

COMMONWEALTH OF KENTUCKY

BEFORE THE UTILITY REGULATORY COMMISSION

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In the Matter of

THE LOCAL TAXES AND/OR FEES )  
TARIFF FILING OF GENERAL )  
TELEPHONE COMPANY OF KENTUCKY )

CASE NO. 7843

O R D E R

On April 11, 1980, General Telephone Company of Kentucky (Applicant), filed with the Commission a tariff wherein it proposed new and revised general rules and requirements concerning customer billing for certain local taxes and/or fees that might be levied or imposed upon the Company. Specifically, Applicant proposed that any fee or tax based upon a percentage of the gross receipts, net receipts, or revenues of the Company, whether imposed by ordinance, franchise, or otherwise by local taxing authorities, shall be added as a separate item to the bills of customers receiving service within the territorial limits of the taxing authority.

On April 24, 1980, the Commission, having considered the motion and being advised, ordered that the tariff filing be suspended for a period of five (5) months from the proposed effective date of May 5, 1980. By Order of July 9, 1980, the matter was set for hearing on August 1, 1980, at 9:00 a.m., Eastern Daylight Time, in the Commission's offices at Frankfort, Kentucky. By Order of August 5, 1980, further hearing was scheduled for August 21, 1980, at 1:30 p.m., Eastern Daylight Time, at the same location. Both hearings were held as scheduled and all parties were given the opportunity to be heard. Intervenors in the case were the Lexington-Fayette Urban County Government, and the Consumer Intervention Division of the Attorney General's Office, representing consumers.

The Commission, after consideration of this matter, including the hearing and all correspondence of record, and being advised, is of the opinion and finds that:

1. The only issue to be decided is how any franchise fee or tax shall be recovered by the utility, whether as a separate item on the bills of customers receiving service in the territory of a municipality requiring such a fee or tax, or as an operating expense to be recovered from all customers. Sections (163) and (164) of the Kentucky Constitution clearly allow a municipality to require a franchise agreement and further mandates that the municipality may receive bids for such an agreement;

2. KRS 96.010 provides that the franchise agreement be fair and reasonable to the municipality, to the purchasers of the franchise, and to the patrons of the utility. The Commission feels that it is unfair to customers not residing within a municipality to be forced to pay part of the costs of a utility's franchise agreement with that municipality;

3. Since there is no limitation on the amount of franchise fee which may be required, a uniform system must be adopted to recover these costs fairly with respect to the entire customer body. The fairest and best way to accomplish this is to recover franchise fees as a separate item on the bills of customers receiving service within a municipality requiring such fee;

4. A legislative precedent exists in that KRS 160.613 allows school districts to impose a 3% utility tax to be paid by affected subscribers, and the recovery of franchise fees or taxes via a separate item on affected customers bills would be a logical extension of this legislation;

5. The Applicant's proposed tariff does not provide for proper recovery of franchise base amount bids and does not provide for separate itemization of local fees and taxes on customer bills. Therefore, the Commission is of the opinion and finds that the proposed tariff is unfair, unjust, unreasonable, not in the public interest, and should be denied.

IT IS THEREFORE ORDERED that the tariff filing of General Telephone Company of Kentucky relative to the recovery of local taxes and fees be and it hereby is denied.

IT IS FURTHER ORDERED that within thirty (30) days from the date of this Order, General Telephone Company of Kentucky shall file rules and regulations with the Commission providing for the recovery of local fees and taxes in a manner consistent with the opinions and findings of this Order,

Done at Frankfort, Kentucky, this 3rd day of October, 1980.

By the Commission

ATTEST:

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Secretary