

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF LOUISVILLE)
LIGHTWAVE FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO CONSTRUCT) CASE NO. 95-047
FACILITIES AND PROVIDE INTRASTATE)
TELECOMMUNICATIONS SERVICES)

O R D E R

On February 1, 1995, Louisville Lightwave submitted an application for a Certificate of Public Convenience and Necessity to provide intrastate telecommunications services and to construct facilities. Louisville Lightwave is a New Jersey partnership with its principal offices in Louisville, Kentucky and intends to provide interLATA and intraLATA dedicated services, known as special access and private line services.

The proposed services will compete directly with local exchange carriers' access services used primarily for the interconnection of end-users and interexchange carrier points-of-presence ("POP"). Initially, Louisville Lightwave proposes to construct facilities in the city of Louisville and Jefferson County but ultimately plans to extend service statewide.

On March 17 and April 28, 1995, MCI Telecommunications Corporation ("MCI") and BellSouth Telecommunications, Inc. d/b/a South Central Bell Telephone Company ("SCB"), respectively, filed motions to intervene in this proceeding. Both motions to intervene were granted.

SCB states that granting Louisville Lightwave the authority requested would appear to enable it to provide intraexchange private line services. On September 6, 1995, SCB filed a letter asserting it did not want a hearing in this matter if the Commission was prohibiting intraexchange private line competition consistent with its August 25, 1995 Order in Case No. 94-093.¹ MCI supports the application filed by Louisville Lightwave which it claims will introduce competition in access services and bring substantial benefits to consumers.

Louisville Lightwave does not currently seek authority to provide intraexchange telecommunications services, either switched or non-switched. Nevertheless, the Commission finds that Louisville Lightwave should be prohibited from providing services which originate and terminate within an exchange or local calling area. Louisville Lightwave is participating in Administrative Case No. 355,² which the Commission has initiated to investigate the feasibility of local competition. All interested parties will have an opportunity to discuss the provision of telecommunications services within exchanges and local calling areas. Any decisions in that proceeding may affect the authority granted herein.

¹ Case No. 94-093, The Application of Metropolitan Fiber Systems of Kentucky, Inc. for a Certificate of Public Convenience and Necessity to Provide Intrastate Telecommunications Services and to Construct Facilities.

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

The Commission finds that language should be added to Louisville Lightwave's proposed tariff filed February 1, 1995 at Original Page 13, Section D(1), Description of Service and Undertaking of the Company, and Section D(3), Limitations on Service, to indicate clearly that Louisville Lightwave is strictly prohibited from facilitating, in whole or in part, any telecommunications services which originate and terminate within an exchange or local calling area and that any violation will result in immediate termination of the customer's service.

The Commission finds that Louisville Lightwave should be granted statewide operating authority. In addition to the limitation set forth above, Louisville Lightwave should submit a written notice, which refers to this proceeding, to the Commission at least 60 days in advance of any proposed construction beyond that approved in this Order. The notice should explicitly describe the routes and extent of facilities to be constructed. This notice will offer an opportunity for affected entities to request additional consideration by the Commission.

Louisville Lightwave has demonstrated its financial, managerial, and technical capability to provide utility service. The Commission finds that Louisville Lightwave should be authorized to provide intrastate interexchange telecommunications services and to construct facilities within the Commonwealth of Kentucky, as described in this Order and its application and with the restrictions herein.

Louisville Lightwave filed its proposed tariff on February 1, 1995. The Commission further finds that the rates proposed by Louisville Lightwave, with the modification mentioned above, should be approved as the fair, just, and reasonable rates to be charged.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, HEREBY ORDERS that:

1. Louisville Lightwave is granted authority to provide intrastate interexchange non-switched telecommunications services and to construct facilities within the Commonwealth of Kentucky as described herein and in its application, on and after the date of this Order.

2. Louisville Lightwave shall notify the Commission, as described herein, at least 60 days prior to any additional construction beyond that approved in this Order.

3. Louisville Lightwave's authority to provide service is strictly limited to those services described herein and its application. In addition, Louisville Lightwave is prohibited from facilitating, in whole or in part, any telecommunications services that originate and terminate within an exchange or local calling area and from providing any switched services.

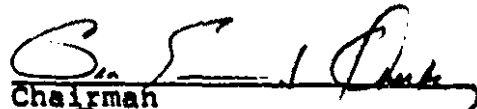
4. The rates proposed by Louisville Lightwave on February 1, 1995, with the modification contained herein, are hereby approved.

5. Within 30 days from the date of this Order, Louisville Lightwave shall file pursuant to 807 KAR 5:011 its February 1, 1995 tariff sheets with the modification contained herein.

6. The authority granted herein is subject to modification by the Commission's decisions in Administrative Case No. 355.

Done at Frankfort, Kentucky, this 13th day of September, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director