

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INQUIRY INTO LIMITATIONS)	
OF USE FOR TARIFFED SERVICES)	
DESIGNATED OR OTHERWISE)	ADMINISTRATIVE
REFERRED TO AS UNLIMITED)	CASE NO. 2005-00186

O R D E R

The Commission, on its own motion, and pursuant to KRS 278.260 and KRS 278.280, opens this inquiry into the practice whereby certain telecommunications providers in the Commonwealth label, describe, or market a tariffed service as “unlimited” when limitations on use exist. The Commission’s concerns arise from formal complaints filed in Case Nos. 2005-00006,¹ 2005-00007,² 2005-00025³ and 2005-00061.⁴ In those cases, the Complainants were receiving service under plans labeled or otherwise described as “unlimited,” but the Complainants were subjected to additional charges for excessive use under the “unlimited” plan. The Complainants alleged that they believed their respective calling plans to actually be “unlimited” and

¹ Case No. 2005-00006, Shirley Jackson v. Dialog Telecommunications, Inc. (Ky. PSC April 28, 2005).

² Case No. 2005-00007, Joseph Randolph Woosley v. Momentum Telecom (Ky. PSC April 28, 2005).

³ Case No. 2005-00025, Billy Ray Hinkle v. Budget Phone, Inc. (Ky. PSC April 28, 2005).

⁴ Case No. 2005-00061, Mary D. Minton v. Momentum Telecom (Ky. PSC April 28, 2005).

sought the reversal of the charges incurred for exceeding the terms of the plans. The Commission, by Order entered on April 28, 2005, dismissed the complaints, finding that the Defendants were operating under properly filed tariffs.

In the April 28, 2005 Order, the Commission listed several of its concerns regarding the fairness and reasonableness of the limitations on plans termed unlimited. The Commission's concerns included, but were not limited to, customer notification of the limitations, notification of violation of the limitations, and the reasonableness of the use of the term "unlimited" in promoting these plans. Because of these concerns, the Commission preliminarily finds that the practice of offering a calling plan that is labeled, described, or marketed as "unlimited," when, in fact, limits exist on those plans, is potentially deceptive and, therefore, unreasonable.

IT IS THEREFORE ORDERED that:

1. Any interested person or party may file comments with the Commission prior to July 6, 2005.
2. All telecommunications utilities that have tariffs with unlimited calling plans on file with the Commission shall file five copies of their responses to the information request appended hereto no later than July 22, 2005.
3. Any additional comments or requests for a hearing shall be filed with the Commission on or before August 15, 2005. The request shall include a list of potential witnesses and the issues to be addressed. If no requests for a hearing are received by August 15, 2005, the case shall stand submitted to the Commission for a decision on the record.

4. A copy of this Order shall be served upon all telecommunications providers that maintain tariffs with the Commission.

5. A copy of this Order shall be served upon the Attorney General.

Done at Frankfort, Kentucky, this 22nd day of June, 2005.

By the Commission

ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN ADMINISTRATIVE CASE NO. 2005-00186 DATED June 22, 2005

1. Does the utility offer a plan that is described, named, or marketed as “unlimited”? If yes, identify and describe the plan and provide copies of the tariff sheets on which the plans can be found.
2. If the utility has an “unlimited” plan, are there use restrictions or other limitations on the plan? If yes, describe these restrictions and reference the utility’s tariff.
3. How and when are customers or potential customers notified of the limitations on the unlimited plan? Describe the notification.
4. If third parties (agents, telemarketers, consignees, etc.) market, advertise, or otherwise offer end-users the utility’s unlimited plan, explain how those “marketers” are required to verify compliance with the notice requirements.
5. Assuming a customer has subscribed to an “unlimited” plan that has use limitations, is the customer notified when the limitations are exceeded? If yes, how is the customer notified?
6. How and when are customers notified that changes have been made to the plan?
7. Are customers able to check the number of minutes they have used in order to determine if they will exceed the plan’s limitations?
8. Explain why the utility markets, names, or describes a plan as “unlimited” when limits on the plan exist.

9. Explain how the utility ensures that the unlimited plan is offered and the rates, terms, and conditions of service are applied without discrimination as required by KRS 278.170(1).

10. Provide summary records of all complaints received by the utility regarding any unlimited plans offered in Kentucky since January 1, 2001. Include the date that the complaint was opened, customer class, description of complaint, description of complaint resolution, and date that the complaint was closed.