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MEMO

July 5, 2006

TO: Beth O'Donnell

FROM: David Sieradzki

- For your information
- As you requested
- For your review and comment
- For your files
- Other

RECEIVED

JUL 6 2006

PUBLIC SERVICE
COMMISSION

Enclosed are two versions of the same letter -- one version is CONFIDENTIAL and is requested to be withheld from public inspection; the other is redacted and may be made public.

This letter is being filed in two dockets (Case No. 2005-00519 and Case No. 2005-00533), and we're enclosing (1 copy of the confidential version and 10 copies of the redacted version).

Please don't hesitate to call with any questions. Thanks very much.

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July 5, 2006

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REDACTED VERSION FOR PUBLIC INSPECTION
CONFIDENTIAL AND PROPRIETARY INFORMATION REDACTED

Beth O'Donnell
Executive Director
Public Service Commission
Commonwealth of Kentucky
211 Sower Blvd., P.O. Box 615
Frankfort, KY 40602-0615

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JUL 6 2006

PUBLIC SERVICE
COMMISSION

RE: BellSouth Telecommunications, Inc., Notice of Intent to Disconnect SouthEast Telephone for Non-Payment, Case No. 2005-00519;

SouthEast Telephone, Inc., Complainant, v. BellSouth Telecommunications, Inc., Defendant, Case No. 2005-00533;

BellSouth Deposit Invoice/Notice of Security Deposit Requirement Increase

Dear Ms. O'Donnell:

SouthEast Telephone, Inc. ("SouthEast") respectfully submits a copy of a letter from BellSouth Telecommunications, Inc. ("BellSouth") that renews the company's threat to discontinue providing critical functions and services to SouthEast. This letter heightens the need for the Commission to issue an injunction or take other action expeditiously – no later than **July 15, 2006** – to prevent BellSouth from unlawfully "discontinu[ing] the provisioning of any functions or services which are the subject of this dispute during the pendency of these proceedings." *Order*, Cases No. 2005-00519 and 2005-00533, issued December 16, 2005.

BellSouth's letter, dated June 30, 2006 and received by SouthEast on July 3, 2006, states that it is in response to SouthEast's June 28, 2006 letter to the Commission, and contains a renewed and more specific threat than the earlier letter. BellSouth now states that on July 15, 2006, it will discontinue SouthEast's access to the BellSouth Local Exchange Navigation System ("LENS"), which is vital to enable SouthEast to manage its existing customers' services and to activate service to new customers, unless SouthEast succumbs to BellSouth's unilateral demand for an increased security deposit payment before that date. The letter states: "Should SouthEast fail to

meet the July 15, 2006 deadline, BellSouth will deny SouthEast access to LENS until such time as the required deposit is made. The holding of LENS access only prevents additions or changes to existing services, [*sic.*] end users still have dial tone.”

BellSouth's latest threat directly flouts the Commission's December 16, 2005 order mandating that "BellSouth shall not discontinue the provisioning of any functions or services which are the subject of this dispute during the pendency of these proceedings." The Commission's *Order* is not limited to termination of existing end-users' dial tone. Rather, it applies to "any functions or services" that BellSouth provides to SouthEast, including LENS access – a critical functionality that SouthEast needs to serve its customers and continue doing business. Contrary to BellSouth's assertion that its threatened action is warranted "due to SouthEast's financial status as reported to BellSouth by SouthEast," SouthEast has never provided BellSouth with any information regarding its financial status. (See e-mail from Cheryl Winn, counsel for BellSouth, to David S. Samford, General Counsel, Kentucky PSC, and David L. Sieradzki, counsel for SouthEast, June 30, 2006, 3:25pm.)

Significantly, in addition to violating the Commission's *Order*, BellSouth's threatened action also violates the company's obligation under Section 271(c)(2)(B)(ii) to give competing carriers access to Operational Support Systems, including pre-ordering interfaces such as LENS. See *Joint Application by BellSouth Corp. et al., for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina*, ¶¶ 128-29, 136-148, & App. H ¶¶ 33-34, 17 FCC Rcd 9018 (2002).

BellSouth's latest letter makes clear the necessity for expedited Commission action – *i.e.*, issuance of an injunction or other appropriate action – before July 15, 2006, to prevent BellSouth from carrying out its illegal threats. SouthEast also respectfully requests that the information marked as confidential in the attached letter from BellSouth be withheld from public inspection, consistent with the Commission's March 31, 2006 Order in Case No. 2005-00533.

Very truly yours,



David L. Sieradzki
Counsel for SouthEast Telephone, Inc.

Enclosure

cc: David S. Samford, General Counsel, Kentucky PSC
Amy E. Dougherty, Counsel for Kentucky PSC
Cheryl Winn, Counsel for BellSouth
Paul Wilbanks, Credit Manager, Business Credit Management, BellSouth
Darrell Maynard, President, SouthEast Telephone

6/30/2006

Attn: Darrell Maynard
Southeast Telephone, Inc.
106 Scott Avenue
Pikeville KY 41501

VIA FEDEX

RE: DEPOSIT INVOICE/NOTICE of SECURITY DEPOSIT REQUIREMENT INCREASE

Dear Mr. Maynard,

In Response to your letter to Beth O Donnell executive director with the Public Service Commission Commonwealth of Kentucky dated June 28, 2006

Pursuant to 6.6.5 of the ICA, BellSouth has a right to increase the security deposit required should, in its judgment, "SouthEast's financial status so warrant . . ." For your convenience, I have attached the deposit provisions of the ICA. See attached deposit provisions from ICA. BellSouth's letter of May 31, 2006 requesting a [REDACTED] deposit had a due date of June 30. As required by the ICA, BellSouth gave SouthEast a thirty (30) day notice of BellSouth's intention to increase the security deposit required of SouthEast.

The deposit is requested because of deteriorating financial condition as demonstrated by financial information recently provided.

BellSouth will extend the due date of June 30 for the [REDACTED] deposit an additional 15 days (7/15/2006) for SouthEast to meet its deposit obligation. Should SouthEast fail to meet the July 15, 2006 deadline, BellSouth will deny SouthEast access to LENS until such time as the required deposit is made. The holding of LENS access only prevents additions or changes to existing services, end users still have dial tone.

Please note that current charges (minus disputed amounts) over the last 3 months average around [REDACTED] which pursuant to the ICA would permit BellSouth to require up to a [REDACTED] deposit.

Respectfully,



Paul Wilbanks
Credit Manager
404 986-1927

**INTERCONNECTION
AGREEMENT
BETWEEN
BELLSOUTH TELECOMMUNICATIONS INC.
AND
SOUTHEAST TELEPHONE, INC.**

6.6.2 If a security deposit is required, such security deposit shall be made prior to the inauguration of service.

6.6.3 Such security deposit shall be two months' estimated billing.

6.6.4 The fact that a security deposit has been made in no way relieves SouthEast from complying with BellSouth's regulations as to advance payments and the prompt payment of bills on presentation nor does it constitute a waiver or modification of the regular practices of BellSouth providing for the discontinuance of service for non-payment of any sums due BellSouth.

6.6.5 BellSouth reserves the right to increase the security deposit requirements after ^athirty (30) day notice, when, in its reasonable judgment, changes in SouthEast's financial status so warrant and/or gross monthly billing has increased beyond the level initially used to determine the security deposit.