

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF LEVEL 3 COMMUNICATIONS,)	
LLC FOR ARBITRATION PURSUANT TO)	CASE NO.
SECTION 252(b) OF THE COMMUNICATIONS)	2004-00055
ACT OF 1934, AS AMENDED BY THE)	
TELECOMMUNICATIONS ACT OF 1996, FOR)	
RATES, TERMS, AND CONDITIONS OF ITS)	
INTERCONNECTION AGREEMENT WITH)	
BELLSOUTH TELECOMMUNICATIONS, INC.)	

O R D E R

Level 3 Communications, LLC (“Level 3”) has petitioned for arbitration seeking resolution of certain issues between itself and BellSouth Telecommunications, Inc. (“BellSouth”). The parties are participating in arbitrations in numerous states and have filed procedural requests that will result in this proceeding going beyond June 13, 2004, the statutory deadline pursuant to 47 U.S.C. 252. The parties have waived any right to issuance of a later decision. Pursuant to the parties’ agreement, the Commission must make a decision in this case by no later than November 8, 2004. Level 3 seeks arbitration of 11 issues and resolution of certain contract language disputes.

The Telecom Act of 1996 imposes deadlines upon this proceeding. Brevity, as well as clarity of expression and position, is of the essence. It is imperative that the Commission receive appropriate information. Accordingly, the following guidelines and procedural schedule shall apply to this proceeding.

When the parties essentially have agreed as to a particular issue, but they have not been able to agree as to the precise language to express the agreement, the Commission will not hear argument on the issue in this proceeding. Reduction of the proposed agreement to writing is the responsibility of the parties. Each party may submit its proposed version of the contract term in its best and final offer, which shall be submitted no later than June 8, 2004.

Although the Commission is not bound by the technical rules of legal evidence, KRS 278.310, the parties hereto are hereby put on notice that cumulative, repetitive, and irrelevant evidence will not be heard in the formal hearing in this matter. Unless special leave is granted, opening and closing statements will not be permitted. In addition, unless special leave is granted, all direct testimony shall be prefiled. All testimony at the formal hearing shall be offered pursuant to cross-examination or redirect examination, provided, however, that rebuttal testimony will be permitted.

The Commission, being sufficiently advised, HEREBY ORDERS that:

1. A formal hearing in this matter is scheduled for September 21, 2004, at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky. A court reporter shall transcribe the evidence.
2. Parties shall submit a Joint Issues Matrix and Joint Letter regarding the extended deadline by no later than April 30, 2004.
3. Data requests to the parties shall be submitted by May 10, 2004, with responses due June 8, 2004.

4. Relevant cost studies regarding each item in dispute, including workpapers and any other documents and information necessary to resolve outstanding issues, shall be filed by June 8, 2004.

5. The second set of data requests, if any, shall be submitted by June 23, 2004, with responses due July 23, 2004.

6. Prefiled direct testimony shall be filed by August 20, 2004.

7. Prefiled rebuttal testimony shall be filed by September 7, 2004.

8. Hearing testimony shall be limited to cross-examination or redirect examination and rebuttal testimony.

9. Any party filing testimony shall file an original and 6 copies.

10. Any agreed-upon portions of the parties' contract that have not already been filed shall be filed by September 13, 2004.

11. Each party shall submit, in contract form, its best and final offer on each disputed issue no later than September 13, 2004.

12. An informal conference is scheduled to be conducted on August 12, 2004, at 10:00 a.m., Eastern Daylight Time, in Conference Room 2 of the Commission's offices at the address listed above.

Done at Frankfort, Kentucky, this 16th day of April, 2004.

By the Commission

ATTEST:


Executive Director

Case No. 2004-00055