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June 19, 2009

VIA COURIER

Mr. Jeff Derouen
Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602

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JUN 19 2009

PUBLIC SERVICE
COMMISSION

Re: SouthEast Telephone, Inc., Complainant v. BellSouth
Telecommunications, Inc. d/b/a AT&T Kentucky, Defendant
KSPC 2008-00279

Dear Mr. Derouen:

Enclosed for filing in the above-referenced case are the original and six (6) copies of Response of BellSouth Telecommunications, Inc., d/b/a AT&T Kentucky to SouthEast Telephone, Inc.'s Motion for Reconsideration.

Sincerely,


Mary K. Keyer

cc: Parties of Record

Enclosures

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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JUN 19 2009
PUBLIC SERVICE
COMMISSION

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

**RESPONSE OF BELLSOUTH TELECOMMUNICATIONS, INC.
d/b/a AT&T KENTUCKY TO SOUTHEAST TELEPHONE, INC.'S
MOTION FOR RECONSIDERATION**

BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky ("AT&T Kentucky") submits its response to SouthEast Telephone, Inc.'s ("SouthEast") Motion for Reconsideration ("Motion") of the Kentucky Public Service Commission's order dated June 11, 2009 ("Order"), granting in part and denying in part SouthEast's March 3, 2009 Motion to Incorporate Additional Issues ("Original Motion"). SouthEast fails to present any evidence or argument that could not with reasonable diligence have been proffered in its Original Motion and the statute governing its Motion accordingly requires denial of reconsideration. The instant Motion is merely a restatement of the Original Motion, which the Commission properly denied.

BACKGROUND

On March 3, 2009, SouthEast filed a motion to incorporate additional compliance issues into the July 14, 2009 hearing. On June 11, 2009, the Commission issued an order granting SouthEast's request to include the issue regarding billing of installation

charges rather than conversion charges (the “Nonrecurring Charge Issue”) as an issue in the proceeding but denied SouthEast’s request to include limitations on lines qualifying for the arrangement (the “Qualification Issue”) as an issue.¹ SouthEast seeks reconsideration of that part of the Commission’s Order denying inclusion of the Qualification Issue. In the Order, the Commission fully considered and addressed SouthEast’s request to add the Qualification Issue to SouthEast’s complaint in this case.

ARGUMENT

The language of KRS § 278.400, which governs reconsideration of Commission orders, requires denial of SouthEast’s Motion. It provides, in relevant part, that “[u]pon the rehearing any party may offer *additional evidence* that could not with reasonable diligence have been offered on the former hearing.” (Emphasis added) SouthEast, in requesting the Commission to reconsider its decision, neither acknowledges the statutory standard nor offers new arguments or evidence.

SouthEast simply urges the Commission to reconsider its Order regarding the Qualification Issue because “when AT&T peremptorily refuses to provide a commingled arrangement without even determining whether or not a nondesigned copper line is available, or without making any effort to remove the load coils (which it is contractually bound to do), SouthEast’s right to commingled arrangements . . . has in fact been violated.” Motion at 2. These arguments essentially mirror those of the Original Motion. There, SouthEast spent a paragraph faulting AT&T’s qualification process for failing to investigate for qualifying loops, and followed that with a paragraph alleging that AT&T was obliged to remove load coils. SouthEast then concluded that “. . . AT&T continues to deny certain commingling arrangements (or even bill credits for those arrangements)

¹ SouthEast subsequently withdrew its request to incorporate a third issue regarding Remote Terminals, and thus that issue will not be included in this docket.

to which SouthEast is entitled by law” See Original Motion at pp. 4-5. Clearly, the argument in SouthEast’s Motion is the same argument SouthEast originally propounded in support of its Original Motion. As such, SouthEast has failed to meet the requirements of KRS § 278.400, and its Motion must be denied.

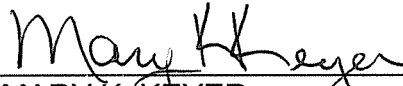
SouthEast also argues in its Motion that whether lines are disqualified from eligibility for the commingled arrangement is “central to the case” and “has, in short, been a part of this case from the beginning.” Motion at 1. If true, the Original Motion would have been unnecessary. But, to the contrary, the Order factually recited the history (undisputed by SouthEast) of SouthEast’s claim, and correctly concluded “the question of qualifiers for orders of commingled elements is extraneous to the larger concern about whether the amount of time AT&T Kentucky allowed to pass before facilitating commingled element orders was reasonable.” See Order at pp.2-4, 6. SouthEast offers no new evidence to rebut the conclusion.

Finally, the Parties have been engaged in discussions regarding these issues and AT&T Kentucky believes the load coil issue has been resolved. Nevertheless, SouthEast has provided no new arguments or evidence to warrant reconsideration by the Commission of its June 11, 2009 Order.

CONCLUSION

Accordingly, and based on the above, the Commission should deny SouthEast's Motion.

Respectfully submitted,



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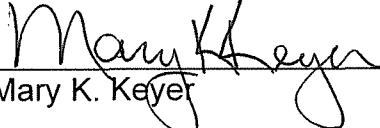
CERTIFICATE OF SERVICE – PSC 2008-00279

It is hereby certified that a true and correct copy of the foregoing was served on the following individuals by U.S. Mail and electronic mail this 19th day of June, 2009.

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