

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BALLARD RURAL TELEPHONE COOPERATIVE CORPORATION, INC.)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 94-329
)	
LONG DISTANCE MANAGEMENT and SOUTH CENTRAL BELL TELEPHONE COMPANY)	
)	
DEFENDANTS)	

ORDER TO SATISFY OR ANSWER

Long Distance Management ("LDM") and South Central Bell Telephone Company ("South Central Bell") are hereby notified that they have been named as defendants in a formal complaint filed on August 29, 1994, a copy of which is attached hereto.

Pursuant to 807 KAR 5:001, Section 12, LDM and South Central Bell are HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of service of this Order.

Should documents of any kind be filed with the Commission in the course of this proceeding, the documents shall also be served on all parties of record.

Done at Frankfort, Kentucky, this 9th day of September, 1994.

ATTEST:

D. Mills
Executive Director

PUBLIC SERVICE COMMISSION

Samuel I. Davis
Chairman

Robert M. Davis
Vice Chairman

Janice K. Broadbent
Commissioner

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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
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BALLARD RURAL TELEPHONE)
COOPERATIVE CORPORATION, INC.,)
COMPLAINANT))
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V.)
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LONG DISTANCE MANAGEMENT and)
SOUTH CENTRAL BELL,)
DEFENDANTS)

CASE NO. 94-329

COMPLAINT

The Complaint of Ballard Rural Telephone Cooperative Corporation, Inc., respectfully shows:

(a) The Complainant is Ballard Rural Telephone Cooperative Corporation, Inc., P.O. Box 209, LaCenter, Kentucky 42056-0209, (hereinafter referred to as "Ballard").

(b) The Defendants are as follows:

(1) South Central Bell, 601 West Chestnut 45 W, Louisville, Kentucky 40203, (hereinafter referred to as "Bell"), and

(2) Long Distance Management, P.O. Box 1337, Paducah, Kentucky 42002-1337, (hereinafter referred to as "LDM")

(c) Ballard states that Martin-Marietta Energy Systems, (hereinafter referred to as "Martin-Marietta" operates a uranium enrichment plant in McCracken County, Kentucky, served by Bell. An office building was constructed for lease to Martin-Marietta in the West Kentucky Technology Park, in Kevil, Kentucky, an area served by Ballard.

On February 2, 1994, Martin-Marietta applied for membership in Ballard and is now served by one hundred fifty-two (152) lines including fiber optic lines provided by Ballard. Ballard has been notified by Martin-Marietta that as of September 1, 1994, its local service will no longer be needed, and must be terminated. The reason for the termination of Ballard's service is a fiber optic connection between the Martin-Marietta office in Kevil and the main operation in McCracken County provided LDM.

Ballard has been advised that complete service to the Kevil office will be provided through the PBX system of Martin-Marietta and the Bell lines which serve the main Martin-Marietta facility. The Kevil office will then utilize Bell numbers completely and totally by-pass Ballard's system. If this arrangement is allowed, Bell will be serving a facility within the service area of Ballard and franchise area of Ballard.

Even though the office building is in Ballard's service area, the exchanges of 224, 665, 334, 335 and 876 within in Ballard's system and service area would not be able to dial the office

building without making a long distance toll call. Ballard, in effect, will be denied the opportunity to provide service to a facility within its local service area.

Further, Martin-Marietta, without service from Ballard would not be able to utilize the E-911 system to be installed in Ballard's area, without a long distance call, the Ballard County Board of Education would be deprived of significant tax revenues which would ultimately accrue to the McCracken County Board of Education since long distance calls made from Ballard's service area would be billed to Bell numbers.

(d) On June 30, 1952, Ballard was granted a Certificate of Convenience and Necessity to operate a telephone system in Ballard and McCracken Counties in Kentucky. A copy of the Order is attached hereto and marked as "Exhibit B". If the connection between Martin-Marietta's two offices by LDM is allowed, in effect, Bell will also be operating a telephone system within Ballard County, Kentucky, the service area of Ballard. Further, it is believed that the arrangement would violate 807 KAR 5:061 Section 4 (1) stating that "telephone utilities must provide service in its service area ...". Bell would then be in essence providing telephone service outside its service area and in Ballard's service area.

WHEREFORE, Ballard requests the Commission as follows:

1. To prohibit the facility in Kevil, Kentucky, from using, through any connection, numbers assigned to Bell in the Bell service area.

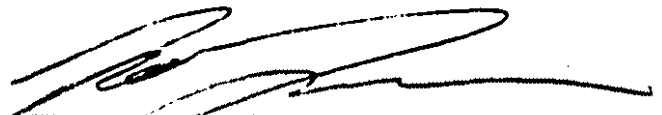
2. Order that Ballard provide local service to the facility in Kevil, Kentucky.

3. That all outgoing toll calls from the facility at Kevil, Kentucky, be made on numbers allocated to Ballard.

4. That Bell and LDM be enjoined from providing any service which would decrease the service currently provided by Ballard.

5. For all other general, proper and equitable relief to which it may appear Ballard is entitled.

This 26 day of August, 1994.



Louis Zimmerman
GEVEDEN AND GEVEDEN, ATTORNEYS
P.O. Box 97
Wickliffe, Kentucky 42087-0097

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PAT v LDM
P5C

Application No. 15590

(Map No.)

Application for Membership and for Telephone Service

The undersigned (hereinafter called the "Applicant") hereby applies for membership and agrees to take telephone service from the Ballard Rural Telephone Cooperative Corporation, Inc., (hereinafter called the "Cooperative"), upon the following terms and conditions:

1. The applicant will pay a membership fee of \$14.00.
2. The Applicant will, when telephone service becomes available, take from the Cooperative telephone service to be used on the premises, described below and will pay therefor monthly at rates to be determined from time to time in accordance with the by-laws of the Cooperative it being expressly understood that all amounts paid by Applicant in excess of operating costs and expenses of the Cooperative are furnished by him as capital and he shall be credited with the capital so furnished as provided in the by-laws.
3. The Applicant will grant to the Cooperative a right-of-way easement to construct, operate and maintain a telephone line or system on or under the land described below and in or upon all streets, roads and highways abutting said land.
4. The Applicant will comply with and be bound by the provisions of the charter and by-laws of the Cooperative, and such rules and regulations as may from time to time be adopted by the Cooperative.
5. The Applicant, by becoming a member, assumes no personal liability or responsibility for any debts or liabilities of the Cooperative, and it is expressly understood that his private property is exempt from execution for any such debts or liabilities.

This application is made in consideration of similar applications by others and is understood to be an agreement with such applicants.

The acceptance of this application by the Cooperative shall constitute an agreement between the Applicant and the Cooperative, and shall continue in force for one year from the date service is made available by the Cooperative to the Applicant, and thereafter until canceled by at least 30 days' written notice given by either party to the other.

New Bldg behind SAIC

DATE 2-2 19 94

Martin Marietta Energy Systems
Applicant

Witness R. D. [Signature]
(Solicitor)

Donald F. [Signature]
Applicant

P.O. Box 1410 Paducah, Ky
Post Office Address (Show County)
761 Veterans
42001

LAND DESCRIPTION

..... acres located feet from road

approximately miles N - E - S - W from (Town)

Owner Address

Applicant desires service as follows: Residential Business Both

Applicant prefers central exchange service from (Town)

Applicant is receiving electric service from

The above application for membership accepted this 2 day of February, 19 94

From Ballard Rural Telephone Cooperative Corporation, Inc.

By [Signature]
Title

* Husband and wife should both sign if application is made for a joint membership

Exhibit A

761 Veterans 1410

BOARD OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY

A meeting of the Public Service Commission was held this date.
Present: Chairman Robert M. Coleman and Commissioner Cass R. Walden.

• • • • •

In the Matter of

THE APPLICATION OF BALLARD RURAL TELEPHONE COOPERATIVE CORPORATION, INCORPORATED, FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY AUTHORIZING IT TO OPERATE A TELEPHONE SYSTEM IN THE COUNTIES OF BALLARD AND McCRACKEN; TO PURCHASE THE TELEPHONE SYSTEMS NOW OPERATED IN BLANDVILLE, SANDANA, WICKLIFFE, BARLOW, LACENTER AND KEVIL IN BALLARD COUNTY AND THE TELEPHONE SYSTEM NOW OPERATED AT KEATH IN McCRACKEN COUNTY; TO OWN AND OPERATE SAID SYSTEMS AND TO APPLY TO THE BALLARD AND McCRACKEN COUNTY COURTS FOR AN ORDER ESTABLISHING A FRANCHISE TO BE SOLD PURSUANT TO SECTION 164 TO THE CONSTITUTION OF KENTUCKY AND AUTHORIZING IT TO APPLY TO THE COURTS OF WICKLIFFE, KEVIL, BARLOW AND LACENTER IN BALLARD COUNTY, KENTUCKY, FOR AN ORDER ESTABLISHING A FRANCHISE TO BE SOLD PURSUANT TO SECTION 164 OF THE CONSTITUTION OF KENTUCKY, AND FIXING RATES TO BE CHARGED FOR SAID TELEPHONE SERVICE.

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O R D E R

On May 12, 1932, Ballard Rural Telephone Cooperative Corporation, a corporation, (hereinafter referred to as the 'Cooperative') filed its duly verified application seeking the following authorizations: (1) to operate a telephone system in the area covered by the application in the Counties of Ballard and McCracken, Kentucky; (2) to acquire, by purchase or by gift, the systems in Blandville, Sandana, Barlow, Keath, Kevil, LaCenter and Wickliffe, Kentucky; (3) to temporarily operate each of such systems at the rates now charged in each until such time as applicant can rebuild all of said systems into one unified system; (4) to charge the rates set forth in the application when rebuilding of the project is completed; (5) to apply to the Fiscal Courts of Ballard and McCracken Counties and to the City Council of the City of Wickliffe, and to the Boards of Trustees of the Cities of Barlow, Kevil and LaCenter for a franchise in each, respectively.

Applications were also filed on the same day by the Keath Telephone Company, the LaCenter Telephone Company, The Wickliffe Telephone Company, The Blandville Telephone Company, The Barlow Home Telephone Company, The Kevil Independent Telephone Company and the Ballard County Home Telephone Company, seeking authority

Exhibit B

This matter came on for hearing on the 10th day of June, 1932. At that hearing representatives of the Lovelaceville Telephone Company appeared in protest to the application. It appears, however, from the evidence and from the application that the applicant Cooperative is not seeking a certificate to operate in the territory now served by the Lovelaceville Company. For this reason any objection by the Lovelaceville Company is without merit.

Further evidence introduced at the hearing showed a need and demand for the service which the Cooperative seeks to render, the feasibility of the Cooperative's plan for rendering the desired service and the reasonableness of the rates which they propose to charge on the completion of the system.

The Commission finds:

1. That the objections of the Lovelaceville Telephone Company are without merit insofar as they oppose the certificate sought in the above-styled proceedings.

2. That it is in the public interest that the Cooperative acquire by gift or purchase the properties of the telephone companies which have filed applications in this matter.

3. That there is a need and demand for the service which the Cooperative seeks to render and the plan for rendering that service is a feasible one.

4. That the rates which the Cooperative proposes to charge upon the completion of the system are just and reasonable.

IT IS, THEREFORE, ORDERED That:

1. The Cooperative be granted a certificate of convenience and necessity to operate a telephone system in Ballard and McCracken Counties, Kentucky.

2. That the Cooperative acquire the telephone systems of the Heath Telephone Company, The LaCenter Telephone Company, The Wickliffe Telephone Company, The Blandville Telephone Company, The Barlow Home Telephone Company, The Kevil Independent Telephone Company and the Ballard County Home Telephone Company and operate such systems at the rates now charged until such time as the Applicant Cooperative can rebuild all of said companies at an efficient

3. That the Cooperative be granted a certificate of convenience and necessity to apply to the Fiscal Courts of Ballard and McCracken Counties and to the City Council of the City of Wickliffe and to the Boards of Trustees of the City of Barlow, Nevil and LaCenter for a franchise in each.

4. That the Cooperative file with the Commission its schedules of rates and charges at least twenty (20) days prior to the time when they will become effective.

Done at Frankfort, Kentucky, this 10th day of June, 1962.

PUBLIC SERVICE COMMISSION OF KENTUCKY

Robert M. Colman
Chairman

Robert Walden
Commissioner

ATTEST:

Forest M. Skiff
Secretary

LMW:bq

CERTIFICATE

This is a true and complete copy of the Kentucky Public Service Commission Order entered into the record.

Forest M. Skiff
Secretary

May 1, 1962
Date