

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|-------------------------------------|---|------------|
| INVESTIGATION CONCERNING THE |) | |
| PROPRIETY OF PROVISION OF INTERLATA |) | CASE NO. |
| SERVICES BY BELLSOUTH |) | 2001-00105 |
| TELECOMMUNICATIONS, INC., PURSUANT |) | |
| TO THE TELECOMMUNICATIONS ACT OF |) | |
| 1996 |) | |
| | | |
| PETITION OF BELLSOUTH |) | CASE NO. |
| TELECOMMUNICATIONS, INC. FOR THE |) | 2004-00391 |
| ESTABLISHMENT OF A NEW PERFORMANCE |) | |
| PLAN |) | |

O R D E R

On February 11, 2009, BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky (“AT&T Kentucky”) notified the Commission and all parties to this matter that it was declaring a power outage which occurred at its St. Louis, Missouri data center on December 6, 2008 as a Force Majeure Event. AT&T Kentucky states that this event prevented it from meeting its performance standards for its Reject Interval and Firm Order Confirmation Timeliness ordering metrics under the Service Quality Measures and Self-Effectuating Enforcement Mechanism plan and, as such, it would not make any payments to its competitors for December 8, 9, 10, 11 and 12, 2008.

On February 20, 2009, Competitive Carriers of the South, Inc. (“CompSouth”) objected to AT&T Kentucky’s Force Majeure declaration, arguing that AT&T Kentucky failed to give prompt notice of the December 6, 2008 event and provided no explanation

for the delay. CompSouth also argues that the event in question does not qualify as Force Majeure and should not be presumed as valid by the Commission.


The Commission finds that the parties to this matter should be given the opportunity to file comments and/or replies in response to the filings of AT&T Kentucky and CompSouth. Upon close of the schedule, the Commission will issue a ruling upon CompSouth's objection, unless otherwise ordered.

IT IS THEREFORE ORDERED that the parties shall abide by the procedural schedule set forth in the Appendix attached hereto and incorporated herein, unless otherwise ordered by the Commission.

Done at Frankfort, Kentucky, this 2nd day of March, 2009.

By the Commission

ATTEST:



Executive Director

Case No. 2001-00105
Case No. 2004-00391

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NOS. 2001-00105 and
2004-00391 DATED MARCH 2, 2009

Replies and/or comments to CompSouth's
objection shall be filed with the
Commission no later than 03/13/09

Sur-replies and/or comments on the replies
shall be filed with the Commission and served
upon all parties no later than 03/27/09

Honorable Jonathon N Amlung
Attorney at Law
AMLUNG Law Offices
616 South 5th Street
Louisville, KY 40202

Gregory T Diamond
Senior Counsel
DIECA Communications, Inc dba Covad
7901 Lowry Blvd
Denver, CO 80230

Honorable Mary K Keyer
General Counsel/Kentucky
BellSouth Telecommunications, Inc. dba AT&T
601 West Chestnut Street, Room 408
Louisville, KY 40203

Honorable William R Atkinson
Attorney, State Regulatory
Sprint Communications Company L.P. c/o Sprint
4701 Mercantile Drive, North
Fort Worth, TX 76137-3606

William J Ellenberg II
BellSouth Telecommunications, Inc.
Suite 4300, BellSouth Center
675 West Peachtree Street, N.E.
Atlanta, GA 30375

William J Maxwell
President
ICG Telecom Group, Inc. c/o Level 3
1025 Eldorado Boulevard
Broomfield, CO 80021

James A Bellina
President & CEO
Dialog Telecommunications, Inc.
756 Tyvola Road
Suite 100
Charlotte, NC 28217

David Eppsteiner
Attorney at Law
AT&T Communications of the South Central States
1230 Peachtree Street
4th Floor, Room 4W26
Atlanta, GA 30309

Honorable Wanda G Montano
Vice President, Regulatory & Industry Affairs
US LEC of North Carolina, LLC Morrocroft III
6801 Morrison Blvd.
Charlotte, NC 28211

Honorable Susan J Berlin
Secretary/Treasurer
MCI WorldCom
6 Concourse Parkway
Suite 3200
Atlanta, GA 30328

Honorable C. Kent Hatfield
Attorney at Law
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KY 40202-2828

Honorable John E Selent
Attorney at Law
Dinsmore & Shohl, LLP
1400 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202

Honorable Douglas F Brent
Attorney at Law
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KY 40202-2828

Honorable Dennis G Howard II
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KY 40601-8204

Liz Thacker
SouthEast Telephone, Inc.
106 Power Drive
P.O. Box 1001
Pikeville, KY 41502-1001

Ms. Joan A Coleman
Vice President/Regulatory/External
BellSouth Telecommunications, Inc. dba AT&T
601 West Chestnut Street, Room 408
Louisville, KY 40203

Honorable John N Hughes
Attorney at Law
124 West Todd Street
Frankfort, KY 40601

Honorable Katherine K Yunker
Attorney At Law
Yunker & Associates
P. O. Box 21784
Lexington, KY 40522-1784

Claire C Daly
Director
WorldCom Network Services, Inc. c/o MCI
6 Concourse Parkway
Suite 3200
Atlanta, GA 30328

Honorable Eric N Ison
Greenebaum Doll & McDonald PLLC
3500 National City Tower
101 South Fifth Street
Louisville, KY 40202-3197