

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REVIEW OF FEDERAL COMMUNICATIONS	)	
COMMISSION'S TRIENNIAL REVIEW ORDER	)	CASE NO.
REGARDING UNBUNDLING REQUIREMENTS	)	2003-00379
FOR INDIVIDUAL NETWORK ELEMENTS	)	

**CONFIDENTIALITY PETITION**  
**PURSUANT TO 807 KAR 5:001 SECTION 7**

Petitioner, BellSouth Telecommunications, Inc. ("BellSouth"), hereby moves the Public Service Commission of Kentucky (the "Commission"), pursuant to KRS 61.878 and KAR 5:001, Section 7, to classify as confidential the following information:

BellSouth's Response to Item 1a of the Data Requests of Commission Staff to Incumbent Local Exchange Carriers dated October 10, 2003; its Supplemental Responses to certain items of AT&T's First Set of Interrogatories (Nos. 1-112), (specifically 21, 22, 56, 110 and 111) and Requests for Production of Documents (Item 8) dated October 10, 2003; its Responses to certain items of AT&T's Second Set of Interrogatories (Item 116) and Second Request for Production of Documents (Item 34) dated November 24, 2003; and its Responses to certain items of MCI's Second Set of Data Requests and Request for Production of Documents (68-71, 73, 100, 103, 118, 119, 126, 145, 149, 177, 180-183, 185, 209, 215-217, 221-223 and 249) to BellSouth dated November 24, 2003. For easy reference, the Responses for which BellSouth is requesting proprietary treatment are set out on the attached chart. The chart contains

the following specific information for each item: description, explanation of proprietary nature of information, and the competitors for the services involved.

As grounds for this motion, BellSouth states that the information is competitively significant and could be used to BellSouth's detriment by its competitors. In addition, disclosure of the CPNI<sup>1</sup> data is prohibited by federal law.

The Kentucky Open Records Act exempts certain commercial information from the public disclosure requirements of the Act. KRS 61.878(1)(c)1. To qualify for this commercial information exemption and, therefore, protect the information as 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, Section 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.

BellSouth's Response to Item 1a of the Commission Staff's Data Request contains customer-specific information. Information provided to the Commission concerning specific customers is CPNI 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"). See also KRS 61.878(1)(k). All public records or information the disclosure of which is prohibited by federal law or regulation. Therefore, this information should be afforded proprietary treatment.

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

With the exception of BellSouth's Response to Item 1a of the Commission Staff's Data Request, BellSouth's Responses contain confidential business information that is considered proprietary to BellSouth. The information contains trade secrets, is commercially sensitive information, and BellSouth would suffer competitive harm if the commercial information it seeks to protect were disclosed. This information would be useful to BellSouth's competitors in establishing marketing plans and, therefore, pose competitive harm to BellSouth if such information were disclosed. BellSouth's competitors include alternate access providers, resellers and interexchange carriers. The Commission has approved interconnection and resale agreements between BellSouth and numerous other telephone carriers. Disclosure of the information would give BellSouth's competitors an unfair business advantage over BellSouth and could be used to the detriment of BellSouth.

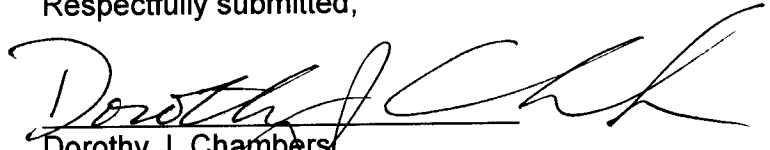
The Commission also should grant confidential treatment to the information so designated for the following reasons:

- (1) The information for which BellSouth is requesting confidential treatment is not known outside of BellSouth;
- (2) 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;
- (3) BellSouth seeks to preserve the confidentiality of this information through all appropriate means, including the maintenance of appropriate security at its offices; and

(4) By granting BellSouth's petition, there would be no damage to any public interest.

For these reasons, the Commission should grant BellSouth's request for confidential treatment of its Responses set out herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dorothy J. Chambers", written over a horizontal line.

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