

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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|-------------------------------------|---|----------------|
| AN INVESTIGATION OF TOLL AND ACCESS |) | |
| CHARGE PRICING AND TOLL SETTLEMENT |) | |
| AGREEMENTS FOR TELEPHONE UTILITIES |) | CASE NO. 8838 |
| PURSUANT TO CHANGES TO BE EFFECTIVE |) | PHASE I |
| JANUARY 1, 1984 |) | |
| |) | |
| AND |) | |
| |) | |
| DETARIFFING BILLING AND |) | ADMINISTRATIVE |
| COLLECTION SERVICES |) | CASE NO. 306 |

O R D E R

On November 19, 1990, the Commission received from Intellicall, Inc. ("Intellicall") and Coin Phone Management Company ("Coin Phone Management") a motion to compel South Central Bell Telephone Company ("South Central Bell") to answer the following data requests: Item Nos. 4(a)(b)(c); 5(a)(b); 11(a)(b); 12(a)(b)(c); 27(a)(b); 29(a)(b)(c); and 30, designated by Intellicall and Coin Phone Management as Group I; and Item Nos. 14; 41; 42; 43(a)-(h); 45; and 57, designated as Group II. On December 6, 1990, the Commission received a response from South Central Bell.

The Group I items all relate to the billing and collection tariff of South Central Bell. South Central Bell asserts that the requests are overly broad and not relevant to this proceeding. South Central Bell also states that it will have a witness at the

December 12, 1990 hearing to respond to questions of Intellicall and Coin Phone Management. Intellicall and Coin Phone Management argued that the issue in this case is whether or not local exchange carriers may provide billing and collection services to non-utilities or for untariffed services and therefore questions concerning South Central Bell's billing and collection tariff are relevant to this issue.

Having reviewed the items designated as Group I, the Commission believes that South Central Bell correctly asserts that these items are overly broad and not relevant to this proceeding. By Order dated December 6, 1990, the Commission stated that

The reasonableness of local exchange carriers' billing and collection practices is already at issue. The Commission will review and establish a billing and collection policy and, subsequent to the establishment of this policy, require that the policy be incorporated into all local exchange carrier tariffs which are applicable to the provision of billing and collection services.

Accordingly, the items concerning the development of South Central Bell's current tariff are not relevant to this proceeding.

The Group II items request South Central Bell's opinion concerning the definition of "utility," and the definition of tariffed services and the effective date of a tariff, and under what conditions a certificate of public convenience and necessity must be obtained under Kentucky law. South Central Bell has objected to these questions asserting that they require legal conclusions and privileged work products of counsel. Intellicall and Coin Phone Management assert that these issues must be

addressed prior to the Commission determining the reasonableness and lawfulness of its billing and collection services policy.

Having reviewed the Group II items, the Commission believes that Intellicall and Coin Phone Management have requested legal conclusions and interpretations of law from South Central Bell. The information sought is not a request for data or for documents but for an opinion. The Commission will deny Intellicall and Coin Phone Management's motion to compel responses to Group II items.

Having been otherwise sufficiently advised, the Commission HEREBY ORDERS that the motion of Intellicall and Coin Phone Management to compel South Central Bell to furnish responses to data requests is hereby denied.

Done at Frankfort, Kentucky, this 7th day of December, 1990.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:


Executive Director