



2005-469

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November 16, 2005

Ms. Elizabeth O'Donnell  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
P. O. Box 615  
Frankfort KY 40602-0615

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PUBLIC SERVICE  
COMMISSION

Dear Ms. O'Donnell:

Pursuant to the Kentucky PSC's May 20, 2003 order in KY PSC Case No. 2002-0310, BellSouth is providing advance notice to the Kentucky Public Service Commission (PSC) of BellSouth's intent to disconnect Express Telephone ("Express") for non-payment.

BellSouth's records indicate that Express is delinquent in payment of its bills to BellSouth. Attempts to collect past due amounts from Express have been unsuccessful. BellSouth made numerous written notifications to Express informing them of BellSouth's intent to suspend or terminate services consistent with the terms and conditions of the Interconnection Agreement between Express and BellSouth. As of today, BellSouth has received no payment from Express and we seek to begin discontinuance of services immediately. Disconnection of Express services will affect Kentucky customers.


Under terms of their Resale Agreement, Express is solely responsible for notifying its end users of the proposed service disconnection. BellSouth is copying Express to remind them of their obligation to notify their end users of this situation regarding pending disconnection of services.

Should the Commission determine the need to invoke BellSouth's Emergency Service Continuity Tariff, BellSouth will take steps to notify the affected end users and inform them that they may continue to receive telecommunications services through The Emergency Services Continuity Plan for a minimum of fourteen (14) days and that the end user must transition to a new service provider.

Should you or the staff have any questions concerning this filing or need additional information, Mike Hayden, of my staff, is familiar with this matter and can be reached on (502) 582-8180.

EDITED

Very truly yours,

  
Joan A. Coleman

cc: Mr. Gerald Wilson

EDITED

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NOTICE OF BELLSOUTH )  
TELECOMMUNICATIONS, INC., OF INTENT )  
TO DISCONNECT EXPRESS TELEPHONE ) CASE NO.  
PURSUANT TO GSST A5.8, EMERGENCY )  
CONTINUITY PLAN )

CONFIDENTIALITY PETITION  
PURSUANT TO 807 KAR 5:001 SECTION 7

Petitioner, BellSouth Telecommunications, Inc., ("BellSouth"), hereby moves the Public Service Commission of the Commonwealth of Kentucky (the "Commission"), pursuant to KRS 61.878 and 807 KAR 5:001, § 7, to classify as confidential the highlighted information contained in the letter to Elizabeth O'Donnell from Joan Coleman dated November 16, 2005. The highlighted portion of the letter contains information specific Express Telephone ("Express").

The Kentucky Open Records Act exempts certain information from the public disclosure requirements of the Act, including certain commercial and also information the disclosure of which is prohibited by federal law or regulation. KRS 61.878(1)(c)1 and 61.878(1)(k). To qualify for the commercial information exemption and, therefore, keep the information confidential, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors and the parties seeking confidentiality if openly discussed. KRS 61.878(1)(c)1; 807 KAR 5:001 § 7. The Commission has taken the position that the statute and rules require the party

to demonstrate actual competition and the likelihood of competitive injury if the information is disclosed.

The material for which BellSouth seeks confidential treatment in the portion of the letter identified above contains commercially valuable information. The information identified therein has potential value to other participants in the local exchange market, such as incumbent local exchange carriers (ILECs), competitive access providers (CAPs), facilities-based competitive local exchange carriers (CLECs), cable companies who have developed or are contemplating the development of wholesale or retail network products, and wireless providers.

The highlighted information also contains customer-specific information. Information provided to the Commission concerning specific customers is CPNI<sup>1</sup> and should not be publicly disclosed without the approval of the individual customers. Disclosure of customer-specific information is subject to obligations under Section 222 of the Federal Law. Federal law imposes the obligation to maintain the confidentiality of such information ("the 222(a) obligation"). KRS 61.878(1)(k), specifically exempts records or information from public disclosure when the disclosure of such information or records is prohibited by federal law or regulation. Therefore, because CPNI is protected from disclosure by federal law, this information should be afforded proprietary treatment.

Public disclosure of the identified information would provide competitors with an unfair competitive advantage. The Commission should also grant confidential treatment to the information for the following reasons:

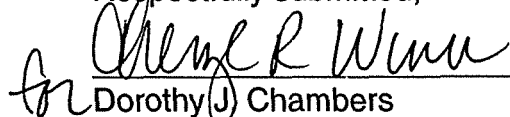
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<sup>1</sup> Customer Proprietary Network Information

- (1) The information for which BellSouth is requesting confidential treatment is not known outside of BellSouth.
- (2) Although CLECs are required by the Commission to disclose end-user customer line counts that are a matter of public record, the information for which BellSouth is requesting confidential treatment provides more detailed information which provides an unfair competitive advantage to others;
- (3) The information is not disseminated within BellSouth and is known only by those of BellSouth's employees who have a legitimate business need to know and act upon the information;
- (4) BellSouth seeks to preserve the confidentiality of this information through all appropriate means, including the maintenance of appropriate security at its offices; and
- (5) By granting BellSouth's petition, there would be no damage to any public interest.

For the reasons stated herein, the Commission should grant BellSouth's request for confidential treatment of the identified information.

Respectfully submitted,



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