

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

COMMUNICATIONS WORKERS OF)	
AMERICA, AFL-CIO AND LOCAL 463,)	
INTERNATIONAL BROTHERHOOD)	
OF ELECTRICAL WORKERS)	
)	
COMPLAINANTS)	
)	
V.)	CASE NO. 2003-00190
)	
KENTUCKY ALLTEL, INC.)	
)	
DEFENDANT)	

O R D E R

On February 13, 2002, the Commission approved the acquisition of certain assets of Verizon South, Incorporated (Verizon) by Kentucky ALLTEL, Inc. (ALLTEL) on several conditions, including one that ALLTEL honor the collective bargaining agreements and all memoranda of understanding between Verizon and its employees. ¹ On May 29, 2003, the Communications Workers of America, AFL-CIO (CWA) and Local 463 of the International Brotherhood of Electrical Workers (collectively, Complainants) filed, pursuant to 807 KAR 5:001, Section 12, a complaint alleging ALLTEL s non-compliance with the Commission s Order of February 13, 2002. CWA members also filed an unfair labor practice charge with the National Labor Relations Board (NLRB). On June 18, 2003, ALLTEL answered the Complainants allegations

¹ Order of February 13, 2002 in PSC Case No. 2001-00399 at 20.

and moved to dismiss the complaint on grounds that it failed to establish a *prima facie* case and failed to assert matters within the Commission's jurisdiction.

KRS Chapter 278 grants the Commission broad authority over Kentucky's utilities. KRS 278.040 grants the Commission exclusive jurisdiction over the regulation of utility rates and service, and KRS 278.990 subjects to civil or criminal penalties any utility officer, agent, or employee who violates a Commission Order.

To the extent that the continuity of a stable workforce is important to the quality of service rendered by a utility, the Commission had the statutory authority to condition its approval of the Verizon/ALLTEL transfer upon ALLTEL's commitment to existing labor agreements. In its acceptance of the Commission's Order, ALLTEL agreed to honor the collective bargaining agreement and memoranda of understanding between Verizon and its employees. However, the Complainants now allege seven violations of these agreements. After carefully reviewing the allegations, the Commission finds that the Complainants have established a *prima facie* case that ALLTEL may have violated a Commission Order. Furthermore, because these allegations, if true, impact the quality of service rendered to Kentucky customers, we believe that the complaint asserts matters that are within our jurisdiction. For these reasons, we reject ALLTEL's motion to dismiss the complaint. However, the Commission declines to implement a procedural schedule at this time. Instead, the Commission will require the parties to file, within 30 days of the date of this Order, any and all information regarding the status of the parties' positions on each of the alleged violations.

IT IS SO ORDERED.

Done at Frankfort, Kentucky, this 20th day of August, 2003.

By the Commission

CONCURRING OPINION OF
COMMISSIONER ROBERT E. SPURLIN

When the Commission approved ALLTEL's acquisition of certain assets of Verizon, we conditioned our approval upon ALLTEL's commitment to honor the collective bargaining agreement and all memoranda of understanding between Verizon and its employees. Stephen B. Rowell, Senior Vice-President of ALLTEL, agreed to this condition by letter dated February 25, 2002.

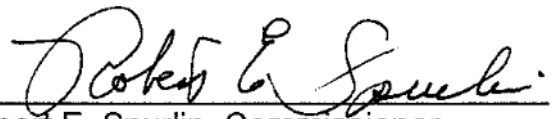
The Complainants now allege seven violations of various labor agreements between Verizon and its employees. The complainants further allege that these violations occurred prior to June 7, 2003, the date on which the collective bargaining agreement and all other memoranda of understanding expired. I find these allegations particularly troubling in light of Verizon's past assurances that it would honor these agreements to the letter.²

Whenever the Commission conditions its approval of a proposed utility transfer on the commitments and assurances of the acquirer, a level of trust is created between the utility and the Commission. Now that we are faced with allegations that ALLTEL has violated this trust, we have an obligation to fully investigate the matter. Indeed, the Commission's reputation and integrity rests upon its commitment to enforce Commission Orders.

² Case 2001-00399 Transcript of Evidence, Page 46.

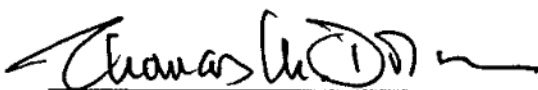
Like the majority, I believe that, to the extent that the continuity of a stable workforce is important to the services rendered by a utility, the Commission has the statutory authority to require that ALLTEL honor pre-existing labor agreements. However, I also believe that a utility's use of contract labor so deeply affects employee morale and, in some cases, the quality of service rendered, that the Commission has a public duty to routinely scrutinize any decision to replace loyal utility employees with contract labor.

I respectfully concur.



Robert E. Spurlin, Commissioner
Kentucky Public Service Commission

ATTEST:



Executive Director