

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE INTERCONNECTION AGREEMENT)
NEGOTIATIONS BETWEEN BLUESTAR)
NETWORKS, INC. AND BELL SOUTH) CASE NO. 99-498
TELECOMMUNICATIONS, INC. PURSUANT)
TO THE TELECOMMUNICATIONS ACT OF 1996)

O R D E R

This matter is before the Commission on motion by BlueStar Networks, Inc. (“BlueStar”) for the issuance of a subpoena to take the deposition of Wiley Gerald (Jerry) Latham, an employee of BellSouth Telecommunications, Inc. (“BellSouth”) or, in the alternative, to compel Mr. Latham’s attendance at the hearing in this matter. BellSouth’s response states that the testimony of its witness, Ronald Tate, makes Mr. Latham’s testimony unnecessary because Mr. Tate is the operational support system expert and is “fully familiar” with the electronic service inquiry process. The specific inquiry involved in Issue 5 is whether BellSouth has the capability to convert an order for a digital subscriber line (xDSL) loop to another type of loop (i.e., unbundled copper loop), if the xDSL loop is unavailable, and whether this process can occur automatically without a reordering process by BlueStar.

There is no dispute that the inquiry process requires BellSouth to provide detailed loop make-up information. This procedure is a manual “Loop Make-Up Service Inquiry” (“LMUSI”). BellSouth acknowledges that its electronic LMUSI is not currently available, but that it has the ability to provide a manual LMUSI. In addition, BellSouth

states, "Mr. Latham's knowledge of the service inquiry process relates more to the manual process that is utilized when the electronic process cannot be used." The Commission rejects BellSouth's argument that the service inquiry process, whether electronic or manual, is not properly before it.

BlueStar has shown that Mr. Latham's testimony is necessary to the arbitration and resolution of Issue 5 herein. If BellSouth fails to make Mr. Latham available at hearing to testify, it appears that the Commission would not be furnished with all relevant facts and information regarding Issue 5.

The Commission, having considered the motion, response and reply, and finding good cause, HEREBY ORDERS that:

1. BlueStar's request and motion to depose Wiley Gerald Latham is denied.
2. BellSouth is directed to produce Wiley Gerald Latham at hearing herein to be subject to be called as a witness.

Done at Frankfort, Kentucky, this 28th day of April, 2000.

By the Commission

ATTEST:


Executive Director