

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

O R D E R

On February 11, 2009, BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky (“AT&T Kentucky”) notified the Commission and all parties to this matter that it was declaring a power outage which occurred at its St. Louis, Missouri data center on December 6, 2008 as a Force Majeure Event. AT&T Kentucky states that this event prevented it from meeting its performance standards for its Reject Interval and Firm Order Confirmation Timeliness ordering metrics under the Service Quality Measures and Self-Effectuating Enforcement Mechanism plan and, as such, it would not make any payments to its competitors for December 8, 9, 10, 11 and 12, 2008.

On February 20, 2009, Competitive Carriers of the South, Inc. (“CompSouth”) objected to AT&T Kentucky’s Force Majeure declaration, arguing that AT&T Kentucky failed to give prompt notice of the December 6, 2008 event and provided no explanation

for the delay. CompSouth also argues that the event in question does not qualify as Force Majeure and should not be presumed as valid by the Commission.


The Commission finds that the parties to this matter should be given the opportunity to file comments and/or replies in response to the filings of AT&T Kentucky and CompSouth. Upon close of the schedule, the Commission will issue a ruling upon CompSouth's objection, unless otherwise ordered.

IT IS THEREFORE ORDERED that the parties shall abide by the procedural schedule set forth in the Appendix attached hereto and incorporated herein, unless otherwise ordered by the Commission.

Done at Frankfort, Kentucky, this 2nd day of March, 2009.

By the Commission

ATTEST:

  
\_\_\_\_\_  
Executive Director

Case No. 2001-00105  
Case No. 2004-00391

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NOS. 2001-00105 and  
2004-00391 DATED MARCH 2, 2009

Replies and/or comments to CompSouth's  
objection shall be filed with the  
Commission no later than ..... 03/13/09

Sur-replies and/or comments on the replies  
shall be filed with the Commission and served  
upon all parties no later than ..... 03/27/09