

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AT&T COMMUNICATIONS OF THE SOUTH	)	
CENTRAL STATES, TCG OHIO, AND	)	
BELLSOUTH TELECOMMUNICATIONS, INC.	)	
D/B/A AT&T KENTUCKY	)	
	)	
COMPLAINANTS	)	
	)	
V.	)	CASE NO.
	)	2010-00162
	)	
KENTUCKY RURAL INCUMBENT LOCAL	)	
EXCHANGE CARRIERS, KENTUCKY	)	
COMPETITIVE LOCAL EXCHANGE CARRIERS,	)	
WINDSTREAM WEST, LLC, WINDSTREAM	)	
EAST, LLC, AND CINCINNATI BELL	)	
	)	
RESPONDENTS	)	

O R D E R

On April 21, 2010, AT&T Communications of the South Central States, TCG Ohio, BellSouth Long Distance, Inc. d/b/a AT&T Long Distance Service and BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky (collectively, "AT&T Kentucky") filed with the Commission a Petition and Complaint Seeking Reduction of Intrastate Switched Access Rates. AT&T Kentucky filed this action pursuant to KRS 278.260(1) and 807 KAR 5:001, Section 12, against Windstream Kentucky East, LLC and Windstream Kentucky West, LLC, Cincinnati Bell Telephone Company, all of the rural Incumbent Local Exchange Carriers in Kentucky, and all Competitive Local Exchange Carriers in Kentucky. Within this same filing, AT&T Kentucky, as an alternative proposal,

requested that the Commission establish an administrative case for the purpose of implementing intrastate switched access reform throughout the telecommunications industry in Kentucky. Having reviewed the pleading, the Commission finds that AT&T Kentucky's request to establish a complaint proceeding fails to establish a prima facie case against each particular incumbent and competitive carrier named as an individual defendant as required under 807 KAR 5:001, Section 12, and the complaint should be dismissed.<sup>1</sup>

### OVERVIEW OF COMMENTS

Numerous interested parties have submitted written comments both in support of and in opposition to Commission action in relation to AT&T Kentucky's request. As of the date of this Order, written comments have been filed by the following: Kentucky Chamber of Commerce, several rural incumbent carriers,<sup>2</sup> TDS Telecom,<sup>3</sup> Windstream,

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<sup>1</sup> Simultaneously with the issuance of this Order, the Commission is establishing a proceeding to conduct an industry-wide examination of intrastate switched access rates in Administrative Case No. 2010-00398, An Investigation into the Intrastate Switched Access Rates of All Kentucky Incumbent and Competitive Local Exchange Carriers.

<sup>2</sup> Ballard Rural Telephone Cooperative Corporation; Brandenburg Telephone Company, Inc.; Duo County Telephone Cooperative Corporation; Foothills Rural Telephone Cooperative; Gearhart Communications Co., Inc.; Highland Telephone Cooperative, Inc.; Logan Telephone Cooperative, Inc.; Mountain Rural Telephone Cooperative, Inc.; North Central Telephone Cooperative Corporation; Peoples Rural Telephone Cooperative; South Central Telephone Cooperative Corporation, Inc.; Thacker-Grigsby Telephone Company, Inc.; and West Kentucky Rural Telephone Cooperative Corporation, Inc. (hereinafter collectively, "RLECs").

<sup>3</sup> Lewisport Telephone Company, Inc.; Salem Telephone Company; and Leslie County Telephone Company, Inc. are all owned by TDS Telecom.

Competitive Carriers of the South, Inc.,<sup>4</sup> US LEC of Tennessee, L.L.C. d/b/a PAETEC Business Services (“PAETEC”), Communications Workers of America (“CWA”), and the Kentucky Secretary of State. AT&T Kentucky has also filed certain reply comments.

The RLECs state that the Commission should deny AT&T Kentucky’s request for a large-scale administrative review.<sup>5</sup> The RLECs note that intrastate access reform is a complex issue, particularly with respect to carriers who are rate-of-return regulated. The rates charged by RLECs represent “a significant portion of their regulated rate design and reflect the recognized costs of doing business” in areas of Kentucky that are very costly to serve.<sup>6</sup> The Commission agrees with the RLECs’ statement that the complexity of this issue is a significant reason that such reform has not yet occurred.

TDS Telecom commented, specifically, that any access reform for rural incumbents should be addressed within a separate proceeding and should take into serious consideration the unique financial circumstances surrounding rural telephone carriers. The Kentucky Secretary of State, the CWA, and the Kentucky Chamber of Commerce provided comments in support of access rate reform as a means of supporting technology investment and innovation. PAETEC objected to the

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<sup>4</sup> Participating members are Access Point, Inc.; Birch Communications, Inc.; Cavalier Telephone; Cbeyond Communications, LLC; tw telecom of ky llc; and XO Communications Services, Inc. (hereinafter collectively, “CompSouth”).

<sup>5</sup> Alternatively, the RLECs request that such a proceeding be established separately from Case No. 2007-00503, the switched access rate complaint proceeding between the Verizon companies and Windstream Kentucky East and Windstream Kentucky West, and that such a proceeding be conducted in concert with the parallel proceedings at the Federal Communications Commission (“FCC”). RLEC comments at 4. Filed May 11, 2010.

<sup>6</sup> RLEC comments at 3. Filed May 11, 2010.

establishment of any proceeding on the basis that AT&T Kentucky's allegations were too broad and insufficient to justify a large-scale review by the Commission. CompSouth also objected to AT&T Kentucky's complaint and noted that changes to wholesale rates should be achieved through the promulgation of regulations rather than through a complaint case. CompSouth also states that, if the Commission pursues a large-scale administrative proceeding, it should do so only after the FCC issues decisions on the National Broadband Plan and details the implications for inter-carrier compensation reform.

### CONCLUSION

The Commission has given fair consideration to all of the comments submitted in this proceeding. The Commission finds that AT&T Kentucky has failed to establish a prima facie case sufficient for a formal complaint action against the named defendants. Therefore, none of the named defendants should be required to satisfy or answer the complaint. This matter should be dismissed and removed from the Commission's docket. The record in this proceeding should be incorporated by reference into Administrative Case No. 2010-00398.

IT IS HEREBY ORDERED that:

1. AT&T Kentucky's complaint is dismissed for failure to establish a prima facie case, pursuant to 807 KAR 5:001, Section 12.
2. This proceeding is closed and removed from the Commission's docket.
3. The record of this case is incorporated by reference into Administrative Case No. 2010-00398.

By the Commission

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KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
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