



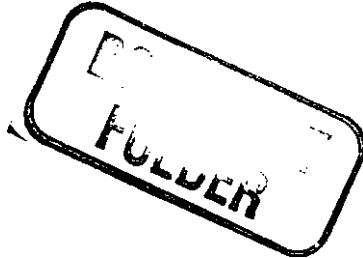
COMMONWEALTH OF PENNSYLVANIA
 PENNSYLVANIA PUBLIC UTILITY COMMISSION
 P.O. BOX 3265, HARRISBURG, PA 17105-3265

ISSUED: May 12, 1994

IN REPLY PLEASE
 REFER TO OUR FILE

1009200200001

NORMAN JAMES KENNARD
 JAMES P MELIA ESQS
 TUCKER ARENSBERG PC
 117 PINE STREET
 SUITE 403
 HARRISBURG PA 17101



AT&T COMMUNICATIONS PA INC
 VS
 COMMONWEALTH TELEPHONE CO

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Recommended Decision of Administrative Law Judge George M. Kashi.

An original and nine (9) copies of signed exceptions to the decision, if any, **MUST BE FILED WITH THE SECRETARY OF THE COMMISSION IN ROOM B-18, NORTH OFFICE BUILDING, NORTH STREET AND COMMONWEALTH AVENUE, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17105-3265**; a copy in the hands of the Office of Special Assistants, Room 116; and a copy served in the office of each party of record no later than May 23, 1994. 52 Pa. Code §1.56(b) cannot be used to extend the prescribed period for the filing of exceptions.

Exceptions shall obey 52 Pa. Code 5.533 and 5.535, particularly the 40-page limit for exceptions. Exceptions should be clearly labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)".

Reply exceptions will not be accepted for filing and will not be entertained by the Commission.

Any reference to specific sections of the Administrative Law Judge's Recommended Decision shall include the page number(s) of the cited section of the decision.

All timely filed exceptions will be submitted to the Commission for consideration at Public Meeting. Late filed exceptions might not be considered by the Commission. This decision will be listed on the agenda for Public Meeting on June 2, 1994. cc: ALJ KASHI, OFFICE OF ALJ, OSA OTS, PIO, BCS, SAC, LAW BUREAU, CEEP, OSA - TARIFF, AUDITS, CHAIRMAN, COMMISSIONERS, OUR FILE, NEW FILE

MARK A KEFFER ATTY
 ROOM 3-D
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Very truly yours,

PHILIP F MCCLELLAN
 MARK J SHOSTAK
 ASSTS OCA'S
 1425 STRAWBERRY SQ
 HARRISBURG PA
 17120

Allison K. Turner

JEP:las
 Encls.
 Certified Mail
 Receipt Requested

KANDACE F MELILLO
 CAROL F PENNINGTON
 PA PUC OTS
 PITNICK BLDG
 HARRISBURG PA
 17102

Allison K. Turner
 Chief Administrative Law Judge

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AT&T Communications of
Pennsylvania, Inc.

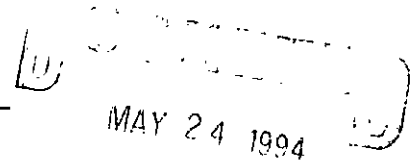
v.

Commonwealth Telephone Company

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I-00920020C001

RECOMMENDED DECISION
APPROVING JOINT PETITION
FOR SETTLEMENT OF COMPLAINT



Before
GEORGE M. KASHI
Administrative Law Judge

On April 2, 1992 the Commission initiated an investigation, at Docket No. I-00920020, into the current earnings of Commonwealth Telephone Company ("Respondent"/"CTCO"/"Company") i.e., "Commonwealth Telephone Company may have posited an inaccurate earnings position . . ." ". . . to gather additional information relative to a comprehensive calculation of return on common equity capital." Thereafter, by Commission Order entered July 9, 1992 ("Order") this earnings investigation was expanded and continued for the purposes of examining ". . . the appropriateness of Commonwealth's affiliated transactions, in particular the Parent Corporation Management Service Fees" and all related affiliated interest charges. See Order at 2.

On June 25, 1992, AT&T Communications of Pennsylvania, Inc. ("AT&T") filed a Complaint at Docket No. I-00920020 against

the intrastate carrier access charges of Commonwealth. Also on July 9, 1992, the Office of Consumer Advocate ("OCA") filed a Notice of Intervention.

On July 23, 1992 the matter was assigned to this administrative law judge and a prehearing conference was scheduled for and held before the undersigned on August 6, 1992.

On July 29, 1992 CTCO filed an Answer to the Complaint of AT&T ("Answer") wherein it substantially denied the allegations of the Complaint. CTCO, pursuant to this Commission's Rules of Administrative Practice and Procedures, 52 Pa. Code §5.101(a), filed a Motion to Strike or Dismiss, with prejudice, the Complaint of AT&T ("Motion"). In its motion CTCO alleged that the AT&T Complaint should be stricken or dismissed because, inter alia, the subject matter of the Complaint and the relief requested is beyond the scope of this investigation proceeding.

On August 6, 1992, as directed by the July 9, 1992 Order, the Office of Trial Staff ("OTS") noticed its appearance in the proceeding. The parties presented written memoranda and by Order dated December 18, 1992, we denied the Motion of Commonwealth Telephone Company, together with its construction of the Commission's July 9, 1992 Order; noticed Commonwealth that the Commission may revise the rates of the company if it was determined that the present rates are unjust and unreasonable;

directed Commonwealth to participate in discovery as with any rate case; and consolidated the AT&T Complaint.

A further prehearing conference was held on December 29, 1992 at which various procedural matters were resolved and a hearing schedule agreed to by the parties which was scheduled to begin May 26, 1993 and conclude September 21, 1993. See Notice of January 5, 1993. At the prehearing conference we requested the Company to provide the docket number of its Application of Commonwealth Telephone Company for Approval of the Transfer of Stock by Its Parent Company to an Affiliated Interest. We were notified that it was docketed to A-31800F500.

CTCO filed testimony in the above proceeding on May 3-5, 1993 concerning the following topics: affiliated relationships -- CTCO Statement No. 4 (P. Mazza); accounting issues -- CTCO Statement No. 3 (D. P. Cawly); rate of return-- CTCO Statement No. 7 (F. Hanley); depreciation expense and depreciation rates -- CTCO Statement No. 5 (E. M. Robinson); cash working capital -- CTCO Statement No. 6 (S. McDaniel); jurisdictional separations and intrastate revenues -- CTCO Statement No. 2 (J. J. Laffey); and company policy, service standards and other matters -- CTCO Statement No. 1 (S. Burnside).

On May 13, 1993 the OCA filed a Motion to Require Supplemental Testimony Or, In the Alternative, Postpone the

Evidentiary Procedural Schedule. OCA asked that the cross of CTCO now be moved to July. After a telephone conference with the parties, CTCO was directed to file supplemental testimony which was filed on May 21, 1993 as CTCO Statement No. 3-A regarding additional accounting issues addressed in OCA's Motion. Further documentation supplementing CTCO Statement No. 3-A was filed on May 25, 1993.

On May 27, 1993 a further prehearing conference was held and a new hearing schedule was established: cross of CTCO July 1 and 2; cross of other parties August 19, 20 and 23 and rebuttal on October 7 and 8.

Extensive discovery has been conducted by the parties and answered by CTCO. The OCA has propounded 16 Sets of discovery, consisting of a total of 486 interrogatories. The OTS has propounded 57 interrogatories, and AT&T has propounded 107 interrogatories. Additionally, the OTS and OCA conducted on-site document review and informal discovery at the Company's headquarters located in Dallas, Pennsylvania, for two (2) days, June 21 and 22, 1993. Approximately twenty (20) data requests were also answered by CTCO.

On-the-record hearings were held on July 1 and 2, 1993, during which CTCO presented its witnesses and exhibits, all of which were subject to cross-examination.

While OCA & OTS prepared testimony for the second set of hearings, they requested that they be permitted not to publicly file it on the scheduled date because of settlement negotiations. We granted the request.

On October 18, 1993 OTS, OCA and CTCO filed a Petition for Settlement of Investigation.

On November 5, 1993 AT&T filed its objections to the Joint Petition.

By Order rendered November 18, 1993 we denied approval of the Joint Petition, directed OTS and OCA to file their testimony and scheduled a further prehearing conference. On December 13, 1993 the Company, OTS and OCA sought relief from our order via interlocutory review and certification of a material question.

By Opinion and Order entered February 23, 1994 the Commission determined that the Settlement reached by the parties was in the public interest and approved it. The Commission also ordered that the instant complaint be severed from the investigation and redocketed and that the investigation at Docket No. I-00920020 be marked closed.¹

In relevant part, the Joint Petition approved by the Commission in its February 23, 1994 order provided:

¹ As of yet the complaint has not been redocketed nor has the investigation docket been marked closed, thus our decision carries the original docket number.

12. (b) In the event that AT&T joins this Settlement Petition, then CTCO shall implement an access line cap of carrier common line ("CCL") charges of \$3.52 per month effective for service rendered on and after January 1, 1994. In the event that AT&T does not join in this settlement before adoption by the Commission approving this Settlement Petition, then CTCO shall flow back to ratepayers the same amount through some other change in rates. In such an event, the parties to this settlement will file, within 30 days of a final Commission Order, an additional joint petition to the PUC that will determine what other rate changes will occur to flow that money back to ratepayers.

16. AT&T, at the time of execution of this Settlement Petition, has declined to become a signatory party. The Joint Petitioners have offered AT&T the option of joining in this Settlement in exchange for a cap upon CCL charges, which offer will remain open until the date upon which this Commission adopts an Order approving this Settlement Petition. In the event that AT&T declines to formally accept this offer by that time, then the revenue reduction of \$335,000 associated with the CCL cap will be credited for the benefit of ratepayers through some alternative rate reduction as previously discussed. The parties recognize AT&T's due process right to proceed with its Complaint. However, the parties do not believe that the exercise of this right should delay implementation of the Settlement and the tariff set forth in Appendix "A" hereto. CTCO and OTS request that AT&T's Complaint be severed from the instant proceeding and placed at a new separate docket. The OCA does not join in this request. The Joint Petitioners, at their individual option, may participate in any proceeding concerning AT&T's Complaint provided, however, that they shall do so in a manner consistent with the terms and condition of this settlement Petition, including Paragraph 12(h) (sic).

On March 1, 1994 CTCO and AT&T presented the undersigned with a Joint Petition for Settlement of AT&T's Complaint ("AT&T Settlement").

Terms and Conditions

The following are the terms and conditions of the AT&T Settlement:

(a) The terms and conditions of the Investigation Settlement, including but not limited to Paragraph 12 thereof, are expressly made a part hereof and are binding on the parties hereto. The term "Joint Petitioners" as used in the Investigation Settlement shall be construed so as to expressly include and bind AT&T. Further, the final sentence of Paragraph 12(h) of the Investigation Settlement, which references the OCA and OTS, and Paragraph 12(i), which references the OCA, shall be construed as to also expressly include and bind AT&T to the terms thereof. Nothing herein, however, shall limit AT&T's participation in an investigation of a CTCO filing under Chapter 30 (66 Pa. C.S.A. § 3006);

(b) CTCO shall implement an access charge cap of carrier common line ("CCL") charge of \$3.50 per line per month effective for service rendered on the first day beginning the next calendar month after entry of an Order by the Commission approving this Settlement. A tariff Supplement which accomplishes this reduction and capping of the CCL charge is attached hereto as Appendix "A". This resolution fully satisfies the terms of the Investigation Settlement at Paragraph 12(b) and, therefore, no further amount of rate reduction shall be flowed back to any ratepayers under either Paragraph 12(b) of the Investigation Settlement or this AT&T Settlement. CTCO and AT&T have solicited letters of support endorsing this resolution from the OCA and OTS, which they have agreed to provide and which are filed with the Commission under separate cover letter and attached hereto;

(c) AT&T's Complaint currently docketed at

I-920020C001 shall be deemed withdrawn upon approval of this Settlement.

Discussion

We have received statements in support of the settlement from both OTS and OCA which agree with the parties that the terms and conditions of the Settlement are in the public interest and advocate the adoption of the Settlement. Additionally, we are always of the mind that parties to a private complaint are always in the best position to judge what is in their best interest. In addition to the reasons set forth by the OTS and OCA we find the proposed Settlement to be in the public interest for the following reasons:

1. The settlement results in a decrease of approximately \$346,000 in CTCO's on-going, annual jurisdictional net operating revenues, an amount in excess of the \$335,000 reduction which was contemplated by the Investigation Settlement. This was accomplished by further reducing the CCL cap from \$3.52 to \$3.50 (see, para. 12(b) of Investigation Settlement).
2. The terms of the Investigation, as previously approved by this Commission, are preserved and finalized.

3. This Settlement avoids protracted litigation and the related expense to the parties, the Commission and CTCO's ratepayers.

Therefore, we will enter an order approving the settlement and mark the complaint closed.


THEREFORE, IT IS ORDERED (Subject to Commission approval):

1. That the Joint Petition for Settlement of AT&T's Complaint be and is hereby approved.

2. That CTCO implement an access charge cap of carrier common line ("CCL") charge of \$3.50 per line per month, effective for service rendered on the first day beginning the next calendar month after entry of this Order, as accomplished in the Tariff supplement attached to the Joint Petition as Appendix "A".

3. That the Secretary mark the complaint of AT&T docketed at I-00920020C001 closed.

Dated: May 9, 1994


GEORGE M. KASHI
Administrative Law Judge