

**Dinsmore & Shohl** LLP  
ATTORNEYS

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January 9, 2007

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JAN 10 2007

PUBLIC SERVICE  
COMMISSION

**Via Federal Express**

Hon. Beth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

**Re: *In the Matter of: BellSouth Telecommunications, Inc. v. Brandenburg Telephone Company, Case No. 2006-00546***

Dear Ms. O'Donnell:

I have enclosed for filing in the above-styled case the original and eleven (11) copies of Brandenburg Telephone Company's Answer. Please return a file-stamped copy in the self-addressed, postage prepaid envelope furnished herewith.

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

Sincerely,

DINSMORE & SHOHL LLP



Holly C. Wallace

HCW/rk  
Enclosures

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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

**RECEIVED**

In the Matter of:

JAN 10 2007

PUBLIC SERVICE  
COMMISSION

BELLSOUTH TELECOMMUNICATIONS, INC. )  
)  
COMPLAINANT )  
)  
v. ) CASE NO. 2006-00546  
)  
BRANDENBURG TELEPHONE COMPANY )  
)  
DEFENDANT )

**ANSWER**

Brandenburg Telephone Company ("Brandenburg"), by counsel, and pursuant to 807 KAR 5:001, Section 12, and the December 21, 2006 Order of the Public Service Commission of the Commonwealth of Kentucky ("the Commission"), states as follows for its Answer to the Complaint of BellSouth Telecommunications, Inc. ("BellSouth").

1. Brandenburg admits the allegations set forth in paragraph 1 of the Complaint.
2. Brandenburg admits the allegations set forth in paragraph 2 of the Complaint.
3. With regard to the allegations set forth in paragraph 3 of the Complaint, Brandenburg admits that the parties executed an Agreement for the Provision of Telecommunications Services and Facilities effective January 1, 1985 and states that the agreement speaks for itself. Brandenburg denies that it implemented its Carrier Access Billing Service ("CABS") in 1998. Brandenburg implemented its CABS in January, 1995, almost three years before Brandenburg first received payment for what BellSouth identified as ACS traffic in December, 1997. Thus, Brandenburg began issuing CABS bills to BellSouth long before BellSouth's ACS traffic existed. Because BellSouth refuses to provide Brandenburg with call detail records that would permit Brandenburg to

verify whether BellSouth has overpaid for ACS traffic, Brandenburg is without knowledge or information sufficient to form a belief as to the truth of the allegation that BellSouth paid for ACS traffic through Brandenburg's CABS bills and through the settlement process; therefore, Brandenburg denies the same. Moreover, if BellSouth did overpay for ACS traffic (which Brandenburg denies as stated above), the overpayment was the result of BellSouth's actions, mistaken or otherwise. Brandenburg denies all other allegations set forth in paragraph 3 of the Complaint.

4. Brandenburg is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 4 of the Complaint; therefore, it denies the same.

5. With regard to the allegations set forth in paragraph 5 of the Complaint, Brandenburg admits that in or about May or June, 2004, BellSouth notified Brandenburg of a possible overpayment for ACS traffic. In a conference call with Timothy Watts and William Schneider, Brandenburg requested call detail records to verify whether BellSouth paid for the same ACS traffic through the settlement process and Brandenburg's CABS bills. To this day, BellSouth has refused to provide Brandenburg with the call detail records. Brandenburg admits that BellSouth no longer specifies a payment for ACS traffic as a separate line item through the settlement process, but Brandenburg is without information sufficient to form a belief as to the truth of the allegation that BellSouth no longer pays Brandenburg for ACS traffic through the settlement process; therefore, Brandenburg denies the same. Brandenburg admits that it has not disputed BellSouth's discontinuance of identifying a separate payment for ACS traffic through the settlement process because without the call detail records Brandenburg has no way of identifying ACS traffic or how BellSouth delivers it. Brandenburg denies all other allegations set forth in paragraph 5 of the Complaint.

6. With regard to the allegations set forth in paragraph 6 of the Complaint, Brandenburg admits that BellSouth sent a communication to Mr. Randall Bradley dated May 11, 2004. Brandenburg states the letter speaks for itself. Brandenburg denies all other allegations set forth in paragraph 6 of the Complaint.

7. With regard to the allegations set forth in paragraph 7 of the Complaint, Brandenburg admits only that William Schneider sent an e-mail to Randall Bradley dated April 6, 2005. Brandenburg states that the e-mail speaks for itself. Brandenburg denies all other allegations set forth in paragraph 7 of the Complaint.

8. Brandenburg denies that the traffic study attached to the email referenced in paragraph 7 above evidences a duplicate payment. The traffic study is nothing more than a BellSouth-generated table summarizing minutes of use which, according to BellSouth's own admission, varies by as much as 5.5% from the minutes of use in Brandenburg's CABS bills. Moreover, the table does not provide sufficient information for Brandenburg to verify whether BellSouth paid for the same traffic twice. Accordingly, Brandenburg denies the allegations set forth in paragraph 8 of the Complaint.

9. Brandenburg is without information sufficient to form a belief as to the truth of the allegations that BellSouth has overpaid Brandenburg; Brandenburg therefore denies the same. Brandenburg is also without information sufficient to form a belief as to the truth of the allegation that BellSouth is attempting to recover the alleged overpayment to Brandenburg for the two years preceding the time when BellSouth became aware of the alleged double payment; therefore, Brandenburg denies the same. Brandenburg denies all other allegations set forth in paragraph 9 of the Complaint.

10. Brandenburg restates and incorporates by reference each of the responses to paragraphs 1 and 2 of the Complaint as if fully set forth herein.

11. Brandenburg admits that both Brandenburg and BellSouth are signatories to the CMRS agreement approved by the Commission in Case No. 2003-00045. Brandenburg states that the CMRS agreement speaks for itself. Brandenburg denies all other allegations set forth in paragraph 11 of the Complaint.

12. Brandenburg states that paragraph 2.07 of the CMRS agreement speaks for itself.

13. Brandenburg denies the allegations set forth in paragraph 13 of the Complaint. Brandenburg has complied with the terms of the CMRS Agreement since its inception. BellSouth, however, has repeatedly violated sections 1.05 and 2.04 of the agreement. BellSouth delivered traffic to Brandenburg that it characterized as CMRS traffic subject to the agreement, but that was in fact, or appeared to be, BellSouth traffic, CMRS traffic from non-signatories to the agreement and/or competitive local exchange carrier (“CLEC”) traffic. In addition, BellSouth delivered CMRS traffic to Brandenburg without industry standard call detail records or other documentation that would permit Brandenburg to track, verify and audit such CMRS traffic.

14. Brandenburg denies the allegations set forth in paragraph 14 of the Complaint. Brandenburg utilized BellSouth’s records as the basis for billing BellSouth for CMRS traffic. Because of BellSouth’s failure to provide accurate industry standard call detail records as required by the CMRS agreement, however, Brandenburg was forced to use its own records to supplement those of BellSouth to enable Brandenburg to simply verify the CMRS traffic.

15. Brandenburg is without information sufficient to form a belief as to the truth of the allegations set forth in paragraph 15 of the Complaint; therefore, it denies the same.

16. Brandenburg admits that BellSouth began withholding payment for certain CMRS traffic effective with the July, 2005 billing. Brandenburg denies all other allegations set forth in paragraph 16 of the Complaint.

17. Brandenburg admits that William Schneider sent an e-mail to Randall Bradley dated October 12, 2005. Brandenburg states that the e-mail and its attachments speak for themselves. Brandenburg denies that it violated Section 2.07 of the CMRS Agreement, and denies all other allegations set forth in paragraph 17 of the Complaint.

18. Brandenburg admits the allegations set forth in paragraph 18 of the Complaint.

19. Brandenburg denies that BellSouth is entitled to the relief requested or any relief whatsoever.

20. Brandenburg denies any and all allegations made in the Complaint that are not specifically admitted herein.

#### **AFFIRMATIVE DEFENSES**

21. BellSouth's claims are barred by the doctrine of laches.

22. BellSouth failed to mitigate its alleged damages by failing to provide Brandenburg with call detail records that would permit Brandenburg to verify the alleged overpayment for ACS traffic, and by failing to provide Brandenburg with industry standard call detail records sufficient to permit Brandenburg to track, verify, and audit CMRS traffic delivered under the CMRS Agreement.

23. BellSouth's claims are barred by the Statute of Limitations, Kentucky Administrative Regulations or are otherwise time barred.

24. BellSouth's damages for the alleged overpayment for ACS traffic may be set off by BellSouth's underpayment for ACS traffic to Brandenburg since May, 2004 when BellSouth admits it stopped paying for ACS traffic through the settlement process. Because of BellSouth's refusal to

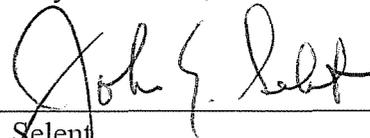
provide Brandenburg with call detail records for ACS traffic, Brandenburg cannot verify whether BellSouth continues to deliver ACS traffic without compensating Brandenburg.

25. BellSouth's damages for the alleged overpayment for CMRS traffic may be set off by BellSouth's underpayment for CMRS traffic for which BellSouth did not provide accurate industry standard call detail records.

**WHEREFORE**, Brandenburg Telephone Company respectfully requests the Commission to take the following actions:

1. Order BellSouth to provide Brandenburg with call detail records for ACS traffic from May, 2004 to the present;
2. Dismiss with prejudice BellSouth's Complaint against Brandenburg;
3. Grant Brandenburg any and all other legal and equitable relief to which it is entitled.

Respectfully submitted,



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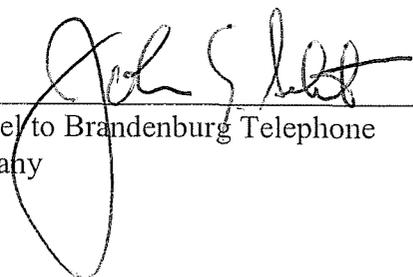
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Counsel to Brandenburg Telephone Company

CERTIFICATE OF SERVICE

9th I hereby certify a true and accurate copy of the foregoing was served on the following this day of January, 2007:

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