLECs and has, therefore, not instituted penalties for non-compliance. The PUCO has advised the interconnecting parties to negotiate the need for performance measurements and any associated penalties. CBT asserts that this Commission should take the same position. CBT maintains that it will fulfill its obligations under the mandates of 47 U.S.C. § 251 as it has done in the past. CBT also

notes that this Commission has not received any complaints with regard to fulfillment of its duties.

The Commission finds that, as there is no evidence to contradict that offered by CBT, performance measures are unnecessary at this time, particularly as CBT has also advised the Commission that it currently experiences a very low number of UNE orders placed by CLECs and that it currently does not have in place any mechanism or process to measure performance.

Given the low volume of CLEC UNE orders, the lack of a system in place to measure and report performance measures and the associated cost to develop such a system, the Commission will not require CBT to report and measure its performance for CLECs ordering UNEs at this time. The Commission will continue to monitor developments in the market place and will reassess the need for performance measures as warranted.

IT IS THEREFORE ORDERED that:

1. The UNE rates in Appendix A are approved for CBT for use in the wirecenters listed in Appendix B.
2. Within 30 days of the date of this Order, CBT shall file a tariff containing all UNE rates approved herein, effective the date of this Order.
3. CBT shall not be required to establish performance measures and penalties until further Order.
4. CBT shall notify the Commission at any time the PUCO orders changes, additions, or deletions to CBT s UNE rates.

Done at Frankfort, Kentucky, this 3rd day of July, 2003.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN ADMINISTRATIVE CASE NO. 382 DATED July 3, 2003

(See document named 19000382_07032003apx.pdf)

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN ADMINISTRATIVE CASE NO. 382 DATED July 3, 2003

Cincinnati Bell Telephone Central Offices

Band 1

Covington	CVTNKYCNDS0
Florence	FLRNKYFLDS1
Ft. Thomas	FTTHKYFTDS0
Lakeside Park	LKPKKYLPS0

Band 2

Alexandria	ALXNKYALRS0
Boone	BURLKYBNRS0
Independence	INDPKYINRS0
Union	UNINKYACRS0
Walton	WLTNKYWLDS0

Band 3

Butler	BTLRKYBRDS0
Crittenden	CRTDKYCTDS0
Falmouth	FLMOKYUARS0
Glencoe	GLCOKYGCDS0
Williamstown	WLTWKYWTDS0
Warsaw	WRSWKYWRDS0