

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DIECA COMMUNICATIONS, INC. D/B/A)	
COVAD COMMUNICATIONS COMPANY)	CASE NO.
)	2003-00373
COMPLAINANT)	
)	
V.)	
)	
BELLSOUTH TELECOMMUNICATIONS, INC.)	
)	
DEFENDANT)	

O R D E R

DIECA Communications, Inc. d/b/a Covad Communications Company (“Covad”) brought a formal complaint against BellSouth Telecommunications, Inc. (“BellSouth”) regarding the availability of copper loop facilities. Covad alleged that it had contracted for copper loop facilities from BellSouth to provide DSL service and then BellSouth began replacing copper loop with fiber optics, thereby discontinuing service to Covad’s customers. On February 17, 2004, Covad, the complainant, moved to dismiss this complaint without prejudice. In support of its motion, Covad states that negotiations with BellSouth are continuing and the complaint is expected to be satisfied. Covad requests this complaint be dismissed without prejudice in order that it may refile the complaint should issues regarding the same facts not be satisfied.

The Commission having considered the motion to dismiss and being otherwise sufficiently advised, HEREBY ORDERS that:

1. Covad's motion to dismiss its complaint against BellSouth is granted without prejudice. Covad is not precluded from petitioning to reopen this matter should issues regarding the same facts resurface.

2. The informal conference scheduled to discuss the status of this complaint is cancelled.

Done at Frankfort, Kentucky, this 27th day of February, 2004.

By the Commission

ATTEST:


Executive Director