

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION OF BLUEGRASS CELLULAR, INC.)
FOR AN EXEMPTION FROM THE REGULATION FOR) CASE NO. 92-412
ENHANCED SERVICES)

O R D E R

On September 23, 1992, Bluegrass Cellular, Inc. ("Bluegrass Cellular") filed a petition pursuant to KRS 278.512 and KRS 278.514 requesting that its voice mail enhanced services be exempted from regulation. On February 17, 1993, the Commission ordered Bluegrass Cellular to provide additional information relating to its petition. Bluegrass Cellular responded on March 22, 1993. As no requests for a public hearing were filed, Bluegrass Cellular's petition was submitted for decision based upon the case record.

BACKGROUND

Voice Messaging Services ("VMS") are provided through the use of computer equipment capable of storing a caller's voice message for later retrieval by the VMS subscriber. Each VMS subscriber is assigned a unique "mail box" or storage location in which voice messages sent to the VMS subscriber are retained. When the VMS subscriber desires to retrieve his messages, he gains access to the computer equipment and reviews the stored messages. In most instances, the VMS subscriber will employ some form of call forwarding to transfer a call to the voice messaging system when his line is busy or there is no answer. Many additional features may be included, or purchased separately, to further enhance the

VMS such as message waiting indicator (stutter dial tone to indicate a message has been left) and message detail (call time and number).

Rapid technological changes are making the communications industry and markets increasingly competitive. This increasing competitiveness may in the future be reflected in decreasing prices and a growing array of service options and providers. Though there are at least two cellular service providers in each geographically defined market, there are several choices available to customers for enhanced services.

DISCUSSION

In evaluating Bluegrass Cellular's petition for exemption of its voice mail service, the Commission is bound by KRS 278.512 and KRS 278.514. KRS 278.512 provides that the Commission may exempt telecommunications services and products or may reduce regulation if it finds that exemption or alternative regulation is in the public interest. KRS 278.512 identifies eight criteria to be considered by the Commission when determining if a service or product should be exempted from regulation or subject to alternative regulation. The statute also permits the Commission to consider any other factor it deems in the public interest.

The FCC has licensed two primary cellular providers within each RSA or MSA: a wireline and a non-wireline carrier. In larger MSA markets, cellular resellers may also offer cellular services, including voice mail services. However, there are a variety of viable alternatives to cellular voice mail service. Customers have

a wide array of existing potential choices for their voice mail services: answering services, home answering machines, paging services, local exchange carriers ("LEC"), and interexchange carriers ("IXC"). Anyone possessing a computer with the proper "store and forward" capabilities that is tied to the network can offer voice mail services. Subscribers to one cellular provider can easily use the voice mail service of one of the provider's competitors.

Bluegrass Cellular states that in order for a subscriber to use a competitor's voice mail service, "The subscriber would need to call forward their cellular number to their voice mail number. No additional services are required to be purchased from the company for a subscriber to use a non-cellular voice mail service. The company currently provides Call Forwarding at no charge to its cellular subscribers."¹ Bluegrass Cellular identified BellSouth Mobility, GTE, Danbury Cellular and any independent voice mail provider operating in its territory as its direct competitors. It is apparent that customers have viable voice mail alternatives to Bluegrass Cellular's services.

Cellular companies primarily generate revenues by selling cellular air time. Therefore, it appears reasonable that prices for voice mail services would be kept at competitive levels in order to encourage usage and generate additional air time revenues. The availability of viable alternatives aside from another cellular

¹ See Item 3 in Bluegrass Cellular's response dated March 22, 1993.

provider, will impose additional market discipline on Bluegrass Cellular's prices. This will also help prevent cross-subsidization from the regulated side of Bluegrass Cellular's cellular business. Bluegrass Cellular's prices for its voice mail services appear comparable to those of its competitors.

Cellular voice mail services are offered to customers primarily as an adjunct to existing basic cellular telephone services. Exempting Bluegrass Cellular's cellular voice mail services will not have an adverse effect on the availability of its basic services, but should enhance its ability to respond effectively to market pressures. Regulatory exemption will also free Bluegrass Cellular from the burdens of regulatory monitoring and oversight of its operations. Customers may benefit because reduced regulatory burden implies lower costs, which could mean lower prices for cellular services.

After considering the statutory criteria contained in KRS 278.512, the Commission finds that exempting Bluegrass Cellular's voice mail service from the provisions of KRS Chapter 278 is in the public interest. Although Bluegrass Cellular's investment, revenues, and expenses associated with voice mail will not be considered by the Commission in approving rates for Bluegrass Cellular's services, the Commission retains jurisdiction over exempted services pursuant to KRS 278.512 and KRS 278.514. Bluegrass Cellular shall continue to fulfill all reporting requirements of KRS Chapter 278 or Commission Order, including

continued use of separate accounts and allocation of costs to document that no cross-subsidization exists.

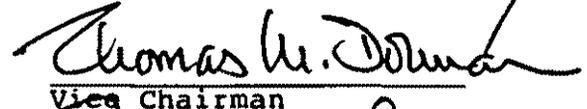
Exemption of cellular voice mail services does not mean that adequate safeguards do not exist to protect customers from unfair treatment, poor service quality, or excessive prices. Though the market will discipline cellular companies for infractions, customers are encouraged to exercise their option of filing complaints with the company and the Commission.

The Commission having determined that exemption of Bluegrass Cellular's voice mail service is in the public interest and being otherwise sufficiently advised, IT IS ORDERED that the voice mail enhanced services, only as specifically described in Bluegrass Cellular's petition, are exempted from regulation, pursuant to KRS 278.512 and KRS 278.514.

Done at Frankfort, Kentucky, this 5th day of August, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST


Executive Director