

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SOUTHEAST TELEPHONE, INC.)	
)	CASE NO.
COMPLAINANT)	2008-00279
)	
V.)	
)	
BELLSOUTH TELECOMMUNICATIONS, INC.)	
D/B/A AT&T KENTUCKY)	
)	
DEFENDANT)	

O R D E R

On or about December 31, 2008, SouthEast Telephone, Inc. ("SouthEast") and BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky ("AT&T Kentucky") submitted responses to the Commission's data request, as issued by Order dated December 11, 2008. Having reviewed the responses and all other portions of the record in this proceeding, the Commission finds that a formal evidentiary hearing will be necessary to decide if AT&T Kentucky acted unreasonably in waiting until December 1, 2008 to facilitate commingling orders by SouthEast and the pricing credits that are due to SouthEast, if at all.

DISCUSSION

This complaint was instituted in July 2008 and stems from SouthEast's allegations that AT&T Kentucky had failed to facilitate an ordering process for commingled loop and port elements. SouthEast states that, pursuant to the

Commission's Order in Case No. 2004-00427,¹ as issued in December 2007, AT&T Kentucky is obligated to allow competitors to order such elements on a commingled basis, if requested. SouthEast states that it placed a formal order for commingled elements on June 19, 2008. In their individual responses to the Commission's data requests, SouthEast and AT&T Kentucky state that, on December 1, 2008, AT&T Kentucky instituted an interim solution wherein SouthEast is now able to place new orders in the same manner that SouthEast had placed orders for the wholesale loop-port combinations.² In its response, SouthEast states that AT&T Kentucky provides SouthEast with a credit for the price difference between the costs for commingled loop and port elements and a wholesale loop-port combination.

The Commission finds that, as of December 1, 2008, AT&T Kentucky has satisfied the portion of the complaint wherein SouthEast alleged that AT&T Kentucky had failed to facilitate SouthEast's commingling orders. The Commission finds, however, that the issue of whether AT&T Kentucky acted unreasonably in waiting until December 1, 2008 to facilitate commingling orders by SouthEast remains to be decided. The Commission finds that a formal hearing is necessary to allow for the presentation of evidence and testimony by the parties to expand the record and enable the Commission to render a final decision on the issues of whether AT&T Kentucky acted unreasonably in waiting until December 1, 2008 to facilitate the commingled element orders and,

¹ Case No. 2004-00427, *In the Matter of Petition of BellSouth Telecommunications, Inc. to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Changes of Law.*

² As the record stands today, there is no evidence that AT&T Kentucky has established a new universal service order code ("USOC") to facilitate commingled element orders made since December 1, 2008.

if so, the refunds or credit amounts that are due to SouthEast for AT&T Kentucky's failure to facilitate those orders prior to that date. A procedural schedule for the hearing is included with this Order as the Appendix.

IT IS THEREFORE ORDERED that:


1. A formal hearing shall be held in this matter on the issue of whether AT&T Kentucky acted unreasonably in waiting until December 1, 2008 to facilitate commingling orders by SouthEast and, if so, the refunds or credit amounts that are due to SouthEast for AT&T Kentucky's failure to facilitate those orders prior to that date.

2. The parties shall follow the procedural schedule in the Appendix to this Order. The schedule shall be amended only by further Order of the Commission.

Done at Frankfort, Kentucky, this 26th day of February, 2009.

By the Commission

ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2008-00279 DATED February 26, 2009

Requests for information shall be exchanged
between the parties and filed with the Commission
no later than..... 03/20/09

Responses to initial requests for information
shall be exchanged between the parties
and filed with the Commission
no later than.....04/03/09

Prefiled Direct Testimony, if any, in verified prepared
form, shall be filed no later than.....05/01/09

Prefiled Rebuttal Testimony, if any, in verified prepared
form, shall be filed no later than.....05/22/09

Public Hearing is to begin at 10:00 a.m. in Hearing Room 1
of the Commission's offices at 211 Sower Boulevard, Frankfort,
Kentucky, for the purpose of cross-examination
of witnessesTo be determined

Briefs, if any, shall be filed by.....To be determined

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

Honorable Deborah T Eversole
Attorney at Law
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KY 40202-2828

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

Mary Pat Regan
President
BellSouth Telecommunications, Inc. dba AT&T
601 West Chestnut Street, Room 408
Louisville, KY 40203