

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF COMPETITIVE CARRIERS)	
OF THE SOUTH, INC. PURSUANT TO)	
KRS 278.512 FOR AN EXEMPTION FOR)	
COMPETING LOCAL EXCHANGE)	CASE NO. 2007-00084
CARRIERS AND INTER-EXCHANGE)	
CARRIERS FROM THE REQUIREMENTS)	
OF 807 KAR 5:006, SECTION 3)	

O R D E R

On February 26, 2007, Competitive Carriers of the South, Inc. (“CompSouth”) submitted a petition for exemption, pursuant to KRS 278.512, from the annual report filing requirements, as provided under 807 KAR 5:006, Section 3.¹ CompSouth has petitioned the Commission to grant an exemption to non-dominant telecommunications providers, including competitive local exchange carriers (“CLECs”) and interexchange carriers (“IXCs”). CompSouth has specifically asked that the Commission issue an Order promptly granting the petition so that the exemption is effective for the annual reports filings due on March 31, 2007. CompSouth served notice of its petition upon the Attorney General. As of the date of this Order, the Attorney General has not submitted a response or comment.

¹ CompSouth’s members are: ACCESS Integrated Networks, Inc.; Access Point, Inc.; Cavalier Telephone; Cbeyond Communications; Covad Communications Company; Dialog Telecommunications, Inc.; FDN Communications; DeltaCom; Level 3 Communications; Momentum Telecom, Inc.; NuVox Communications, Inc.; Time Warner Telecom; and XO Communications. Nine of these members provide service in Kentucky.

CompSouth states a number of arguments in its petition in favor of the annual report exemption for non-dominant telecommunications providers. Namely, CompSouth argues that state oversight of the operations of non-dominant carriers has decreased during recent years, citing the Commission's granting of an exemption for proof of demand for service before allowing facility construction and granting non-dominant carriers an exemption from seeking permission before issuing securities or evidences of indebtedness.² CompSouth argues that "[g]iven that lack of necessity to exercise oversight over a non-dominant carrier's financial decisions, construction decisions, or fiscal condition in general, there does not seem to be any public interest imperative that is served by the continued filing by non-dominant carriers of annual reports containing details of their physical facilities and business affairs."³

The Commission finds that CompSouth has raised a legitimate request regarding the future filings of annual reports by non-dominant telecommunications providers because incumbent local exchange carriers ("ILECs") have been granted the right to seek relief from filing annual reports with the Commission.⁴ However, the Commission finds that it has not had adequate or sufficient time to consider the arguments raised by CompSouth or to consider the potential ramifications of the exemption, if granted. For these reasons, CompSouth's petition for an exemption from filing the required annual reports on March 31, 2007 will be held in abeyance, pending the Commission's final Order in this matter. The Commission will not require that the annual reports of

² CompSouth Petition at 4, paragraph 3 and footnotes 6, 7.

³ CompSouth Petition at 4.

⁴ See KRS 278.541, *et seq.*

Kentucky CLECs or IXCs for the 2006 calendar year be filed by March 31, 2007. In issuing the final Order, if the Commission denies CompSouth's petition, all Kentucky CLECs and IXCs will have 90 days from the date of that Order to submit the required reports, if they have not already been filed.⁵

The Commission finds that CompSouth's petition should remain on the Commission's docket for further investigation of whether all Kentucky CLECs and IXCs should be exempt from future annual report filings. The effective date of such exemptions, if granted, would be subject to the findings developed during the Commission's investigation of this matter. The Commission further finds that a schedule should be established to allow all parties, carriers, and interested members of the public to participate in the proceeding. A procedural schedule is outlined herein so that other providers, whether ILECs, CLECs, or IXCs, as well as the public, will have the opportunity to comment on the reasonableness of CompSouth's petition. The Commission expects all parties and interested members of the public to file their documents on or before the dates stated herein.

IT IS THEREFORE ORDERED that:

1. CompSouth's request for exemption from filing an annual report by March 31, 2007 shall be held in abeyance.
2. All Kentucky CLECs and IXCs shall have 90 days from the date of the Commission's final Order in this case to submit the annual reports originally due on March 31, 2007 if the Commission should deny CompSouth's petition for exemption.

⁵ The Commission notes, however, this extension does not extend to the filings of the reports of gross earnings, as required under KRS 278.140.

3. The Commission shall keep this docket open to investigate the issue of future exemptions from annual report filings for all Kentucky CLECs and IXCs.

4. A copy of this Order shall be served upon all ILECs, CLECs and IXCs.

5. A copy of this Order shall be served upon the Attorney General.

6. Any interested person or party may file comments with the Commission prior to April 30, 2007.

7. Any requests for a hearing shall be filed with the Commission on or before May 18, 2007 and shall include a list of potential witnesses and the issues to be addressed.

8. If no requests for a hearing are made by May 18, 2007, the Commission shall render a decision based upon the existing record.

Done at Frankfort, Kentucky, this 28th day of March, 2007.

By the Commission

ATTEST:



Executive Director