

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

APPLICATION OF COMPETITIVE CARRIERS OF	)	
THE SOUTH, INC. FOR A DECLARATORY ORDER	)	CASE NO.
AFFIRMING THAT THE INTERCONNECTION	)	2015-00283
REGIMES UNDER KRS 278.530 AND 47 U.S.C. § 251	)	
ARE TECHNOLOGICALLY NEUTRAL	)	

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RESPONSE TO AT&T KENTUCKY'S MOTION TO MODIFY SCHEDULE TO  
PROVIDE FOR BRIEFS AND POSSIBLE REQUEST FOR ORAL ARGUMENT

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Comes now Competitive Carriers of the South, Inc. ("CompSouth"), by counsel, pursuant to 807 KAR 5:001 Section 5(2), and tenders hereby its response in opposition to the Motion to Modify Schedule to Provide for Briefs and Possible Request for Oral Argument that was filed by AT&T Kentucky ("AT&T") on July 7, 2016, respectfully stating as follows:

1. AT&T's motion is premature and unnecessary. The Commission customarily takes up the question of whether briefing is necessary at the conclusion of an evidentiary hearing and the existing procedural schedule already gives AT&T the right to request an evidentiary hearing should it believe that one is necessary. Thus, AT&T will have the opportunity to request both a hearing and the right to file briefs under the existing procedural schedule and no modification of the present schedule is necessary.

2. AT&T's motion also suggests that the Commission is somehow unable to understand the legal issues presented in this case without what would amount to unprecedented dual rounds of briefing followed by oral arguments from counsel. This case presents the relatively simple proposition that regardless of the underlying technology, transmission media or protocol: (a) the interconnection regimes under 47 U.S.C. §§ 251-252 and KRS 278.530 apply; and (b) these

statutes permit (among other things) a requesting carrier to file a petition with the Commission requesting an Order prescribing the rates, terms, and conditions of proposed interconnection with an incumbent local exchange carrier. AT&T forgets that Commission Staff has already given thorough consideration to these issues in the context of preparing the underlying advisory opinion (Staff Opinion 2013-015, dated October 23, 2013). The question of whether the Commission should affirm and adopt a previously issued Staff Opinion is a straightforward issue. To the extent AT&T's motion implies otherwise, it vastly overstates the complexity of the proceeding.

3. AT&T also forgets that the Intervenors, including AT&T, have already had a chance to file comments in this proceeding based on CompSouth's original Application for a Declaratory Ruling, followed by reply comments from CompSouth. The Commission already has a substantial record upon which to make this declaratory ruling, however, the Commission has established this procedural schedule to give AT&T and the other Intervenors ample opportunity to express their positions in abundant detail.

4. No one will be prejudiced by denying AT&T's motion at this point in the proceeding. However, if AT&T's motion is granted, CompSouth will be forced to incur significant expense that is likely to be otherwise unnecessary. Before significantly expanding the duration and cost of this matter, the Commission should be fully satisfied that the evidence gathered through testimony, data requests and any evidentiary hearing actually warrant such delay and expense. In other words, it is simply too early to know whether AT&T is correct in its contention that the Commission and Staff will be unable to fully grasp the legal issues in the proceeding without two mandated rounds of briefing and oral arguments. CompSouth believes that it is more likely to be the case that the Commission will find no more than one round of briefing will be necessary, if

that, and that no oral arguments are required. Nevertheless, the administratively efficient thing to do would be to cross that bridge when the current procedural schedule gets us there and not before.

WHEREFORE, on the basis of the foregoing, CompSouth respectfully requests the Commission to deny AT&T's motion as premature.

This 13<sup>th</sup> day of July, 2016.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on July 13<sup>th</sup>, 2016; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that a copy of the filing in paper medium is being hand delivered to the Commission on this the 13<sup>th</sup> day of July.

  
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*Counsel for Competitive Carriers of the South, Inc.*