

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

O R D E R

On November 18, 2011, the Federal Communications Commission (“FCC”) released an Order that, inter alia, comprehensively reformed intercarrier compensation (“ICC”).¹ The most notable change regarding compensation reform is that the FCC has determined that reciprocal compensation and terminating access charges, both interstate and intrastate, should incrementally move to a “bill and keep” regime. In making the determination that intrastate rates should move towards bill-and-keep, the FCC found that its statutory authority in the 1996 Telecommunications Act allows it to preempt states’ jurisdiction over intrastate access rates.²

¹ See 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”).

² Id. at ¶¶ 760-781.

The FCC capped all terminating access and reciprocal compensation rates on December 29, 2011.³ The FCC then established a timeline whereby the rates will transition to zero. The transition is as follows:⁴

Date	For Price Cap Carriers and CLECs that benchmark access rates to price cap carriers	For Rate-of-Return Carriers and CLEC's that benchmark access rates to rate-of return carriers
July 1, 2012	Intrastate terminating switched end office and transport rates, originating and terminating dedicated transport, and reciprocal compensation rates, if above the carrier's interstate access rate, are reduced by 50 percent of the differential between the rate and the carrier's interstate access rate.	Intrastate terminating switched end office and transport rates, originating and terminating dedicated transport, and reciprocal compensation rates, if above the carrier's interstate access rate, are reduced by 50 percent of the differential between the rate and the carrier's interstate access rate.
July 1, 2013	Intrastate terminating switched end office and transport rates and reciprocal compensation, if above the carrier's interstate access rate, are reduced to parity with interstate access rate.	Intrastate terminating switched end office and transport rates and reciprocal compensation, if above the carrier's interstate access rate, are reduced to parity with interstate access rate.
July 1, 2014	Terminating switched end office and reciprocal compensation rates are reduced by one-third of the differential between end office rates and \$0.0007	Terminating switched end office and reciprocal compensation rates are reduced by one-third of the differential between end office rates and \$0.0005.
July 1, 2015	Terminating switched end office and reciprocal compensation rates are reduced by an additional one-third of the original differential to \$0.0007.	Terminating switched end office and reciprocal compensation rates are reduced by an additional one-third of the original differential to \$0.0005.

³ Id. at ¶ 801.

⁴ Id. at ¶ 801, fig. 9.

July 1, 2016	Terminating switched end office and reciprocal compensation rates are reduced to \$0.0007.	Terminating switched end office and reciprocal compensation rates are reduced to \$0.0005.
July 1, 2017	Terminating switched end office and reciprocal compensation rates are reduced to bill-and-keep. Terminating switched end office and transport are reduced to \$0.0007 for all terminating traffic within the tandem serving area when the terminating carrier owns the serving tandem switch.	Terminating end office and reciprocal compensation rates are reduced by one third of the differential between its end office rates (\$0.005) and \$0.0007.
July 1, 2018	Terminating switched end office and transport are reduced to bill-and-keep for all terminating traffic within the tandem serving area when the terminating carrier owns the serving tandem switch.	Terminating switched end office and reciprocal compensation rates are reduced by an additional one-third of the differential between its end office rates as of July 1, 2016 and \$0.0007.
July 1, 2019		Terminating switched end office and reciprocal compensation rates are reduced to \$0.0007.
July 1, 2020		Terminating switched end office and reciprocal compensation rates are reduced to bill-and-keep.

The FCC requires these changes in rates to intrastate toll traffic to be made through tariff filings.⁵ The FCC, however, has made it clear that, regarding reciprocal compensation, parties are also free to negotiate agreements that differ from the filed rates or use change-of-law provisions in existing interconnection agreements to implement any changes.

The FCC will allow carriers to recover some of the lost access income from its end users through a monthly administrative recovery charge ("ARC").⁶ The carrier may increase the ARC by \$.50 annually but may not charge the ARC to any Lifeline

⁵ Id. at ¶ 812.

⁶ Id. at §§ 849-866.

customer. The ARC is capped at \$2.50 a month for price cap carriers and \$3.00 for rate of return carriers. The ARC cannot be assessed on customers paying \$30.00 or more for inclusive monthly phone service. A carrier will have to cease charging the ARC if the recovery from the ARC exceeds the amount for which the carrier was eligible to recover.

The Commission initiated this proceeding to review the access charge regime in Kentucky which would inter alia review access rates as well as the need to reform or eliminate the non-traffic sensitive rate element. The Commission also noted that it would “use this administrative proceeding to investigate access charge reform within Kentucky, as well as use it as a formal method of monitoring, analyzing, and applying changes implemented by the FCC through the National Broadband Plan (“NBP”) and the Connect America Fund.”⁷

The Commission will play an important role in the filing of tariffs containing the new rates. The FCC tasked the Commission with the responsibility to ensure that the carriers comply with the transition timing and intrastate access charge reductions. The Commission has the duty to: (1) monitor compliance with the rate transition; (2) review how carriers reduce rates to ensure consistency with the uniform framework; and (3) guard against attempts to raise capped intercarrier compensation rates and unanticipated types of gamesmanship.⁸ The Commission is also to review negotiated interconnection agreements to ensure that they comply with the compensation framework.

⁷ November 5, 2011, Order at 5-6.

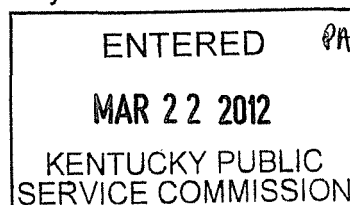
⁸ Id. at ¶ 813.

The Commission finds that, pursuant to the ICC/USF Order, the Commission has limited jurisdiction to issue an Order affecting intrastate terminating access rates. This affects a significant portion of the issues in this current proceeding and it is appropriate that all interested parties are given an opportunity to comment on the Commission's finding and to make recommendations as to how the proceeding should progress in light of the ICC/USF Order.

Based upon the foregoing, IT IS THEREFORE ORDERED that:

1. Within 30 days of the date of this Order, all parties should file comments with the Commission.
2. The comments should address the Commission's finding that it has limited jurisdiction over intrastate terminating access rates and should contain suggestions for how this proceeding should progress.
3. The comments should address the non-traffic sensitive rate element.
4. The comments should address any intentions to implement the Access Recovery Charge ("ARC").

By the Commission



ATTEST:

Stephanie Bell for Jeff Brown
Executive Director

Trevor R Bonnsetter
General Manager
West Kentucky Rural Telephone Cooperative
237 North Eighth Street
P. O. Box 649
Mayfield, KY 42066-0649

Michael Ebaugh
Sr. Accountant
Salem Telephone Company
TDS Telecom
10025 Investment Drive, Suite 200
Knoxville, TN 37932

Greg Hale
General Manager
Logan Telephone Cooperative, Inc.
10725 Bowling Green Road
P. O. Box 97
Auburn, KY 42206

Ms. Bethany Bowersock
In House Counsel
SE Acquisitions, LLC dba Lightyear Network
1901 Eastpoint Parkway
Louisville, KY 40223

Keith Gabbard
General Manager
Peoples Rural Telephone Cooperative
P. O. Box 159
McKee, KY 40447

James Hamby
Office Manager
Highland Telephone Cooperative, Inc.
7840 Morgan County Highway
P. O. Box 119
Sunbright, TN 37872

Honorable Douglas F Brent
Attorney at Law
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KENTUCKY 40202-2828

Paul D Gearheart
VP / General Manager
Gearheart Communications Company, Inc. dba
20 Laynesville Road
P. O. Box 160
Harold, KY 41635

Honorable John N Hughes
Attorney at Law
124 West Todd Street
Frankfort, KENTUCKY 40601

Honorable Ann Jouett K. Brenzel
Corporate Counsel
Cincinnati Bell Telephone Company
201 E. Fourth Street
P. O. Box 2301
Cincinnati, OH 45201-2301

W A Gillum
General Manager
Mountain Rural Telephone Cooperative
405 Main Street
P. O. Box 399
West Liberty, KY 41472-0399

Norman J Kennard
Thomas, Long, Niesen & Kennard
212 Locust Street
Suite 500
Harrisburg, PENNSYLVANIA 17101

Kimberly Caswell
Associate General Counsel
Verizon
PO Box 110, MC FLTC0007
Tampa, FLORIDA 33601-0110

William K Grigsby
Vice President/General Manager
Thacker-Grigsby Telephone Company, Inc.
P. O. Box 789
Hindman, KY 41822

Mary K Keyer
General Counsel
AT&T Communications of the South Central
601 W Chestnut St, 4th Floor East
Louisville, KY 40203

Ruth Conley
CEO
Foothills Rural Telephone Cooperative
1621 Kentucky Route 40 W
P. O. Box 240
Staffordsville, KY 41256

William Haas
US LEC of Tennessee, LLC dba PAETEC
130 W New Circle Road, Suite 170
Lexington, KY 40505

Honorable Mary K Keyer
General Counsel/Kentucky
BellSouth Telecommunications, LLC dba AT&T
601 W. Chestnut Street
4th Floor East
Louisville, KY 40203

David R Davis
General Manager
South Central Rural Telephone Cooperative
1399 Happy Valley Road
P. O. Box 159
Glasgow, KY 42141

David L Haga
Verizon
1320 N. Courthouse Road
Arlington, VIRGINIA 22201

Honorable James Dean Liebman
Attorney at Law
Liebman & Liebman
403 West Main Street
P. O. Box 478
Frankfort, KENTUCKY 40602

Honorable Oran S McFarlan
Attorney at Law
Yunker & Park, PLC
P.O. Box 21784
Lexington, KENTUCKY 40522-1784

Harlon E Parker
CEO
Ballard Rural Telephone Cooperative Corporation,
159 W. 2nd Street
P. O. Box 209
La Center, KY 42056-0209

Jeanne Shearer
VP - State Government Affairs
Windstream Kentucky West, LLC
130 West New Circle Road, Suite 170
Lexington, KY 40505

John B Messenger
Vice President & Associate General Counsel
PAETEC
600 Willowbrook Office Park
Fairport, NEW YORK 14450

Thomas E Preston
CEO/Executive Vice President
Duo County Telephone Cooperative Corporation,
P. O. Box 80
Jamestown, KY 41269

Tony A Taylor
BellSouth Telecommunications, LLC dba AT&T
601 W. Chestnut Street
4th Floor East
Louisville, KY 40203

Demetrios G. (Jim) Metropoulos
Mayer Brown LLP
71 South Wacker Drive
Chicago, ILLINOIS 60606

Honorable Hance Price
Attorney at Law
Frankfort Electric & Water Plant Board
317 W. Second Street
P. O. Box 308
Frankfort, KY 40602

Stephen D Thompson
Dinsmore & Shohl, LLP
1400 PNC Plaza
500 West Jefferson Street
Louisville, KENTUCKY 40202

Honorable Robert C Moore
Attorney At Law
Hazelrigg & Cox, LLP
415 West Main Street
P.O. Box 676
Frankfort, KENTUCKY 40602

Mary Pat Regan
President
BellSouth Telecommunications, LLC dba AT&T
601 W. Chestnut Street
4th Floor East
Louisville, KY 40203

Nancy J White
President & CEO
North Central Telephone Cooperative, Inc.
872 Highway 52 By-Pass
P. O. Box 70
Lafayette, TN 37083-0070

Bruce Mottern
Manager - State Government Affairs
Leslie County Telephone Company, Inc.
TDS Telecom
10025 Investment Drive, Suite 200
Knoxville, TN 37932

Carolyn Ridley
Vice President - Regulatory
tw telecom of kentucky, llc
555 Church Street; Suite 2300
Nashville, KENTUCKY 37219

Allison Willoughby
Assistant General Manager
Brandenburg Telephone Company, Inc.
200 Telco Road
P. O. Box 599
Brandenburg, KY 40108

Bruce Mottern
Manager
Lewisport Telephone Company, Inc.
TDS Telecom
10025 Investment Drive, Suite 200
Knoxville, TN 37932

Honorable John E Selent
Attorney at Law
Dinsmore & Shohl, LLP
101 South Fifth Street
Suite 2500
Louisville, KENTUCKY 40202

Honorable Katherine K Yunker
Yunker & Park PLC
P.O. Box 21784
Lexington, KENTUCKY 40522-1784

Dulaney L O'Roark III
VP & General Counsel - SE Region
Verizon
5055 North Point Parkway
Alpharetta, GEORGIA 30022

Jeanne Shearer
VP - State Government Affairs
Windstream Kentucky East, LLC
130 W New Circle Road, Suite 170
Lexington, KY 40505

Laurence J Zielke
Zielke Law Firm PLLC
1250 Meidinger Tower
462 South Fourth Avenue
Louisville, KENTUCKY 40202-3465