

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition and tariff to) DOCKET NO. 930915-TL
disassociate certain mobile) ORDER NO. PSC-94-0288-FOF-TL
interconnection charges from) ISSUED: March 14, 1994
access charges by BELLSOUTH)
TELECOMMUNICATIONS, INC. d/b/a)
SOUTHERN BELL TELEPHONE AND)
TELEGRAPH COMPANY (T-93-532)
FILED 9/15/93))
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING PETITION

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

A. BACKGROUND

On September 15, 1993, BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company (SBT or Company) filed a petition to disassociate certain mobile interconnection charges from switched access charges (Petition). On the same date, the Company filed a tariff which incorporated negotiated rates for Mobile Service Provider (MSP) network usage charges and which restructured the MSP tariff. The tariff filing is addressed in a separate Order.

MSP network usage charges are presently determined through use of a formula which is based on switched access charges.

DOCUMENT NUMBER DATE

02430 MAR 14 1994

FPSC-RECORDS/REPORTING

B. The SBT Petition

SBT contends that this approach has outlived its usefulness and that under the existing formula:

Network usage rates can be affected differently depending on which access rate element is modified.

The line termination charge, one of the full switched access charge elements used in the existing formula, has been eliminated as a discrete element in Southern Bell's current switched access tariff.

SBT has reached an agreement with the MSPs which incorporates a rate that is not based on switched access charges.

Additional switched access tariff modifications, including local transport restructure, will render the formula adopted in 1988 even less suitable for current circumstances.

We address SBT's concerns as follows:

1. Fluctuation due to changes in Switched Access Charges

SBT states that under the existing formula, interconnection usage rates can be affected differently depending on which switched access rate element is modified. For example, if the local switching or local transport rate elements are reduced, then the reduction in the mobile-to-land usage rate is magnified because these rate elements are reflected twice in the composite usage rate formula (in both local and toll pieces). If, however, the carrier common line charge (CCLC) is reduced, the impact on the mobile-to-land usage rate is limited to the 20% weight that the CCLC is given under the formula. The mobile carrier usage rates are, therefore, affected according to which switched access rate elements are targeted for reduction rather than by the unique use of the LEC network by mobile carriers.

We agree, however, the formula has worked this way since its adoption; this is not something new or different. It was recognized in Order 20475 that "[T]he usage rates were determined by using an access charge component that varied from LEC to LEC and fluctuated as LEC switched access charges changed." In its instant filing, SBT has not shown that this variation has become problematic. Indeed, the formula merely appears to be working as originally intended.

2. Consolidation of Line Termination Charge

SBT's line termination charge, one of the switched access charge rate elements used in the existing formula, has been eliminated as a discrete element in Southern Bell's current switched access tariff. This charge is now incorporated into the local switching rate element. The Company asserts that this renders the existing usage rate formula obsolete.

However, the fact that these elements are no longer a part of switched access charges does not render the formula obsolete. The toll component was designed to approximate what an IXC would pay to SBT for comparable toll termination. The consolidation or removal of specific access rate elements does not render that approach obsolete.

3. Agreement with MSPs

Southern Bell states that it has engaged in negotiations with the Florida MSPs for a new Mobile Services Interconnection Tariff. SBT believes these negotiations have resulted in an agreement on a restructure tariff which will provide a contribution from interconnection services and will allow the mobile carrier actually to lower its costs with increased network usage. The agreement reached disassociates the mobile carrier usage rates from access charges. SBT states that the following mobile service providers expressed acceptance of the restructure tariff filing: AGR Paging, FMCA, Metro Mobile Corporation, BellSouth Mobility, ALLTEL Mobile, McCaw Cellular, GTE MobileComm, Pactel Paging, Porta-Phone, InterLink Paging, PageNet, and Dial Page. However, the understanding was verbal. No written agreement exists.

We have reviewed the positions of both McCaw and FMCA, who intervened in this docket. SBT listed both intervenors as accepting the petition and restructure tariff.

McCaw Cellular stated in response to a data request that it agreed to support SBT's proposed restructure tariff that breaks the linkage to access charges for the following reasons:

- a. The rate is a product of industry negotiations;
- b. Because of SBT's revisions to its access tariff, the mobile rate usage formula no longer directly corresponds to access charges;
- c. McCaw has never viewed access charges as an ideal basis for establishing mobile interconnection usage rates;

- d. The proposed tariff moves the usage rates closer to where McCaw believes they should be and implements lower rates sooner than reliance upon the existing formula;
- e. McCaw views the proposed rates and structure as an interim measure that is subject to further industry negotiations during the first part of 1994.

Although SBT listed FMCA as accepting the Petition and the restructure tariff, FMCA states that it is not appropriate to break the tie between mobile carrier's usage rates and access charges. FMCA believes the rationale of the Commission's decision in Order No. 20475 (establishing the mobile carrier usage rates) remains intact. The access charges are readily identifiable and reflect the services provided to the mobile carriers. FMCA does not accept or endorse the restructure tariff filing.

Thus, it appears that all of the parties are not in agreement regarding the Petition and the restructure tariff.

4. Additional Switched Access Tariff Modifications

SBT asserts that additional switched access tariff modifications, including local transport restructure, will render the formula adopted in 1988 less suitable for current circumstances.

We find this to be the most compelling argument contained in SBT's Petition. We recognize that there are already forces at work which may render the MSP network usage charge formula obsolete. While it may be possible to continue the use of the formula in the short run, we do need to evaluate whether changes in access charges will allow the formula to continue to produce the results that were originally intended.

C. Events Occurring Subsequent to Filing of the Petition

On January 18, 1994, we voted to approve an implementation agreement in Docket No. 920260-TL, Comprehensive Review of the Revenue Requirements and Rate Stabilization Plan of Southern Bell Telephone & Telegraph (the rate case). One of the provisions of that agreement was a reduction of SBT's intrastate switched access charge rates, totaling a \$50 million reduction of gross revenue, to be implemented July 1, 1994. The Company states that, at a maximum, there would be a revenue reduction from MSP usage charges of approximately \$9 million, depending on which switched access rate elements were reduced. This reduction would be significantly

greater than the decrease reflected in the Company's restructure tariff filing. SBT contends that if the rate case reduction were flowed through to the MSP usage rates, it would drive those rates below the Company's current cost. Since we have found in other dockets that prices should be above the incremental cost to provide a service, this would be a major problem. Due to uncertainty as to how the rate case reduction will impact individual switched access rate elements, we cannot fully evaluate SBT's statements. However, we find that the impact will be significant enough to warrant reevaluating the usefulness of the MSP usage rate formula.

D. Conclusion

Although we recognize that changes in the industry and in switched access charges do have the potential to impact the validity of the formula, we find that SBT has not fully supported its Petition to disassociate the MSP network usage rates from access charges. The formula is still useful for many of the reasons it was implemented. Additionally, we find that the formula, which was established with input from many parties, should not be discarded on the basis of a Petition from one company. SBT's Petition has major implications for the mobile service provider industry throughout the state because the formula is used by the other LECs. We acknowledge that there are forces which ultimately may render the MSP network usage charge formula obsolete. While it may be possible to continue the use of this formula in the short run, we find that it is appropriate to examine the impact of impending changes on a statewide basis.

Accordingly, we shall deny SBT's Petition and undertake a generic investigation in a separate docket to determine whether the formula for mobile service provider usage charges is still appropriate, or whether it should be abandoned, or replaced with a revised formula.

Therefore, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunications, Inc. d/b/a Southern Bell Telephone and Telegraph Company's Petition is hereby denied. It is further

ORDERED that a generic investigation shall be undertaken in a separate docket to determine whether the formula for mobile service provider usage charges is still appropriate, or whether it should be abandoned, or replaced with a revised formula. It is further

ORDER NO. PSC-94-0288-FOF-TL
DOCKET NO. 930915-TL
PAGE 6

ORDERED that Docket No. 930915-TL shall be closed at the end of the PAA and tariff protest periods if no timely protest is filed in this Docket.

By ORDER of the Florida Public Service Commission, this 14th day of March, 1994.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CWM

by: Kay Flynn

Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street,

ORDER NO. PSC-94-0288-FOF-TL
DOCKET NO. 930915-TL
PAGE 7

Tallahassee, Florida 32399-0870, by the close of business on April 4, 1994.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.