

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

A TARIFF FILING OF CINCINNATI BELL)
LONG DISTANCE THAT OFFERS DISCOUNTS) CASE NO.
AND FREE SERVICE TO KEMBA MEMBERS) 90-291

O R D E R

On September 28, 1990, the Commission suspended a proposed tariff of Cincinnati Bell Long Distance ("CBLD") which sought to offer discounts and free service to KEMBA Cincinnati Credit Union members operated on behalf of Kroger employees. The Commission found that further proceedings were necessary to determine the reasonableness of the proposed tariff. The proposed tariff offers a 10 percent discount off day rates and a 5 percent discount off evening and night/week-end rates, is applicable for CBLD's intrastate Message Telephone Service rates only, offers \$10 of free long-distance service, and extends for 1 year unless CBLD agrees to renew the promotional offering.

On November 19, 1990, CBLD responded to the Commission's suspension of its proposed tariff. On January 14, 1991, the Commission issued an Order requiring CBLD to respond to certain questions. CBLD's responses were received January 31, 1991.

CBLD contends that the Commission should approve this tariff because it has approved a tariff allowing it to offer discounts and free long-distance services to commercial groups and trade associations effective November 9, 1989 and has approved CBLD's

tariff offering of discounts and free long-distance service to Kentucky residents who are members of the Cincinnati Auto Club (AAA) or new subscribers to Ameritech Mobile Cellular Services. CBLD asserts that it offers this type of discount because of the competitive nature of long-distance service and that the Commission's decision to not impose rate of return regulation or other cost-based methodologies on the rates charged by resellers is an acknowledgment of the competitive nature of long-distance service. CBLD further asserts that the discounts and free long-distance services are analogous to the concept of volume discounts which are routinely approved by the Commission.

CBLD enumerated the following criteria for KEMBA members to qualify for the discounts and free service in the proposed tariff. The applicant must be a member of KEMBA, must be a resident of Kentucky, and must be enrolled to receive long-distance services from CBLD as of or after September 11, 1990. The discounts and free service are offered to KEMBA members, not the association itself, and the person receiving these discounts or free service may not combine these benefits with those offered under another special promotion of CBLD.

CBLD's response further discusses KRS 278.030 and KRS 278.170 contending that its proposed tariff for KEMBA members does not violate either statute. CBLD thus asserts that its proposal is not an unreasonable preference but rather a reasonable classification.

The Commission's review of the reasonableness of this proposed tariff is based on KRS Chapter 278. KRS 278.170(1) and (3) provides that:

(1) No utility shall, as to rates or service, give any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage, or establish or maintain any unreasonable difference between localities or between classes of service for doing a like and contemporaneous service under the same or substantially the same conditions.

. . . .

(3) The commission may determine any question of fact arising under this section.

KRS 278.030(3) provides that:

Every utility may employ in the conduct of its business suitable and reasonable classifications of its service, patrons and rates. The classifications may, in any proper case, take into account the nature of the use, the quality used, the quantity used, the time when used, the purpose for which used, and any other reasonable consideration.

The Commission finds that the discounts and free service for KEMBA members represent an unreasonable preference under KRS 278.170(1) and are not a reasonable classification under KRS 278.030(3). The criteria to qualify for such discounts and free service are not based on volume discounts or any aspect of telephone usage. Qualification is based on membership in an association. Absent membership no person similarly situated would qualify. The proposed classification has nothing to do with the nature, quality, quantity, purpose, or any consideration of utility service.


The Commission, having considered the proposed tariff and responses of CBLD and having been otherwise sufficiently advised, HEREBY ORDERS that CBLD's proposed tariff for KEMBA members be rejected. CBLD may seek to remedy the tariff by adding a criterion for qualification which is related to the quantity used (i.e. volume discounts) or any other reasonable consideration pursuant to KRS 278.170 and KRS 278.030.

Done at Frankfort, Kentucky, this 21st day of February, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director