

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION OF BELLSOUTH MOBILITY FOR AN )  
EXEMPTION FROM THE REGULATION FOR ) CASE NO. 92-349  
ENHANCED SERVICES )

O R D E R

On August 17, 1992, BellSouth Mobility, Inc., along with Kentucky CGSA Inc., Lexington MSA Limited Partnership and Nashville/Clarksville Limited Partnership, ("BellSouth Mobility") filed a petition pursuant to KRS 278.512 and KRS 278.514 requesting that its voice mail enhanced services be exempted from regulation. On February 17, 1993, the Commission ordered BellSouth Mobility to provide additional information relating to its petition. BellSouth Mobility requested and was granted until April 18, 1993 to file its response. As no requests for public hearing were filed, BellSouth Mobility's petition was submitted for decision based upon the case record.

BACKGROUND

Voice Messaging Services ("VMS") are provided through the use of computer equipment capable of storing a caller's voice message for later retrieval by the VMS subscriber. Each VMS subscriber is assigned a unique "mail box" or storage location in which voice messages sent to the VMS subscriber are retained. When the VMS subscriber desires to retrieve his messages, he gains access to the computer equipment and reviews the stored messages. In most instances, the VMS subscriber will employ some form of call

forwarding to transfer a call to the voice messaging system when his line is busy or there is no answer. Many additional features may be included, or purchased separately, to further enhance the VMS such as message waiting indicator (stutter dial tone to indicate a message has been left) and message detail (call time and number).

Rapid technological changes are making the communications industry and markets increasingly competitive. This increasing competitiveness may in the future be reflected in decreasing prices and a growing array of service options and providers. Though there are at least two cellular service providers in each geographically defined market, there are several choices available to customers for enhanced services.

#### DISCUSSION

In evaluating BellSouth Mobility's petition for exemption of its voice mail service, the Commission is bound by KRS 278.512 and KRS 278.514. KRS 278.512 provides that the Commission may exempt telecommunications services and products or may reduce regulation if it finds that exemption or alternative regulation is in the public interest. KRS 278.512 identifies eight criteria to be considered by the Commission when determining if a service or product should be exempted from regulation or subject to alternative regulation. The statute also permits the Commission to consider any other factor it deems in the public interest.

The FCC has licensed two primary cellular providers within each RSA or MSA: a wireline and a non-wireline carrier. In larger

MSA markets, cellular resellers may also offer cellular services, including voice mail services. However, there are a variety of viable alternatives to cellular voice mail service. Customers have a wide array of existing potential choices for their voice mail services: answering services, home answering machines, paging services, local exchange carriers ("LEC"), and interexchange carriers ("IXC"). Anyone possessing a computer with the proper "store and forward" capabilities that is tied to the network can offer voice mail services. Subscribers to one cellular provider can easily use the voice mail service of one of the provider's competitors.

BellSouth Mobility states that, "if a BellSouth Mobility customer chooses to subscribe to a competitor's voice mail service, he may do so and use it as any other subscriber would. No Answer Transfer is included in most BMI [BellSouth Mobility, Inc.] customer's (sic) service packages at no additional charge, and is required for voice mail service arranged in the traditional way where calls to the customer's number are directed to his voice mail box if the called number is not answered or is busy."<sup>1</sup> If No Answer Transfer is not included in the service package, it may be obtained separately. To receive calls at his mailbox, a BellSouth Mobility subscriber using a competitor's voice mail service need not purchase any additional service from BellSouth Mobility if he

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<sup>1</sup> See Item 3 in BellSouth Mobility's response dated April 16, 1993.

has an automatic dialer to forward calls to his mailbox or to his pager.<sup>2</sup>

Describing its list as incomplete, BellSouth Mobility identified eleven companies operating in the Louisville area and eight in the Lexington area as direct competitors. It asserts that many of these companies also operate in the RSA markets. It is apparent that customers have viable voice mail alternatives to BellSouth Mobility's services.

Cellular companies primarily generate revenues by selling cellular air time. Therefore, it appears reasonable that prices for voice mail services would be kept at competitive levels in order to encourage usage and generate additional air time revenues. The availability of viable alternatives will impose additional market discipline on BellSouth Mobility's prices. This will also help prevent cross-subsidization from the regulated side of BellSouth Mobility's cellular business. BellSouth Mobility's prices for its voice mail services appear comparable to those of its competitors.

Cellular voice mail services are offered to customers primarily as an adjunct to basic cellular telephone service. Exempting BellSouth Mobility's cellular voice mail services will not have an adverse effect on the availability of its basic services, but should enhance its ability to respond effectively to market pressures. Regulatory exemption will also free BellSouth

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<sup>2</sup> Id., Item 3, page 4.

Mobility from the burdens of regulatory monitoring and oversight of its operations. Customers may benefit because reduced regulatory burden implies lower costs, which could mean lower prices for cellular services.

After considering the statutory criteria contained in KRS 278.512, the Commission finds that exempting BellSouth Mobility's voice mail service from the provisions of KRS Chapter 278 is in the public interest. Although BellSouth Mobility's investment, revenues, and expenses associated with voice mail will not be considered by the Commission in approving rates for BellSouth Mobility's services, the Commission retains jurisdiction over exempted services pursuant to KRS 278.512 and KRS 278.514. BellSouth Mobility shall continue to fulfill all reporting requirements of KRS Chapter 278 or Commission Order, including continued use of separate accounts and allocation of costs to document that no cross-subsidization exists.

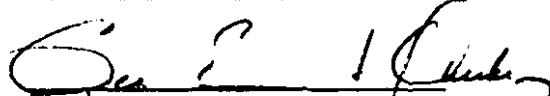
Exemption of cellular voice mail services does not mean that adequate safeguards do not exist to protect customers from unfair treatment, poor service quality, or excessive prices. Though the market will discipline cellular companies for infractions, customers are encouraged to exercise their option of filing complaints with the company and the Commission.

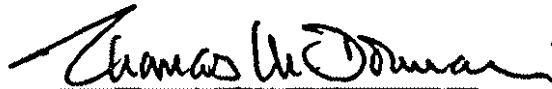
The Commission having determined that exemption of BellSouth Mobility's voice mail service is in the public interest and being otherwise sufficiently advised, IT IS ORDERED that the voice mail enhanced services, only as specifically described in BellSouth

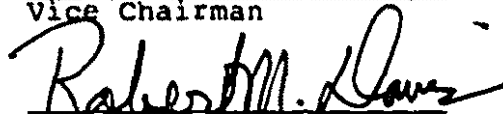
Mobility's petition, are exempted from regulation, pursuant to KRS 278.512 and KRS 278.514.

Done at Frankfort, Kentucky, this 5th day of August, 1993.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director