

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

G. KELLEY ALLEN, INDIVIDUALLY, )  
CAPITAL TRADE GROUP, INC. D/B/A )  
CTG TELECOMMUNICATIONS, INC., AND )  
FEDERAL DISCOUNT COMMUNICATIONS )  
OF LINCOLN, NEBRASKA )  
 ) CASE NO. 96-108  
 )  
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 )  
ALLEGED VIOLATIONS OF KRS 278.020(4) )  
AND (5) )

O R D E R

On March 1, 1996, G. Kelley Allen, former owner and President of Capital Trade Group, Inc. d/b/a CTG Telecommunications, Inc. ("CTG"), notified the Commission by letter that CTG, a utility subject to Commission jurisdiction under KRS 278.010(3)(e), had been sold in August of 1995 to Federal Discount Communications of Lincoln, Nebraska ("Federal Discount"). The letter states that all of the directors and officers of CTG officially resigned at that time.

KRS 278.020(4) and (5) govern transfers of ownership or control of jurisdictional utilities. KRS 278.020(4) states, inter alia, that:

No person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission . . . without prior approval by the commission. [Emphasis added].

KRS 278.020(5) states that no one shall acquire control of any utility furnishing service in Kentucky without prior Commission approval.

Because a prima facie showing had been made that the transfer violated KRS 278.020(4) and (5), the Commission, on March 26, 1996, entered an Order requiring Mr. Allen, CTG, and Federal Discount to appear at a hearing at the Commission's offices for the purpose of presenting evidence concerning the alleged violations, and of showing cause why they should not be subject to the penalties prescribed in KRS 278.990(1) for the alleged unauthorized transfer.

On April 19, 1996, Federal Discount filed a letter offering to make a voluntary payment of \$500 to settle the matter concerning Federal Discount's failure to properly notify the Commission of its acquisition of CTG. On May 7, 1996, Mr. Allen filed a letter stating that he should not be subject to the penalties prescribed in KRS 278.990(1) for the alleged violations because he is no longer involved with CTG.

In his letter, Mr. Allen states that "the only thing that occurred was a transfer of ownership from one entity (me) to another entity (FDC)." He nevertheless admits that the transfer took place without Commission approval and that he was a party to the transaction.

Subsequently, Mr. Allen and Federal Discount entered negotiations concerning CTG's alleged violations. The Commission therefore entered an Order rescheduling the hearing. On June 14, 1996, Mr. Allen filed an offer to make a voluntary payment of \$500 to settle the matter.

In its letter, Federal Discount states that CTG no longer has any customers in Kentucky. Federal Discount further states that it will comply with all the terms of CTG's tariff if it decides to resume the telecommunications sales in Kentucky.

Federal Discount's letter does not provide information concerning its financial, technical, and managerial abilities to provide reasonable service in Kentucky. Of equal importance, Federal Discount has not filed any information to assist the Commission in determining whether the transfer, but for the legal infirmity caused by the parties' failure to obtain the Commission's prior approval, was made "in accordance with law, for a proper purpose, and [was] consistent with the public interest." KRS 278.020(5).

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Mr. Allen's and Federal Discount's settlement offers present a reasonable and cost-effective means of resolving the matter concerning the alleged unauthorized transfer. The offers should therefore be accepted and the hearing should be cancelled. The Commission further finds that Federal Discount should be notified that CTG's tariff may cease to be effective.

IT IS THEREFORE ORDERED that:

1. Mr. Allen's and Federal Discount's settlement offers are hereby accepted and the hearing is cancelled.
2. Within 30 days from the date of this Order, G. Kelley Allen and Federal Discount shall each pay \$500 in the form of a cashier's or certified check made payable to "Treasurer, Commonwealth of Kentucky." Said payment shall be mailed or delivered

to: Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, Post Office Box 615, Frankfort, Kentucky 40602.

3. Federal Discount shall file, within 30 days from the date of this Order, a certified copy of its articles of incorporation and all amendments thereto.


4. Federal Discount shall file, within 30 days from the date of this Order, the names and qualifications of operating personnel, and any other evidence to show that it has the financial, technical, and managerial abilities to operate CTG, e.g., income tax records, financial statements, etc.

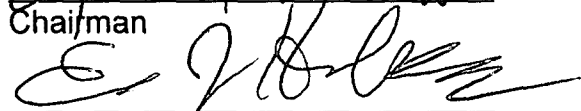
5. Federal Discount shall file, within 30 days from the date of this Order, an adoption notice pursuant to 807 KAR 5:011, Section 11; and it shall file -- in its own name -- the tariff of CTG then in effect and adopted by it or, such other tariff as it proposes to put into effect in lieu thereof.

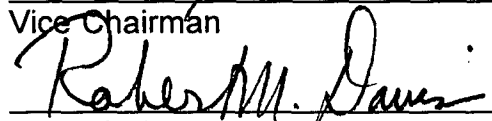
6. CTG's tariff shall remain effective for a period of 30 days from the date of this Order. If, upon the expiration of the 30-day period, Federal Discount has not made said filings with the Commission, CTG's tariff will cease to be effective and neither CTG nor Federal Discount shall have the authority to operate in Kentucky.

Done at Frankfort, Kentucky, this 12th day of July, 1996.


PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director