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May 19, 2009

**VIA COURIER**

Mr. Jeff Derouen  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, KY 40602

RECEIVED

MAY 19 2009

PUBLIC SERVICE  
COMMISSION

Re: BellSouth Telecommunications, Inc.'s Notice of Intent to Disconnect  
SouthEast Telephone, Inc. for Nonpayment  
PSC 2005-00519

SouthEast Telephone, Inc., Complainant v. BellSouth  
Telecommunications, Inc., Defendant  
PSC 2005-00533

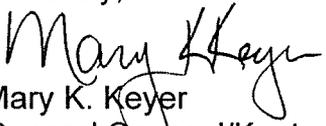
Dear Mr. Derouen:

Enclosed for filing in the above-referenced cases is BellSouth  
Telecommunications, Inc., d/b/a AT&T Kentucky's Current Damages Calculation  
pursuant to the Commission's Intra-Agency Memorandum dated May 6, 2009.

Highlighted information in the Current Damages Calculation document and  
Exhibits A, B, and C in their entirety contain confidential, commercial, or proprietary  
information and, pursuant to 807 KAR 5:001, Section 7, enclosed is AT&T's  
Confidentiality Petition. The Commission previously granted confidentiality to similar  
information by Order dated March 31, 2006, and letter dated April 30, 2008.

One copy of the proprietary information is being filed and ten (10) copies of the  
edited version of the filing are provided for the public record. The proprietary  
information is also provided to parties of record.

Sincerely,

  
Mary K. Keyer  
General Counsel/Kentucky

cc: Parties of Record

Enclosures  
735802

**EDITED**

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BELLSOUTH TELECOMMUNICATIONS, INC.'S	)	
NOTICE OF INTENT TO DISCONNECT	)	CASE NO.
SOUTHEAST TELEPHONE, INC. FOR NON-	)	2005-00519
PAYMENT	)	
	)	
AND	)	
	)	
SOUTHEAST TELEPHONE, INC.	)	
	)	
COMPLAINANT	)	CASE NO.
	)	2005-00533
V.	)	
	)	
BELLSOUTH TELECOMMUNICATIONS, INC.	)	
	)	
DEFENDANT	)	

**BELLSOUTH TELECOMMUNICATIONS, INC.'S, D/B/A AT&T KENTUCKY  
PETITION FOR CONFIDENTIALITY**

BellSouth Telecommunications, Inc., d/b/a AT&T Kentucky ("AT&T Kentucky"), by counsel, respectfully requests the Public Service Commission of the Commonwealth of Kentucky (the "Commission"), pursuant to KRS 61.878 and 807 KAR 5:001, § 7, to grant AT&T Kentucky's confidentiality petition with respect to the information highlighted and/or filed on yellow paper in Exhibits A, B, and C attached to AT&T Kentucky's Current Damages Calculation filed May 19, 2009, in the above-captioned case.

The Kentucky Open Records Act exempts certain information from the public disclosure requirements of the Act, including certain commercial information. KRS 61.878(1)(c)(1). To qualify for the commercial information exemption and, therefore,

keep the information confidential, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors and the parties seeking confidentiality if openly discussed. KRS 61.878(1)(c)1; 807 KAR 5:001, § 7. The Commission has taken the position that the statute and rules require the party to demonstrate actual competition and the likelihood of competitive injury if the information is disclosed.

The information for which AT&T Kentucky seeks confidentiality is wholesale data specific to SouthEast Telephone Inc. ("SouthEast" or "SouthEast Telephone"), a competitive local exchange carrier and a customer of AT&T Kentucky. Exhibit A is a summary of current damages owed by SouthEast to AT&T Kentucky; Exhibit B is SouthEast's billing history of its resale account; and Exhibit C is a summary of the credits given to SouthEast, and later reversed, and the months when such credits were issued and reversed. The information is specific to SouthEast Telephone, the disclosure of which could competitively advantage SouthEast's competitors. It should be noted that SouthEast Telephone has concurred with AT&T Kentucky's position on this issue. See SouthEast's Reply (to AT&T Kentucky's Answer and Brief) filed on January 25, 2006, at footnote 2, in this case. SouthEast asserts that the information should be afforded confidentiality because its disclosure could affect SouthEast's competitive position. AT&T Kentucky believes the information qualifies for confidential treatment and should be protected.

In addition, the Commission previously granted confidentiality to this same information in this case. See letter dated April 30, 2008, addressed to AT&T Kentucky from the Commission's Executive Director which granted confidentiality to Exhibits A, B

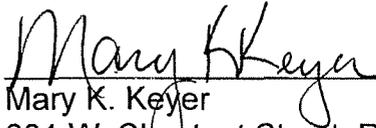
and C of AT&T Kentucky's Motion for Issuance of Damages Award filed November 9, 2007. See also the Commission's March 31, 2006, Order in this case. The information for which AT&T Kentucky is seeking confidentiality in this petition is essentially the same information (with some updated information) that was previously granted confidentiality.

Public disclosure of the identified information would provide competitors with an unfair competitive advantage. The Commission should also grant confidential treatment to the information for the following reasons:

- (1) The information for which AT&T Kentucky is requesting confidential treatment is not known outside of AT&T Kentucky and SouthEast Telephone;
- (2) The information is not disseminated within AT&T Kentucky and is known only by those of AT&T Kentucky's employees who have a legitimate business need to know and act upon the information;
- (3) AT&T Kentucky seeks to preserve the confidentiality of this information through appropriate means, including the maintenance of appropriate security at its offices; and
- (4) By granting AT&T Kentucky's petition, there would be no damage to any public interest.

For the reasons stated herein, AT&T Kentucky respectfully requests the Commission to grant AT&T Kentucky's request for confidential treatment of the information highlighted and/or filed on yellow paper in Exhibits A, B, and C attached to AT&T Kentucky's Current Damages Calculation filed on May 19, 2009, in this case.

Respectfully submitted,



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D/B/A AT&T KENTUCKY

735680v2

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BELLSOUTH TELECOMMUNICATIONS, )  
INC.'S NOTICE OF INTENT TO ) CASE NO. 2005-00519  
DISCONNECT SOUTHEAST )  
TELEPHONE, INC. FOR NONPAYMENT )

AND

SOUTHEAST TELEPHONE, INC. )  
 )  
COMPLAINANT ) CASE NO. 2005-00533  
 )  
V. )  
 )  
BELLSOUTH TELECOMMUNICATIONS, INC. )  
 )  
DEFENDANT )

**BELLSOUTH TELECOMMUNICATIONS, INC., D/B/A AT&T KENTUCKY'S  
CURRENT DAMAGES CALCULATION**

BellSouth Telecommunications, Inc., d/b/a AT&T Kentucky ("AT&T Kentucky"), by counsel, pursuant to the Kentucky Public Service Commission's ("Commission") Intra-Agency Memorandum dated May 6, 2009 ("*Informal Conference Memorandum*"), submits up-to-date data regarding the current amount of damages, including late payment and interest charges, due from SouthEast Telephone Inc. ("SouthEast") in accordance with the second remand Order issued on May 1, 2009, by the United States District Court for the Eastern District of Kentucky.<sup>1</sup> The Court in its *Remand II Order*

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<sup>1</sup> Opinion and Order, *BellSouth Telecommunications, Inc. v. Kentucky Public Service Commission, et al.*, Civil Action No. 08-33-DCR, United States District Court, Eastern District of Kentucky (May 1, 2009). ("*Remand II Order*")

**EDITED**

directed the Commission to calculate by June 30, 2009, the damages owed by SouthEast to AT&T Kentucky “based on the resale rate contained in the interconnection agreement, minus the amount actually paid by SouthEast, along with any applicable late charges, penalties, and interest as specified under the interconnection agreement.” *Remand II Order* at 7.

On November 9, 2007, in the first remand from the federal court to the Commission, AT&T Kentucky filed with the Commission a summary of the damages SouthEast owed AT&T Kentucky based on the difference in the resale rate and what SouthEast had paid AT&T Kentucky on its resale account as of November 8, 2007, including late payment and interest charges as of that time, along with the billing history for SouthEast’s resale account and a summary of credits that AT&T Kentucky had issued in order to comply with the Commission’s unlawful Order of August 16, 2006. See Exhibits A, B, and C to AT&T Kentucky’s Motion for the Issuance of a Damages Award on an Expedited Basis in *BellSouth Telecommunications, Inc. Notice of Intent to Disconnect SouthEast Telephone, Inc., for Non-Payment*, Case No. 2005-00519 and *SouthEast Telephone, Inc. v. BellSouth Telecommunications, Inc.*, Case No. 2005-00533. Because the amount owed by SouthEast varied each month, AT&T Kentucky reserved in its motion the right to update its damages computation.

Pursuant to the *Informal Conference Memorandum*, SouthEast filed a statement with the Commission on May 12, 2009, providing written comments on the amount that AT&T Kentucky submitted on November 9, 2007. In its filing, SouthEast did not dispute the accuracy of the principal amount listed in AT&T Kentucky’s November 9, 2007, filing, but stated its review of the manner in which AT&T Kentucky computes late

payment and interest charges was ongoing. See Statement of SouthEast Telephone Inc. On May 19, 2009, SouthEast filed a statement with the Commission indicating that it agreed with AT&T Kentucky's late payment and interest calculations in its November 9, 2007, filing with the Commission.

In calculating its up-to-date damages amount, AT&T Kentucky began with the information it filed on November 9, 2007, and updated that information. Accordingly and pursuant to the Commission's *Informal Conference Memorandum*, AT&T Kentucky submits \$ [REDACTED], including late payment and interest charges, as the updated calculation of damages due from SouthEast to AT&T Kentucky in this case. See Summary of AT&T Kentucky's Current Damages, attached hereto as **Exhibit A**.

In addition to the applicable interest and late payment charges as allowed by the Interconnection Agreement,<sup>2</sup> the updated damages calculation includes current charges incurred by SouthEast on the November 23, 2007, bill for its resale account and the reversal of \$ [REDACTED] credits that had been previously issued to SouthEast as a result of the Commission's unlawful Order of August 16, 2006. See SouthEast's Current Resale Billing History attached hereto as **Exhibit B**. A summary of the amounts of the credits given to SouthEast and the month when such credits were issued and later reversed is set forth in **Exhibit C**. As noted in SouthEast's billing history, AT&T Kentucky reversed the credits that had been previously provided to SouthEast and included these in SouthEast's current charges on its November 23, 2007, bill. See **Exhibit B**. Therefore, the past due amount as of December 23, 2007, on SouthEast's resale account, as shown on **Exhibit B**, represents the difference in the "resale rate

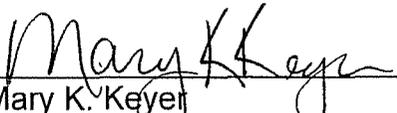
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<sup>2</sup> AT&T Kentucky reserves the right to assess additional interest charges to which it may be entitled under applicable law should SouthEast not immediately pay the damages amount determined by Commission order to be owed by SouthEast to AT&T Kentucky.

contained in the interconnection agreement, minus the amount actually paid by SouthEast, along with any applicable late charges, penalties, and interest as specified under the interconnection agreement.”

Accordingly and in conclusion, the Commission should issue an Order determining the amount of damages owed by SouthEast to AT&T Kentucky in this case is \$ [REDACTED].

Respectfully submitted,

  
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COUNSEL FOR BELLSOUTH  
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735781

## **Exhibits A, B, and C**

**The entire documents are  
proprietary. There are no  
edited versions.**

**CERTIFICATE OF SERVICE -- KPSC 2005-00519 and 2005-00533**

I hereby certify that a copy of the foregoing was served on the following individuals by mailing a copy thereof, this 19th day of May 2009.

Bethany Bowersock  
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\_\_\_\_\_  
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