

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MATTHEW RAYMOND BARBER)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 98-140
)	
EXCEL COMMUNICATIONS, INC.)	
)	
DEFENDANT)	

ORDER

On March 20, 1998, Matthew Raymond Barber ("Complainant") filed a formal complaint against Excel Communications, Inc. ("Excel"). The complaint alleges that Excel refused to honor a credit adjustment for \$1,037.35 after Excel service representatives advised Complainant he would receive such a credit. The complaint also alleges that Excel charged Complainant for service after he requested that service be disconnected.

On March 30, 1998, the Commission ordered Excel to satisfy or answer the complaint. On April 10, 1998, Excel responded to the Order. Excel stated that an investigation into the complaint had shown that the Complainant was properly billed for the credit card calls in dispute. Excel declined to grant a credit adjustment to Complainant's account. By Order dated May 7, 1998, the Commission rejected Excel's response to the complaint. Per Kentucky Bar Ass'n v. Henry Vogt Machine Co., Ky., 416 S.W.2d 727 (1967) and Administrative Case No. 249, Practice Before the Commission (Ky.P.S.C. June 15, 1981), the Commission ordered Excel to Answer the complaint by legal counsel

licensed in Kentucky. The Commission further ordered that Excel's Answer fully address each of the Complainant's allegations.

On June 2, 1998, Excel filed an Answer to the complaint. In its Answer, Excel denied each of the allegations made in the complaint. Excel also specifically denied the requested credit adjustment to Complainant's account. Excel bases the denial on its determination that the disputed credit card calls were to a phone number which had also been dialed directly from Complainant's residence. Because the charges for these direct-dialed calls have not been questioned by Complainant, Excel maintains that the disputed charges to the same number were properly billed to Complainant. The Answer also denied the Complainant's allegation that Excel improperly charged him for service after his account had been cancelled. Excel stated that those charges were for paging services it had been contracted to provide and which were not cancelled. Despite Excel's contention that the charges for paging services were proper, Excel asserts that it has credited Complainant's account in the amount of \$103.85 for the monthly paging services.

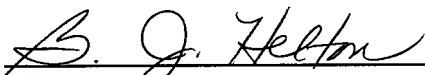
Having been advised by Excel that the Complainant's account has been credited for amounts which were allegedly wrongfully charged after the cancellation of service, the Commission finds that the complaint has been satisfied with regard to this allegation. With regard to the claim that Excel improperly refused a credit adjustment for erroneously billed credit card calls, the Commission finds that the complaint should be dismissed. The disputed amount of \$1,037.35 is based upon international calls between Elizabethtown, Kentucky, and Alberta, Canada. Pursuant to the Telecommunications Act of 1934 establishing the jurisdictional limits placed upon state regulatory bodies, the Commission

does not have jurisdiction to decide disputes involving international calls. Such disputes are solely within the jurisdiction of the Federal Communications Commission.

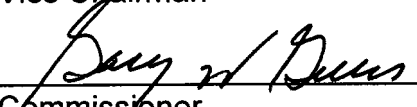
IT IS THEREFORE ORDERED that this Complaint is dismissed and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 25th day of June, 1998.

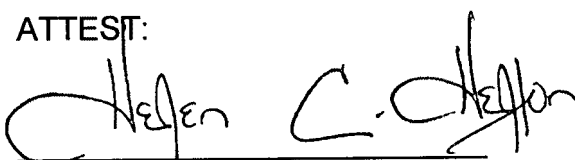
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director