

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE OTHER PHONE COMPANY, INC. D/B/A)	
ACCESS ONE COMMUNICATIONS)	
_____)	CASE NO. 99-325
ALLEGED VIOLATION(S) OF KRS 278.535)	
SWITCHING OF TELECOMMUNICATIONS)	
PROVIDER)	

O R D E R

The Other Phone Company, Inc. (Other Phone) doing business as Access One Communications is a communications provider as defined in KRS 278.535(1)(a), is authorized to do business in Kentucky, and is subject to the Commission's jurisdiction. On June 9, 1998, Other Phone filed with the Commission its initial schedule of rates and services (tariff). Other Phone's tariff became effective on July 9, 1998. Records of the Office of Secretary of State of the Commonwealth of Kentucky reflect that Other Phone, identification number 0454550, has been authorized to do business in the state of Kentucky since on or about April 1, 1998. Said records state that the registered agent for Other Phone is CSC-Lawyers Incorporating Service Company, 421 West Main Street, Frankfort, Kentucky 40601, and that Kevin Griffio is president of Other Phone with principal offices at 3427 NW 55 Street, Fort Lauderdale, Florida 33309. The Commission Staff has records indicating that the principal office of Other Phone has been changed to 4205 Vineland Road, Suite L-15, Orlando, Florida 32811.

KRS 278.535(7) prescribes specific statutory procedures for the proper changing of the primary telecommunications carrier of a customer.

COUNT I

1. On or about October 29, 1998, Mary Frances Clausen reported to Commission Staff by telephone that her local exchange carrier had been changed from BellSouth Telecommunications, Inc. ("BellSouth") to Other Phone without her authority or permission. Ms. Clausen's telephone number is 502/228-1083.

2. By letter dated March 9, 1999, Other Phone was notified of the complaint received by Commission Staff from Ms. Clausen. A carrier change was made in her service by or on behalf of Other Phone that was unauthorized. The letter requested that Other Phone provide to Commission Staff appropriate evidence that the carrier change was authorized by Ms. Clausen. KRS 278.535(2) places the burden of proof on Other Phone to show that Ms. Clausen knowingly authorized the carrier change. Other Phone was unable to provide the requisite statutory proof that the carrier change in Ms. Clausen's service was properly authorized. A copy of said letter is attached hereto and marked Appendix Count I.

3. Commission Staff, after investigation, has been unable to obtain or secure any written authorization or electronically recorded authorization of Ms. Clausen that properly authorized the carrier change.

COUNT II

1. On or about February 10, 1999, Damon R. Campbell reported by letter to Commission Staff that the local exchange carrier for his office, Blue Cross Animal Hospital, 827 East Broadway, Louisville, Kentucky had been changed from BellSouth to Other Phone without his authority or permission. The business telephone number is 502/568-6493.

2. By letter dated February 11, 1999, Other Phone was notified of the above-named complaint received by Commission Staff from Mr. Campbell. A carrier change had been made in his business service by or on behalf of Other Phone that was unauthorized. The letter requested that Other Phone provide to Commission Staff appropriate evidence to meet the statutory requisite that the change was authorized by Mr. Campbell. KRS 278.535(2) places the burden of proof on Other Phone to show that Mr. Campbell knowingly authorized the carrier change. Other Phone was unable to provide any appropriate proof authorizing the change. A copy of said letter is attached hereto and marked Appendix Count II.

3. Commission Staff, after investigation, has been unable to obtain or secure any written authorization or electronically recorded authorization of Mr. Campbell that properly authorized the carrier change.

COUNT III

1. On or about December 7, 1998, an employee of King s Body Shop, Post Office Box 483, Neon, Kentucky, reported to Commission Staff by telephone that the local exchange carrier for the business phone had been changed from BellSouth to Other Phone without authority or permission from anyone on behalf of King s Body Shop. The business telephone number is 606/855-4898.

2. Commission Staff, after investigation, has been unable to obtain or secure any written authorization or electronically recorded authorization of anyone on behalf of King s Body Shop that properly authorized the carrier change.

The Commission, based upon the foregoing facts as set out in each Count, finds sufficient evidence to believe that Other Phone has violated KRS 278.535 in Counts I, II, and III herein.

The Commission, on its own motion, HEREBY ORDERS that:

1. Other Phone d/b/a Access One Communications shall submit to the Commission within 20 days of the date of receipt of this Order a response to the allegations contained in each Count above.

2. Other Phone shall appear on November 18, 1999 at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky for the purpose of presenting evidence in each Count herein regarding the alleged violation(s) of KRS 278.535, and showing cause, if any, why it should not be subject to the penalties prescribed in KRS 278.535(6).

3. The letters attached hereto and marked Appendix Count I and Appendix Count II are made a part of the record herein.

4. Any request for informal conference with Commission Staff to consider any matter which would expedite the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of receipt of this Order.

Done at Frankfort, Kentucky, this 12th day of August, 1999.

By the Commission

ATTEST:

Executive Director