

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE)	
PROPRIETY OF, AND POTENTIAL)	
SAFEGUARDS FOR, THE PROVISION)	CASE NO. 98-410
OF LOCAL EXCHANGE SERVICE BY)	
GTE COMMUNICATIONS)	
CORPORATION)	

O R D E R

By Order entered August 31, 1999, the Commission allowed BellSouth BSE, Inc. (BSE) and GTE Communications Corporation (GTE-CC) to offer local service in their own affiliated incumbent local exchange carrier (ILEC) local service area, and placed safeguards on these companies to prevent harm to emerging competitive markets.

On September 23, 1999, Southeastern Competitive Carriers Association (SECCA) filed a Petition for Rehearing,¹ to which GTE-CC and BSE have filed opposing memoranda. SECCA alleges that the Commission denied it the statutory right to offer additional evidence that could not with reasonable diligence have been offered on the former hearing. KRS 278.400. The proceeding which cumulated with the August 31, 1999 Order was a rehearing of an Order dated June 8, 1998, in a precursor

¹ SECCA s members include: ITC DeltaCom, Inc., ICG Communications, MCI WorldCom, Inc., e.spire Communications, Business Telecom, Inc., Competitive Telecommunications Association, Time Warner Telecom, NEXTLINK, Telecommunications Resellers Association, Qwest Communications, US LEC Corp., NewSouth Communications, BlueStar Communications, AT&T of the Southern States, and State Communications.

case. In that case, SECCA had filed a motion requesting that the Commission enter a formal procedural schedule including discovery and an evidentiary hearing. In its Petition for Rehearing SECCA asserts that its previous request was premised on the fact that during the pendency of the docket, current market evidence had become available from other jurisdictions which clearly demonstrated the anti-competitive effects of allowing a competitive local exchange carrier (CLEC) to engage in bogus competition. ² SECCA requested the right from the Commission to develop this new evidence through discovery of BSE, BST, GTE and GTE-CC. ³

The Commission did not grant this request of SECCA. SECCA presented no new evidence to the Commission. Instead, it requested to engage in discovery late in the process of the case in the hope that it could produce evidence after that discovery. The Commission did not fail to consider evidence. The Commission declined to schedule a fishing expedition for SECCA on its hope that it could uncover relevant evidence.

Further, SECCA argues that the Commission's August 31, 1999 Order was tantamount to deregulating telecommunications without the regulatory findings required under KRS 278.512. However, the Commission's Order explains that it will engage in continued regulatory monitoring and will stringently enforce safeguards applicable to local service competition between CLECs and affiliated ILECs.

² SECCA's Petition for Rehearing at 4.

³ Id.

The arguments of SECCA lack merit and thus rehearing should be denied. The Commission, having considered the petition of SECCA, and having been otherwise sufficiently advised, HEREBY ORDERS that the Petition for Rehearing is denied.

Done at Frankfort, Kentucky, this 13th day of October, 1999.

By the Commission

ATTEST:

Executive Director