

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

The Commission established this proceeding to address the appropriate level of inmate surcharge rates on collect calls originating at confinement facilities, the technical feasibility of limiting the number of times in a day that a surcharge was assessed to a call recipient, and other related issues. The decisions contained herein will apply to all inmate services in Kentucky and will be implemented upon the expiration of existing contracts between the confinement facilities and their providers of inmate services. Carriers seeking to provide inmate services to the Kentucky Department of Corrections ("DOC") shall incorporate the decisions herein in their responsive bids for service to begin November 15, 1999.

A public hearing was held June 3, 1999. Witnesses for the DOC, BellSouth Public Communications, Inc., MCI WorldCom, Evercom, Inc. and Cincinnati Bell Telephone Company were cross-examined. The Plaintiffs' Group, Gateway Technologies, Inc. and Sprint Communications Company, L.P. also participated in the

hearing. The record of the predecessor case, Administrative Case No. 368, was incorporated by reference into this case.¹

Through information required prior to the public hearing, prefiled testimony and other comments, and post-hearing briefs, the Commission has considered several options for establishing an appropriate inmate surcharge rate on collect calls. Further, the technical feasibility of limiting the number of times in a day when a surcharge would be assessed to a call recipient was considered. Telecommunications carriers testified that, though technically feasible, such a limitation on a surcharge would be burdensome and inappropriate.² Thus, the Commission has decided against this option.

However, the level of the inmate surcharge must be reduced. Recipients of inmate collect calls face 1) a lack of choice of carriers, 2) a lack of calling options, 3) limited call duration, and 4) a likelihood of frequent and repeated calls. The Commission considered a 50 percent reduction, but carriers believed that this would be difficult to implement. Accordingly, based on a review of tariffs from other jurisdictions and the factors noted herein, the surcharge rate on a collect call placed from a confinement facility will be a maximum of \$1.50 per call. The current surcharge rates, up to \$3.00 per call from the DOC facilities, are unjust and unreasonable and thus must be changed, pursuant to KRS 278.270.

¹ Administrative Case No. 368, Rates, Terms and Conditions for Inmate Telecommunications Services. See Transcript of Evidence at 7.

² Transcript of Evidence at 114-117, and 155.

In addition, some carriers are assessing a "set-use" fee in addition to other charges for collect calls from confinement facilities.³ A set-use fee is intended to pay payphone providers for calls for which they otherwise receive no compensation. This condition does not occur in the confinement arena. Thus, no carrier should charge a set-use fee for inmate calls originating in confinement facilities.

The Commission also has reviewed the toll charges assessed for intraLATA and interLATA calls originating in confinement facilities and believes that, while the current rates are reasonable, increasing the current rates would be an unreasonable practice. Accordingly, the Commission herein caps the rates for toll charges assessed on inmate calls originating in confinement facilities at the tariffed rates of each carrier that are in effect July 1, 1999, the date of this Order. Except upon demonstration of good cause shown, the Commission will not approve any increase in interLATA or intraLATA toll rates applicable to inmate calls originating from confinement facilities.

At the public hearing, testimony was presented about the use of debit cards as an alternative to inmate service. Debit cards are an option in some jurisdictions, but are rarely used.⁴ It does not appear that the availability of a debit card system in confinement facilities would have much impact on the overall cost of the inmate calls. Moreover, the Commission believes that call options made available to inmates affect the security of the confinement facilities and thus are within the discretion of the DOC. The Commission does encourage the DOC to make options available to its inmates

³ Transcript of Evidence at 118-119, 151, and 197.

⁴ Transcript of Evidence at 33-38 and 150-151.

consistent with the security requirements of the facilities which may reduce charges assessed to call recipients.

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

1. Surcharges on inmate calls originating from confinement facilities may not exceed \$1.50 per call, to be effective November 15, 1999, for service provided to the DOC's facilities and upon the expiration of each existing contract for other facilities.

2. Effective upon the respective dates of expiration of the existing contracts between confinement facilities and carriers, no set-use fees shall be assessed on inmate calls originating in confinement facilities.

3. Toll charges assessed for intraLATA and interLATA calls originating in confinement facilities shall not exceed the rates in effect July 1, 1999. Only upon the demonstration of good cause shown will the Commission allow any increase in interLATA or intraLATA toll rates applicable to inmate calls originating from confinement facilities.

Done at Frankfort, Kentucky, this 1st day of July, 1999.

By the Commission

ATTEST:

Executive Director