

counterclaim be accepted for filing. Contemporaneously with filing their motion to reconsider, the Rural Carriers also filed on that date a separate complaint which contained the same allegations and claims as set forth in their counterclaim. The Rural Carriers state that the Commission has allowed counterclaims in the past and request that the Commission accept the counterclaim as a complaint against AT&T Corp., and that AT&T Corp. be ordered to satisfy or answer. In the alternative, the Rural Carriers request that, to the extent that the Commission is adopting a new interpretation of its rule with respect to counterclaims, the Commission grants Rural Carriers deviation from the new rule and allow the filing of the counterclaim as of the date it was originally filed. The Rural Carriers state that deviation is proper due to the Commission's precedent of allowing counterclaims, and that administrative efficiency is better served by the filing of a counterclaim.

The Rural Carriers state that they filed their motion to reconsider to preserve the timeliness of their claims, although they realize that their motion might be moot because they have now filed a separate complaint against AT&T Corp. The Rural Carriers request that, in lieu of granting their motion for reconsideration, the Commission accept the complaint, consolidate it with this proceeding, and deem it filed as of November 25, 2013.

The Commission acknowledges that it has in certain limited instances allowed counterclaims to be filed in complaint cases, typically when the complaint proceeding is between two utilities which are both subject to the Commission's jurisdiction and the matters complained of in the complaint and counterclaim are subject to the Commission's jurisdiction. In this proceeding, both the Rural Carriers and AT&T Corp.

are utilities as defined by KRS 278.010(3) and both are subject to the Commission's jurisdiction. Moreover, the subject matter of AT&T Corp.'s complaint and that of the Rural Carrier's counterclaim directly impact the ability of a utility to deliver telecommunications traffic to its end users. The possibility of a telecommunications utility's blocking such traffic due to unpaid bills is an issue of great importance to the Commission and the public, is a matter that is subject to the Commission's jurisdiction, and is a drastic action that should not be taken without prior notice to the Commission.¹

Here, the complainant and the defendants are jurisdictional utilities, the counterclaim seeks a declaration of right to discontinue service to the complainant due to delinquent bills, and such discontinuation of service would have an adverse impact on telecommunications customers and members of the public who are not parties to this proceeding. Based on the foregoing, the Commission finds that this is a special case and good cause has been shown to grant a deviation from our regulations governing formal complaints, 807 KAR 5:001, Section 20, to allow the filing of the counterclaim tendered by the Rural Carriers. We further find that our Order of February 3, 2014, rejecting the counterclaim should be revoked, and we deem the Rural Carriers' counterclaim to be filed as of November 25, 2013, which was the date it was tendered. The Commission also finds that a procedural schedule should be established for processing this case.

IT IS THEREFORE ORDERED that:

1. The Commission's Order of February 3, 2014, is revoked.

¹ See Case No. 2008-00203, *Investigation Into Traffic Dispute Between Brandenburg Telephone Company, Windstream Kentucky East, LLC and Verizon Access* (Ky. PSC Oct. 11, 2013).

2. The Rural Carriers are granted a deviation under 807 KAR 5:001, Section 22, to file their counterclaim, which is accepted for filing as of November 25, 2013.

3. Within ten days of the date of this Order, AT&T Corp. shall file an answer to the Rural Carriers' counterclaim as set forth in their answer.

4. The complaint tendered on February 19, 2014, by the Rural Carriers naming AT&T Corp. as a defendant is rejected as moot.

5. The procedural schedule set forth in the Appendix to this Order, which is attached hereto and incorporated herein, shall be followed.

6. a. All requests for information and responses thereto shall be appropriately bound, tabbed, and indexed, and the original and ten copies shall be filed with the Commission, with copies to all parties of record. Any request for information by letter from the Commission Staff shall be responded to as if set forth in a Commission Order. All responses shall include the name of the witness who will be responsible for responding to 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 an 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. A party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any request to which a party fails or refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

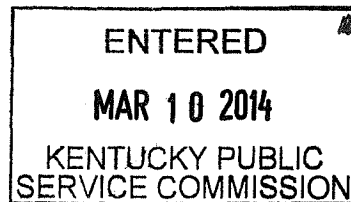
7. Any objections or motions relating to discovery or procedural dates shall be filed upon four business days' notice or the filing party shall explain, in writing, why such notice was not possible.

8. Motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

9. A person who submits a motion to intervene after March 18, 2014, and upon a showing of good cause is granted leave to intervene, shall accept and abide by the existing procedural schedule.

10. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

By the Commission



ATTEST:

Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2013-00392 DATED **MAR 10 2014**

- Requests for Intervention shall be filed no later than 03/18/2014
- Responses to Requests for Intervention
shall be filed no later than 03/25/2014
- Initial Requests for Information shall be filed no later than..... 04/17/2014
- Responses to Initial Requests for Information
shall be filed no later than 05/02/2014
- Simultaneous direct testimony in verified form
shall be filed no later than 05/16/2014
- Supplemental Requests for Information
shall be filed no later than 05/23/2014
- Responses to Supplemental Requests for Information
shall be filed no later than 06/06/2014
- Simultaneous rebuttal testimony in verified form
shall be filed no later than 06/20/2014
- Requests for an Evidentiary Hearing
shall be filed no later than 06/27/2014

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