

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF AMERICAN OPERATOR)
SERVICES, INC., FOR A CERTIFICATE OF)
CONVENIENCE AND NECESSITY TO PROVIDE) CASE NO. 10130
INTRASTATE OPERATOR ASSISTANCE RESOLD)
TELECOMMUNICATION SERVICES AS A)
NONDOMINANT CARRIER)

INTERIM ORDER

On January 13, 1988, American Operator Services, Inc. ("AOS"), filed an Application with the Public Service Commission in which authority is sought to provide operator-assisted,¹ long-distance service within Kentucky. The application included a proposed tariff. Various motions for intervention were filed and have been granted.

On March 22, 1988, AOS filed verified motions for:

- (1) an "interim certificate of convenience and necessity";
 - (2) relief from the possibility of civil fines or penalties;
- and
- (3) an Order directing South Central Bell Telephone Company ("South Central Bell") to resume billing and collection services for AOS.

¹ AOS is one of several utilities that have filed applications for authority to offer operator-assisted, long-distance services. Generally, this group of companies, which has been labelled the "Alternative Operator Service" industry, seeks to handle that portion of long-distance traffic designated as the 0+ market. AOS provides operator assistance as a feature of its long-distance resale business.

Responses to the motions were filed by the three intervenors in this docket.²

AOS assumes that its proposed operation is that of a non-dominant carrier, which needs to show only its fitness to serve in order to become Commission approved. We reject the motion that the non-dominant carrier principles described by Administrative Case No. 273, An Inquiry Into Inter- and Intralata Intrastate Competition in Toll and Related Services Markets in Kentucky, are automatically applicable to AOS. Administrative Case No. 273 contemplated the provision of "1+" or similar service by various interexchange carriers, directly to end-user customers. The underlying rationale behind permitting competition in the interLATA market is that market pressures, e.g., the ability of telecommunications users to freely choose carriers, would operate to assure that non-dominant carriers charge reasonable rates. We found in Administrative Case No. 273 that non-dominant carriers would not be able to charge unreasonable rates, due to their lack of market power.³ The separation, by AOS, of the customer base from the universe of users, may preclude the application of

² Americall Systems of Louisville (Americall), Vericall Services, Inc. (Vericall), and South Central Bell.

³ See Order, Administrative Case 273, May 25, 1984, page 33. "AOS" vendors, such as AOS, have clearly demonstrated their ability to function as "micro monopolies", and have demonstrated their ability to charge monopoly prices.

non-dominant carrier analysis to AOS.⁴ Clearly, many issues remain pertaining to the ability of AOS to provide reasonable service. The Commission will proceed as cautiously as necessary in examining the development of this new and unprecedented industry. Accordingly, AOS' request for interim authority must be denied.

Additionally, AOS' request to be immunized from the possibility of civil fines or penalties must be denied. The possible application of penalties has been raised by the Commission in Case No. 10002, Application Of International Telecharge, Inc., For a Certificate of Public Convenience And Necessity To Operate as a Reseller of Telecommunication Services Within The State of Kentucky. AOS should be on notice, as a party to Case No. 10002, that the Commission will take all necessary steps to discourage long-distance utilities from offering service without authorization. The lack of a formal Order to cease and desist should not lead to the inference that the continued intrastate operation of AOS is condoned.

AOS' inability to use the billing and collection services of South Central Bell imposes practical constraints upon its ability to operate without authorization. The Commission does not condone the billing, by any Local Exchange Carrier, for unauthorized

⁴ Id. at pp. 8-11, wherein attributes and benefits of competition are discussed. The Commission has not yet identified the benefits that AOS' proposed service confers upon end-users. Our denial of interim authority will not deprive Kentucky ratepayers of essential services.

service. Additionally, South Central Bell's response to the AOS motion indicates that AOS has not fully complied with the terms of the billing and collections agreement, i.e., AOS lacks the requisite state approval to operate. The Commission will not order South Central Bell to bill and collect for unauthorized service. AOS' request for an order compelling South Central Bell to resume billing and collection services is therefore DENIED.

Having reviewed AOS' motion, and the responses thereto, and being advised, the Commission DENIES the motions, for the reasons set out above.

Done at Frankfort, Kentucky, this 17th day of May, 1988.

PUBLIC SERVICE COMMISSION

Richard D. Hemmelf
Chairman

Robert M. Davis
Vice Chairman

Severus W. Wilkerson
Commissioner

ATTEST:

Executive Director