

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of

MRS. BEULAH BEAM, MRS. JUANITA SMITH,)
AND OTHER BULLITT COUNTY CONSUMERS)
VS.)
SOUTH CENTRAL BELL TELEPHONE COMPANY)
534 ARMORY PLACE) CASE NO. 6882
LOUISVILLE, KENTUCKY 40202)
AND)
ECHO TELEPHONE COMPANY)
1009 BUCKMAN STREET)
SHEPHERDSVILLE, KENTUCKY)

INTERIM ORDER

On August 31, 1977, Mrs. Beulah Beam, Mrs. Juanita Smith, and other Bullitt County residents ("Petitioners") filed a complaint with the Commission seeking toll-free extended area telephone service (EAS) for all Bullitt County residents with Louisville. This complaint was filed against both South Central Bell Telephone Company ("Bell") and Echo Telephone Company ("Echo"), the telephone utilities serving the areas involved, requesting:

1. That the Commission grant a hearing at which Bullitt County residents could testify as to the need for extended area service (EAS);
2. That the Commission order South Central Bell and Echo Telephone Company to make a study of the costs of providing both county-wide toll-free dialing in Bullitt

County, and EAS for all Bullitt County residents to Louisville.

3. That the Commission order a survey to be made of all affected subscribers to determine whether or not EAS is in the public interest;

4. If the survey demonstrates that EAS is in the public interest, to order the defendants to provide such service;

5. That the Commission grant any and all other relief to which these consumers may be entitled.

In view of the fact that the same subject matter had been considered by the Commission in Case No. 5851, the Commission ordered Bell to submit a three-month study and Echo a six-month study, the studies to show recent toll traffic in the areas involved.

On April 19, 1978, the Commission entered an order denying the petition for toll-free extended area service without a public hearing, stating that a hearing was not necessary since the subject of this case was fully documented in Case No. 5851. On May 30, 1978, the Commission denied petitioners' Motion for Rehearing. This decision was appealed and on January 11, 1980, the Kentucky Court of Appeals in Mrs. Beulah Beam et al., v. PSC, Case No. 79-CA-856-MR, remanded the case to the Commission for a hearing on petitioners' complaint.

Upon remand, the Commission, by Order dated February 7, 1980, directed Bell and Echo to perform cost studies to

determine costs to their respective Louisville and Bullitt County subscribers to furnish the requested EAS. Further, the utilities were directed to file proposed forms of survey and letters of explanation to determine the willingness of the affected subscribers to pay the increased cost of the requested EAS. Following receipt of this material and upon completion of the proposed survey, a hearing was to be held.

On motions of both petitioners and the affected utilities, on March 19, 1980, the Commission clarified its Order of February 7, 1980, to make clear that petitioners were requesting surveys of the cost of EAS both between all Bullitt County subscribers and all Louisville subscribers, and between all Bullitt County exchanges.

On July 1, 1980, a conference of parties of record and the Commission Staff failed to reach any agreement on the forms of survey to be conducted. At the conference, petitioners stated their opposition to the cost studies, proposed forms of survey, and letters of explanation filed by Bell and Echo, and requested a public hearing on these issues. At the hearing, on February 19, 1981, after discussion of the cost studies and survey format, petitioners requested that the Commission schedule a public hearing relative to the entire scope of the requested EAS, prior to conducting the surveys contemplated.

The hearing was held on April 30, 1981, where evidence was offered by petitioners to show the desire of Bullitt County residents for the requested EAS service, and to attempt

to prove that discrimination, within the meaning of K.R.S. 278.170, was involved in this case.

DISCUSSION

South Central Bell (and its predecessor, Southern Bell) has served the Louisville and Jefferson County area with telephone service since before the enactment of the Public Service Commission Act in 1934. Starting with local exchanges serving very limited geographical areas, exchange service areas expanded with increasing use and traffic until exchange area boundaries touched each other. These exchanges were then grouped to form what is presently referred to as the "Louisville Exchange" area.

This pattern was repeated throughout Kentucky, with differences of scale and timing only, as telephone use and service grew. More than one hundred telephone companies served separate geographical areas across Kentucky. Service area boundaries usually coincided with natural boundaries, such as rivers, mountains, or highways, or in some cases with a political boundary, such as a city or county line. Most companies began as one-exchange operations, which expanded outward until they met the service area of another company or exchange.

By 1934, when the PSC was established, the only significance attached to a political boundary line, such as a city or county line, was whether it was necessary under a city's ordinances for the utility to obtain a "franchise" from the municipal authorities. Where exchange boundaries

did not meet at city or county boundary lines, it was not unusual for a telephone company to extend service into adjoining county areas from the primary exchange nearest the resident desiring service.

The testimony in this matter clearly shows that as population and business growth moved beyond the bounds of Jefferson County, Bell began to provide Louisville Exchange service both into Oldham County and into the area known today as the Zoneton Exchange of Bullitt County. At the same time, Bell's LaGrange Exchange was growing toward Jefferson County, and Echo's Shepherdsville Exchange was beginning to provide service into the area of the present Zoneton Exchange.

Clearly the time had arrived to agree on definite boundary lines and serving utilities. An exchange may be considered as an irregularly shaped wheel, with the central office at the hub, and various cable routes serving customers within the exchange boundaries as the spokes in the wheel. To properly function, and to serve all applicants within the boundary, the system must be engineered for the number of subscribers to be served. Accurate estimates must be made of the number of customers to be served by a given cable route within a specified planning period (usually 2-5 years), and sufficient cable facilities must be built to accommodate these estimates of subscriber additions to be made. As an example, in order to provide a subscriber with individual line service, it is necessary that there be an identifiable cable pair, either physical or electronic in nature, from the central office to

the subscriber's location, whether it be next door to the central office or at the boundary line. In addition, central office facilities must be available for each subscriber.

In 1964, in Commission Case No. 3908, the Commission was asked to resolve the service boundary between Bell and Echo. Where both companies were serving in the area, the Commission determined that the proper solution was to create the Zoneton Exchange of Echo, thereby drawing the serving line to limit Bell's growth in this area to Jefferson County. The testimony in that case shows that the boundary line was generally agreeable to the parties concerned.

This Commission does not fault the decision to allow customers in the Zoneton Exchange to keep their toll-free calling into Louisville, since to do otherwise would require reducing the existing local calling scope for customers who already had that service. In addition, the decision in that case required Zoneton subscribers to pay a higher rate in recognition of their increased calling scope.

The record also shows that the Commission at that time considered the possibility of including the Shepherdsville and Mount Washington Exchanges in the Louisville calling area. However, in recognition of the fact that Zoneton was part of the population outgrowth from Jefferson County, while Shepherdsville and Mount Washington were established communities and not part of the Louisville outgrowth, several business and community interests opposed this proposal. It was, therefore, not accomplished.

In 1970, in Case No. 5 142, the Commission was asked to resolve the service area boundary between Louisville and the LaGrange Exchange. By this time, Bell's Louisville service, again following population outgrowth from Louisville, had expanded into southwestern Oldham County. The Commission determined in that instance that the boundary line needed to be clearly defined between the Louisville and LaGrange Exchanges, and further that the Louisville calling area should include the LaGrange Exchange.

In both these instances and in the matter of the Zoneton Exchange, a portion of the engineering and construction work necessary to establish these exchanges into the Louisville calling area had already been accomplished, and if the Commission had moved the Louisville Exchange boundary back to the Jefferson County line, this would have caused a discontinuation of existing service to some Oldham County subscribers. The Commission notes that Bell did propose at the time to increase LaGrange rates by \$2.00 per month, which is not inconsistent with the concept that those subscribers who would gain the benefit of increased services should bear the cost of that service. However, the Commission determined that this incremental charge was not in the public interest. Neither Bell nor any other potentially "aggrieved" party appealed.

Obviously there can be, and are, reasonable differences in the rates and services afforded customers in different exchanges of the same utility, both those served by Bell and by Echo. Petitioners have claimed unreasonable discrimina-

tion based on their inability to call certain geographical areas (i.e., Louisville and portions of Bullitt County to other portions of the same county) toll-free, as can Zoneton and LaGrange subscribers, as if this difference in service, in and of itself, results in discrimination under K.R.S. 278.170 and K.R.S. 278.260. The Commission rejects this contention. As described in this discussion, exchange boundaries, and calling areas, have historic and technical justifications not necessarily related to particular local or geographical considerations.

Further, the Commission does not find evidence of discrimination in accordance with the definition of K.R.S. 278.170. This statute requires that no utility shall give any unreasonable preference or advantage to any person. However, this must be balanced against K.R.S. 278.030, which states that every utility may employ in the conduct of its business suitable and reasonable classifications of its service and rates. The legislature clearly recognized that there would be some differences in the service and rates provided by a utility. To carry this argument to its logical extreme would require an impossibility: that all exchanges of a utility have an identical calling scope.

Petitioners offered a map and testimonial evidence showing that certain federal agencies classify Bullitt and Oldham Counties as part of Louisville Standard Metropolitan Statistical Area (SMSA). However useful this geographical configuration may be for the purposes of those federal agencies,

no evidence was offered suggesting that it was designed for planning telephone (or any utility) service areas.

Finally, Petitioners argue that circumstances have changed in Bullitt County from the time of Case No. 3908 when some business and community leaders opposed the inclusion of Shepherdsville and Mount Washington in the Louisville calling area. The Commission is aware that the population and needs of those communities have changed in the interim, but finds that this ordinary demographic change is insufficient evidence to support the existence of an unreasonable discriminatory situation as contemplated by K.R.S. 278.170.

However, in response to the expressed concerns and needs of Bullitt County subscribers, the Commission has devised a method to adequately consider those concerns. This is through a survey, discussed in previous hearings in this matter, which will allow all potentially affected subscribers to decide for themselves whether they are willing to receive increased services by paying for the increased costs of those services.

The era of unlimited and continuous expansion of services, including telephone service, is past. The advent of competition in the profitable areas of toll service and terminal equipment has reduced, and will continue to reduce, the revenues formerly available to help offset the cost of providing local service. In addition, deregulation of portions of the communications industry, which is currently being considered by the United States Congress and the Federal Communications Commission, appears likely to place further pressure

on local basic service to pay more of its own costs. In effect, the trend is toward compelling "cost causers," more than in the past, to be "cost payers."

For this reason, this Commission can no longer enjoy the luxury of ordering the expansion of services, beyond basic service, without consideration of who will bear the costs of such services. The Commission is certainly not opposed to Petitioners' request for expanded services, but the concept of requiring those who enjoy these expanded services to pay the costs must be applied to this case. Therefore, the survey method must be considered as the fairest and most equitable means, to all subscribers, of ascertaining their desire for increased service and their willingness to pay for such services.

The Commission, having considered this matter, including the public hearings and all correspondence of record, and being advised, is of the opinion and finds that:

1. Bell's extension of toll-free calling service into northern Bullitt County and southwestern Oldham County was in response to the normal pattern of population outgrowth from Louisville;

2. Echo's extension of service into the area of Bullitt County now known as the Zoneton Exchange was in response to customer demand from residents of the area;

3. The Commission's decision in 1964, in Case No. 3908, to create a Zoneton Exchange served by Echo, but with Louisville toll-free calling service, was in response to the need to establish a clearer boundary definition, avoid duplication of

service and destructive competition for service, while at the same time observing the then-recognized principle that subscribers should not be deprived of established calling scope;

4. In 1969 in PSC Case No. 5142, the Commission granted toll-free calling between LaGrange and Louisville, but it was done at a time when expansion of telephone services could be justified without the absolute necessity of consideration of the costs involved;

5. In 1971, in the Marshall County case (PSC Case No. 5398), the Commission granted toll-free calling to all residents of Marshall County without increasing basic rates, again disregarding the costs assertedly involved. The Franklin Circuit Court set the Commission's order aside, and Kentucky's highest court affirmed, holding that complainants had failed to produce evidence showing employment of an unreasonable classification or maintenance of an unreasonable difference between localities for doing a like and contemporaneous service under the same or substantially the same conditions, and thus failed to establish discrimination which would support an order for such extended service.

The court further stated:

However, PSC does have the authority to require the cost of a particular kind of service in a particular area to be borne system-wide rather than by the patrons of the particular area, and to require the utility to provide an advanced quality of service to a particular area, if the utility, as to other fully comparable areas, is spreading the cost system-wide and is furnishing the advanced quality of service. Marshall County vs. South Central Bell Telephone Co., Ky., 519 S.W.2d 616 (1975).

The evidence of petitioners did not show that the lack of toll-free calling within portions of Bullitt County and between portions of Bullitt County and Louisville is unreasonably discriminatory within the meaning of K.R.S. 278.170 or 278.1260, when compared to the toll-free calling scope of LaGrange and Zoneton subscribers;

6. Having found no discrimination within the meaning of K.R.S. 278.170 or K.R.S. 278.260, the survey previously ordered should be undertaken;

7. In accordance with the Commission's Order of March 19, 1980, in this matter, and with petitioners' Motion filed February 26, 1980, one survey should be conducted concerning both intra-Bullitt County EAS and inter-Bullitt-Jefferson County EAS; and

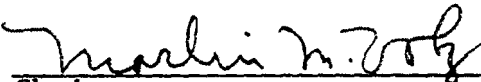
8. The survey of subscriber interest and willingness to pay for service ordered in this case is not based upon the Commission's EAS Guidelines of October 31, 1980, but is based upon the petitioners' request in their original complaint of August 31, 1977, and as a matter of fairness and equity to all potentially affected subscribers in Bullitt and Jefferson Counties.

It is therefore ORDERED that petitioners and the defendant utilities jointly submit final forms of survey, letters of explanation, and method by which the survey is to be conducted, in accordance with the agreements reached during the public hearing in this matter on February 19, 1981, within 30 days of the date of this order.

It is further ORDERED that the survey shall be conducted in accordance with finding number seven of this Order.

Done at Frankfort, Kentucky this 17th day of August, 1981.

PUBLIC SERVICE COMMISSION


Chairman

Did not participate.
Vice Chairman


Commissioner

ATTEST:

Secretary