

**CASE**

**NUMBER:**

99.325

HISTORY INDEX FOR CASE: 1999-325 AS OF : 01/04/01  
THE OTHER PHONE COMPANY, INC. DBA ACCESS ONE COMMUNICATIONS  
Investigation - Service  
SLAMMING

IN THE MATTER OF THE OTHER PHONE COMPANY, INC. D/B/A ACCESS  
ONE COMMUNICATIONS ALLEGED VIOLATION(S) OF KRS 278.535  
SWITCHING OF TELECOMMUNICATIONS PROVIDER

SEQ NBR	ENTRY DATE	REMARKS
0001	08/12/1999	Order directing company to resp. to allegations by 9/7 & sched.hearing on 11/18
M0001	09/30/1999	KEVIN GRIFFO SCESS COMMUNICATIONS-(FAX) REQUEST FOR MEETING WITH STAFF
M0002	10/21/1999	SCOTT COX ACCESS ONE COMM-ANSWER TO ALLEGED VIOLATION
0002	11/09/1999	Order cancelling 11/18 hearing & scheduling an IC on 12/1 at 10:30 in CR 1.
0003	12/03/1999	IC memo; comments, if any, due 12/13/99.
M0003	01/26/2000	ACCESS ONE COMMUNICATIONS-SUPPLEMENTAL RESPONSE TO ALLEGED VIOLATION
0004	10/18/2000	Letter to company in reply to their letter of 10/17/2000 re: rejection of sett.
0005	12/06/2000	Stipulation of Facts and Settlement Agreement submitted for review/approval.
0006	12/12/2000	Final Order approving attached Settlement Agreement.
M0004	12/27/2000	ACCESS ONE COMMUNICATIONS-CHECK FROM ACCESS ONE COMMUNICATIONS
0007	01/04/2001	Receipt of Payment

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE OTHER PHONE COMPANY, INC. D/B/A )  
ACCESS ONE COMMUNICATIONS )  
\_\_\_\_\_ )

CASE NO. 99-325

ALLEGED VIOLATION(S) OF KRS 278.535 )  
SWITCHING OF TELECOMMUNICATIONS )  
PROVIDER )

RECEIPT OF PAYMENT

This is to acknowledge receipt of one check in the amount of \$7,500.00 payable to Kentucky Public Service Commission from Access One Communications. This represents full payment of the penalty assessed against them in the above-styled action.

*Stephanie J. Bell*

Stephanie Bell  
Secretary of the Commission  
Dated 1/4/2001

hv



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
211 SOWER BOULEVARD  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 1999-325  
THE OTHER PHONE COMPANY, INC. DBA ACCESS ONE COMMUNICATIONS

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on December 12, 2000.

Parties of Record:

Kevin Griffo  
President  
The Other Phone Company, Inc.  
dba Access One Communications  
4205 Vineland Road  
Suite L15  
Orlando, FL. 32811

Honorable Scott C. Cox  
Attorney for The Other Phone Company  
d/b/a Access One Communications  
200 Hart Block Building  
730 West Main Street  
Louisville, KY. 40202

Honorable Neil S. Baritz  
Attorney for The Other Phone Company  
d/b/a Access One Communications  
Dreier & Baritz LLP  
150 East Palmetto Park Road  
Suite 401  
Boca Raton, FL. 33432

*Stephanie Bell*

Secretary of the Commission

SB/hv  
Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE OTHER PHONE COMPANY, INC. D/B/A )  
ACCESS ONE COMMUNICATIONS )

CASE NO. 99-325

\_\_\_\_\_)  
ALLEGED VIOLATION(S) OF KRS 278.535 )  
SWITCHING OF TELECOMMUNICATIONS )  
PROVIDER )

O R D E R

On August 12, 1999, the Commission issued its Order in this matter requiring The Other Phone Company, Inc. d/b/a Access One Communications ("Access One") to show cause why it should not be subject to penalties pursuant to applicable law for failure to comply with the provisions of KRS 278.535 in three separate instances. KRS 278.535 requires, among other things, that telecommunications providers maintain a letter of agency or electronic recording demonstrating that each customer knowingly authorized the changing of his presubscribed carrier.

Commission Staff and Access One have executed a Settlement Agreement (the "Agreement"), which is attached hereto. In that agreement, Access One admits that it changed the presubscribed carrier choice of the three customers whose allegations triggered the institution of this case. It also acknowledges that it has not complied with that portion of KRS 278.535 which requires retention of a recording or a letter of authorization demonstrating that the customer knowingly authorized the carrier change.

The Agreement states that Access One will pay to the Kentucky State Treasurer \$7,500 in full settlement of this matter. A check in that amount has been tendered to the Commission. More crucially, however, Access One has taken steps as described in the Agreement to ensure that, in the future, the statutorily required records will be maintained. Accordingly, the Commission finds that the Agreement constitutes a fair and expeditious manner of settling this matter and that it should be accepted.

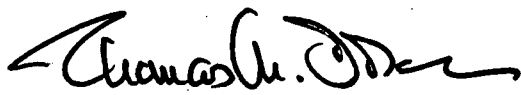
IT IS THEREFORE ORDERED that:

1. The Settlement Agreement dated November 22, 2000, between Commission Staff and Access One, attached hereto and fully incorporated in this Order as if fully set out herein, is hereby accepted in full settlement of this matter.
2. This matter is hereby concluded and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 12th day of December, 2000.

By the Commission

ATTEST:



Executive Director

APPENDIX TO AN ORDER OF THE  
KENTUCKY PUBLIC SERVICE COMMISSION

IN CASE NO. 99-325

DATED 12/12/2000

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE OTHER PHONE COMPANY, INC. D/B/A )  
ACCESS ONE COMMUNICATIONS )

CASE NO. 99-325

\_\_\_\_\_) )  
ALLEGED VIOLATION(S) OF KRS 278.535 )  
SWITCHING OF TELECOMMUNICATIONS )  
PROVIDER )

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into on this 22<sup>nd</sup> day of November, 2000, between The Other Phone Company, Inc. d/b/a Access One Communications ("Access One") and the Staff of the Public Service Commission ("Commission Staff").

WITNESSETH:

WHEREAS, on August 12, 1999, the Public Service Commission ("Commission") issued a show cause Order in Case No. 99-325 against Access One in which it found sufficient evidence to believe that Access One failed to comply with the provisions of KRS 278.535 in three separate counts, to-wit:

COUNT I On or about October 19, 1998, Commission Staff received by telephone a consumer complaint from Mary Frances Clausen, alleging that her local exchange carrier, BellSouth Telecommunications, Inc. ("BellSouth") had been changed or switched without her authority to Access One. Access One could not produce a letter of agency or taped recording required by KRS 278.535 by which Ms. Clausen authorized the primary interexchange carrier ("PIC") switch.

COUNT II On or about February 10, 1999, Commission Staff received a letter from Damon R. Campbell, alleging that his local exchange carrier, BellSouth, had been switched to Access One without his authority. This PIC switch was made in Mr. Campbell's business telephone service at Blue Cross Animal Hospital, 827 East Broadway, Louisville, Kentucky. Access One could not produce a



letter of agency or taped recording as required to be maintained by KRS 278.535 by which Mr. Campbell authorized the PIC switch.

COUNT III On or about December 7, 1998, Commission Staff received by telephone a consumer complaint on behalf of King's Body Shop, Post Office Box 483, Neon, Kentucky, alleging that the business telephone service had been switched from BellSouth to Access One without authorization. Access One could not produce a letter of agency or taped recording as required to be maintained by KRS 278.535 by which proper authorization was received prior to the PIC switch.

WHEREAS, the parties hereto desire to enter into this Settlement Agreement to resolve the issues raised by the Commission's show cause Order, and have in furtherance thereof entered into the stipulations included herein and set out below;

NOW, THEREFORE, the parties mutually stipulate as follows:

1. Access One is a telecommunications provider as defined by KRS 278.535, is authorized to do business in Kentucky, and is subject to the provisions and penalties of KRS 278.535 enforced by the Commission.
2. The facts set out hereinabove in the first preamble paragraph are hereby adopted, acknowledged, and are undisputed.
3. Access One did not comply with KRS 278.535, which required it to maintain a letter of agency or electronically recorded tape authorizing the PIC switches by the customer as set out in Counts I, II, and III above.
4. Access One acknowledges the fact that the PIC switches occurred in Counts I, II, and III. At the time of the PIC switches set out in Counts I, II, and III, Access One used the services of a telemarketing firm which did not have an automated third-party verification system. Access One terminated the contract between itself and the telemarketing firm and entered into an agreement with a third-party verification company which is fully automated.

Access One attributes the three PIC switches involved herein to human error and maintains that it has not willfully or repeatedly violated KRS 278.535.

5. The facts of the PIC switches and alleged violations as set out herein are adopted as part of these stipulations. These stipulations are proposed by Commission Staff and Access One for the purpose of reaching settlement in Case No. 99-325. In the event such settlement is not reached, these stipulations will be withdrawn.

6. Nothing contained herein shall be construed as an admission of a violation of KRS 278.535 by Access One, nor shall the Commission's acceptance of this agreement be construed as a finding of a violation(s) of KRS 278.535 by Access One, and the facts contained herein shall not be cited as precedent in any other proceeding, except to enforce this Settlement Agreement.

NOW, THEREFORE, Access One and Commission Staff agree that:

1. Access One shall be assessed a civil penalty of Two Thousand Five Hundred Dollars (\$2,500) for each of the three counts, or a total of Seven Thousand Five Hundred Dollars (\$7,500).

2. Within 10 days after entry of an Order approving this Settlement Agreement, Access One shall pay the Commonwealth of Kentucky the sum of Seven Thousand Five Hundred Dollars (\$7,500). This payment shall be in the form of a cashier's check made payable to "Treasurer, Commonwealth of Kentucky," and shall be mailed or delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

3. Nothing contained herein shall be construed as an admission of a violation of KRS 278.535 by Access One, nor shall the Commission's acceptance of this agreement be construed as a finding of a violation of the statute by Access One. Neither the payment of a

civil penalty nor any other agreement contained herein shall be construed as an admission of a violation, nor shall it be construed as an admission by Access One of any liability in any legal proceeding or lawsuit arising out of the facts set forth herein. This case shall be terminated upon the entry of a Commission Order accepting the Settlement Agreement in satisfaction of the show cause Order dated August 12, 1999.

4. Upon execution of this Settlement Agreement and entry of the Commission's Order of approval, Access One shall not apply for a rehearing of this matter, nor bring any legal action for judicial review of that Order.

AGREED TO BY:

Scott C. Cox  
SCOTT C. COX  
Counsel for Access One Communications

Date NOV 15, 2000

PUBLIC SERVICE COMMISSION OF KENTUCKY

BY Dale Wright  
DALE WRIGHT, Staff Attorney

Date Nov. 22, 2000



**Paul E. Patton, Governor**

**Ronald B. McCloud, Secretary  
Public Protection and  
Regulation Cabinet**

**Thomas M. Dorman  
Executive Director  
Public Service Commission**

COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
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www.psc.state.ky.us  
(502) 564-3940  
Fax (502) 564-3460

**Martin J. Huelsmann  
Chairman**

**Edward J. Holmes  
Vice Chairman**

**Gary W. Gillis  
Commissioner**

December 6, 2000

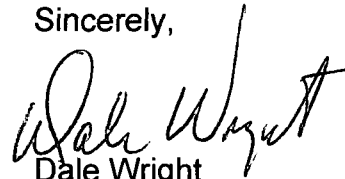
Mr. Thomas M. Dorman  
Executive Director  
Public Service Commission  
Post Office Box 615  
Frankfort, Kentucky 40602

Re: The Other Phone Company, Inc.  
d/b/a Access One Communications  
Case No. 99-325

Dear Mr. Dorman:

Enclosed for filing is a Stipulation of Facts and Settlement Agreement between Commission Staff and The Other Phone Company, Inc. d/b/a Access One Communications which resolves all outstanding issues in Case No. 99-325. The signatories to this Stipulation request that the Commission review and approve this Stipulation.

Sincerely,

  
Dale Wright  
Staff Attorney

Enclosure

cc: Parties of Record  
cc: File



COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

**FILED**  
DEC 06 2000  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

THE OTHER PHONE COMPANY, INC. D/B/A )  
ACCESS ONE COMMUNICATIONS )

CASE NO. 99-325

\_\_\_\_\_)  
)  
ALLEGED VIOLATION(S) OF KRS 278.535 )  
SWITCHING OF TELECOMMUNICATIONS )  
PROVIDER )

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This Settlement Agreement is made and entered into on this 22<sup>nd</sup> day of November, 2000, between The Other Phone Company, Inc. d/b/a Access One Communications ("Access One") and the Staff of the Public Service Commission ("Commission Staff").

WITNESSETH:

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COUNT I On or about October 19, 1998, Commission Staff received by telephone a consumer complaint from Mary Frances Clausen, alleging that her local exchange carrier, BellSouth Telecommunications, Inc. ("BellSouth") had been changed or switched without her authority to Access One. Access One could not produce a letter of agency or taped recording required by KRS 278.535 by which Ms. Clausen authorized the primary interexchange carrier ("PIC") switch.

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letter of agency or taped recording as required to be maintained by KRS 278.535 by which Mr. Campbell authorized the PIC switch.

COUNT III On or about December 7, 1998, Commission Staff received by telephone a consumer complaint on behalf of King's Body Shop, Post Office Box 483, Neon, Kentucky, alleging that the business telephone service had been switched from BellSouth to Access One without authorization. Access One could not produce a letter of agency or taped recording as required to be maintained by KRS 278.535 by which proper authorization was received prior to the PIC switch.

WHEREAS, the parties hereto desire to enter into this Settlement Agreement to resolve the issues raised by the Commission's show cause Order, and have in furtherance thereof entered into the stipulations included herein and set out below;

NOW, THEREFORE, the parties mutually stipulate as follows:

1. Access One is a telecommunications provider as defined by KRS 278.535, is authorized to do business in Kentucky, and is subject to the provisions and penalties of KRS 278.535 enforced by the Commission.

2. The facts set out hereinabove in the first preamble paragraph are hereby adopted, acknowledged, and are undisputed.

3. Access One did not comply with KRS 278.535, which required it to maintain a letter of agency or electronically recorded tape authorizing the PIC switches by the customer as set out in Counts I, II, and III above.

4. Access One acknowledges the fact that the PIC switches occurred in Counts I, II, and III. At the time of the PIC switches set out in Counts I, II, and III, Access One used the services of a telemarketing firm which did not have an automated third-party verification system. Access One terminated the contract between itself and the telemarketing firm and entered into an agreement with a third-party verification company which is fully automated.

Access One attributes the three PIC switches involved herein to human error and maintains that it has not willfully or repeatedly violated KRS 278.535.

5. The facts of the PIC switches and alleged violations as set out herein are adopted as part of these stipulations. These stipulations are proposed by Commission Staff and Access One for the purpose of reaching settlement in Case No. 99-325. In the event such settlement is not reached, these stipulations will be withdrawn.

6. Nothing contained herein shall be construed as an admission of a violation of KRS 278.535 by Access One, nor shall the Commission's acceptance of this agreement be construed as a finding of a violation(s) of KRS 278.535 by Access One, and the facts contained herein shall not be cited as precedent in any other proceeding, except to enforce this Settlement Agreement.

NOW, THEREFORE, Access One and Commission Staff agree that:

1. Access One shall be assessed a civil penalty of Two Thousand Five Hundred Dollars (\$2,500) for each of the three counts, or a total of Seven Thousand Five Hundred Dollars (\$7,500).

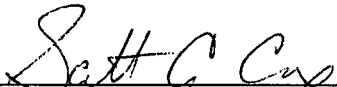
2. Within 10 days after entry of an Order approving this Settlement Agreement, Access One shall pay the Commonwealth of Kentucky the sum of Seven Thousand Five Hundred Dollars (\$7,500). This payment shall be in the form of a cashier's check made payable to "Treasurer, Commonwealth of Kentucky," and shall be mailed or delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

3. Nothing contained herein shall be construed as an admission of a violation of KRS 278.535 by Access One, nor shall the Commission's acceptance of this agreement be construed as a finding of a violation of the statute by Access One. Neither the payment of a

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4. Upon execution of this Settlement Agreement and entry of the Commission's Order of approval, Access One shall not apply for a rehearing of this matter, nor bring any legal action for judicial review of that Order.

AGREED TO BY:

  
\_\_\_\_\_  
SCOTT C. COX  
Counsel for Access One Communications

Date NOV 15, 2000

PUBLIC SERVICE COMMISSION OF KENTUCKY

BY   
\_\_\_\_\_  
DALE WRIGHT, Staff Attorney

Date Nov. 22, 2000





**Paul E. Patton, Governor**

**Ronald B. McCloud, Secretary  
Public Protection and  
Regulation Cabinet**

**Thomas M. Dorman  
Executive Director  
Public Service Commission**

**COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION**  
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(502) 564-3940  
Fax (502) 564-3460

**Martin J. Huelsmann  
Chairman**

**Edward J. Holmes  
Vice Chairman**

**Gary W. Gillis  
Commissioner**

October 18, 2000

Mr. Scott C. Cox  
200 Hart Block Building  
730 West Main Street  
Louisville, Kentucky 40202

Re: The Other Phone Company, Inc. d/b/a Access One Communications  
Case No. 99-325

Dear Mr. Cox:

This is a reply to your letter of October 17, 2000, regarding the Commission's rejection of the settlement agreement of \$1,500. The maximum penalty that could have been assessed was \$10,000 per violation, plus an additional \$2,500 on each count. No doubt you have examined some of the recent decisions of this Commission regarding slamming cases. One company was given a \$10,000 penalty per violation and a suspension of its authority to do business in Kentucky. This has nothing to do with what I personally think is fair and equitable, but it clearly reflects that the Commission intends to do serious damage to companies that slam. There was another case decided at the same time the show cause Order was issued to Access One. We have negotiated for all of these months on that case and now the company has decided to take its chances, have a hearing, and let the Commission decide the penalty. Certainly, this opportunity is open for Ken Griffo and Access One.

You have been mistakenly informed about the people involved in the informal conference. I was present and Bob Johnston, Director of Consumer Services, was present. There were no Commissioners present at that conference with Ken Griffo. A memo was prepared by me, sent to the Commission in advance, which recommended unequivocally that the \$1,500 settlement is what the "team" on this case determined was the best way to deal with the matter. The Commission simply said, "No," and the rejection was unequivocal. Mr. Griffo, Bob Johnston, and you and I understood that that settlement agreement had to go before the Commission for their approval. The Commission was clear that they would tolerate a \$7,500 penalty, but didn't necessarily think it was sufficient. Furthermore, in the last several hearings on other slamming cases, the full Commission has been present to hear the evidence.


Mr. Scott C. Cox  
October 18, 2000  
Page Two

Normally and usually it is a designated hearing officer. All I've tried to impart to you is that this Commission is ready and primed and is levying penalties that are quite severe. If Mr. Griffo chooses, we can take these three cases to hearing and go from there.

I do know that the Commission is getting ready to call me on the carpet as is the Executive Director and my Director, because I have not resolved this case, nor brought it to hearing.

We have two choices. First, we set a hearing date and proceed to hearing. Second, in lieu of hearing, we submit the matter on the record to the Commission for their decision. The only alternative method would be to execute an amendment to the settlement agreement changing only the amount of penalty to be paid. In light of all that has transpired, including the Commission's desire to conclude the matter, I need to know something concrete within the next ten days. If you have any questions, please don't hesitate to call me.

Sincerely yours,

  
Dale Wright  
Staff Attorney

DW:v  
Enclosure

RECEIVED

JAN 26 2000

PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of: )  
 )  
**THE OTHER PHONE COMPANY, INC. D/B/A** )  
**ACCESS ONE COMMUNICATIONS** )  
 )  
 v. )  
 )  
**ALLEGED VIOLATION(S) OF KRS 278.535** )  
**SWITCHING OF TELECOMMUNICATIONS** )  
**PROVIDER** )  
 )

Case No. 99-325

**THE OTHER PHONE COMPANY, INC. D/B/A**  
**ACCESS ONE COMMUNICATIONS' SUPPLEMENTAL RESPONSE**

Now comes The Other Phone Company, Inc., d/b/a Access One Communications ("Access One"), by and through its undersigned attorneys, for its Supplemental Response in the above-referenced matter, states as follows:

1. On or about December 1, 1999 an informal conference was held in the offices of the Public Service Commission. Representatives of the Commission requested that Access One file a supplemental response detailing steps taken by Access One to ensure future compliance with KRS 278.535. In response to the Commission's request, undersigned counsel states as follows:

A. The representative of Access One who is responsible for the human error in the three matters referred to in case number 99-325 had his employment with Access One terminated.

B. All orders are now electronically downloaded from Bell South into a file. Access One has developed a program to take this file and electronically input this information into the

Access One database. This will eliminate approximately 90% of human intervention on orders and thus eliminate the possibility of human error in transposing a digit.

C. Access One has fired the telemarketing firm which did not have an automated third party verification system.

D. Access One has contracted with a third party verification company that is completely automated which eliminates any questions or deviations during the validation process. This information is forwarded to Access One on a daily basis and stored on a system for immediate access.

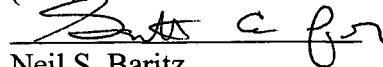
E. Access One has implemented a policy to call every customer that a telemarketing firm has sold to and that the third party verification company verify, prior to switching any customers' service. This step was implemented to ensure that the new customer is aware of Access One and was further aware of Access One's policies and procedures.

**WHEREFORE**, The Other Phone Company, d/b/a Access One Communications respectfully requests that this matter be dismissed in its entirety and the records of the Kentucky Public Service Commission be modified to so reflect.

Respectfully submitted,



Scott C. Cox  
200 Hart Block Building  
730 West Main Street  
Louisville, Kentucky 40202  
(502) 589-6190



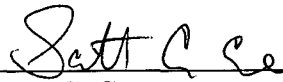
Neil S. Baritz  
Dreier & Baritz LLP  
150 East Palmetto Park Road, Suite 401  
Boca Raton, Florida 33432  
(561) 750-0910  
Attorneys for The Other Phone Company, Inc.,  
d/b/a Access One Communications

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing ~~Answer~~ <sup>Supp. Resp.</sup> was sent by  
U.S. Mail to:

Helen Helton, Executive Director  
Kentucky Public Service Commission  
730 Schenkel Lane  
P.O. Box 615  
Frankfort, Kentucky 40602

this 24 day of January, 2000.

  
\_\_\_\_\_  
Scott C. Cox



COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION  
730 SCHENKEL LANE  
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Fax (502) 564-1582

Ronald B. McCloud, Secretary  
Public Protection and  
Regulation Cabinet

Helen C. Helton  
Executive Director  
Public Service Commission

Paul E. Patton  
Governor

December 3, 1999

Mr. Scott C. Cox  
200 Hart Block Building  
730 West Main Street  
Louisville, KY 40202

Re: Case No. 99-258  
Country Lady & Gent, Thomas Ray Cullen and Norma J. Cullen  
vs. The Other Phone Company a/k/a Access One Communications

and

Case No. 99-325  
The Other Phone Company, Inc. d/b/a Access One Communications  
Alleged Violations

Dear Mr. Cox:

Attached is a copy of the memorandum which is being filed into the record of the above-referenced case. As counsel of record, you may distribute the memorandum to your client and any others you deem appropriate.

If you have any comments that you would like to make regarding the contents of the informal conference memorandum, please do so within five days of receipt of this letter. If you have any questions, please contact Dale Wright at 502/564-3940, Extension 235.

Sincerely,

A handwritten signature in black ink that reads "Helen C. Helton".

Helen C. Helton  
Executive Director

DW:v  
Attachment

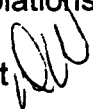
**FILED**

**INTRA-AGENCY MEMORANDUM**

DEC 03 1999

**KENTUCKY PUBLIC SERVICE COMMISSION PUBLIC SERVICE  
COMMISSION**

**TO: Main Case File 99-258**  
Country Lady & Gent, Thomas Ray Cullen and Norma J. Cullen  
vs. The Other Phone Company a/k/a Access One Communications  
and  
**Main Case File 99-325**  
The Other Phone Company, Inc. d/b/a Access One Communications  
Alleged Violations

**FROM: Dale Wright** 

**DATE: December 3, 1999**

**SUBJECT: Informal Conference**

On December 1, 1999, an informal conference was held in the Commission's offices. Present on behalf of the Commission were Dale Wright and Bob Johnston. Present on behalf of The Other Phone Company (also known as and now known as Access One) was Kevin Griffo, President. This was a joint informal conference concerning the facts and allegations of the two cases captioned above.

Access One is represented by Attorney Scott C. Cox, who was unable to attend the conference. I personally called Mr. Cox to seek his authorization to conduct the conference without his presence. Mr. Cox clearly authorized that the conference could be conducted without him and that Mr. Griffo desired that the conference be held.

Discussed first was the formal complaint in Case No. 99-258. The complainants, Thomas Ray Cullen and Norma J. Cullen, request that they be reimbursed for all expenses resulting from the alleged improper pick/switch. Mr. Griffo was advised that the complaint would be resolved and disposed of if Access One would satisfy the complainants' request. Staff suggested that Mr. Cox file a supplemental response detailing the date(s) of compliance and the amounts. If the complainants were "satisfied" and Access One could show proof by means of supplemental response, the case would go to the Commission with the recommendation that Case No. 99-258 be closed.

Second, we discussed the show cause Order issued in Case No. 99-325. The Order involved three alleged violations of KRS 278.535, as follows: (1) Mary Frances Clausen, (2) Dr. Damon R. Campbell, owner and operator of the Blue Cross Animal Hospital, and (3) King's Body Shop located in Neon, Kentucky. The answer filed on October 21, 1999 by Access One does not dispute the facts contained in the show

MEMORANDUM: Informal Conference  
The Other Phone Company  
December 3, 1999

cause Order. Access One could not produce a letter of authorization or tape recording for any of the three alleged violations. As mitigation, Mr. Griffo explained in detail the remedial measures initiated by Access One to eliminate potential violations of KRS 278.535. Since the facts are undisputed, Staff requested that Access One file a supplemental response or answer setting out in detail the actions taken to assure compliance with KRS 278.535.

Staff and Mr. Griffo discussed a varying range of penalty which would be recommended to the Commission. It was determined that in Case No. 99-258, only complete satisfaction of the consumer complaint would be necessary. But, in Case No. 99-325, Staff recommends to the Commission a penalty of \$2,500 for each violation (or a total penalty of \$7,500) with immediate payment of \$1,500 and with discharge or suspension of the balance of \$6,000 on condition that Access One not be found, by whatever means, in violation of KRS 278.535 for a period of twelve months from the date of the Commission's final Order in Case No. 99-325. Staff recommends suspension of the penalty balance in view of the fact that the steps taken by Access One in remedying its violations have reduced the number of complaints during 1999 to one only.





COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KENTUCKY 40602  
www.psc.state.ky.us  
(502) 564-3940  
Fax (502) 564-1582

**Ronald B. McCloud, Secretary**  
**Public Protection and**  
**Regulation Cabinet**

**Helen C. Helton**  
**Executive Director**  
**Public Service Commission**

**Paul E. Patton**  
**Governor**

December 3, 1999

Mr. Scott C. Cox  
200 Hart Block Building  
730 West Main Street  
Louisville, KY 40202

Re: Case No. 99-258  
Country Lady & Gent, Thomas Ray Cullen and Norma J. Cullen  
vs. The Other Phone Company a/k/a Access One Communications

and

Case No. 99-325  
The Other Phone Company, Inc. d/b/a Access One Communications  
Alleged Violations

Dear Mr. Cox:

Attached is a copy of the memorandum which is being filed into the record of the above-referenced case. As counsel of record, you may distribute the memorandum to your client and any others you deem appropriate.

If you have any comments that you would like to make regarding the contents of the informal conference memorandum, please do so within five days of receipt of this letter. If you have any questions, please contact Dale Wright at 502/564-3940, Extension 235.

Sincerely,

A handwritten signature in cursive script that reads "Helen C. Helton".

Helen C. Helton  
Executive Director

DW:v  
Attachment


**INTRA-AGENCY MEMORANDUM**

**KENTUCKY PUBLIC SERVICE COMMISSION**

**TO: Main Case File 99-258**  
Country Lady & Gent, Thomas Ray Cullen and Norma J. Cullen  
vs. The Other Phone Company a/k/a Access One Communications

and

**Main Case File 99-325**  
The Other Phone Company, Inc. d/b/a Access One Communications  
Alleged Violations

**FROM: Dale Wright** 

**DATE: December 3, 1999**

**SUBJECT: Informal Conference**

On December 1, 1999, an informal conference was held in the Commission's offices. Present on behalf of the Commission were Dale Wright and Bob Johnston. Present on behalf of The Other Phone Company (also known as and now known as Access One) was Kevin Griffo, President. This was a joint informal conference concerning the facts and allegations of the two cases captioned above.

Access One is represented by Attorney Scott C. Cox, who was unable to attend the conference. I personally called Mr. Cox to seek his authorization to conduct the conference without his presence. Mr. Cox clearly authorized that the conference could be conducted without him and that Mr. Griffo desired that the conference be held.

Discussed first was the formal complaint in Case No. 99-258. The complainants, Thomas Ray Cullen and Norma J. Cullen, request that they be reimbursed for all expenses resulting from the alleged improper pick/switch. Mr. Griffo was advised that the complaint would be resolved and disposed of if Access One would satisfy the complainants' request. Staff suggested that Mr. Cox file a supplemental response detailing the date(s) of compliance and the amounts. If the complainants were "satisfied" and Access One could show proof by means of supplemental response, the case would go to the Commission with the recommendation that Case No. 99-258 be closed.

Second, we discussed the show cause Order issued in Case No. 99-325. The Order involved three alleged violations of KRS 278.535, as follows: (1) Mary Frances Clausen, (2) Dr. Damon R. Campbell, owner and operator of the Blue Cross Animal Hospital, and (3) King's Body Shop located in Neon, Kentucky. The answer filed on October 21, 1999 by Access One does not dispute the facts contained in the show

MEMORANDUM: Informal Conference  
The Other Phone Company  
December 3, 1999

cause Order. Access One could not produce a letter of authorization or tape recording for any of the three alleged violations. As mitigation, Mr. Griffo explained in detail the remedial measures initiated by Access One to eliminate potential violations of KRS 278.535. Since the facts are undisputed, Staff requested that Access One file a supplemental response or answer setting out in detail the actions taken to assure compliance with KRS 278.535.

Staff and Mr. Griffo discussed a varying range of penalty which would be recommended to the Commission. It was determined that in Case No. 99-258, only complete satisfaction of the consumer complaint would be necessary. But, in Case No. 99-325, Staff recommends to the Commission a penalty of \$2,500 for each violation (or a total penalty of \$7,500) with immediate payment of \$1,500 and with discharge or suspension of the balance of \$6,000 on condition that Access One not be found, by whatever means, in violation of KRS 278.535 for a period of twelve months from the date of the Commission's final Order in Case No. 99-325. Staff recommends suspension of the penalty balance in view of the fact that the steps taken by Access One in remedying its violations have reduced the number of complaints during 1999 to one only.



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

November 9, 1999

To: All parties of record

RE: Case No. 99-258 & Case No. 99-325

We enclose one attested copy of the Commission's Order in  
the above cases

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure

Kevin Griffith  
President  
The Other Phone Company, Inc.  
dba Access One Communications  
4205 Vineland Road  
Suite L15  
Orlando, FL 32811

Thomas Ray  
& Norma Jean Cullen  
970 U.S. Highway, 62 East  
Eddyville, KY 42038

Nettecha Jackson  
Customer Service Supervisor  
Access One Communications  
3427 N.W. 55th Street  
Fort Lauderdale, FL 33309

Honorable Scott C. Cox  
Attorney for The Other Phone Company  
d/b/a Access One Communications  
200 Hart Block Building  
730 West Main Street  
Louisville, KY 40202

Honorable Neil S. Baritz  
Attorney for The Other Phone Company  
d/b/a Access One Communications  
Dreier & Baritz LLP  
150 East Palmetto Park Road  
Suite 401  
Boca Raton, FL 33432

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matters of:

THE OTHER PHONE COMPANY, INC. )  
D/B/A ACCESS ONE COMMUNICATIONS )  
\_\_\_\_\_)  
ALLEGED VIOLATION(S) OF KRS 278.535 )  
SWITCHING OF TELECOMMUNICATIONS )  
PROVIDER )

CASE NO. 99-325

COUNTRY LADY & GENT, THOMAS RAY )  
CULLEN, AND NORMA J. CULLEN )  
COMPLAINANTS )  
v. )  
THE OTHER PHONE COMPANY, INC. )  
D/B/A ACCESS ONE COMMUNICATIONS )  
DEFENDANT )

CASE NO. 99-258

O R D E R

The Other Phone Company, Inc., doing business as Access One Communications ("Access One"), has filed its answers and responses in these proceedings and has requested an informal conference. The Commission, finding good cause, HEREBY ORDERS that:

1. The hearing scheduled for November 18, 1999 is cancelled in order to schedule an informal conference.
2. An informal conference is scheduled on December 1, 1999, at 10:30 a.m., Eastern Standard Time, in Conference Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.

3. Access One shall bring all documents to support its position and shall be represented by counsel or a corporate officer authorized to enter into a settlement agreement.

Done at Frankfort, Kentucky, this 9th day of November, 1999.

By the Commission

ATTEST:

  
Executive Director

**SCOTT C. COX**

Attorney at Law

200 Hart Block Building  
730 West Main Street  
Louisville, Kentucky 40202

Office: (502) 589-6190  
FAX: (502) 584-1744

October 20, 1999

RECEIVED

OCT 21 1999

PUBLIC SERVICE  
COMMISSION

Ms. Helen Helton  
Executive Director  
Kentucky Public Service Commission  
P.O. Box 615  
Frankfort, Kentucky 40602

**Re: *The Other Phone Company, Inc. d/b/a Access One Communications v.  
Alleged Violation(s) of KRS 278.535 Switching of Telecommunications  
Provider***  
**Case No. 99-325**

Dear Ms. Helton:

Enclosed for filing please find one original plus ten copies of an Answer in the above-styled matter. I have also enclosed a copy to be filed-stamped and returned to me in the envelope provided.

Thank you for your assistance in this matter. If you have any questions, please don't hesitate to contact me.

Cordially,



Scott C. Cox

SCC:sls  
Enclosures



**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

RECEIVED

OCT 21 1999

PUBLIC SERVICE  
COMMISSION

**In the Matter of:** )  
 )  
**THE OTHER PHONE COMPANY, INC. D/B/A** )  
**ACCESS ONE COMMUNICATIONS** )  
 )  
 )  
 )  
 )  
**v.** )  
 )  
**ALLEGED VIOLATION(S) OF KRS 278.535** )  
**SWITCHING OF TELECOMMUNICATIONS** )  
**PROVIDER** )  
 )

**Case No. 99-325**

**ANSWER**

The Other Phone Company, Inc., d/b/a Access One Communications ("Access One"), by and through its undersigned attorneys, for its Answer, states as follows:

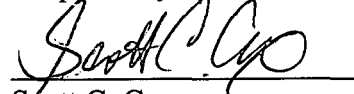
1. As to each of Count I, II and III, Access One's operating procedures require the Company to confirm and independently verify by tape recording the authorization of the switch of each customer's local telephone service provided to Access One.
2. Pursuant to internal operating protocols and consistent with the requirement of Kentucky Statutes, Chapter 278, Access One utilized the services of Marketing Group, Inc., an independent verification service, to tape record and verify such decision.
3. The tape recordings include, among other things, the identification of the business, the identification of the person authorizing the switch and the date of birth of such person.
4. In accordance with Access One internal operating protocols, a third telephone call is made to each customer by an in-house representative of Access One for the purpose of again verifying the customer's desire to switch local telephone service to Access One.

5. This three step policy is universally applied by Access One in the ordinary conduct of its business.

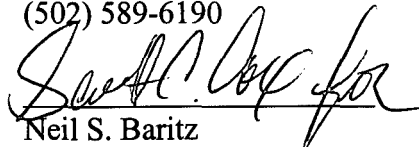
6. While Access One has been unable to locate copies of any records or tape recordings verifying the determination of each complaining customer to switch local telephone service to Access One, Access One can provide testimonial evidence of its policies and practices and the implementation thereof, including copies of tape recordings of other customers, and the absence of physical records is not an indication of Access One's failure to comply with Kentucky Statutes, Chapter 278.

**WHEREFORE**, The Other Phone Company, Inc., d/b/a Access One Communications respectfully requests that this matter be dismissed in its entirety and the records of the Kentucky Service Commission be modified to so reflect. The Other Phone Company, Inc., d/b/a Access One Communications further requests that this matter be set down for an informal conference in lieu of a hearing.

Respectfully submitted,



Scott C. Cox  
200 Hart Block Building  
730 West Main Street  
Louisville, Kentucky 40202  
(502) 589-6190



Neil S. Baritz  
Dreier & Baritz LLP  
150 East Palmetto Park Road, Suite 401  
Boca Raton, Florida 33432  
(561) 750-0910

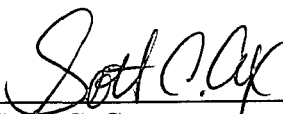
Attorneys for The Other Phone Company, Inc.,  
d/b/a Access One Communications

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing Answer was sent by U.S. Mail to:

Helen Helton, Executive Director  
Kentucky Public Service Commission  
730 Schenkel Lane  
P.O. Box 615  
Frankfort, Kentucky 40602

this 20 day of October, 1999.

  
\_\_\_\_\_  
Scott C. Cox



(FAX)

September 30, 1999

Mr. Dale Wright  
Kentucky Public Service Commission  
730 Schenkel Lane  
Frankfort, KY 40602

RECEIVED  
SEP 30 1999  
PUBLIC SERVICE  
COMMISSION

Re: Case No. 99-325

Dear Mr. Wright,

I am following up on our response to the Commission for case number 99-325.

I had asked Ms. Nettecha Jackson to handle this response and after reviewing her letter today, I noticed she failed to ask the commission for an informal hearing to resolve the matter.

I would very much like to come and meet with the staff in hopes of eliminating the need for a full hearing on this issue. I'm sure after meeting with everyone, the staff will agree that it is not our intent to switch someone without their approval and that this manual error was something out of the ordinary for Access One. Our systems with BellSouth are now automated to the point that human error is almost 100% eliminated.

I look forward to meeting with you and the staff to discuss this further.

Sincerely,

Kevin D. Griffo  
President



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

August 12, 1999

Kevin Griffo  
President  
The Other Phone Company, Inc.  
dba Access One Communications  
4205 Vineland Road  
Suite L15  
Orlando, FL. 32811

RE: Case No. 99-325

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

*Stephanie D. Bell*  
Stephanie Bell  
Secretary of the Commission

4  
SB/hv  
Enclosure

Z 306 651 590



Receipt for Certified Mail

No Insurance Coverage Provided  
Do not use for International Mail  
(See Reverse)

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:  
Other Phone Company d./b/a  
Access One Communications  
Att: Kevin Griffo, President  
4205 Vineland Road, Suite L-15  
Orlando, FL 32811

4a. Article Number  
P536 201 319

4b. Service Type  
 Registered  Certified  
 Express Mail  Insured  
 Return Receipt for Merchandise  COD

7. Date of Delivery  
8/16-99

5. Received By: (Print Name)  
Kotrave Thomas

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)  
X *Kotrave Thomas*

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

Sent to CSC-Lawyers Incorporating	
Service Company	
421 West Main Street Frankfort, KY 40601	
Postage	\$ .77
Certified Fee	1.40
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	1-25
TOTAL Postage & Fees	\$ 3.42
Postmark or Date	Case No. 99-325

P 536 201 319

US Postal Service  
Receipt for Certified Mail

No Insurance Coverage Provided.  
Do not use for International Mail (See reverse)

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:  
CSC-Lawyers Incorporating Service  
Company  
421 West Main Street  
Frankfort, KY 40601

4a. Article Number  
Z 306 651 590

4b. Service Type  
 Registered  Certified  
 Express Mail  Insured  
 Return Receipt for Merchandise  COD

7. Date of Delivery  
AUG 10 1999

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)  
X *Shawn Roberts*

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

Sent to Other Phone Co. d/b/a	
Access One Communications	
Att: Kevin Griffo, President 4205 Vineland Road, STE L-15 Orlando, FL 32811	
Postage	\$ .77
Certified Fee	1.40
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	1-25
TOTAL Postage & Fees	\$ 3.42
Postmark or Date	Case No. 99-325

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE OTHER PHONE COMPANY, INC. D/B/A )  
ACCESS ONE COMMUNICATIONS )  

---

ALLEGED VIOLATION(S) OF KRS 278.535 )  
SWITCHING OF TELECOMMUNICATIONS )  
PROVIDER )

CASE NO. 99-325

O R D E R

The Other Phone Company, Inc. ("Other Phone") doing business as Access One Communications is a communications provider as defined in KRS 278.535(1)(a), is authorized to do business in Kentucky, and is subject to the Commission's jurisdiction. On June 9, 1998, Other Phone filed with the Commission its initial schedule of rates and services (tariff). Other Phone's tariff became effective on July 9, 1998. Records of the Office of Secretary of State of the Commonwealth of Kentucky reflect that Other Phone, identification number 0454550, has been authorized to do business in the state of Kentucky since on or about April 1, 1998. Said records state that the registered agent for Other Phone is CSC-Lawyers Incorporating Service Company, 421 West Main Street, Frankfort, Kentucky 40601, and that Kevin Griffo is president of Other Phone with principal offices at 3427 NW 55 Street, Fort Lauderdale, Florida 33309. The Commission Staff has records indicating that the principal office of Other Phone has been changed to 4205 Vineland Road, Suite L-15, Orlando, Florida 32811.

KRS 278.535(7) prescribes specific statutory procedures for the proper changing of the primary telecommunications carrier of a customer.

### COUNT I

1. On or about October 29, 1998, Mary Frances Clausen reported to Commission Staff by telephone that her local exchange carrier had been changed from BellSouth Telecommunications, Inc. ("BellSouth") to Other Phone without her authority or permission. Ms. Clausen's telephone number is 502/228-1083.

2. By letter dated March 9, 1999, Other Phone was notified of the complaint received by Commission Staff from Ms. Clausen. A carrier change was made in her service by or on behalf of Other Phone that was unauthorized. The letter requested that Other Phone provide to Commission Staff appropriate evidence that the carrier change was authorized by Ms. Clausen. KRS 278.535(2) places the burden of proof on Other Phone to show that Ms. Clausen knowingly authorized the carrier change. Other Phone was unable to provide the requisite statutory proof that the carrier change in Ms. Clausen's service was properly authorized. A copy of said letter is attached hereto and marked Appendix Count I.

3. Commission Staff, after investigation, has been unable to obtain or secure any written authorization or electronically recorded authorization of Ms. Clausen that properly authorized the carrier change.

### COUNT II

1. On or about February 10, 1999, Damon R. Campbell reported by letter to Commission Staff that the local exchange carrier for his office, Blue Cross Animal Hospital, 827 East Broadway, Louisville, Kentucky had been changed from BellSouth to Other Phone without his authority or permission. The business telephone number is 502/568-6493.



2. By letter dated February 11, 1999, Other Phone was notified of the above-named complaint received by Commission Staff from Mr. Campbell. A carrier change had been made in his business service by or on behalf of Other Phone that was unauthorized. The letter requested that Other Phone provide to Commission Staff appropriate evidence to meet the statutory requisite that the change was authorized by Mr. Campbell. KRS 278.535(2) places the burden of proof on Other Phone to show that Mr. Campbell knowingly authorized the carrier change. Other Phone was unable to provide any appropriate proof authorizing the change. A copy of said letter is attached hereto and marked Appendix Count II.

3. Commission Staff, after investigation, has been unable to obtain or secure any written authorization or electronically recorded authorization of Mr. Campbell that properly authorized the carrier change.

### COUNT III

1. On or about December 7, 1998, an employee of King's Body Shop, Post Office Box 483, Neon, Kentucky, reported to Commission Staff by telephone that the local exchange carrier for the business phone had been changed from BellSouth to Other Phone without authority or permission from anyone on behalf of King's Body Shop. The business telephone number is 606/855-4898.

2. Commission Staff, after investigation, has been unable to obtain or secure any written authorization or electronically recorded authorization of anyone on behalf of King's Body Shop that properly authorized the carrier change.

The Commission, based upon the foregoing facts as set out in each Count, finds sufficient evidence to believe that Other Phone has violated KRS 278.535 in Counts I, II, and III herein.

The Commission, on its own motion, HEREBY ORDERS that:

1. Other Phone d/b/a Access One Communications shall submit to the Commission within 20 days of the date of receipt of this Order a response to the allegations contained in each Count above.

2. Other Phone shall appear on November 18, 1999 at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky for the purpose of presenting evidence in each Count herein regarding the alleged violation(s) of KRS 278.535, and showing cause, if any, why it should not be subject to the penalties prescribed in KRS 278.535(6).

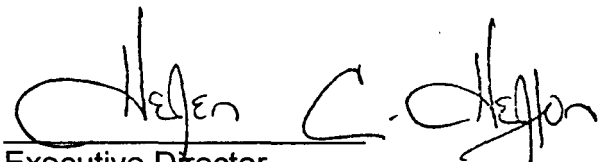
3. The letters attached hereto and marked Appendix Count I and Appendix Count II are made a part of the record herein.

4. Any request for informal conference with Commission Staff to consider any matter which would expedite the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of receipt of this Order.

Done at Frankfort, Kentucky, this 12th day of August, 1999.

By the Commission

ATTEST:

  
Executive Director



COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KENTUCKY 40602  
(502) 564-3940

March 9, 1999

Mr. Ken Griffo  
The Other Phone Company, Inc.  
4205 Vineland Road, Suite L15  
Orlando, FL 32811

RE: File No. 199803536 – M. F. (Mary Frances) Clausen  
502-228-1083

Dear Mr. Griffo:

The Kentucky Public Service Commission has received an informal complaint from Mary Frances Clausen in Goshen, Kentucky, alleging that your company changed her long distance telephone service provider without permission. This matter is currently being investigated by Commission staff, who would like to give you the opportunity to respond to this complaint.

Pursuant to KRS 278.535, a customer's telecommunications provider may not be switched to another provider without the customer's signed letter of agency or the electronically recorded authorization of the customer. Under either method, the authorization must indicate that the customer knowingly approved the specific details of the switch. The statute also states that the burden of proof to show that the customer knowingly authorized the change is placed upon the provider who claims to have obtained customer authorization for the switch. Your utility is, therefore, requested to provide appropriate proof of the customer's authorization in accordance with one of the following three (3) verification procedures prescribed in 807 KAR 5:062, Section 2:

- 1) A letter of agency from the customer that:
  - a) authorizes the change;
  - b) demonstrates that the customer understands what occurs when a PIC is changed;
  - c) states the customer's billing name and address and each telephone number to be covered by the PIC change order;
  - d) demonstrates that the customer understands the PIC change fee;
  - e) if the PIC change order applies to a number in an area with a Two-PIC system, clearly states whether the customer has authorized the change of his intraLATA PIC, his interLATA PIC, or both; or

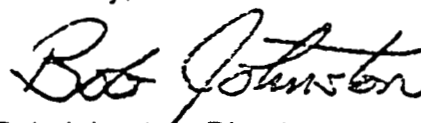
- 2) The IXC has obtained the customer's electronic authorization, placed from a telephone number on which the customer's PIC is to be changed, to submit a PIC change order. The electronic authorization shall include the information described in subsection (1)(a)-(e) of this section. IXCs electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. A call to the number(s) will connect a customer to a voice response unit, or similar mechanism, that records the required information and automatically records the originating number; or
- 3) An appropriately qualified and independent third party operating in a location physically separate from the IXC's telemarketing representative has obtained the customer's electronic authorization to submit the PIC change order. The electronic authorization shall include the information described in subsection (1)(a)-(e) of this section and appropriate verification data such as the customer's date of birth or social security number.

Please provide a written response to the complainant's allegation along with a description of the verification method used by your company to complete the PIC change. Also provide the appropriate evidence of the authorization such as a signed letter of agency or voice recording of the customer's electronic authorization. We would appreciate receiving your response to this informal complaint no later than March 26, 1999. If you do not respond, the matter may be referred to the Commission for formal resolution.

The Commission considers any violation of KRS 278.535 to be serious and will consider taking appropriate action against a long distance carrier found to have unlawfully "slammed" a customer. KRS 278.535 authorizes the Commission to suspend, restrict, or revoke the certificate of a telecommunications provider to provide service in Kentucky and impose a civil penalty of up to ten thousand dollars (\$10,000) for each violation of the statute.

Your company's cooperation in this matter is greatly appreciated. We look forward to receiving your timely response.

Sincerely,



Bob Johnston, Director  
Consumer Services Division



COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KENTUCKY 40602  
(502) 364-3940

February 11, 1999

Kevin Griffo  
The Other Phone Company, Inc.  
4205 Vineland Road, Suite L15  
Orlando, FL 32811

RE: File No. 199900489 – Blue Cross Animal Hospital

Dear Mr. Griffo:

The Kentucky Public Service Commission has received an informal complaint from Damon R. Campbell of Blue Cross Animal Hospital of Louisville, Kentucky, alleging that your company changed his long distance telephone service provider without permission. This matter is currently being investigated by Commission staff, who would like to give you the opportunity to respond to this complaint.

Pursuant to KRS 278.535, a customer's telecommunications provider may not be switched to another provider without the customer's signed letter of agency or the electronically recorded authorization of the customer. Under either method, the authorization must indicate that the customer knowingly approved the specific details of the switch. The statute also states that the burden of proof to show that the customer knowingly authorized the change is placed upon the provider who claims to have obtained customer authorization for the switch. Your utility is, therefore, requested to provide appropriate proof of the customer's authorization in accordance with one of the following three (3) verification procedures prescribed in 807 KAR 5:062, Section 2:

- 1) A letter of agency from the customer that:
  - a) authorizes the change;
  - b) demonstrates that the customer understands what occurs when a PIC is changed;
  - c) states the customer's billing name and address and each telephone number to be covered by the PIC change order;
  - d) demonstrates that the customer understands the PIC change fee;
  - e) if the PIC change order applies to a number in an area with a Two-PIC system, clearly states whether the customer has authorized the change of his intraLATA PIC, his interLATA PIC, or both; or

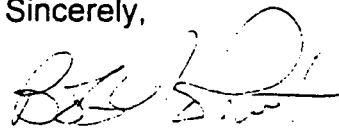
- 2) The IXC has obtained the customer's electronic authorization, placed from a telephone number on which the customer's PIC is to be changed, to submit a PIC change order. The electronic authorization shall include the information described in subsection (1)(a)-(e) of this section. IXCs electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. A call to the number(s) will connect a customer to a voice response unit, or similar mechanism, that records the required information and automatically records the originating number; or
- 3) An appropriately qualified and independent third party operating in a location physically separate from the IXC's telemarketing representative has obtained the customer's electronic authorization to submit the PIC change order. The electronic authorization shall include the information described in subsection (1)(a)-(e) of this section and appropriate verification data such as the customer's date of birth or social security number.

Please provide a written response to the complainant's allegation along with a description of the verification method used by your company to complete the PIC change. Also provide the appropriate evidence of the authorization such as a signed letter of agency or voice recording of the customer's electronic authorization. We would appreciate receiving your response to this informal complaint no later than March 3, 1999. If you do not respond, the matter may be referred to the Commission for formal resolution.

The Commission considers any violation of KRS 278.535 to be serious and will consider taking appropriate action against a long distance carrier found to have unlawfully "slammed" a customer. KRS 278.535 authorizes the Commission to suspend, restrict, or revoke the certificate of a telecommunications provider to provide service in Kentucky and impose a civil penalty of up to ten thousand dollars (\$10,000) for each violation of the statute.

Your company's cooperation in this matter is greatly appreciated. We look forward to receiving your timely response.

Sincerely,



Bob Johnston, Director  
Consumer Services Division