

COMMONWEALTH OF KENTUCKY

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BEFORE THE PUBLIC SERVICE COMMISSION PR 9 2004

PUBLIC SERVICE
COMMISSION

In the Matter of:

BRANDENBURG TELEPHONE COMPANY)	
Complainant)	CASE NO.
)	2004-00090
v.)	
)	
KENTUCKY ALLTEL, INC.)	
Defendant)	

RESPONSE TO MOTION FOR IMMEDIATE RELIEF

Kentucky ALLTEL, Inc., ("Kentucky ALLTEL"), hereby submits this Response to the Motion for Immediate Relief filed by Brandenburg Telephone Company ("Brandenburg") on March 22, 2004 and in support thereof states as follows:

1. Brandenburg's Motion for Immediate Relief should be denied in its entirety as there exists no need for immediate relief. As set forth in greater detail below, this matter is not about Brandenburg being denied provision of subscriber list information ("SLI"). More accurately, it is about Brandenburg refusing to work with Kentucky ALLTEL's publishing affiliate, ALLTEL Publishing, Inc. ("ALLTEL Publishing") in order to obtain the requested SLI.

2. Despite Brandenburg's allegations that Kentucky ALLTEL has unreasonably and unlawfully required Brandenburg to work with ALLTEL Publishing to obtain SLI, this process of maintaining a separate publishing agent is not unreasonable or unlawful and is in fact common industry practice. As more fully set forth in Kentucky ALLTEL's Answer to Brandenburg's Complaint (which Answer is incorporated herein by reference), Brandenburg itself maintains the

same practice of utilizing a separate publishing agent and likewise also requires requesting carriers work directly with its agent (L.M. Berry) to exchange Brandenburg's SLI.

3. In its Motion for Immediate Relief, Brandenburg contends that it will suffer irreparable injury if it is not provided with Kentucky ALLTEL's SLI. To be clear, Brandenburg has not been denied SLI but was merely being required (as it agreed to do in its Interconnection Agreement with Kentucky ALLTEL) to execute a publishing contract directly with ALLTEL Publishing. Brandenburg itself utilized ALLTEL Publishing as its publishing agent from the mid-1980's until 2003. Further, the standard publishing contract which ALLTEL Publishing offered to Brandenburg is similar in form to the standard contracts Brandenburg itself and L.M. Berry require other requesting entities to execute.

4. Although there has been no meeting of the minds by the parties and as they continue to work through the contractual disputes, ALLTEL Publishing sent to Brandenburg's independent publishing agent (L.M. Berry) on April 7, 2004 the requested SLI. In taking this action, neither Kentucky ALLTEL nor ALLTEL Publishing concede or waive any legal defenses, but each acts instead with full reservation of rights.

5. As evidenced by the foregoing, there are in fact no exigent circumstances that exist such that Brandenburg's Motion for Immediate Relief must be denied.

6. Unless specifically admitted herein, Kentucky ALLTEL denies all allegations set forth in the Motion for Immediate Relief.

WHEREFORE, Kentucky ALLTEL requests that the Motion for Immediate Relief be denied and dismissed in its entirety and that the Commission grant all other necessary and proper relief.

Dated this 9th day of April, 2004.

Respectfully submitted,

KENTUCKY ALLTEL, INC.

By: Noelle M. Holladay

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CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing was served on the following by first class mail, on this the 9th day of April, 2004:

John Selent
Dinsmore & Shohl, LLP
1400 PNC Plaza
500 W. Jefferson Street
Louisville, KY 40202

Noelle M. Holladay