

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REVIEW OF FEDERAL COMMUNICATIONS)
COMMISSION'S TRIENNIAL REVIEW ORDER) CASE NO. 2003-00379
REGARDING UNBUNDLING REQUIREMENTS)
FOR INDIVIDUAL NETWORK ELEMENTS)

COMPSOUTH'S RESPONSE TO BELLSOUTH'S
MOTION TO REVISE FILING DATES

Competitive Carriers of the South, Inc. ("CompSouth")¹ hereby responds to BellSouth Telecommunications, Inc.'s January 30, 2004 motion to "revise" certain filing dates. The relief sought by BellSouth would harm CompSouth's ability to participate in this case. Accordingly, CompSouth cannot support BellSouth's request and urges the Commission not to grant the motion as filed. The Commission may protect BellSouth's interest by permitting a far less radical change to the schedule.

BellSouth's request is problematic for the following reasons. First, while BellSouth proposes to file switching testimony on February 11 (as required by the November 4, 2003 procedural order), BellSouth asks for the ability to supplement this testimony "if necessary." BellSouth states there are CLECs who have not yet responded to its discovery requests. However, none of the allegedly unresponsive CLECs identified

¹ The members of CompSouth include: Access Integrated Networks, Inc., MCI , Birch Telecom, Business Telecom, Inc., Covad Communications Company, AT&T, NewSouth Communications Corp., Talk America, NuVox Communications, Inc., ITC^DeltaCom, Xspedius Communications, Momentum Business Solutions, Cinergy Communications Company, Network Telephone Corp., KMC Telecom, Z-Tel Communications, Inc., Access Point, Inc., Lecstar and IDS Telcom LLC.

in BellSouth's motion were parties to the case when BellSouth filed its motion.² The Commission has not required non-parties to respond to BellSouth discovery, so there is no reason to believe additional responses are forthcoming. Therefore, there is no reason to grant open-ended permission to "supplement" switching testimony.

BellSouth also asks for a *six week* extension to file its loop and transport testimony, ostensibly to allow for receipt of further data request responses. But as discussed above, the unresponsive carriers identified by BellSouth are not parties to the case, so it is unclear what an extension will accomplish. BellSouth's current request is an effort to reinvigorate stale motions to enlarge this proceeding – motions which the Commission has chosen not to grant. But more importantly, to grant this month-and-a-half delay would harm the very carriers, *i.e.* CompSouth members, who *have* responded to BellSouth discovery and who are not subject to the motion to compel. The harm would come from the inability to review and respond to late-filed BellSouth testimony in time to prepare for hearing.

Since the initial informal conference last fall, parties to this case have attempted to coordinate schedules for nine simultaneous proceedings. This coordinated effort should not be disrupted unless absolutely necessary. Allowing BellSouth a six week delay will make it extremely difficult for parties to prepare for the Kentucky hearing while simultaneously participating in other state hearings. Specifically, such a lengthy delay would likely eliminate the ability of any party to file surrebuttal testimony on loop and transport issues. According to the November 4, 2003 procedural order, surrebuttal is

² NewSouth Communications Corp. ("NewSouth") has recently intervened. The inclusion of NewSouth in the motion to compel appears to have been in error. NewSouth is a member of CompSouth, and has responded to BellSouth's data requests on a region wide basis.

due on April 13, less than two weeks before hearing. BellSouth's motion contemplates a delay whereby April 13 becomes the date for filing of *rebuttal* testimony for loop and transport. The BellSouth motion is silent on what to do about surrebuttal testimony. If the motion is granted, other parties will not be able to file surrebuttal testimony – there would not be time before the hearing.

CompSouth believes the Commission should adhere to the original procedural schedule, thereby avoiding any collateral effect on schedules in other state proceedings. However, CompSouth is not opposed to permitting BellSouth to update its pre-filed testimony upon the discovery of additional information. CompSouth suggests that a three- week period would be reasonable, allowing pre-filed direct testimony to be supplemented by around March 3. However, all initial testimony, including for loop and transport issues, should be filed on schedule. Any permission to supplement testimony should of course extend to all parties.

For the reasons stated above, CompSouth asks that BellSouth's Motion be denied.

Respectfully submitted,

By: /s/

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Dated: February 6, 2004

CERTIFICATE OF SERVICE

I hereby certify that the electronic version of this filing made with the Commission this 6th day of February, 2004 is a true and accurate copy of the documents attached hereto in paper form. This version was transmitted to the Commission for forwarding to those persons receiving electronic notices from the Commission in this case. A copy of the filing was also served by U.S. mail on February 6, 2004 to those persons whose postal addresses appear on the service list below.

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