

COMMONWEALTH OF KENTUCKY
BEFORE THE UTILITY REGULATORY COMMISSION

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In the Matter of

THE FRANCHISE FEE TARIFF FILING)
OF CONTINENTAL TELEPHONE COMPANY) CASE NO. 7891
OF KENTUCKY)

O R D E R

On June 9, 1980, Continental Telephone Company of Kentucky (Applicant), filed with the Commission a tariff wherein it proposed new regulations to pass through to its customers any fee(s) exacted by cities or counties for privilege of occupying streets, alleys or public grounds.

On June 19, 1980, the Commission, having considered the motion and being advised, ordered that the tariff filing be suspended for a period of up to five (5) months from the proposed effective date of June 30, 1980. By order dated July 22, 1980 the matter was set for hearing on August 28, 1980, at 10:00 a.m., Eastern Daylight Time, in the Commission's offices at Frankfort, Kentucky. The hearing was held as scheduled and all parties of interest were given the opportunity to be heard. Intervenors in the case were the city of Barbourville, Kentucky, 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 specify that the municipality may receive bids for such franchise. KRS 96.010 provides that the franchise agreement must be fair and reasonable to the municipality, to the purchasers of the franchise, and to the patrons of the utility.

2. Based upon the evidence adduced at the hearings, and being advised, the Commission is of the opinion and finds 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. Accordingly, tariff provisions which perpetuate such an arrangement are unfair and unreasonable.

3. Since there is no limitation on the amount of franchise fee which may be required the Commission further finds that a uniform system should 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 a fee.

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

5. For all of the reasons set forth above, the Commission hereby FINDS that Applicant's proposed tariff is fair, just, and reasonable, in the public interest, and should be approved.

IT IS THEREFORE ORDERED that the tariff filing of Continental Telephone Company of Kentucky relative to the recovery of local taxes and fees be and it hereby is approved, effective on and after the date of this Order. The pages of the tariff filing hereby approved are:

General Exchange Tariff

Section 2: 4th Revised Table of Contents

Section 2: 3rd Revised sheet 12

IT IS FURTHER ORDERED that within twenty (20) days from the date of this order Continental Telephone Company of Kentucky shall file revised tariff sheets with the Commission stating the regulations herein approved.

Done at Frankfort, Kentucky this 10th day of October, 1980.

UTILITY REGULATORY COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

Secretary