

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051

- DOCKET NO. 96-09-22 DPUC INVESTIGATION INTO THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY UNBUNDLED LOOPS, PORTS AND ASSOCIATED INTERCONNECTION ARRANGEMENTS AND UNIVERSAL SERVICE FUND IN LIGHT OF THE TELECOMMUNICATIONS ACT OF 1996 - REOPENER
- DOCKET NO. 99-03-13 APPLICATION OF THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY FOR APPROVAL OF A PROPOSED TARIFF FOR UNBUNDLED NETWORK ELEMENT – REBUNDLED SERVICE - REOPENER
- DOCKET NO. 00-05-06 APPLICATION OF THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY FOR A TARIFF TO INTRODUCE UNBUNDLED NETWORK ELEMENTS - REOPENER
- DOCKET NO. 00-12-15 APPLICATION OF THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY'S NEW CONNECTICUT ACCESS SERVICE TARIFF TO OFFER UNBUNDLED SUB-LOOPS - REOPENER

May 20, 2004

By the following Commissioners:

Jack R. Goldberg
Linda J. Kelly
John W. Betkoski, III
Donald W. Downes

DRAFT DECISION

DECISION

On March 2, 2004, the United States Court of Appeals for the District of Columbia Circuit (DC Circuit Court) issued its opinion in United States Telecom Ass'n v FCC, Nos. 00-1012 (consol.), 2004 WL 374262 (DC Cir., March 2, 2004) (USTA II). In that opinion, the court vacated the Federal Communications Commission's (FCC) recently-promulgated rules and regulations by which the FCC delegated a portion of its decision-making authority to state commissions. Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket Nos. 01-338 et al., FCC 03-36, 18 FCC Rcd 16978 (Aug. 21, 2003); Errata, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket Nos. 01-338 et al., FCC 03-227, 18 FCC Rcd 19020 (Sep. 17, 2003). Subsequent to that ruling, the DC Circuit Court extended until June 15, 2004, the date by which its March 2, 2004 opinion would become effective. These rules and regulations serve as the authority for many of the Department of Public Utility Control's (Department) Decisions issued in order to promote competition relative to the obligations of incumbent local exchange carriers to provide access to certain elements of their local network.

In the absence of clear rules and regulations, the FCC has recommended that interested parties engage in commercial negotiation to reconstitute their business relationships without reliance upon the rules and regulations vacated by the DC Circuit Court. It is unclear to the Department whether such agreements will be negotiated in the limited time period remaining before the court's order takes effect on June 15, 2004. The consequences of not reaching a commercial agreement between the various parties are unknown but are of general concern to the Department and the public. Accordingly, the Department must take the necessary action to ensure the interests of the public are not adversely affected by any irreconcilable difference that may ensue from these negotiations.

Therefore, pursuant to §§4-181a and 16-9 of the General Statutes of Connecticut, the Department hereby reopens the instant dockets for the limited purpose of determining whether the Department has sufficient authority to require the continued provisioning of the specific network elements at the same terms and conditions as those required by the Decisions in the above noted dockets. These reopened dockets are hereby designated Docket No. 96-09-22RE01, DPUC Investigation into the Southern New England Telephone Company for Approval to Offer Unbundled Loops, Ports and Associated Interconnection Arrangements and Universal Service Fund in Light of the Telecommunications Act of 1996 – TRO; Docket No. 99-03-13RE01, Application of The Southern New England Telephone Company for Approval of a Proposed Tariff for Unbundled Network Element - Rebundled Service – TRO; Docket No. 00-05-06RE03 Application of The Southern New England Telephone Company for a Tariff to Introduce Unbundled Network Elements - TRO; and Docket No. 00-12-15RE01 Application of The Southern New England Telephone Company's New Connecticut Access Service Tariff to Offer Unbundled Sub-Loops – TRO. Consequently, pending the issuance of Decisions in these proceedings, the Southern New England Telephone Company d/b/a SBC Connecticut should continue to provision the network elements at their currently total service long run incremental cost-based prices until it is otherwise directed by the Department.

Accordingly, interested parties are hereby invited to provide comment on this issue to the Department. In order to address this matter in the most expeditious manner, the following schedule has been established:

Comments Due to the Department	June 9, 2004
Reply Comments Due to the Department	June 16, 2004
Draft Decision Issued by the Department	June 23, 2004
Exceptions Due to the Department	June 28, 2004
Final Decision Issued by the Department	July 7, 2004

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This Decision is adopted by the following Commissioners:

Jack R. Goldberg

Linda J. Kelly

John W. Betkoski, III

Donald W. Downes

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Department of Public Utility Control, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.

Louise E. Rickard
Acting Executive Secretary
Department of Public Utility Control

Date