

**CASE**

**NUMBER:**

99-327

INDEX FOR CASE: 1999-327  
MINIMUM RATE PRICING, INC.  
Investigation - Service  
SLAMMING

MINIMUM RATE PRICING, INC. 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 11/30
M0001	09/02/1999	DREW KEENA MINIMUM RATE PRICING INC-RESPONSE TO ALLEGED VIOLATION
0002	11/24/1999	Order cancelling hearing & placing case in abeyance until further orders.
0003	05/16/2000	Letter to Eric Rubin requesting an update on status of bankruptcy proceedings.
0004	07/18/2000	Final Order cancelling tariff; MRP is stricken from list of active utilities.



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. 1999-327  
MINIMUM RATE PRICING, INC.

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 July 18, 2000.

Parties of Record:

Drew Keena  
Vice President  
Minimum Rate Pricing, Inc.  
150 Commerce Road  
P.O. Box 2525  
Cedar Grove, NJ. 07009

*Stephanie J. Bell*

Secretary of the Commission

SB/hv  
Enclosure

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.<sup>1</sup> 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

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<sup>1</sup> 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

**APPENDIX A**

APPENDIX TO AN ORDER OF THE  
KENTUCKY PUBLIC SERVICE COMMISSION

IN CASE NO. 99-327

DATED JULY 18, 2000



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

In the Matter of )  
 )  
 ) Docket No.  
 )  
Application of TTI National, Inc. )  
For Approval to Provide Toll )  
Services to Customers of Minimum )  
Rate Pricing, Inc., Discount Call )  
Rating, Inc. and Request for Waiver )

JUL 07

**APPLICATION AND PETITION FOR EXPEDITED  
WAIVER OF COMMISSION'S RULES**

Pursuant to KRS 278.535, and 807 KAR 5:062 of the Commission's rules, prior to submitting a preferred carrier change, carriers must either:

1. obtain a letter of agency from the customer (807 KAR 5:062, Section 2(1));
2. obtain the customer's electronic authorization via a toll-free number provided exclusively for the purpose of confirming orders electronically (807 KAR 5:062, Section 2(2)); or
3. utilize an independent third party to verify the subscriber's order. (807 KAR 5:062, Section 2(3)).

TTI National, Inc. ("TTI") hereby petitions for waiver of the Commission's verification rules to allow it to transfer the subscribers of National Tele-Communications, Parcel Consultants, Inc., Minimum Rate Pricing, Inc, and Discount Call Rating, Inc. (collectively, "Minimum Rate Pricing" or "MRP") to TTI National's service without first obtaining each subscriber's authorization and verification.

Counsel for TTI National has spoken with counsel for MRP regarding MRP's certificate to operate as an interexchange carrier in Kentucky. MRP has agreed that it will voluntarily relinquish its certificate to operate as an interexchange carrier in Kentucky.

**I. DESCRIPTION OF PETITIONER**

TTI is an interexchange carrier authorized to offer intrastate service in Kentucky and in 47 other states. TTI offers switched outbound("1+"), toll free and calling card services, and currently serves more than 250,000 customers nationwide. TTI's services are marketed primarily to small business and residential customers. TTI is a wholly-owned subsidiary of MCI WorldCom, Inc., a publicly traded company. Questions concerning this application should be addressed to:

Susan J. Berlin  
WorldCom, Inc.  
6 Concourse Parkway Suite 3200  
Atlanta, Georgia 30328  
With a copy to:

Douglas F. Brent  
Director, State Regulatory Affairs  
101 Bullitt Lane, Suite 107  
Louisville, Kentucky 40222

C. Kent Hatfield  
Middleton & Reutlinger  
2500 Brown & Williamson Tower  
Louisville, Kentucky 40202

**II. THE MRP BANKRUPTCY**

On February 26, 1999, Minimum Rate Pricing, Inc., Parcel Consultants, Inc. and National Tele-Communications, Inc. each filed voluntary Chapter 11 bankruptcy petitions in the United States Bankruptcy Court for the District of New Jersey. On November 3, 1999, Discount Call Rating, Inc. also filed its voluntary Chapter 11 petition in the same court. As a result of, *inter alia*, the continued loss in value of MRP's assets, primarily as a result of attrition of MRP's

customer base, MRP decided to sell substantially all of its assets pursuant to section 363 of the Bankruptcy Code, 11 U.S.C. §363, at a public auction.

On December 9, 1999, an auction was held at which TTI National and one other party made bids on MRP's assets, including, but not limited to all U.S. based long distance customer accounts which have selected MRP as their provider for outbound and inbound switched services and calling card services. Because TTI National's bid was found to be the highest and best offer for MRP's assets<sup>1</sup>, the Bankruptcy Court entered an Order<sup>2</sup> authorizing the sale of substantially all of MRP's assets, including without limitation, MRP's customer base<sup>3</sup>, to TTI National, free and clear of all liens, claims and encumbrances.

### **III. THE SALE ORDER AND PROPOSED CUSTOMER BASE TRANSFER**

The Sale Order authorizes a management agreement whereby TTI National, through its designated operator, Asset Recovery Services, Inc., agrees to manage the MRP customer base pending regulatory approval from the Federal Communications Commission (now already obtained)<sup>4</sup> and state regulatory bodies. Once all required regulatory approvals are obtained: 1)

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<sup>1</sup>MRP's assets consist of the customer base and a minimal amount of physical assets, consisting of office equipment. All physical assets are located in New Jersey.

<sup>2</sup>Order Pursuant to Sections 105, 363, 365 and 1146 of the Bankruptcy Code (i) Authorizing and Approving the Emergency Sale of Certain Assets of the Debtors Free and Clear of Liens, Claims, and Encumbrances, (ii) Authorizing and Approving the Terms of the Asset Purchase Agreement, (iii) Scheduling Further Hearings to Consider the Assumption and Assignment or Rejection of Certain Executory Contracts and Unexpired Leases and (iv) Authorizing the Exemption of the Sale From Stamp or Similar Taxes (the "Sale Order").

<sup>3</sup>As of March 2000, MRP's customer base consisted of fewer than 207,000 active customers, with fewer than 4700 such customers located in Kentucky.

<sup>4</sup>On June 26, 2000, the FCC approved a request for waiver of the rules which would otherwise prevent the simultaneous transfer of MRP's customers to TTI National's service. *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provision of the Telecommunications Act of 1996*, CC Docket No. 94-129, released June 27, 2000. A copy of the FCC Order is attached as Exhibit 1.

TTI National will close on the sale; 2) MRP's customers will be transferred to TTI National's service; and 3) other assets purchased pursuant to the Bankruptcy Court Order will be transferred to TTI National.

In the event that the requisite regulatory approvals are not obtained, then, TTI National will not be able to close on the sale and the management of the MRP customer base would return to MRP. However, because MRP does not have the financial ability or personnel to continue to provide service or manage the customer base, MRP's customers' long distance service would likely be interrupted. Thus, absent Commission action, customers would lose their long distance service provider. Accordingly, TTI National seeks permission to effect a seamless<sup>5</sup> transition of long distance service for the affected MRP customers.

This transition in service will include appropriate, actual notice to each of MRP's customers, enabling such customers to choose another carrier rather than TTI National. As soon as all requisite state and federal regulatory approvals have been obtained, MRP, in cooperation with TTI National, will send letters to all MRP customers notifying them that MRP will no longer be serving as a domestic presubscribed long distance carrier, and that beginning approximately 30 days after receipt of MRP's letter, all "1+" calls from telephone lines previously served by MRP and calling card calls will be completed by TTI National. The customers will be informed that they will receive the same or better rates and services than those which they were receiving from MRP, without interruption and without need for action. The

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<sup>5</sup>MRP's customers are presubscribed to CIC "555", which belongs to MCI WorldCom Network Services, Inc. ("MWNS"). CIC "555" is used to provision originating "1+" services for numerous resellers unaffiliated with MWNS, but is also used to provision service for TTI National. MWNS and TTI National are both wholly-owned subsidiaries of MCI WorldCom, Inc. This coincidence will benefit MRP's customers because it will simplify the process of migrating them to TTI. After regulatory approval is obtained and the MRP customer base is purchased by TTI National, no LEC presubscription changes will be required, as the underlying network service configuration will not change. TTI National, therefore, expects no LEC PIC change charges will apply to the transfer of the MRP customer base.

affected MRP customers will also be reminded that they are under no obligation to take service from TTI National, and that each customer is free to select another company to carry their long distance calls.

Additionally, after customers begin receiving TTI National's service, TTI National will send a "welcome letter" to the affected customers with information concerning TTI National's services and rates<sup>6</sup>. The welcome letter will inform the customer that the customer should not be charged any fee by the local phone company as a result of the change to TTI National, and if any such fee is imposed, TTI National will issue a credit for such charge to the customer. The welcome letter will also provide the former MRP customers with an 800 number to assist them if they have any questions regarding the transfer of their service. Finally, the welcome letter will inform the customers should contact TTI National with questions concerning MRP service or billing.

#### **IV. REQUEST FOR WAIVER**

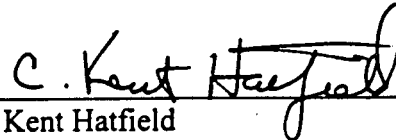
Expedited action on this application is requested. Waiver of the Commission's verification rules in this instance allows TTI National to provide a seamless transition to former MRP customers, while ensuring that the affected customers clearly understand available choices. The Commission should, therefore, grant TTI National's request for expedited waiver of the Commission's verification rules delineated in the 807 KAR 5:062, and approve the transfer of MRP's customer base assets to TTI.

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<sup>6</sup>Both letters are attached as Exhibit 2.

Respectfully submitted,

TTI NATIONAL, INC.



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C. Kent Hatfield  
MIDDLETON & REUTLINGER  
2500 Brown & Williamson Tower  
Louisville, Kentucky 40202  
(502) 584-1135

Susan J. Berlin  
WorldCom, Inc.  
Law and Public Policy  
Concourse Corporate Center Six  
6 Concourse Parkway, Suite 3200  
Atlanta, Georgia 30328  
(770) 284-5491

ATTORNEYS FOR TTI NATIONAL, INC.

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Subscriber Carrier	)	
Selection Changes Provisions of the	)	CC Docket No. 94-129
Telecommunications Act of 1996	)	
	)	
MCI WorldCom, Inc.	)	
TTI National, Inc.	)	
Petition for Waiver	)	

**ORDER**

Adopted: June 26, 2000

Released: June 27, 2000

By the Chief, Accounting Policy Division, Common Carrier Bureau:

**I. INTRODUCTION AND BACKGROUND**

1. In its *Carrier Change Orders*,<sup>1</sup> the Commission adopted rules applicable to carriers changing a consumer's preferred carrier.<sup>2</sup> In this Order, we grant MCI WorldCom, Inc. (MCI WorldCom) and its subsidiary, TTI National, Inc. (TTI National), a limited waiver of the authorization and verification requirements of the Commission's rules and *Carrier Change Orders*.<sup>3</sup> We grant this limited waiver to the extent necessary to enable TTI National to become

<sup>1</sup> *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 and Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Further Notice of Proposed Rule Making and Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 10674 (1997), Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd 1508 (1998) (*Section 258 Order*); *stayed in part*, *MCI WorldCom v. FCC*, No. 99-1125 (D.C. Cir. May 18, 1999); *First Order on Reconsideration*, FCC 00-135 (released May 3, 2000); *reconsideration pending*; *Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Report and Order, 10 FCC Rcd 9560 (1995), *stayed in part*, 11 FCC Rcd 856 (1995); *Policies and Rules Concerning Changing Long Distance Carriers*, CC Docket No. 91-64, 7 FCC Rcd 1038 (1992), *reconsideration denied*, 8 FCC Rcd 3215 (1993) (*PIC Change Recon. Order*); Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, 101 F.C.C.2d 911 (*Allocation Order*), 101 F.C.C.2d 935 (*Waiver Order*), *reconsideration denied*, 102 F.C.C.2d 503 (1985) (*Reconsideration Order*) (the *Reconsideration Order* denied reconsideration of both the *Allocation Order* and the *Waiver Order*). We refer to these orders collectively as the *Carrier Change Orders*.

<sup>2</sup> 47 C.F.R. §§ 64.1100 - 64.1190.

<sup>3</sup> On April 11, 2000, MCI WorldCom, on behalf of its wholly-owned subsidiary, TTI National, filed a Petition for Expedited Waiver of Commission Rules relating to TTI National's acquisition of the customer bases of National Tele-Communications, Parcel Consultants, Inc. Minimum Rate Pricing, Inc., and Discount Call Rating, Inc. (collectively, "MRP") (Waiver Petition).

the preferred carrier of consumers currently presubscribed to MRP without first obtaining the consumers' authorization and verification.

2. Section 258 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, makes it unlawful for any telecommunications carrier to "submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such procedures as the Commission shall prescribe."<sup>4</sup> The goal of section 258 is to eliminate the practice of "slamming," the unauthorized change of a subscriber's preferred carrier. Pursuant to section 258, carriers are absolutely barred from changing a customer's preferred local or long distance carrier without first complying with the Commission's verification procedures.<sup>5</sup> In the *Section 258 Order*, the Commission revised its procedures to ensure that carriers obtain the requisite authority prior to changing a customer's preferred carrier. The Commission requires that carriers follow one of the Commission's prescribed verification procedures before submitting carrier changes on behalf of consumers.<sup>6</sup>

3. MCI WorldCom seeks a waiver of our verification rules to allow TTI National to be designated the preferred long distance carrier for customers of MRP without first obtaining each customer's authorization and verification. Because we conclude that, under the circumstances presented, it is in the public interest to grant the waiver, we grant MCI WorldCom a waiver, subject to the conditions represented in its filings.

## II. DISCUSSION

4. Generally, the Commission's rules may be waived for good cause shown.<sup>7</sup> As noted by the Court of Appeals for the D.C. Circuit, however, agency rules are presumed valid.<sup>8</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>9</sup> In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on

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<sup>4</sup> 47 U.S.C. § 258.

<sup>5</sup> The Commission's rules and orders clearly contemplate that a switchless reseller may be a customer's preferred carrier. Therefore, changes to a customer's preferred carrier that do not involve a change in the customer's underlying facilities-based carrier are nonetheless subject to the Commission's authorization and verification rules. See *Section 258 Order* at paras. 145-146; *WATS International Corp. v. Group Long Distance (USA), Inc.*, 12 FCC Rcd 1743, 1752 (1997) (citing *PIC Change Recon. Order*, 8 FCC Rcd at 3218).

<sup>6</sup> Pursuant to these procedures, a carrier must: (1) obtain the subscriber's written authorization; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber's order. See 47 C.F.R. § 64.1150.

<sup>7</sup> 47 C.F.R. § 1.3.

<sup>8</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972).

<sup>9</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).



an individual basis.<sup>10</sup> Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.<sup>11</sup>

5. We find that MCI WorldCom has demonstrated that good cause exists to justify a limited waiver of the Commission's authorization and verification requirements to the extent necessary to enable TTI National to transfer to its own customer base the MRP customers. In the Waiver Petition, MCI WorldCom states that TTI National will acquire substantially all of the assets of MRP, including, but not limited to, long distance customer accounts, which have selected MRP as their preferred carrier for outbound, inbound, and calling card services. MRP sold its assets to TTI National in a public auction, pursuant to section 363 of the Bankruptcy Code, as a part of its liquidation of assets to satisfy creditors in the ongoing action in bankruptcy.<sup>12</sup> Upon transfer of the affected customers, TTI National will provide intrastate, interstate, and international interexchange services (including calling card services) on a presubscription basis to the former customers of MRP.

6. We conclude that special circumstances exist to justify a waiver. Without this waiver, some former MRP customers might temporarily lose service when MRP ceases to provide service or pay potentially higher casual calling rates. We conclude that a waiver of the Commission's carrier change rules and orders is necessary to provide a seamless transition with no disruption of service to the transferred customers.

7. We find that MCI WorldCom has demonstrated that a limited waiver of the authorization and verification rules is in the public interest because it will prevent consumers from temporarily losing service or paying significantly higher rates, and because TTI National and MRP have agreed to notify the affected customers as described below. MCI WorldCom states that the parties will undertake a two-step process to notify the affected customers of the transaction. In a first letter, MRP, in cooperation with TTI National, will inform customers of the proposed transaction, and assure them that no charges or rate increases will be imposed as a result of the transaction.<sup>13</sup> MCI WorldCom states that it will also advise the affected customers that they can choose a different preferred carrier, should they desire to do so.<sup>14</sup> In addition, customers will be given a toll-free number to call with any questions they may have about the transition. According to MCI WorldCom, once the proposed sale has been consummated, TTI National will notify these customers of that event and reiterate the foregoing information, assurances, and advice.<sup>15</sup> MCI WorldCom has agreed that, if the Commission waives its rules to

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10 *WAIT Radio*, 418 F.2d at 1157.

11 *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

12 Waiver Petition at 2.

13 MCI WorldCom filed sample notification letters. See Waiver Petition, Attachments, Sample Letters (Notification Letters).

14 Waiver Petition at 3.

15 See Notification Letters.

permit TTI National to provide service to MRP's customers, TTI National will investigate and resolve any outstanding customer complaints regarding services provided by MRP.<sup>16</sup> We conclude that these conditions will adequately protect the rights of the transferred customers of MRP.

8. We note that MRP, the carrier selling its customer base in this instance, has a history of delinquency in its contributions to the Universal Service Fund. Carriers pay into the Fund in order to provide financial support for various programs, including the High Cost, Schools and Libraries, and Rural Health Care programs. These programs were established by the Commission under Section 254 of the Communication Act of 1934, as amended, and are administered by the Universal Service Administration Company, in order to ensure the delivery of affordable telecommunications service to all Americans.<sup>17</sup> While we recognize the undue burden that delinquent carriers like MRP put on the Universal Service Fund, we believe that transferring MRP's customer base to TTI National, a responsible carrier contributing to the Fund as required under the Commission's rules, would be in the public interest.

9. For the foregoing reasons, we grant MCI WorldCom, on behalf of TTI National, a waiver of the authorization and verification requirements of our rules for the limited purposes described above. The grant of this waiver is conditioned upon TTI National and MRP's provision of customer notification and handling of customer complaints, as described above and further detailed in the Waiver Petition.

### III. ORDERING CLAUSES

10. Accordingly, pursuant to authority contained in Sections 1, 4, and 258 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 258, and the authority delegated under sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91,

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<sup>16</sup> See Waiver Petition at 4.

<sup>17</sup> See, e.g., *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997), as corrected by *Federal-State Joint Board on Universal Service, Errata*, CC Docket No. 96-45, FCC 97-157 (rel. June 4, 1997), *affirmed, reversed, and remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) *motion for stay granted in part* (Sept. 28, 1999), *petitions for rehearing and rehearing en banc denied* (Sept. 28, 1999) (*Universal Service Order*).

0.291, 1.3, the waiver request filed by grant MCI WorldCom, Inc. and its subsidiary, TTI National, Inc., on April 11, 2000, IS GRANTED to the extent indicated herein.

11. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Irene M. Flannery  
Chief, Accounting Policy Division, Common Carrier Bureau

## SAMPLE LETTER

### IMPORTANT INFORMATION ABOUT YOUR LONG DISTANCE SERVICE

Date

Dear Customer:

Minimum Rate Pricing, Inc., (MRP) will no longer be serving as your domestic presubscribed long distance carrier. MRP has taken the steps necessary to ensure that you will continue to receive quality long distance service at economical prices, without interruption and without any action needed on your part. On (date) or soon thereafter, when you dial "1+" from your telephone line now served by MRP, your long distance calls will be completed by TTI National, Inc. via the MCI WorldCom network. MRP and TTI National have requested FCC approval, and state approval where required, to make this change. Customers who purchase paging service, toll-free service, or calling card(s) from MRP will receive service from TTI National and experience no change to their service at this time. The charges for these services will continue to appear on your monthly invoice as they do today.

We have made arrangements with TTI National to serve in our place by providing intrastate, interstate and international services to satisfy your telecommunications requirements. TTI National soon will be sending you a "welcome" letter and will provide you with information concerning your service.

We are confident that you will be pleased with TTI National as your economic telecommunications provider. Of course, you are under no obligation to take service from TTI National. If you choose, you may select another company to handle your calls. Should you decide for any reason not to stay with TTI National, we recommend that you choose a replacement carrier before (date).

If you have any questions, please call us at 800-xxx-xxxx. Our business hours are 9:00 a.m. until 7:00 p.m., (EST), Monday through Friday.

We thank you for your continued support and your business. We have enjoyed being your service provider.

Sincerely,

Minimum Rate Pricing, Inc.

BY: \_\_\_\_\_



***Welcome To TTI National!***

We're delighted to welcome you to TTI National, your new long distance telephone service provider. As announced in previous correspondence, TTI National has replaced Minimum Rate Pricing, Inc., (MRP) as your long distance service provider, offering a convenient package of quality services at very competitive rates. This change will not require your local phone company to make any changes so you should not see any fees applied by your local carrier. However, if a fee is imposed, TTI National will issue a credit for the charge. To request credit, please have your local phone bill handy (showing the PIC Change Charge) and call TTI National Customer Service at 1 800 xxx-xxxx.

***Count On Us For Savings.*** You'll be amazed at what you can save with TTI National. Making a long distance phone call with TTI National is easy, too. Call anywhere in the United States by dialing 1+ area code + number. No special access numbers are needed; current domestic rates are attached. And, if you happen to call internationally, you'll benefit from our low cost, high-quality international outbound service which is available automatically with your TTI National long distance service. (In addition, country-to-country calling overseas, and calling back to the U.S., are available on request.) From TTI National, you will receive rates and services that are the same or better than those which you were receiving from MRP.

***We're At Your Service.*** To confirm that TTI National is your long distance service provider, please dial 1 700 555 4141 (a toll-free call) from all phone lines that have been switched from MRP to TTI National. You should hear a recording that welcomes you to the MCI WorldCom network, which carries TTI National traffic. If you do not hear this message please call TTI National Customer Service at 1 800 xxx-xxxx.

The professional customer service team at TTI National is equipped to assist you with questions about your new long distance service or monthly billing. Should you require assistance with any previous MRP services or past MRP billing issues, please contact TTI National Customer Service at 1-800-xxx-xxxx.

Once again, we're delighted to welcome you to TTI National, your single source for reliable communications services at outstanding savings. We appreciate your business, and look forward to serving you for many years to come.

Sincerely,

A handwritten signature in cursive script, appearing to read "George Hampton".

George Hampton  
Vice President

See reverse side



Paul E. Patton, Governor

Ronald B. McCloud, Secretary  
Public Protection and Regulation  
Cabinet

Martin J. Huelsmann  
Executive Director  
Public Service Commission

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B. J. Helton  
Chairman

Edward J. Holmes  
Vice Chairman

Gary W. Gillis  
Commissioner

May 16, 2000

Mr. Eric M. Rubin  
Rubin, Winston, Diercks, Harris & Kooke, LLP  
6<sup>th</sup> Floor, 1155 Connecticut Avenue, N.W.  
Washington, D.C. 20036

Re: Minimum Rate Pricing  
Public Service Commission Case No. 99-327

Dear Mr. Rubin:

My last communication from you regarding Minimum Rating Pricing, Inc. ("MRP") revealed that MRP had filed Chapter 11 bankruptcy in the Federal District Court of New Jersey. There is some indication in my record that Kent Hatfield has been employed as local counsel, but I need your confirmation about that. The Commission is taking a serious look at MRP with the thought of possibly revoking its privilege to do business in Kentucky.

It is critical that I receive an update as to the status of the bankruptcy proceedings. Please advise me regarding the bankruptcy status and the name of MRP's local counsel.

Sincerely,

  
Dale Wright  
Staff Attorney

DW:v





COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

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

November 24, 1999

Drew Keena  
Vice President  
Minimum Rate Pricing, Inc.  
150 Commerce Road  
P.O. Box 2525  
Cedar Grove, NJ. 07009

RE: Case No. 1999-327

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

Sincerely,

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

Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure

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 KRS 278.535. Eric M. Ruebin of Washington, D.C. is legal counsel for MRP and by correspondence he has advised Commission and Staff that MRP is under the jurisdiction of the United States Bankruptcy Court for the District of New Jersey under Chapter 11 of the Bankruptcy Code. Mr. Ruebin must and has contacted an attorney practicing in Kentucky to assist MRP in regard to the show cause proceedings. However, the employment of local Kentucky counsel to represent MRP before the Commission must be approved by the Bankruptcy Court. Such approval has not yet been issued. Accordingly, this matter should be held in abeyance and the hearing scheduled for November 30, 1999 should be cancelled.

The Commission, being otherwise sufficiently advised, and finding good cause, HEREBY ORDERS that:

1. The hearing scheduled for November 30, 1999 is cancelled.

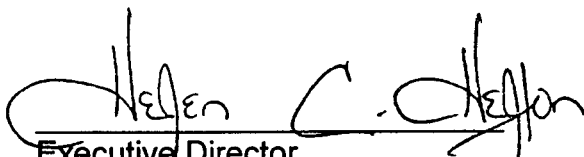


2. This case is placed in abeyance until further orders from the Bankruptcy Court and further orders of the Commission.

Done at Frankfort, Kentucky, this 24th day of November, 1999.

By the Commission

ATTEST:

  
Executive Director



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

CERTIFICATE OF SERVICE

RE: Case No. 97-327  
BELLSOUTH TELECOMMUNICATIONS, INC.

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 October 6, 1999.

See attached parties of record.

*Stephanie J. Bell*

Secretary of the Commission

SB/sa  
Enclosure

Fred Gerwing  
Regulatory Vice President  
BellSouth Telecommunications, Inc.  
601 West Chestnut Street, Room 408  
P. O. Box 32410  
Louisville, KY. 40232

CLEC Account Team  
BellSouth Telecommunications, Inc.  
9th Floor  
600 North 19th Street  
Birmingham, AL. 35203

OmniCall, Inc.  
Contract Administration  
430 Woodruff Road  
Suite 450  
Greenville, SC. 29607

Creighton E. Mershon,  
General Counsel  
BellSouth Telecommunications, Inc.  
P.O. Box 32410  
Louisville, KY. 40232

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPROVAL OF THE )  
INTERCONNECTION AGREEMENT )  
NEGOTIATED BY BELL SOUTH )  
TELECOMMUNICATIONS, INC. AND ) CASE NO. 97-327  
OMNICALL, INC. A/K/A OMNICALL )  
INTERNATIONAL, PURSUANT TO )  
SECTIONS 251 AND 252 OF THE )  
TELECOMMUNICATIONS ACT OF 1996 )

O R D E R

On October 15, 1997, the Commission approved a resale agreement between BellSouth Telecommunications, Inc. ("BellSouth") and OmniCall, Inc. a/k/a OmniCall International ("OmniCall"). On March 26, 1998, the Commission approved an interconnection agreement between BellSouth and OmniCall. On March 11, 1999, the Commission approved a renegotiated interconnection agreement between BellSouth and OmniCall. On July 29, 1999 and August 17, 1999, BellSouth and OmniCall submitted to the Commission amendments to their renegotiated interconnection agreement. The amendments were negotiated pursuant to the Telecommunications Act of 1996 ("1996 Act"), 47 U.S.C. Sections 251 and 252. Section 252(e) of the 1996 Act requires the parties to an interconnection agreement adopted by negotiation to submit the agreement for approval to the Commission.

The Commission has reviewed the amendments and finds that no portion thereof discriminates against a telecommunications carrier not a party to the agreement. The

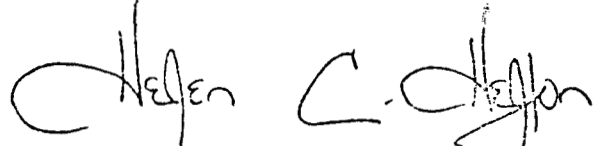
Commission also finds that the implementation of the amendments is consistent with the public interest, convenience, and necessity.

The Commission, having been otherwise sufficiently advised, HEREBY ORDERS that the amendments to the interconnection agreement between BellSouth and OmniCall are approved.

Done at Frankfort, Kentucky, this 6th day of October, 1999.

By the Commission

ATTEST:

A handwritten signature in cursive script, appearing to read "Helen C. Coffey". The signature is written in black ink and is positioned above a horizontal line.

Executive Director

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

SEP 01 1999

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	)	RESPONSE OF MINIMUM RATE PRICING, INC. TO ALLEGED VIOLA- TIONS OF KRS 278.535

Minimum Rate Pricing, Inc.'s (MRP) responses to the alleged violations issued by the Kentucky Public Service Commission in Case Number 99-327 are as follows:

COUNT I

1. MRP has no record of ever having a customer by the name of Charlett Hamby with a telephone number of 502-821-8497.
2. MRP searched its billing database and could not find any billing records for 502-821-8497. This means that telephone number 502-821-8497 never made a single phone call on MRP's long distance service.
3. Based on the information provided by the Commission Staff, it appears the 502-821-8497 was never switched by MRP.

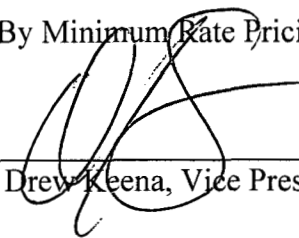
COUNT II

1. On March 5, 1997, MRP signed Corene Parker onto its long distance service. Ms. Parker's phone number at the time was 502-781-0761.
2. Sometime around August of 1998, telephone number 502-781-0761 was reassigned by the local phone company to Lisa Walters.
3. As a result of the above-mentioned reassignment, MRP inadvertently billed Ms. Walters for long distance service.
4. On March 18, 1999, MRP issued a \$7.47 credit to Ms. Walters' account. According to MRP's records, this credit resolved the issue to Ms. Walters' satisfaction.

5. Based on the information found in MRP's database, it does not appear that there was any violation of KRS 279.535.

Done at Cedar Grove, New Jersey, this 30<sup>th</sup> day of August, 1999.

By Minimum Rate Pricing, Inc.



---

Drew Keena, Vice President



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

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

August 12, 1999

Drew Keena  
Vice President  
Minimum Rate Pricing, Inc.  
150 Commerce Road  
P.O. Box 2525  
Cedar Grove, NJ. 07009

RE: Case No. 99-327

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

Sincerely,

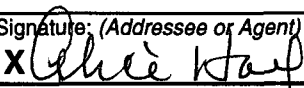
A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure



Is your RETURN ADDRESS completed on the reverse side?

<b>SENDER:</b> <input type="checkbox"/> Complete items 1 and/or 2 for additional services. <input type="checkbox"/> Complete items 3, 4a, and 4b. <input type="checkbox"/> Print your name and address on the reverse of this form so that we can return this card to you. <input type="checkbox"/> Attach this form to the front of the mailpiece, or on the back if space does not permit. <input type="checkbox"/> Write "Return Receipt Requested" on the mailpiece below the article number. <input type="checkbox"/> 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): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.
3. Article Addressed to: National Registered Agents, Inc Agent: Minimum Rate Pricing 400 West Market Street, STE 1800 Louisville, KY 40202	4a. Article Number P536201330	4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD
5. Received By: (Print Name)	7. Date of Delivery 8-13-99	
6. Signature: (Addressee or Agent) 	8. Addressee's Address (Only if requested and fee is paid)	
PS Form 3811, December 1994		Domestic Return Receipt

Thank you for using Return Receipt Service.

P 536 201 330

US Postal Service  
 Receipt for Certified Mail  
 No Insurance Coverage Provided.  
 Do not use for International Mail (See reverse)

Sent to	National Registered Agents
Street & Number	Agent: Minimum Rate Pricing 400 West Market Street
Post Office, State, & ZIP Code	Suite 1800 Louisville, KY 40202
Postage	\$ .55
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	
TOTAL Postage & Fees	\$ 3.20
Postmark or Date	Case No. 99-327

PS Form 3800, April 1995

P 536 201 318

US Postal Service  
 Receipt for Certified Mail  
 No Insurance Coverage Provided.  
 Do not use for International Mail (See reverse)

Sent to	Minimum Rate Pricing, Inc.
Street & Number	300 Broadacres Drive
Post Office, State, & ZIP Code	Bloomfield, New Jersey 07003
Postage	\$ .55
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	
TOTAL Postage & Fees	\$ 3.20
Postmark or Date	Case No. 99-327

PS Form 3800, April 1995

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

O R D E R

Minimum Rate Pricing, Inc. ("MRP") 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 August 16, 1996, MRP filed with the Commission its initial schedule of rates and services (tariff). MRP's tariff became effective on September 8, 1996. Records of the Office of the Secretary of State of the Commonwealth of Kentucky reflect that MRP, identification number 0421531, was originally authorized to do business in the state of Kentucky on or about September 18, 1996. A second authorization to do business in the state of Kentucky was issued on or about November 23, 1998, identification number 0465190. Said records state that the registered agent for MRP is National Registered Agents, Inc., 400 West Market Street, Suite 1800, Louisville, Kentucky 40202; that MRP's president is Thomas Salzano and its secretary is Adam Kolochy; and that MRP's principal office is located at 300 Broadacres Drive, Bloomfield, New Jersey 07003. The Commission Staff has records indicating that the Post Office Box address is 8000.

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 September 23, 1998, Charlett Hamby reported to Commission Staff by telephone that her long-distance exchange carrier had been changed from her selected choice to MRP without her authority or permission. Ms. Hamby's telephone number is 502/821-8497.

2. By letter dated May 21, 1999, MRP was notified of the complaint received by Commission Staff from Ms. Hamby. A long-distance carrier change was made in her service by or on behalf of MRP that was unauthorized. The letter requested that MRP provide to Commission Staff appropriate evidence that the long-distance carrier change was authorized by Ms. Hamby. KRS 278.535(2) places the burden of proof on MRP to show that Ms. Hamby knowingly authorized the carrier change. MRP was unable to provide the requisite statutory proof that the long-distance carrier change in Ms. Hamby'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. Hamby that properly authorized the carrier change.

COUNT II

1. On or about March 9, 1999, Lisa M. Walters reported to Commission Staff by telephone that her long-distance exchange carrier had been changed from Excel

Telecommunications, Inc. to MRP without her authority or permission. Ms. Walters' telephone number is 502/781-0761.

2. KRS 278.535(2) places the burden of proof on MRP to show that Ms. Walters knowingly authorized the carrier change. MRP was unable to provide the requisite statutory proof that the carrier change in Ms. Walters' service was properly authorized.

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

The Commission, based upon the foregoing facts as set out in Count I and Count II, finds sufficient evidence to believe that MRP has violated KRS 278.535.

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

1. MRP shall submit to the Commission within 20 days of the date of receipt of this Order a response to the allegations contained in Count I and Count II above.

2. MRP shall appear on November 30, 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 violations of KRS 278.535, and showing cause, if any, why it should not be subject to the penalties prescribed in KRS 278.535(6).

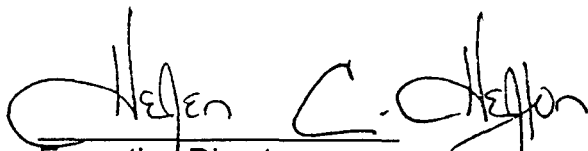
3. The letter attached hereto and marked Appendix Count I is made a part of the record herein.

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



start  
here

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 Helton  
Executive Director  
Public Service Commission

Paul E. Patton  
Governor

May 21, 1999

Mr. Jim Gattuso  
Minimum Rate Pricing, Inc.  
P.O. Box 8000  
Bloomfield, NJ 07003

- RE: File Nos. 199801990 – Hitul Patel of Louisville, KY at (502) 239-7225  
 199801992 – Robert Thompson of Lebanon, KY at (502) 865-3500  
 199801993 – Dennis O’Keefe of Woodlawn, KY at (606) 491-9351  
 199802110 – Denise Bright of Huff, KY at (502) 286-8919  
 199802214 – Thomas P. Carver of Ashland, KY at (606) 325-3229  
 199802221 – Mrs. Morris Potter of South Shore, KY at (606) 932-3516  
 199802277 – Steven Rucker of Lebanon, KY at (502) 692-1141  
 199802494 – Kenneth Price of Wallingford, KY at (606) 845-1908  
 199802700 – Harold Stevens of Richmond, KY at (606) 527-6622  
 199802804 – Charlett Hamby of Madisonville, KY at (502) 821-8497  
 199802823 – Robin Rolley of White Plains, KY at (502) 338-1731  
 199802915 – Harold McLeod of Boyd, KY at (606) 928-8282  
 199802944 – Melody Struk of Corinth, KY at (606) 824-3048  
 199803053 – Earl Alderman of Morehead, KY at (606) 784-3013  
 199803142 – Amy Risley of Bowling Green, KY at (502) 842-7001  
 199803200 – William E. Kellogg of Fort Thomas, KY at (606) 441-3853  
 199803637 – The Inkspot of Lexington, KY at (606) 255-7030  
 199803830 – Minnie Dunigan of Jeff, KY at (606) 439-1645  
 199803833 – J.W. Humphrey of Glasgow, KY at (502- 659-2011

Dear Ms. Gattuso:

The Kentucky Public Service Commission has received informal complaints from the aforementioned individuals alleging that your company changed their 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;

APPENDIX COUNT I

- 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 June 8, 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

