

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TARIFF FILING OF BRANDENBURG TELEPHONE ) CASE NO.  
COMPANY, INC. ) 2013-00191

ORDER

On April 23, 2013, Brandenburg Telephone Company, Inc. ("Brandenburg") filed with the Commission revised tariff sheets that contained a general adjustment of its rates for basic local exchange service. Brandenburg informed the Commission of its intent to place its proposed rates into effect on and after May 31, 2013. However, as discussed below, the Commission finds that the proposed tariff should be suspended pursuant to KRS 278.190(2), but the proposed rates may be charged, subject to refund, on and after June 1, 2013.

Brandenburg filed its proposed increased rates to comply with the directive of the Federal Communications Commission ("FCC") in its Order that, *inter alia*, comprehensively reformed intercarrier compensation.<sup>1</sup> In addition to establishing a glide path to reduce access charges to zero, the FCC's ICC/USF Order also established a rate floor for local exchange rates. The FCC required that Local Exchange Carriers ("LEC"), such as Brandenburg, shall be eligible to receive high-cost support in a study area if the rates for local exchange service are at or above the rate floor on June 1 of

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<sup>1</sup> In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform: Mobility Fund, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) ("ICC/USF Order").

every subsequent year.<sup>2</sup> Failure to meet the rate floor will result in forfeiture of the high cost support that the carrier would have otherwise received for that year.<sup>3</sup>

The Commission, in the past, has held that a general adjustment in rates cannot be made simply through a tariff filing.<sup>4</sup> A utility must file an application that complies with the filing requirements of 807 KAR 5:001, Section 16, which, *inter alia*, requires that certain financial information be filed with the Commission and notice be given to customers. Brandenburg's tariff filing seeking to raise local exchange rates is a general adjustment in rates and, therefore, an application for a general adjustment in rates must be filed pursuant to 807 KAR 5:001, Section 16. Brandenburg must comply with the requirements found in 807 KAR 5:001, Section 16. Brandenburg's tariff filing does not comply with this regulation and cannot be put into effect on the proposed effective date.

The Commission is cognizant that Brandenburg's ability to receive high-cost loop support will be jeopardized if its rates for basic local exchange service are not at or above the \$14.00 rate floor mandated in the ICC/USF. Therefore, the Commission will only suspend the proposed rates for one day and allow them to go into effect on June 1, 2013, subject to refund. The Commission also acknowledges the mandatory and the time-sensitive nature of the FCC's rate floor, and that all of the information specified in 807 KAR 5:001, Section 16, may not be necessary to support an increase in basic local exchange rates under these circumstances.

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<sup>2</sup> 47 C.F.R. § 54.318 High-cost support; limitations on high-cost support.

<sup>3</sup> ICC/USF Order at ¶¶ 133, 238-240.

<sup>4</sup> *See*, Case No. 2004-00459, *The Application of Louisville Gas and Electric Company for Approval of New Rate Tariffs Containing a Mechanism for the Pass-Through of MISO-Related Revenue and Costs Not Already Included in Existing Base Rates* (Ky. PSC Apr. 15, 2004).

At the very least, the Commission will require that Brandenburg file the information required in 807 KAR 5:001, Section 16(1)(a)(1), (1)(b)(4), (1)(b)(6), (3)(b)(1), (4), (6), (9)(a), (9)(d), (9)(f), (9)(h), and (10). Except as required above, Brandenburg may request a deviation, pursuant to 807 KAR 5:001, Section 16(15), from the other requirements of 807 KAR 5:001, Section 16.

Based on the foregoing, IT IS THEREFORE ORDERED that:

1. Brandenburg's proposed rates for its basic local exchange service are suspended for one day from the effective date of May 31, 2013, and will be effective subject to refund on June 1, 2013.

2. Within ten days of the date of this Order, Brandenburg shall file with the Commission an application to support its proposed tariff to increase rates for local exchange service. The application shall comply with 807 KAR 5:001 Section 16, except for any waivers that may be granted or requirements other than those specified in the findings above.

3. The application shall also contain:

a. The estimated annual revenue to be received from High Cost Loop Support beginning July 1, 2013.

b. The estimated annual revenue to be lost due to adjustment of terminating access rates effective July 1, 2013

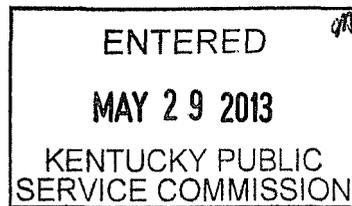
c. The total estimated annual revenue (increase or decrease) to be generated by the tariff changes. Include a breakout for each service or category of service to show changes in revenue.

d. Historical and projected line counts and the effects of any line changes on the company.

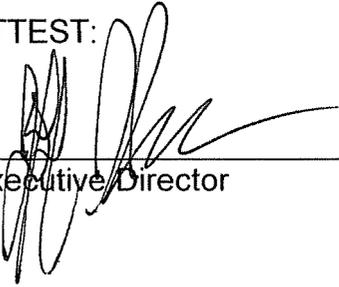
e. Historical and projected federal universal service support and its effects on the company.

f. A narrative of any other circumstances that justify or support the proposed rate changes.

By the Commission



ATTEST:

  
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Executive Director

Case No. 2013-00191

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