

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|-------------------------|---|---------------------|
| THE ELECTRIC AND WATER |) | |
| PLANT BOARD OF THE CITY |) | |
| OF FRANKFORT, KENTUCKY |) | |
| |) | |
| COMPLAINANT |) | |
| |) | |
| |) | CASE NO. 2007-00088 |
| v. |) | |
| |) | |
| AT&T, INC. |) | |
| |) | |
| |) | |
| DEFENDANT |) | |

ORDER TO SATISFY OR ANSWER

AT&T, Inc. ("AT&T") is hereby notified that it has been named as defendant in a formal complaint filed on February 28, 2007, a copy of which is attached hereto.

Pursuant to 807 KAR 5:001, Section 12, AT&T is HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of service of this Order.

Should documents of any kind be filed with the Commission in the course of this proceeding, the documents shall also be served on all parties of record.

Done at Frankfort, Kentucky, this 6th day of March, 2007.

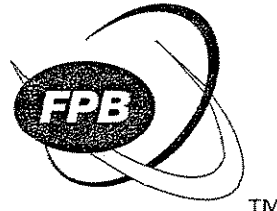
ATTEST



Executive Director

By the Commission

Warner J. Caines
General Manager



Frankfort Plant Board TM

Water
Cable
Electric
Security
Local Phone
Digital Cable
Long Distance
Community TV
Ethernet/Internet
Cable Modem/ISP
Cable Advertising

February 28, 2007

RECEIVED

FEB 28 2007

PUBLIC SERVICE
COMMISSION

VIA HAND DELIVERY

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

RE: In the Matter of: Frankfort Plant Board v. AT&T

Dear Ms. O'Donnell:

Case No. 2007-00088

I have enclosed for filing in the above-styled case the original and eleven (11) copies of Frankfort Plant Board's Formal Complaint against AT&T for filing. Please file-stamp one copy and return it to our delivery person.

I appreciate your assistance. If you have any questions, please contact me at 352-4541.

Sincerely,

Hance Price

Hance Price
Staff Attorney

HP/abb
Enclosures

Equal Opportunity/Affirmative Action Employer

317 West Second Street (P.O. Box 308) Frankfort, Kentucky 40602 Phone (502) 352-4372
Fax (502) 223-3887 www.fpb.cc

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

In the Matter of:

FEB 28 2007

PUBLIC SERVICE
COMMISSION

The Electric and Water Plant Board)
of the City of Frankfort, KY)

Complainant)

v.)

AT&T, Inc.)

Defendant)
_____)

Case No. 2007-00088

FORMAL COMPLAINT

The Electric and Water Plant Board of the City of Frankfort, KY ("Frankfort Plant Board"), by counsel, for its formal complaint against AT&T, Inc. ("AT&T"), pursuant to KRS 278.260 and 807 KAR 5:001 sec. 12, hereby states as follows.

INTRODUCTION

1. The full name and address of the Frankfort Plant Board is The Electric and Water Plant Board of the City of Frankfort, KY, P.O. Box 308, 317 W. Second Street, Frankfort, KY 40602. Frankfort Plant Board is a facilities-based competitive local exchange company ("CLEC") which provides local exchange service to its customers in the Frankfort and Franklin County Kentucky area.

2. The full name and address of AT&T is AT&T, Inc., 175 E. Houston Street, P.O. Box 2933, San Antonio, Texas 78299-2933. AT&T provides long distance telephone service in the Frankfort and Franklin County Kentucky area.

3. The facts supporting this complaint are set forth more fully below; but briefly, this complaint concerns AT&T's refusal to pay Frankfort Plant Board's switched access tariff rates in violation of the Kentucky Revised Statutes. AT&T maintains that it has not reached an agreement with Frankfort Plant Board regarding intrastate rates. However, the intrastate access rates that were billed to AT&T are contained in the Frankfort Plant Board's access services tariff that was filed with and approved by the Kentucky Public Service Commission (the "Commission"). Until such time as either a separate agreement with AT&T is finalized and filed or the tariff rates are changed, Frankfort Plant Board expects AT&T to pay the approved tariff rates for access.

APPLICABLE LAW

4. Pursuant to KRS 278.040(2), the Commission has jurisdiction "over the regulation of rates and service of utilities" within the Commonwealth.

5. Pursuant to KRS 278.260(1), the Commission is vested with the express authority to investigate and remedy "complaints as to rates or service of any utility."

6. Pursuant to KRS 278.030(1), "[e]very utility may demand, collect and receive fair, just and reasonable rates for the services rendered or to be rendered by it to any person."

7. Pursuant to KRS 278.280(2), "[t]he commission shall prescribe rules for the performance of any service or the furnishing of any commodity of the character furnished or supplied by the utility, and, on proper demand and tender

of rates, the utility shall furnish the commodity or render the service within the time and upon the conditions provided in the rules.”

STATEMENT OF THE FACTS

8. Frankfort Plant Board provides intrastate access pursuant to its intrastate access tariff effective on or about January 20, 2006.

9. Frankfort Plant Board bills AT&T and all interexchange carriers with whom it exchanges access traffic pursuant to its tariff.

10. AT&T refuses to pay Frankfort Plant Board its switched access tariff rates for switched access service.

11. On or about August 11, 2006, Frankfort Plant Board received notification from AT&T claiming that it has not reached an agreement with Frankfort Plant Board regarding intrastate rates.

12. On or about August 18, 2006, Frankfort Plant Board notified AT&T that it was willing to discuss the disputed charges. However, Frankfort Plant Board also indicated that it expected AT&T to pay the approved tariff rates for access.

13. Frankfort Plant Board has been unable to resolve this matter despite repeated requests that AT&T pay the intrastate access charges specified in its authorized access service tariff.

COUNT I

FAILURE TO PAY TARIFFED CHARGES

14. Frankfort Plant Board restates and incorporates by reference each of the preceding allegations, as if fully set forth herein.

15. The filed-rate doctrine, codified at KRS 278.160, provides that telephone service provided in this Commonwealth shall be provided in accordance with a telephone utility's filed and approved tariff.

16. The Commission has interpreted this statute and doctrine to require that any "special contract that touches upon rates (or services) . . . [be] filed with the Commission in the same manner as the utility's generally available tariffs." *In the Matter of Kentucky Utilities Company Revised Special Contract with North American Stainless, L.P.*, Case No. 2003-00137, 2005 Ky. PUC LEXIS 885 (October 19, 2005); see also 807 KAR 5:011 § 13 (providing, "Every utility shall file true copies of all special contracts entered into governing utility service which set out rates, charges or conditions of service not included in its general tariff.").

17. Thus, Kentucky law requires that telephone utilities provide service only in accordance with filed tariffs or filed contracts that specify the conditions and circumstances under which service will be furnished.

18. Pursuant to the filed-rate doctrine, compensation for these interLATA and intraLATA access services are governed by the switched access tariffs on file with the Commission.

19. Pursuant to *In the Matter of: Brandenburg Telecom LLC v. AT&T Communications of South Central States, Inc.*, Case No. 2002-00383, 2003 Ky. PUC LEXIS 351 (May 1, 2003), interexchange carriers are required to pay CLECs for switched access services pursuant to the respective CLEC's applicable access tariff.

20. Frankfort Plant Board charges its customers for switched access services pursuant to section 3.4.4, Local Switching, of its PSC KY Tariff No. 2 titled "Access Service Tariff."

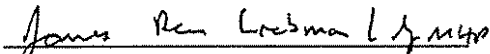
21. Given that AT&T is receiving intraLATA switched access services from Frankfort Plant Board, AT&T is subject to Frankfort Plant Board's switched access tariff rates.

22. To date, AT&T owes Frankfort Plant Board approximately \$78,545.64 in intrastate switched access charges pursuant to Frankfort Plant Board PSC KY Tariff No. 2 on file with the Commission.

WHEREFORE, Frankfort Plant Board respectfully requests that the Commission take the following actions.

1. Declare that AT&T is liable to Frankfort Plant Board for all past and future switched access service charges incurred pursuant to Frankfort Plant Board's tariff on file with the Commission;
2. Order AT&T to pay all unpaid, tariffed charges due to Frankfort Plant Board; and
3. Grant Frankfort Plant Board any and all other legal and equitable relief to which it is entitled.

Respectfully submitted,


JAMES DEAN LIEBMAN
403 West Main Street
Frankfort, KY 40601
(502) 226-2000 (Telephone)
(502) 226-2001 (Fax)

Hance Price

Hance Price
Frankfort Plant Board
P.O. Box 308
317 West Second Street
Frankfort, Kentucky 40602
(502) 352-4541
hprice@fewpb.com