



Steven L. Beshear  
Governor

Leonard K. Peters  
Secretary  
Energy and Environment Cabinet

Commonwealth of Kentucky  
**Public Service Commission**  
211 Sower Blvd.  
P.O. Box 615  
Frankfort, Kentucky 40602-0615  
Telephone: (502) 564-3940  
Fax: (502) 564-3460  
psc.ky.gov

David L. Armstrong  
Chairman

James Gardner  
Vice-Chairman

John W. Clay  
Commissioner

July 30, 2008

Honorable John E. Selent  
Attorney at Law  
Dinsmore & Shohl, LLP  
1400 PNC Plaza  
500 West Jefferson Street  
Louisville, KY 40202

RE: Case No. 2007-00399

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

Sincerely,

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

Stephanie Stumbo  
Executive Director

SS/rs  
Enclosure



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Thomas D. Stauffer  
420 Blevins Road  
Payneville, KY 40157

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J. D. Tobin, Jr.  
Brandenburg Telephone Company, Inc.  
200 Telco Road  
P. O. Box 599  
Brandenburg, KY 40108

July 30, 2008

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Stephanie Stumbo  
Executive Director

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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THOMAS DEAN STAUFFER	)	
	)	
COMPLAINANT	)	
	)	
V.	)	CASE NO. 2007-00399
	)	
BRANDENBURG TELEPHONE COMPANY	)	
	)	
DEFENDANT	)	

O R D E R

On June 24, 2008, the Commission issued a final Order in this case, dismissing the complaint as moot and directing Brandenburg Telephone Company (“Brandenburg”) to take several actions in regard to Complainant’s bill. On July 10, 2008, Complainant filed a document titled “Appeal of KYPSC Order of June 24, 2008,” wherein the Complainant requests that the Commission reconsider many aspects of its June 24, 2008 Order. Although not styled as such, the Commission will treat Complainant’s filing as a request for rehearing filed pursuant to KRS 278.400.

Complainant raises six specific grounds for rehearing: (1) the complaint should not have been dismissed as moot; (2) Brandenburg had not tendered the check that Complainant sent it for the balance of his August 2007 bill; (3) Brandenburg should not be allowed to assess late charges on his June 2007 bill because the charges on the bill did not comply with Brandenburg’s tariff or applicable federal regulations; (4) Brandenburg has not removed the past-due balance from his account; (5) the

Commission should have found that Brandenburg committed perjury; and (6) Complainant disagrees with the Commission's characterization that the Meade District Court's judgment gave Brandenburg an enforceable judgment against Complainant's wife and son.

As discussed below, the Commission finds that rehearing should not be granted.

The original grounds for the complaint were that Brandenburg was incorrectly holding Complainant liable for a past-due account for which he was not responsible. The Commission found in its June 24, 2008 Order that, after the entry of judgment by the Meade District Court finding Complainant's wife and son responsible for the past-due account, and Brandenburg's assertions that it would not hold Complainant liable for the past-due account, the complaint was moot. The Meade District Court judgment is final and enforceable and satisfies the primary grounds of the initial complaint. Nothing has changed since the entry of the Order and we do not find it necessary to revisit our initial decision that the complaint should be dismissed as moot.

Complainant alleges that, on April 22, 2008, he tendered a check to Brandenburg to settle his past-due balance from the August 2007 billing. In the June 24, 2008 Order, the Commission found that Complainant had 60 days from June 24, 2008 to pay his past-due balance for August 2007. To the Commission's knowledge, Brandenburg has complied with the Commission's June 24, 2008 Order, as it has not recently threatened disconnection of Complainant's service for non-payment of the August 2007 billing. Accordingly, we find no reason to grant rehearing on this issue.

However, if Brandenburg has received Complainant's check but has not yet tendered it for payment, Brandenburg should immediately deposit Complainant's check

and apply the proceeds to his August 2007 past-due balance. If Brandenburg cannot deposit said check, then Complainant and the Commission should be so notified in writing.

Complainant also alleges that Brandenburg has not removed the past-due balance from his current account, as directed by the June 24, 2008 Order. Complainant alleges that “[t]hey put it on the account in two days, they could easily remove it in seven days.”<sup>1</sup> While this might indicate that Brandenburg has not complied with the Commission’s June 24, 2008 Order, it is not unreasonable to expect that at least one billing cycle may pass before Brandenburg has an opportunity to remove the past-due balance from Complainant’s account, and this fact does not constitute grounds for a rehearing. If, however, Brandenburg does not remove the past-due balance from Complainant’s account, as directed by the June 24, 2008 Order, Complainant should so notify the Commission in writing.

The Commission may grant rehearing to consider “evidence that could not with reasonable diligence have been offered...” at the previous proceeding.<sup>2</sup> In the initial proceeding, Complainant did not raise any claims related to Brandenburg’s alleged violations of the Federal Communications Commission’s (“FCC”) Truth-in-billing regulations or to violations of Brandenburg’s tariff. While these complaints could be brought to the attention of the FCC, a petition for rehearing before this Commission is not the proper venue, and we find that rehearing should not be granted on this issue.

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<sup>1</sup> Appeal of KYPSC Order of June 24, 2008 at 1.

<sup>2</sup> KRS 278.400.

Complainant also alleges that the Commission should find Brandenburg and its employee, Allison Willoughby, guilty of perjury because Brandenburg initially stated that it sought to hold him responsible for the past-due balance, and then later stated that it has not sought to hold Complainant responsible for the past-due balance. The Commission does not have the statutory power to discipline a witness for perjury. The Commission commented on the discrepancy in positions (“[a]lthough Brandenburg at one point claimed that Complainant was a responsible party for the account, it has since retracted its claims and has stated that it would take no action against him regarding the Delinquent Account”).<sup>3</sup> However, because this discrepancy resulted in a position favorable to the Complainant and led to resolution of the complaint, the Commission, even if it had disciplinary power, would take no action. Accordingly, we find that rehearing should not be granted based on this issue.

Complainant also requests a rehearing because he disputes the Commission’s characterization of the decision of the Meade District Court. The Commission found that the Meade District Court ruling “has given Brandenburg an enforceable judgment against David and Ilissa Stauffer for the balance of the Delinquent Account.”<sup>4</sup> Complainant claims that the Meade District Court ruling did not give Brandenburg “a blank check . . . to charge whatever it wanted to without any control to terminate or limit service!”<sup>5</sup> Complainant’s disagreement with the Commission’s characterization of the

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<sup>3</sup> June 24, 2008 Order at 9, footnote omitted.

<sup>4</sup> June 24, 2008 Order at 9.

<sup>5</sup> Appeal of KYPSC Order of June 24, 2008 at 2.

Meade District Court's ruling has no effect on the status of the complaint. The Court's ruling concerns Complainant's son and wife, and helps to clarify that Complainant was not a responsible party for the past-due account. There are no grounds to grant rehearing on this issue.

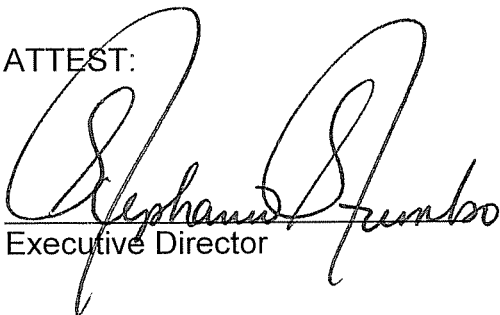
Having found that there are no grounds upon which to grant rehearing, we deny Complainant's request that we revisit the Commission's June 24, 2008 Order. However, Brandenburg remains bound by the June 24, 2008 Order and nothing in this Order amends or modifies that Order. Brandenburg will be subject to the penalties enumerated in KRS 278.990 if it fails to comply with the terms of the June 24, 2008 Order .

IT IS THEREFORE ORDERED that Complainant's petition for rehearing is denied.

Done at Frankfort, Kentucky, this 30th day of July, 2008.

By the Commission

ATTEST:

  
Executive Director