

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MR. PAY PHONE OF KENTUCKY, INC.)	
MR. PAY PHONE OF LEXINGTON, INC.)	
BERISH AND ASSOCIATES, INC., d/b/a)	
BLUEGRASS COIN TELEPHONE COMPANY)	
AND PAYPHONES UNLIMITED)	
COMPLAINANTS)	CASE NO. 9498
)	
VS.)	
)	
GENERAL TELEPHONE OF THE SOUTHEAST)	
DEFENDANT)	

O R D E R

On January 22, 1986, Complainants filed a formal complaint under KRS 278.260 voicing objections to certain practices of the Defendant, General Telephone of the Southeast ("General"). General filed its responses to the allegations on February 7, 1987.

The Complainants asserted that they were being charged a substantially higher rate for a customer-owned coin-operated telephone ("COCOT") line than customers who maintain a regular business line and thus the tariff was discriminatory. In its response, General denied the allegation. General contends that at no time did it charge its COCOT customers any rates other than those approved by the Commission.

Additionally, the Complainants requested that General be ordered to reimburse COCOT owners for revenues collected which were in excess of revenues under single line business rates. The

Commission in Administrative Case No. 293¹ ruled that single business rates should be applied to COCOT customers. In a subsequent request for clarification the Commission stated that the rates should be made effective on November 11, 1986. The Commission is of the opinion that prior to the November 11, 1986, Order rates charged by General to the Complainants for COCOT service were consistent with tariffs on file at the Commission. Furthermore, the Commission is of the opinion that to require refunds for Complainants' payments to General prior to November 11, 1986, would constitute retroactive rate-making. Thus, the Complainants' request for refunds prior to November 11, 1986, is denied. However, the Commission will require General to refund all revenues collected from the Complainants in excess of the revenues which would have been collected under the single business line rate since November 11, 1986.

The Complainants allege that General has subjected them to "unreasonable prejudice and disadvantage in the marketing of their pay phones" by increasing the commissions payable to General's customers on at least two occasions without Commission approval. In addition, the Complainants contend "...the higher commission rate appears to apply to the Defendant's better customers and not across the board to all of its customers." As a remedy the Complainants have requested that the Commission by Order require

¹ An Inquiry Into Local Resale of Exchange Services By STS Providers and COCOT Providers.

that General obtain prior approval for any future increase in its commission rates. General denies the Complainants' allegations. General does admit it pays a commission where it locates its public pay telephones. Further it contends that commissions are paid on a uniform basis to every business which houses General's public pay telephones.

The Commission will reject the Complainants' petition. There is no evidence of discrimination. However, it is the opinion of the Commission that increases in the commission rates paid by General can both affect the competitive pay phone market plus adversely affect the rates for local exchange service because of residual pricing. The Commission therefore will require General to seek its approval prior to increasing the commission rates paid to its public coin telephone customers in the future.

The Complainants also requested that the Commission prohibit General from approaching its customers for any purpose having to do with pay telephones, for any reason other than for information necessary to provide maintenance of their lines. In addition, the Complainants requested that the Commission order General to provide them with a list of General's pay telephone locations along with the average revenue collected in each location. The Commission reminds the Complainants that both parties are operating in a competitive market. To the extent that the Commission restricts the normal competitive activity of any party, the pay telephone consumers will be adversely affected. The Commission will not restrict General's normal competitive marketing practices. As to the request for location and revenue

information of General's pay telephones, the Commission is of the opinion that it is the responsibility of the Complainants to find methods of competing with General. The Commission in Administrative Case No. 293 provided COCOT owners the opportunity to develop their own market segments. It was not the Commission's intention to either replace or protect the local exchange companies' most profitable pay telephone locations. Therefore, the Commission will deny the Complainants' request.

Finally, the Complainants' request that the Commission "investigate the methods and practices" of General and "require it to conform to the laws of the state." At this point the Commission finds no reason to conduct such an investigation.

IT IS THEREFORE ORDERED that:

1. General shall apply the rates to the COCOTS as ordered in Administrative Case No. 293.
2. General shall refund revenues collected from the Complainants which were in excess of amounts authorized in Administrative Case No. 293.
3. In the future, General shall seek approval from the Commission prior to increasing the commission rates paid to its public coin telephone customers.
4. The Complainants and General are advised that the Commission will not restrict the parties' normal competitive marketing practices.

Done at Frankfort, Kentucky, this 8th day of May, 1987.

PUBLIC SERVICE COMMISSION

Richard D. Hemeryk
Chairman

[Signature]
Vice Chairman

[Signature]
Commissioner

ATTEST:

Executive Director