SouthEast Telephone

March 2, 2009

RECEIVED
MAR 03 2009
PUBLIC SERVICE COMMISSION

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40602

Re: SouthEast Telephone, Inc., Complainant v. BellSouthTelecommunications, Inc. d/b/a AT&T Kentucky, Defendant
Case No. 2008-00279

Dear Mr. Derouen:

Enclosed for filing in the above captioned case is the original and ten (10) copies of SouthEast Telephone, Inc.'s Motion to Incorporate Additional Compliance Issues.

Thank you for your attention to this matter.

Sincerely,

Bethany Bowersock

Bethany Bowersock
In House Counsel
SouthEast Telephone, Inc.

Cc: Parties of Record

Enclosures

Voice 606-432-3000 **PO Box 1001 - Pikeville, KY 41502** **Fax 606-433-0500**

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

SOUTHEAST TELEPHONE, INC	)	
	)	
Complainant,	)	
	)	
v.	)	CASE NO. 2008-00279
	)	
BELLSOUTH TELECOMMUNICATIONS, INC. d/b/a AT&T KENTUCKY	)	
	)	
	)	
Defendant	)	

SOUTHEAST TELEPHONE, INC.'S
MOTION TO INCORPORATE ADDITIONAL
COMPLIANCE ISSUES

SouthEast Telephone, Inc. ("SouthEast"), by counsel, in response to the Commission's Order of February 26, 2009 setting a procedural schedule for this case, hereby files its Motion to Incorporate Additional Compliance Issues into the inquiry to be conducted pursuant to the Order as follows:

* * *

Since the informal conference held in this case, and since the admission of BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky ("AT&T") that SouthEast is entitled to commingled Section 271 and Section 251 elements, the parties have reached accord on several issues, and AT&T has begun to issue bill credits in certain instances for the difference between the "wholesale local platform" price and the price of commingled arrangements ordered by SouthEast. Upon AT&T's agreement to issue bill credits for the commingled arrangements ordered by SouthEast, it appeared that the substantive disputes between the parties had been largely resolved. However, that is not the case.

In fact, several points of contention that come within the context of the Complaint filed in

this case, as enumerated below, remain, and should be included in the Commission's ongoing inquiry:

1. ***AT&T's Imposition of Installation, Rather than Conversion, Charges.***

On December 2, 2008, Mr. Jim Maziarz e-mailed SouthEast personnel AT&T's proposed plan for converting its embedded base from WLP to the commingled elements. That proposal includes AT&T's plan to charge SouthEast $79.92 in installation fees for every line that is to be converted to the commingled elements. However, no physical installation is required for the conversion of the lines, and no cost justification for these charges has been offered to SouthEast. If any charges are to be placed on the conversion of SouthEast's existing lines, it should be a conversion charge, not an installation fee. SouthEast is charged a conversion fee, not an installation fee when it converts lines from resale to WLP and vice versa. SouthEast believes this is the appropriate fee for the conversion of these lines, as well.

Attachment 2, Section 1.4.4.1, of the Parties Interconnection Agreement deals with the conversion of wholesale services to network elements by specifically stating, "Upon request, AT&T shall convert a wholesale service, or group of wholesale services, to the equivalent Network Element or Combination that is available to SouthEast pursuant to this Agreement. AT&T shall charge the applicable nonrecurring switch-as-is rates for conversions to specific Network Elements or Combinations found in Exhibit 1 of Attachment 2." The corresponding nonrecurring fee in this Exhibit is $8.98.

AT&T is not in compliance with the Parties Interconnection Agreement by attempting to charge a new installation fee for pre-existing lines that SouthEast wishes to have *converted* to the ordered commingled elements. SouthEast has disputed the issue with AT&T to no avail, and believes the issue should be revolved by the Commission in this action.

2. ***Remote Terminal Commingling Issues.***

On January 28, 2009, SouthEast received a spreadsheet from Mr. Jim Maziarz of AT&T indicating that some of the conversions requested by SouthEast had been because the lines involved were served via a remote terminal. Prior to receiving Mr. Maziarz's spreadsheet, SouthEast attempted to place new orders for commingled elements involving remote terminals on four separate occasions and in four different ways.

The first order was rejected on the basis that SouthEast did not provide cable/pair assignments. SouthEast then placed the second order in the manner suggested by AT&T; however, this order was also rejected for "no cable/pair assignments." The third order was then attempted at a different location involving remote terminals, it was also rejected for the same reason. In its fourth order, SouthEast reserved a cable/pair from AT&T and then ordered a stand alone loop to that cable/pair. AT&T rejected this order because it claimed the cable/pair was invalid.

The legal issues that apply to commingling at a remote terminal do not differ from those applicable to the central office. No coherent reason for AT&T's repeated refusals has been offered. Had AT&T converted these lines to the commingled arrangement as of July 1, 2009, SouthEast's bills through January 31, 2009, would have been approximately $1,749,766.00 less. Had AT&T converted the lines immediately after the Commission ordered commingling in its December, 2007 Order in Case No. 2004-00427, SouthEast's bills through January 31, 2009, would have been approximately $3,669,369.00 less. AT&T's refusal to commingle at remote terminals (from which many of SouthEast's rural customers are served), and its continued overbilling of SouthEast, must be addressed in this case.

3. ***Improper Limitations, or "Qualifiers," on SouthEast's Ability to Order the Port Commingled with A Copper Loop, Nondesign.***

Not only has AT&T denied SouthEast commingled elements distributed via remote terminals, but it also has also placed irrelevant and unlawful additional qualifications on SouthEast's ability to order the port commingled with a copper loop, non-design. On January 28, 2009, AT&T forwarded SouthEast an e-mail with an attached spreadsheet excluding approximately ***thirty-nine percent (39%)*** of SouthEast's orders for commingled elements. The denied orders concern lines that are served through a pair gain or have load coils.

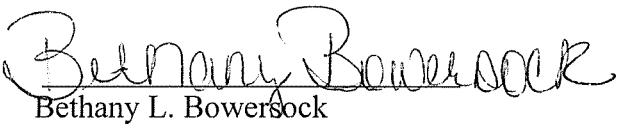
AT&T's rationale with regard to pair gain-based denials implies that there are not any non-designed copper loops available from the Central Office to the customer's premises because they may currently serve that customer with a multiplexed loop using pair gain equipment to a node combined with a copper "last mile" loop to the customer's premises. However, the fact that the customer in question is *currently* served through a pair gain multiplexed system does not automatically mean that there is not a non-designed copper loop available. If it is available, SouthEast is within its rights to request that AT&T switch the customer to the copper loop, non-design. In such a case, SouthEast will of course pay the installation fee of $79.92.

AT&T also refuses SouthEast's orders for commingled elements including a copper loop, non-design when the ordered lines include load coils. However, the Interconnection Agreement between SouthEast and AT&T clearly obligates AT&T to *remove* load coils on copper loops and subloops of any length. The agreement also provides that AT&T shall not charge SouthEast for removal of load coils on copper loops shorter than 18,000 feet. Accordingly, as AT&T claims that the presence of load coils disqualifies a loop SouthEast wishes to have converted to the desired commingled elements, SouthEast is entitled to have the load coils removed by way of a

loop modification under the Interconnection Agreement.

SouthEast has requested a meeting with AT&T personnel, and continues to hope that these problems can be resolved between the parties. However, as AT&T continues to deny certain commingling arrangements (or even bill credits for those arrangements) to which SouthEast is entitled by law, and since a formal procedural schedule has been set to dispose of the remaining issues in this case, the continuing disputes enumerated above should be included among those issues. Consequently, SouthEast hereby moves that the Commission consider AT&T's billing of installation, rather than conversion, charges, when it converts a "wholesale local platform" arrangement to a commingled arrangement; AT&T's refusal to commingle elements at remote terminals; and AT&T's imposition of improper limitations on SouthEast's ability to order a copper loop, nondesigned, when such a loop is ordered in a commingled arrangement with a port.

Respectfully submitted,



Bethany L. Bowersock
SouthEast Telephone, Inc.
106 Scott Avenue
Pikeville, Kentucky 41501
(606) 432-3000 Ext. 320

Deborah T. Eversole
Douglas F. Brent
STOLL KEENON OGDEN, PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202
(502) 333-6000

Counsel for SouthEast Telephone, Inc.

CERTIFICATE OF SERVICE

I hereby certify that, on this 2nd day of March, 2009, a full and complete copy of the foregoing was sent by United States Mail, postage prepaid, to Mary K. Keyer, 601 W. Chestnut Street, Room 407, P.O. Box 32410, Louisville, Kentucky, 40232; Lisa S. Foshee, 675 W. Peachtree Street, N.W., Atlanta, Georgia 30375; and Douglas F. Brent, Stoll Keenon Ogden, PLLC, 2000 PNC Plaza, 500 West Jefferson Street, Louisville, KY 40202.

Counsel for SouthEast Telephone, Inc.