

COMMONWEALTH OF KENTUCKY
BEFORE THE UTILITY REGULATORY COMMISSION

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In the matter of:

THE REVISION OF TELEPHONE)	
UTILITY TARIFFS LIMITING)	Administrative
LIABILITY FOR DIRECTORY)	Case No. 222
LISTING ERRORS AND OMISSIONS)	

ORDER

Pursuant to KRS 278.027 utilities are permitted to establish "reasonable rules governing the conduct of its business and the conditions under which it shall be required to provide service." Telephone utilities have filed with the Commission various rules, as a part of their tariff, which attempt to prescribe certain limits on their liability for damages resulting from directory listing errors and omissions.

Pursuant to KRS 278.040(3) the Commission has adopted a regulation, 807 KAR 25:040(6), which requires all telephone utilities to annually publish a directory listing all customers' name, address and phone number. This regulation also specifies corrective action which the telephone companies must take should they incorrectly list or omit a customer from the directory. However, the regulation does not express a Commission policy concerning the damages, or any limit thereon, which a customer may seek as a result of the listing error or omission. It is the position of this Commission that the courts provide the proper forum for customers' and advertisers' claims for damages as a result of directory listing errors and omissions by the telephone companies.

Moreover, listings contained in the classified or "yellow pages" section of the directory stem from private contracts which are not directly involved in providing telephone utility service. As such, these undertakings by the telephone utilities

are not subject to the regulatory jurisdiction of this Commission. Therefore, it is inappropriate for telephone utilities to include any rules related to this phase of their operation as a part of their tariff with the Commission.

The Commission having reviewed the various rules of the telephone utilities, the pertinent statutes and regulations, and being sufficiently advised, FINDS and concludes as follows:

1. That various rules of the telephone utilities attempting to place limits on damages for which those utilities may be liable as a result of directory listing errors or omissions have been filed with this Commission;

2. That the rules which attempt to limit the liability of the telephone utility for errors and omissions in its directory("white pages")listings are not in the public interest;

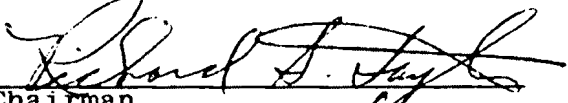
3. That classified or "yellow pages" advertising is not an essential part of the telephone companies' directory service in aid of its primary business of transmitting messages and, as such, is not subject to the regulatory jurisdiction of this Commission.


Based upon the above-stated findings, it is hereby ORDERED that any current rule or provision included in any telephone utility's tariff which attempts to limit its liability for damages claimed as a result of directory listing errors and omissions is hereby rescinded.

It is further ORDERED that all telephone utilities shall file complying tariffs which delete any provisions of their rules which set a limit on liability for damages resulting from directory listing errors and omissions; all such tariffs shall be filed within 30 days.

Done at Frankfort, this 2nd day of July, 1980.

UTILITY REGULATORY COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary