

**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	)	

PETITION FOR CONFIDENTIALITY

NewSouth Communications Corp., (hereinafter “Movant or NewSouth”), pursuant to KRS 61.878 and 807 KAR 5:001, Section 7, hereby requests that the Commission provide confidential treatment to certain information contained on page seven of the direct testimony of Jake E. Jennings.

In support of its petition Movant states as follows:

1. The Commission issued an Order in this docket on November 4, 2003 providing for direct testimony on various issues including so-called “loop and transport” issues. NewSouth has filed direct testimony discussing generally how CLECs configure their networks and make use of UNE loops. Mr. Jennings’ testimony includes information concerning how many subscribers are in Kentucky and how much capital has been invested in NewSouth’s Kentucky facilities. Using this information is it possible to calculate NewSouth’s capital costs per subscriber.
2. Movant hereby seeks confidential treatment of its proprietary information included in the testimony. The testimony contains a total of three references that

Movant deems to be proprietary and confidential and which should be afforded confidential treatment by the Commission.

3. The confidential information is not being filed electronically with the public filings in this case. A redacted version of NewSouth's testimony is filed contemporaneously with this motion. The confidential version will be provided to parties who have executed a protective agreement.
4. KRS. 61.870, et seq., requires that public agencies within the Commonwealth make available for inspection all public records. Certain exceptions to that general requirement are contained in KRS 61.878, which includes an exception for confidential or proprietary information. In order to qualify for this exception under KRS 61.878(1)(c), a party must demonstrate that disclosure of its commercial information would permit an unfair commercial advantage to its competitors. The procedure for requesting confidential treatment from the Commission is outlined at 807 KAR 5:001, Section 7.
5. The information contained in Movant 's response includes data that Movant believes contains proprietary and commercial information that would permit an unfair advantage to competitors, including competitors who may have chosen not to participate in this docket. Accordingly, Movant requests the Commission to afford confidentiality to this information pursuant to the exception provided in KRS 61.878(1)(c). This information, if disclosed, would cause irreparable harm to Movant. A competitor could use the data to obtain market information about the Company and its business plans. In addition, the information being provided to staff reveals precisely the level of capital expenditure in Movant's Kentucky

facilities and network. Competitors with knowledge of this information could exploit it in their efforts to compete with NewSouth. This is information NewSouth does not reveal to its competitors and these competitors do not share such information with NewSouth. In a competitive market, any information gained about a competitor can be used to that competitor's detriment. Such an unfair competitive advantage skews the marketplace and prevents the development of true competition to the ultimate detriment of the consumer.

6. Disclosure of confidential information of this nature will be detrimental to Movant because it contains data that is not otherwise available to the Company's competitors. Once supplied with this information, a competitor could use it to target their marketing efforts to the detriment of Movant. The information sought to be protected is not known outside Movant, nor is it provided to the public; its internal use is restricted to only those employees who have a legitimate business reason for reviewing such, and the Company attempts to control the dissemination of this material through all reasonable means. Indeed, by granting the Company's petition and protecting information that was provided it on a voluntary basis, the public interest will be served.

7. WHEREFORE, Movant respectfully requests that the Commission enter an order granting confidential treatment of the information contained in the accompanying confidential testimony.

Respectfully submitted,

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/s/

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## CERTIFICATE OF SERVICE

I hereby certify that the electronic version of this filing made with the Commission this 11th day of March, 2004 is a true and accurate copy of the documents attached hereto in paper form. This version was transmitted to the Commission for forwarding to those persons receiving electronic notices from the Commission in this case. A copy of the filing was also served by U.S. mail to those persons whose postal addresses appear on the service list below.

/s/

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