

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AMERICAN COMMUNICATIONS SERVICES OF)	
LOUISVILLE, INC. D/B/A e.spire COMMUNICATIONS, INC.)	
AMERICAN COMMUNICATIONS SERVICES OF)	
LEXINGTON, INC. D/B/A e.spire COMMUNICATIONS, INC.)	
ALEC, INC. AND HYPERION COMMUNICATIONS OF)	
LOUISVILLE, INC. F/K/A LOUISVILLE LIGHTWAVE)	
)	CASE NO.
COMPLAINANTS)	98-212
)	(consolidated)
v.)	
)	
BELLSOUTH TELECOMMUNICATIONS, INC.)	
)	
DEFENDANT)	

O R D E R

On February 18, 2000, BellSouth Telecommunications Inc. ("BellSouth") filed, via facsimile copy, a motion to postpone the February 22, 2000 hearing. The pleading also contained a response to an earlier motion of Hyperion Telecommunications of Louisville Inc. ("Hyperion") to file its late supplemental testimony. BellSouth asserts that Hyperion's failure to meet the Commission's procedural schedule for filing supplemental direct testimony and for responding to certain data requests of BellSouth are sufficient reasons to postpone the February 22, 2000 hearing. Moreover, BellSouth asserts that the claim against it by e.spire Communications Inc. ("e.spire") has been settled and that ALEC Inc. has no objection to postponing the hearing to discuss settlement.

Hyperion responded to BellSouth's motion via facsimile on February 20, 2000. Hyperion contends that it was unable to comply with the Commission's schedule

for filing supplemental testimony due to circumstances beyond its control. Hyperion argues that BellSouth has not been prejudiced by its late filing because the issues involved have been known since the inception of the complaint. Moreover, Hyperion asserts that settlement with one party to the case is insufficient cause for postponement of the hearing.

The issues involved in this matter have been known in detail for over a year. BellSouth's arguments that it has been prejudiced by the late filing of Hyperion's supplemental testimony are without merit. Moreover, there are three complainants in this proceeding. BellSouth has settled in principle with one of them. This settlement is an insufficient basis for postponing the hearing with the other two complainants whose claims have not been satisfied. This hearing has been scheduled for several weeks. No valid reason to delay this proceeding has been put forth.

Accordingly, this Commission, having reviewed the pending motions and being otherwise sufficiently advised, HEREBY ORDERS that:

1. The motion of Hyperion to file its direct supplemental testimony out-of-time shall be granted.
2. The motion of BellSouth to postpone the February 22, 2000 hearing shall be denied.
3. Parties shall provide an oral statement regarding the status of settlement at the beginning of the hearing.

Done at Frankfort, Kentucky, this 21st day of February, 2000.

By the Commission

ATTEST:

Executive Director