

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

THE COMPLAINT OF MRS. EVA COX)
AND MR. PHILLIP LEWIS AGAINST)
SOUTH CENTRAL BELL TELEPHONE) CASE NO. 9298
COMPANY)

O R D E R

BACKGROUND

On July 19, 1984, the Commission received a letter from Mrs. Eva Cox, Dawson Springs, Kentucky, concerning her efforts to obtain telephone service from South Central Bell's ("Bell's") Dawson Springs exchange instead of its Crofton exchange. Mrs. Cox stated that three of her neighbors, Mr. Freeman Parker, Mrs. Joanna Morgan and Mr. Scotty Parson, are located in Bell's Crofton exchange but are served from the Dawson Springs exchange and that she is being denied that service by Bell without explanation.

Bell responded to the Commission concerning Mrs. Cox's complaint, saying that it is economically more feasible to serve Mr. Scotty Parson, Mr. Freeman Parker and Mrs. Joanna Morgan cross-boundary out of the Dawson Springs exchange than to provide them with service from the Crofton exchange. The Commission's staff investigation of Mrs. Cox's complaint revealed that service to Mr. Scotty Parson was established August 16, 1978, prior to the

Commission's Order in Administrative Case No. 218, Telephone Utilities Exchange Boundaries, dated February 21, 1980, and Mr. Parson's service is "grandfathered." However, service for Mrs. Joanna Morgan and Mr. Freeman Parker was established by Bell on March 3, 1983, and January 12, 1984, respectively, and is in violation of the Order in Administrative Case No. 218 which required all telephone utilities to observe the integrity of established exchange boundaries except in those instances where, upon application, a deviation is granted by the Commission for good cause shown. A review of the Commission's records indicated that Bell had not applied for a deviation nor had it applied for a boundary change between the Dawson Springs and the Crofton exchanges.

On February 11, 1985, Mr. Phillip Lewis requested a hearing be scheduled to consider this complaint. A hearing was held in the Commission's offices at Frankfort, Kentucky, on April 16, 1985. At the hearing Bell presented testimony as did Mr. Phillip Lewis.

DISCUSSION

At the hearing no evidence was presented by Mr. Lewis to lead this Commission to believe that Bell has provided service to Mr. Lewis incorrectly. Mr. Lewis' argument was that three of his neighbors, the nearest of which is approximately one-half mile to the northeast, have Dawson Springs service and, therefore, he should have it too, is not substantial enough to justify an Order by this Commission to cause Bell to spend approximately \$9,300 to provide service to a single resident, especially since that

resident already has service and there are many people throughout Kentucky who cannot get service because of the lack of facilities.

The record in this proceeding evidences the existence of cross-boundary service provided by Bell in violation of the Commission's Order in Administrative Case No. 218 in two instances, those being the services of Mrs. Joanna Morgan and Mr. Freeman Parker. Mrs. Morgan and Mr. Parker are located in the Crofton exchange and are presently being provided with service from the Dawson Springs exchange. During the hearing Bell stated it is economically more feasible to provide service to this small northern portion of the Crofton exchange between McKnight Creek and the intersection of Old Buttermilk Road, Highway 1338, and Highway 109 from the existing Dawson Springs cable than to provide service from the Crofton cable. The Dawson Springs cable has approximately 17 vacant pairs and would allow for the installation of new services at a much lower cost. The existing cable from the Crofton central office is a 25-pair cable and has only 3 or 4 vacant pairs. To extend service to the Morgans and Parkers would seriously limit Bell's ability to add new subscribers and provide for the clearing of customer trouble reports, without the extensive construction of new facilities to replace or to run parallel to the existing 25-pair cable from the Crofton central office.

In its testimony Bell admitted it erred in providing cross-boundary service to the Morgans and the Parkers and that it should have applied for a boundary change before providing such services.

The Commission is concerned about the procedures used by Bell to determine the location of an applicant and the exchange from which that applicant will be served. It appears that these procedures, if any, are not being applied by company personnel or are not adequate to prevent the installation of cross-boundary services.

The Commission can accept the fact that Bell chose the most economical means to provide service to Mr. Parker and Mrs. Morgan. However, the Commission cannot justify or accept, now or in the future, Bell's disregard for any Order of the Commission. While it appears that Bell did provide service in the most economical manner, it is apparent that Bell did so in direct violation of the Commission's Order in Administrative Case No. 218 and that a fine of \$1,000 should be assessed for each violation as prescribed by KRS 278.990.

The Commission having considered this matter, and being advised, is of the opinion and finds that:

1) Mrs. Cox and Mr. Lewis are provided with adequate telephone service and said service is being provided from the appropriate exchange, Crofton;

2) Bell has provided telephone service to Mrs. Joanna Morgan and Mr. Freeman Parker in the most economical manner;

3) The telephone service provided by Bell to Mrs. Morgan and Mr. Parker from the Dawson Springs exchange is cross-boundary service and is in violation of the Commission's Order in Administrative Case No. 218;

4) Bell should apply to the Commission to change the existing boundary between the Dawson Springs and the Crofton exchanges so as to reflect the current service areas of each exchange;

5) KRS 278.990(1) provides for penalties of not less than \$25 nor more than \$1,000 for each offense when a utility fails to obey any lawful requirement or Order of the Public Service Commission;

6) Bell has admitted its failure to comply with the Commission's Order in Administrative Case No. 218.¹ The Commission is of the opinion and finds that a penalty in the aggregate amount of \$2,000 is appropriate.² The Commission does not allow penalties paid by a utility for violation of the regulations and Orders of the Commission as allowable expenses or part of the rate base for the computation of rates of return or rates to that utility's customers. Therefore, Bell should not be allowed to include this penalty in any future computation of rates;

7) Bell is hereby placed on notice that any future disregard of the Commission's Order in Administrative Case No. 218 will result in the application of the maximum penalties allowed by the law, upon clear showing of such disregard; and

8) Bell should establish or improve the procedures to be utilized for determining an applicant's location and the proper exchange to service that applicant.

¹ Transcript of Evidence, April 16, 1985, p. 16.

² \$1,000 x 2 = \$2,000.

IT IS THEREFORE ORDERED that the request by Mrs. Eva Cox and Mr. Phillip Lewis is hereby denied.

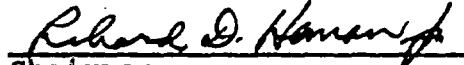
IT IS FURTHER ORDERED that Bell shall file an application with the Commission to adjust the boundary between its Crofton and Dawson Springs exchanges to reflect the actual area served by the facilities of said exchanges within 10 days of the date of this Order.

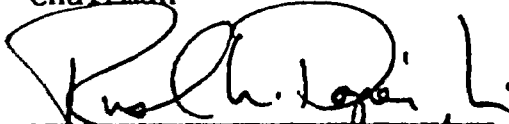
IT IS FURTHER ORDERED that Bell shall submit to the Commission for its review the procedure it currently utilizes to determine an applicant's location and the exchange from which that applicant will be served and that it shall also submit, within 30 days of the date of this Order, for the Commission's approval all modifications it intends to implement in the procedure to insure that no cross-boundary service will be installed in the future.

IT IS FURTHER ORDERED that Bell be and it hereby is assessed a penalty in the amount of \$2,000; that it shall remit same within 30 days of the date of this Order to the Treasurer of the Commonwealth of Kentucky, Frankfort, Kentucky, and that it shall submit proof of payment to the Commission within 30 days of the date of this Order.

Done at Frankfort, Kentucky, this 3rd day of June, 1985.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary