

**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	)	

**MOTION TO MODIFY SCHEDULE TO PROVIDE FOR  
BRIEFS AND POSSIBLE REQUEST FOR ORAL ARGUMENT**

AT&T Kentucky<sup>1</sup> respectfully moves the Commission to modify the schedule for this proceeding issued on June 23, 2016, to provide for (1) briefs, and (2) a possible request for oral argument after the briefs are filed and states as follows:

1. In this case, Applicant Competitive Carriers of the South, Inc. (“CompSouth”) seeks 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 regimes under 47 U.S.C. §§ 251-252 and KRS 278.530 apply and (b) those statutes permit (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. The questions presented by CompSouth’s Application are predominantly legal, as opposed to factual. This is not to say that there will be no relevant facts in the case. The core questions, however, are the meaning and intent of 47 U.S.C. §§ 251-252 and KRS 278.530 – and of 807 KAR 5:001 which defines, and limits, the Commission’s authority to issue declaratory orders. Because the questions presented in the case are predominantly legal, the parties should

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

be permitted to file legal briefs in order to fully apprise the Commission of their positions. Also, it *may* be appropriate for the Commission to conduct oral argument, so that the parties’ legal counsel can further explain the parties’ positions and respond to questions the Commissioners may have.

3. On June 23, 2016, the Commission issued the following schedule for the case:

<b>Date</b>	<b>Milestone</b>	<b># of Days</b>
8/4/2016	CompSouth Testimony	---
8/18/2016	Initial Requests for Information (RFIs) to CompSouth	14
9/9/2016	CompSouth Responses to Initial RFIs	22
9/26/2016	Supplemental RFIs to CompSouth	17
10/7/2016	CompSouth Responses to Supplemental RFIs	11
10/26/2016	Intervenor Testimony (if any)	19
11/9/2016	RFIs to Intervenors	14
11/29/2016	Intervenor Responses to RFIs	20
12/20/2016	Rebuttal Testimony (if any)	21
12/29/2016	Last Day for Parties to Request Hearing or Submit Case for Decision based on the Record	9

4. AT&T Kentucky requests that the schedule be modified to allow for two rounds of briefs – with CompSouth and all intervenors who wish to do so filing briefs on both dates – and for a possible subsequent request for oral argument to the Commission.

5. The last date on the current schedule is the date for parties to request a hearing. AT&T Kentucky understands a “hearing” to be an evidentiary hearing, with cross-examination of witnesses, and not including oral argument to the Commission. Briefs are invariably filed after the evidentiary hearing, if there is one. AT&T Kentucky suggests that the first round of briefs be due 30 days after December 29, 2017, if there is no hearing, and 30 days after the transcript of the hearing is published, if there is a hearing. AT&T Kentucky also suggests that the second round of briefs be due 30 days after the first round.

6. The schedule should also set a date by which parties may request oral argument. Oral argument invariably follows briefing. AT&T Kentucky therefore suggests that the schedule provide for requests for oral argument two weeks after the date for the second round of briefs.

7. With the modifications that AT&T Kentucky proposes, the schedule would appear as follows, with strikethrough indicating deletion and underscore indicating addition:

<b>Date</b>	<b>Milestone</b>	<b># of Days</b>
8/4/2016	CompSouth Testimony	---
8/18/2016	Initial Requests for Information (RFIs) to CompSouth	14
9/9/2016	CompSouth Responses to Initial RFIs	22
9/26/2016	Supplemental RFIs to CompSouth	17
10/7/2016	CompSouth Responses to Supplemental RFIs	11
10/26/2016	Intervenor Testimony (if any)	19
11/9/2016	RFIs to Intervenor	14
11/29/2016	Intervenor Responses to RFIs	20
12/20/2016	Rebuttal Testimony (if any)	21
12/29/2016	Last Day for Parties to Request Hearing <del>or</del> <u>Submit Case for Decision based on the Record</u> <sup>2</sup>	9
<u>1/30/2017</u> <sup>3</sup> <u>or 30 days after</u> <u>Transcript (if</u> <u>hearing held)</u>	<u>Initial Round of Briefs</u>	<u>30</u>
<u>3/1/2017</u> <u>or 30 days after</u> <u>Initial Briefs</u>	<u>Second Round of Briefs</u>	<u>30</u>
<u>3/15/2017</u> <u>or 14 days after</u> <u>Reply Briefs</u>	<u>Last Day for Parties to Request Oral</u> <u>Argument</u>	<u>14</u>

<sup>2</sup> The reason for the deletion is that even if there is no hearing, the case would not be submitted for decision on the record, because briefs (and possibly oral argument) would follow.

<sup>3</sup> 30 days after 12/29/16 is Saturday, 1/28/17.

WHEREFORE, AT&T Kentucky respectfully moves the Commission to modify the June 23, 2016 scheduling order as indicated above.

Respectfully submitted,

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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 July 7, 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