

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE FURST GROUP, INC.	)	
	)	
_____	)	CASE NO.
	)	93-239
ALLEGED VIOLATION OF COMMISSION	)	
REGULATIONS KRS 278.020 AND KRS 278.160	)	

O R D E R

On April 9, 1993, The Furst Group, Inc. ("Furst Group") submitted an application for a Certificate of Public Convenience and Necessity to provide intrastate telecommunications services within the Commonwealth of Kentucky.<sup>1</sup>

In response to an Order dated May 14, 1993, Furst Group indicated it has provided service in Kentucky without Commission approval. Furst Group's response is attached hereto and incorporated herein as Appendix A.

Accordingly, the Commission finds a prima facie case has been established that Furst Group has failed to file its application for a certificate to provide service and its tariff with the Commission prior to collecting compensation for such utility service resulting in a violation of the provisions of KRS 278.020 and KRS 278.160.

IT IS THEREFORE ORDERED that:

1. Furst Group, represented by counsel, shall appear on August 13, 1993, at 10:00 a.m., Eastern Daylight Time, in Hearing

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<sup>1</sup> Case No. 93-100, The Application of the Furst Group for Certificate of Public Convenience and Necessity.

Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, and be prepared to show cause why Furst Group should not be penalized pursuant to KRS 278.990 for failing to comply with KRS 278.020 and KRS 278.160 and directed to refund all monies collected for the unauthorized service pursuant to KRS 278.160.

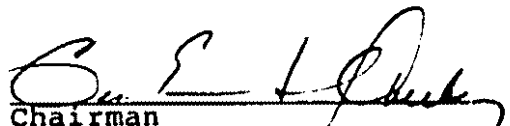
2. Any motion requesting that the formal hearing be cancelled shall be filed by August 10, 1993.

3. Any motion requesting an informal conference with Commission Staff shall be filed within 10 days of the formal hearing date.


4. Furst Group shall immediately stop charging for any and all telecommunications services within the Commonwealth of Kentucky.

Done at Frankfort, Kentucky, this 13th day of July, 1993.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 93-239 DATED JULY 13, 1993

Question 1:

Has Furst Group or any of its affiliates ever provided, and/or collected any money from the public for the provision of intrastate telecommunications services in Kentucky? If so, explain in detail.

- Response:

The Furst Group has provided intrastate telecommunications service in Kentucky and has collected money for the provision of such service on a limited, incidental basis. The limited provision of intrastate telecommunications service in Kentucky has occurred incidentally as a result of two factors substantially beyond The Furst Group's control. The first concerns the fact that The Furst Group resells the SDN services of AT&T which are ubiquitously accessible for both intra- and interstate calling in any state. Thus, The Furst Group has no ability to control which type of calls a customer will choose to make. Second, to the extent The Furst Group has current customers located in Kentucky, these customers resulted from the efforts of national telemarketers operating as independent contractors; The Furst Group did not specifically target Kentucky as a market for its services. Moreover, these customers were primarily solicited prior to the Federal Communications Commission's decision in *MCI v. AT&T*, 7 FCC Rcd 5096 (1992), before the regulated status of The Furst Group as a switchless reseller became clear. Subsequent to release of that decision, The Furst Group has expeditiously undertaken to prepare and file applications for certification in all the contiguous states in which resale is permitted and certification is required. The Furst Group has not specifically sought to expand its service provision in Kentucky in the ensuing time, although continuing telemarketing may have incidentally resulted in signing new Kentucky customers with a corresponding incidental increase in intrastate service.