

Commonwealth of Kentucky
Before the Public Service Commission

In the Matter of:

PETITION OF BELLSOUTH)
TELECOMMUNICATIONS, INC. FOR THE) Case No. 2004-00391
ESTABLISHMENT OF A NEW PREFORMANCE)
PLAN)

COMMENTS OF THE OFFICE OF
ATTORNEY GENERAL

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and files these comments pursuant to the Commission's Order dated 6 December 2004 wherein the Commission requested the parties to this action to submit a detailed recommendation for third party testing of Service Quality Measurements (SQMs) ultimately established in this proceeding.¹

Put directly, the Commission should deny BellSouth's request for a modification and continue on the course now set until the reviews in Florida and/or Georgia are complete and can give guidance as a result of a fully litigated multiple party proceeding. In Case No. 2001-00105², the Commission rejected BellSouth's proposal and instead adopted, in total, the Georgia Commission's performance plan. While the Commission did not prohibit BellSouth from proposing a Kentucky-specific plan, the

¹ See Order, p.1.

² Case No. 2001-00105, Investigation Concerning the Propriety of Provision of InterLATA Services by BellSouth Communications, Inc., Pursuant to the Telecommunications Act of 1996.

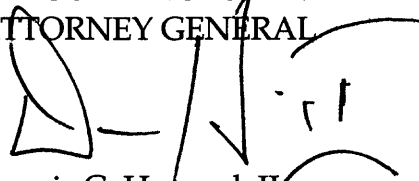
Commission charged BellSouth with the duty to discuss the provision of non-discriminatory service to Competitive Local Exchange Carriers ("CLECs"). By inference, BellSouth has been mandated to demonstrate that the non-discriminatory practices are being properly addressed. Stated another way, it must prove that the CLECs are satisfied with BellSouth's performance. Objections by a CLEC show that the practices have not been satisfactorily addressed and a modification of the performance plan is not in order. Because Covad has objected to the modification, the Attorney General moves the Commission to deny any modification to the current plan.

BellSouth is likely to maintain that if there is but one or only a few CLECs which claim that a modification is unnecessary, the modification should be permitted because there will never be a plan that will appease all existing or potential CLECs. In the event that this argument is raised, it should be given some consideration. Indeed, this is precisely why the Commission should defer to either Georgia or Florida, where an extensive review was undertaken in the former jurisdiction and the process is underway in the latter. In those jurisdictions, considerable effort and time was or will be spent by many parties in evaluating the reasonableness of any relaxation of the safeguards to competition in BellSouth's exchange territory. An attempt for BellSouth to avoid such an extensive review and implement a modified plan in Kentucky should be denied. Instead, the Commission should dismiss BellSouth's request and await either Florida's decision or any modification in Georgia in order to eliminate a duplication of work.

In conclusion, the Commission should deny BellSouth's request and defer to either Georgia or Florida where a more extensive analysis will be conducted in a jurisdiction with input by more CLECs to truly determine whether modifications will not deteriorate competition. In other words, the Commission should stay the course which it has chosen wisely thus far.

Respectfully submitted,

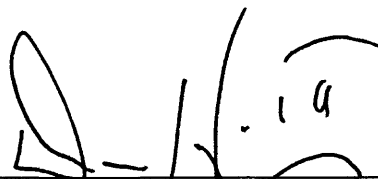
GREGORY D. STUMBO
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A handwritten signature in black ink, appearing to read "Dennis G. Howard, II". The signature is stylized with a large initial "D" and "H".

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Submission of Filing in Paper Medium

Counsel submits for filing, by hand delivery to Beth O'Donnell, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40602, the original and one copy in paper medium of the document. 18 February 2005 is the date for the filing in paper medium.



Dennis G. Howard, II
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Certificate of Service

Pursuant to the general electronic filing protocol of the Public Service Commission, counsel certifies service of a true and correct photocopy of the document by mailing the photocopies, first class postage prepaid, to the other parties of record on 18 February 2005.

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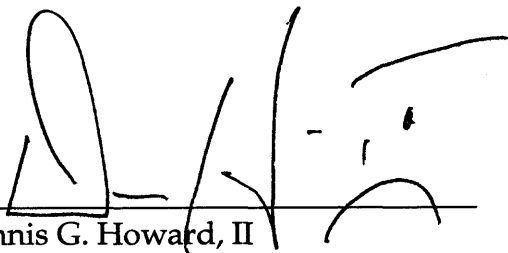
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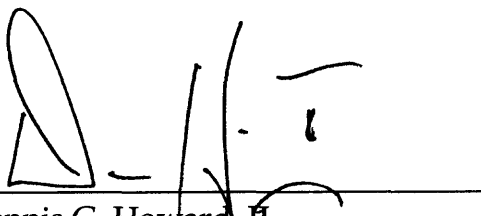
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Certification Regarding Electronic Filing

Counsel certifies that he has (pursuant to the general electronic filing protocol of the Public Service Commission) submitted one copy of the document in electronic medium. He certifies that the electronic version of the filing is a true and accurate copy of the document filed in paper medium and that he has, by electronic mail, notified the commission and the other parties that the electronic version of the filing has been transmitted to the Commission. (See attached). 18 February 2005 is the date of filing in electronic medium.



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