

**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 Under KRS 278.530 and 47 U.S.C. § 251 are Technologically Neutral	)	Case No. 2015-00283
	)	

**REPLY IN SUPPORT OF MOTION TO MODIFY SCHEDULE TO PROVIDE FOR BRIEFS AND POSSIBLE REQUEST FOR ORAL ARGUMENT**

BellSouth Telecommunications, LLC d/b/a AT&T Kentucky (“AT&T Kentucky”) respectfully submits in Reply in support of its Motion to Modify Schedule to Provide for Briefs and Possible Request for Oral Argument (“Motion”). This reply addresses arguments in the Response filed by Competitive Carriers of the South, Inc. (“CompSouth Resp.”).

AT&T Kentucky’s Motion requested that the Commission modify the procedural schedule to allow for legal briefing after evidentiary hearings (or after testimony is filed, if no hearings are requested) and for an opportunity to request oral argument. CompSouth claims that AT&T Kentucky’s request is “premature and unnecessary” because AT&T Kentucky will have the “opportunity to request” legal briefs after written testimony or hearings. CompSouth Resp., ¶

1. That argument misses the fundamental point of AT&T Kentucky’s Motion.

The point of the Motion is that the key issues here are predominantly legal, a fact CompSouth does not dispute, and AT&T Kentucky therefore will need to (and is entitled to) present its full legal argument at some point. Under the current schedule, however, AT&T Kentucky does not know when, or if, that opportunity will occur. Accordingly, AT&T Kentucky needs to know *before* testimony is due whether it will later be allowed to file legal briefs,

because that will determine how AT&T Kentucky presents its case: If legal briefs will be allowed, AT&T Kentucky can focus its testimony on factual matters and leave legal arguments to the briefs; but if legal briefs will not be allowed, AT&T Kentucky would have to take the odd course of including its legal arguments in testimony (since it would have no other opportunity to present them) and subjecting its witness to cross-examination on purely legal issues. That is why AT&T Kentucky (and all parties) need to know, in advance of filing testimony, whether legal briefs will later be allowed. CompSouth ignores that crucial point.

CompSouth's other argument is that by asking for briefs to be added to the schedule, AT&T Kentucky is implying that the Commission is "somehow unable to understand the legal issues presented[.]" CompSouth Resp., ¶¶ 2, 4. That is false and again misses the point. As a matter of due process AT&T Kentucky has a right to present its legal arguments on the predominantly legal issues here, and the Motion seeks clarity regarding when it should do that (testimony or briefs) – and proposes to follow the normal practice of addressing legal issues in briefs. Moreover, contrary to CompSouth's assumption, the outcome of the interconnection legal issue here is not a foregone conclusion and presents important legal matters that require fully informed consideration, and the separate legal issue regarding the limits of the Commission's authority to issue declaratory orders under 807 KAR 5:001 certainly would benefit from briefing.

Finally, CompSouth's claim that "no one will be prejudiced by denying AT&T's motion at this point in the proceeding" (CompSouth Resp., ¶ 4) is again false and again overlooks the point of the Motion. As just explained, AT&T Kentucky would indeed be prejudiced if it has to proceed with filing testimony without knowing whether it will later be allowed to present its

legal arguments in briefs. AT&T Kentucky, and all parties, need clarity on that point before testimony is due.

For the reasons stated, the Commission should grant AT&T Kentucky's Motion to Modify Schedule.

Respectfully submitted,

/s/ Cheryl R. Winn

Waters Law Group, PLLC  
12802 Townepark Way, Suite 200  
Louisville, KY 40243  
Telephone: (502) 425-2424  
Facsimile: (502) 425-9724  
Email: [crwinn@waterslawgroup.com](mailto:crwinn@waterslawgroup.com)

Dennis G. Friedman  
J. Tyson Covey  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606  
Telephone: (312) 782-0600  
Email: [dfriedman@mayerbrown.com](mailto:dfriedman@mayerbrown.com)  
[jcovey@mayerbrown.com](mailto:jcovey@mayerbrown.com)

**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 14, 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