

**BEFORE THE KENTUCKY
PUBLIC SERVICE COMMISSION**

In the matter of

Application of Competitive Carriers of the)
South, Incl. for a Declaratory Order)
Affirming that the Interconnection Regimes) Case No. 2015-00283
Under KRS 278.530 and 47 U.S.C. § 251 are)
Technologically Neutral)

**AT&T KENTUCKY’S RESPONSE TO
COMPSOUTH’S SUBMISSION OF SUPPLEMENTAL CITATIONS**

BellSouth Telecommunications, LLC, d/b/a AT&T Kentucky (“AT&T Kentucky”) respectfully submits this Response to the Supplemental Citations by Applicant Competitive Carriers of the South, Inc. (“CompSouth”).

Neither of the decisions submitted by CompSouth has any bearing on the question presented at this initial stage of the proceedings. That question is whether the Commission should deny CompSouth’s Application outright or should set a schedule for further proceedings on the merits of the declarations CompSouth has requested.

As AT&T Kentucky has demonstrated,¹ the Application should be denied outright. CompSouth seeks a declaration concerning interconnection under the federal Telecommunications Act of 1996 (“FTA”) and under a Kentucky statute, KRS 278.530. But the Commission cannot lawfully issue a declaration concerning the FTA, because no Kentucky law or regulation authorizes the Commission to issue a declaration concerning federal law. On its face, 807 KAR 5:001, Section 19, only authorizes the Commission to

issue a declaratory order with respect to the jurisdiction of the commission,
the applicability to a person, property, or state of facts of an order or

¹ See AT&T Kentucky’s Amended Response to Application of CompSouth for a Declaratory Order (Oct. 9, 2015) (“AT&T Response”).

administrative regulation of the commission or provision of KRS Chapter 278, or with respect to the meaning and scope of an order or administrative regulation of the commission or provision of KRS Chapter 278.

CompSouth's request for a declaration that "regardless of underlying technology, transmission media, or protocol that may be used for the exchange of voice traffic between two carriers' networks, (a) the interconnection regime[] under 47 U.S.C. §§ 251-252 . . . applies and (b) [that] statute[] permit[s] (among other things) a requesting carrier to file a petition with the KPSC requesting an Order prescribing the rates, terms, and conditions of proposed interconnection with an incumbent local exchange carrier"² plainly is outside the scope of that Rule.³ Moreover, even if the Commission could lawfully issue a declaration concerning interconnection under the FTA, the Commission would be ill-advised to do so.⁴

CompSouth also seeks a declaration concerning interconnection under KRS 278.530. No such declaration can issue, however, because relief is available under that statute only when the carrier requesting interconnection has no existing contract or interconnection with the carrier with which interconnection is sought, and all five participating CompSouth members have contracts with AT&T Kentucky that entitle them to interconnection, and three of them have interconnected their networks with AT&T Kentucky's network. As a result, none of the

² Application of Competitive Carriers of the South, Inc., for a Declaratory Order (Aug. 14, 2015), at 1.

³ CompSouth has suggested that its question is about the jurisdiction of the Commission (Reply by Applicant Competitive Carriers of the South, Inc. (Nov. 2, 2015), at 2), but that simply is not so. The declaration CompSouth seeks is, in the first instance, about the interconnection regime under the federal Telecommunications Act. Any implication that the requested declaration might have concerning the Commission's jurisdiction would be purely incidental.

⁴ See AT&T Response at 7-14.

participating CompSouth members has a “substantial interest” in the requested declaration, as 807 KAR 5:001(19)(1) requires.⁵

Accordingly, and as AT&T Kentucky demonstrated in detail in its Response, the Commission should deny the Application outright and should issue no declaration one way or the other concerning the matters CompSouth improperly seeks to raise. The supplemental citations that CompSouth has submitted have no bearing whatsoever on whether the Application should be entertained. Rather, they bear only on CompSouth’s contention that the interconnection requirement in the FTA extends to interconnection in Internet Protocol – a contention that the Commission should not address in this proceeding.

Respectfully submitted,

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⁵ See *id.* at 14-16.

FILING NOTICE AND CERTIFICATE

The undersigned hereby certifies that the foregoing is a true and accurate copy of the same document being filed in paper medium with the Commission within two business days; that the electronic filing was transmitted to the Commission on February 5, 2016; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

/s/ Cheryl R. Winn