

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SPIS.NET)	
)	
COMPLAINANT)	
)	
v.)	CASE NO.
)	2001-00099
BELLSOUTH TELECOMMUNICATIONS, INC.)	
)	
DEFENDANT)	

O R D E R

Sprint Print, Inc., d/b/a SPIS.net (SPIS.net) has alleged in a formal complaint that BellSouth Telecommunications, Inc. (BellSouth) has provided insufficient and disparate service to its customers. Similar complaints have been alleged in this proceeding by Kentucky Bandwidth, Inc. These allegations include lack of service at a specified rate and problems with the use of HDSL2 technology. SPIS.net also alleges that BellSouth spliced a cable without notifying SPIS.net and inadequately repaired the splice. In addition, network problems after the installation of a Primary Rate Interface (PRI) line are alleged. SPIS.net asserts that these difficulties started after BellSouth.net, Inc. (BellSouth.net) began competing in its area.

In response to these complaints BellSouth admits that SPIS.net has had intermittent problems with PRIs. BellSouth also admits using the HDSL2 technology to serve some customers circuits, but asserts that the technology is generally accepted. BellSouth denies that the inception of BellSouth FastAccess® Internet Service is related

to SPIS.net s difficulties. Moreover, BellSouth contends that it has diligently worked to isolate SPIS.net s network problems.

In a supplemental complaint, SPIS.net and Kentucky Bandwidth, Inc. also allege pricing disparities in the manner that BellSouth has provided PRI service and T1/T3 service. They assert that BellSouth offers better prices to their competitors than it is willing to offer them in violation of KRS 278.170(1). This statute prohibits any unreasonable preferences between customers with respect to rates for doing a like and contemporaneous service under the same or substantially the same conditions. These Internet service providers (ISPs) also assert that BellSouth has violated KRS 278.514(1), which prohibits a utility from subsidizing a non-regulated activity provided by an affiliate or by the utility itself.¹ In response, BellSouth asserts that BellSouth.net provides services only to BellSouth affiliates and not to any third parties. BellSouth also denies that there was any pricing disparity between comparable services with comparable terms.

In a second supplemental complaint, Kentucky Bandwidth, Inc. asserts that BellSouth s retail DSL customers do not pay a connection fee to initiate DSL service and are provided a DSL modem without charge in exchange for signing a 6-month contract. Kentucky Bandwidth, Inc. asserts that this deal is not available to its customers. Moreover, Kentucky Bandwidth, Inc. asserts that some of its customers have experienced technical problems with their DSL service. In response to these allegations, BellSouth contends that it has provided DSL service in compliance with its

¹ Though the ISP providers contend that BellSouth has also violated KRS 278.2201, telecommunications utilities are exempted from this statute by KRS 278.2215.

applicable tariffs and that it has used the appropriate regulatory accounting methodology for all regulated charges related to this service. BellSouth has also submitted trouble reports regarding DSL and PRI service problems.

The Commission, having reviewed all materials submitted in this complaint, finds that the complainants have failed to demonstrate discriminatory pricing and service standards. BellSouth has adequately responded to trouble reports. BellSouth has charged lawful rates for the PRI service and the DSL service in question. BellSouth may offer different prices to different customers if these differences are based on competitive circumstances or relate to unique customer characteristics, such as call volume.

The Commission, having been sufficiently advised, HEREBY ORDERS that this case is dismissed and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 15th day of May, 2002.

By the Commission

ATTEST:


Executive Director