

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GTE SOUTH INCORPORATED PROVISION OF)
COUNTYWIDE TELEPHONE SERVICE TO) CASE NO.
GREENUP COUNTY, KENTUCKY, PURSUANT) 9824
TO KRS 278.545)

O R D E R

This matter arising upon the tariff filed December 21, 1988 by GTE South Incorporated ("GTE") to recover costs from subscribers whose exchanges are located in Greenup County, Kentucky, for the provision of county-wide extended area service ("EAS"), and it appearing to the Commission as follows:

The issues concerning EAS and the appropriate compensation for its provisioning have been addressed by this Commission and EAS policy has been formulated over the years.

HISTORY OF EXTENDED AREA SERVICE IN KENTUCKY

More than 100 telephone companies served separate geographical areas across Kentucky in 1934, prior to the enactment of the Public Service Commission Act. Initially, the local exchanges served limited geographical areas; however, with increasing traffic these service areas expanded until exchange area boundaries met other serving areas. Serving 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. Many of the telephone companies

consolidated, reducing their number to the present-day level. Today there are over 400 telephone exchanges within Kentucky served by 21 local exchange companies.

These telephone exchanges formed the basic unit of a telephone serving area. The broad categories of telephone service are intraexchange and interexchange service. Interexchange service is further categorized as either toll service or extended area service. Historically, toll service has been considered a fair and equitable means of providing service between exchanges since those who utilize the service pay the charges. Extended area service is often referred to as "free" calling between exchanges. This reference is obviously not true, because the toll revenues lost as a result of the initiation of extended area service are generally regained through increased revenues derived through basic exchange rates.

Often EAS was established between exchanges at a time when expansion of telephone services could be justified without considering the additional cost involved. For example, telephone operators at one time recorded toll calls on toll tickets which became the basis for billing customers. Toll-free calling may have been established when the charge for the toll typically did not recover the cost of the manual toll ticketing and the billing system in effect at that time. In other instances, EAS was established among exchanges serving portions of cities such as Louisville, Lexington, and Ashland. Also, some telephone cooperatives had a policy establishing EAS among all their exchanges.

The Commission has been involved in the establishment of some EAS configurations. For example, in 1969 the Commission granted toll-free calling between LaGrange and Louisville.¹ South Central Bell Telephone Company ("South Central Bell"), which served both areas, proposed at the time to increase LaGrange rates by \$2 per month. However, the Commission determined that this incremental charge was not in the public interest. South Central Bell did not appeal the decision.

In 1971 the Commission granted toll-free calling to all residents of Marshall County without increasing basic rates.² This time, however, South Central Bell appealed the decision to Franklin Circuit Court. The Court set aside the Commission Order, and Kentucky's highest court affirmed, holding that the authority granted to the Commission to regulate utilities, enforce provisions of the statutes, and have exclusive jurisdiction over the regulation of rates and service of the utility does not embrace the authority to compel a utility to furnish service without any compensation, provide service above that which is adequate and reasonable, or to forego the use of reasonable classifications as to service and rates. Marshall County v. South Central Bell Telephone Company, Ky., 519 S.W.2d 616, 618 (1975). However, the Court found that the:

¹ Case No. 5142, Notice of South Central Bell Telephone Company to File Tariffs Providing for Extended Area Service Between Louisville and LaGrange and to Establish Rates Therefore.

² Case No. 5398, Marshall County, Kentucky and City of Benton, Kentucky vs. South Central Bell Telephone Company.

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. Id.

The Court determined that discrimination, the real issue, was not proven by the subscribers seeking EAS:

[T]here was no evidence that communities having extended area service to and from the city with which they have the greatest community of interest are in other places in the Bell system being provided extended area service to another economic center. There was no evidence that in Lincoln, Oldham and Martin Counties patrons have extended area service to more than one major economic center. There was no evidence that in other places in the Bell system local exchanges are being provided with extended area service to a particular center when only a small percentage of the patrons of the exchange have any need or desire for that service. In short, the complainants did not prove that Bell is employing an unreasonable classification, or is maintaining an unreasonable difference between localities for doing a like and contemporaneous service under the same or substantially the same conditions. Id., at 619.

Because of the numerous requests for EAS, the Commission initiated an administrative case in 1980 to develop guidelines or procedures for processing such requests.³ These guidelines require that the petitioning subscribers demonstrate that a

³ Administrative Case No. 221, Extended Area Telephone Service, Order adopting guidelines entered October 31, 1980.

community of interest exists with the "desired" exchange. Also required is the development of cost information, including necessary central office and trunk equipment, and associated expenses and lost toll revenue. This information forms the basis for a rate additive to be paid by those subscribers obtaining EAS.

Since the Court's decision in Marshall County and the Commission development of EAS guidelines, consideration of EAS has been directed by the principles enumerated in those matters.

BACKGROUND OF THIS PROCEEDING

The 1986 General Assembly enacted KRS 278.545 which states:

(1) As used in this section:

(a) "Countywide local exchange telephone service" or "countywide service" means that no toll or distance charges are made for telephone calls which both originate and terminate within the geographical area of a county. A local exchange may embrace an area larger than a single county; and

(b) "Major telephone company" means a telephone company with annual gross operating revenues of one hundred million dollars (\$100,000,000) or more.

(2) If a major telephone company serves all subscribers in a county but does not provide countywide service, and if at least two thousand (2,000) subscribers are not able to telephone the county seat of the county without paying toll charges, then the public service commission shall by order require provision of countywide local exchange telephone service within the county no later than October 1, 1987.

After reviewing the Commission records and applying the statute's criteria, it was determined that the law was applicable to GTE's service area in Greenup County, Kentucky. On December 23, 1986, the Commission ordered GTE to comply with KRS 278.545 by implementing county-wide EAS in Greenup County, Kentucky. Prior

to the initiation of this proceeding, GTE had filed suit against the Commission in Franklin Circuit Court alleging that KRS 278.545 was unconstitutional.⁴ On November 13, 1987, Franklin Circuit Court entered a judgment finding that KRS 278.545 was constitutional. GTE has appealed this decision to the Kentucky Court of Appeals,⁵ and the matter is now being held in abeyance pending the decision by this Commission.

On December 21, 1988, GTE filed a proposed tariff which sought to implement a rate increase for subscribers in exchanges located in Greenup County. On March 22, 1989, prior to its effective date, the Commission suspended the proposed tariff to investigate its reasonableness.

Confronted by the legislative mandate of KRS 278.545 that the Commission "shall by order require provision of countywide local exchange telephone service" in any county where the statutory conditions enumerated above are satisfied, the Commission had no alternative but to order EAS for those exchanges located in Greenup County.

Having ordered the service, the Commission is now confronted with the appropriate method to compensate GTE for the provision of such service.

⁴ General Telephone Company of the South v. Public Service Commission of Kentucky, Civil Action No. 86-CI-1296.

⁵ General Telephone Company of the South v. Public Service Commission of Kentucky, Ky.App., No. 87-2408 (filed 11/11/87).

APPROPRIATE METHOD OF COMPENSATION TO GTE

According to the Marshall County case, the Commission must enable GTE to recover the cost for the provision of EAS:

The authority granted to PSC under KRS 278.040. . .does not embrace the authority to compel a utility to furnish service without any compensation, or to provide service over and above what is adequate and reasonable, or to forego the use of reasonable classifications as to service and rates. Id. at 618.

In order to require that GTE not be compensated for the provision of this service, it would be "necessary that there be a finding of specific evidentiary facts establishing discrimination." Id. at 619.

This Commission has carefully weighed and is highly sympathetic to all concerns expressed at the August 1, 1989 hearing. Nonetheless, based on the prevailing Kentucky case law, as well as prior Commission policy enunciated in Administrative Case No. 221, the Commission has no alternative but to enable GTE to recover the cost incurred in providing EAS to Greenup County. Having determined that GTE must be compensated, we now turn to the consideration of whether the customers affected by the Greenup County EAS should bear the costs or whether the entire customer base of GTE in Kentucky should bear the cost.

As discussed above, the Marshall County case establishes that the Commission 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 subscribers in a particular area and to require the utility to provide an advanced quality of service to a particular area IF two conditions are satisfied:

(1) the utility is spreading the cost system-wide as to other fully comparable areas; and

(2) the utility is furnishing the advanced quality of service as to other fully comparable areas.

There is no evidence in this proceeding that either condition exists.

Consequently, the Commission is compelled to find that the costs of providing county-wide EAS should be borne by the subscribers benefiting from the service, in particular the customers in the Greenup, Russell, South Shore, Ashland, and Meads exchanges.

REQUIREMENT FOR THE PROVISION OF EAS

In its tariff filed December 31, 1988, GTE estimated that the annual revenue requirement for the provision of county-wide EAS was \$259,999. Included in the computation of this figure were estimated capital expenditures of \$340,000. Additionally, toll revenues lost as a result of implementation of county-wide EAS were estimated to be \$159,451. The tariff was designed to recover \$258,086. GTE proposed that this amount be recovered by applying the current approved rates for rate group 5 to South Shore exchange access lines with the remaining revenues derived from all customer access lines in the effected exchanges in the form of a "rate additive." The regrouping of the South Shore exchange from rate group 4 to rate group 5 because of the additional access lines gained through county-wide EAS is required by GTE's tariff and the EAS guidelines established in Administrative Case No. 221. Finally, the proposed rates have been altered to account for GTE's

rate change which has occurred since this tariff was filed.⁶ The rates as set out in the attached Appendix are reasonable and should be adopted for compensating GTE for providing county-wide EAS.

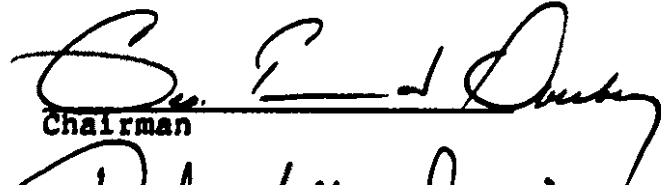
IT IS THEREFORE ORDERED that:

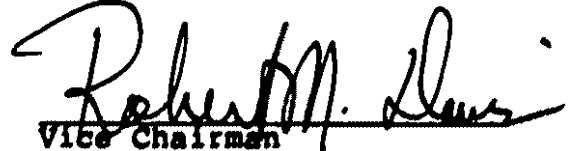
1. The rates attached as Appendix A herein and incorporated hereto shall be charged to subscribers in the Greenup County exchanges for the provision of county-wide EAS. These rates shall be effective beginning with the implementation of county-wide EAS in Greenup County.

2. Within 10 days from the date of this Order, GTE shall notify the Commission of the date on which it will implement EAS.

Done at Frankfort, Kentucky, this 26th day of September, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director

⁶ Case No. 10117, Adjustment of Rates of GTE South Incorporated, Order on Rehearing entered August 3, 1989.

APPENDIX A

**APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 9824 DATED 9/26/89**

The following rates and charges are prescribed for the customers in the area served by GTE South Incorporated. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Commission prior to the effective date of this Order.

GENERAL CUSTOMER SERVICES TARIFF

§3. BASIC LOCAL EXCHANGE SERVICE

§3.2 Monthly Exchange Rates

§3.2.1 Flat Rate Service

- a. The rate group schedule is applied on the basis of the number of primary stations and PBX access lines within the local calling area, including the primary stations and PBX access lines of other telephone companies, within the same local calling area.

<u>Class and Grade of Service</u>	Rate Group 4 <u>25,001-50,000</u>	Rate Group 5 <u>50,001-150,000</u>
<u>Business</u>		
One-Party Access Lines	\$42.96	\$47.14
Two-Party Access Lines	36.52	40.07
Four and Eight-Party Access Lines	30.07	33.00
PBX Access Line	62.48	68.56
Semipublic Service	78.10	85.70
<u>Residence</u>		
One-Party Access Lines	15.62	17.14
Two-Party Access Lines	12.50	13.71
Four and Eight Party Access Lines	10.93	12.00

<u>Exchanges</u>	<u>Exchanges</u>
*(D)	Lexington
Catlettsburg	Midway
Elizabethtown	Nicholasville
*(D)	Versailles
*(D)	Wilmore
*(D)	
*(D)	

* Refer to S3.3, Page 8.1 for applicable monthly rates for the local exception exchanges.

<u>Exchange</u>	<u>Rate Group</u>	<u>Business Access Lines</u>			<u>Residence Access Lines</u>		
		<u>1-Pty</u>	<u>2-Pty</u>	<u>8-Pty</u>	<u>1-Pty</u>	<u>2-Pty</u>	<u>8-Pty</u>
Ashland	4	(See Section S3.3 - Local Exceptions)					
Greenup	4	(See Section S3.3 - Local Exceptions)					
Meads	4	(See Section S3.3 - Local Exceptions)					
Russell	4	(See Section S3.3 - Local Exceptions)					
South Shore	5	(See Section S3.3 - Local Exceptions)					

* 4- and 8-party Zoned Exchange Service is an offering limited to existing customers at present locations only.

S3.3 Local Exceptions

S3.3.1 Flat Rate Service

a. Monthly rates shown herein for extended area service are for the exchanges listed in S3.3.1.a. below:

<u>Class and Grade of Service</u>	<u>Rate Group</u>	<u>Rate Group</u>
	<u>4</u>	<u>5</u>
	<u>25,001-50,000</u>	<u>50,001-150,000</u>
<u>Business</u>		
One-Party Access Lines	\$44.06	\$48.24
Two-Party Access Lines	-	-
Four and Eight-Party Access Lines	-	-
PBX Access Line	64.08	70.16
Semipublic Service	80.10	87.70

<u>Class and Grade of Service</u>	Rate Group	Rate Group
	⁴ 25,001-50,000	⁵ 50,001-150,000

Residence

One-Party Access Lines	16.02	17.54
Two-Party Access Lines	12.82	14.03
Four and Eight Party Access Lines	11.21	12.28

Exchanges

Exchanges

Ashland
Greenup
Meads
Russell

South Shore

<u>Exchange</u>	<u>Rate Group</u>	<u>Business Access Lines</u>			<u>Residence Access Lines</u>		
		<u>1-Pty</u>	<u>*4 & 2-Pty</u>	<u>8-Pty</u>	<u>1-Pty</u>	<u>*4 & 2-Pty</u>	<u>8-Pty</u>
Ashland	4	\$44.06	\$ -	\$ -	\$16.02	\$12.82	\$ -
Greenup	4	44.06	-	-	16.02	12.82	11.21
Meads	4	44.06	-	-	16.02	12.82	11.21
Russell	4	44.06	-	-	16.02	12.82	11.21
South Shore	5	48.24	-	-	17.54	14.03	12.28

(1) As zoning is established, only those grades of service listed in Section S3, "Zoned Exchange Service" will be offered; at the time the better grades of service become available, the incremental zone rates will be applicable in lieu of exchange line mileage charges.

(2) Four-party residential service is not offered in Zone 1 areas; in Zone 2 and beyond it is limited to existing customers at present locations only.

(3) Business rural rates plus appropriate mileage charges apply to existing business four-party service in unzoned areas.

* 4- and 8-party Zoned Exchange Service is an offering limited to existing customers at present locations only.

S3.5 Local Calling Areas

The rates specified in S3.2.1 entitle subscribers to access all stations bearing the central office designations of additional exchanges as shown below. The local calling area of the exchange in the left-hand column also includes the exchanges listed in the right hand column.

Denotes Exchange other than GTE South Incorporated.

<u>Exchange</u>	<u>Additional Exchanges</u>
Ashland	Catlettsburg, Green-up, Meads, Russell, South Shore
Greenup	Ashland, Meads, Russell, South Shore
Meads	Ashland, Catlettsburg, Greenup, Russell, South Shore
Russell	Ashland, Catlettsburg, Greenup, Meads, South Shore
South Shore	Ashland, Greenup, Meads, Portsmouth, Ohio#, Russell