

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matters of:

RATES, TERMS AND CONDITIONS FOR INMATE TELECOMMUNICATIONS SERVICES)))	ADMINISTRATIVE CASE NO. 368
ESTABLISHMENT OF AN OPERATOR SURCHARGE RATE FOR COLLECT TELEPHONE CALLS FROM CONFINEMENT FACILITIES))))	ADMINISTRATIVE CASE NO. 378
OBLIGATIONS OF INMATE SERVICE PROVIDERS TO CALL RECIPIENTS REGARDING NOTICE OF BLOCKING AND BILLING PROCEDURES))))	ADMINISTRATIVE CASE NO. 379

O R D E R

On November 10, 1997, the Commission initiated this proceeding to review matters pending regarding prison inmate payphone service.¹ Two issues have been reviewed. One is the investigation of the reasonableness of telecommunications rates, terms and conditions applicable to Kentucky correctional facilities and other confinement facilities. The other is measures sought by telecommunication utilities to protect against high toll fraud. A public hearing in this matter was held April 7, 1998 and briefs were filed by the parties on May 15, 1998.

¹ This proceeding is not the first time the Commission has addressed payphone services for confinement facilities. In Administrative Case No. 337 in January 1992, the Commission exempted payphone services in confinement facilities from certain requirements. That Order states: Inmate phone service will only provide automated collect or debit card service for local and long-distance calls from payphones located at correctional or mental health facilities in accordance with institutionally authorized telephone program.

RATES FOR INMATE SERVICES

The November 10, 1997 Order stated that the reasonableness of the inmate rates would be the focus of this part of the investigation and not the underlying costs of any provider of inmate service.² The Commission indicated that it would review customer choice limitations, the requirement for collect calls only, and the lack of opportunity for a live operator in determining the reasonableness of the charge. Moreover, the Commission sought review of whether a 50 percent reduction to the operator-assisted surcharge for inmate calls would be appropriate.

The Department of Corrections testified that its intention was that persons who receive calls from inmates would pay no more for the calls than persons receiving collect calls from any other person. The Commission agrees. Accordingly, it will require AT&T Communications of the South Central States, Inc. (AT&T) and any other carrier that has an operator surcharge on collect calls from inmate facilities that is a higher rate than its operator surcharge for any other collect call to reduce its tariffed rate to no more than that paid by the general public.³

The Department of Corrections and other governmental agencies testified to advantages of payphone service contracts which they have entered. The Commission appreciates the correctional officials efforts to standardize their service and to provide some protection for rates and service standards which must be observed by the

² November 10, 1997 Order at 3.

³ AT&T Tariff Section A5, at 4.7, contains a \$3.00 surcharge rate for inmate calls while its tariff Section A5, at 4.1, contains a \$2.25 surcharge for non-inmate collect calls. It is noted that, effective October 16, 1998, AT&T increased its operator station collect rate to \$2.45 for automated calls and \$3.95 for operator-assisted calls.

contracting utilities. However, many comments were received by affected members of the public and some persons who had intervened in this proceeding regarding the harm produced by the rates for collect phone calls from confinement facilities. The Commission had proposed a 50 percent reduction to the surcharge for inmate calls but believes that adoption of this proposal may interfere with the contractual relationships already established between the Department of Corrections and others for their payphone service. Thus, the Commission's proposal will not be adopted at this time.

Instead the Commission hereby establishes Administrative Case No. 378 styled Establishment of an Operator Surcharge Rate for Collect Telephone Calls from Confinement Facilities. This new proceeding will address the appropriate level of surcharge rates, the technical feasibility of limiting the number of times in a day that such a surcharge may be charged to a call recipient, and other related issues. This proceeding shall apply to all inmate payphone service in Kentucky upon the expiration of existing contracts between the Department of Corrections⁴ and other governmental entities with payphone service providers.

As discussed at the hearing,⁵ and in parties' briefs⁶ the Federal Communications Commission has required all inmate telephone service providers to identify themselves on the recording that a call recipient will hear and to disclose how the consumer may

⁴ The contract between the Department of Corrections and MCI expires on November 15, 1999.

⁵ Transcript of Evidence at 261.

⁶ See BellSouth Public Communications, Inc. Brief at 8.

obtain rates without terminating the call and without incurring any charge.⁷ The Commission hereby adopts the same requirement for the provision of intrastate inmate payphone service and requires that the capability be implemented by March 1, 1999.

PROTECTION AGAINST HIGH TOLL FRAUD SOUGHT BY MCI AND INVISION

In February and March 1997, both MCI Telecommunications Corporation (MCI) and Talton Holdings, Inc. d/b/a Invision Telecom (Invision) applied for authority to implement programs designed to monitor and prevent high toll fraud. Each sought waiver of certain regulations pertaining to termination of service and deposits should the Commission find that the program was in conflict with those regulations. In November 1997, the Commission issued an Order which rejected the MCI and Invision programs and incorporated the issue of high toll fraud prevention into this proceeding. The Order also set forth the Commission's proposal of rules and regulations for preventing high toll fraud in the provision of inmate payphone services.

On March 30, 1998, the Commission received a letter from BellSouth Public Communications, Inc. (BellSouth Public) proposing that a collaborative effort be undertaken to develop procedures relating to the toll fraud issues in Administrative Case No. 368. BellSouth Public suggested that a workshop would enable the development of a program that balances the interests of telecommunications providers and inmates families. The letter was treated as a motion and denied by the Commission in an Order dated April 2, 1998. The Commission stated that the parties had sufficient opportunity

⁷ CC Docket No. 92-77, Billed Party Preference for InterLATA 0+ Calls, Second Report and Order and Order on Reconsideration, released January 29, 1998.

to submit any fraud prevention proposals they wished the Commission to consider prior to or during the public hearing scheduled for April 7, 1998.

At the public hearing on April 7, 1998, MCI and Invision presented testimony on the issue of high toll fraud and prevention in inmate payphone services. The parties also testified to the feasibility of the Commission's proposal of rules and regulations as presented in the November 10, 1997 Order. Each of the parties objected to the Commission's proposal and testified that the proposal was not workable in the context of inmate payphone services. Both MCI and Invision argued that they should be allowed to implement the programs previously submitted to the Commission. Moreover, both testified to the successful use of their respective programs in other states, the need for uniformity throughout their systems, and the unique position of service providers to develop programs best suited to their individual business needs. On May 15, 1998, the interested parties filed post-hearing briefs reiterating their positions with regard to high toll fraud prevention programs.

Following the public hearing, BellSouth Public sought reconsideration of the Commission's April 2, 1998 Order denying the request for the establishment of a collaborative workshop on the issue of fraud prevention. The Commission granted the motion for reconsideration by Order dated April 23, 1998. Accordingly, an administrative case, Administrative Case No. 379 entitled Obligations of Inmate Service Providers to Call Recipients Regarding Notice of Blocking and Billing Procedures should be initiated to hold collaborative workshops on fraud prevention measures.

The Commission, having considered the evidence and having been otherwise sufficiently advised, HEREBY ORDERS that:

1. AT&T and any other carrier that has an operator surcharge on collect calls from inmate facilities that is a higher rate than its operator surcharge for any other collect call shall reduce its tariffed rate to no more than that paid by the general public for automated calls.

2. An administrative proceeding, Administrative Case No. 378, styled Establishment of an Operator Surcharge Rate for Collect Telephone Calls from Confinement Facilities is hereby established to address the surcharge rates and matters of the technical feasibility of limiting the number of times in a day, for example, that such a surcharge may be charged to a call recipient. This new administrative proceeding shall apply to all present payphone service in Kentucky upon the expiration of existing contracts between the Department of Corrections and other governmental entities with payphone service providers. The Commission will conclude this proceeding by July 1, 1999 to afford the Department of Corrections an opportunity to incorporate the decisions into its future payphone contracts.

3. Within 20 days of the date of this Order, all interested parties shall notify the Commission by letter of their desire to participate in Administrative Case No. 378.

4. All inmate service providers shall identify themselves on a recording that a call recipient shall hear and disclose how a consumer may obtain rates in accordance with FCC requirements no later than March 1, 1999.

5. An administrative proceeding, Administrative Case No. 379, styled Obligations of Inmate Service Providers to Call Recipients Regarding Notice of Blocking and Billing Procedures is hereby established for the purpose of holding collaborative workshops on the issue of fraud prevention measures undertaken by

providers of inmate telecommunications services. The workshops shall address customer notice of blocking of service from inmate facilities, customer billing and payment procedures, and other related issues.

6. Within 20 days of the date of this Order, all interested parties shall notify the Commission by letter of their desire to participate in Administrative Case No. 379 and shall specify the names and addresses of persons who will participate in the workshops.

7. Within 60 days of the date of this Order, parties opting to participate in Administrative Case No. 379 shall file a proposed agenda for the workshop and comments regarding each proposed agenda item.

8. A copy of this Order shall be served on the Kentucky Association of Counties, the Kentucky County Judge/Executive Association, the Kentucky League of Cities, the Kentucky Jailers Association, the Kentucky Payphone Association, and all county judges and jailers.

Done at Frankfort, Kentucky, this 15th day of January, 1999.

By the Commission

ATTEST:

Executive Director