

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION CONCERNING THE PROPRIETY	)	
OF INTERLATA SERVICES BY BELLSOUTH	)	CASE NO.
TELECOMMUNICATIONS, INC., PURSUANT TO	)	2001-105
THE TELECOMMUNICATIONS ACT OF 1996	)	

**BELLSOUTH TELECOMMUNICATIONS, INC.'S RESPONSE TO**  
**MOTION FOR ADDITIONAL PROCEEDINGS**

BellSouth Telecommunications, Inc. ("BellSouth") hereby files its response to the Petitions of MCI/WorldCom, AT&T et al. (hereinafter "ATT/MCI") for additional proceedings in the above-referenced docket. As expected, ATT/MCI are attempting, once again, to delay the benefits of long distance competition to the consumers of Kentucky. ATT/MCI's attempt to parlay BellSouth's withdrawal of its Georgia/Louisiana application, designed to provide the FCC more time to consider five limited issues, into extended additional proceedings should be rejected. This Commission has an extensive record before it upon which it can, like four other states in BellSouth's region, approve BellSouth's Section 271 application.

**INTRODUCTION**

On October 2, 2001, BellSouth filed its application for long distance relief in Georgia and Louisiana with the FCC. On

December 20, 2001, BellSouth informed the FCC that it planned to submit additional information supporting its petition so that it could be included in the formal record prior to the FCC rendering its decision. On February 14, 2002, BellSouth filed a second application with the FCC, asking the FCC to incorporate the existing record into the new application, and providing additional information on five limited issues.

### **DISCUSSION**

#### **A. Additional 271 Proceedings Are Unwarranted.**

Contrary to ATT/MCI's representations, BellSouth's original application with this state and with the FCC established a prima facie case that BellSouth has complied with the requirements of Section 271. As the FCC case for the states of Georgia and Louisiana progressed, however, it became apparent that there were five issues raised by certain CLECs during the pendency of the application that BellSouth wanted to address in the official record so that the issues could be considered fully prior to the FCC issuing a decision on the application. Therefore, on December 20, 2001, BellSouth advised the FCC that it would withdraw its Georgia/Louisiana application but would refile for 271 entry in those states in the near future. It is not unique for an RBOC to withdraw an application for an anchor state. In Texas, SWBT filed its "Texas I" application on January 10, 1999, and its Texas II application on April 5, 2000. The Texas

Commission, however, did not conduct further hearings between SWBT's first and second applications.

The five issues on which BellSouth has provided the FCC with information are integration; service order accuracy; change control; data reliability and double FOC. BellSouth addressed all of these issues, to the extent they were raised by the ATT/MCI, during the state proceeding. For example, with respect to integration, BellSouth demonstrated that it provides ATT/MCI with a TAG pre-ordering interface that is capable of interacting on an integrated basis with its TAG and EDI ordering interfaces on a machine-to-machine basis. Moreover, BellSouth demonstrated that ATT/MCI have the ability to parse the CSR using the TAG pre-ordering interface to the same level that BellSouth has for itself. No CLEC controverted the evidence that BellSouth's interfaces can be integrated. BellSouth also presented the KPMG Third Party Test during which KPMG parsed CSR information during its functional test and automatically populated orders with pre-ordering information. KPMG's test demonstrated that KPMG, acting as a CLEC, successfully integrated pre-ordering, ordering and backend systems.

With respect to service order accuracy, BellSouth presented its performance data to demonstrate its performance, as well as extensive testimony demonstrating that BellSouth's process for handling manual orders is efficient and accurate. On change

control, BellSouth demonstrated that it has an effective and active change control process the format of which incorporates the input of the participants. In addition, BellSouth demonstrated that since the inception of the CCP and October 15, 2001, BellSouth had implemented 65 change requests for new functionality, of which 32 were CLEC-initiated. In total, BellSouth has implemented 189 total change requests in CCP. On data reliability, BellSouth demonstrated that the Commission can rely on BellSouth's data for several reasons: BellSouth has extensive internal validation processes; KPMG has conducted two audits of BellSouth's data in Georgia and is in the process of conducting a third audit; and BellSouth provides CLECs with their CLEC-specific data to allow them to validate the data. In addition, BellSouth explained each of the alleged "reliability" issues raised by ATT/MCI. Finally, no CLEC specifically raised the issue of double FOCs in this proceeding; BellSouth did demonstrate, however, that BellSouth provides CLECs with due data capability for both resale services and UNEs.

As this brief summary makes clear, the record in this proceeding demonstrates that this Commission can, and should, find BellSouth in compliance with the competitive checklist without conducting any further proceedings. Most importantly, the Commission should bear in mind the state of local competition in Kentucky. BellSouth conservatively estimates

that as of the end of 2001, CLECs were serving over 80,000 access lines in Kentucky. In short, competition in Kentucky is strong. Across BellSouth's region, competitors serve almost 4 million lines. This fact alone should demonstrate that the local market in Kentucky is open.

In addition, BellSouth's performance in this state continues to be excellent. BellSouth's performance data supports BellSouth's position that it is in compliance with the requirements of Section 271 and has maintained that compliance on an on-going basis. In November 2001, BellSouth met the parity or benchmark for 85% of the measures with CLEC activity. In December 2001, BellSouth met 88% of these opportunities. In fact, for the three month period of October through December 2001 there were 537 sub metrics with CLEC data in all three months. BellSouth met the parity/benchmark requirement in at least two of three months for 91% (490 sub metrics) of these measures.

Simply, there is no need for this Commission to conduct additional proceedings. Based on a record virtually identical to the one before this Commission, the state commissions in Georgia, Louisiana, Mississippi and South Carolina all concluded that BellSouth met the requirements of Section 271. This Commission should do the same.

As has been the consistent pattern in this proceeding, ATT/MCI have every incentive to delay. The Commission should decline the ATT/MCI invitation for yet more proceedings, which would serve only to further delay bringing the benefits of full competition to Kentucky consumers. The nature of the regulatory approval process is that any review by the state commission will be a snapshot in time. The fact that systems evolve, enhancements are made, and competition grows, does not mean that the regulatory process is incomplete. Rather, it means that the state commission must look at the record before it at a given point in time and determine whether BellSouth is in compliance with the checklist. BellSouth has presented the Commission with evidence that proves that it has, in fact, met the requirements of Section 271.

Notwithstanding the fact that it had already demonstrated compliance with Section 271 requirements, BellSouth has continued to make improvements to its systems and processes. These improvements are captured in the information BellSouth filed with the FCC on February 14, 2002. This information is in the form of sworn affidavits upon which the Commission can rely as it would sworn testimony.<sup>1</sup> While this information is not necessary for this Commission to approve BellSouth's long

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<sup>1</sup> For the Commission's information, BellSouth also has submitted its Comments filed in conjunction with its affidavits.

distance application, BellSouth has attached its recent FCC filing, which includes the Joint Supplemental Affidavit of William N. Stacy, Alphonso J. Varner and Ken L. Ainsworth (OSS issues) the Supplemental Affidavit of Alphonso J. Varner (data reliability) and the Joint Supplemental Affidavit of John Ruscilli and Cindy Cox (price squeeze issue), to this response should the Commission wish to review it. The CLECs reply comments are due at the FCC on March 4, 2002. Consequently, should the Commission deem it appropriate, the Commission may review the CLEC reply comments filed with the FCC. The Commission can thereby assure itself that it has reviewed the most current information when rendering its decision on BellSouth's application. Given the timeframe of the FCC proceeding, any procedural schedule that the Commission might put into place would be redundant. The Commission will have all of the CLECs comments to review, should the Commission deem it necessary, in approximately one week.

In an attempt to bolster their effort to delay a Commission decision, ATT/MCI retreat to their argument about the Florida OSS test. The parties already thoroughly addressed this issue in this proceeding. BellSouth has relied, and continues to rely, on the Georgia Third Party Test. The Georgia test corroborates BellSouth's commercial usage and demonstrates conclusively that BellSouth has met the requirements of

Checklist Item 2. The Georgia test is the evidence upon which BellSouth asks this Commission to rely for purposes of assessing its application. The fact that the Florida test continues does not change or impact in any way the evidence that BellSouth has put in front of this Commission.

Finally, this Commission should reject the gratuitous suggestion by ATT/MCI that the Commission should examine whether BellSouth's UNE rates foster competition in Kentucky. This Commission has recently conducted an extensive review of BellSouth's UNE rates and has set some of the most aggressive rates in the nation.

#### **CONCLUSION**

This Commission has a critical role to perform in the 271 process. In fulfillment of that role, the Commission has marshaled an extensive record. It has conducted workshops and informal conferences, had multi-day hearings, and reviewed briefs. The Commission has before it thousands of pages of sworn testimony in support of BellSouth's application. The evidence is sufficient to approve BellSouth's application without further proceedings. To the extent, however, the Commission wishes to consider BellSouth's most recent FCC filing in its deliberations, BellSouth has provided its affidavits with this filing, and the Commission may review the CLECs' FCC



comments when they are filed on March 4. In short, no additional proceedings are warranted.

It comes as no surprise that ATT/MCI want additional proceedings. There will never be a moment in time when these parties will agree that the record is complete and ripe for decision. BellSouth respectfully submits that the Commission has developed a record upon which it can render an affirmative decision on BellSouth's application, and thus that it should deny the AT&T/MCI Motion.

Respectfully submitted,

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