COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

COMPLAINT OF SPRINT COMMUNICATIONS COMPANY LP AGAINST BRANDENBURG TELEPHONE COMPANY AND REQUEST FOR EXPEDITED RELIEF	))))	CASE NO. 2008-00135

ORDER

On November 25, 2009, Brandenburg Telephone Company ("Brandenburg") filed with the Commission a Motion for Rehearing and Clarification of the Commission's November 6, 2009 Order. Brandenburg seeks: (1) rehearing on the issue of whether Brandenburg's use of the Calling Party Number ("CPN") to jurisdictionalize access traffic is appropriate under its tariff; (2) rehearing on the issue of retroactive compensation that would violate Brandenburg's due process rights; and (3) clarification of the intended effect of the compensation portions of the November 6, 2009 Order.[1] Brandenburg claims that it is entitled to its requested relief because: (1) the Commission's analysis of the appropriateness of utilizing Sprint Communications Company LP's ("Sprint") percentage interstate usage to jurisdictionalize access traffic was unsupported by discussion or any citation to legal authority; (2) the evidence of record directly contradicts the Commission's finding that Brandenburg should not jurisdictionalize traffic by using call detail records showing the CPN; (3) the relative accuracy of the parties' methodologies is irrelevant; (4) Brandenburg will be greatly harmed if the Order is left

[1] Motion for Rehearing and Clarification at 1.

undisturbed; and (5) the admission of Sprint's last-minute amendment of its complaint violated Brandenburg's due process rights.[2]

Sprint filed its Response to Brandenburg's Motion on December 7, 2009. In its Response, Sprint asserts that Brandenburg fails to meet the standard for rehearing set forth in KRS 278.400 because Brandenburg has presented no new evidence and attempts to reargue arguments that have already been set forth.[3] Sprint also addresses the arguments Brandenburg raises in its motion.

KRS 278.400 expressly authorizes the Commission to rehear "any of the matters" determined in any hearing. KRS 278.400 provides only that "[u]pon the rehearing any party may offer additional evidence that could not with reasonable diligence have been offered on the former hearing."[4] (Emphasis added.)

Here, Brandenburg has not offered any new evidence or even hinted at what evidence may exist that it could introduce that would persuade the Commission to reverse its previous determinations. Additionally, Brandenburg does not advance any new arguments; it merely presents the same arguments that were presented throughout this proceeding and that the Commission dismissed in its November 6, 2009 Order.

Because there is no new evidence and Brandenburg presents merely a rehash of its old arguments, we are unconvinced that we should revisit our previous Order in this case.

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[2] Id. at 2-3.

[3] Sprint's Response to Motion for Rehearing.

[4] KRS 278.400.

IT IS THEREFORE ORDERED that Brandenburg's Motion for Rehearing is denied.

By the Commission

ENTERED
DEC 15 2009
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

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