COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION CONCERNING THE	)	
PROPRIETY OF PROVISION OF INTERLATA	)	
SERVICES BY BELLSOUTH	)	CASE NO.
TELECOMMUNICATIONS, INC., PURSUANT	)	2001-00105
TO THE TELECOMMUNICATIONS	)	
ACT OF 1996	)	
PETITION OF BELLSOUTH	)	
TELECOMMUNICATIONS, INC. FOR THE	)	CASE NO.
ESTABLISHMENT OF A NEW PERFORMANCE	)	2004-00391
PLAN	)	

PETITION FOR WAIVER
BELLSOUTH TELECOMMUNICATIONS, INC., D/B/A AT&T KENTUCKY

INTRODUCTION

BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky ("AT&T Kentucky") recently discovered a mistake in certain performance data that has been posted as required by the Service Quality Measurement ("SQM") Plan. Specifically, an error in the coding that is used to post information caused certain activity for the Service Order Accuracy ("SOA") measurement to be posted under Resale results when it should have been posted under UNE results. Fortunately, the coding used to post SQM performance results is different from the coding used to calculate Self-Effectuating Enforcement Mechanism ("SEEM") Plan remedies, and the coding used to calculate SEEM remedies was correct at all times. Accordingly, all SEEM remedy obligations and SEEM liability calculations were correctly processed at all times, and all competitive

local exchange carriers ("CLECs") have received the appropriate payments under the SEEM Plan.

The SQM Plan, however, requires AT&T Kentucky to repost the corrected data.[1] Absent the relief AT&T Kentucky is seeking in this Petition, this reposting would result in AT&T Kentucky paying a fine of approximately $35,200 in Kentucky (and fines of approximately $316,800 in AT&T's nine-state Southeast region).[2] AT&T Kentucky respectfully submits that under the circumstances (which include no harm to CLECs and self-reporting by AT&T Kentucky) a fine of this magnitude is punitive, excessive and inconsistent with the purposes of the reposting obligation. Anticipating situations like this, the SEEM Plan allows AT&T Kentucky to "petition the Commission to consider relief based upon other circumstances."[3]

AT&T Kentucky, therefore, respectfully requests that the Kentucky Public Service Commission ("Commission") enter an Order relieving AT&T Kentucky of any obligation to pay the aforementioned reposting fine.[4]

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DISCUSSION

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The SOA reposting obligation relates to coding changes made to correct the "bucketing" of local number portability ("LNP") transactions from Resale to UNE. Specifically, LNP activity for SOA[5] was mapped to the Resale disaggregation results in the SQM performance reports when the transactions should have been mapped to the

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[1] *See* Appendix D of the SQM Plan and Appendix F of the SEEM Plan.
[2] *See* Section 2.6 of the SEEM Plan.
[3] *See* Section 4.5.3 of the SEEM Plan.
[4] AT&T Kentucky intends to pay the reposting fine in accordance with the time frame set forth in Section 2.6 of the SEEM Plan if the Commission has not granted this petition before then. If the Commission grants AT&T Kentucky's petition, and that grant is after AT&T Kentucky has processed payment, AT&T Kentucky will recover the fine by offsetting the fine amount against future Tier II liabilities.
[5] In general, SOA measures the accuracy and completeness of CLEC requests for service by comparing the CLEC's Local Service Request (LSR) to the completed service order after provisioning has been accomplished.

UNE disaggregation results. Changes were properly made to the coding used to calculate SEEM remedies, but a corresponding correction was not contemporaneously made to the SQM code. While validating performance data for March 2009, AT&T Kentucky identified a reposting obligation related to this data reporting issue. There are no additional SEEM remedy obligations as SEEM liability calculations, which rely on a different code set, were correctly processed at all times. In accordance with Appendix D of the SQM Plan, SQM Performance data will be reposted for a maximum of three months in arrears from the data month of detection, which was March 2009.

Without Commission relief, the SOA reposting will result in fines far exceeding the significance of the administrative error, as AT&T Kentucky has timely paid remedies to CLECs. The purpose of the reposting obligation is to encourage AT&T Kentucky to correctly report data relied upon to calculate SEEM payments. In this case where SEEM remedy payments were unaffected by the error and where AT&T Kentucky has properly self-reported and arranged for the necessary coding corrections, payment of a fine exceeding $300,000 in the Southeast region seems inconsistent with the intent of the plan. Moreover, payment of this fine to the commissions comprising AT&T's Southeast region will in no way benefit AT&T's wholesale customers. Under these circumstances the reposting fine would be unduly punitive and inconsistent with the intent of the reposting obligation.

CONCLUSION

Accordingly, AT&T Kentucky respectfully requests that the Commission relieve AT&T Kentucky of any obligation to pay a reposting fine in connection with the SOA data reporting error and grant this petition.

Respectfully submitted, this 9th day of June 2009.

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