

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF THE FAILURE OF CERTAIN)	
NON-DOMINANT TELECOMMUNICATIONS)	CASE NO.
PROVIDERS TO FILE REPORTS OF GROSS)	2000-383
OPERATING REVENUES OR TO PAY)	
ASSESSMENTS PURSUANT TO KRS 278.140)	

O R D E R

By this Order, the Commission serves notice upon certain non-dominant telecommunications providers who have filed tariffs to provide service in Kentucky, whose names and last-known addresses appear on an appendix attached hereto, that they shall, within 30 days of the date of this Order, show cause why they should not be subject to penalties pursuant to KRS 278.990 for failure to comply with KRS 278.130 through KRS 278.150. In the absence of such showing, their authorization to provide service in this Commonwealth shall be revoked, their tariffs removed from the Commission's files, and their names stricken from the Commission's list of active utilities without further Order.

KRS 278.140 requires each utility to file, on or before March 31 of each year, a report of its gross earnings or receipts derived from intrastate business for the preceding calendar year. Based upon these reports, the Commission certifies to the Revenue Cabinet and the Finance and Administration Cabinet the intrastate revenue so collected. KRS 278.150. The Revenue Cabinet then, for the purpose of maintaining the Commission, assesses each utility in proportion to its receipts for intrastate business for the preceding calendar year. KRS 278.130. The assessment is to be paid by July 31.

KRS 278.150(2). The minimum to be paid by each utility is fifty dollars (\$50). KRS 278.130(1). KRS 278.990(3) provides for penalties for failure to pay an assessment pursuant to the foregoing statutes.

The utilities listed in the appendix to this Order have neither submitted their reports of gross earnings nor paid assessments. Accordingly, it appears that they are subject to the penalties enumerated in KRS 278.990(3). However, it is not clear that these carriers are actively providing service in this Commonwealth. Moreover, it appears that pursuit of the assessments and penalties provided for by KRS Chapter 278 would consume more of the Commission's limited resources than would be warranted.

Telecommunications is increasingly competitive, and regulatory oversight over such carriers is minimal. Pursuant to KRS 278.512, this Commission no longer issues a certificate for initial operations of non-dominant telecommunications carriers.¹ Each such carrier simply files a tariff with the Commission, supplies necessary information regarding its corporate structure, and provides the name and address of its contact person for regulatory purposes.² Few such carriers maintain an office in Kentucky. Nevertheless, as utilities with tariffs in this state, the carriers are responsible for complying with statutory and regulatory requirements that continue to apply, including KRS 278.130, KRS 278.140, and KRS 238.150.

¹ See Administrative Case No. 359, Exemptions for Interexchange Carriers, Long-Distance Resellers, Operator Service Providers and Customer-Owned, Coin-Operated Telephones (Order dated June 21, 1996); Administrative Case No. 370, Exemptions for Providers of Local Exchange Service Other Than Incumbent Local Exchange Carriers (Order dated January 8, 1998).

² Id.

Based on the foregoing, the Commission concludes that the public interest would best be served by sending this Order, by registered mail to the regulatory contact person submitted pursuant to 807 KAR 5:003 by each of the utilities listed in the appendix, putting each such utility on notice that it shall show cause to this Commission within 30 days from the date of this Order why it should not be subject to the penalties prescribed in KRS 278.990 for failure to comply with the statutes cited herein. The tariff of any utility failing to respond to this Order shall be removed from the Commission's files and its name stricken from the Commission's list of active utilities. A utility choosing not to respond to this Order shall immediately notify any customers it currently serves that the utility no longer provides service in Kentucky and that the customer must obtain service from another carrier.

Should any utility whose tariff is stricken under the terms of this Order later wish to file a tariff to provide service in this Commonwealth, the assessments and penalties for its failure to comply with KRS 278.130, KRS 278.140, and KRS 278.150, together with accrued interest at the statutory rate of 6 percent, shall be payable prior to the institution of service.

IT IS SO ORDERED.

Done at Frankfort, Kentucky, this 10th day of August, 2000.

By the Commission

ATTEST:



Executive Director, Acting