

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF FIBERLINE NETWORK )  
COMMUNICATIONS LIMITED PARTNERSHIP FOR A )  
CERTIFICATE OF PUBLIC CONVENIENCE AND ) CASE NO. 89-372  
NECESSITY TO PROVIDE INTRASTATE OPERATOR- )  
ASSISTED RESOLD TELECOMMUNICATIONS )  
SERVICES AS A NONDOMINANT CARRIER )

O R D E R

On December 13, 1989, Fiberline Network Communications Limited Partnership ("Fiberline") filed its application with the Commission seeking a Certificate of Public Convenience and Necessity to provide intrastate resold telecommunications services including operator-assisted services throughout the Commonwealth of Kentucky. Additional information was requested by Order dated January 26, 1990. Responses were filed on February 27, 1990.

On January 22, 1990, South Central Bell Telephone Company filed a motion for full intervention, which was subsequently granted by Order dated February 9, 1990.

DISCUSSION

The Commission has thoroughly reviewed Fiberline's application and responses to the information request; however, there are several aspects of Fiberline's operations that are unclear. It appears that Fiberline is requesting statewide operating authority, including intraLATA authority; however, it does not appear that Fiberline is proposing to provide intraLATA

services in a manner consistent with Commission policies. At the present time, the Commission permits intraLATA competition only through the resale of WATS, yet there is no evidence that Fiberline intends to resell local exchange carrier WATS. For example, Item 3 of the Commission's information request asked for identification of the facilities-based carriers whose services Fiberline intended to resell. Fiberline identified only Southern Interexchange, which is not a local exchange carrier nor even an authorized carrier in the Commonwealth of Kentucky.

In three recent cases,<sup>1</sup> the Commission has permitted temporary exemptions from its policies concerning WATS resellers' network configurations. However, Fiberline has not provided adequate information to determine if its situation is sufficiently similar to warrant granting an exemption, nor if Fiberline is actually requesting intraLATA operating authority.

There are also some uncertainties about the actual relationship between Fiberline and Southern Interexchange. Item 9 of the information request asked if Fiberline had any affiliation with

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<sup>1</sup> Case No. 89-017, The Application of LDD, Inc. for the Issuance of a Certificate of Public Convenience and Necessity to Operate as a Reseller of Telecommunications Services Within the Commonwealth of Kentucky and The Application of DCI, Inc. for the Issuance of a Certificate of Public Convenience and Necessity to Provide Intrastate, InterLATA Telecommunications Services to the Public as a Facilities-Based, Non-Dominant InterLATA Carrier; Case No. 89-134, Application of SouthernNet, Inc. for a Certificate of Public Convenience and Necessity to Provide Long Distance Telecommunications Services, Including Operator-Assisted Services, Statewide as a WATS Reseller Within the Commonwealth of Kentucky; Case No. 89-363, Cincinnati Bell Long Distance, Inc. for Authority to Expand Their Market Area.

any company which owns or operates any transmission facilities, to which Fiberline identified Southern Interexchange. It is not clear if Fiberline and Southern Interexchange are "affiliated"; that is, are directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, the regulated operations of the utility.

In response to Item 14, Fiberline identified CommuniGroup, Inc. ("CommuniGroup") as the provider of Fiberline's switching services and states that "[c]alls to cities which are not on CommuniGroup's network are delivered WATS [sic]." This statement suggests that CommuniGroup provides some transport services, either directly or indirectly; however, it was not identified in response to Item 3. The problem may be that the Commission requested identification of facilities-based carriers and CommuniGroup may be a reseller.

In addition to these problems, there are also some concerns with Fiberline's proposed tariff. However, the Commission is of the opinion that the problems with Fiberline's application and tariff may be resolved if Fiberline can provide adequate responses to the following questions. IT IS THEREFORE ORDERED that Fiberline shall file the original and ten copies of the following information with the Commission, with a copy to all parties of record. The information requested herein is due no later than 30 days from the date of this Order. If the information cannot be provided by this date, Fiberline should submit a motion for an extension of time stating the reason a delay is necessary and

include a date by which it can be furnished. Such motion will be considered by the Commission.

1. Provide clarification as to whether or not Fiberline is requesting intraLATA operating authority.

2. Identify the providers of all services that Fiberline intends to resell in the provision of Kentucky intrastate services.

a. Clarify the types of services provided to Fiberline from CommuniGroup.

b. Provide the contractual agreements between Fiberline and any of its providers of transmission services, whether or not these providers are other resellers or are facilities-based carriers.

3. Does Fiberline have any affiliation with any company which owns and/or operates any transmission facilities? If so, explain.

4. The response to Item 6 of the Commission's January 26, 1990 information request indicates that correct intrastate access charges will be paid on Feature Group D access as this type of service automatically bills for the correct jurisdictional usage. Is it Fiberline's belief that intrastate access charges will be paid on its terminating Feature Group D usage? That is, will the terminating local exchange carrier's network see the call as originating in Kentucky, or will it instead see the call as originating in Alabama or Mississippi?

5. Tariff Section 2.5.1 provides for contractual agreements between subscribers and Fiberline. Is Fiberline aware that any

contractual agreements for regulated services that differ from Fiberline's tariff will require Commission approval as a special contract pursuant to 807 KAR 5:011, Section 13?

6. Tariff Section 2.14.1 provides for disconnection of telephone service for intentional abuses. This section states that "[a]nother form of such abuse is an intentional uninterrupted connection of one exchange station to another station, excluding those connections charged for on an elapsed time basis, which permits the use of the facilities in a manner similar to private line service. It also includes intentional receiver off hook conditions." Provide clarification of this language by providing a specific example of how Fiberline is subject to abuse from these situations.

7. Tariff Section 2.17 indicates that all state and local taxes are listed as separate line items and are not included in the quoted rates. Ordinarily, taxes that are not included in rates are limited to sales taxes, franchise fees, and taxes for 911 services.

a. Provide justification for granting Fiberline an exception to this policy.

b. Does Fiberline intend to assess charges to subscribers for items such as property taxes, ad valorem taxes, Commission assessments, or income taxes?

8. Tariff Section 3.6 pertains to "Standard Operator Service" and states that "[c]alls are routed over the transmission and switching facilities of the Company to any switched access facility (NPA-NXX) located within the State of Kentucky."

(emphasis added.) Is Fiberline requesting intraLATA operating authority for its operator services?

9. Tariff Section 4.5 pertains to "Fiberline Flat Rate 1+ Service" and lists four distinct service offerings with four different rates. The criteria listed for distinguishing between subscribers are subjective, such as "extremely high volume business and government customers" are assessed per minute charges of \$0.16, while "very low volume customers" are assessed \$0.24 per minute. Does the tariff contain objective criteria, such as the specific volumes which are considered "very high" or "very low"? If so, identify the tariff section. If not, modify the tariff to provide some objective, non-discriminatory criteria for distinguishing between customers.

10. Tariff Section 4.6 pertains to "FiberWATS Switched Access Service" and assesses different rates depending upon "Bands" as well as customer usage.

a. As before, identify the tariff section that contains objective criteria for distinguishing between customer usage characteristics, or provide a tariff modification that contains objective criteria.

b. Identify the tariff section that defines the "Bands," or if not included, provide a tariff section that objectively defines each "Band."

c. The "Access Fee" is listed as \$9. If this is a recurring fee, provide the recurring basis (i.e., per month).

d. The "Installation Charge" is listed as \$50 per number. What number is meant here?

11. Tariff Section 4.7 pertains to "FiberWATS Dedicated Access Service" and assesses different rates depending upon "Bands" as well as customer usage.

a. As before, identify the tariff section that contains objective criteria for distinguishing between customer usage characteristics, or provide a tariff modification that contains objective criteria.

b. Identify the tariff section that defines the "Bands," or if not included, provide a tariff section that objectively defines each "Band."

c. The "Access Fee" is listed as \$490. If this is a recurring fee, provide the recurring basis (i.e., per month).

d. Dedicated ports have additional recurring and nonrecurring charges. Under what situations will Fiberline provide FiberWATS Dedicated Access Services in which a dedicated port is not necessary?

Done at Frankfort, Kentucky, this 12th day of April, 1990.

PUBLIC SERVICE COMMISSION

  
For the Commission

ATTEST:

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Executive Director