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April 7, 2004

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APR 7 2004

**PUBLIC SERVICE
COMMISSION**

Mr. Thomas M. Dorman
Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602

RE: Brandenburg Telecom, LLC et al. v. Kentucky ALLTEL, Inc.,
 Case No. ~~2003-00098~~ 2004-00090

Dear Mr. Dorman:

Enclosed please find Kentucky ALLTEL, Inc.'s Response to Motion for Hearing on Motion for Immediate Relief in the above-referenced case. An original and eleven (11) copies are enclosed. Please file-stamp the extra copy and return it to me in the self-addressed, pre-stamped envelope I have enclosed for your convenience.

Thank you for your cooperation in this matter. Please do not hesitate to contact me with any questions you may have.

Sincerely,

WYATT, TARRANT & COMBS, LLP

Noelle M. Holladay

Enclosure

cc: John E. Selent
 Kimberly K. Bennett (w/enclosure)
 James H. Newberry, Jr. (w/o enclosure)

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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APR 7 2004

PUBLIC SERVICE
COMMISSION

In the Matter of:

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

**KENTUCKY ALLTEL, INC.'S RESPONSE TO MOTION FOR HEARING ON MOTION
FOR IMMEDIATE RELIEF**

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

1. Complainant's latest motion requests a hearing on its earlier Motion for Immediate Relief. To be clear, there exists no need for immediate relief. As set forth in greater detail below, this matter is not about Complainant being denied provision of subscriber list information ("SLI"). Kentucky ALLTEL affirms that ALLTEL Publishing, Inc. ("ALLTEL Publishing") has sent to Complainant's independent publishing agent ("LM Berry") this day the requested SLI. Kentucky ALLTEL and ALLTEL Publishing have taken this action in the spirit of cooperation, although there has been no meeting of the minds by the parties and as they continue to work through the contractual disputes. In taking this action, neither Kentucky ALLTEL nor ALLTEL Publishing has conceded or waived any legal defenses, but each has acted instead with full reservation of rights.

2. On March 19, 2004, Complainant filed a Complaint against Kentucky ALLTEL, alleging that Complainant was being denied provision of SLI and that the procedures which Kentucky ALLTEL had implemented with respect to providing SLI through a publishing affiliate were unlawful pursuant to 47 U.S.C. §222(e). On March 22, 2004, Complainant also filed a Motion for Immediate Relief.

3. On March 26, 2004, the Commission issued an Order to Satisfy or Answer the Complaint within "10 days from the date of service of this Order." As Kentucky ALLTEL was served with the Order on March 30, 2004, Kentucky ALLTEL is preparing to file its Answer on April 9, 2004. However, on April 5, 2004, Complainant filed a Motion for a Hearing on its Motion for Immediate Relief, despite the fact that Kentucky ALLTEL has not been given an opportunity to respond to Complainant's pleadings.

4. The Motion for a Hearing is premature and unnecessary and must be dismissed. Consequently, Kentucky ALLTEL requests that the Motion for Hearing be denied or any decision postponed until after Kentucky ALLTEL has an opportunity to address Complainant's allegations - most of which are factually incorrect or misrepresentative of the applicable legal authorities.

5. The crux of Complainant's claim for Immediate Relief is that it will suffer irreparable injury if it is not provided with Kentucky ALLTEL's SLI. As Kentucky ALLTEL's Answer will show, ALLTEL Publishing has not refused to provide SLI. Kentucky ALLTEL's pleadings will show that it was Complainant that refused to work with ALLTEL Publishing to obtain the SLI. Indeed, Kentucky ALLTEL contends that the issues set forth in the Complaint were (and are still) resolvable between the parties but that Complainant refused to even discuss with Kentucky ALLTEL virtually all of the disputed items.

6. **Notwithstanding Complainant's allegations to the contrary, this matter is not about Complainant being denied provision of SLI, and there are in fact no exigent circumstances that exist. As evidence thereof, Kentucky ALLTEL affirms that ALLTEL Publishing has sent to LM Berry this day the SLI while the parties continue to work through the contractual disputes. Kentucky ALLTEL and ALLTEL Publishing have taken this action in the spirit of cooperation, although there has been no meeting of the minds by the parties. In taking this action, neither Kentucky ALLTEL nor ALLTEL Publishing has conceded or waived any legal defenses, but each has acted instead with full reservation of rights.**

7. ALLTEL Publishing had previously compiled the SLI in January of 2004 based on Complainant's initial request to ALLTEL Publishing for the information; however, Complainant subsequently refused to work with ALLTEL Publishing to complete the exchange of the SLI. Again, Kentucky ALLTEL's pleadings on April 9, 2004 will show that this process of working directly with ALLTEL Publishing was agreed to by Complainant, is the process in which Complainant and ALLTEL Publishing have engaged since April of 2003, and is similar to the relationship which Complainant maintained with the publishing affiliate of Kentucky ALLTEL's Verizon predecessor. In fact, Complainant itself contracts with an independent publishing agent, LM Berry.

8. Based on the foregoing, Complainant's Motion for a Hearing is premature, otherwise unnecessary, and should be dismissed or at a minimum denied until after Kentucky ALLTEL is given an opportunity to respond to the Complaint in accord with the Commission's March 26, 2004 Order.

WHEREFORE, Kentucky ALLTEL requests that the Motion for a Hearing be dismissed or at least denied until after Kentucky ALLTEL has an opportunity to respond to the Complaint on April 9, 2004 and that the Commission grant all other necessary and proper relief.

Respectfully submitted,

KENTUCKY ALLTEL, INC.

By: Noelle M. Holladay

James H. Newberry, Jr.
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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 7th day of April, 2004:

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

Noelle M. Holladay