

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION FOR APPROVAL) CASE NO. 2006-00136
OF THE INDIRECT TRANSFER OF)
CONTROL RELATING TO THE MERGER)
OF AT & T, INC. AND BELLSOUTH)
CORPORATION)

SOUTHEAST TELEPHONE, INC.'S
RESPONSES TO JOINT APPLICANTS' DATA REQUESTS

SouthEast Telephone, Inc. ("SouthEast"), by counsel, hereby submits its Responses to the Data Requests propounded by AT&T, Inc., BellSouth Corporation and BellSouth Corporation and BellSouth Telecommunications, Inc. ("Joint Applicants").

DATA REQUEST NO. 1:

Does SouthEast agree that, post-merger, AT&T Inc., through its indirect subsidiary BellSouth Telecommunications, Inc., will have the financial ability to provide reasonable service in Kentucky pursuant to KRS 278.020 (5)?

RESPONSE:

SouthEast's analysis of the financial effects of the proposed merger is on-going. Until more information is produced, SouthEast is unable to agree that the post-merger company will have the financial ability to provide reasonable service in Kentucky. Therefore, SouthEast's response to this data request is subject to modification following the production of the Joint Applicants' responses to all data requests. Based on the information available, if the merger is approved, it is probable that the post-merger company will have the financial ability to provide reasonable service in Kentucky

DATA REQUEST NO. 2:

If the response to Request No. 2 is anything other than an unqualified “yes,” state with specificity each and every fact that supports SouthEast’s response.

RESPONSE:

See SouthEast’s response to Data Request No. 1.

DATA REQUEST NO. 3:

Does SouthEast agree that, post-merger, AT&T Inc., through its indirect subsidiary BellSouth Telecommunications, Inc., will have the technical ability to provide reasonable service in Kentucky pursuant to KRS 278.020(5)?

RESPONSE:

SouthEast cannot render an opinion as to post-merger AT&T's technical abilities and the level of its service to Kentucky consumers, pursuant to KRS 278.020 (5). To do so at this point would simply be conjecture.

DATA REQUEST NO. 4:

If the response Request No. 3 is anything other than an unqualified “yes,” state with specificity each and every fact that supports SouthEast’s response.

RESPONSE:

See SouthEast’s response to Data Request No. 3.

DATA REQUEST NO. 5:

Does SouthEast agree that, post-merger, AT&T Inc., through its indirect subsidiary BellSouth Telecommunications Inc. will have the managerial ability to provide reasonable service in Kentucky pursuant to KRS 278.020(6)?

RESPONSE:

SouthEast's analysis of the effects of this proposed merger is still on-going. Therefore, SouthEast is unable at this time to agree that the post-merger company will have the managerial ability to provide reasonable service in Kentucky pursuant to KRS 278.020 (6).

DATA REQUEST NO. 6:

If the response to Request No. 5 is anything other than an unqualified “yes,” state with specificity each and every fact that supports SouthEast’s response.

RESPONSE:

See SouthEast’s response to Data Request No. 5.

DATA REQUEST NO. 7:

Does SouthEast agree that the merger of AT&T Inc. and BellSouth Corp. is being made in accordance with the law pursuant to KRS 278.020(6)?

RESPONSE:

No, the proposed merger of AT&T, Inc. and BellSouth Corp. is not being made in accordance with the law pursuant to KRS 278.020(6) because the merger is not consistent with the public interest.

DATA REQUEST NO. 8:

If the response to Request No. 7 is anything other than an unqualified “yes,” state with specificity each and every fact that supports SouthEast’s response.

RESPONSE:

See SouthEast’s responses to Data Requests 7 and 11.

DATA REQUEST NO. 9

Does SouthEast agree that the merger of AT&T, Inc. and BellSouth Corp. is being made for a proper purpose pursuant to KRS 278.020(6)?

RESPONSE:

No, the proposed merger of AT&T, Inc. and BellSouth Corp. is not being made for a proper purpose pursuant to KRS 278.020(6) for the same reason that it is not consistent with the public interest.

DATA REQUEST NO. 10

If the response to Request No. 9 is anything other than an unqualified “yes,” state with specificity each and every fact that supports SouthEast’s response.

RESPONSE:

See SouthEast’s response to Data Request No. 11.

DATA REQUEST NO. 11

Does SouthEast agree that the merger of AT&T, Inc. and BellSouth Corp. is consistent with the public interest pursuant to KRS 278.020(6)?

RESPONSE:

AT&T and BellSouth bear the burden of proving the proposed merger will serve the public interest. *See, IN re Application of GTE Corporation and Bell Atlantic Corporation For Consent to Transfer of Control of Domestic and International Sections 214 and 310*, CC Docket 98-0184, Memorandum Opinion and Order, FCC 00-221 (released June 16, 2000) (*Bell Atlantic/GTE Order*) at 171. In order for the Commission to make this requisite public interest finding, they must be convinced that the merger will enhance competition. *Applications of NYNEX Corporation and Bell Atlantic Corporation For Consent To Transfer Control of NYNEX Corporation and Its Subsidiaries*, File No. NSD-L-96-10, Memorandum Opinion and Order, FCC 97-286 (released August 14, 1997). A merger cannot be in the public interest if it harms competition (enhancing market power, slowing the decline of market power, or impairing the Commission's ability to properly establish and enforce those rules necessary to establish and maintain competition) *Id.*

BellSouth and AT&T currently have the incentive and ability to discriminate against competitors in the provision of local services, interexchange services and advanced services. These incentives and abilities will only increase as a result of the proposed merger. If this merger is allowed, it will give BellSouth and AT&T the tools they need to enhance their ability to discriminate. This will obviously harm the public interest by negatively affecting the ability of competitive carriers to remain viable alternatives in the market, and also the ability of

consumers to choose among carriers, services, and pricing plans.

The merged company will have the ability to severely harm consumers if they increase prices for local facilities. They will also have greater incentive to provision essential facilities in a manner that will favor their own interests. Consequently, the post-merger AT&T will be in a better position to ensure that customers receive lower quality service if they do business with competitor and, in the long run, have fewer choices as competitors are driven from the market. AT&T will have the ability to destroy competitors by placing them in a traditional price squeeze. They will be able to offer retail prices much lower than the competition and still be able to maintain profitable offerings. Therefore, by making AT&T the nation's largest local exchange carrier, it will be very difficult for the Commission to open Kentucky's rural markets to competition. As we have seen from the past, competition is what is really in the public interest, not the rebuilding of a monopoly.

DATA REQUEST NO. 12:

If the response to Request No. 11 is anything other than an unqualified “yes,” state with specificity each and every fact that supports SouthEast’s response.

RESPONSE:

See SouthEast’s response to Data Request No. 11.

DATA REQUEST NO. 13:

State with specificity all facts and contentions that underlie SouthEast's state in its Motion to Intervene that "this case involves issues relevant to SouthEast's business." *Motion to Intervene*, paragraph 2.

RESPONSE:

BellSouth, through its operating subsidiaries, is both a supplier and competitor to SouthEast in the rural markets of Kentucky. Likewise, AT&T will also be a competitor of SouthEast in Kentucky's rural markets. It goes without saying that the wholesale remonopolization of local telephone service in the rural markets, which is likely to occur if the proposed merger goes through will profoundly effect each and every customer and competitor, especially those rural customers and rural competitors that will be, in whole or in part, reliant upon the network owned and/or controlled by the Joint Applicants to provide competitive services to rural Kentucky residents.

DATA REQUEST NO. 14:

State with specificity all facts that SouthEast expects to “develop...that will assist the Commission in full consideration of this matter.” *Motion to Intervene*, paragraph 3.

RESPONSE:

It is extremely premature for the Joint Applicants to expect SouthEast to present at this early date all facts that SouthEast expects to develop to assist the Commission throughout the docket.

DATA REQUEST NO. 15:

Does SouthEast agree with Paragraph No. 33 of the Joint Application set forth below:

33. Nor will the wholesale obligations of BellSouth's operating subsidiaries under interconnection agreements and orders of this Commission be affected by the merger. BellSouth's subsidiaries operating in Kentucky will still be bound to those agreements and orders post-merger closing to the same degree as before the merger, and all performance standards and other regulatory requirements that currently apply to BellSouth operating subsidiaries in Kentucky will be unaffected by the merger.

RESPONSE:

No. SouthEast opines that the merger does not change BellSouth's wholesale obligations, nor does it abrogate the terms of an effective interconnection agreement. However, interconnection agreements expire and new ones must be negotiated. If negotiations fail, the arbitration process is all that remains. The arbitration process is the most crucial and resource consuming step in the. It is in this step that often economically challenged and legally outpowered CLECs must resolve competitively significant and substantive issues with the much larger ILEC. All too often, the capital need to dispute the complex cost studies, and expert testimony of the ILECs is a tremendous drain on a CLECs budget and business plan.

Now, with the proposed merger of AT&T and BellSouth the resource imbalance will grow exponentially. The legal obligations of BellSouth/AT&T may not change in theory, but the practical consequence of the merger will be to create an even greater imbalance than currently exists in the ILEC/CLEC marketplace.

DATA REQUEST NO. 16:

If the response to Request No. 15 is anything other than an unqualified “yes,” state with specificity each and every fact that supports SouthEast’s response.

RESPONSE:

See SouthEast’s Response to Data Request No. 15.

Respectfully submitted,

/s/

Bethany L. Bowersock
SouthEast Telephone, Inc.
P.O. Box 1001
Pikeville, KY 41502
(606) 432-3000 ext.211
Beth.bowersock@setel.com

CERTIFICATE OF SERVICE

Counsel for SouthEast Telephone, Inc. hereby certifies that a true and accurate electronic copy of this filing was transferred to the Commission via the Electronic Filing Center this ___ day of May, 2006 and filed in hardcopy document form with the Commission on the ___ day of May, 2006. Notice of the filing of this Response was served via electronic mail on all parties of record. Parties of record can access the information at the Commission's Electronic Filing Center.

/s/ Bethany Bowersock
SouthEast Telephone