

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

* * * * *

In the Matter of:

THE DETARIFFING OF CUSTOMER)	
PREMISE EQUIPMENT PURCHASED)	
SUBSEQUENT TO JANUARY 1, 1983)	ADMINISTRATIVE CASE NO. 257
(SECOND COMPUTER INQUIRY)	
FCC DOCKET 20828))	

O R D E R

In May 1980 the Federal Communications Commission ("FCC") issued its final decision in Docket CC 20828, Second Computer Inquiry ("Computer II"). In December 1980 and October 1981, the FCC issued additional Orders on reconsideration in this docket. The FCC determined that the provision of Customer Premises Equipment ("CPE") was not communication common carrier transport services and should be offered separately and apart from a carrier's tariffed services. Therefore, the FCC ruled that terminal equipment should be detariffed and no longer subject to regulation beginning with new equipment purchased on and after January 1, 1983. The impact of the FCC's decision is the pre-emption of state jurisdiction over residential and business telephone sets or instruments and related equipment offered for sale or lease.

This Commission is now left with the option of how best to implement this decision. The FCC has stated that the effects of competition and technological changes have prompted this decision.

Although this Commission concurs that where effective competition exists it should provide better protection to the customer than traditional regulation, we are not convinced that such effective levels of competition exist in all areas of this Commonwealth. We remain concerned that the rural areas will not be benefitted by the FCC's decision. Unfortunately, we have not been given the option of deciding where such effective competition does or does not exist. The decision in Computer II must be implemented for all telephone companies operating in this Commonwealth.

SUMMARY

The Commission is, therefore, of the opinion and finds that:

(1) Pursuant to the FCC's Orders in CC Docket 20828, the Public Service Commission must detariff CPE purchased by all jurisdictional telephone companies beginning on and after January 1, 1983. In reaching that decision, the FCC concluded:

...that we have jurisdiction over terminal equipment, that we have the authority to order carriers to unbundle and detariff it, that we can forbear any regulation of CPE and that our preemption of state authority over CPE does not violate the Communications Act or any other laws....1/

(2) Telephone company CPE that is purchased on and after January 1, 1983, ("new") will not be under tariff regulation of the Public Service Commission. The offering and disposition, by

1/ FCC Memorandum Opinion and Order, Docket No. 20828, dated December 30, 1980, page 48, paragraph 140.

rent or sale of such equipment, will be at the option of the individual telephone companies.

(3) Telephone company CPE that is in service or in inventory at December 31, 1982, ("embedded") will remain under tariff and subject to regulatory review for as long as it remains recorded on the books of account.

(4) Each jurisdictional telephone company should file its revised tariffs to carry out the provisions in the FCC's Orders in Computer II. For telephone companies who have not separated ("unbundled") their basic access line rate and the separate CPE rate, this should be accomplished in the tariff revision. Telephone companies which have not previously included provisions in their tariffs to limit CPE offerings to embedded equipment at December 31, 1982, should do so in the tariff revision. Appendix A attached to this Order provides guidelines to facilitate the tariff changes required.

(5) To insure that the ratepayers do not pay capital and maintenance costs incurred by the telephone companies in providing new CPE, the telephone companies will be required to adopt and maintain appropriate accounting procedures. The Commission will require the telephone companies to adopt the FCC system of account revisions to comply with the Computer II decision and to file their plans to maintain appropriate and separate accounts and allocation procedures. The Commission will issue further guidelines and directions concerning both the accounting methodology and allocation procedures at a later date.

APPENDIX A

APPENDIX TO AN ORDER OF THE PUBLIC SERVICE
COMMISSION IN CASE NO. 257 DATED NOVEMBER 24,
1982

Exchange Unbundling

The following procedure should be followed in unbundling
exchange access and station equipment rates:

1. Delete extension rates from tariffs.
2. Create a tariff section listing station equipment
to which extension rates are applicable.
3. List extension rates as monthly rates applicable
to basic station equipment.
4. Reduce exchange access rates by the same amount
as the applicable station equipment rate.

Detariffing Customer Premises Equipment

All telephone companies shall file a preface to each tariff
containing customer premises equipment stating substantially the
following language:

PREFACE

Effective January 1, 1983, pursuant to the conditions
imposed by the FCC's orders in Docket 20828, any
customer premises equipment, as defined by the FCC,
offered within this (name of tariff) shall be provided
by the Company for use with new or existing service
only so long as such equipment is available from
Company inventory, except as otherwise permitted by
the FCC and the Public Service Commission.

The Company shall continue to provide maintenance for
Company provided customer premises equipment subject
to the availability of replacement parts and equipment.

The use and provision of Company provided customer
equipment remains subject to the regulations of filed
tariffs.