



BOULT ■ CUMMINGS®
CONNERS ■ BERRY PLC

Henry Walker
(615) 252-2363
Fax: (615) 252-6363
Email: hwalker@boultcummings.com

October 9, 2008

Hon. Tre Hargett, Chairman
c/o Sharla Dillon
Tennessee Regulatory Authority
460 James Robinson Parkway
Nashville, TN 37238

filed electronically in docket office on 10/09/08

Re: In re Petition of CompSouth for Declaratory Ruling
Docket 08-00184

Dear Chairman Hargett:

On October 7, 2008, CompSouth, the Petitioner in the above-captioned matter, asked that this case be placed on the TRA's next conference agenda for the purpose of appointing a Hearing Officer to establish a procedural schedule. CompSouth sent a courtesy copy of the letter to AT&T.

On October 9, AT&T filed a letter opposing CompSouth's request and stating that AT&T "will be filing a formal response" to the Petition by November 6. AT&T refers to TRA Rule 1220-1-2-.03 which states that a "respondent" shall file "a responsive pleading" within thirty days "after the service of the complaint or initial petition." AT&T correctly notes that AT&T was not served with a copy of the original Petition.

CompSouth respectfully suggests that AT&T is looking at the wrong rules. This is not a complaint but a petition for a declaratory ruling filed pursuant to T.C.A. § 4-5-223. See Petition, at 1. The TRA rules applicable to this filing are not the rules cited by AT&T but the rules for "Declaratory Orders," 1220-1-2-.05(1) through (4). There is no requirement in those rules concerning the service of process or the filing of "a responsive pleading." In fact, unless AT&T files a petition to intervene and the petition is granted, AT&T is not a party to this proceeding and has no right to file anything in this docket without the permission of the Authority.

The rule relied upon by AT&T concerns the filing of a complaint or similar matter in which one party seeks relief from another. TRA Rule 1220-1-2-.01(2)(e) defines a "respondent" as "a person against whom relief is sought or against whom action by the Authority is directed." CompSouth seeks no relief from AT&T. This matter is not a complaint and AT&T is not a "respondent." The rule cited by AT&T does not apply to this proceeding.

AT&T may, of course, file a request to intervene. Similarly, as an interested "person," AT&T may, if permitted by the Authority, file a "statement" pursuant to TRA Rule 1220-1-2-.05(4) as to whether the TRA should grant or decline CompSouth's request for a declaratory

LAW OFFICES

1976693 v1
104724-019

1600 DIVISION STREET • SUITE 700 • P.O. BOX 340025 • NASHVILLE, TN • 37203
TELEPHONE 615.244.2582 FACSIMILE 615.252.6380 www.boultcummings.com

October 9, 2008

Page 2

ruling. The declaratory judgment rules do not address the time for filing such a statement; that decision would presumably be determined by the Authority or a Hearing Officer.

CompSouth therefore respectfully repeats its request that the TRA assign this matter to a Hearing Officer for the purpose of establishing a procedural schedule.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: 
Henry Walker

HW/cas

cc: Guy Hicks, counsel for AT&T