

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO A BILLING)	
DISPUTE BETWEEN DELTA)	CASE NO. 2003-00243
PHONES, INC. AND BELL SOUTH)	
TELECOMMUNICATIONS, INC.)	

O R D E R

BellSouth Telecommunications, Inc. (BellSouth) is a corporation providing telephone service to the public for compensation, and is a utility within the meaning of KRS 278.010(3). Delta Phones, Inc. (Delta Phones) is also a utility, and a competitive local exchange carrier (CLEC) serving approximately 1,537 customers in Kentucky.

On June 10, 2003, BellSouth provided the Commission with advance notice of its intent to disconnect Delta Phones for non-payment. According to BellSouth, Delta Phones is delinquent in payment of its bills to BellSouth in the amount of \$2,221,869.53.¹ BellSouth requests authorization to invoke the Emergency Service Continuity Tariff filed with this Commission on June 10, 2003.²

¹ According to BellSouth, this figure represents the amount owed for services throughout the entire BellSouth region; \$279,965.62 is the amount owed for services in Kentucky.

² File Number T 64-0774. This tariff would allow BellSouth to provide telephone service to Delta Phones customers for a minimum of 14 days after Delta Phones ceases to operate. This tariff was approved on May 20, 2003 in Public Service Commission Case No. 2002-00310.

On June 23, 2003, the Commission received a letter from Delta Phones alleging that BellSouth owes Delta Phones approximately \$744,000 and that BellSouth refuses to apply the amount owed to Delta Phones outstanding account. According to its letter, Delta Phones intends to file a formal complaint against BellSouth containing multiple counts of billing and provisioning abuses.

KRS 278.260(1) grants the Commission original jurisdiction over complaints involving the rates or service of any utility. This statute further provides that, upon receipt of a written complaint that utility service is inadequate or cannot be obtained, the Commission must investigate the matter as it deems necessary or convenient.³ Also, because Delta Phones characterizes this matter as a dispute about the meaning of the parties Interconnection Agreement, the Commission has jurisdiction over this matter pursuant to the Telecommunications Act of 1996.

Implementation of BellSouth's Emergency Service Continuity Tariff requires Commission determination that a CLEC has effectively abandoned its customers or that some other emergency exists that would justify the tariff's implementation. In light of the allegations contained in Delta Phones letter of June 23, 2003, the Commission finds that the current circumstances do not appear to justify implementation of BellSouth's tariff. Instead, pursuant to KRS 278.260(1), the Commission finds it necessary to investigate the billing dispute between BellSouth and Delta Phones.

³ KRS 278.260(1).

The Commission, having reviewed the filings made by BellSouth and Delta Phones, and being otherwise sufficiently advised, HEREBY ORDERS that:

1. BellSouth shall not disconnect service to Delta Phones Kentucky customers for a period of 10 days after the date of this Order.

2. Representatives from BellSouth and Delta Phones shall participate in an informal conference with Commission Staff to be held via telephone on June 26, 2003 at 2:00 p.m., Eastern Daylight Time.

3. BellSouth's letter of June 10, 2003 and Delta Phones' letter of June 23, 2003, appended hereto as Appendix A and Appendix B, respectively, are made a part of the record of this proceeding.

Done at Frankfort, Kentucky, this 24th day of June, 2003.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2003-00243 DATED June 24, 2003

(See document named 200300243_06242003apx.pdf for Appendix A & B)

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2003-00243 DATED June 24, 2003

(See document named 200300243_06242003apx.pdf for Appendix A & B)