

Alabama Public Service Commission

Orders

GENERIC PROCEEDING: COSTS AND) DOCKET 27178
RATES OF BELLSOUTH'S OPERATIONS)
SUPPORT SYSTEM (OSS))
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ORDER

BY THE COMMISSION:

This proceeding is an outgrowth of Docket 26800, the arbitration proceeding between BellSouth Telecommunications, Inc. ("BellSouth") and The Telephone Company of Central Florida, Inc. ("TCCF"). In Docket 26800, we approved a resale agreement between TCCF and BellSouth and decided, among other issues, that BellSouth was entitled to recover Operational Support System ("OSS") charges from TCCF. See Report and Order, Docket 16800 (May 26, 1999), at p.2.

In that proceeding, which approved the OSS rates proposed by BellSouth, we expressed a desire to provide other resellers with the opportunity to question the cost figures that underlie BellSouth's OSS charges. Specifically, we questioned whether TCCF had "the resources to present fully the case for the resellers of BellSouth's services."

PROCEDURAL BACKGROUND

We opened this Docket through a Notice of Generic Proceeding on August 5, 1999. The following parties intervened: BellSouth, GTE, the National ALEC Association and Prepaid Communications Association (collectively referred to as "NALA/PCA"), the Southeastern Competitive Carriers Association ("SECCA"), e.spire, Actel, DeltaCom, ICG, MCI, and AT&T. The following parties submitted pre-filed testimony and appeared at the hearing: BellSouth, GTE, and NALA/PCA. BellSouth submitted the testimony of Ms. D. Daonne Caldwell. GTE submitted the testimony of Mr. Edward C. Beauvais. NALA/PCA submitted the testimony of Mr. Larry W. Seab and Mr. Scott C. Lundquist.

BellSouth argued that the Commission opened this Docket to address the "costs and charges for the development and use of BellSouth's Operations Support Systems and the rates BellSouth will charge resellers for this service." See

Notice of Generic Proceeding, Docket 27178 (Aug. 5, 1999). The scope of this generic docket extends only to determining the appropriate rates for OSS charges for resellers.

NALA/PCA argued that BellSouth apparently has recovered from resellers the costs associated with the provision of its OSS through the application of wholesale rates, not cost based UNE rates. The issue of such additional charges for resellers was raised but not conclusively addressed in Docket 26800, Petition of TCCF for Arbitration of Resale Agreement with BellSouth. TCCF asserted in this arbitration proceeding that resellers should either be exempt from the payment of BellSouth's OSS charges or should pay a reduced amount. Based on the evidence presented, the arbitration panel disagreed. We were concerned, however, that TCCF was "not a match for BellSouth and does not have the resources to present fully the case for resellers of BellSouth's services." Consequently, we adopted the arbitration panel's recommendation on an interim basis only and elected to simultaneously open this generic proceeding, Docket 27178.

In regard to the matter of whether or not BellSouth can charge for reseller OSS usage on a UNE cost basis, Staff recommends that such charges are appropriate because the BellSouth wholesale rates exclude the costs associated with the service order function clearly found in APSC Generic Local Resale Docket 25677, dated December 27, 1997. Staff further recommends that to include the service order function in the resale discount would have a material impact of increasing the costs to resellers in the long run.

COST STUDY METHODOLOGY

BellSouth asserts that the cost studies submitted by them are based on the Total Element Long Run Incremental Cost ("TELRIC") methodology accepted previously by this Commission in Docket 26029. The cost studies submitted by BellSouth determine the TELRIC specific to Alabama for the development of the OSS electronic interfaces for CLECs and the ongoing electronic and manual order processing, taking into consideration BellSouth's actual systems and the costs associated with developing those systems.

NALA/PCA opines that BellSouth's cost study did not meet the standards established by the Telecommunications Act of 1996, 47 U.S.C. § 251, *et seq.* ("the 1996 Act") as interpreted by the Federal Communications Commission ("FCC").

NALA/PCA witness, Mr. Lundquist states that charges for accessing BellSouth's OSS must reflect the "forward-looking economic cost" which he defines as "that which would prevail assuming the use of the most advanced technology that is available to the CLECs and that they can deploy today, utilizing the most efficient manner." Tr. at p. 410, p. 7.

BellSouth notes that the majority of this argument is based on the FCC mandated Total Long Run Incremental Cost (TELRIC) methodology, which was recently rejected by the United States Court of Appeals, Eighth Circuit. *See Iowa Utilities Board v. FCC*, No. 96-3321, Slip op. (July 18, 2000). BellSouth states the Eighth Circuit's analysis of the 1996 Act requires that ILECs, such as BellSouth, be permitted to recover their actual costs incurred in providing access to its network, "not on the cost of some imaginary carrier would incur in providing the newest most efficient, and least cost substitute for the actual item or element which will be furnished by the existing ILEC pursuant to Congress's mandate for sharing." BellSouth reasons that it's request to recover the costs it actually incurred in developing the OSS interface is reasonable; that the costs were incurred in 1996 or 1997 is irrelevant; and there is no dispute that BellSouth incurred such costs as a direct result of the 1996 Act.

Staff recommends the use of TELRIC in the determination of the UNE OSS charges based on forward looking costs and adjusting BellSouth's model accordingly. This is consistent with the Commission's findings in Docket 26029 (August 25, 1998). BellSouth argues that TELRIC was rejected by the United States Court of Appeals, Eighth Circuit. However, on September 22, 2000, the Eighth Circuit Court stayed its decision rejecting the TELRIC standard pending the disposition of any petition for certioria. The Supreme Court granted certioria January 22, 2001.

STAFF UNE COST MODEL ANALYSIS

Mr. Lundquist objected to BellSouth reliance on embedded costs, explaining that using the embedded or historical investments as purchase prices is contrary to the FCC's definition of TELRIC. In order to comply with the TELRIC methodology, BellSouth should have attempted to develop a forward-looking estimate of the investments. Instead,

BellSouth determined what OSS investments it had actually made since 1996; it then identified additional OSS investments that it anticipated making in future years through 2002. Next, BellSouth aggregated these investments by expressing them on a present worth basis relative to the first year of the study period, year 2000. Because some of the Company's actual OSS investments were made from one to four years prior to year 2000, however, this approach means that the prior investments are subjected to present worth factors as high as 1.53 – that is, they are up to 53% higher than they would be had the same investment been made at the start of the study period, which is the presumption in a valid TELRIC model. Simply removing the effect of the present worth factors for the years 1996-1999 (i.e., by setting each factor to 1.0) does not fully correct BellSouth's first error, because to do so would not recognize the downward trend in computer equipment costs over those years. Accordingly, in addition to setting the present worth factors to 1.0, the price inflator/deflator (Telecommunications Plant Indices or TPIs) which BellSouth presents in its cost study need to be applied to take into account the downward costs of computer equipment.

BellSouth argues that their reliance on embedded costs and adjusted historical data does not violate TELRIC pricing principles because BellSouth back dated its cost study to 1996, when it first began developing its electronic OSS interfaces and that they are forward looking from that point in time.

BellSouth witness Ms. Caldwell acknowledged that the Telephone Plant Indices (TPI) were not applied to computer investments. This index is typically applied to material prices for the purposes of bringing the price "up to the price that you would pay at the current time."

Mr. Lundquist also testified that BellSouth's rates for electronic ordering were unreasonable because they were based on an excessive fallout rate. In its study, BellSouth assumed a fallout rate of approximately ten percent (10%). Tr. at p. 417.

Mr. Lundquist challenged BellSouth use of a 10 percent fallout rate on the grounds that (1) the 10 percent rate had been adopted to reflect the fallout of more complex UNE orders, not resale orders; (2) BellSouth had produced no empirical evidence demonstrating that it was appropriate to use a 10 percent fallout rate in the resale environment; and (3) the APSC accepted a two percent fallout for resale orders in Docket 26029. BellSouth witness, Ms. Caldwell stated that the cost study filed by BellSouth in its proceeding was not resale-specific and that the costs for the interfaces do not depend on the order being submitted: "The cost is the cost, whether it is a UNE or a resale order."

Staff agrees with Mr. Lundquist that applying the TPI is appropriate. This entails using current material prices to develop forward-looking costs of investments. This methodology was used in the Commission's BellSouth UNE Order, Docket 26029 dated August 25, 1998. Staff has applied the TPI in calculating its recommended rates in Exhibit A.

Based on Staff's tracking of OSS variables as ordered by the Commission in Docket 25835, dated December 11, 1998, staff has utilized a fallout rate of 5% to determine the nonrecurring charge for Local Carrier Service Center (LCSC) fallout labor. Our Order required BellSouth to provide a monthly report on the status of BellSouth's implementation of the OSS performance measurements which included details of UNE and resale fallout.

Exhibit A contains the above adjustments to BellSouth's inputs that Staff has calculated for the OSS charges applicable to Resale CLECs.

We agree with the staff's findings and recommendations and therefore on an interim basis:

IT IS ORDERED, that resellers shall be charged for access to the OSS System and Manual Processing.

IT IS FURTHER ORDERED, that The BellSouth TELRIC methodology is the appropriate method for ascertaining the OSS System and manual processing charges to resellers.

IT IS FURTHER ORDERED, that The BellSouth TELRIC study be adjusted to reflect forward looking investments and fallout.

IT IS FURTHER ORDERED, that the rates contained in attached Exhibit A be implemented by BellSouth.

IT IS FURTHER ORDERED, that this Order is effective as of the date hereof.

DATED at Montgomery, Alabama, this 22nd day of May, 2001.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary

DOCKET 27178

EXHIBIT A

**GENERIC PROCEEDING: COSTS AND RATES OF BELLSOUTH'S OPERATIONAL SUPPORT SYSTEM
UNBUNDLED NETWORK COST ELEMENTS SUMMARY REPORT**

COST ELEMENT NON RECURRING

F.1 OPERATIONAL SUPPORT SYSTEMS

F.1.8 OSS MANUAL PROCESSING, PER LOCAL SERVICE REQUEST - RESALE ONLY \$13.31

F.1.61 OSS ELECTRONIC INTERFACE, PER LOCAL SERVICE REQUEST – DEVELOPMENT & IMPLEMENTATION \$ 1.69

F1.62 OSS ELECTRONIC INTERFACE, PER LOCAL SERVICE REQUEST – ONGOING PROCESS \$ 1.78

F1.64 OSS ELECTRONIC INTERFACE, PER LOCAL SERVICE REQUEST – LCSC FALLOUT LABOR - RESALE ONLY \$.64

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