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May 11, 2009

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MAY 11 2009
PUBLIC SERVICE
COMMISSION

Via Hand Delivery

Hon. Jeff Derouen
Executive Director
Public Service Commission
211 Sower Blvd.
P. O. Box 615
Frankfort, KY 40601

**Re: In the Matter of: South Central Telcom LLC v. BellSouth
Telecommunications, Inc., Case No. 2006-00448**

Dear Mr. Derouen:

Enclosed for filing in the above-referenced case, please find one original and eleven (11) copies of South Central Telcom's Response to AT&T Kentucky's Motion to File a Response to South Central Telcom's Post-Hearing Brief. Please file-stamp one copy, and return it to our courier.

Thank you, and if you have any questions, please call me.

Very truly yours,

DINSMORE & SHOHL LLP

Holly C. Wallace

HCW/rk
Enclosures
cc: All Parties of Record
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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

SOUTH CENTRAL TELCOM LLC)
Complainant)
v.)
BELLSOUTH TELECOMMUNICATIONS,)
INC. D/B/A AT&T KENTUCKY)
Defendant)

MAY 11 2009
PUBLIC SERVICE
COMMISSION
Case No. 2006-00448

**RESPONSE IN OPPOSITION TO AT&T KENTUCKY'S MOTION FOR LEAVE TO
FILE A RESPONSE TO SOUTH CENTRAL TELCOM'S POST-HEARING BRIEF**

South Central Telcom LLC ("South Central"), by counsel, hereby files its response in opposition to the motion of BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky ("AT&T Kentucky") for leave to file a response to South Central's post-hearing brief.

A. THE COMMISSION'S ORDERS DO NOT PROVIDE FOR THE PARTIES TO FILE RESPONSE BRIEFS.

AT&T Kentucky seeks to file what amounts to a response brief. The Kentucky Public Service Commission's (the "Commission's") procedural schedule and orders do not provide for the parties to file response briefs. Rather the Commission ordered from the bench that the parties file simultaneous briefs, and the parties did so on April 24, 2009. Nonetheless, after having read South Central's brief, AT&T Kentucky now wants a second bite at the apple. The Commission should not permit it.

It is noteworthy that AT&T Kentucky did not move for both parties to file response briefs. (*See generally*, AT&T Kentucky's motion for leave.) Pursuant to its motion, AT&T Kentucky alone would have the ability to file a response to South Central's brief; South Central would not have the same opportunity to file a response to AT&T Kentucky's post-hearing brief.

Id. The Commission should not permit such an inequitable process. (*See* Kentucky Constitution, §2.) Accordingly, the Commission should deny AT&T Kentucky's motion.

B. SOUTH CENTRAL'S FACTUAL ASSERTIONS ARE SUPPORTED BY THE RECORD.

AT&T Kentucky alleges in a vague and conclusory fashion that it "noted misstatements of fact" and references to information not in the record in South Central's brief. (AT&T Kentucky's motion for leave, p. 1.) AT&T Kentucky's allegations are without merit. South Central emphatically denies that it misstated the facts in its brief. Additionally, other than simply providing an updated total of unpaid access charges based on the April billing, South Central denies that it referred to information outside the evidence of record.

South Central cited painstakingly to the parties' pre-filed direct and rebuttal testimony and the transcript of evidence from the public hearing. The fact that AT&T Kentucky apparently does not agree with the conclusions South Central drew from the evidence of record does not equate to South Central misstating the facts. Rather, South Central's assertions are well-supported by the record. South Central trusts that the Commission and its staff are able to determine without the assistance of AT&T Kentucky whether there is a basis in the record for the assertions made by the parties in their respective briefs. The Commission should deny AT&T Kentucky's motion.

C. THIS MATTER HAS ALREADY BEEN EXHAUSTIVELY BRIEFED; NO FURTHER BRIEFING IS REQUIRED.

The parties exhaustively briefed this dispute, both before and after the public hearing. There is simply no reason to engage in further briefing of this matter.

Prior to the public hearing, AT&T Kentucky filed a motion to dismiss on November 6, 2006. South Central filed a response in opposition to the motion on November 20, 2006, and

BellSouth filed its reply on December 14, 2006. Five months later, on May 23, 2007, South Central filed a motion for summary judgment. AT&T Kentucky filed its response on June 8, 2007 and South Central filed a reply in support of its motion on June 27, 2007. Thus, prior to the Commission scheduling a public hearing, the parties had already thoroughly briefed the dispute. As Chairman David Armstrong commented during the public hearing, "This case has been around here a long time. It's got whiskers on it." (Transcript of Evidence, p. 82:1, 6.)

Following the Commission's denial of AT&T Kentucky's motion to dismiss and South Central's motion for summary judgment on April 22, 2008, (Order, *South Central Telcom LLC v. BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky* (April 22, 2008)) the parties engaged in discovery and the Commission held a formal hearing on February 25, 2009. Thereafter, in accordance with the Commission's order from the bench, the parties filed simultaneous post-hearing briefs on April 24, 2009. Thus, as of April 24, 2009 this matter has stood submitted to the Commission and ripe for decision.

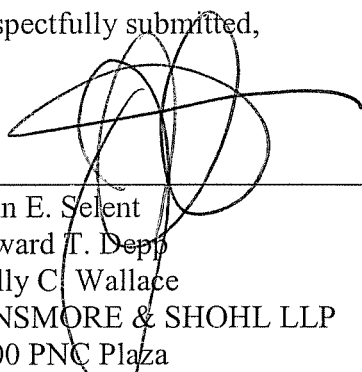
Given the extensive pre-hearing and post-hearing briefing in this matter, there is no reason to grant AT&T Kentucky's motion to respond to South Central's post-hearing brief. AT&T Kentucky, like South Central, had its opportunity to make its final arguments in its post-hearing brief. The fact that AT&T Kentucky now "would appreciate an opportunity to respond" to South Central's brief is no reason to further prolong this dispute and burden the Commission with unnecessary briefs. (AT&T Kentucky's motion for leave, p.1.) Moreover, should the Commission grant AT&T Kentucky's motion, equity would counsel that the Commission also grant South Central an opportunity to respond to AT&T Kentucky's brief. (*See Kentucky Constitution, §2.*) Rather than permit an additional round of briefs in this already extensively briefed matter, the Commission should simply deny AT&T Kentucky's motion.

D. CONCLUSION.

AT&T Kentucky has not provided the Commission with reason to disturb its prior orders by permitting AT&T Kentucky to respond to South Central's post-hearing brief. The parties have had ample opportunity to fully brief this dispute, and they have done so. AT&T Kentucky's motion is nothing more than an attempt to file a response brief when none is contemplated by the Commission's orders and procedural schedule.

Moreover, the Commission and its staff are capable of evaluating the parties' briefs and the evidence of record and determining whether either party has misstated the facts. There is no reason for AT&T Kentucky to file yet another brief in this matter. Accordingly the Commission should deny AT&T Kentucky's motion. In the alternative, should the Commission grant AT&T Kentucky's motion, the Commission should also give South Central an opportunity to file a response to AT&T Kentucky's post-hearing brief.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify a true and accurate copy of the foregoing was served on the following
this 11th day of May, 2009:

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