

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MINIMUM RATE PRICING, INC.)	
_____)	
ALLEGED VIOLATION(S) OF KRS 278.535)	CASE NO. 99-327
SWITCHING OF TELECOMMUNICATIONS)	
PROVIDER)	

O R D E R

On August 12, 1999, the Commission issued a show cause Order to Minimum Rate Pricing, Inc. ("MRP") for two alleged violations of Kentucky's slamming statute, KRS 278.535. Subsequently, counsel for MRP advised the Commission Staff that MRP was involved in bankruptcy proceedings in the United States Bankruptcy Court of the District of New Jersey.¹ Three other telecommunications providers were involved in the proceedings, Parcel Consultants, Inc.; National Tele-Communications, Inc.; and Discount Call Rating, Inc. The Bankruptcy Court ordered that the assets of MRP be sold at public auction pursuant to the Bankruptcy Code, 11 U.S.C. § 363. The auction was conducted on December 9, 1999. TTI National, Inc. ("TTI") purchased substantially all of the assets of MRP at the auction.

TTI is an interexchange carrier authorized to offer intrastate service in Kentucky and in 47 other states. TTI filed its tariff with the Commission on August 30, 1996 and the tariff became effective on September 30, 1996, subject to subsequent amendments

¹ In Proceedings for the Reorganization Under Chapter 11 of the Bankruptcy Code, Minimum Rate Pricing, Inc., Case No. 99-32136.

thereto. On July 7, 2000, TTI filed an application and petition for expedited waiver of Commission rules. The petition requests that TTI be held harmless for any violations on the part of MRP in regard to which Commission proceedings are currently pending. The petition explains that TTI had acquired MRP in connection with the bankruptcy proceedings explained above. TTI states that MRP will no longer do business in Kentucky and that its tariff will be voluntarily withdrawn. Because TTI is the successor in interest to MRP, the application and petition requesting the Commission to waive statutory requirements for verification of a telecommunications carrier change is hereby incorporated into this proceeding. A copy of the application and petition is appended hereto as Appendix A.

The Commission lacks authority to “waive” statutory requirements. Accordingly, the petition for waiver must be denied as such. However, no waiver of any Kentucky law or regulation regarding “slamming” (KRS 278.535) is necessary when the carrier change results from a utility’s sale of its business and withdrawal of its tariff. The application and petition demonstrates that MRP will no longer be operating in Kentucky and that, therefore, this ongoing proceeding is moot. TTI has no history of violations of KRS 278.535 and should not be held accountable for those violations committed by MRP. MRP has approximately 4,700 customers in Kentucky. On June 26, 2000, the Federal Communications Commission granted relief similar to that requested from the Commission herein.

TTI will put into effect an actual notification process to all affected MRP customers. The customers will be notified that they will receive the same or better rates and services than those which they were receiving from MRP without interruption and

need for action, although they will be given the full option to select a carrier of their choice without cost to the customer. Any cost generated by a local phone company as a result of this process will be paid or credited to the customer by TTI. Based upon the foregoing and the application and petition of TTI, the Commission finds that TTI's proposal is necessary to provide a seamless transition with no disruption of service to affected customers, is in accordance with law, does not violate any regulatory principle, results in a reasonable resolution of this case and is in the public interest. The withdrawal of the tariff of MRP and the application and petition of TTI constitute sufficient protection for Kentucky consumers.

IT IS THEREFORE ORDERED that:

1. The tariff of MRP is hereby cancelled and MRP is hereby stricken from the Commission's list of utilities active in the Commonwealth of Kentucky.
2. Any pending violations of KRS 278.535 committed by MRP are hereby dismissed without any liability to TTI.
3. The application and petition for waiver is denied as such; provided, however, no waiver of any Kentucky law or regulation is necessary regarding "slamming" because the carrier change proposed by TTI results from the sale of MRP's business to TTI.
4. TTI shall follow the terms and conditions of its application and petition in making a seamless transition, specifically, the two-step actual notification to affected customers, right of customers to have clear choices and to choose another carrier, if desired. Any cost generated by this process, including those at a local-carrier level, will

be paid by TTI or credited to the customer; and the affected customers shall receive the same or better rates and service than those which they were receiving from MRP.

Done at Frankfort, Kentucky, this 18th day of July, 2000.

By the Commission

ATTEST:


Executive Director