

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SOUTHEAST TELEPHONE, INC.)	
)	
COMPLAINANT)	
)	
V.)	CASE NO.
)	2008-00279
BELLSOUTH TELECOMMUNICATIONS, INC.)	
D/B/A AT&T KENTUCKY)	
)	
DEFENDANT)	

O R D E R

On July 15, 2008, SouthEast Telephone, Inc. ("SouthEast") submitted a complaint against BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky ("AT&T Kentucky") alleging that AT&T Kentucky has failed to provide SouthEast, a competitor, with commingled unbundled network elements and combinations of such elements with all wholesale services and facilities, including elements required to be provided under 47 U.S.C. § 271.¹

On August 4, 2008, AT&T Kentucky submitted its answer in response to SouthEast's complaint. On August 13, 2008, SouthEast submitted a response. An informal conference was held on September 11, 2008. At the conclusion of the

¹ SouthEast alleges that by failing to provide the requested commingled elements, AT&T Kentucky is specifically violating the Commission's December 12, 2007 Order in Case No. 2004-00427, In the Matter of Petition of BellSouth Telecommunications, Inc. to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Changes of Law ("Change of Law Order").

meeting, the parties agreed to a procedural schedule for the submission of additional pleadings in support of their arguments.² On September 25, 2008, AT&T Kentucky submitted a sur-reply and SouthEast simultaneously moved for intermediate relief. On October 6, 2008, AT&T Kentucky responded to SouthEast's motion for intermediate relief. On October 9, 2008, SouthEast submitted a reply to the response to the motion for intermediate relief.³ On November 13, 2008, the Commission received notice from AT&T Kentucky indicating that it had developed an interim solution for SouthEast to order unbundled loops with ports on a commingled basis as of December 1, 2008.⁴

For the Commission to address a central issue in this proceeding as to the costs, credits and pricing differences for the specific Section 251 and Section 271 elements outlined in the complaint and provided both as a wholesale loop combination and on a commingled basis, additional information needs to be added to the Commission's record. The record, as it stands today, is not sufficient to enable the Commission to reach a final determination on those particular questions. Therefore, by this Order, the

² On October 2, 2008 and October 6, 2008, respectively, SouthEast and AT&T Kentucky each submitted comments in response to Commission Staff's informal conference memorandum issued on September 25, 2008.

³ SouthEast's submission of this additional memorandum was not agreed to by the parties at the September 11, 2008 informal conference; however, the memorandum only restated previous arguments iterated by SouthEast.

⁴ SouthEast sent an initial letter, received by the Commission on October 30, 2008, requesting an update on the provision of an interim solution. SouthEast also sent a response letter, received by the Commission on November 14, 2008, stating, in part, that the case before the Commission is not resolved as no solution has been reached as to the question of the conversion of existing lines and the credits SouthEast believes it is owed for lines that SouthEast contends should have been converted to the commingled arrangement several months ago. SouthEast contends that the December 1, 2008 interim solution date will only address new orders sent to AT&T Kentucky and credits for pricing differences for elements provided on a commingled basis.

Commission will issue data requests to SouthEast and AT&T Kentucky for the purpose of receiving information relevant as to those issues.

IT IS THEREFORE ORDERED that:

1. SouthEast shall respond to the Commission's data request, as provided in Appendix A to this Order, no later than December 31, 2008.

2. AT&T Kentucky shall respond to the Commission's data request, as provided in Appendix B to this Order, no later than December 31, 2008.

3. a. SouthEast and AT&T Kentucky shall file with the Commission the original and five copies of the information requested herein, with a copy to all parties of record. Responses to requests for information shall be appropriately bound, tabbed and indexed. Each response shall include the name of the witness responsible for responding to the questions related to the information provided.

b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

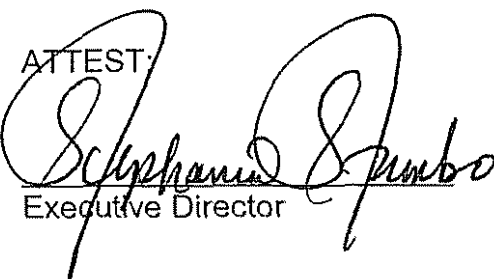
c. SouthEast and AT&T Kentucky shall make timely amendments to any prior responses if either utility obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect. For any requests to which SouthEast or AT&T Kentucky fail or refuse to furnish all or part of the requested information, SouthEast or AT&T Kentucky shall

provide a written explanation of the specific grounds for the failure to completely and precisely respond.

d. Careful attention should be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations.

Done at Frankfort, Kentucky, this 11th day of December, 2008.

By the Commission

ATTEST:

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2008-00279 DATED DECEMBER 11, 2008

1. As of the date of this Order, is SouthEast able to order Section 271 port (unbundled exchange port) and Section 251 loop (unbundled copper loop non-designed) elements from AT&T Kentucky on a commingled basis, as set forth in the complaint?

2. If yes, what is the date that AT&T Kentucky began allowing SouthEast to make this order?

3. As of the date of this Order, what price is SouthEast currently charged for commingled Section 271 port (unbundled exchange port) and Section 251 loop (unbundled copper loop non-designed) elements from AT&T Kentucky?

4. Beginning on December 12, 2007 through the date provided in the answer to Question 2, provide the following information:

a. The total number of orders made by SouthEast to AT&T Kentucky for a wholesale loop port combination.

b. The date on which each of those orders was made.

c. The individual prices charged by AT&T Kentucky to SouthEast for a wholesale loop port combination.

5. What is the dollar amount or the credit amount that SouthEast is seeking from AT&T Kentucky for the delay in implementation of ordering a Section 271 port (unbundled exchange port) and a Section 251 loop (unbundled copper loop non-

designed) on a commingled basis? Provide supporting work papers with quantities and prices.

6. On what date does SouthEast contend that AT&T Kentucky should have implemented a support system to facilitate SouthEast's ability to order a Section 271 port and a Section 251 loop on a commingled basis? Explain why this date should be considered reasonable by the Commission.

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2008-00279 DATED DECEMBER 11, 2008

1. As of the date of this Order, does AT&T Kentucky allow SouthEast to order Section 271 port (unbundled exchange port) and Section 251 loop (unbundled copper loop non-designed) elements from AT&T Kentucky on a commingled basis, as set forth in the complaint?

2. If yes, what is the date that AT&T Kentucky began allowing SouthEast to make these types of orders?

3. As of the date of this Order, what price is SouthEast currently charged for commingled Section 271 port (unbundled exchange port) and Section 251 loop (unbundled copper loop non-designed) elements from AT&T Kentucky?

4. Beginning on December 12, 2007 through the date provided in the answer to Question 2, provide the following information:

a. The total number of orders made by SouthEast to AT&T Kentucky for a wholesale loop port combination.

b. The date on which each of those orders was made.

c. The individual prices charged by AT&T Kentucky to SouthEast for a wholesale loop port combination.

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