

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO WHETHER WATS
RESELLERS SHOULD BE INCLUDED IN
THE ULAS ALLOCATION PROCESS

) ADMINISTRATIVE
) CASE NO. 328
)

O R D E R

This matter arising upon two motions filed June 13, 1989 by Telcor, Inc. d/b/a Telemarketing Communications of Louisville and LDDS of Indiana, Inc. d/b/a LDDS Communications (formerly Telemarketing Communications of Evansville, Inc.) (collectively "LDDS"), South Central Bell Telephone Company ("South Central Bell") having filed its response to one of the motions, and it appearing to this Commission as follows:

On May 26, 1989, the Commission issued its Order designating the issues to be considered in this proceeding. The Order stated that prefiled testimony could also address issues incidental to the designated issues, but discouraged addressing certain other specified issues which the Commission had either decided in Case No. 8838¹ or Administrative Case No. 311,² or were under consideration in Administrative Case No. 311 on rehearing. LDDS then filed its motion for rehearing in this proceeding requesting

¹ Case No. 8838, An Investigation of Toll and Access Charge Pricing and Toll Settlement Agreements for Telephone Utilities Pursuant to Changes to be Effective January 1, 1984.

² Administrative Case No. 311, An Investigation of InterLATA Carrier Billed Minutes of Use as a ULAS Allocator.

the Commission to reconsider that part of the Order discouraging the parties from addressing certain specified issues.

As grounds for its motion LDDS contends that unless they are permitted to address the specified issues they will be denied the same opportunity to be heard on them "that the [interexchange carriers] enjoyed in the proceedings concerning the application [of the issues] to them."

Under the rules of the Commission, 807 KAR 5:001, any interested person may intervene in any formal proceeding for the limited purpose of participating in the proceeding. If a person has a special interest in the proceeding not otherwise represented or if such person is likely to present issues or develop facts that will assist the Commission in the proceeding, that person may intervene as a full party. Therefore, LDDS may not claim denial of due process by the resolution of issues and the imposition of rules and procedures adopted as a result of a formal proceeding that was open to any interested party, but in which LDDS did not participate.

With respect to those issues before the Commission in Administrative Case No. 311, LDDS was not denied the opportunity in that proceeding to participate and address those issues already decided in that case, nor since its intervention is it being denied the opportunity to address those issues presently before the Commission which are on rehearing in that case. Thus, the motion for rehearing of the June 26, 1989 Order should be denied.

The second motion relates to the May 30, 1989 Order in which the Commission sustained South Central Bell's motion to strike

certain interrogatories and requests for production. As grounds for its motion for reconsideration of the Order, LDDS contends that it did not receive notice of the motion by South Central Bell and was not aware of the motion until it received the Order, that the information is relevant to the proceedings, and that the information is the same as that requested by LDDS from South Central Bell in Administrative Case No. 323³ and South Central Bell need only furnish duplicate copies.

The certificate of service attached to South Central Bell's motion to strike indicates that the motion was served upon an attorney identified in the service list as representing LDDS in these proceedings. In pleadings filed on behalf of LDDS, this same attorney is identified as an attorney for the company. Since there is no allegation that the attorney representing LDDS did not receive the motion, it must be assumed that he did, and as an attorney of record for LDDS, service upon its attorney was service upon the company.

All of the information requested by LDDS is contained in documents filed by South Central Bell with this Commission either in Administrative Case No. 323 or elsewhere. These documents are, therefore, available to LDDS and if relevant may be incorporated in these proceedings by proper motion. Thus, there is no reason to compel their disclosure or production by South Central Bell and the motion for reconsideration should be denied.

³ Administrative Case No. 323, An Inquiry Into IntraLATA Toll Competition, an Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality.

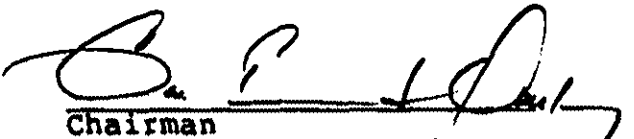
This Commission being otherwise sufficiently advised, IT IS ORDERED:


1. The motion of LDDS for rehearing of the May 26, 1989 Order be and is hereby denied.

2. The motion by LDDS for reconsideration of the May 30, 1989 Order be and is hereby denied.

Done at Frankfort, Kentucky, this 26th day of July, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director