

**BEFORE THE KENTUCKY
PUBLIC SERVICE COMMISSION**

In the matter of

Application of Competitive Carriers of the)
South, Inc. 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)

**MOTION TO SUSPEND DATE FOR
INITIAL BRIEFS AND REQUEST FOR EXPEDITED RULING**

AT&T Kentucky,¹ Verizon² and Cincinnati Bell³ respectfully move the Commission to suspend the March 10, 2017, due date for initial briefs, with a view to setting a new schedule after the Commission has ruled on AT&T Kentucky’s pending motion to strike portions of the Rebuttal Testimony of Joseph Gillan on behalf of Competitive Carriers of the South, Inc. (“CompSouth”). The parties request an expedited ruling in light of the imminent due date and state as follows in support of their motion:

1. On December 7, 2016, CompSouth filed a motion to compel discovery responses from AT&T Kentucky and Verizon and to extend the procedural schedule indefinitely.
2. On December 9, 2016, AT&T Kentucky filed a motion to strike CompSouth’s motion to compel on the ground that CompSouth had made no effort to resolve its discovery differences with AT&T Kentucky as required by the Commission’s procedural rules. AT&T

¹ BellSouth Telecommunications, LLC, d/b/a AT&T Kentucky

² MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services.

³ Cincinnati Bell Telephone Company LLC

Kentucky's motion also suggested "a status conference so the parties and the Commission can discuss how to proceed in light of the procedural problems created by CompSouth's actions."⁴

On December 12, 2016, Verizon filed a concurring motion.

3. Shortly thereafter, CompSouth agreed to confer with AT&T Kentucky and Verizon with a view toward at least narrowing the parties' discovery issues. Accordingly, the parties filed on December 21, 2016, a joint motion in which CompSouth withdrew its motion to compel; AT&T Kentucky and Verizon withdrew their motions to strike; and the parties asked the Commission to suspend the then-current schedule, which could not accommodate the discovery activity on which the parties had agreed.

4. The discovery negotiations succeeded. AT&T Kentucky agreed to provide certain additional information to CompSouth, in exchange for which CompSouth agreed not to pursue certain of its discovery requests. In accordance with that agreement, AT&T Kentucky filed supplemental discovery responses on January 12, 2017. Similarly, Verizon filed supplemental discovery responses on January 17, 2017.

5. With discovery resolved, the parties began to discuss a possible joint scheduling motion. Their discussions included the possibility of waiving cross-examination and foregoing the evidentiary hearing that had previously been contemplated, as well as the possibility of oral argument following the submission of briefs.

⁴ AT&T Kentucky's Motion to Strike CompSouth's Motion to Compel, Suspend Procedural Schedule, Convene a Status Conference and Request for Expedited Ruling, at 5. AT&T Kentucky's motion enumerated the CompSouth actions that created these procedural problems: "First, it filed a motion to compel AT&T to respond to its Requests for Information (RFI) without making any effort to resolve discovery disagreements with AT&T as required by the Commission's rules. Second, it failed to file rebuttal testimony by the December 7, 2016 deadline established by the Commission. Third, instead of seeking prior Commission approval to modify the existing procedural schedule, it resorted to self-help by asserting that the deadline for filing its rebuttal testimony should be extended until after the Commission rules on its motion to compel." *Id.* at 1.

6. Before the parties were able to file a joint scheduling motion, however, the Commission entered an order, on January 25, 2017, that set February 17, 2017, for CompSouth's rebuttal testimony and March 10, 2017, for initial briefs, with a public hearing to be scheduled later.

7. CompSouth filed its rebuttal testimony as scheduled on February 17, 2017.

8. On February 24, 2017, AT&T Kentucky filed a motion to strike portions of CompSouth's rebuttal testimony, and asked the Commission to rule on that motion expeditiously in light of the implications for the case schedule.

9. The sole date that remains on the schedule is March 10, 2017, for the filing of briefs, and the undersigned parties now move the Commission to suspend that date, for two reasons:

10. First, the movants respectfully submit that no further steps can properly be taken in this proceeding until after the Commission has ruled on AT&T Kentucky's motion to strike. CompSouth's rebuttal testimony raises, for the first time, wide-ranging issues that that motion asserts are not relevant to this proceeding. In particular, the testimony makes assertions about CompSouth's members' supposed right to review certain agreements, the Intervenor's supposed obligation to file agreements, and the role and duties of AT&T entities that are not before this Commission – all of which AT&T Kentucky's motion contends should be stricken. The case should not be briefed, argued or heard before the parties know what portions of the Rebuttal will be in the record.

11. Second, if there is going to be an evidentiary hearing in this case – a question the parties were discussing in January and that remains open – it should come before the filing of

briefs, not after. This process, which is virtually universal allows the Commission the benefit of written briefs that address all evidence of record.⁵

For the foregoing reasons, the undersigned parties respectfully urge the Commission to issue an Order as soon as practicable that:

(a) suspends the March 10, 2017, due date for initial briefs; and

(b) directs the parties to confer about the schedule for the remainder of the proceeding as soon as practicable after the Commission has ruled on AT&T Kentucky's pending motion to dismiss portions of the Rebuttal Testimony of Joseph Gillan on Behalf of CompSouth, and to communicate their views on scheduling to the Commission, either by a joint submission or otherwise, no later than two weeks after the issuance of that ruling.

Respectfully submitted,

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⁵ If an evidentiary hearing is scheduled and Commissioners wish to have written previews of the parties' positions, such submissions could be filed, but should not displace post-hearing briefs.

/s/ Luke Morgan (with permission)

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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 28, 2017; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

/s/ Cheryl R. Winn