

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BRANDENBURG TELECOM LLC)	
)	
COMPLAINANT)	
)	CASE NO.
v.)	2002-00143
)	
VERIZON SOUTH INC.)	
)	
DEFENDANT)	

ORDER TO SATISFY OR ANSWER
AND TO GRANT EMERGENCY RELIEF

Verizon South Inc. (Verizon) is hereby notified that it has been named as a defendant in a formal complaint and motion for emergency relief filed by Brandenburg Telecom LLC (Brandenburg) on April 19, 2002, copies of which are attached hereto. Pursuant to 807 KAR 5:001, Section 12, Verizon is HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of this Order. Moreover, Verizon is HEREBY ORDERED to provide a tandem transit traffic service for Brandenburg Telecom local calling exchange traffic immediately and to account for such tandem transit traffic in a manner sufficient to determine refunds should that be necessary.

Having reviewed the motion for emergency relief and the formal complaint, the Commission believes if the facts as presented in the formal complaint and the motion for emergency relief are true, then harm done to Brandenburg may be irreparable. Brandenburg asserts that Verizon is providing a discriminatory level of service to

Brandenburg vis-a-vis Verizon's own customers. Brandenburg also asserts that Verizon has the technical feasibility to provide transit traffic to 304 NXX customers. Moreover, Brandenburg asserts that Verizon will be reimbursed for third-party charges that Verizon may incur while transiting Brandenburg's traffic. The Commission finds that this is a customer use issue. Brandenburg's customers should not incur long-distance toll charges for local calls where Verizon's customers would not incur such charges for the identical call.

The interconnection agreement approved by this Commission in Case No. 2001-00224,¹ in Section 12.1 defines tandem transit traffic. The traffic in question is routed to a third-party tandem switch. Brandenburg asserts that there is no contractual or other restriction requiring that the Brandenburg traffic must proceed directly from the Verizon tandem to the CMRS carrier's central office without ever encountering another tandem along the call's route.² Thus, the Commission finds that Brandenburg has established a prima facie case for breach of the agreement ordered by this Commission, and thus, of violation of the Commission's Order.

Accordingly, IT IS THEREFORE ORDERED that:

1. Verizon shall satisfy or answer this complaint within 10 days of this Order.
2. Verizon shall begin immediately transiting all Brandenburg traffic destined for telephone numbers within the same local calling exchange including traffic destined

¹ Case No. 2001-00224, Petition of Brandenburg Telecom LLC for Arbitration of Certain Terms and Conditions of Proposed Agreement with Verizon South Inc. Pursuant to the Communications Act of 1934, as Amended by the Telecommunications Act of 1996.

² Complaint at 5.

from the 304 NXX customers and shall account for such traffic in a manner sufficient to calculate refunds should Brandenburg not prevail.

3. Should documents of any kind be filed with this Commission in the course of this proceeding, the documents shall also be served on all parties of record.

4. Those persons who were parties of record in Case No. 2001-00224 shall be added to the service list of this proceeding.

5. A hearing on the motion for emergency relief and on the complaint is hereby scheduled for May 21, 2002 at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

6. Within 15 days of the date of this Order, parties shall submit a list of witnesses and a summary of the testimony each witness is expected to present.

Done at Frankfort, Kentucky, this 24th day of April, 2002.

By the Commission

ATTEST:


Executive Director