

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ESTABLISHMENT OF TDD DISTRIBUTION)
PROGRAM FOR DEAF, HARD-OF-HEARING AND) ADMINISTRATIVE
SPEECH-IMPAIRED PERSONS IN KENTUCKY) CASE NO. 352

O R D E R

On November 11, 1994, the Commission established this proceeding pursuant to Kentucky Revised Statute Chapters 278 and 163, which require the Public Service Commission and the Kentucky Commission on the Deaf and Hard of Hearing ("KCDHH") to establish a program to distribute telecommunications devices for the deaf ("TDDs") to deaf, hard-of-hearing, and speech-impaired persons. The TDDs will facilitate the use of the telecommunications relay service established pursuant to KRS 278.548 and facilitate direct communications between persons who are deaf, hard-of-hearing, and speech-impaired.

KRS 278.548 instructs the Commission to assist KCDHH in the TDD distribution program established pursuant to KRS 163.525. KRS 278.5499 requires the Commission to determine the appropriate funding mechanism for the TDD distribution program and mandates that the funding mechanism collect no more than \$200,000 per year from subscribers of telecommunications utilities.

KCDHH and all persons who were parties to Administrative Case No. 333,¹ including the Kentucky Telephone Association ("KTA"), are

¹ Administrative Case No. 333, Establishment of Dual Party Relay Telecommunications Services For Hearing-Impaired Or Speech-Impaired Persons in Kentucky.

parties to this proceeding. Additionally, Ms. Patty Conway, Program Administrator for the Deaf and Hard-of-Hearing Branch in the Department of Vocational Rehabilitation, and Sonic Alert were granted intervention in this proceeding.

To comply with KRS 278.5499 and KRS 163.525, the Commission held a public hearing on December 15, 1994. Dr. Bobbie Beth Scoggins and Ms. Heather Harker of KCDHH, Ms. Conway, Mr. Forest M. Skaggs of the KTA, and Mr. Fred Gerwing of South Central Bell Telephone Company testified at the hearing.

KCDHH created a "Plan for Implementation" of the TDD distribution program. The Plan was attached to the Commission Order establishing this proceeding and parties were given the opportunity to comment on it. The eligibility criteria and the voucher system for the selection of and payment for the TDDs are matters within the particular expertise of the KCDHH. KCDHH stated that its policy would be to spend a maximum of \$500 per recipient.² Further, the program will be limited to one TDD per access line per individual recipient.³

The Commission received a request from a church that it consider providing TDDs to charitable organizations providing services to deaf, hard-of-hearing, or speech-impaired persons.⁴ However, KRS 278.547 limits the program to furnishing the TDDs to

² Transcript of Evidence ("T.E.") at 37 and 38.

³ T.E. at 46.

⁴ Letter from Sts. Peter and Paul Church, Danville, Kentucky, received December 8, 1994.

deaf, hard-of-hearing, and speech-impaired persons, eliminating the option of including charitable organizations as recipients.

The Implementation Plan creates an advisory board associated with KCDHH. The board will provide input to the KCDHH on the administration of the TDD distribution program. This advisory board will function for the TDD distribution program in a manner similar to that of the advisory board for the Telecommunications Relay Service ("TRS") created by the Commission. The TRS board currently is under the auspices of the Public Service Commission. However, its work will be interconnected with that of the TDD distribution program advisory board. The Commission believes that the boards should be merged and provide input directly to the KCDHH rather than the Public Service Commission.

Proposals contained in the Implementation Plan and addressed by KCDHH at the hearing comply with the statutory requirements. KCDHH clearly established that its distribution program can function on a budget of \$200,000 per year but that the maximum statutory amount is required for its successful operation. Additionally, pursuant to KRS 278.5499, the secretary to the cabinet to which the KCDHH is attached is to oversee the KCDHH to ensure that the funds are being used solely for their statutory purposes. Accordingly, the Commission will require no changes be made to the Plan for implementing the TDD distribution program.

The KTA, on behalf of all the Local Exchange Carriers ("LECs"), addressed two options for the appropriate funding mechanism and highly recommended one of them. The first option, to which the LECs object, is a surcharge on each access line in

Kentucky as is currently done for the TRS program. The surcharge is collected by the LECs and remitted to a collection agent, a bank, that is under contract with the Public Service Commission. The collection agent then pays the TRS vendor for its expenses in administering the TRS program.⁵ The LECs testified that this access line surcharge constitutes a competitive disadvantage because other providers of telecommunications services do not have to collect a surcharge from their customers. However, the LECs admitted that the basic access line upon which the surcharge is collected is the least competitive service provided by any telecommunications carrier.⁶

The LECs recommend that the Commission change its funding mechanism to the methodology adopted by the Federal Communications Commission and operated by the National Exchange Carriers Association, or NECA, for interstate TRS. According to the LECs, this funding mechanism would require participation by all carriers regulated by the Commission. It would provide for the equitable sharing of costs by all competitive carriers based on intrastate revenues, and it would have little or no impact on subscribers. Funds would be collected by a pool administrator and distributed to the KCDHH for its program under this option. The KCDHH made no recommendations on the funding mechanism.

The Commission has considered the option preferred by the telecommunication carriers and believes that the request is

⁵ T.E. at 77.

⁶ T.E. at 89 and 90.

premature. There is currently a lack of competition for basic access line service. However, competition is increasing rapidly in the telecommunications arena. The Commission will review this funding mechanism in a separate proceeding to be established in the near future. This future proceeding will address the proposed change in funding methodology for the TDD distribution program and the TRS program, and will also include a review of the funding levels for the TRS program.

Therefore, the Commission will require the TDD distribution program to be funded in a manner similar to the TRS surcharge. Testimony revealed that the surcharge amount for the TDD distribution program should be one cent per access line per month.⁷ Any amounts collected in excess of the statutory maximum of \$200,000 per year are to be rolled into the TRS program.

The LECs will require approximately 45 days to implement collection of the TDD distribution surcharge.⁸ The LECs should change their customer bills to include a reference to the TDD program, but this should be on the same line as the telecommunications relay service. Thus, the LECs need not create an additional line on their customer bills. Within 20 days of the date of this Order, the proposed customer bill format changes should be provided to the Commission as proposed changes to the LECs' bill format tariffs.

⁷ There are approximately 1,850,000 access lines in Kentucky. Thus, $\$0.01 \times \$1.85 = \$18,000$ per month and $\$18,000 \times 12$ (months) = \$216,000. See T.E. at 88.

⁸ T.E. at 95.

Within 20 days of the date of this Order, LECs must file tariffs to be effective March 15, 1995, adding the one cent surcharge for this TDD distribution program to their rate structures. The collection of the surcharge should begin no later than with bills mailed on and after March 15, 1995. The combined rate for the TRS program and the TDD program will be six cents per month. These rates should be separately identified in the LECs' tariffs. LECs should report surcharge money for the TDD distribution program at the same time as the TRS funds are reported. Additionally, within 20 days of the date of this Order, the LECs should provide to the Commission a copy of their proposed customer notice through a proposed bill insert, or other reasonable manner.

Pursuant to KRS 163.525, the KCDHH shall enter into a memorandum of agreement with the Commission for the coordination and oversight of the funding and operations of the TDD distribution program. The memorandum shall address such issues as the remittance of invoices to the bank responsible for receiving and transferring funds relating to the TRS program and the TDD program.

The Commission, having received public comments, including the advice and counsel of deaf, hard-of-hearing, and speech-impaired persons, and having been otherwise sufficiently advised, HEREBY ORDERS that:

1. The KCDHH Plan for the implementation of the TDD distribution program shall be adopted.

2. The TRS advisory board and the TDD advisory board shall be merged and placed under the oversight of the KCDHH.

3. The TDD distribution program shall be funded by a surcharge of \$0.01 per month per access line to be collected by the LECs and remitted to the same location as are the TRS funds.

4. A proceeding shall be established in the near future to review the funding mechanism for the TRS and the TDD program and to review the appropriate level of the TRS funding.

5. Within 20 days of the date of this Order, the LECs shall submit tariff changes for their customer bill formats adding the TDD program to the telecommunications relay service line of the customer bill and adding the \$0.01 surcharge to their rate structures.

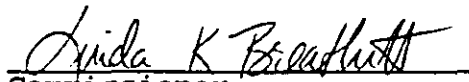
6. Within 20 days of the date of this Order, the LECs shall submit copies of customer notice through a bill insert or other reasonable proposal.

Done at Frankfort, Kentucky, this 19th day of January, 1995.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner

ATTEST:


Executive Director