

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TOMMY LEE PENDLEY)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 93-430
)	
LOGAN TELEPHONE COOPERATIVE, INC.)	
)	
AND)	
)	
SOUTH CENTRAL BELL TELEPHONE COMPANY)	
)	
DEFENDANTS)	

O R D E R

On June 15, 1995, the Commission entered its Order dismissing this case and ordering Logan Telephone Cooperative, Inc. ("Logan") to study the feasibility of providing optional area calling service in Muhlenberg County and to report the results of its study to the Commission on or before December 15, 1995. On July 5, 1995, the Complainant, Mr. Tommy Lee Pendley, filed a letter asking to be heard on appeal. The Commission will treat Mr. Pendley's letter as a Motion for Rehearing pursuant to KRS 278.400.

Mr. Pendley, a resident of Logan's Rochester exchange, filed a complaint against Logan on November 12, 1993, because he does not receive local calling to his county seat in Muhlenberg County and to certain other areas in Muhlenberg County. These areas are served by another local exchange carrier, South Central Bell Telephone Company ("South Central Bell"). Mr. Pendley also

complained that his 911 emergency service calls are routed to a county other than his own, resulting in loss of response time in emergency situations. A number of Mr. Pendley's neighbors also receive service from Logan and are subject to the same conditions, while others receive service from South Central Bell under a "grandfather" agreement arising from prior litigation. Mr. Pendley suggested three alternative forms of relief: area calling service, transfer of his exchange from Logan to South Central Bell, and the institution of local competition so that each subscriber may choose his local exchange carrier.

After South Central Bell was joined as a party to this action, many months were spent exploring numerous proposals and possible solutions to Mr. Pendley's concerns.

First, the defendant telephone companies negotiated two successive joint proposals pursuant to which they offered to exchange certain territories to give Mr. Pendley local calling. Other affected subscribers protested against both proposals. Attempts to negotiate a boundary exchange that respected the interests of all affected parties, unfortunately, proved futile.

The Commission did not simply order that the exchange boundaries be redrawn to give Mr. Pendley South Central Bell service, since Mr. Pendley did not allege any inadequacy of Logan service to justify such action. As the Order dismissing explains, the issue has already been decided by the Franklin Circuit Court.

In Case No. 3963,¹ in responding to complaints of Rochester exchange residents, the Commission ordered Southern Bell Telephone and Telegraph Company ("Southern Bell"), which then operated the Greenville exchange in Muhlenberg County, to serve the Rochester exchange. On December 27, 1963, the Franklin Circuit Court, in Logan Co. Rural Telephone Coop. Corp. v. Public Service Commission, Civil Action No. 61507 (Memorandum dated December 21, 1963, Order and Judgment dated December 27, 1963), set aside the Commission's Order. In its Memorandum, the court noted, inter alia, that no inadequacy of service had been shown and that Southern Bell had not asked to furnish service to the Rochester Exchange. These circumstances have not changed. Although Mr. Pendley apparently deems local telephone service inadequate if it does not include local calling to the county seat, other subscribers clearly do not agree, as responses to the two joint proposals demonstrate. Such a definition of "inadequacy" of service is purely subjective. Mr. Pendley argues in his Motion that his complaint is not a "subjective matter," since twelve of thirteen households in Knightsburg, he alleges, want South Central Bell rather than Logan service. Mr. Pendley makes the Commission's point. A difference of opinion on the issue exists. Presumably, had Mr. Pendley's Complaint concerned loss of dialtone, none of his neighbors would have contacted the Commission to argue that the faulty service should remain as it was.

¹ Case No. 3963, Estill Knight v. Southern Bell Telephone and Telegraph Company and Logan County Rural Telephone Cooperative Corporation, Order dated August 21, 1961.

Finally, as in 1963, South Central Bell and Logan agree that the circumstances cited by Mr. Pendley do not warrant redrawing exchange boundaries. There are many other areas in Kentucky where the same, or similar, circumstances prevail.

As alternatives to his proposal to redraw boundary lines, Mr. Pendley suggested that optional area calling service be implemented or that local telephone service be deregulated. In response to the former, the Commission ordered Logan to study the feasibility of providing such service and to report to it within six months. In response to the latter, the Commission suggested in its Order, at 9, that Mr. Pendley file a request to intervene in Administrative Case No. 355,² wherein issues regarding local exchange competition will be examined. Mr. Pendley has since filed a request to intervene in Administrative Case No. 355, and his request has been granted by separate Order.

In his Motion, Mr. Pendley reiterates his concerns regarding 911 service and states that he cannot have Enhanced 911 because Morgantown, in Butler County, does not have an Enhanced 911 system. He also says he does not understand why he must dial an area code to reach emergency services while some of his neighbors do not. However, some of his neighbors, like others elsewhere in Kentucky where exchange boundaries do not match county boundaries and where local governments have not arranged to provide local 911 for all areas in their jurisdiction, also must dial long distance for

² Administrative Case No. 355, An Inquiry Into Local Competition, Universal Service, and the Non-Traffic Sensitive Access Rate, Order dated April 21, 1995.

emergency help. As the Commission stated in its Order, KRS 65.760 places responsibility for choosing whether to order 911 services upon local governments. Since there is no allegation that the defendant telephone companies have refused to provide any 911 service to a local government that has ordered it, or that the companies have quoted rates for 911 service that are higher than their tariffed rates, the issue is one for the local governments involved rather than for the Public Service Commission. The Commission cannot simply order a telephone utility to provide a service which no one has ordered and for which, apparently, no one wishes to pay.

Finally, Mr. Pendley questions why nineteen months elapsed before the Public Service Commission concluded that his 911 concern had been brought to the wrong forum. The answer is that the many attempts to resolve Mr. Pendley's concerns equitably and legally have been extremely time-consuming. Many months elapsed while the two telephone companies involved negotiated and submitted their two joint proposals to exchange certain territories. Each proposal was followed by a 60 day period during which affected customers were notified and provided opportunity to comment. Additional time was expended in considering customer comments and protests and in seeking alternative solutions to boundary exchange. Had one of the boundary exchange proposals been acceptable, Mr. Pendley's 911 issue would also have been resolved. Since, however, no such solution appears possible, Mr. Pendley should direct his efforts

toward convincing local officials that he should be provided with the 911 services he desires.

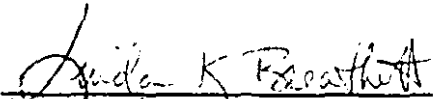
IT IS THEREFORE ORDERED that the motion of Tommy L. Pendley for rehearing be, and it hereby is, denied.

Done at Frankfort, Kentucky, this 21st day of July, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director