

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|                                    |   |            |
|------------------------------------|---|------------|
| COMPLAINT OF SPRINT COMMUNICATIONS | ) |            |
| COMPANY LP AGAINST BRANDENBURG     | ) | CASE NO.   |
| TELEPHONE COMPANY AND REQUEST FOR  | ) | 2008-00135 |
| EXPEDITED RELIEF                   | ) |            |

O R D E R

On July 27, 2009, Brandenburg Telephone Company (“Brandenburg”) filed with the Commission a motion to amend the current procedural schedule. Brandenburg proposed to extend the filing deadline for prefiled rebuttal testimony from July 31, 2009 until August 7, 2009. As grounds for its motion, Brandenburg states that its witness, Allison Willoughby, is out of the country on a long-planned international family vacation and she is not scheduled to return until August 4, 2009.

On the same day, Sprint Communications Company LP (“Sprint”) filed an objection to Brandenburg’s motion and a motion to compel. As grounds for its objection, Sprint states that a filing deadline of August 7, 2009 would not leave Sprint’s counsel with sufficient time to review the rebuttal testimony in time for the hearing scheduled for August 11, 2009. In the alternative, Sprint requests that, if the Commission grants Brandenburg’s motion, the Commission reschedule the hearing for a later date, but before September 4, 2009.

The Commission finds that good cause exists to extend the deadline for filing prefiled rebuttal testimony. However, the Commission will only extend the deadline to

August 5, 2009 in order to allow sufficient time for the parties to review the rebuttal testimony before the August 11, 2009 hearing. Copies of the rebuttal testimony shall be served via electronic mail no later than 4:00 p.m., Eastern Daylight Time, with paper copies to follow.

Sprint also filed a motion to compel, requesting that the Commission enter an Order compelling Brandenburg to provide responses to Requests 19, 20a, and 22 in "Sprint's Third Set of requests for Information to Brandenburg Telephone Company."<sup>1</sup>

As grounds for its request to compel a response to Request 19, Sprint states that Brandenburg's answer to the request, in which it refers to its response to Request 18, is non-responsive and does not answer Sprint's question, "Is the call in question an interstate call or not?"<sup>2</sup>

Upon review, it appears that Brandenburg's response to Request 19 does answer Sprint's question. By referencing its response to Request 18, Brandenburg indicates that it would consider the "call in question" to be an intrastate call. Brandenburg has sufficiently responded to the question and does not need to provide any further response.

As grounds for its request to compel a response to Request 20a, Sprint states that Brandenburg's answer to the request is non-responsive and does not answer

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<sup>1</sup> In the introductory paragraph of its motion to compel, Sprint also requests that the Commission compel a response to Request 27. However, Sprint does not discuss Request 27 in the body of its motion to compel. Accordingly, we will not compel a response to request 27.

<sup>2</sup> Motion to Compel at 3.

Sprint's question, "Is the call described in Sprint's hypothetical an interstate or intrastate call?"<sup>3</sup>

Upon review, it appears that Brandenburg's response to Request 20a does answer Sprint's question. Brandenburg, despite its objections, clearly states that "the call described would be classified intrastate . . . ." <sup>4</sup> Brandenburg further responds that "[I]f the scenario were changed . . . the call would be jurisdictionalized as interstate."<sup>5</sup> These responses directly address Sprint's posed hypothetical and, therefore, the Commission will not compel a further response to Request 20a.

As grounds for its request to compel a response to Request 22, Sprint states that Brandenburg's objections to responding to the request consist of either a "kitchen sink" boilerplate list of objections or that Brandenburg's objection that it does not have the requested information "begs the question as to whether Brandenburg Telephone has any documentary support for its contention in this case . . . ." <sup>6</sup> In essence, Brandenburg's objections do not adequately respond to Sprint's request.

Upon review, it appears that Brandenburg is unable to respond to Request 22 because it simply does not have the information sought. The Commission will not compel Brandenburg to produce that which it does not have.

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<sup>3</sup> Motion to Compel at 4.

<sup>4</sup> Id.

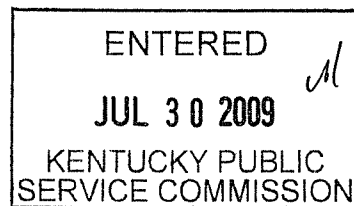
<sup>5</sup> Id.

<sup>6</sup> Id. at 6.

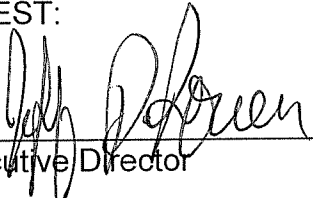
IT IS THEREFORE ORDERED that:

1. The filing deadline for prefiled rebuttal testimony is extended to August 5, 2009.
2. The parties shall serve, via electronic mail, copies of rebuttal testimony on each other and Commission Staff no later than 4:00 p.m., Eastern Daylight Time, with paper copies to follow.
3. Sprint's motion to compel is denied.

By the Commission



ATTEST:

  
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