

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PHOENIX NETWORK, INC.

ALLEGED VIOLATION OF KRS 278.020
AND KRS 278.160

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) CASE NO. 92-172
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O R D E R

On November 1, 1991, Phoenix Network, Inc. ("Phoenix") submitted an application for a Certificate of Public Convenience and Necessity to operate as a reseller of telecommunications services within the state of Kentucky.¹ On December 30, 1991, the Commission ordered Phoenix to submit additional information. Phoenix's response, attached hereto and incorporated herein as Appendix A, was filed on February 14, 1992.

In the Commission's request for information, Phoenix was asked, inter alia, whether or not it or any of its affiliates had ever provided and/or collected any money from the public for the provision of intrastate telecommunications services in Kentucky and, if so, to explain in detail. Phoenix responded affirmatively and admitted that it has collected money from its customers for

¹ Case No. 91-409, Application of Phoenix Network, Inc. For a Certificate of Public Convenience and Necessity as a Nondominant Carrier to Offer Competitive Intrastate InterLATA Services.

the provision of intrastate telecommunications services in Kentucky. On March 9, 1992, Phoenix was ordered to provide full details to the response to Item 1 of the Commission's December 30, 1991 Order. Phoenix filed the necessary information on April 1, 1992.

Accordingly, the Commission finds a prima facie showing has been made that Phoenix failed to file with the Commission its application for approval to operate and its schedule of rates and conditions of service prior to collecting compensation for the provision of utility service in violation of KRS 278.020 and KRS 278.160. Therefore, Phoenix should immediately cease and desist the provision of, and charge for, any and all telecommunications services within the Commonwealth of Kentucky.

IT IS THEREFORE ORDERED that:


1. Phoenix shall immediately cease and desist from providing and charging for any and all telecommunications services within the Commonwealth of Kentucky.

2. Phoenix shall appear at a hearing scheduled for May 27, 1992, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, to present evidence on the alleged violation of KRS 278.020 and 278.160, and to be prepared to show cause why Phoenix should not be penalized under KRS 278.990 and should not be required to make refunds of compensation collected prior to filing its schedule of rates and conditions of service, if such violation is found to have occurred.

3. Phoenix shall appear at an informal conference to be held on May 14, 1992, at 1:30 p.m., Eastern Daylight Time, in Conference Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.

Done at Frankfort, Kentucky, this 24th day of April, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE PUBLIC
SERVICE COMMISSION IN CASE NO. 92-172
DATED APRIL 24, 1992

In response to the questions set forth by
Administrative Case No. 91-409, Phoenix Network,
Inc. hereby respectfully submits the following
information:

Answer to question 1:

Phoenix Network, Inc. has collected money
from its customers for the provision of
intrastate telecommunications services in
Kentucky.

Answer to question 2:

Phoenix Network, Inc. submitted a copy of its
INTERLATA TELECOMMUNICATIONS SERVICES TARIFF
(along with its application) which describes
in details the following services provided in
Kentucky:

(A) Equal Access service: this is a message toll
interLATA telecommunications service offered
to residential and business telephone
customers served by exchanges converted to
equal access.
Carrier's Equal Access services are
designated by the letter "E" in the name of
the service. Carrier Equal Access services
are:

RA: Subscribers to this service, which is
designed for residential customers, receive a
basic MTS service.

EM, ES, EP(A), EP(S) Subscribers to these services
select the underlying facilities-based long
distance carrier to carry their traffic.

EZ: Subscribers to this service authorize Carrier
to select the long distance carrier that offers
the greatest savings to the customers.

EX: Subscribers to this service receive an 800-
type service and are billed for terminating
minutes of use, but are not required to obtain a
dedicated access facility.

A0, A1: Subscribers to these services utilize the
AT&T system for service.

S1, S2: Subscribers to these services utilize the
Sprint system for service.



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- (B) Travel Card Service: Subscribers to this service initiate a call by dialing an authorized "800" number, furnishing the subscriber's authorization code and then dialing the called location.
- (C) Directory Assistance: This service is furnished by the facilities-based carrier and the charges are passed through by the Carrier to the subscriber.

Answer to question 3:

Phoenix Network, Inc. does not intend to resell services that are not available under an approved tariff.

Answer to question 4:

Phoenix Network, Inc. intends to serve counties where Equal Access is available.

Answer to question 5:

Phoenix Network, Inc. utilizes a computer system which is able to differentiate intraLATA calls that are "flagged" on the magnetic tape provided by the facilities-based carriers for computer processing. These intraLATA calls will be ignored for processing by Phoenix Network.

Answer to question 6:

Phoenix Network is aware of Administrative Cases Nos. 323 and 328. Phoenix will abide by the rule so determined by these cases.

Answer to question 7:

Phoenix Network, Inc. is not providing any special/dedicated access services in Kentucky.

Answer to question 8:

Phoenix Network, Inc. expects to generate \$100,000 and \$120,000 sales revenue in 1992 and 1993 respectively from its operations in Kentucky. These estimates are consistent with the company growth rates in these years.



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Answer to question 9:

Phoenix Network, Inc. has a line of credit with WestAmerica Bank of Sausalito, California in the amount of one million dollars.

Answer to question 10:

Experience of principal officers of Phoenix Network, Inc.:

A. Marc L. Goyette

Mr. Goyette has been President of the company since September 1990 and Chief Operating Officer and a director of the company since November 1988. He also served as Executive Vice President from November 1988 to September 1990. From 1984 to 1988, he was a Senior Financial Consultant with Merrill Lynch Pierce Fenner & Smith Incorporated, a securities brokerage firm. From 1979 to 1984 he held a management position responsible for Management Information Systems at General Dynamics.

B. Jeffrey L. Bailey

Mr. Bailey has been Vice President and Chief Financial Officer of the company since March 1990. He is a Certified Public Accountant and from 1985 to 1990 was a senior manager with Grant Thornton, an accounting and management consulting firm. From 1975 to 1985 he was with Arthur Young & Company.

C. J. Rex Bell

Mr. Bell has been Vice President of the company since March, 1991. From January, 1990 to March, 1991, he held the position of Director of Marketing. Prior to joining the company, Mr. Bell was a senior Telecommunications Consultant form 1984 to 1990 for two California consulting forms, COMSUL, Ltd. and Robin & Dackerman, Inc. Between 1980 and 1984, he held management positions with MCI Communications and Cable and Wireless, Ltd.



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Answer to question 11:

The toll free number of the customer service department is 1-800-800-3002.

Answers to question 12 through 16:

Revised tariff sheets are enclosed.