

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF TELECOMMUNICATIONS
SERVICES BY AMERICALL DIAL-O
SERVICES, INC.

ALLEGED VIOLATIONS OF KRS CHAPTER 278

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) CASE NO.
) 90-001
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O R D E R

On July 10, 1990, the Commission received a supplemental petition for rehearing from AmeriCall Dial-O Services, Inc. ("Dial-O".) Dial-O is seeking an opportunity to show that the Commission's May 25, 1990 Order was erroneous and not supported by the evidence. However, on June 14, 1990, Dial-O had filed an application for rehearing of the same May 25, 1990 Order pursuant to KRS 278.400. By Order dated June 22, 1990 the Commission denied Dial-O's June 14, 1990 application for rehearing.

In its June 22, 1990 Order, the Commission found that Dial-O had failed to offer any additional law or facts and instead merely directed the Commission to its previously filed brief. Further, the Commission stated that it had carefully considered each issue contained in Dial-O's previously filed brief and that its determinations based on that brief are contained in the May 25, 1990 Order. Lastly, the Commission found that the record in this proceeding fully supports its findings that Dial-O committed at

least 293 separate violations in violation of KRS 278.160 and that Dial-O pay a penalty for each offense.

In its July 10, 1990 supplemental petition for rehearing, Dial-O again requests that it be given the opportunity to show that the Commission's conclusions in the May 25, 1990 Order are erroneous and not supported by the evidence. Dial-O asserts that the Commission made several factual errors in analyzing the record of evidence. First, Dial-O contends that the Commission erroneously found that it contracts with end-users when it only contracts with traffic aggregators. The Commission's May 25, 1990 Order stated at page 5 that:

"All end-users, whether they have contracted with Dial-O or presubscribed to AmeriCall or contracted with AmeriCall, receive the operator services contracted for and provided to Dial-O and pay the charges for the service to the local exchange companies based upon the billing service agreement with Dial-O."

The distinction that Dial-O seeks to make between traffic aggregators and end-users is not supported by statute. KRS 278.010(3)(e) defines utility service as that which is offered for the public for compensation. The Commission upholds its previous determination that Dial-O is providing utility service to the public for compensation.

Dial-O asserts that the Commission erroneously stated that it contracts for access services. The Commission's May 25, 1990 Order at pages 6 and 7 stated that:

AmeriCall has an access customer name abbreviation for purchase of long-distance access and a carrier identification code for purchase of access to local telephone

Dial-O uses AmeriCall's carrier identification code when contracting for access service.

The Commission's point was that when Dial-O needed to utilize an access customer name abbreviation or a carrier identification code it used those of AmeriCall. The Order recognized that Dial-O pays approximately 20 percent of its revenues to AmeriCall for the provision of underlying transmission services. Therefore, the Commission has not made an erroneous statement regarding how Dial-O obtains its access services.

Lastly, Dial-O requests that the Commission permit Dial-O to argue that the fine assessed is excessive, contending that it is seriously out of proportion to Dial-O's activity and to fines imposed on other utilities found to have violated KRS Chapter 278. On this issue, the Commission grants a rehearing.

IT IS THEREFORE ORDERED that:

1. Dial-O's supplemental petition for rehearing is hereby granted in part and denied in part.

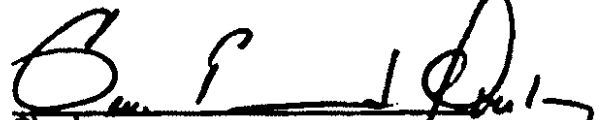
2. Dial-O shall file testimony by August 16, 1990, including a list of witnesses, concerning whether the fine ordered in the May 25, 1990 Order was excessive.

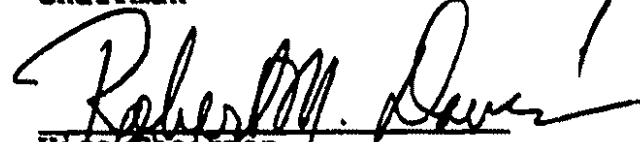
3. A hearing has been scheduled on September 5, 1990, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 at 730 Schenkel Lane, Frankfort, Kentucky.


4. All ordering provisions of the Commission's May 25, 1990 Order, except the penalty provision, remain in full force and effect.

Done at Frankfort, Kentucky, this 19th day of July, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director