STATE OF ALABAMA
ALABAMA PUBLIC SERVICE COMMISSION
STATE OFFICE BUILDING
P. O. BOX 991
MONTGOMERY, ALABAMA 36101

JIM SULLIVAN, PRESIDENT
LYNN GREER, ASSOCIATE COMMISSIONER
JIM FOLSOM, JR. ASSOCIATE COMMISSIONER

WALLACE TIDMORE
SECRETARY

SOUTH CENTRAL BELL,

Petitioner

PETITION: For approval of proposed tariff revisions to introduce Shared Tenant Service Offerings.

DOCKET 19512

ALL TELEPHONE COMPANIES OPERATING IN THE STATE OF ALABAMA

RE: For the purpose of establishing rules, regulations and guidelines governing provisions of Shared Tenant Service.

DOCKET 19576

ORDER

BY THE COMMISSION:

By filing received August 21, 1985, Petitioner South Central Bell (Bell) requests Commission approval of revisions to its existing telephone tariff to introduce Shared Tenant Service Offerings, which is a shared service arrangement allowing business Basic Measured Local Exchange Service to be resold. This filing grandfathers currently approved Joint User Service Offerings and extends the regulation on limitations and use of service to include the resale environment. Furthermore, this filing changes directory listings regulations to accommodate the resale environment and redefines "premises" in connection with the resale of basic local exchange service.

The Commission, by Order of September 9, 1985, found that the proposed tariff revisions herein required study and investigation to determine whether or not same are in the public interest and, therefore, suspended this filing to and through April 10, 1986. The Commission also established Docket 19576 for the purpose of establishing rules, regulations and guidelines governing the provision of Shared Tenant Service, and consolidated Docket 19576 with Docket 19512. By notice of November 6, 1985, public hearing on the consolidated Dockets was scheduled to begin on Monday, December 16, 1985, and required prefiled testimony be submitted no later than Monday, December 2, 1985.

Appearing as parties of record on December 16, 1985, were South Central Bell Telephone, the State of Alabama, ShareTech, Peoples Telephone, Oakman Telephone, MCI Telecommunications, Inc., General

Telephone Company, the Alabama-Mississippi Independent Telephone Association, Continental Telephone Company of the Southeast, Brookwood Medical Center, East End Hospital, Helen Keller Memorial Hospital, Tel-A-Tech Communications, Inc., and the Advisory Staff of the Alabama Public Service Commission. Testimony was offered into the record by witnesses from South Central Bell, Peoples and Oakman Telephone Companies, General Telephone Company of the Southeast, and Continental Telephone Company of the Southeast. The remaining parties presented no direct testimony, but participated in cross-examination of the witnesses who testified. Hearings on this matter were concluded December 17, 1985. Upon request of the participants, leave was granted to file briefs by January 28, 1986.

Mr. Alfred A. Banzer testified on behalf of General Telephone Company of the Southeast (General Telephone) stating that Shared Tenant Service (STS) involves providing local telephone service to a customer for sharing and resale by that customer to his tenants, which the present tariff does not allow and that, to him, the terms "resale" and "sharing" are synonymous.

Mr. Banzer states that the redefinition of "customer" as the provider of STS, thereby reselling local service, allows a non-utility to provide telephone service. Therefore, certain safeguards are needed to protect the ratepayer and the local exchange company. These safeguards, which Bell has proposed and General Telephone supports, are:

> I. Certification of STS Providers
>
> II. The right of the local exchange company to provide service directly to a tenant, which will allow competition and could be done under existing certification.
>
> III. Limitations on resale activity, which establishes a need for geographical boundries in order to prevent providing service to the general public.
>
> IV. Equitable compensation for use of the local network which Bell proposes to provide under measured rates.

Mr. Banzer believes that an STS provider should be certified as a reseller of telephone service regardless of whether or not they make a profit. This certification should include the area they plan to operate

in, the service they plan to provide, the impact their proposed service would have on the revenues of the local exchange company (LEC), a showing that they are financially fit to provide the service, and notification to the affected LEC at the time it files for a certificate.

Mr. Banzer testified that General Telephone supports the position that any resale facilities be provided under a measured environment because it is his opinion that the combined STS average usage would be higher than the sum total of each tenant if treated separately. Therefore, revenues to the LEC would be reduced under a flat rate pricing scheme with service provided under consolidated facilities. To recoup this loss of revenues, service would have to be provided under a measured environment.

Mr. Banzer stated his opinion that the STS provider should be responsible for assuring premises access to the extent he has control over that access.

Mr. George E. Brombacher, Region Customer Services Manager with Telephone and Data Systems (TDS), testified on behalf of that company, which owns Peoples Telephone and the Oakman Telephone Company.

Mr. Brombacher testified that STS is the resale of local telephone service and will lead to the deregulation of basic telephone service and the bypass of local switched network, as well as toll. Therefore, certification should be required, and certificates should define the type of service provided and the area in which service will be provided. TDS feels this could be a streamlined procedure.

Mr. Brombacher testified that since STS may result in stranded telephone plant and lead to bypass of local and toll service resulting in decreased overall revenues for the LEC's, the rates charged for this service should be regulated and on a measured service basis when the provider is served from a digital office and, otherwise, rates should equal those charged for a PBX trunk.

Mr. Brombacher testified that service to shared tenants should be on continuous property or limited to one building, and that it should be a business service rather than a residential service. Furthermore, he is of the opinion that STS should be offered on an optional basis where

the customer could select the local telephone company as their telephone service provider and that the building owner should provide facilities from the point of demarcation to the customer. Mr. Brombacher sees very little demand for STS in the near future in his company's service area.

Mr. John J. Boshier, Analyst in the Revenue Department of CONTEL Service Corporation, presented the views and comments of Continental Telephone Company of the South - Alabama, on the establishment of rules and regulations governing the offering of STS in the State of Alabama. STS involves providing a customer who is a non-utility with local telephone service for the purpose of resale by that customer, who is the STS provider, to his tenants or clients. This requires certain regulations being in place to protect the LEC's and the general public's respective interests. The resale may be for profit and in many cases offer certain enhancements not normally affordable to the small business customer on an individual basis. The most likely candidates for this type of service would be office buildings or complexes and apartment buildings.

Mr. Boshier testified that while it is possible LEC's may anticipate some savings in plant investment, they can also expect some stranded investments where separate business customers band together into a single trunk group resulting in a reduction in revenue due to the decrease in the number of business lines required to serve those customers.

Additional loss of exchange company revenues may result from the bypass of local facilities to complete toll calls through a decrease in access charges and billing and collection revenues resulting from a substantial decrease in volume of toll traffic being switched over the LEC facilities. These decreases in revenue could be offset in part by the implementation of mandatory measured service rates.

Mr. Boshier testified that an STS provider would be required by the market place to meet at least a standard of service already provided by the LEC's; however, they should be required to inform tenants as to who bears responsibility for the continuity and quality of telephone service, and that the tenant has the choice to obtain service directly

from the local telephone company. If this were not the case, customers might find themselves in a position where they are forced to deal with an unsatisfactory telephone service provider whose rates and service levels are not regulated.

Under current practice, the local exchange company provides service to a particular building up to a specified point of demarcation. From this point, it is the owner's responsibility to provide a connection to each of the separate units within that building. Continental feels this situation should not change with the advent of STS; that it should be the responsibility of the STS provider to supply connection to local telephone service from each unit to the network interface for every tenant, whether that tenant chooses to receive service directly from the LEC or through the STS provider.

Mr. Boshier testified that Continental feels that the current joint user tariff should be obsoleted and its subscribers grandfathered. Any new customers wishing a joint user type of service could be served from the STS tariff.

Mr. Boshier testified that STS for both residential and business services must impose geographical or scope limitations to prevent STS providers from establishing privately owned local networks.

Mr. Boshier further testified that the rates charged for STS should be priced appropriately to reflect the value and cost of service being rendered. Continental feels a monthly flat trunk rate should apply to the capacity ordered by the STS provider and, in addition, mandatory measured usage rates should apply, which will serve to offset the switching costs incurred due to the higher concentration of traffic over STS lines and the loss of revenue due to the consolidation of users. Continental feels that STS should be properly tariffed by the LEC's under the regulatory supervision of the Public Service Commission.

Mr. John E. Ebbert, Assistant Vice President of Rates and Economics for South Central Bell Telephone Company, testified in support of the tariff filed on behalf of that company. Mr. Ebbert defines an STS arrangement as one which allows a business to resale LEC's service to other customers within a building or complex using a PBX or PBX-like

system that functions like the LEC's central office. This is an arrangement which allows customers to aggregate calling usage by sharing local exchange access lines, thereby reducing access line requirement and making a PBX economical. STS can also provide smaller businesses enhancements, such as data and word processing, long distance, video conferencing, heating and lighting control and building security.

Mr. Ebbert testified that new buildings having 500,000 square feet of floor space or greater are considered the best STS opportunities due to their size and the opportunity to provide the necessary wiring during the construction of the building. However, there is also an STS potential for smaller locations since they, too, could benefit from economies of scale and gain telecommunication features not normally associated with smaller communications systems. Both applications could occur in single building or multi-building configurations. In all instances, the tariff regulation of continuous property under the control of a single owner should apply.

Bell does not oppose STS as long as tariff structures and prices appropriate for a resale environment are approved. Under the proposed tariff, Bell will continue its franchise obligation and right to serve tenants who do not wish to participate in STS. As long as tenants have the alternative of purchasing service directly from Bell and the proposed STS tariff requirements are approved, regulation of the STS providers is unnecessary. Bell also proposes that all STS providers be treated alike, whether for profit or non-profit, since the impact is the same. In addition, the determination of profitability would be difficult even with strict regulatory procedures.

Bell's STS tariff defines geographic boundaries for resellers' service areas to prevent franchise violations. It includes usage sensitive rates consistent with the company's pricing and the Public Service Commission's policy for other resale service, and, additionally, includes monthly charges for each client billed to the reseller. The tariff includes a requirement that resale be permitted only on business measured lines or trunks, since resale of local service is a business enterprise.

STS providers will reduce requirements for telephone company lines by concentrating usage onto a reduced number of lines, using fewer trunks but increasing usage per trunk, while total usage from resale areas remains unchanged. Therefore, switching costs remain the same although revenues are reduced. Usage sensitive pricing, i.e., measured service, is the most equitable rate structure in a resale environment, while the use of flat rate pricing would increase profit margins for the STS providers while resulting in greater revenue shortfall for local ratepayers to absorb.

Bell's proposed tariff also requires that STS be restricted to continuous property under control of a single owner. This requirement is proposed because unrestricted STS arrangements could open the service to the public at large and, therefore, violate the LEC's franchise rights. Since the areas most likely to be served by the STS provider are those with high customer concentration and lower cost, i.e., the profitable areas, the LEC's would have to increase rates for remaining customers, primarily residential, since they would be retaining the less profitable areas. Bell feels that this requirement supports the concept of competition in a rational and consistent manner. This requirement would also prevent the receipt of conflicting service requests, which could delay the provision of service, and pinpoints responsibility necessary to establish clear communication for all parties.

The proposed tariff also requires that the STS provider be required to permit Bell to serve a tenant directly and that access to facilities must be made available through the owner and/or STS vendor. Bell feels that exchange companies have the obligation and right to serve every customer in their franchised areas who want local telephone service, and that STS should increase customer choices by allowing LEC's to serve their tenants also rather than limit them. If local exchange carriers are not permitted to provide alternate service, the STS provider would be a small unregulated monopoly.

The proposed tariff also requires that the reseller be the single point of contact. Bell feels its service responsibility is to its customer, the reseller, and not the client of the reseller. This is

especially true in light of the fact that Bell is not a party to the contractual relationship between the reseller and his client. Therefore, the reseller's client should have no contact with Bell for provision of service, billing matters, or maintenance.

Another requirement in the proposed tariff is that STS providers be prohibited from the resale of private line service since it is not structured or priced for resale and their private line tariffs do not allow resale. Additionally, private line service could be the vehicle used to link properties, which could result in franchise violations.

Another tariff requirement is that STS providers pay a $15 business and $10 residential monthly client charge, which are designed to lessen the impact of the introduction of competition in the local market on the remaining LEC customers by containing revenue erosion, to recognize the market value of the primary directory listing each client will receive, and to cover the cost of publishing and maintaining the listings.

Bell is also proposing to grandfather joint user and business additional listings. They propose to grandfather the joint user service because the original intention was for limited business sharing applications where the use was incidental to the principal subscribers service. Today's resale environment goes beyond incidental shared use as business operations are being established to provide telecommunications service on a resale basis. The proposed tariff provides an equitable structure in a resale environment and continues to meet incidental sharing needs. As in the case with existing joint user tariff, the business additional listings tariff, which is designed to meet business needs in a non-resale environment as exists today is being grandfathered and regulations are being established for extra listings with business and client charges which will meet the needs in a resale environment.

Mr. Ebbert testified that an analysis, including the effects of reduced individual line revenues and the revenue to be derived from STS providers, made on assumptions of the number of STS locations, the number of tenants subscribing to the STS, station/trunk ratios, and usage levels, indicates the first year effect of STS could be a loss of $1.5 million dollars in net revenue. This analysis was made on an

estimate of eight potential clients in the first year, and that the $1.5 million dollar figure is only a rough estimate. With the uncertainty of the assumptions in the analysis, Bell is not now proposing any change in basic exchange rates with approval of STS.

Mr. Ebbert also testified that his company does not anticipate any meaningful expense savings from the STS offering, based on the fact that facilities are already in place to serve business applications in the immediate future, and his company must be able to provide service to subscribers in a resale area who want Bell service. Presently insufficient data on STS exists to determine how the affects of STS should be factored in the local exchange planning process. His company will likely have to continue to construct facilities as though STS was not present although over time, as STS forcasts demonstrate long-term reliability, STS requirements must be factored into the company's planning process.

In regards to the joint user exception in Bell's tariff, Mr. Ebbert testified that three changes trigger a change from the grandfather status to an STS status; these being the change of a customer of record, a change of a business location, and the change of class of service, i.e., from flat to measured rate or vice versa, or to a class where trunks are provided. Service under a joint user tariff or under additional listings taking extension service would not trigger the STS status.

In testimony concerning STS being provided on a measured basis, Mr. Ebbert stated that the Public Service Commission, as well as Bell, has adopted a concept that any resold service should be of a measured nature and referred to resold coin telephone lines and resold WATS lines.

Mr. Ebbert testified that the measured rates his company proposes to apply to STS are the same as those applied to any other business line and were developed several years ago under a discount to recognize the loss of absolute free calling within an area. They are usage costs as they provide an allowance and then a charge per minute of usage with an initial charge and additional charges for additional minutes at a lower

rate. Also, there are banded rates of Band A and Band B, A being the immediate or contiguous wire centers, and B being wire centers beyond that area. Measured service rates were developed in recognition of the cost that they look at in providing service. In past resale environments, his company has lost revenue while saving in cost, but overall, they are generally worse off in terms of finances.

Mr. Ebbert testified that if a customer is disadvantaged by measured service, he really shouldn't be complaining because he is causing the LEC to have more cost and more service provisions. If a low usage customer pays a lower cost than on flat rate basis, he will be advantaged and should be happy. Mr. Ebbert testified that rather than be concerned with the notion of measured rates, resellers should be dwelling on the notion of what value can they add to their service to be a competitive force in the market place as it is the added features which can be provided through an STS environment that should make it attractive to the provider's customers.

Mr. Ebbert testified that anyone who is providing service under the shared tenant environment will also be a toll reseller because the toll calls made by his clients are going to come over the line they have taken from the LEC, which is going to be billed to them and they have to bill it back to their clients. So, if they are reselling local service, they are going to also resale toll, which results in bypass potential.

In a post hearing response from South Central Bell to oral requests made during the hearings in this proceeding, Bell stated that the term "single owner" as used in the proposed Shared Tenant Service Tariff was intended to denote a single person, partnership or corporation, and stated that paragraph A27.1.1(C) should be modified to read as follows:

> C. Resale is permitted where facilities permit and within the confines of specifically identified contiguous property areas under the control of a single owner, or within a common development with a single name identity, i.e., office parks, shopping centers, apartment complexes or condominimums.

Bell states that this better defines the intent of the Shared Tenant Service offering. (See Oral Request, Item 2, Sheet 1 of 1 filed January 17, 1986 under Docket 19512.)

On January 21, 1986, Petitioner South Central Bell filed its post-hearing brief in which Petitioner states that they recognize the existence of both a demand for, and the emergence of, shared telecommunications services. Their intent is not to restrict the inevitable shared use of facilities, but to respond to the increased market interest in STS by establishing tariffs governing this interest in a timely manner under a workable regulatory framework which will provide the market place with the full advantages of STS, allow for the protection of the company's franchise rights, and establish the proper pricing structure to minimize impacts on basic rates and other exchange services. Two general conditions must apply in the STS environment to accomplish these goals.

Firstly, one of the most important safeguards in the STS offering is the availability of service alternatives to potential clients of STS providers. While some customers within their franchise areas may desire alternative shared services, some may not. Therefore, Bell's tariff imposes a condition that all telecommunications users must have the ability to receive services directly from their local exchange telephone company if they so desire. Therefore, the company has required that STS providers, like any building owner, furnish conduit space or cable pair to enable the company to reach the subscriber.

Secondly, the proposed tariff imposes several specific requirements designed to set forth the proper regulatory framework, price levels, and tariff design; most important of which is that STS must be offered at a business measured service rate. While such a rate may ultimately be desirable for all PBX trunks, the Commission presently has the opportunity, as resale expands into the local service arena, to insure the most equitable pricing structure is applied and has determined in previous dockets concerning resale pricing structures that measured service is the most equitable pricing structure. To the extent STS allows for economies of scale resulting from the more efficient use of facilities through sharing and resale, measured service will ensure Bell is compensated for the increased usage per line that will be experienced.

Bell cites the Commission's opinion expressed in its Report and Order issued February 4, 1985, in Dockets 19226 and 19278 where the Commission finds that the local operating companies must be compensated for the provision of access lines and recover revenue lost in the provision of Customer-Owned Coin-Operated Telephone Service. The Commission stated that "revenue loss would almost certainly occur in locations of high revenue production and found that the measured service rate . . . will most fairly and adequately protect these revenues . . ."

Bell expresses the belief that the area over which shared tenant services are provided should be limited so as to protect the company's franchise rights and have defined the term "single owner" in order to do so, which is the same definition forwarded in the response to the data requests as discussed above. Bell states that this language has been agreed upon by both themselves and Intervenor ShareTech.

Bell states that the requirements set out in their proposed tariff are essential to allow for the orderly transition into a competitive local service environment where resellers are recognized and allowed to exist through a sound regulatory framework. Bell states the jurisdiction of the Commission to regulate the resale of telephone service has been addressed in Docket 18548 concerning the Resale of Toll Service and Dockets 19225 and 19278 concerning Customer-Owned Coin-Operated Telephone Service. In those dockets it was found that under Alabama statutes resellers in the State who leased service from Bell or other certified common carriers in the state, and resold services on those facilities are providing telephone service. Bell further points out that Section 37-2-1 of the statute states, "every person not engaged solely in interstate commerce or business that now or may hereafter own, operate, lease, manage or control as common carriers or for hire . . . any telephone line . . ." is a "transportation company" and, therefore a "utility" as stated in 37-1-30. Section 37-1-32 gives the Commission general supervision of all persons, firms and corporations operating utilities mentioned in Title 37 and Section 37-2-3 charges the Commission with supervising transportation companies.

It is Bell's position that the Commission, by its actions to-date, has exerted supervision over the resale and sharing of local services. The Commission has taken testimony concerning the benefits to the public of developing an enforceable regulatory framework that looks toward the future and the inevitable expansion of shared and resold services. Through its approval of the proposed STS tariff, the Commission will have established the regulatory framework necessary to provide service alternatives, yet protect the integrity of Bell's franchise and, therefore, the interest of all ratepayers in the State of Alabama.

On January 22, 1986, General Telephone Company of the South filed its brief stating that they support the tariff filed by South Central Bell and that the safeguards as addressed by the Company's witness need to be included to protect the LEC and the ratepayer in general.

General Telephone states that certification will ensure that all involved parties are fully aware of their obligations and responsibilities and by keeping the Commission informed of STS providers locations and proposed service offerings, the Commission will know the areas and locations served by STS and, therefore, be in a position to better respond to public inquiries.

General Telephone supports the position that the LEC has the right to serve any tenant of the STS provider if such service is requested by the tenant, thus allowing competition and an option to a tenant if displeased with the service offered by the STS provider.

General states that inherent in the right to serve is the ability of the LEC to have access to the reseller's tenant and supports Bell in its proposed tariff, which states the STS provider will be responsible for assuring premises access directly to the tenant should that tenant request local exchange service from the local company.

General Telephone also supports the position that some form of limitation be placed on the STS provider as to its size and/or scope. If this is not done, a boundary could be such that the STS provider would be providing service to the public at large, thereby violating the LEC's franchise rights.

General Telephone feels that any resale facility should be provided under a measured environment. This position is based on the opinion that, since usage on shared trunks will tend to be much higher than average, the alternate flat rate trunk charging methodology will severely disadvantage the customer and to ensure equitable compensation for the use of the local network, the telephone company must be afforded the opportunity to charge for the usage being placed on its network, as well as the number of trunks used to transport that usage to the network.

General states that while inherent risks are present in a tariff proposal such as the one made by South Central Bell, there also exists potential for new revenue and possible future expense savings.

On January 27, 1986, Oakman Telephone Company and Peoples Telephone Company (TDS) filed its brief on the subject matter of these dockets. It is the TDS company's position that enforceable restrictions must be applied to the provision of shared tenant services to ensure that STS will not result in broad based competition with the duly certified providers of local exchange service. TDS proposes that STS be limited to single buildings with service between buildings excluded.

TDS also takes the position that service to an STS provider should be on a measured service basis in order to minimize the effect of STS on local rates. The rate structure for STS should include a charge to recover the cost of the network access and usage sensitive rates to recover the cost of the switch network usage. Additional charges for directory listings, etc., are also needed. TDS supports the remaining provisions of the proposed tariff filed by Bell.

On January 28, 1986, the State of Alabama filed its brief in this proceeding. The State of Alabama is opposed to the proposed tariffs, stating there is no evidence in the record of a demand for STS, and that there have been no studies conducted of the costs, benefits, and effects of STS, but rather only "rough estimates" presented, as most of the demand for STS was going to be in newer buildings. This means there is no loss of current revenues, but losses of potential new revenue when these projects are begun.

The State of Alabama states the position that the proposed tariffs are a step toward mandatory local measured service and that a move toward mandatory business measured service would dramatically increase the cost of doing business to the State of Alabama, and urges the Commission to not approve STS on a measured service rate

On January 29, 1986, Intervenor ShareTech filed its brief in this proceeding and addressed two legal issues. First, ShareTech states that STS providers are not public utilities under Alabama law and, therefore, should not be required to obtain a certificate of public convenience and necessity or be subject to rate regulation. Secondly, ShareTech states that imposition of mandatory local measured service rates and the client charge as proposed by Bell would unlawfully discriminate against STS providers and their customers and must be rejected.

ShareTech takes the position that even if the Commission defines STS arrangements as public utilities, they should decline to regulate them as such. ShareTech contends that services provided to a limited class of persons in a restricted area, such as services provided by landlords to tenants, are not offered to the "public" and are, therefore, not subject to traditional public utility regulation and whether or not such arrangements are provided by entities other than landlords does not affect this principal. STS, ShareTech states, is a service rendered to a limited class of users.

ShareTech recognizes that some definition of system size may be necessary to prevent STS from being offered "to the public" and thus operating as an uncertificated utility and agrees that the revised language proposed by Bell to define a single owner would ensure a degree of commonality among the entities sharing an STS system without imposing arbitrary distinction based on the number of buildings or the structure of ownership.

ShareTech agrees with the proposed requirement that tenants in an STS area be given the alternative of receiving service directly from the LEC and that such requirement obviates the need for Commission regulation of STS; however, ShareTech contends that the STS provider should not be required to bear the cost of installing wire needed to

serve directly non-STS tenants, and states that STS providers should be reasonably compensated for the use of their wiring and related facilities.

ShareTech contends that local exchange carrier tarriffs should not discriminate against STS providers as opposed to other PBX users. Sharetech states that private resale and sharing of local telephone service among multiple entities are already permitted and commonplace in Alabama in such applications as found in hotels, motels, hospitals, nursing homes and college dormitories, and that Bell proposes to grandfather existing operations of this type. STS would be physically and technologically indistinguishable from these existing sharing situations and there is no basis to foreclose STS providers from subscribing to flat rate service when such service is made available to other PBX users.

ShareTech argues that the assertion of the LEC's that STS users will be able to achieve greater load leveling and, therefore, generate higher usage per line than an individual customer, is not based on any empirical evidence and states that frequently an individual PBX customer will experience greater usage per line than an STS arrangement and that load leveling is not necessarily characteristic of an STS arrangement, but of different usage patterns and peak calling times of particular users. Therefore, ShareTech submits that the same rates should apply to both types of PBX customers and that the issue of flat versus measured PBX service should not be addressed in this proceeding in that the same considerations concerning the desirability and appropriateness of measured rates apply equally to all PBX customers.

ShareTech states that similarly the proposal to impose a $10 or $15 client charge on STS operations is discriminatory and unjustified, particularly if the Commission decides to permit LEC's to impose cost based measured rates, as such a client charge would offset many of the economies and cost savings offered by a sharing arrangement, and, therefore, render STS prohibitively expensive, thus precluding the availability of STS benefits to small and medium-sized businesses. ShareTech submits that there is no adequate justification for this

surcharge, and it is not based upon any additional costs which would be incurred by South Central Bell as a result of sharing a PBX among more than one user. ShareTech urges the Commission to adopt rules in accordance with the policies and public interest considerations that they have outlined.

Tel-A-Tech Communications, Inc. filed its Brief In Opposition To Rate Increase For STS in which they state the main issues before the Commission in this proceeding are what degree of regulation should the Commission impose on the provision of STS and what revenues could be lost through the operation of such STS which could lead to stranded investment and higher rates for the ratepayers of Alabama.

It is Tel-A-Tech's position that there should be no regulation of STS because the equipment used in these services is now regulated by the Federal Communications Commission. Tel-A-Tech states there may be some lost revenues where businesses are involved; however, there will be additional revenues in the residential setting and that Bell could not point to revenue losses as a result of smart buildings based upon any evidence before the Commission. Tel-A-Tech states that apparently Bell proposed the STS Tariff simply to prevent erosion of local operating companies revenue base, It is Tel-A-Tech's position that this is totally unjustified.

Tel-A-Tech states that the local operating companies have introduced STS in Alabama by installing systems and furnishing service at flat rates for business and residential customers. Now they want to grandfather the entities where they are already furnishing this service and restrain other businesses from entering this market by creating the proposed tariff without justification.

It is Tel-A-Tech's position that STS for business should not be considered the same as STS for residential use; that separate and distinct circumstances are involved, as well as substantial differences in line usage and revenue. This company states there is justification for a small rate increase for business STS, but not residential.

Tel-A-Tech maintains that STS and Reselling Services are distinct; that STS customers are ratepayers who come together for economy and stand to benefit by divestiture, while reselling services is a business venture which has little or no regard for lower rates for persons similarly situated in relation to telephone service and results in profits for promotors.

Tel-A-Tech and others similarly situated are attempting to pass the economies of low rates to the multi-tenant resident users with a profit to Bell while Bell will realize substantial profits from the STS concept requiring a rate decrease to the average Alabama ratepayer. Tel-A-Tech concludes that the purpose of the proposed tariff is to deny the benefits of modern high technology to the persons who need it most, the Alabama ratepayer.

DISCUSSION AND FINDINGS

The filing of the tariff to introduce Shared Tenant Service Offerings presents several issues for consideration by the Commission, the first of which is whether or not STS providers are telephone companies, and therefore utilities, and as such subject to the regulatory jurisdiction of this Commission. As pointed out in South Central Bell's brief, the Commission has found in previous resale instances that every person who owns, operates, leases, manages, or controls any telephone line is a "transportation company" and therefore a "utility" under the Code of Alabama. As further pointed out, Section 37-1-32 of the Alabama Code gives the Commission general supervision of all persons, firms, and corporations operating utilities under Title 37, and Section 37-1-3 charges the Commission with supervising transportation companies. The Commission has, by its actions to date, exerted supervision over the resale and sharing of telephone services. The Commission has established a regulatory framework to provide service alternatives while protecting the integrity of the local operating company franchise and, ultimately, the interest of the ratepayers of the State of Alabama.

It is the Commission's finding that the Code of Alabama requires regulation of telephone service, such as STS, and the interest of the State's ratepayers is the paramount reason for the exercise of such regulation.

Regulation, however, does not mean that full regulation over rates and detailed certification processes need be imposed. Rate regulation over the service provided from the local exchange company to the STS providers will be under the supervision of the Commission through the tariffs filed and approved by such companies. However, it is our opinion that the rates charged to the tenants or customers of the STS providers need not be subject to our supervision. Such charges will be included in the total package, as part of the lease arrangements, between landlord and tenant, rather than be broken out as separate charges, therefore making them difficult to regulate.

The Commission feels that a streamlined or informal certification process which gives general information concerning the service provider, outlines the service to be provided, shows the size and scope of the proposed project, the area they plan to operate in, includes the terms and conditions of interconnection between the LEC and the STS provider and the end-user and shows they are financially fit to provide the service, will ensure that all parties are fully aware of their obligations and responsibilities. By stating locations of the service provided and the proposed service offerings, the Commission will be in a position to respond to matters of interest to the general public affected by such service. Therefore, STS providers should be certificated as resalers of local telephone service on a streamlined basis that does not include economic regulation over the service provided by the STS to its tenants or clients.

We point out at this juncture that the resale of local service over customer-owned coin-operated telephones, which was the subject of a prior proceeding before this Commission, is not allowed under the Shared Tenant Service arrangement as such would be a violation of the Order issued in that Docket which states, inter alia, that all customer-owned telephones shall be attached to a one-party line only (See Guideline 16,

Report and Order issued under Dockets 19225 and 19278 on February 4, 1985).

Several parties in this proceeding have recognized the fact that toll telephone service will also be provided through the Shared Tenant arrangement and the Commission recognizes this as part of the service to be provided. However, it is our opinion that toll service provided by the Shared Tenant arrangement should only be provided at charges no higher than the cost of such services to the STS provider. To do otherwise, a provider of service must comply with the Orders issued by this Commission under Dockets 18548, 18617, and 18702, which address the resale of toll service. Compliance with these Dockets would require any entity wishing to obtain toll facilities from an LEC and resale that service at a profit is required to obtain certification to do so from this Commission.

The most controversial issue in this proceeding is one concerning the rates and charges that should be applicable to the STS provider from the LECs. It is Bell's contention, as well as the other witnesses who testified in this proceeding, that there must be equitable compensation for use of local network facilities. Bell advocates, and the others support, this service being provided on a business measured service rate stating that usage would be higher than average per trunk in an STS environment; however, because of reduced trunk requirements due to consolidation, STS providers will use fewer trunks while increasing the usage per trunk, resulting in reduced revenues for the LEC. Also under an STS arrangement, switching costs remain the same as you have the same total usage concentrated onto a reduced number of lines. This generates less revenue under a flat rate pricing scheme, and to recoup the loss of revenues, which Bell estimates at $1.5 million the first year, service must be provided under a measured environment.

The State of Alabama is opposed to the measured service rate, stating that there is no evidence in the record of a demand for STS. ShareTech states that the imposition of mandatory local measured rates would unlawfully discriminate against STS providers and their customers, and that the supporters of measured service did not base their support

on any empirical evidence. Tel-A-Tech offers a distinction between STS and services which are resold, stating that STS customers are ratepayers that come together for economy and stand to benefit from divestiture while reselling services is a business venture which has little or no regard for lower rates for persons similarly situated, resulting in profits for promoters.

The Commission recognizes that projections of lost revenues are made on certain assumptions, as there is no practical experience upon which to base an empirical analysis of revenues to be lost or gained through the provision of STS. The advocates of this service being provided on a measured rate, however, did present testimony at the hearing which was subject to consideration upon cross-examination. On the other hand, Intervenors State of Alabama, ShareTech and Tel-A-Tech merely state their positions in post-hearing briefs without submitting any testimony into the record which could be analyzed by all parties. An analysis presented during hearings which was the result of certain assumptions is still more reliable and warrants greater consideration than a statement or opinion proffered by a party in a brief.

It is the Commission's opinion that revenue loss would almost certainly occur in STS areas based upon the evidence before us and the most equitable way to prevent such decreases in revenue is by allowing compensation for the use of the local network on a measured service rate.

The tariff proposed by Bell provides that measured service be provided over business lines only, with the rationale that STS provided even to a residential complex is, in essence, a business venture. We agree with this rationale and are of the opinion that even in a residential environment that the use of STS has enough characteristics of a business to be rated on a business measured service charge. Therefore, we find that the most equitable compensation to the local operating company for the use of its network facilities over which Shared Tenant Services are to be provided is in a business measured service environment.

We point out here, as was brought out in testimony from the Petitioner's witness, that rather than looking at the rates charged for this service, the STS providers have, as their biggest selling point for their service, the enhancement of the telephone services as part of a package plan which would not be otherwise available to a tenant except at considerably greater expense. We feel that the business measured rate provides equitable compensation to the local exchange company while the enhancement of services will offset this potentially higher rate. Furthermore, we would point out that measured service rates are designed to lessen the impact of rates on low volume users, while assessing the costs of service to the cost causers. Low users, therefore, will benefit from measured service while high users, although not receiving service at a lesser rate, will be paying for the service they use themselves rather than having the cost spread out among all ratepayers. High users will still receive the enhancement of services that would not otherwise be available, as well as the benefits resulting from economies of scale.

Another facet of the rates involved in the provision of STS is the monthly $15.00 business client charge and the $10.00 residential client charge. These charges, while not cost based, were arrived at on a value basis plus the cost of maintaining clients' listings and are less than the charge under joint user services tariffs presently in effect. They were also designed to lessen the impact of STS on the LEC. It is pointed out that cost is involved in supplying each client with his own number over a reduced number of trunks rather than on individual lines. This cost, plus the value of the listing to clients, combined with the business measured service rate should equitably compensate the LEC for the provision of their network facilities.

Intervenor ShareTech, in its brief, states that the client charges are discriminatory and unjustified and would offset many of the economies and cost savings offered by a sharing arrangement. ShareTech submits there is no adequate justification for this surcharge, but again presented no testimony in opposition to such charge.

It is the Commission's opinion that some client charges are justified in light of the cost involved, the value of the listings to clients, and to soften the impact of the introduction of STS; however, we believe the stated charges are too high, as they are out of proportion with the charges for local service.

For a business to have its number listed in both the white pages and yellow pages of his telephone directory is a valuable asset and, indeed, most businesses could not function without such a listing. However, the $15.00 proposed charge is considerably higher than the present charge for business listings. We believe a business charge of $10.00 would more appropriately reflect the cost of maintaining the listings and the value of this service while still allowing a buffer against the impact of the introduction of STS.

As to the residential charge, $10.00 represents a cost that is over 50% of the average residential local bill per month and does not represent the value to a residential subscriber as it does to a business. We feel, in fact, that this high of a residential charge may result in a destimulation effect and encourage providers of STS not to report all their clients who are not willing to pay such a charge for their listing. This could result in reduced revenues to the LEC. We feel that a cost of $4.00 per month will cover the cost of maintaining a residential listing, the value of such listing, and still lessen the impact of an STS arrangement on LEC revenues.

If the LEC, after providing this service, determines that these charges undercompensate them for this service, they may, of course, petition this Commission for a change in these charges. We suggest such a petition be based upon cost figures arrived from at least one year's operation.

Therefore, we find that the monthly client charges of $10.00 for a business and $4.00 for a residential customer combined with the business measured service rate will compensate the LEC for the provision of this service.

The issues surrounding limitations on resale activity were the subject of much discussion in this proceeding between Petitioner Bell and Intervenor ShareTech; however, since proceedings have concluded, these two parties have agreed upon language which satisfies the interest of both and we agree that such language defines the concept of areas where resale will be permitted and is in the best interest of all concerned. Therefore, we approve the definition submitted as a response to oral request which modifies paragraph A 27.1.1(c) of the proposed tariff as set out hereinabove.

The Bell tariff also contains a prohibition against the private interconnection of resale areas within a local calling area. This prohibition, as well as the definition agreed to concerning limitation of resale activity, is necessary to prevent violation of the LECs franchised operating areas and to prohibit STS providers from serving the general public without full certification. We find this prohibition to be proper.

Another provision of Bell's tariff is that the reseller be the single contact point for the STS provided. This, Bell states, will prevent confusion on the part of the STS clients as to who maintains their service and who is responsible for that service. This provision was not the subject of controversy in these proceedings and we find it to be in the best interests of the clients served under a Shared Tenant arrangement and the LEC.

The proposed tariff also provides an exception to the STS provision for entities such as hospitals, hotels, nursing homes, and school dormitories. We find this exception follows the past practice of exempting such entities from certain service provisions and the continuation of such exemptions to be in the best interests of the general public.

It is Bell's position that they should retain the right to provide service directly to a tenant where such a tenant desires their service over that of the STS provider. We agree as we are of the opinion that an LEC has the right, as well as the obligation, to serve customers in

their area and that continuation of this right allows competition for local telephone service.

Bell also submits they must have access to the facility support or to cable pairs to service tenants requesting direct service on a non-resale basis. Intervenors agree with the requirement that tenants in an STS area be given the alternative of receiving service directly from the LEC; however, they contend that the STS provider should not be required to bear the cost of installing wire needed to serve non-STS tenants directly or that they should be reasonably compensated for the use of their wiring and related facilities.

While we understand the concern of the STS providers in this matter, the provision of inside wiring is the responsibility of the owner of the building. This responsibility remains unchanged in an STS environment. The provision of these facilities should be considered into the construction of a building in the planning stages as it is at that point which such facilities can be constructed at the most economical costs. Such provision of inside wiring does not change the responsibility of the LECs from what it is today under other arrangements.

Compensation for such wiring to recoup the expenses involved are, we feel, a matter to be resolved between the STS provider/owner of the building and the tenants therein, be they STS clients or non-resale tenants. While we realize there is no way to satisfy the concerns of all parties in this matter, we feel that this is the most equitable arrangement and find same to be in the best interests of the general ratepayers in this State who would have to share the expense of the LEC if they bore the cost of the wiring.

The final provision of Bell's proposed tariff is that it grandfathers joint user service and business additional listings. The reason offered is that the original intention was for limited business sharing applications where the use is incidental to the principal subscribers service. However, today's resale environment goes beyond incidental shared use as business operations are being established to provide telecommunications service on a resale basis. The grandfathering

of joint user service continues to meet incidental sharing needs, while the proposed tariff as a whole provides an equitable structure in a resale environment.

The business additional listings tariff, which is designed to meet business needs in a non-resale environment as exists today, is also being grandfathered and regulations are being established for extra listings with business and client charges which will meet their needs in a resale environment.

Intervenor ShareTech states that local exchange carrier tariffs should not discriminate against STS providers as opposed to other PBX users. They state that private resale and sharing of local telephone service among multiple entities are already permitted and commonplace in Alabama in such applications as found in hotels, motels, hospitals, nursing homes, and college dormitories, and that these existing operations would be grandfathered under Bell's proposal.

The Commission finds that the concept of STS has created a demand for such arrangements which allows customers to aggregate calling usage by sharing local exchange access lines, thereby providing enhancements to the STS clients that were not available heretofore. This demand has grown out of the competitive environment now existing in the provision of telephone services and the providers of network facilities to the service must be responsive to the new environment. They must also provide this service under rates and regulations that will maintain their financial integrity while providing such service. If the Commission was of the opinion that the demand for Shared Tenant Service did not exist or would not exist, we would simply deny this tariff filing.

However, it is our opinion that there exists a demand for shared telecommunications services and that the provision of this service is emerging in Alabama. Bell, through its tariff proposal, is allowing those customers which have been operating under a joint user arrangement to retain service under that arrangement and at the rates charged for that service for many years. To do otherwise would constitute a rate increase to those subscribers. We feel this is the most equitable

approach to the offering of the new STS arrangements. Bell is being responsive to the emerging demand for Shared Tenant Service while not penalizing those already operating under the joint user tariffs. We do not find this discriminates against STS providers or their customers and, therefore, support the grandfathering of joint user service and business additional listings.

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the provision of Shared Tenant Service offering the resale of local exchange service is hereby approved.

IT IS FURTHER ORDERED BY THE COMMISSION, That the tariff filed by Petitioner South Central Bell governing the provision of Shared Tenant Service is hereby denied.

IT IS FURTHER ORDERED BY THE COMMISSION, That Petitioner South Central Bell file, within thirty days from the date hereof, subject to Commission approval, a tariff providing for Shared Tenant Service Offerings pursuant to the findings contained herein with a proper effective date.

IT IS FURTHER ORDERED BY THE COMMISSION, That nothing contained herein allows resale of toll telephone service.

IT IS FURTHER ORDERED BY THE COMMISSION, That nothing contained herein allows the resale of local service over customer-owned coin-operated telephones.

IT IS FURTHER ORDERED BY THE COMMISSION, That any provider of Shared Tenant Service wishing to operate within the State must first obtain certification from this Commission in accordance with the findings set out herein.

IT IS FURTHER ORDERED BY THE COMMISSION, That the Commission shall retain jurisdiction over this matter for any further order or orders as the Commission may find just and reasonable in the premises.

IT IS FURTHER ORDERED BY THE COMMISSION, That this Order shall be effective as of the date hereof.

Dated at Montgomery, Alabama, this 8th day of April, 1986.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Lynn Greer, Commissioner

Jim Folsom, Jr., Commissioner

ATTEST: A True Copy

Wallace Tidmore, Secretary

Commissioner Lynn Greer did not participate in this decision.