

**COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION**

In the Matter of:

| | | |
|----------------------------------|---|---------------------|
| AN INVESTIGATION INTO THE |) | |
| INTRASTATE SWITCHED ACCESS RATES |) | |
| OF ALL KENTUCKY INCUMBENT AND |) | Case No. 2010-00398 |
| COMPETITIVE LOCAL EXCHANGE |) | |
| CARRIERS |) | |

**KENTUCKY CABLE TELECOMMUNICATIONS
ASSOCIATION'S OBJECTION TO AT&T'S FIRST DATA REQUESTS TO
COMPETITIVE LOCAL EXCHANGE CARRIERS**

The Kentucky Cable Telecommunications Association ("KCTA") files this objection to AT&T's First Data Requests to Competitive Local Exchange Carriers. AT&T's Data Requests included both the Competitive Local Exchange Carriers (CLECs) that are parties to this action and the KCTA, which is not a CLEC.

KCTA is a non-profit organization consisting of 118 cable television systems serving the majority of cable customers throughout Kentucky. Many of the 118 members are competitive local exchange carriers (CLECs) affected by any order regarding intrastate switched access rates. Each member offers different services and serves different types of customers and geographic markets.

The Public Service Commission (PSC) opened this matter on November 5, 2010, with an order that required all ILECS and any participating CLECs to file their current intrastate access rate tariffs into the record. The PSC did not require any non-participating CLEC to file tariffs into the record. The

PSC found all CLEC should be served with notice of this Order but that many would not intervene even though those “CLECs that collect intrastate access charges will be obligated to adhere to the final decisions of the Commission as to the access rate structure and collection methodologies rendered in this proceeding.” November 5, 2010 Order at 7.

On November 30, 2010, KCTA filed a motion for full intervention but specifically stated that its members may elect to move for intervention if the member wished to participate as a party. The KCTA wrote in its motion for intervention as follows:

KCTA seeks full intervenor status pursuant to 807 KAR 5:001 § 3 to allow it to fully participate as a party and to be served with documents related to intrastate switched access rates. As the investigation continues and various positions are developed, however, KCTA members may decide to adopt differing positions requiring the KCTA to redefine or limit either its official position or the membership that it represents. KCTA, on behalf of its members, requests that any member may move for intervention in its own name if positions are developed during the investigation that an individual member feels strongly either in support or against. Motion at 1.

Once KCTA was granted full intervention, it reviewed the November 5, 2010 Order requiring participating CLECs to file their tariffs into the record and determined that, because KCTA was not a CLEC and because KCTA members had the right to intervene in their own name in addition to the KCTA intervention, the requirement for filing tariffs did not apply to the KCTA. This determination has not been challenged.

AT&T filed its data requests to participating CLECs. KCTA is not a CLEC. AT&T however, specifically listed KCTA among its list of CLECs but

stated that it wanted information from KCTA “on behalf of its members that provide telecommunications services in Kentucky.” AT&T’s Requests at 1. AT&T’s requests are not proper.

KCTA is a party to this action because KCTA represents CLECs and the Commission has stated that it expects CLECs to adhere to the final decision. In this, the KCTA is akin to the Attorney General and its representation of consumers. If the Attorney General intervenes in an action, a party cannot file Requests for information that asks the Attorney General to go to individual consumers and seek answers to the Requests. Likewise, AT&T cannot file Requests that asks KCTA to go to individual members and seek answers to the Requests. For Requests 1-26, KCTA would have to answer “not applicable.”

Furthermore, the Requests themselves can only be answered by KCTA in the negative. For example, Request 1 begins as follows, “Do you offer standalone basic local exchange service as defined in KRS 278.541?” the answer, as this question is posed to KCTA, is “no.” Because the KCTA is not a CLEC, none of the Requests apply to it. For Requests 1-26, KCTA would have to answer “not applicable.”

Not only is KCTA not a CLEC and thus not a proper party for providing information to AT&T under its Requests for CLECs, but KCTA does not have the information requested. The first instruction in AT&T’s Requests states that the data request should be answered with information

in the control of the party. KCTA does not gather, review or keep the information sought by AT&T. For Requests 1-26, KCTA would have to answer “not applicable.”

Respectfully submitted,

/s/ Janice M. Theriot
Laurence J. Zielke
Janice M. Theriot
Zielke Law Firm PLLC
1250 Meidinger Tower
462 S. 4th Street
Louisville, KY40202
(502) 589-4600
lzielke@zielkefirm.com
jtheriot@zielkefirm.com

CERTIFICATE OF SERVICE

This is to certify that an electronic version of this filing was made with the Commission on June 10, 2011, and copy of this filing has been served electronically on all parties of record for whom an email address is given in the on-line Service List for this proceeding.

/s/ Janice M. Theriot
One of the Counsel for KCTA