

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

The Application of Competitive Carriers of the South, Inc. for a Declaratory Order Affirming that the Interconnection Regimes under KRS 278.530 and 47 U.S.C. § 251 are Technology Neutral

Case No. 2015-00283

**Supplemental Citations by Applicant**  
**Competitive Carriers of the South, Inc.**

The Applicant, Competitive Carriers of the South, Inc. (“CompSouth”), hereby advises the Kentucky Public Service Commission and the intervenors of significant rulings on issues raised herein that came to the attention of CompSouth after it filed its Reply in this proceeding. Below, CompSouth sets forth the supplementation citations and rulings relating to one or more issues raised in this proceeding, and then lists corresponding issues and page(s) from its Application and Reply:

- A. Decision Granting Application Subject to Conditions and Approving Related Settlements, Cal. PUC Decision 15-12-005 (final; issued Dec. 9, 2015), *Joint Application of Frontier Communications Corporation, et al. for Approval of Transfer of Control Over Verizon California, Inc. and Related Approval of Transfer of Assets and Certifications*. A copy of the Decision itself (without Appendices A-G) is attached hereto. A PDF file of the full Decision is downloadable from the California PUC website at:  
< <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M156/K249/156249641.pdf> >.
1. The Decision *inter alia* includes discussions, findings, conclusions, and orders that:
  - (a) Verizon must request PUC “approval in accordance with § 252 of the Federal Telecommunications Act of each of its executed Internet Protocol agreements for the exchange of voice traffic to which Frontier Communications Corporation will

succeed” and, if approved, Frontier “shall make them available for opt-in by other carriers.” Decision p.80 (ordering ¶6); *see also id.* pp. 55-70 (discussion §§ 3.2.2, 3.9.1), *id.* p.73 (conclusion ¶5). and *id.* p.76, item(d) (comments rejected).

(b) A Verizon-produced sample IT template “if executed, constitutes an agreement that meets the § 252 standard” (*id.* p.56), and Frontier must file “its recently signed interconnection agreement with Verizon Business, ... which the Commission shall review to determine whether or not it is an interconnection agreement subject to the filing, approval and opt-in requirements of § 252 of the federal Telecommunications Act” (*id.* p.80 (ordering ¶6); *see also id.* pp.55-56 (discussion §3.2.2)).

## 2. Issues

(a) Item a relates to the issues of whether: (i) a state commission is allowed to make a determination about the applicability of Telecom Act §§251-52 outside of an arbitration or other consideration of a specific agreement or negotiation (*see* Reply ¶¶ 11-18 (pp.7-12)); (ii) the substantive issue of applicability is ripe for a state-commission legal ruling (*see* Reply ¶¶ 19-24 (pp.12-15)); and (3) Internet Protocol agreements for the exchange of voice traffic are subject to the filing, approval, and opt-in requirements of § 252 of the Telecom Act (*see* Application, esp. pp.1,5; Reply ¶¶ 25-26 (pp.15-16)).

(b) Item b relates to issues (i) and (ii) listed above.

B. *AT&T Corp. v. Core Comm’ns, Inc.*, 112515 FED3 14-1499 (3rd Cir. Nov. 25, 2015).

Although precedential and final, this opinion has not yet been assigned an “F.3d” cite; a slip opinion copy is attached hereto, and a PDF copy is available at the Third Circuit’s website: < <http://www2.ca3.uscourts.gov/opinarch/141499p.pdf> >.

1. The Third Circuit holds: “the FCC’s jurisdiction over local ISP-bound traffic is not exclusive and the PPUC orders [requiring AT&T payments to Core Communications for terminating traffic] did not conflict with federal law....” Slip op. at 4. The Third Circuit determines that FCC jurisdiction is primary, but not exclusive (*see, e.g., id.* 23-24), explicates the “cooperative federalism” of the Telecom Act (*id.* at 23-29, 34),

and specifically rejects preemptive readings of FCC orders (*see, e.g., id.* at 25,30) and the position that “state commissions may only act pursuant to their role in mediating and arbitrating interconnection agreements under § 252 of the TCA” (*id.* at 27).

2. The Third Circuit opinion relates to issues raised in this proceeding of whether a state commission: (i) may make decisions on “federalized” matters that best conform to its state’s conditions and specific regulatory history (*see esp.* Reply ¶25 (p.15)); and (ii) has authority to act outside of an arbitration or other consideration of a specific agreement or negotiation and without an explicit FCC determination on an issue (*see* Reply ¶¶ 11-18 (pp.7-12), ¶24 (p.15)).

Respectfully submitted,

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CERTIFICATE OF ELECTRONIC SERVICE AND FILING

I certify that the foregoing is a true and accurate conformed copy of the same document being sent for filing in paper medium with the Commission, that the electronic filing was transmitted to the Commission on January 12, 2016, and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

/s/ Katherine K. Yunker

Attorney for Applicant