

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

VNI COMMUNICATIONS, INC. )  
 )  
 ) CASE NO. 95-508  
FAILURE TO COMPLY WITH KRS 278.140 AND )  
KRS 278.230(3) )

O R D E R

On November 21, 1995, the Commission ordered VNI Communications, Inc. ("VNI Communications") to show cause why it should not be subject to the penalties of KRS 278.990 for its failure to comply with KRS 278.140 and KRS 278.230(3). On June 3, 1996, the Commission reissued its earlier Order to Show Cause and further ordered VNI Communications to show cause why it should not be declared an abandoned utility and its filed rate schedules revoked. A hearing in this matter was held on July 9, 1996. No representative appeared on VNI Communications' behalf.

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. VNI Communications owned, controlled, operated, and managed facilities which are used for and in connection with transmission of messages over wire by telephone for the public for compensation. It is therefore a utility subject to Commission jurisdiction. KRS 278.010(3)(e).
2. KRS 278.140 requires every utility, on or before March 31 of each year, to file with the Commission a report of its gross earnings or receipts derived from intrastate business for the preceding calendar year.

3. KRS 278.230(3) directs every utility, when required by the Commission, to file with it any report or other information that the Commission reasonably requires.

4. Commission Regulation 807 KAR 5:006, Section 3(1), requires every utility to file with the Commission on or before March 31 of each year a financial and statistical report of its utility operations for the preceding calendar year on forms furnished by the Commission.

5. On or about January 3, 1995, the Commission mailed to VNI Communications two copies of its standard forms for report of gross earnings derived from intrastate business, and for the annual financial and statistical report with a letter of instruction to complete the forms for its 1994 calendar year operations.

6. VNI Communications did not file these reports for its 1994 calendar year operations, nor did it request an extension of time in which to make such filing.

7. On April 11, 1995, the Commission mailed a letter to VNI Communications to advise it that the required report was past due.

8. Commission Staff subsequently attempted to contact VNI Communications by telephone and advise it that the required reports were past due.

9. As of the date of this Order, VNI Communications has not filed a report of gross earnings derived from intrastate business, nor an annual financial and statistical report for its 1994 calendar year operations.

10. Where the act which a utility is required to do is merely clerical in nature, willfulness or deliberate intent can be inferred from the fact of noncompliance. See Re Dyke Water Co., 55 PUR3d 342 (Cal. P.U.C. 1964).

11. VNI Communications willfully failed to submit the report required by KRS 278.140.

12. VNI Communications willfully failed to submit the report required by 807 KAR 5:006, Section 3(1).

13. VNI Communications willfully failed to comply with KRS 278.230(3).

14. All efforts to serve VNI Communications with a copy of the Orders in this proceeding have been unsuccessful. All mailings to its address of record have been returned stamped "Not Deliverable as Addressed."

15. As of May 19, 1995, VNI Communications' telephone listing of record has been disconnected.

16. VNI Communications is no longer a corporation in good standing in the Commonwealth of Kentucky. Nine other states have revoked or dissolved VNI Communications' corporate charter or its authority to operate within their boundaries.<sup>1</sup>

17. VNI Communications has abandoned its utility operations within the Commonwealth of Kentucky.

18. In light of VNI Communications' current status, the assessment of a penalty serves no useful purpose and is not enforceable. No penalty, therefore, should be assessed.

IT IS THEREFORE ORDERED that:

1. VNI Communications is an abandoned utility.

---

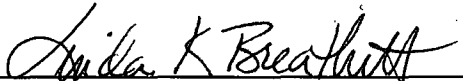
<sup>1</sup> These states are Florida, Georgia, Louisiana, New York, Mississippi, North Carolina, South Carolina, Tennessee, and Washington.

2. As of the date of this Order, VNI Communications' authority to operate as a utility within the Commonwealth of Kentucky is revoked.

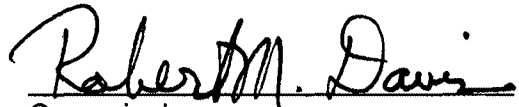
3. As of the date of this Order, VNI Communications' filed rate schedules are revoked.

Done at Frankfort, Kentucky, this 1st day of August, 1996.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director