

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DEBBIE MACCONNEL)	
)	CASE NO.
COMPLAINANT)	2009-00033
)	
V.)	
)	
BELLSOUTH TELECOMMUNICATIONS, INC.)	
D/B/A AT&T KENTUCKY)	
)	
DEFENDANT)	

O R D E R

On January 23, 2009, Debbie MacConnel ("Ms. MacConnel") filed a formal complaint with the Commission alleging that the defendant, BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky ("AT&T Kentucky"),¹ has refused to install the equipment necessary in her neighborhood for the provision of DSL high-speed Internet service. Ms. MacConnel states that she is a retail customer and requires Internet service to work from her home, located in Clark County, Kentucky. Ms. MacConnel alleges that AT&T Kentucky is obligated to offer and provide stand-alone DSL service to its customers at a "rate of \$10.00 and/or \$19.95 per month"² as a

¹ The complainant named "AT&T, Corp." as a defendant. However, the Commission takes administrative notice that the proper legal name for the incumbent carrier for Clark County, Kentucky is BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky. The Commission has changed the style of this matter to reflect the correct name of the defendant.

² Complaint at 1.

condition of its merger with BellSouth Telecommunications, Inc., as approved by the Federal Communications Commission (“FCC”) in an order released on March 26, 2007.

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that this agency lacks the proper and necessary jurisdiction to adjudicate this complaint. KRS 278.5462(1) provides, in part:

The provision of broadband services shall be market-based and not subject to state administrative regulation No agency of the state shall impose or implement any requirement upon a broadband service provider with respect to the following:

- (a) The availability of facilities or equipment used to provide broadband services; or
- (b) The rates, terms or conditions for, or entry into, the provision of broadband service.

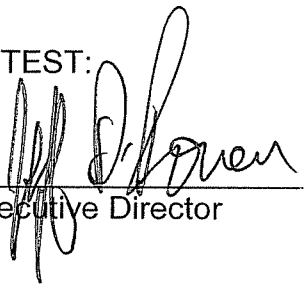
The Commission notes that, under subsection (3) of KRS 278.5462, this agency retains the jurisdiction to investigate consumer complaints over broadband services made by existing high-speed Internet consumers over issues such as, but not limited to, the quality of service or billing problems. However, Ms. MacConnel has described her situation as one where DSL service is not currently being provided by AT&T Kentucky in her specific residential area. Under subsection (1) of KRS 278.5462, as cited above, the General Assembly eliminated the Commission’s authority to compel telecommunications providers to extend high-speed Internet service to consumers who currently do not have the service available to them. As the substance of Ms. MacConnel’s complaint concerns allegations that AT&T Kentucky has failed to extend and offer high-speed Internet service to her residential area in Clark County, Ms. MacConnel has failed to state a claim upon which relief can be granted by the Public Service Commission and, therefore, her complaint must be dismissed.

IT IS THEREFORE ORDERED that the complaint is dismissed and this matter shall be closed and removed from the Commission's docket.

Done at Frankfort, Kentucky, this 12th day of February, 2009.

By the Commission

ATTEST:



Executive Director

Joan Coleman
President - Kentucky
AT&T Communications of the South Central
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Debbie MacConnell
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