

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

COMPLAINT OF THOMAS L. WILSON, )  
DAN PRICE, GENELLE CRIDER, JEWELL )  
WILLIAMS, CHARLES W. CRIDER, )  
MILDRED R. GREEN, ALAN WILSON, )  
WILLIAM JOE TOLBERT, CECIL NORRIS, ) CASE NO. 8129  
MARTHA GUTHRIE, NORA GUHY, DALE )  
WEBB, JAMES A. GORE, WILLIE GUHY, )  
JOE ARMSTRONG, ET AL., AGAINST THE )  
CONTINENTAL TELEPHONE COMPANY OF )  
KENTUCKY )

O R D E R

On January 20, 1981, a group of subscribers ("Petitioners") residing in the Arlington and Milburn exchanges of Continental Telephone Company ("Continental"), filed with the Commission a complaint wherein they requested that the Commission order Continental to provide them the same service provided to the subscribers located in Continental's Bardwell Exchange.

Petitioners stated that in return for their tariffed rate of \$12.70 per month for a 1-party line without mileage charges, they are able to call toll-free to other subscribers in the Arlington, Milburn, and Bardwell Exchanges of Continental. Those subscribers residing in the Bardwell Exchange, which is also in Carlisle County, pay the same rates and can call toll-free to all subscribers within Petitioners' local calling area, and can in addition call toll-free those subscribers located in the Cunningham Exchange served by West Kentucky RTCC.

Petitioners further stated that Continental's failure to

provide the same local calling area to Arlington and Milburn subscribers as is provided to those in the Bardwell Exchange constitutes an "unreasonable prejudice or disadvantage" or "an unreasonable difference between localities" in violation of KRS 278.170 and is "unreasonable or unjustly discriminatory" within the meaning of KRS 278.260.

By Order dated March 3, 1981, the matter was set for hearing on April 7, 1981, at 10:00 a.m., Eastern Standard Time, in the Commission's offices at Frankfort, Kentucky. Subsequently, by Order dated March 11, 1981, the hearing was rescheduled for April 9, 1981, at 10:00 a.m. The hearing was held as scheduled and all parties of interest were given the opportunity to be heard. There were no intervenors present at the hearing.

#### Discussion

The Commission has before it in this matter the question of whether Continental's group rates have created a basis of discrimination within the context of KRS 278.170 and KRS 278.260. Continental presently has approved 11 rate groups, based on the total number of main stations in the local or toll-free calling area.

Kentucky Statutes forbidding discrimination in rates and service, in particular KRS 278.170 and KRS 278.260, must be read in conjunction with KRS 278.030, Section (3), which states: "Every utility may employ in the conduct of its business suitable and reasonable classifications of its service, patrons, and rates.

The classifications may, in any proper case, take into account the nature of the use, the quality used, the quantity used, the time when used, the purpose for which used, and any other reasonable consideration." The Commission has allowed Continental, as a reasonable classification under KRS 278.030, to group its customers based on the number of main stations that can be called without toll charges.

Continental's rate group one includes those subscribers who can call up to 1,500 main stations without toll, while rate group two includes subscribers who can call from 1,501 to 2,300 main stations without toll. The residence one-party rate for rate group two is \$11.20 per month, plus \$1.50 per month if the customer uses a rotary-dial telephone supplied by Continental. As of September 1980 the Arlington Exchange had 447 main stations; Milburn 247; Bardwell 835, and Cunningham 483.

Because of the Extended Area Service ("EAS"), which exists among Arlington, Milburn, and Bardwell (the county seat of Carlise County), subscribers served from Arlington and Milburn could call 1,529 main stations without toll as of September 1980 and therefore are in rate group two. Bardwell subscribers also have EAS with Cunningham subscribers and therefore could call 2,012 main stations without toll as of September 1980, which also placed those subscribers in rate group two.

Petitioners have also litigated this case on their inability to call certain geographical areas (i.e., the Cunningham exchange) toll free, as can subscribers in the Bardwell exchange, as if this

difference in service, in and of itself, results in discrimination under KRS 278.170 and KRS 278.260. They point to the fact that they pay the same rate as the Bardwell subscribers as supporting this claim of discrimination. The Commission rejects this contention. Exchange boundaries have historical and technical justifications not necessarily related to particular geographical considerations, and group rates are imposed, as explained herein, on the number of stations available to a subscriber, without regard to the geographical areas involved.

In the instant case the Petitioners, served from the Arlington and Milburn Exchanges, are in rate group two, as are subscribers in the Bardwell Exchange, even though the two groups have a different number of main stations in the local calling area. However, the Commission feels that this does not constitute discrimination by Continental against Petitioners, since Continental's group rate structure has been found to be a reasonable classification of its service, patrons, and rates within the provisions of KRS 278.030 (3).

#### Findings of Fact

The Commission, after consideration of this matter, including the public hearing and all evidence of record, and being advised, is of the opinion and finds that:

- 1) Continental's rate group structure has been found to be a just and reasonable means of establishing local service rates;
- 2) No evidence of rate or service discrimination by Continental against Petitioner has been found; and
- 3) Petitioners complaint should be dismissed.

IT IS THEREFORE ORDERED that the complaint of subscribers residing in the Arlington and Milburn Exchanges of Continental Telephone Company in this matter be and it hereby is dismissed.

Done at Frankfort, Kentucky, this 22nd day of May, 1981.

PUBLIC SERVICE COMMISSION

Marlin M. Vohs  
Chairman

Katherine Randall  
Vice Chairman

D. G. Larkin  
Commissioner

ATTEST:

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Secretary