

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
VS.)	
)	
BELLSOUTH TELECOMMUNICATIONS, INC.)	
)	
DEFENDANT)	

O R D E R

On December 6, 2005, BellSouth Telecommunications, Inc. ("BellSouth") advised the Commission in writing of its intent to disconnect SouthEast Telephone, Inc. ("SouthEast") for alleged non-payment. In its letter, BellSouth indicates that SouthEast is paying for its services at a level consistent with unbundled network element TELRIC rates rather than at resale rates. BellSouth's notice of disconnection was filed pursuant to its "emergency service continuity tariff" and has been docketed as Case No. 2005-00519.

On December 13, 2005, SouthEast filed a formal complaint and request for emergency injunctive relief against BellSouth. SouthEast asks that BellSouth continue

to provision SouthEast during the complaint and that BellSouth not be permitted to disconnect SouthEast's interconnection arrangements or interrupt service to SouthEast customers. SouthEast asserts that BellSouth must continue meeting obligations as described in their current interconnection agreement pending resolution of BellSouth's obligations or lack thereof pursuant to 47 U.S.C. § 271. This complaint and request for emergency relief has been docketed as Case No. 2005-00533.

The Commission, having considered BellSouth's notice of intent to disconnect and SouthEast's complaint and request for emergency relief, finds that a genuine dispute regarding the impact of state and federal law exists between these parties. As such, pursuant to 807 KAR 5:006, Section 11, SouthEast's account shall be considered current while this dispute is pending as long as SouthEast continues to make undisputed payments. Factual matters giving rise to these two proceedings are undisputed. The application of federal and state law to the facts is disputed. Accordingly, the Commission herein establishes a briefing schedule. Upon filing of the answer and briefs required herein, the Commission will determine whether oral arguments will be scheduled.

IT IS THEREFORE ORDERED that:

1. BellSouth shall not discontinue the provisioning of any functions or services which are the subject of this dispute during the pendency of these proceedings.
2. Case No. 2005-00519 is held in abeyance pending the outcome of Case No. 2005-00533.

3. Within 30 days of the date of this Order, BellSouth shall file its answer to SouthEast's complaint and shall file a brief addressing all legal arguments relevant to these matters.

4. Within 40 days of the date of this Order, SouthEast shall file its reply to BellSouth's answer and brief.

Done at Frankfort, Kentucky, this 16th day of December, 2005.

By the Commission

ATTEST:



Executive Director

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