

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EXEMPTIONS FOR INTEREXCHANGE)	
CARRIERS, LONG-DISTANCE RESELLERS,)	ADMINISTRATIVE
OPERATOR SERVICE PROVIDERS AND)	CASE NO. 359
CUSTOMER-OWNED, COIN-OPERATED)	
TELEPHONES)	
)	
AND)	
)	
EXEMPTIONS FOR PROVIDERS OF LOCAL)	ADMINISTRATIVE
EXCHANGE SERVICE OTHER THAN)	CASE NO. 370
INCUMBENT LOCAL EXCHANGE CARRIERS)	

O R D E R

Pursuant to KRS 278.512 and 278.514, the Commission, on its own motion, hereby reopens these proceedings to review and clarify existing exemptions from regulatory requirements of certain telecommunications providers as well as to determine whether providers of wireless telecommunications services, providers of pay telephone service and providers of pre-paid calling card telephone services should be exempted from additional regulatory requirements. Choices in the telecommunications market in Kentucky have multiplied: approximately 40 providers of wireless telecommunications services and approximately 300 providers of pay phone service currently operate in the Commonwealth, in addition to numerous competing carriers of traditional wireline service. This diversity of providers indicates that Commission consideration of exempting these utilities from certain regulations and statutes is timely particularly as, under both state and federal law, this Commission no longer regulates the rates charged by wireless, pre-paid calling card, and pay-phone carriers.

When evaluating the reasonableness of regulatory exemptions, the Commission is bound by KRS 278.512 and 278.514. The Commission may exempt carriers or their services from regulation or provide alternative means of regulation of telecommunications services and products if it determines an exemption or reduced regulation is in the public interest. One consideration in determining public interest is the reduction of resources dedicated to regulatory activities no longer required to protect the public. The lack of market power of providers of pre-paid calling card services, wireless telecommunications carriers and pay phone providers, together with the availability of competitive choices and the pre-existing deregulation of these providers' rates, renders elimination of their tariffs reasonable and, in fact, inevitable. Elimination of unnecessary record-keeping enables this Commission to expend its administrative resources elsewhere.

Accordingly, as of the effective date of this Order, wireless carriers, pay phone providers, and providers of pre-paid calling card services that wish to provide service in Kentucky and that have not previously filed a notice of intention to do business in this state need only submit a letter to the Commission which contains (1) the name and address of the utility; (2) articles of incorporation or partnership agreement, if applicable; (3) name, street address, telephone number and fax number, if any; and (4) the name of a person who should be contacted in regard to customer complaints and regulatory issues. Updates to this information must also be submitted. On the effective date of this Order, the Commission will remove wireless tariffs, pay phone tariffs and pre-paid calling card tariffs from its records. Wireless carriers must, however, continue to file gross operating revenue reports and continue to pay Commission assessments

pursuant to KRS 278.130, KRS 278.140, and KRS 278.150. In addition, wireless carriers must continue to apply to this Commission, as well as to local planning commissions, where applicable, pursuant to 807 KAR 5:063 and statutes pertaining to antenna tower construction.

The elimination of a requirement to tariff its services does not exempt wireless carriers from collecting and remitting Commission-ordered universal service funding. Nor does it exempt any carrier from complying with Commission-mandated maximum charges and other requirements such as those specified for operator services in both the public and the confinement facility arenas.¹

Interexchange carriers (“IXCs”) and competitive local exchange carriers (“CLECs”) must still provide tariffs to the Commission pursuant to KRS 278.160. The initial tariff for an IXC will continue to be filed upon 30 days’ notice. Subsequent tariffs may continue to be filed on one day’s notice. CLEC tariffs and revisions thereto must still be provided on 30 days’ notice to the Commission. However, IXCs and CLECs are exempted from all other tariffing requirements and other requirements of our administrative regulations, except that they must continue to file annual reports pursuant to 807 KAR 5:006, Section 3; gross operating revenue reports pursuant to KRS 278.140; accident reports pursuant to 807 KAR 5:006, Section 26; and reports regarding service quality issues as may periodically be required by the Commission.

¹ See Administrative Case No. 330, Policy and Procedures in the Provision of Operator-Assisted Telecommunications Services; Administrative Case No. 383, Maximum Rates for Operator Service Surcharges and Per Minute Transport Rates; and Administrative Case No. 378, The Establishment of an Operator Surcharge Rate for Collect Telephone Calls From Confinement Facilities.

IXCs and CLECs must continue to pay Commission assessments pursuant to KRS 278.130 through KRS 278.150.

In addition, all carriers shall remain responsive to consumer complaints, shall participate as the Commission shall direct in funding programs for universal service, and shall continue to supply the Commission with documents, information and reports as necessary, pursuant to KRS 278.230 and 807 KAR 5:006, Section 9.

The following regulatory requirements also shall continue to apply to all CLECs and IXCs: KRS 278.535 (prescribing verification procedures for changing a customer's telecommunications carrier); Administrative Case No. 306² (the name of the company providing service shall appear prominently on all bills for services); KRS 278.460 (interest at 6 percent annually shall accrue on all deposits); 807 KAR 5:006, Section 7(7) (each utility which chooses to require deposits shall establish and include in its filed tariff the deposit policy to be utilized); 807 KAR 5:006, Section 8(3)(h) (a penalty may be assessed only once on any bill for rendered services; any payment received shall first be applied to the bill for service rendered; additional penalty charges shall not be assessed on unpaid penalty charges); and 807 KAR 5:006, Section 13 (each utility shall permit all customers to contact the utility's designated representative without charge).

Finally, pursuant to 807 KAR 5:006, Section 14(1), refusal or termination of service shall be permissible for all CLECs and IXCs under the following circumstances:

(a) for noncompliance with the utility's tariffed rules or Commission regulations after the utility has made a reasonable effort to obtain customer compliance and, except

² Administrative Case No. 306, Detariffing Billing and Collection Services.

for pre-paid calling card service, after the customer has been given at least ten (10) days' advance written termination notice pursuant to Section 13(5) of this regulation;

(b) for dangerous conditions (no advance notice necessary);

(c) for refusal of access after the customer has been given at least ten (10) days' written termination notice pursuant to Section 13(5) of this regulation;

(d) for outstanding indebtedness;

(e) for noncompliance with state, local or other codes after the customer has been given at least ten (10) days' written termination notice pursuant to Section 13(5) of this regulation unless ordered to terminate immediately by a governmental official;

(f) for nonpayment of bills (however, except for prepaid calling card service, no utility shall terminate service to any customer for nonpayment of bills for any tariffed charge without first having mailed or otherwise delivered an advance termination notice which complies with the requirement of Section 13(5) of this regulation; any utility proposing to terminate customer service for nonpayment shall mail or otherwise deliver to that customer five (5) days' written notice of intent to terminate; under no circumstances shall service be terminated before twenty (20) days after the mailing date of the original unpaid bill); and

(g) for illegal use or theft of service; however, a utility may terminate service to a customer without advance notice if it has evidence that a customer has obtained unauthorized service by illegal use or theft.

CONCLUSION

The existence of competitive alternatives for pre-paid calling card providers, wireless carriers, and pay phone providers, together with continued Commission

oversight of these carriers, should provide adequate safeguards to protect consumers from inadequate service and excessive prices. However, regardless of the extent of the exemptions eventually granted pursuant to KRS 278.512, all customers may continue to exercise their option of filing complaints regarding the exempted services with the utility and the Commission. In addition, the Commission retains jurisdiction over exempted services pursuant to KRS 278.512 and 278.514. A copy of this Order shall be served on the Attorney General of the Commonwealth of Kentucky and on all wireless, pre-paid calling card and pay phone telecommunications providers in Kentucky. The procedures and exemptions prescribed in this Order shall be effective 30 days from the date of this Order, unless the Commission receives from interested parties comments indicating disagreement with any exemption described herein.

The exemptions provided in this Order shall go into effect 30 days from the date of this Order, unless any petition for a hearing is filed within 20 days of the date of this Order. Such petition shall specify exactly those portions of this Order for which hearing is sought and the basis for such petition. Any portions of this Order for which hearing is not sought shall be effective without further Order of the Commission. Furthermore, pursuant to KRS 278.512(5), any exemption ordered herein may be vacated or modified if it is found to not be in the public interest.

BE IT SO ORDERED.

Done at Frankfort, Kentucky, this 8th day of August, 2000.

By the Commission

ATTEST:



Executive Director, Acting