

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION OF ACSI ADVANCED)
TECHNOLOGIES, INC. FOR EXEMPTION FROM) CASE NO. 95-400
REGULATION OF ITS ENHANCED SERVICES)

O R D E R

On June 13, 1995, ACSI Advanced Technologies, Inc., an affiliate of American Communications Services, Inc. (collectively "ACSI") filed a letter advising the Commission of its intention to introduce The ACSI Communications Manager ("the service"), beginning the end of June 1995. This service is a voice mail service that allows customers to dial a seven digit local telephone number to gain access to a computer to hear, save, delete, or assign messages to another subscriber in the closed user group. ACSI's June 13, 1995 letter asserted that this service was not under Commission jurisdiction.

On July 24, 1995, the Commission responded that the service was exempt from regulation as long as it was provided to customers without compensation. If ACSI desired to offer this service for compensation, then it would be necessary to file its petition pursuant to KRS 278.512. Accordingly, on August 23, 1995, ACSI filed its petition requesting exemption of the service.

DISCUSSION

ACSI identified two tariffed services which must be purchased from the local exchange carrier for the service to function properly.¹ ACSI will acquire direct inward dialing numbers and lease T-1 lines for connection to platform provider sites in the Lexington and Louisville, Kentucky areas. These network services are individually priced and require service-specific cost and demand studies.

In evaluating ACSI's petition for regulatory exemption of its voice mail service, the Commission is bound by KRS 278.512 and 278.514. The Commission may exempt telecommunications services and products or may reduce regulation if it determines that exemption or alternative regulation is in the public interest. KRS 278.512 identifies eight criteria to be considered by the Commission when making this determination and permits consideration of any other factor deemed in the public interest.

Three criteria focus on the existing conditions of the market. The Commission is to consider the extent to which competing telecommunications services are available in the relevant market, the existing ability and willingness of competitive providers to make functionally equivalent or substitute services readily available, and the number and size of competitive providers.

ACSI identified several alternatives to the service.² Various types of equipment, including answering machines, and private branch exchanges ("PBXs") can provide the same type of service.

¹ Petition dated August 23, 1995 at 2.

² Id. at 3-5.

ACSI will compete directly with GTE South Incorporated and BellSouth Telecommunications Inc. ACSI notes that there are at least 20 voice mail providers in the Lexington and Louisville, Kentucky areas. Actual and potential competitive providers include cellular companies, local exchange carriers, interexchange carriers and non-traditional telecommunications providers such as IBM, Sears, General Electric and Compuserve.

The overall impact of the proposed regulatory change on the availability of existing services at reasonable rates was also considered by the Commission. In ACSI's view, its and other voice mail services are subject to substantial competition, which eliminates the need for regulation.³ This is consistent with the Commission's view of the voice mail market.

The Commission has considered the impact that exempting ACSI's voice mail service will have upon universal service. ACSI contends that its ability to function in the competitive voice mail market would be severely hampered by undue regulation. Competition brings low prices to consumers and encourages innovation and the introduction of new services to the market, all of which further universal service goals. Conversely, regulating ACSI's voice mail service would subject it to regulatory and administrative burdens not experienced by its competitors.

The competitive nature of the voice mail market should provide adequate safeguards to protect customers from unfair treatment,

³ Petition at 5.

poor service quality, or excessive prices. However, all customers are encouraged to exercise their option of filing complaints regarding the exempted services with the company and the Commission if deemed necessary.

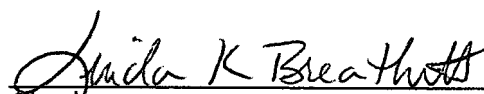
The Commission retains jurisdiction over exempted services pursuant to KRS 278.512 and KRS 278.514.

The Commission has carefully reviewed ACSI's petition in accordance with the criteria contained in KRS 278.512 and finds that exemption of ACSI's voice mail service, as described in this proceeding, is in the public interest.

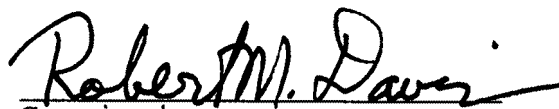
IT IS THEREFORE ORDERED that the enhanced services specifically described in ACSI's petition are exempted from regulation, pursuant to KRS 278.512 and KRS 278.514.

Done at Frankfort, Kentucky, this 10th day of January, 1996.

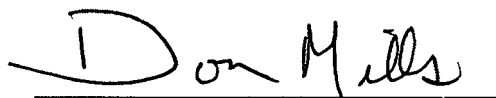
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director