

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

HYPERACTION CONNECTION, INC.	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO. 2003-00073
	)	
ALLTEL COMMUNICATIONS, INC.	)	
	)	
DEFENDANT	)	

O R D E R

On February 24, 2003, Stephen Price, President of HyperAction Connection, Inc. ("HyperAction"), filed with the Commission a formal complaint against ALLTEL Communications, Inc. ("ALLTEL") alleging that ALLTEL and ALLTEL's predecessor companies had improperly billed HyperAction for five T1 DCS trunks from October 1999 until December 2002. HyperAction requested that the Commission order ALLTEL to refund the overcharges. After more than a year of negotiating, the parties have entered into a settlement agreement and jointly have moved the Commission to approve the settlement agreement and dismiss the complaint case.

The Commission finds that the proposed settlement agreement, a copy of which is appended hereto as Appendix A, is fair and reasonable and should be accepted and that the parties' motion to dismiss this case should be granted.

IT IS THEREFORE ORDERED that:

1. The attached settlement agreement is approved and accepted.

2. This case is dismissed with prejudice and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 24<sup>th</sup> day of September, 2004.

By the Commission

Commissioner W. Gregory Coker did not participate in the deliberations or decision concerning this case.

ATTEST:

  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2003-00073 DATED September 24, 2004

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

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PUBLIC SERVICE COMMISSION

In the Matter of:

HYPERACTION CONNECTION, INC.
Complainant

v.

ALLTEL COMMUNICATIONS, INC.
Defendant

Case No. 2003-00073

JOINT MOTION FOR DISMISSAL

Complainant, Hyperaction Connection, Inc. ("Hyperaction") and Defendant, Kentucky ALLTEL, Inc., ("ALLTEL"), by and through their respective attorneys of record, hereby jointly move the Commission to enter an Order dismissing the Petition of Hyperaction in this matter, without prejudice, and to approve the attached Settlement Agreement between the parties.

WHEREFORE, Hyperaction and ALLTEL jointly request that the Commission enter its Order in accordance with this Joint Motion.

Dated this 27th day of July, 2004.

Respectfully submitted,

Hyperaction Connection, Inc.

Kentucky ALLTEL, Inc.

By: [Signature]
Stephan Price, President

By: [Signature]
Noelle M. Holladay

Dana B. Quesinberry, Esq.
214 East Main Street
Morehead, KY 40351

James H. Newberry, Jr., Esq.
Noelle M. Holladay, Esq.
Wyatt, Tarrant & Combs, LLP
250 West Main Street, Suite 1600
Lexington, KY 40507

**SETTLEMENT AGREEMENT**

**THIS SETTLEMENT AGREEMENT** is made and entered into as of the \_\_\_\_ day of July, 2004, by and between Hyperaction Connection, Inc. ("Plaintiff") and Kentucky ALLTEL, Inc. ("Defendant").

**WITNESSETH:**

**WHEREAS**, the Plaintiff and Defendant are parties to a lawsuit styled Hyperaction Connection, Inc. v. Kentucky ALLTEL, Inc., Case No. 2003-00073 before the Public Service Commission of the Commonwealth of Kentucky (hereafter referred to as the "Litigation"), and

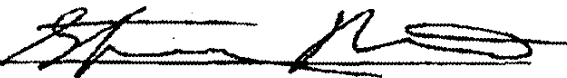
**WHEREAS**, the parties now wish to settle all claims between them, including claims set forth in the Litigation as well as all other claims which may exist between the parties;

**NOW THEREFORE**, in consideration of the mutual promises set forth herein, the parties agree as follows:

1. **Payment.** Upon the execution of this Agreement, the Defendant shall pay to the Plaintiff the sum of Twenty-Two Thousand Dollars (\$22,000.00).
2. **Release of Claims.** Each party hereby forever releases and discharges the other party, its agents, attorneys and employees from any and all claims of whatever nature which the releasing party may now have or which it may have had against the other party, including, but not limited to, the claims set forth in the Litigation.
3. **Dismissal of Litigation.** Upon the execution of this Agreement, the parties and their counsel will take all steps necessary and appropriate to enter an agreed order dismissing the Litigation or to otherwise terminate the Litigation with prejudice.
4. **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon and effective against the parties and their assigns, their heirs and legal representatives.
5. **Final Agreement.** This Agreement constitutes the complete and final agreement of the parties and all prior agreements are merged herein.

**IN WITNESS WHEREOF**, the parties hereto have affixed their signatures as of the date set forth above but actually on the dates set forth below.

**HYPERACTION CONNECTION, INC.**

BY: 

TITLE: Stephen Rice, President

DATE: 7-23-2004

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ALLTEL STATE REG.

07/27/04 14:03 FAX 858 259 0648

WYATT TARRANT&COMBS LLP

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**KENTUCKY ALLTEL, INC.**

BY: Steve Mawney  
TITLE: VICE PRESIDENT - STATE GOV AFFAIRS  
DATE: 7/27/2004

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