COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CUSTOMER BILLING AND NOTICE REQUIREMENTS FOR WIRELINE TELECOMMUNICATIONS CARRIERS PROVIDING SERVICE IN KENTUCKY	))))	CASE NO. 2002-00310

O R D E R

On August 26, 2002, the Commission established this proceeding to consider the continued reasonableness of billing requirements established for local exchange carriers (LECs) in 1991 in Administrative Case No. 306.[1] The Commission mandated the following requirements, among others, for LECs. LECs are required to include in their utility bills only charges for intrastate services which are tariffed or are contained in any special contract and for interstate services where the service, absent its interstate nature, would be allowed by Kentucky state law to be a tariffed utility service. Moreover, a LEC may bill for services not allowed to be included on the regulated utility bill page on a separate billing sheet in the same envelope as the utility bill only if the LEC includes the following disclaimer at the upper-most position or the lower-most position of each sheet containing unregulated charges and in no less than 12 point bold type the following statement: Nonpayment of items on this sheet will not result in disconnection of local telephone service. Carriers are allowed to add to the disclaimer such language as please contact the indicated carrier to dispute charges.

[1] Administrative Case No. 306, Detariffing Billing and Collection Services, Orders entered September 5, 1991 and December 19, 1991.

On August 5, 2002, Foothills Telephone Cooperative filed a request for a waiver of the billing requirement to include an additional page in its end-user bills detailing charges for which nonpayment would not result in the disconnection of telephone service. Given the sweeping changes that have taken place in the telecommunications industry since issuance of the final Orders in Administrative Case No. 306, the Commission herein grants Foothills Telephone Cooperative s request after reviewing comments filed by wireline carriers providing service in Kentucky, including incumbent LECs (ILEC), competitive LECs (CLEC), long-distance carriers, and the Attorney General.

All parties filing comments assert that a separate billing page for detailing non-regulated charges is not necessary. The Attorney General contends that as long as charges are itemized and understandable, a separate billing page is not necessary. Further, the Attorney General asserts that if the carriers follow Truth-in-Billing requirements of the Federal Communications Commission (FCC), consumers in Kentucky are well protected and the utilities will have reduced billing expenses.

The Commission received comments from Duo County Telephone Cooperative, Thacker-Grigsby Telephone Company, Coalfields Telephone Company, North Central Telephone Cooperative, South Central Rural Telephone Cooperative, Logan Telephone Cooperative, and Mountain Rural Telephone Cooperative. All of these ILECs made similar recommendations. They believe that a separate page for regulated and non-regulated charges does not make the consumer bill more understandable or prevent abuse of the billing system. Identification of the charges and their groupings, including those pertaining to service providers, billed services and methods to contest charges, is more important than provision of separate pages for regulated and non-regulated charges. These utilities contend that the separate billing page requirement has created unnecessary expenses in the billing and collection process and has produced minimal or no benefits to the consumer. These utilities also argue for the maximum amount of flexibility in implementing billing requirements.

Logan Telephone Cooperative proposes that the Commission require a separate section of customer bills which would be entitled unregulated services. This section would contain a disclaimer which states, The following are charges for unregulated services which, if in dispute and unpaid, will not result in disconnection of the regulated service. A separate section would distinguish these charges and yet eliminate the costs of separate pages.

The Commission also received comments from ALLTEL Kentucky, Inc., Kentucky ALLTEL, Inc. and ALLTEL Communications, Inc. (hereinafter ALLTEL), Cincinnati Bell Telephone Company (Cincinnati Bell) and BellSouth Telecommunications, Inc. (BellSouth). ALLTEL asserts that regulatory mandates such as specific bill requirements and font sizes can create a competitively unfair burden and artificial barriers to market entry. Moreover, ALLTEL asserts that in a competitive environment the carriers should have discretion regarding how to segregate regulated and non-regulated services on a consumer bill and whether to terminate local regulated services for failure to pay non-regulated services. Finally, ALLTEL asserts that the Commission should follow the lead of the FCC in allowing utilities to have as much flexibility as possible in addressing billing issues.

Cincinnati Bell also recommends that the Commission eliminate the requirement that regulated and non-regulated services be billed on separate pages. Moreover, Cincinnati Bell contends that the Commission should eliminate the specific language and formatting requirements regarding disconnection for nonpayment of services. The Commission should allow carriers to disconnect local service for nonpayment of unregulated charges, according to Cincinnati Bell. The separate page requirement has increased paper and postage expenses and has caused customer complaints about bills being too long and too confusing. Cincinnati Bell also argues that the Commission should eliminate the requirement for the disclaimer of nonpayment of non-regulated items not resulting in disconnection of local telephone service. Cincinnati Bell sees this as unnecessary if the Truth-in-Billing requirements of the FCC, which require identification of non-regulated services, are implemented.

According to BellSouth, most customers prefer a small and more simplified bill. BellSouth proposes that one statement on the bill both identify non-regulated charges and state that nonpayment will not result in disconnection of local service. This statement would not appear on each page with non-regulated charges, but one disclaimer per bill would be mandated. Moreover, regulated and non-regulated charges would be allowed on the same page. BellSouth also points out that the federal requirements for Truth-in-Billing preclude disconnection of local service for nonpayment of unregulated charges at this time, but that at some point such disconnection may be appropriate.

The Commission also received comments from the Frankfort Electric and Water Plant Board (Frankfort Plant Board), AT&T Communications of the South Central

States, Inc. (AT&T), and Sprint Communications Company LP (Sprint). The Frankfort Plant Board believes that a separate bill page for non-regulated charges is unnecessary to differentiate between regulated and non-regulated charges. The Frankfort Plant Board also proposes that one section, whether considered regulated or not regulated, be devised for all taxes and governmental fees. Customer confusion has resulted from these taxes and fees being in various locations of the customer s bill. The Frankfort Plant Board also recommends that non-regulated charges be allowed to appear on the same page as regulated charges, thus avoiding additional expense. The Frankfort Plant Board also contends that the policy of prohibiting disconnection of local services for failure to pay non-regulated services has led to increased bad debt and other administrative expenses.

AT&T argues that the Commission should follow the FCC s Truth-in-Billing requirements and that it is unnecessary to require non-regulated charges to be on a separate billing page. AT&T believes the standard should be clear and conspicuous identification on the customer bill of regulated and non-regulated charges and notice that would be apparent to a reasonable consumer, based on 47 CFR 64.2400 (c) and (e). Sprint likewise believes that carriers bound by the federal Truth-in-Billing rules should not have to bill regulated and non-regulated charges separately. These charges should be permitted to appear on the same page. Sprint does recommend that the policy prohibiting disconnection of local service for failure to pay non-regulated charges be eliminated because carriers incur the cost of bad debt and administrative expenses. These costs are, of course, passed on to customers.

The Commission, having considered all of these comments, finds that some of the requirements established in 1991 should be changed. All carriers have indicated that customers are requesting simple bills, and allowing charges that are regulated and non-regulated to appear on one page will further that goal. However, the non-regulated charges should be clearly marked and the bill should contain a clear and conspicuous notice that failure to pay these non-regulated charges will not result in disconnection of regulated services. Such notice need only appear once on the bill, but it must be clear and conspicuous. Moreover, carriers should organize their customer bills into sections that identify the types of services in a manner that will aid consumers in understanding the bill. These requirements apply to paper and electronic customer bills, and are in accord with the federal Truth-In-Billing Act.

Also in accordance with the Truth-In-Billing Act, the Commission will not eliminate the requirement that failure to pay non-regulated services will not result in disconnection of regulated services. The regulated services, including local service, are of great value to consumers. A failure to pay non-regulated charges should not result in the elimination of this value. Moreover, there are public safety issues at stake when consumers are disconnected from local service. These public safety issues should not become an issue when customers local service bills have been paid.

IT IS THEREFORE ORDERED that:

1. Carriers are no longer required to bill regulated and non-regulated charges on separate customer billing sheets.

2. Customers shall not be disconnected from regulated services for failure to pay unregulated charges.

3. No particular font size or message is required, however, non-regulated charges and the notice regarding the effects of nonpayment must be clearly and conspicuously indicated on the consumer bill.

4. Carriers who change their billing format should submit a copy of such format into the record of this proceeding.

5. An informal conference is hereby scheduled for December 4, 2002, at 10:00 a.m., Eastern Standard Time, to discuss all issues for which comments were required in the Commission s August 26, 2002 Order and which have not been addressed herein.

Done at Frankfort, Kentucky, this 1st day of November, 2002.

By the Commission

ATTEST:

Executive Director