

the Joint Petition for Settlement, and allows Commonwealth to file the Tariff which appears as Appendix "A" in the Joint Petition.

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PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, Penna. 17105-3265

Public Meeting held May 18, 1994

Commissioners Present:

David W. Rolka, Chairman
Joseph Rhodes, Jr., Vice-Chairman
John M. Quain
Lisa Crutchfield
John Hanger

Pennsylvania Public Utility Commission

Docket No.

I-00920020C001

v.

Commonwealth Telephone Company

OPINION AND ORDER

BY THE COMMISSION

Before the Commission for consideration is the Joint Petition for Settlement of Complaint ("Joint Petition") of AT&T Communications of Pennsylvania ("AT&T") and Commonwealth Telephone Company ("Commonwealth" or "CTCO") ("Joint Petitioners"), filed February 25, 1994.

History of the Proceeding

On April 2, 1992, the Commission initiated an investigation at Docket No. I-920020 into the current earnings of Commonwealth. On July 9, 1992, the Commission entered a second Order which expanded the said investigation to include whether Commonwealth's State Tax Adjustment Surcharge ("STAS") resulted in unjust and unreasonable rates, and the appropriateness of Commonwealth's affiliated

transactions, in particular, the reasonableness of the fees provided for in the Parent Corporation Management Services Fees. See Section 2106 of the Public Utility Code ("Code"), 66 Pa. C.S. §2106.

The Office of Trial Staff ("OTS") and the Office of Consumer Advocate ("OCA") entered appearances in the instant proceeding. On June 25, 1992, AT&T filed a Formal Complaint which was docketed at No. I-920020C001, wherein it contested, inter alia, the level of its intrastate carrier access charges.

On October 18, 1993, Commonwealth, the OTS, and the OCA ("Parties") filed a Joint Petition for Settlement of Investigation. On November 18, 1993, presiding Administrative Law Judge ("ALJ") George M. Kashi entered an Interim Order Denying Approval of Joint Petition for Settlement of Investigation ("Investigation Settlement").

On December 13, 1993, the Parties filed a request for Commission Review and Answer to a Material Question, proposing the material question, of whether the Investigation Settlement was in the public interest and should be approved by the Commission. By Order entered February 24, 1994, the Settlement Petition was adopted and the Complaint of AT&T was severed from the proceeding so that AT&T would be able to proceed with its access charge issues.

DISCUSSION

As stated supra, the Joint Petition was filed on February 25, 1994. The terms and conditions of the Settlement appear in paragraphs 7-10 of the Joint Petition, and are reproduced in their entirety below:

7. The terms and conditions of this AT&T Settlement Petition are as set forth below:

(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 upon the parties thereto. The term "Joint Petitioners" as used in the Investigation 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 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 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; and

(c) AT&T's Complaint currently docketed at I-920020C001 shall be deemed withdrawn upon approval of the Settlement.

8. AT&T and CTCO agree that the rates contained in Appendix "A" hereto are in the public interest. Joint Petitioners agree further that the proposed Settlement is in the public interest for the following reasons:

(a) 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 (§12(b)).

(b) The terms of this investigation, as previously approved by this Commission, are preserved and finalized.

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

9. The Settlement is proposed by CTCO and AT&T to settle the instant case and is made without any admission against, or prejudice to, any position which either of them might adopt during the litigation of this proceeding or any other proceeding, except as expressly set forth herein. The Commission's approval of this Settlement shall not be construed as binding or persuasive precedent in any other Commission proceeding or in any appeal from a Commission proceeding, except to the extent required to effectuate the terms and conditions of this Settlement in this and future proceedings involving CTCO. The Settlement is conditioned upon the Commission's approval of all the terms and conditions contained herein without modification or amendment, except to the extent outlined herein below. It is expressly understood by CTCO and AT&T that this Settlement is conditional and shall have no force and effect unless accepted and adopted in its entirety by the Commission, except that this paragraph shall be effective regardless of whether the Settlement is accepted and adopted by the Commission. Either party may withdraw from the Settlement and proceed with litigation of this proceeding if the Commission does not approve all of the terms and conditions of the Settlement or alters or amends any of the terms and conditions of the Settlement. If the Commission disapproves any portion of the Settlement or modifies any term or provision thereof, then, in order to withdraw from the Settlement, a party must file with the Commission, and

serve upon all parties, a statement that such party is withdrawing from the Settlement within five (5) business days after the Commission enters an Order rejecting or modifying any term or condition of the Settlement.

10. If the Commission does not approve this AT&T Settlement and the proceeding continues to further hearings, CTCO and AT&T preserve their respective rights to proceed to full hearings, including their right to submit further testimony as well as to conduct full cross-examination, briefing and argument, which rights are waived in reliance upon Commission acceptance of the Settlement.

WHEREFORE, CTCO and AT&T, by their duly authorized representatives, respectfully request that this Commission enter an Order which:

(a) Authorizes Commonwealth Telephone Company to file a tariff in the form of Appendix "A" hereto, to become effective for service rendered on and after the first day beginning the next calendar month after entry of an Order by the Commission approving this Settlement; and

(b) Fully approves and adopts all other terms and conditioned herein.

In our review of the Joint Settlement, we examined Appendix "A". The rates which appear in Appendix "A" for Carrier Common Line Access, per line, per month are as follows:

Alltel Pennsylvania Inc.	\$2.05
Armstrong Telephone Company North	\$2.96
The Bentleyville Telephone Company	\$1.01
Breezewood Telephone Company	\$6.25
Canton Telephone Company	\$2.74
Citizens Telephone Company of Kecksburg	\$1.42
Citizens Utilities Company of Pennsylvania	\$5.73
Commonwealth Telephone Company	\$3.50(D)
Conestoga Telephone & Telegraph Company	\$2.25
Denver and Ephrata Telephone and Telegraph	\$3.45
Enterprise Telephone Company	\$4.00
Ironton Telephone Company	\$2.88
Lakewood Telephone Company	\$2.98
Mahanoy & Mahantango Telephone Company	\$5.13

(D) Indicates decrease

North-Eastern Pa. Telephone Company	\$1.57
North Penn Telephone Company	\$7.85
North Pittsburgh Telephone Company	\$2.49
Oswayo River Telephone Company	\$7.21
Palmerton Telephone Company	\$8.57
Pymatuning Independent Telephone Company	\$1.88
Sugar Valley Telephone Company	\$3.18
Venus Telephone Corporation	\$7.62
Yukon Waltz Telephone Company	\$1.65

We have carefully examined the above-quoted Joint Petition for Settlement. We find the terms of the Settlement Agreement to be in the Public Interest. We will, therefore, grant the parties' Joint Settlement Petition; **THEREFORE,**

IT IS ORDERED:

1. That the Complaint of AT&T Communications of Pennsylvania, docketed at No. I-00920002C001, is withdrawn.

2. That the Joint Petition for Settlement of AT&T Communications of Pennsylvania and Commonwealth Telephone Company is approved.

3. That Commonwealth Telephone Company is authorized to file, after entry of this Opinion and Order, a tariff in the form of Appendix A, of which the rate schedule, appears previously herein, for service rendered on and after the first day beginning the next calendar month after the entry date of this Opinion and order.

BY THE COMMISSION



John G. Alford
Secretary

(Seal)

ORDER ADOPTED: May 18, 1994

ORDER ENTERED: **MAY 24 1994**