

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

IN RE:

**AT&T TENNESSEE COMPLAINT AGAINST
CELLULAR SOUTH, INC. D/B/A C SPIRE**

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**DOCKET NO.
19-00099**

ORDER DENYING MOTION TO DISMISS

This matter is before the Hearing Officer of the Tennessee Public Utility Commission (“Commission” or “TPUC”) upon the *Motion to Dismiss or Suspend the Complaint Pending the Outcome of Proceedings Before the Mississippi Public Service Commission* (“*Motion to Dismiss*”) filed by Cellular South, Inc. d/b/a C Spire (“C Spire”) requesting that the Commission dismiss without prejudice or suspend the *AT&T Tennessee Complaint Against Cellular South, Inc. d/b/a C Spire* (“*AT&T Complaint*”) filed by BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee (“AT&T”) pending the outcome of a proceeding before the Mississippi Public Service Commission (“MPSC”).

Motion to Dismiss

In its *Motion to Dismiss*, C Spire states “[t]he proceeding in Mississippi was initiated over two months before the Tennessee proceeding. Since the issue of whether C Spire owes AT&T \$234,104 resulting from the exchange of traffic in Tennessee is already pending before the Mississippi Commission, it is not clear whether the Tennessee Commission has subject

matter jurisdiction over this dispute.”¹ C Spire argues further that even if the Mississippi Commission addresses only the amount at issue in Mississippi, the MPSC’s interpretation of the interconnection agreement as it applies to the billing dispute could be persuasive precedent for the Commission’s consideration.² According to C Spire, no party will be prejudiced by dismissing or delaying the *AT&T Complaint* pending a decision by the MPSC because the amounts involved in the billing dispute involve local traffic prior to October 2017 and are therefore not increasing, except for the interest accruing. For those reasons, C Spire asks the Commission to dismiss or suspend the proceedings in this docket.

Response in Opposition to Motion To Dismiss or Suspend the Complaint

AT&T filed its *Response in Opposition to Motion To Dismiss or Suspend the Complaint* (“*Response*”) on December 5, 1999, asking the Commission to deny C Spire’s *Motion to Dismiss*. AT&T maintains that C Spire’s argument that the Commission lacks subject matter jurisdiction is without merit because the Commission has broad authority over the utilities it regulates.³ AT&T argues that the Telecommunications Act of 1996 requires that state commissions approve interconnection agreements like the one at issue here and inherent in that authority is the authority to interpret and enforce such agreements.⁴ Further, AT&T states “it is long settled law that the regulatory authority in each state has jurisdiction to decide issues that come before it, without regard to the fact that another state may be considering the same or similar issues.”⁵ AT&T maintains that because the matter is pending in Mississippi does not require that the docket before this Commission be dismissed. In addition, according to AT&T,

¹ *Motion to Dismiss*, p. 2 (November 25, 2019).

² *Id.*

³ *Response*, p. 3 (December 5, 1999).

⁴ *Id.*

⁵ *Id.*

the amounts at issue in Tennessee are greater than those at issue in the docket before the MPSC.⁶

Motion and Reply to AT&T's Response in Opposition to Motion to Dismiss or Suspend the Complaint

On December 6, 2019, C Spire filed its *Motion and Reply to AT&T's Response in Opposition to Motion to Dismiss or Suspend the Complaint* ("C Spire's Reply") arguing that while the Commission does not have a legal obligation to dismiss AT&T's complaint pending he MPSC docket involving not just the same issues but the same dollar amounts, the Commission does have the discretion to suspend the proceedings to await further developments in the MPSC docket. C Spire states it is likely that Tennessee will soon see how MPSC will proceed and AT&T did not address or make any argument as to how a three-month delay could prejudice any party.

Findings and Conclusions

The Hearing Officer held a telephone Status Conference with the parties on December 19, 2019. The parties reiterated the positions set forth in their filings. The Hearing Officer is persuaded by the arguments presented by AT&T in its *Response*. The Hearing Officer finds both AT&T and C Spire are public utilities regulated by the Commission and the Commission approved the interconnection agreement upon which the dispute is based. Therefore, the Hearing Officer concludes that the Commission clearly has jurisdiction over the *AT&T Complaint*. While the Commission could choose to wait on the MPSC, the Hearing Officer finds no compelling reason to do so. AT&T has filed its Complaint with the Commission seeking a resolution, and the Commission should proceed forward with the docket. There is no indication that there will

⁶ *Id.* at 4.

be a decision by the MPSC soon, and the amount of money at issue in Tennessee is larger than that in Mississippi. Therefore, the Hearing Officer concludes that C Spire's *Motion to Dismiss* should be denied.

IT IS THEREFORE ORDERED THAT:

The *Motion to Dismiss or Suspend the Complaint Pending the Outcome of Proceedings Before the Mississippi Public Service Commission* filed by Cellular South, Inc. d/b/a C Spire is denied.

A handwritten signature in black ink that reads "Monica Smith-Ashford". The signature is written in a cursive, flowing style.

Monica Smith-Ashford, Hearing Officer