

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ESTABLISHMENT OF AN OPERATOR	)	
SURCHARGE RATE FOR COLLECT	)	ADMINISTRATIVE
TELEPHONE CALLS FROM	)	CASE NO. 378
CONFINEMENT FACILITIES	)	

O R D E R

On January 15, 1999, the Commission established this proceeding to address the appropriate level of surcharge rates, the technical feasibility of limiting the number of times in a day that a surcharge may be charged to a call recipient, and other related issues. The decisions in this proceeding will apply to all inmate payphone services in Kentucky upon the expiration of existing contracts between the Department of Corrections and other governmental entities with payphone service providers.

On February 17, 1999, the Commission granted the motions to intervene of the Kentucky Telephone Association; the Kentucky Department of Corrections; the Plaintiffs' Group; Evercom, Inc.; Cincinnati Bell Telephone Company; BellSouth Public Communications, Inc.; and Gateway Technologies, Inc. The Commission hereby requires the participation of MCI WorldCom; SprintCom, Inc.; AT&T Communications of the South Central States, Inc.; GTE South Incorporated, and Talton InVision, Inc. in this proceeding.

The Plaintiffs' Group filed a motion on February 23, 1999, requesting that telephone carriers be required to submit proof of costs and profits associated with

providing inmate telephone service. An analysis of costs associated with inmate service and profits drawn from inmate services is the only means to adequately assess the reasonableness of the surcharge rates, according to the Plaintiffs' Group. However, as stated in the November 10, 1997 Order in Administrative Case No. 368,<sup>1</sup> the reasonableness of the inmate rates, not the underlying costs of any provider of inmate service, would be the focus of the investigation. Inmate service providers are not required to maintain their accounting information in a manner that would permit accurate reporting of costs associated with inmate operator service charges. These utilities are not required to allocate costs between jurisdictions or between services. Likewise, they are not required to track revenues based on their services. Accordingly, the information requested by the Plaintiffs' Group is not maintained in the ordinary course of business. There would be no way to verify such information or to track it through the companies' accounting records. The inmate service providers keep their accounting records in conformity with KRS 278.220, which states that "the system established for telephone and telegraph companies shall conform as nearly as practicable to the system adopted or approved by the Federal Communications Commission." The Federal Communications Commission does not require payphone service providers to use the type of accounting which is requested by the Plaintiffs' Group. Accordingly, the Commission will not require the production of such cost information; instead, this investigation will focus on whether the operator surcharge rates for collect telephone

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<sup>1</sup> Administrative Case No. 368, *Rates, Terms and Conditions for Inmate Telecommunications Services*.

calls from confinement facilities are fair, just, and reasonable, pursuant to KRS 278.030(1).

This investigation will determine whether the operator surcharge rates for collect telephone calls from confinement facilities are "unjust, unreasonable, insufficient, unjustly discriminatory or otherwise in violation of any of the provisions of this chapter," pursuant to KRS 278.270. Thus, the motion of the Plaintiffs' Group is denied.

Plaintiffs' Group also requested that the Commission order inmate service providers to discontinue paying commissions to governmental entities operating jails and prisons in Kentucky. Commissions paid by payphone service providers to premises owners are not within the jurisdiction of the Public Service Commission. Accordingly, the Commission will take no action on this request by the Plaintiffs' Group.

The following schedule shall be adopted so that the Commission may conclude its investigation by July 1, 1999.

Data requests of the Commission and all parties shall be due ..... April 5, 1999

Responses to data requests shall be due..... April 30, 1999

Prefiled testimony of all witnesses shall be due ..... May 21, 1999

Reply testimony, if any, shall be due ..... May 28, 1999

There shall be a public hearing in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, beginning at 9:00 a.m., Eastern Daylight Time, on ..... June 3, 1999

Briefs, if any, shall be due on or before ..... June 18, 1999

BE IT SO ORDERED.

Done at Frankfort, Kentucky, this 24<sup>th</sup> day of March 1999.

By the Commission

ATTEST:

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Executive Director