

**COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION**

In the Matter of:

AN INVESTIGATION INTO THE)	
INTRASTATE SWITCHED ACCESS RATES)	
OF ALL KENTUCKY INCUMBENT AND)	Case No. 2010-00398
COMPETITIVE LOCAL EXCHANGE)	
CARRIERS)	

**KENTUCKY CABLE TELECOMMUNICATIONS
ASSOCIATION'S COMMENTS ON PSC'S MARCH 22, 2012, ORDER**

Pursuant to the Order entered March 22, 2012, by the Kentucky Public Service Commission seeking comments on the Federal Communications Commission's November 18, 2011, Order comprehensively reforming intercarrier compensation ("FCC Order"), the Kentucky Cable Telecommunications Association ("KCTA") submits its comments.

KCTA is a non-profit organization consisting of 118 cable television systems serving the majority of cable customers throughout Kentucky. Many of the 16 companies are competitive local exchange carriers (CLECs) affected by any order regarding intrastate switched access rates. Each member offers different services and serves different types of customers and geographic markets.

As the Commission states in its March 22, 2012, Order, the FCC released an Order that will comprehensively reform intercarrier compensation. That Order dramatically changes the regulatory scheme in which Kentucky's CLECs operate. The Commission's actions must be

harmonized with the FCC Order. For that to occur, the Commission should close this investigation, open a new docket for the express purpose of observing and absorbing FCC action, then decide what action, if any, is needed to achieve harmony with the FCC. In other words, the Commission should take a “wait and see” approach; while unlikely, further action by the Commission may not be warranted.

The FCC Order anticipates rate changes occurring through tariff filings and negotiated interconnection agreements. Its Order brings intrastate and interstate access charges under a single federal regime, adopting comprehensive measures to reform such charges and mechanisms for replacement of lost revenues. The Commission must restrict these current proceedings so as to not disturb the uniform scheme being put in place by the FCC.

Furthermore, the FCC may materially modify its Order through petitions for reconsideration, appeals or further rulemaking. To allow time for an efficient implementation of FCC’s uniform scheme, the Commission should dismiss this proceeding. The FCC’s November 18, 2011, Order was merely the beginning of a national discussion. Numerous comments have been filed with the FCC and dozens of petitions for reconsideration are pending. It is a very real possibility that the FCC Order will be modified or clarified in a way that directly addresses the role of state commissions.

The FCC Order as it now stands reserves an important role for state commission in the implementation of the new bill-and-keep methodology and in continuing to oversee the tariffing of intrastate rates during the transition period and the interconnection negotiations and arbitrations. However, the FCC Order also rejects a rate-setting role for state commissions. The FCC's assertion of federal authority over intrastate access charges would appear to require this Commission to base any further action on an explicit delegation of federal authority. Thus, this Commission must wait on the FCC and cannot move forward with this instant proceeding. The best most prudent course of action is to close this proceeding.

The FCC's Order reflects its rationale that uniform federal standards are necessary to reform intrastate access rates and to avoid inconsistent state actions. This Commission should allow the ongoing federal rulemaking to run its course. Furthermore, the comprehensive changes set forth in the FCC Order are to be rolled out in several waves allowing the industry to review and analyze the impact of the changes going forward. This Commission should allow this process to occur without interjecting another set of variables. The pending petitions and appeals may necessitate changes to the FCC Order which will necessitate reconsideration to any ongoing state action. Dismissing this action allows the Commission to step back, removing any impediment to the FCC's uniform scheme.

In any event, the Commission should not move forward in this proceeding with the record as it exists today. The filed testimony and discovery was in response to different issues and are of no value in light of the FCC Order. New issues, new testimony and new discovery will be needed if the Commission ever decides to move forward. Because of the pending motions and appeals, the issues may change.

In conclusion, the FCC's Order establishes authority over access charges solely with the FCC, constraining the Commission in rate regulation and requiring it to move with caution so as not to disturb the uniform scheme put in place by the FCC. The record presently before the Commission in this proceeding is of no value and should be discarded. The best course of action now is for the Commission to open a new proceeding to monitor activity at the federal level, create a record thereto, and consider future action as a result.

Respectfully submitted,

/s/ Laurence J. Zielke

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CERTIFICATE OF SERVICE

This is to certify that an electronic version of this filing was made with the Commission on April 19, 2012, and copy of this filing has been served electronically on all parties of record for whom an email address is given in the on-line Service List for this proceeding.

/s/ Laurence J. Zielke
One of the Counsel for KCTA