

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO THE PROVISION )  
OF SERVICE BY PILGRIM TELEPHONE, INC. )  
IN VIOLATION OF KRS 278.160 AND THE ) CASE NO. 98-181  
COMMISSION'S ORDER IN ADMINISTRATIVE )  
CASE NO. 359 IN RESPONSE TO )  
FORMAL COMPLAINT )

O R D E R

On March 23, 1998, Katherine K. Yunker ("Complainant") filed a formal complaint with the Public Service Commission against Pilgrim Telephone, Inc. ("Pilgrim"). The complaint alleges that, without having previously filed a tariff and notification of intent to operate in Kentucky, Pilgrim charged and collected for intrastate long-distance service in violation of KRS 278.160 and the final Order in Administrative Case No. 359.<sup>1</sup> A copy of the complaint is attached hereto.

Included in the complaint is a copy of a bill issued December 22, 1997, by GTE South Incorporated, Complainant's local exchange carrier. On that bill, Pilgrim caused Complainant to be charged \$6.18 for a collect call placed on November 19, 1997, at 1:00 p.m. The call originated from a payphone in Frankfort, Kentucky, and was accepted by Complainant's office in Lexington, Kentucky. The bill indicated, however, that the intrastate collect call originated in Cambridge, Massachusetts, from a number controlled by Pilgrim.

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<sup>1</sup> Administrative Case No. 359, Exemptions for Interexchange Carriers, Long-Distance Resellers, Operator Service Providers and Customer-Owned, Coin-Operated Telephones (June 21, 1996).

Pilgrim is a utility subject to the Commission's jurisdiction pursuant to KRS 278.010(3)(e) and 278.040. Moreover, the Commission has original jurisdiction over complaints as to rates and service of any utility pursuant to KRS 278.260.

Administrative Case No. 359 provides that an interexchange carrier, long-distance reseller, or operator services provider must file with the Commission, prior to providing service in Kentucky, a proposed tariff and cover letter containing information identified by the Commission. KRS 278.160(1) also prescribes that each utility shall file with the Commission a tariff showing all rates and conditions for service established by it and collected or enforced. Finally, KRS 278.160(2) states that a utility may not charge, demand, collect or receive compensation for service other than as defined by its filed tariff.

Investigation following receipt of the above-mentioned formal complaint indicates that Pilgrim has failed to file with the Commission a tariff and accompanying informational cover letter in violation of KRS 278.160(1) and the final Order in Administrative Case No. 359. It also appears that Pilgrim has collected compensation for an intrastate collect call other than as indicated by a filed tariff in violation of KRS 278.160(2).

IT IS THEREFORE ORDERED that:

1. Pilgrim, represented by counsel, shall appear before the Commission on June 2, 1998, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, in order to present evidence concerning the alleged violations of KRS 278.160(1) and KRS 278.160(2) and the Commission's Order in Administrative Case No.

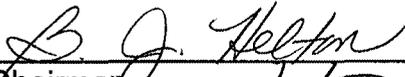
359, and to show cause why it should not be subject to the penalties prescribed in KRS 278.990 and should not be required to refund compensation collected prior to filing its tariff, if such violation is found to have occurred.

2. Pilgrim shall submit to the Commission and shall serve upon Complainant, within 20 days of the date of this Order, a written response to this Order and to the formal complaint filed by Katherine K. Yunker.

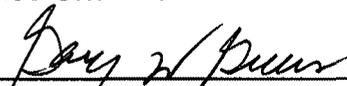
3. Any motion requesting any informal conference with Commission staff to consider any matter which would aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Done at Frankfort, Kentucky, this 24th day of April, 1998.

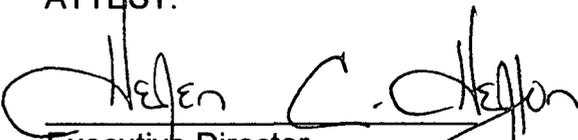
PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE COMMONWEALTH OF KENTUCKY

RECEIVED  
MAR 23 1998  
PUBLIC SERVICE  
COMMISSION

KATHERINE K. YUNKER

Complainant

vs.

PILGRIM TELEPHONE, INC.

Defendant

No. \_\_\_\_\_

### Complaint

The complaint of Katherine K. Yunker d/b/a "Katherine K. Yunker, Attorney" seeking relief from the Public Service Commission ("Commission") respectfully shows:

#### PARTIES

1. The Complainant, Katherine K. Yunker, is an attorney and the sole proprietor of a law practice with offices located in Lexington, Fayette County, Kentucky. Reference herein to "Complainant" is to the law practice. Complainant's post office address is: P.O. Box 21784, Lexington, KY 40522-1784.

2. The Defendant, Pilgrim Telephone, Inc. ("Pilgrim Telephone"), is a telecommunications service provider. Pilgrim Telephone's post office address is: Suite 450, One Kendall Square, Cambridge, MA 02139-9171.

#### FACTS

3. On November 19, 1997, at approximately 1:00 p.m., Koyuki M. Bishop, a paralegal for Complainant, placed a collect call to Complainant's office in Lexington from a coin-operated, publicly-available telephone located at Five Star Foodmart, on East Main Street, in Frankfort, Franklin County, Kentucky. Ms. Bishop placed the call by dialing 0+606-266-0415, and provided information in response to automated prompts. Ms. Bishop does not recall that the call was "branded" by Pilgrim Telephone prior to its completion to Complainant's office.

ATTACHMENT

4. A law clerk for Complainant, Nancy L. Fritz, answered the telephone at Complainant's office and, in response to automated prompts, accepted the collect call from Ms. Bishop; she recalls that the collect call was not "branded" by Pilgrim Telephone prior to her acceptance of the call. Ms. Fritz provided Ms. Bishop with directions to the Commission from where she was in Frankfort, and the call was then terminated.

5. In late December 1997, there was received by Complainant's office manager, Charles Yeomans, a statement from GTE (Complainant's local exchange service provider) dated December 22, 1997. The seventh page of the statement contained billing for Pilgrim Telephone. A true and correct copy of that seventh page is attached to this Complaint as Exhibit A. The Pilgrim Telephone billing was a \$6.00 charge and \$0.18 in federal excise tax on what is described as a six-minute collect call from Cambridge, Massachusetts (617-225-1801), to Lexington, Kentucky (606-266-0415), on November 19, 1997, at 1:00 p.m.

6. Mr. Yeomans investigated within Complainant's office whether a collect call had been accepted and discovered that the call was the one placed by Ms. Bishop in Frankfort.

7. Mr. Yeomans called the customer service number listed on the billing statement (1+800-382-5500), which connected him with a customer service representative ("CSR") of GTE. Mr. Yeomans explained that the collect call on the billing from Pilgrim Telephone was actually an intrastate call. The GTE CSR stated that all they knew about the origination and destination of the call was what Pilgrim Telephone reported. Mr. Yeomans was informed that there was nothing GTE could do with regard to removing the charge, that only Pilgrim Telephone could remove it.

8. Mr. Yeomans then contacted Pilgrim Telephone at 1+800-382-5500. He explained that the call for which Complainant was charged was actually a collect call from Frankfort to Lexington, and asked if Pilgrim Telephone was authorized to provide intrastate service in Kentucky. The CSR insisted that Pilgrim was authorized in all states and declined to waive or alter the charge for the call.

9. Complainant remitted to GTE the entire \$6.18 charge on the Pilgrim Telephone billing.

10. Upon inquiries to the Commission staff and investigation into publicly-available Commission records, Complainant discovered that Pilgrim Telephone has not been authorized to provide intrastate telecommunications service within Kentucky and has no issued or effective tariff duly filed or accepted by the Commission.

#### VIOLATIONS CLAIMED

11. In violation of KRS 278.160(1), Pilgrim Telephone has failed to file any schedule showing the rates and conditions for intrastate services.

12. In violation of KRS 278.160(2), Pilgrim Telephone has charged Complainant a rate other than one prescribed in a filed schedule.

13. In violation of Commission regulations and orders, Pilgrim Telephone has charged a rate for service which is not fair, just, or reasonable. Upon information and belief, the rate charged by Pilgrim Telephone is greater than 15% above the average rates of AT&T Communications of the South Central States, MCI Telecommunications, and Sprint Communications Company L.P.

14. Pilgrim Telephone's provision of intrastate operator-assisted services is in violation of Commission orders regarding such service, including orders entered in Adm. Case No. 330, *Policy and Procedures in the Provision of Operator-Assisted Telecommunications Services*.

15. Pilgrim Telephone's failures to obey orders of the Commission and violations of Chapter 278 regulations promulgated thereunder have been willful. Evidence of that willfulness includes:

(a) misrepresentation to Complainant of Pilgrim Telephone's authority to provide services in Kentucky; and

(b) misrepresentation to Complainant and, apparently, Pilgrim Telephone's billing agent (GTE) of the true point of origination for the call.

RELIEF DESIRED

WHEREFORE, Complainant respectfully requests the following:

- 1) The Commission make such investigation into the intrastate activities of Pilgrim Telephone, including its agreement with and reporting to billing and collection agents, as the Commission deems necessary;
- 2) Refund to Complainant of all moneys collected by Pilgrim Telephone on intrastate service charged to Complainant or, in the alternative, refund of that portion of the charge which the Commission finds to be excessive;
- 3) Payment to Complainant of long-distance charges and other expenses incurred in seeking relief from Pilgrim Telephone;
- 4) Penalties assessed against Pilgrim Telephone or its officers, agents, or employees for any willful violation of a provision of Chapter 278, regulation promulgated pursuant to Chapter 278, or failure to obey a Commission order; and
- 5) Such other relief as may be appropriate.

Respectfully submitted,

Katherine K. Yunker  
P.O. Box 21784-1784  
Lexington, KY 40522-1784  
606-266-0415  
fax: 606-266-3012



COMPLAINANT



TELEPHONE NUMBER 606 266-0415

PAGE 7 OF 8

BILL DATE December 22, 1997

For customer service call  
1 800 382-5500

**LONG DISTANCE CALLS**

Billing for Pilgrim Telephone  Pilgrim Telephone

**Pilgrim Telephone Regulated Service**

**Regulated Calls**

Calls billed to  
606 266-0415

**Operator Assisted Calls**

Date	Time	Called from	Called to	Type*	Period	Min.	Amount
1 Nov 19	1:00 pm	617 225-1801 Cambridge MA	606 266-0415 Lexington KY	Col	Day	6	\$ 6.00

**Total** **\$ 6.00**

\*Opr = operator dialed call      3rd = third party call  
Col = collect call                      Spi = special collect call

**Taxes and Fees on Pilgrim Telephone Regulated Services** **Amount**

2 Federal excise tax (3.00% of \$6.00) **\$ .18**

**Total** **\$ .18**

*Pilgrim Telephone regulated service charges* **\$ 6.18**

**Total long distance/Pilgrim Telephone** **\$ 6.18**