

CASE

NUMBER:

99 - 485

INDEX FOR CASE: 1999-485

AS OF : 03/03/00

DUO COUNTY TELEPHONE COOPERATIVE CORPORATION, INC.

Deviation

EXEMPT NON-LOCAL DIRECTORY ASSISTANCE SERVICE FROM TARIFF REGULATIONS

IN THE MATTER OF THE EXEMPTING DUO COUNTY TELEPHONE
 COOPERATIVE'S NON-LOCAL DIRECTORY ASSISTANCE SERVICE FROM
 TARIFF REGULATIONS

SEQ NBR	ENTRY DATE	REMARKS
0001	12/01/1999	Application.
0002	12/01/1999	Acknowledgement letter.
0003	03/03/2000	Final Order denying Duo County's request for exemption.



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. 1999-485
DUO COUNTY TELEPHONE COOPERATIVE CORPORATION, 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 March 3, 2000.

Parties of Record:

William W. Magruder
Executive Vice President
Duo County Telephone Cooperative
Corporation, Inc.
1021 West Cumberland Avenue
P. O. Box 80
Jamestown, KY. 42629

Honorable Howard Kent Cooper
Attorney at Law
Cooper & Associates
404 Monument Square
P. O. Box 410
Jamestown, KY. 42629

Stephanie Bell

Secretary of the Commission

SB/hv
Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EXEMPTING DUO COUNTY)
TELEPHONE COOPERATIVE)
CORPORATION'S NON-LOCAL) CASE NO. 99-485
DIRECTORY ASSISTANCE SERVICE)
FROM TARIFF REGULATION)

O R D E R

On December 1, 1999, Duo County Telephone Cooperative Corporation ("Duo County") filed a petition, pursuant to KRS 278.512, to exempt its proposed Non-Local Directory Assistance ("NDA") service from tariff regulation. Pursuant to KRS 278.512, the Commission may exempt or reduce regulation of telecommunication services and products if it determines that exemption or reduced regulation is in the public interest. Duo County proposes that the revenues derived from the services remain regulated and asserts that exemption from tariffing is consistent with the public interest objectives listed in KRS 278.512.

Duo County proposes to resell, within its own territory, NDA service purchased at a wholesale rate from another company. Duo County submits that the price it charges for the NDA service will equal or exceed the wholesale price that it pays for the service, and therefore will not be subsidized by other tariffed services. To further support its petition, Duo County points to both large and small companies offering its customers NDA service that is fundamentally equivalent to, and perfect substitutes for, the service it will offer. According to Duo County, these interstate offerings are provided under the

regulatory auspices of the Federal Communications Commission, which has determined that the interstate services are competitive and therefore has chosen not to regulate them. Finally, Duo County argues that exemption will allow it to respond to marketing programs of its competitors on a more timely basis, to develop innovative marketing programs, and to be flexible in bundling services to respond to competitive offers by large national competitors.

In evaluating the reasonableness of Duo County's request, the Commission has considered the extent to which competing NDA services are available in the relevant market, the existing ability and willingness of competitive providers to make functionally equivalent or substitute services readily available, and the number and size of competitive providers. The Commission has also weighed public interest concerns with Duo County's ability to react to competitive challenges. Finally, the Commission considered Duo County's request in light of the fact that the large companies cited as providing NDA on an untariffed basis at the federal level, do file intrastate tariffs for the services in Kentucky.

The Commission finds that Duo County's petition does not provide clear and satisfactory evidence that granting the petition is in the public interest, especially in view of the fact that the large companies cited as major telecommunications companies providing NDA service in Kentucky are required to file tariffs for the service. However, the Commission will allow Duo County's NDA tariff to be effective on one day's notice.

Having reviewed the filing and being otherwise sufficiently advised, the Commission finds that, pursuant to KRS 278.512, Duo County should be required to

tariff its NDA service; however, the tariff may be made effective on one day's notice, and it will be presumptively valid.

IT IS THEREFORE ORDERED that:

1. Duo County's request for exemption from tariff regulation for its NDA service is denied.

2. Duo County shall file its tariff for NDA service, including a cost study demonstrating that the tariffed price covers the incremental cost of providing the service.

3. Duo County's NDA tariff will be effective on one day's notice and will be presumptively valid.

4. A copy of this Order shall be served on incumbent local exchange carriers.

Done at Frankfort, Kentucky, this 3rd day of March, 2000.

By the Commission

ATTEST:

Deputy W. H. Bonner
Executive Director



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) 564-3460

Ronald B. McCloud, Secretary
Public Protection and
Regulation Cabinet

Helen Helton
Executive Director
Public Service Commission

Paul E. Patton
Governor

December 1, 1999

William W. Magruder
Executive Vice President
Duo County Telephone Cooperative
Corporation, Inc.
1021 West Cumberland Avenue
P. O. Box 80
Jamestown, KY 42629

Honorable Howard Kent Cooper
Attorney at Law
Cooper & Associates
404 Monument Square
P. O. Box 410
Jamestown, KY 42629

RE: Case No. 1999-485
DUO COUNTY TELEPHONE COOPERATIVE CORPORATION, INC.
(Deviation) EXEMPT NON-LOCAL DIRECTORY ASSISTANCE
SERVICE FROM TARIFF REGULATIONS

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received December 1, 1999 and has been assigned Case No. 99-485. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

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

Stephanie Bell
Secretary of the Commission

SB/jc



COOPER & ASSOCIATES

LAW OFFICES

Howard Kent Cooper
Timothy D. Price

404 Monument Square
P.O. Box 410
Jamestown, KY 42629

Tel: (502) 343-2123
Fax: (502) 343-2124

November 30, 1999

Helen Helton, Esq.
Executive Director
Public Service Commission
730 Schenkel Lane
Frankfort, Kentucky 40602

RECEIVED
DEC 01 1999
PUBLIC SERVICE
COMMISSION

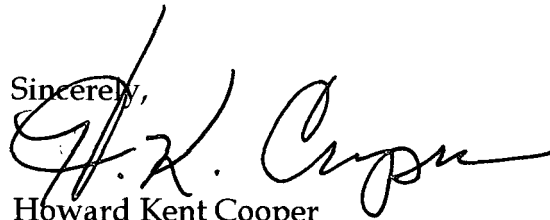
RE: Petition to Exempt Non-Local Directory
Assistance Service from Tariff Regulations *CASE 99-485*

Dear Ms. Helton:

For consideration by the Public Service Commission and in accordance with KRS 278.512, enclosed are the original and ten (10) copies of a Petition to Exempt Non-Local Directory Assistance Service from Tariff Regulations on behalf of Duo County Cooperative Corporation, Inc., 2150 North Highway 127, Post Office Box 80, Jamestown, Kentucky 42629.

We would appreciate your filing this Petition for consideration before the commission, and if additional information or documentation is required, please advise.

Sincerely,



Howard Kent Cooper
Attorney at Law

HKC:pke
Enclosures

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EXEMPTING DUO COUNTY TELEPHONE COOPERATIVE'S)
NON-LOCAL DIRECTORY ASSISTANCE SERVICE)
FROM TARIFF REGULATION)

RECEIVED
DEC 01 1999
PUBLIC SERVICE
COMMISSION

99-485

PETITION TO EXEMPT
NON-LOCAL DIRECTORY ASSISTANCE SERVICE
FROM TARIFF REGULATION

I.

In accordance with KRS 278.512, Duo County Cooperative Corp., Inc. ("Duo County"); 2150 North Highway 127; P. O. Box 80; Jamestown, KY 42629; hereby requests that its proposed Non-local Directory Assistance ("NDA") service be exempt from tariff regulation by the Kentucky Public Service Commission. This exemption will be in accordance with and consistent with the public interest objectives listed in the Statute.

Since Duo County intends to provide the NDA service strictly within its own territory, notification of other local exchange carriers is not necessary. Duo County will agree to keep the service's contribution under regulation but requests that the Commission exempt the service from tariffing requirements.

II.

Duo County intends to resell NDA service provided by another company on a wholesale basis. In technical terms, NDA service will be provided in a manner identical to the local directory assistance service currently offered by Duo County.

III.

MCI/World Communications, Inc. ("MCI"); Sprint Communications Company, L.P. ("Sprint"); and AT&T Communications, Inc. ("AT&T") are the primary competitors to this service offering (see attachments). Each is a major corporation with MCI and AT&T having market capitalization in excess of 140 billion dollars and net sales in excess of 30 billion dollars and 50 billion dollars respectively.

Sprint has a market capitalization in excess of 56 billion dollars and sales in excess of 17 billion dollars. Additionally, smaller competitors offer national directory assistance service on an unregulated basis to the customers of Duo County. In each case, the service offered is the functional equivalent and serves as a perfect substitute for the NDA service proposed by Duo County.

Duo County's proposed NDA service will not impact the existing providers' ability or willingness to provide NDA service. These services are nationally advertised and marketed. Attachment 1A and Attachment 1B are copies of the web pages of AT&T and Sprint detailing their NDA services. These pages state that the services are ubiquitous throughout the nation and available for virtually all telephone numbers. The size of these competitors and their ubiquity demonstrate that the addition of a competitor with the limited capitalization and geographic scope of Duo County will have little competitive impact on them. Further, since their services are interstate and provided under the regulatory auspices of the Federal Communications Commission ("FCC"), the FCC has determined that the services are competitive and has chosen not to regulate them. Regulation is through the competitive offering of each and smaller competitors throughout the nation.

IV.

The exemption of Duo County's proposed NDA service will not impact the continued availability of Duo County's existing services at just and reasonable rates. Duo County will submit that the addition of this service will only expand the services available from it and will only improve the services available to its customers. It will have a limited positive impact on the revenues of Duo County.

V.

Duo County will submit that the detariffed services will not be subsidized by tariffed services. To assure the Commission that the NDA service rates cover their incremental costs, Duo County will charge a price equal to or greater than the wholesale charges that it pays for this service. By charging a price higher than the incremental costs for the NDA service, Duo County will not, under any circumstances, subsidize the detariffed NDA service.