

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| THE PETITION BY PILGRIM TELEPHONE, INC. |) | |
| FOR ARBITRATION OF CERTAIN TERMS AND |) | |
| CONDITIONS WITH BELLSOUTH |) | CASE NO. |
| TELECOMMUNICATIONS, INC. PURSUANT |) | 1999-385 |
| TO SECTION 252(B) OF THE |) | |
| TELECOMMUNICATIONS ACT OF 1996 |) | |

O R D E R

Pilgrim Telephone, Inc. ("Pilgrim") has requested access to billing number and address information on a real time basis through the use of Line Information Data Base ("LIDB") and access to call blocking data on a daily basis. These items, which Pilgrim asserts are unbundled network elements ("UNE"), have been identified by Pilgrim by its letter to BellSouth Telecommunications, Inc. ("BellSouth") requesting negotiation regarding those matters. Pilgrim incorporated this letter into its petition for arbitration. Pilgrim asserts that BellSouth has denied access to these items in violation of 47 U.S.C. 251(c)3.

BellSouth filed a motion to dismiss Pilgrim's petition and also filed an answer to Pilgrim's petition. In its motion to dismiss, BellSouth asserts that Pilgrim did not properly plead the arbitration issues. BellSouth argues that Pilgrim did not specify the unresolved issues. However, Pilgrim's petition, including a letter attached and incorporated by reference, specifies the functions which Pilgrim sought from BellSouth. The petition adequately specifies the issues to be resolved in this arbitration.

BellSouth further asserts that Pilgrim has used this arbitration process as an attempt to resolve billing and collection issues which should have been the subject of a complaint proceeding. However, if BellSouth believes that Pilgrim owes it payments from a previous agreement, then BellSouth may file a complaint seeking enforcement of the agreement. Pilgrim's request to arbitrate an issue which may have been the subject of a previous agreement between the parties does not subject its petition to dismissal.

Finally, BellSouth asserts that the arbitration petition must be dismissed because Pilgrim has not yet undertaken the steps to provide local telecommunications services in Kentucky. However, Pilgrim does have tariffs on file with the Commission. Moreover, the Commission's exemptions granted pursuant to KRS 278.512 enable any telecommunications carrier to begin providing service on 30-days notice with an appropriate tariff. Thus, there is no certification process with which Pilgrim must comply. None of the arguments raised by BellSouth are adequate to foreclose a petition for arbitration by Pilgrim. Accordingly, BellSouth's motion to dismiss should be denied.

In response to BellSouth's answer, Pilgrim clarified the network elements which it sought to obtain from BellSouth as follows: (1) billing and collection services; (2) real time access to 900/976 blocking data; and (3) real time access to billed name and address data. Pilgrim has asked the Commission to arbitrate whether "billing and collection services" are network elements which must be unbundled pursuant to 47 U.S.C. 251(c)(3). Pilgrim's request for billing and collection "services" may be considered two ways. If Pilgrim seeks services that are available from BellSouth's tariff, they should be provided by BellSouth on a resale basis at the resale avoided cost

discount. However, Pilgrim's request could also be considered in terms of the provision of Operational Support System ("OSS") information and related features and functions that, when combined, can be used by Pilgrim, the requesting carrier, to provide a billing and collection service. Pilgrim must accordingly clarify its request. If Pilgrim is seeking the functionality to create its service, then BellSouth is obligated to provide the OSS functions on a nondiscriminatory basis. Such functionality would meet the definition of an unbundled network element.

Pilgrim is seeking a real time access to billed number and address information and real time access to 900/976 blocking data as network elements. These must be provided by BellSouth. As specified by the Act, a network element means a facility or equipment used in the provision of a telecommunications service and includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service. 47 U.S.C. 3(29). Based on this definition, it appears that access to the database that contains billed name and address information and access to the blocking data are network elements, or at least features or functions of a related network element, that should be provided pursuant to Section 251(c)(3).

The Commission, having considered the petition, and BellSouth's response and motion, and having been otherwise sufficiently advised, HEREBY ORDERS that:

1. BellSouth's motion to dismiss Pilgrim's petition is denied.

2. Within 10 days of the date of this Order, Pilgrim shall notify the Commission whether it seeks billing and collection services or billing and collection functionality.

3. Within 20 days of the date of this Order, BellSouth shall respond to Pilgrim's notification of whether it seeks billing and collection services or billing and collection functionalities.

4. Real time access to billed number and address information and real time access to 900/976 blocking data are network elements that must be provided by BellSouth.

5. Within 20 days of the date of a Commission Order addressing Pilgrim's notification and BellSouth's response required herein, Pilgrim and BellSouth shall file a signed agreement complying with the Commission's determinations.

Done at Frankfort, Kentucky, this 11th day of January, 2000.

By the Commission

ATTEST:

Executive Director