

7-920020

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held October 7, 1993

Commissioners Present:

David W. Rolka, Chairman, Statement attached  
Joseph Rhodes, Jr., Vice Chairman  
John M. Quain, Statement attached  
Lisa Crutchfield  
John Hanger

DOCKET  
FOUNDER

Informal Investigation into Marketing  
Practices of Commonwealth Long  
Distance Company

Docket No.  
M-00930447

TENTATIVE ORDER

RLS

At Public Meeting of April 15, 1993, upon review of an application by Palmerton Long Distance Company (Palmerton) at A-310147 to provide service as an interexchange reseller, the Commission adopted a motion by Chairman Rolka. The motion required Palmerton to restrict its marketing activity so as to prevent customer confusion over its relationship with Palmerton Telephone Company, a Pennsylvania LEC. The motion further indicated that Commonwealth Long Distance Company (CLD) may be engaging in misleading marketing activity and directed Commission staff to investigate CLD's marketing activity with the objective of establishing uniform industry-wide marketing restrictions for all LEC affiliated resellers.

The mandatory restrictions to be placed on LEC affiliated interexchange resellers were further clarified by the Commission

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in the Palmerton application proceeding by order entered April 30, 1993. The restrictions identified by the Commission and applied to Palmerton in the April order are as follows:

- 1) the reseller is prohibited from using the logo of the LEC or its parent in any marketing activity;
- 2) the reseller is prohibited from engaging in any activity which reasonably could confuse or mislead customers into believing that the reseller and its LEC affiliate are the same entity; and
- 3) the reseller may not use the name of the LEC (for example, in the Palmerton case the word "Palmerton") in marketing activities unless the use of the name is accompanied by notice to the customers or prospective customers that the reseller and the LEC are not the same company.

Pursuant to the Chairman's original motion, Commission staff instituted an informal investigation into CLD's marketing activities. Following informal discussions between staff and CLD representatives, on August 9, 1993, CLD issued the attached letter to the Commission in which CLD voluntarily agreed to the following marketing restrictions in order to close the informal investigation:

- 1) CLD will not use the logo of its affiliate Commonwealth Telephone Company (Commonwealth) in any marketing activity involving customers or prospective customers;
- 2) CLD and Commonwealth may use the logo of C-TEC, their corporate parent, in all marketing activities;
- 3) CLD will not engage in activities which reasonably may confuse or mislead customers or prospective customers into believing CLD and Commonwealth are the same entity; and
- 4) during any marketing activity, CLD may use the word "Commonwealth" in reference to CLD, but will inform customers and prospective customers that CLD is a separate, but affiliated company.

Although the restrictions agreed to by CLD depart slightly from the Palmerton restrictions in that CLD intends to use the logo of its parent, C-TEC, we find this departure acceptable since it appears that Commonwealth and C-TEC have different logos.<sup>1</sup> Accordingly, we will accept the restrictions agreed to by CLD as governing all of its future marketing activity.

CLD's agreement to abide by marketing restrictions similar to those we adopted in the Palmerton case alleviates the concerns which prompted our informal investigation. Pursuant to 52 Pa. Code §3.113, when a utility undertakes action to resolve a "perceived deficiency at the utility" the utility's action must be considered at Public Meeting. If the Commission approves of the utility's action, the approval must be in the form of a tentative decision which allows interested parties to comment before becoming final.

On September 27, 1993, AT&T filed within the informal investigation docket comments addressing CLD's marketing practices. Pursuant to 52 Pa. Code §3.113, comments by AT&T should be filed after the issuance of a tentative decision and will be addressed by the Commission at that time.

Through this order, we will tentatively approve CLD's action of voluntarily implementing the marketing restrictions set forth herein. However, we would emphasize to both Commonwealth and CLD that we expect strict compliance with the restrictions and will

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<sup>1</sup> Commonwealth has also retained the right to use its parent's logo.

direct BCS to monitor compliance and, in conjunction with the Law Bureau, prosecute all instances of noncompliance; THEREFORE,

IT IS ORDERED:

1. That Commonwealth Long Distance Company's action of voluntarily implementing the marketing restrictions identified in its letter attached to this order is hereby approved.

2. That the informal investigation into CLD's marketing activities is hereby terminated.

3. That the Secretary serve this Tentative Order on all parties of record at Docket No. I-920020 and on all Pennsylvania local exchange carriers.

4. That all persons having an interest in this proceeding shall have 20 days from the entry date of this Tentative Order within which to file written response.

5. That the Tentative Order shall become final without further action by this Commission absent the filing of any timely response opposing the Settlement Agreement.

6. That if written responses are received, the Law Bureau is hereby directed to prepare a recommendation for Public Meeting consideration addressing issues raised in such responses.

BY THE COMMISSION,



John G. Alford  
Secretary

(SEAL)

ORDER ADOPTED: October 7, 1993

ORDER ENTERED: October 19, 1993

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Harrisburg, Pennsylvania 17105-3265

INFORMAL INVESTIGATION INTO  
MARKETING ACTIVITIES OF  
COMMONWEALTH LONG DISTANCE  
COMPANY

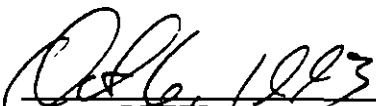
PUBLIC MEETING-OCTOBER 7, 1993  
OCT-93-L-741\*  
DOCKET NO. M-00930447

STATEMENT OF CHAIRMAN DAVID W. ROLKA

The proposed Tentative Order would approve a settlement agreement between Staff and Commonwealth Long Distance Company which reflects relatively consistent standards for the marketing activities of long distance reseller affiliates of local exchange companies. The Commission most recently considered this issue in connection with an Application of Palmerton Long Distance Company. AT&T has forwarded a letter, apparently in contemplation of the PUC's vote on the pending settlement agreement, which maintains that the Palmerton Long Distance Company standards are inadequate for Commonwealth Long Distance Company. Staff proposes to decline considering AT&T's letter at this time and instead suggests that such comments should be taken up after the Tentative Order is issued.

Since the proposed settlement is consistent with the Palmerton Long Distance Company standards, I will support the issuance of a Tentative Order although with some hesitation. I am concerned about the impact this settlement may have on the pending affiliated interest Investigation of Commonwealth Telephone Company (Docket No. I-920020). AT&T has stated that the ALJ reserved ruling on a Motion to Strike testimony on the issues of the relationship between Commonwealth and Commonwealth Long Distance Company. AT&T further contends that in moving to strike the AT&T testimony, Commonwealth argued that the informal investigation proceeding would address similar issues. I am hesitant to take any action to foreclose record development of issues in a Formal Investigation, based on a disposition of an informal investigation. I want to make sure there is a fair hearing of all concerns regarding Commonwealth Long Distance Company. AT&T's allegations raise doubt about the sufficiency of the settlement particularly with respect to joint sales and marketing activities; however at this point they are unsubstantiated. Record development of those issues may be most useful and appropriate in the context of the formal affiliated interest Investigation. Additionally, the issue of appropriate standards for the provision of service by reseller affiliates of LECs should be considered in the pending rulemaking on Chapter 30 implementation.

I will closely review all of the comments that may be submitted on the Tentative Order.

  
DATED

  
DAVID W. ROLKA, CHAIRMAN

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Harrisburg, Pennsylvania 17105

INFORMAL INVESTIGATION INTO  
MARKETING ACTIVITIES OF  
COMMONWEALTH LONG DISTANCE  
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PUBLIC MEETING-  
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STATEMENT OF COMMISSIONER JOHN M. QUAIN

At this time, I support the issuance of a tentative order regarding a settlement agreement between staff and Commonwealth Long Distance Company. However, I am compelled to reiterate my position on restricting the use of corporate logos as expressed in the application of Palmerton Long Distance Company A-310147. In Palmerton, I stated:

[T]he policy remains overly intrusive in one important area. It restricts the use of corporate logos in marketing communications. I believe this restriction to be ill-advised given the fact that insufficient evidence exists to support the need for any such actions. Like the selection of a corporate name, the use of corporate logos remains a matter squarely within management's prerogatives. This is particularly true where there is little or no empirical evidence to support the fact that the adoption of this policy will have any impact upon the development of a competitive reseller market.

If we are concerned with deception in competitive market procedures, I agree with Chairman Rolka, that the appropriate vehicle for establishing standards for the provision of service by reseller affiliates of local exchange companies should be addressed in the pending rulemaking on Chapter 30 implementation.

10-7-93  
DATE

  
JOHN M. QUAIN, COMMISSIONER