

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	)	

**RESPONSES AND OBJECTIONS OF US LEC OF TENNESSEE INC.  
TO BELL SOUTH TELECOMMUNICATIONS'  
SECOND SET OF INTERROGATORIES (1-28) AND SECOND REQUEST FOR  
PRODUCTION OF DOCUMENTS (1-5)**

US LEC of Tennessee Inc. ("US LEC") hereby responds and objects to BellSouth Telecommunications, Inc.'s ("BellSouth") First Set of Interrogatories ("BellSouth's Interrogatories") to US LEC served on November 24, 2003 as set forth below. These Responses and Objections are filed pursuant to the Commission's Procedural Order issued on November 4, 2003.

US LEC reserves the right to amend, supplement, or revise these objections, and assert additional objections, should US LEC discover additional grounds for objecting as US LEC prepares its responses to any discovery or at any time prior to hearing.

**General Objections to BellSouth's Interrogatories**

1. US LEC objects to BellSouth's Interrogatories to US LEC as being overly broad, lack specificity, unduly burdensome, irrelevant and not likely to lead to the discovery of admissible evidence.

2. US LEC objects to BellSouth's Interrogatories to US LEC to the extent that the interrogatories seek discovery of information protected by attorney-client privilege, the work product doctrine, the accountant-client privilege, or any other applicable privilege.

3. US LEC objects to BellSouth's Interrogatories to US LEC to the extent that the interrogatories purport to impose discovery obligations on US LEC beyond the scope of, what is permitted under the Procedural Order in this docket and the applicable Kentucky Rules of Civil Procedure.

4. US LEC objects to BellSouth's Interrogatories to US LEC to the extent that the interrogatories purport to seek discovery of matters other than those subject to the jurisdiction of the Commission pursuant to the Federal Communications Commission's ("FCC") Triennial Review Order ("TRO") and the Kentucky General Statutes.

5. US LEC objects to all Interrogatories that require the disclosure of information which already is in the public domain, BellSouth already has possession of or unrestricted access to, and information that is otherwise on record with the Commission or the FCC.

6. US LEC objects to BellSouth's Interrogatories to US LEC to the extent that the interrogatories seek information and discovery of facts known and opinions held by experts acquired and/or developed in anticipation of litigation or for hearing and outside the scope of discoverable information pursuant to the Kentucky Rules of Civil Procedure.

7. Pursuant to the Procedural Order, the TRO, and the Kentucky Rules of Civil Procedure, to the extent that BellSouth's interrogatories request specific financial, business or proprietary information regarding US LEC's economic business model, US LEC objects to providing or producing any such information on the grounds that those requests presume that the market entry analysis is contingent upon US LEC's economic business model instead of the hypothetical business model contemplated by the TRO.

8. US LEC objects to BellSouth's Interrogatories to the extent they seek information related to special access circuits purchased out of BellSouth's interstate tariff rather than to unbundled network elements.

9. US LEC objects to BellSouth's definition of "business case" as vague and overly broad.

10. Pursuant to the Procedural Order, the TRO, and the Kentucky Rules of Civil Procedure, to the extent that BellSouth's interrogatories request specific financial, business or proprietary information regarding US LEC's economic business model, US LEC objects to providing or producing any such information on the grounds that those requests presume that the market entry analysis is contingent upon US LEC's economic business model instead of the hypothetical business model contemplated by the TRO.

11. US LEC objects to BellSouth's definitions of "hot cut," "batch hot cut," "individual hot cut," "coordinated cut over" and "coordinated time-specific cut over" and each and every interrogatory that includes such terms, as such definitions are vague and not adequately defined in that it is not clear whether or to what extent BellSouth's practices are consistent with the FCC's use of such terms. The reference in BellSouth's definition of "hot cut" to the "entire process" is vague in that it is not clear whether this includes number portability or whether it is limited to the physical process of transferring a customer. The term "batch" is vague in that it is unclear how many lines or customers constitute a "batch" or whether conversion of a single customer with several accounts would constitute a "batch." BellSouth's use of the term "individual hot cut" is vague in that it is defined with reference to "batch hot cuts," which is itself vague and ambiguous. BellSouth's definitions of "coordinated cut over" and "coordinated time-specific cut over" are vague and ambiguous. The distinctions among BellSouth's definitions for "hot cuts," "individual hot cuts," "coordinated cut overs" and "coordinated time-specific cut overs" are unclear. Thus, such discovery is over broad and it would be unduly burdensome for US LEC to respond to such ambiguous discovery. US LEC

further objects to BellSouth's use of such terms as they apply to BellSouth's individual hot cut process as US LEC is not privy to each and every process or procedure employed by BellSouth in implementing such hot cuts.

12. US LEC objects to BellSouth's definition of "voice grade equivalent lines" as vague and ambiguous and subject to differing interpretations. For instance, it is unclear whether this term as defined includes lines capable of carrying voice traffic but which are, in fact, used for data traffic.

13. US LEC objects to the definitions for "qualifying service" and "non-qualifying service," and each and every interrogatory or request for production that includes such terms, as US LEC does not use such terms in the ordinary course of business and answering in these terms would require US LEC to provide a legal interpretation of the FCC's terms. With the exception of the specific services the FCC has designated as qualifying or non-qualifying, the term is not clearly defined by the FCC or by BellSouth. For example, as the FCC stated in footnote 466 of the TRO, "Our list is intended to identify general categories of services that would qualify as eligible services. It is not intended to be an exhaustive list or to identify services in a more particular manner." Thus, such discovery is overly broad and it would be unduly burdensome for US LEC to respond to such ambiguous discovery.

#### **Specific Objections and Responses to BellSouth's Second Set of Interrogatories**

1. Affirm or deny that you have self-provided high capacity transport facilities that you own (i.e., any DS3 or greater facilities, including dark fiber) that provide transport along a route between a pair of ILEC central offices or wire centers in Kentucky for use in your own operations. The facilities must terminate to an active physical or virtual collocation (includes all types of collocation, not just those qualifying under section 251 (c)(6) at each end of the transport route) associated with each central office of the pair and be operationally ready to provide transport into or out of each office of the pair. Answer this question in the affirmative if you are self-providing such facilities. For purposes of this question, you "own" transport facilities if (i) you have legal title to the facility; or (ii) if you have obtained dark fiber under a long term (10 or more years) IRU and have attached your own optronics to light the facility. Facilities obtained through any other means, including but not limited to special access, unbundled network elements or other services or facilities obtained from third parties, should not be included in this response.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

2. Affirm or deny that you offer to carriers on a wholesale basis DS1 or higher transport facilities, or dark fiber transport facilities that you own that provide a route between a pair of ILEC central offices or wire centers, to one or more pair of wire centers, in Kentucky.

The facilities must terminate to an active physical or virtual collocation (includes all types of collocation, not just those qualifying under section 251 (c)(6) at each end of the transport route) associated with each office of the pair and be operationally ready to provide transport into or out of each office in the pair. Answer this question in the affirmative if you are offering such facilities. For purposes of this question, you “own” a facility (i) if you have legal title to the facility, or (ii) if you have obtained on an unbundled, leased or purchased basis dark fiber and have attached your own optronics to light the facility and are serving customers using the facility. Facilities obtained through any other means, including but not limited to special access, other unbundled network elements or other services obtained from third parties, should not be included in this response.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

3. Affirm or deny whether you have acquired on a wholesale basis from a third party DS1, DS3, or dark fiber transport between two or more ILEC central offices in Kentucky. The facilities must terminate to an active physical or virtual collocation (includes all types of collocation, not just those qualifying under section 251 (c)(6)) at each end of the transport route) associated with each office of the pair and be operationally ready to provide transport into or out of each office in the pair.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

4. For each state in Question 1 that you answered in the affirmative (that you have deployed or self-provide high capacity transport for use in your own operations), provide a list of all the paired ILEC CO to ILEC CO routes on which you have deployed such facilities identifying:

- a. The CLLI codes of the paired ILEC CO locations that make up each and every route. In each case show the “low alpha” (alphabetically first) CLLI code as Wire Center A and the “high alpha” CLLI code as Wire Center Z. (Provide the full 11 character CLLI.)
- b. Whether your self-provided transport facilities are terminated to collocations (includes all types of collocation, not just those qualifying under section 251 (c)(6) at each end of the transport route). Provide the customer name of record for the collocation arrangement and 11-character ACTL CLLI code for the collocation arrangement.

- c. Whether your self-provided transport facilities are provisioned entirely on facilities you own (as defined in Question 1).
- d. If any of your self-provided transport facilities include facilities obtained through third parties (Yes, No); if your response is yes, indicate the vendor name.
- e. Indicate whether the facility is provided over dark fiber you have obtained from BellSouth on an IRU basis. (Yes, No)
- f. Whether you are able to immediately provide transport along the particular route.
- g. The capacity deployed and the capacity active on the route as of September 30, 2003.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

5. For each state in Question 2 that you answered in the affirmative (that you offer at wholesale DS1, DS3 or higher, or dark fiber capacity transport) provide a list of all ILEC CO to ILEC CO routes along which you provide such transport identifying:

- a. The CLLI codes of the paired ILEC CO locations that make up the end points of each and every route. In each case show the “low alpha” (alphabetically first) CLLI code as Wire Center A and the “high alpha” CLLI code as Wire Center Z. (Provide the full 11 character CLLI.)
- b. Whether your wholesale transport facilities are terminated to collocations (includes all types of collocation, not just those qualifying under section 251 (c)(6) at each end of the transport route). Provide the customer name of record for the collocation arrangement and 11-character ACTL CLLI code of the collocation arrangement.
- c. Whether your wholesale transport services are provisioned entirely on facilities you own (as defined in Question 2).
- d. If any of your self-provided transport facilities include facilities obtained through third parties, indicate the vendor name.
- e. Indicate whether the facility is provided over dark fiber you have obtained from BellSouth on an IRU basis. (Yes, No)
- f. Whether you are willing and able immediately to provide transport along the particular route.
- g. The capacity deployed and the capacity active on the route as of September 30, 2003.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

6. For each state in Question 3 that you answered in the affirmative (that you have acquired on a wholesale basis DS1, DS3 or higher, or dark fiber transport), provide the following

in electronic format using the worksheet related to both self-provided (the Question 4 spreadsheet) and wholesale facilities (the Question 5 spreadsheet):

- a. The CLLI codes of the ILEC wire centers or COs of the starting and ending points of the transport routes;
- b. The name of the carrier or company from whom you received or purchased the transport;
- c. Whether you are operationally ready to provide transport using these facilities; and
- d. The capacity deployed and the capacity active on the route as of September 30, 2003.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

7. If, in response to Questions 4 and 5, you denied any of the specified characteristics, explain in detail the basis for your response. For example, if your wholesale operations are affiliated with another provider, state the name of the provider with whom you are affiliated. State also whether there are other limitations on your wholesale operations; if so, describe in detail any such limitations.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers..

8. Affirm or deny that you have self-provided high capacity loop or dark fiber facilities that you own (i.e., any DS3 or greater facilities that provide connections between a switch, wire center, collocation, point of interconnection, etc., and a customer's premises) to one or more customer locations in Kentucky for use in your own operations in providing retail service to your customers. Answer this question in the affirmative if you are self-providing such facilities. For purposes of this question, you "own" a facility (i) if you have legal title to the facility, or (ii) if you have obtained dark fiber under a long term (10 or more years) IRU and have attached your own optronics to light the facility and are serving customers using the facility. Facilities obtained through any other means, including but not limited to, special access, unbundled network elements or other services or facilities obtained from third parties, should not be included in this response.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

9. Affirm or deny that you offer to carriers on a wholesale basis DS1, DS3 or higher capacity loop facilities or dark fiber that you own (i.e., any DS1 or greater facilities that provide connections between a switch, wire center, collocation, point of interconnection, etc., and a customer's premises) to one or more customer locations in Kentucky. Answer this question in the affirmative if you are offering such facilities. For purposes of this question, you "own" a facility if (i) you have legal title to the facility, or (ii) if you have obtained on an unbundled, leased or purchased basis dark fiber and have attached your own optronics to light the facility. Facilities obtained through any other means, including but not limited to special access, other unbundled network elements or other services obtained from third parties, should not be included in this response.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

10. Affirm or deny that you have obtained from a third party (other than the ILEC or a CLEC that is a party to this proceeding), high capacity loops or dark fiber loops for the provisioning of retail services to your customers, to one or more customer locations in Kentucky. Self-provided facilities that you "own" as defined in 8 above should not be included in this response.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

11. Affirm or deny that you have obtained from a third party (other than the ILEC or a CLEC that is a party to this proceeding), high capacity loops or dark fiber loops for the provisioning of services on a wholesale basis to one or more customer locations in Kentucky. Self-provided facilities that you "own" as defined in 9 above should not be included in this response.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

12. If in Questions 8 and 10 you answered in the affirmative (that you have self-provided or obtained from a third party other than the ILEC or a CLEC that is a party to this proceeding high capacity loops or dark fiber for use in your own operations in providing retail service to your customers) provide a list of the customer locations to which you have deployed such loops, (in electronic format using the attached spreadsheets) identifying:

- a. The RSAG valid address of each customer location.
- b. The CLLI code of the CLEC switch, wire center, collocation, point of interconnection, etc., from which the loop is extended to the customer location. (Provide the full 11-character CLLI.)
- c. Indicate whether the facility is wholly owned by you (Yes, No); if no, provide the name of the vendor from whom you have purchased all or a portion of the facilities.
- d. Indicate whether the facility is provided over dark fiber you have obtained from BellSouth on an IRU basis (Yes, No).
- e. Indicate whether or not you have the unrestricted ability to serve all customers at that location if it is a multi-tenant location. (Yes, No, NA). This includes access to all units in the building, access to all buildings in a campus environment and equivalent access to the same minimum point of entry (MPOE), common space, house and riser and other intra building wire as the ILEC. If no, explain in detail any restrictions on your ability to serve customers and explain any and all actions you have taken to address such restrictions.
- f. The capacity deployed and capacity activated to the specific location as of September 30, 2003.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

13. If in Questions 9 and 11 you answered in the affirmative (that you offer at wholesale DS1, DS3 or higher capacity loops) provide a list of the customer locations to which you have provided such loops (in electronic format using the attached spreadsheets), identifying:

- a. The RSAG valid address of each customer location.
- b. The CLLI code of the location from which the loop is extended to the customer location. (Provide the full 11-character CLLI.)
- c. Indicate whether the facility is wholly owned by you (Yes, No); if no, provide the name of the vendor from whom you have purchased all or a portion of the facilities.
- d. Indicate whether the facility is provided over dark fiber you have obtained from BellSouth on an IRU basis or UNE basis (Yes, No).
- e. Indicate whether or not you have the unrestricted ability to serve all customers at that location if it is a multi-tenant location. (Yes, No, NA). This includes access to all units in the building, access to all buildings in a campus environment and equivalent access to the same minimum point of entry (MPOE), common space, house and riser and other intra building wire as the ILEC. If no, explain in detail any restrictions on



your ability to serve customers and explain any and all actions you have taken to eliminate such restrictions.

- f. Indicate whether other carriers have access to these wholesale facilities at a technically feasible point (e.g., manhole, meet point, collocation, etc).
- g. The capacity deployed and capacity activated to the specific location as of September 30, 2003.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

14. Provide a list of all BellSouth wire centers in the Southeastern states to which you are currently in the process of deploying, or plan to deploy transport facilities and/or loop facilities. List wire centers if this deployment is in process or will take place from the time period beginning October 1, 2003 through December 31, 2004.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

15. List all BellSouth wire centers in Kentucky where you have collocation, either virtual or physical. In Microsoft Excel format, list the 11-character wire center CLLI code and the CLLI code designating each arrangement you have within that wire center. For each wire center listed identify:

- a. The type of collocation (caged, cageless, shared, virtual, other (with a description)) and identify the total amount of space currently occupied and reserved for future growth;
- b. The type of equipment and number of equivalent DS0 channels for all services in the collocation space (e.g., DLC, remote switches, multiplexers, transmission terminals, etc.).
- c. The transmission facilities and number of equivalent DS0 channels for all services used to connect the office to your switch or non-ILEC switching provider (e.g., BellSouth UNEs, BellSouth special access, self provision, third party provision).
- d. The amount of unused or excess space in each collocation space.
- e. The number of active and inactive DS1 cross connects
- f. The number of active and inactive DS3 Cross-connects
- g. The number of active and inactive 2-fiber cross-connects
- h. The number of active and inactive 4-fiber cross-connects.
- i. State whether you have deployed fiber "entrance" facilities that you own which connect to the collocation arrangements identified.
- j. State whether you have fiber "entrance" facilities that you have obtained from a person other than BellSouth which connect to the collocation arrangements identified.
- k. State whether you have fiber cross-connects which connect the identified arrangement(s) to other persons collocated at the same wire center. If yes, (i)

identify all carriers to which your arrangements are connected within the wire center; and (ii) identify the capacity or type of connection.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

16. Provide a list of all BellSouth wire centers and/or central offices in Kentucky to which you have deployed high capacity transport facilities that are operationally ready to provide dedicated transport along a route, directly, or indirectly through a location not affiliated with BellSouth, to one other BellSouth central office. The facilities must terminate to an active collocation arrangement. This interrogatory varies from Interrogatory No. 1 in this docket as it seeks wire centers/central offices even if you are not actually providing transport from the locations; it also seeks wire centers/central offices that your facilities route through directly or indirectly. For example, in answering this Interrogatory, provide information about facilities that may indirectly provide transport along a route, for example, using the diagram below, the IXC transport route should be identified:

BST wire center → IXC POP ← → IXC POP → BST wire center

For each central office or wire center that you list, identify:

- a. The CLLI code of the central office.
- b. The type of collocation at which the facilities terminate;
- c. The customer name of record for the collocation arrangement and the 11-character CLLI code for the collocation arrangement;
- d. Indicate whether the facilities are provided over dark fiber you have obtained from BellSouth;
- e. The total active capacity and number of fiber strands deployed as of the most recent date available;
- f. Whether you are able and able immediately to provide DS1 transport, on a wholesale basis, over the transport facilities;
- g. Whether you are willing and able immediately to provide DS3 transport, on a wholesale basis, over the transport facilities;
- h. Whether you are willing and able immediately to provide dark fiber transport, on a wholesale basis, over the transport facilities.

For each central office or wire center that you list, identify:

- a. The CLLI code of the central office.
- b. The type of collocation at which the facilities terminate;
- c. The customer name of record for the collocation arrangement and the 11-character CLLI code for the collocation arrangement
- d. The total active capacity and number of fiber strands deployed as of the most recent date available;
- e. The type of facility (e.g., fiber, coaxial cable, etc.).

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

17. For each central office/wire center identified in response to Interrogatory No. 16:

- a. Are your transport facilities operationally ready to provide dedicated transport between the central office/wire center identified and any other ILEC wire center on the same list?
- b. If your responses to part (a) above is negative, identify each such the ILEC central offices on the list that does not satisfy part (a) and explain with particularity why not.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

18. Provide a list of all BellSouth wire centers and/or central offices in Kentucky from which you offer to other carriers on a wholesale basis DS1 or higher transport facilities, or dark fiber transport facilities that provide a route, directly, or indirectly through a location not affiliated with BellSouth, to one other BellSouth central office. The facilities must terminate to an active collocation arrangement. *This interrogatory varies from Interrogatory No.2 in this docket as it seeks wire centers/central offices that your facilities route through directly or indirectly. For example, in answering this Interrogatory, provide information about facilities that may indirectly provide transport along a route, for example, using the diagram below, the transport route between IXC – points of presence (“POP”) should be identified:*

BST wire center→IXC POP←→IXC POP→BST wire center

For each central office or wire center that you list, identify:

- a. The CLLI code of the central office.
- f. The type of collocation at which the facilities terminate;
- g. The customer name of record for the collocation arrangement and the 11-character CLLI code for the collocation arrangement;
- h. Indicate whether the facilities are provided over dark fiber you have obtained from BellSouth;
- i. The total active capacity and number of fiber strands deployed as of the most recent date available;
- j. Whether you are able and able immediately to provide DS1 transport, on a wholesale basis, over the transport facilities;
- k. Whether you are willing and able immediately to provide DS3 transport, on a wholesale basis, over the transport facilities;
- l. Whether you are willing and able immediately to provide dark fiber transport, on a wholesale basis, over the transport facilities.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

19. For each central office/wire center identified in response to Interrogatory No. 17:

- a. Are you willing and able immediately to provide high capacity transport, on a wholesale basis, over transport facilities between the wire central office/wire center identified and any other ILEC wire center on the same list?
- b. If your responses to part (a) above is negative, identify each such the ILEC central office/wire center on the list that does not satisfy part (a) and explain with particularity why not.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

20. Identify the points within Kentucky at which you connect your local network facilities to the networks of other carriers, including but not limited to interconnection with other CLECs, interexchange carriers, internet service providers at any point of presence ("POP"), network access point ("NAP"), collocation hotels, data centers, or similar facility. This interrogatory may be answered with network diagrams.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

21. Identify the points within Kentucky at which you connect your local network facilities to BellSouth's network, including but not limited to any and all points of presence ("POP"). This interrogatory may be answered with network diagrams.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

22. On an MSA-specific basis, in Kentucky please describe with specificity the configuration of your transport and/or loop facilities; including, but not limited to: (a) the configuration of your facilities (e.g., point to point or ring configuration); (b) the customer specific locations that are accessible from your facilities; and (c) a list of all customer units accessible in a multi-tenant building.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

23. Provide a list of all fiber rings in Kentucky you own or control and identify the location (by street address) of each add-drop multiplexer or comparable facility for connection other transport facilities (e.g., wire centers, loops, other fiber rings) to the fiber ring.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

24. Identify each shared or non-BellSouth location (e.g., collocation hotel) in Kentucky in which you are located. For each such location state:

- a. The type of collocation or sharing/leasing of space for placement of equipment (e.g., caged, cageless, shared, or virtual);
- b. The type of equipment and number of equivalent DS0 channels for all services in the collocation space (e.g., DLC, remote switches, multiplexers, transmission terminals, etc.).
- c. The transmission facilities and number of equivalent DS0 channels for all services used to connect the office to your switch or non-ILEC switching provider (e.g., BellSouth UNEs, BellSouth special access, self provision, third party provision).

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

25. For each arrangement identified in response to Interrogatory 23 and in response to Interrogatory 16, please list the types of services that are provided utilizing such an arrangement.

- a. List all types of services you offer to your end users from each collocation space describe or demand and the quantity of each service you provide and/or offer.
- b. For each service identified in (a), list the average monthly revenue associated with each type of service.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

26. Provide a list of all customer locations in Kentucky at which you have deployed high capacity loop facilities (DS3 or greater facilities, including dark fiber) that you own and

where you are serving customers using those facilities. *This interrogatory varies from Interrogatory No. 8 in this docket as it is not limited to loop facilities solely used to provide retail service.* For each customer location, identify:

- a. The RSAG valid address of the customer location;
- b. The CLLI code of the CLEC switch, wire center, collocation, point of interconnection, etc. from which the loop is extended to the customer location (by 11 character CLLI);
- c. Whether you have the unrestricted ability to serve all customers at that location, if the location is a multi-tenant location. If not, explain with particularity why not, including any restrictions on your ability to serve customers and the steps you have taken to address such restrictions.
- d. The total active capacity and the number of fiber strands on your facilities at the specific customer locations using the most recent data available;
- e. Whether your facilities are operationally ready to provide DS3 loops at the specific customer location.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

27. Describe with particularity all factors you consider when deciding whether to extend high capacity loop or transport facilities to:

- a. pick up additional traffic;
- b. pick up additional or new customers;
- c. pick up additional or new buildings.

**Response:** US LEC incorporates the general objections set forth above. Subject to and without waiving these objections, US LEC responds that it has no facilities responsive to this request which are used to serve Kentucky customers.

28. BellSouth incorporates herein its First set of Interrogatories and First Request for Production of Documents served October 10, 2003, as if the requests were restated in their entirety. If you have not responded to that set of interrogatories and request for production, please consider this a reissuance of those requests.

**Response:** In response to Interrogatory 28, US LEC incorporates BellSouth's First set of Interrogatories and First Request for Production of Documents served October 10, 2003 and US LEC's objections and responses to the First Request (filed as a separate response).

**BELLSOUTH TELECOMMUNICATIONS, INC.' FIRST REQUESTS FOR  
PRODUCTION OF DOCUMENTS**

1. Produce all documents identified in response to BellSouth's First Set of Interrogatories.

**Response:** US LEC objects to the production of documents regarding any interrogatory to which US LEC has objected.

2. Produce every business case in your possession, custody or control that evaluates, discusses, analyzes or otherwise refers or relates to the offering of a qualifying service in the State of Kentucky.

**Response:** US LEC restates and incorporates by reference its General Objection 9 above. US LEC objects to this interrogatory to the extent that it is not reasonably calculated to lead to the discovery of admissible evidence. To the extent that this interrogatory requests specific financial, business or proprietary information regarding US LEC's economic business model, US LEC objects to providing or producing any such information on the grounds that those requests presume that the market entry analysis is contingent upon US LEC's economic business model instead of the hypothetical business model contemplated by the TRO. The TRO explicitly contemplates that in considering whether a competing carrier economically can compete in a given market without access to a particular unbundled network element, the Commission must consider the likely revenues and costs associated with the given market based on the most efficient business model for entry rather than to a particular carrier's business model. TRO at ¶326. In particular, the FCC stated:

In considering whether a competing carrier could economically serve the market without access to the incumbent's switch, the state commission must also consider the likely revenues and costs associated with local exchange mass market service . . . The analysis must be based on the *most efficient business model* for entry rather than to any *particular carrier's business model*.

Id. (emphasis added). Additionally, with respect to economic entry, in paragraph 517 of the TRO, the FCC stated that "[t]he analysis must be based on the most efficient business model for entry rather than to any particular carrier's business model." Furthermore, in footnote 1579 of the TRO, the FCC clarified that "[s]tate commissions should not focus on whether competitors operate under a cost disadvantage. State commissions should determine if entry is economic by conducting a business case analysis for an *efficient entry*" (emphasis added).

In addition to these statements, the FCC also made numerous other references to the operations and business plans of an efficient competitor, specifically rejecting a review of a particular carrier's business plans or related financial information. See ¶84 n. 275 ("Once the UNE market is properly defined, impairment should be tested by asking whether *a reasonable efficient CLEC* retains the ability to compete even without access to the UNE.") (citing BellSouth Reply, Attachment 2, Declaration of Howard A. Shelanski at ¶2(emphasis added)). See also TRO at ¶115; ¶469; ¶485 n. 1509; ¶517 n. 1579; ¶519 n. 1585; ¶520 ns. 1588 and 1589; ¶581 n. 1788.

Accordingly, the FCC's *TRO* specifically contemplates the consideration of financial and related information of an *efficient "model" competitor* and not that of US LEC or any other *particular competitor*. As a result, discovery of US LEC financial information or business plans will not lead to the discovery of admissible evidence in this proceeding. US LEC also objects on the grounds that the interrogatory seeks the disclosure of commercially sensitive, confidential and proprietary business information. US LEC also objects because, as defined within the interrogatory, the term "business case" is overbroad. US LEC also objects because, particularly in view of the fact the information is irrelevant, requiring US LEC to disclose its internal analyses would be oppressive and unduly burdensome. Additionally, US LEC objects to this interrogatory to the extent it seeks or may be deemed to seek or require the production or disclosure of information subject to the attorney/client or other privileges, the work product doctrine, the accountant/client privilege, any confidentiality or non-disclosure agreement or any other applicable privilege.

3. Produce all documents referring or relating to the average monthly revenues you receive from end user customers in Kentucky to whom you only provide qualifying service.

**Response:** US LEC objects to this interrogatory because the term "qualifying service" is undefined. Therefore, this interrogatory is overly broad and it would be unduly burdensome for US LEC to respond to such ambiguous discovery. US LEC also objects to this interrogatory because it is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. US LEC also objects on the grounds that the interrogatory asks for information that is irrelevant to the impairment analysis prescribed in the *TRO* and not reasonably calculated to lead to the discovery of admissible evidence. US LEC also objects to this interrogatory on the grounds it seeks confidential and proprietary business information. Further, US LEC interprets this interrogatory to request aggregate information. If BellSouth intended to request average monthly revenues for each individual end use customer, then US LEC objects on the grounds that the interrogatory is unduly burdensome and oppressive. US LEC objects to the request to the extent it seeks or may be deemed to seek or require the production or disclosure of information or documents subject to the attorney/client, the accountant/client privilege, any confidentiality or non-disclosure agreement or any other applicable privilege, including the work product doctrine or the protection afforded mental impressions, conclusions, opinions or legal theories of US LEC's attorneys or its representatives. US LEC also objects on the grounds this interrogatory seek the disclosure of commercially sensitive, confidential and proprietary business information. Finally, US LEC objects to the interrogatory to the extent they seek information related to special access circuits purchased out of BellSouth's interstate tariff rather than to unbundled network elements.

4. Produce all documents referring or relating to the average number of access lines you provide to end user customers in Kentucky to whom you only provide qualifying service.



**Response:** US LEC objects to this interrogatory on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence and to the extent that this information is already in BellSouth's possession. US LEC also objects on the grounds that the interrogatory asks for information that is irrelevant to the impairment analysis prescribed in the TRO and not reasonably calculated to lead to the discovery of admissible evidence. US LEC also objects to this interrogatory on the grounds it seeks confidential and proprietary business information. US LEC objects to this interrogatory because the terms "qualifying services" and "non-qualifying service," are undefined, as more fully explained in General Objection 13 above. US LEC objects to BellSouth's Interrogatories to the extent they seek information related to special access circuits purchased out of BellSouth's interstate tariff rather than to unbundled network elements.

5. Produce all documents referring or relating to the average monthly revenues you receive from end user customers in Kentucky to whom you only provide non-qualifying service.

**Response:** US LEC objects to this interrogatory because the term "qualifying service" is undefined. Therefore, this interrogatory is overly broad and it would be unduly burdensome for US LEC to respond to such ambiguous discovery. US LEC also objects to this interrogatory because it is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. US LEC also objects on the grounds that the interrogatory asks for information that is irrelevant to the impairment analysis prescribed in the TRO and not reasonably calculated to lead to the discovery of admissible evidence. US LEC also objects to this interrogatory on the grounds it seeks confidential and proprietary business information. Further, US LEC interprets this interrogatory to request aggregate information. If BellSouth intended to request average monthly revenues for each individual end use customer, then US LEC objects on the grounds that the interrogatory is unduly burdensome and oppressive. US LEC objects to the request to the extent it seeks or may be deemed to seek or require the production or disclosure of information or documents subject to the attorney/client, the accountant/client privilege, any confidentiality or non-disclosure agreement or any other applicable privilege, including the work product doctrine or the protection afforded mental impressions, conclusions, opinions or legal theories of US LEC's attorneys or its representatives. US LEC also objects on the grounds this interrogatory seek the disclosure of commercially sensitive, confidential and proprietary business information. Finally, US LEC objects to the interrogatory to the extent they seek information related to special access circuits purchased out of BellSouth's interstate tariff rather than to unbundled network elements.

6. Produce all documents referring or relating to the average monthly revenues you receive from end user customers in Kentucky to whom you provide both qualifying and non-qualifying service.

**Response:** US LEC objects to this interrogatory because the term "qualifying service" is undefined. Therefore, this interrogatory is overly broad and it would be unduly burdensome for US LEC to respond to such ambiguous discovery. US LEC also objects to this interrogatory because it is irrelevant and is not reasonably calculated to lead to the discovery of admissible

evidence. US LEC also objects on the grounds that the interrogatory asks for information that is irrelevant to the impairment analysis prescribed in the TRO and not reasonably calculated to lead to the discovery of admissible evidence. US LEC also objects to this interrogatory on the grounds it seeks confidential and proprietary business information. Further, US LEC interprets this interrogatory to request aggregate information. If BellSouth intended to request average monthly revenues for each individual end use customer, then US LEC objects on the grounds that the interrogatory is unduly burdensome and oppressive. US LEC objects to the request to the extent it seeks or may be deemed to seek or require the production or disclosure of information or documents subject to the attorney/client, the accountant/client privilege, any confidentiality or non-disclosure agreement or any other applicable privilege, including the work product doctrine or the protection afforded mental impressions, conclusions, opinions or legal theories of US LEC's attorneys or its representatives. US LEC also objects on the grounds this interrogatory seek the disclosure of commercially sensitive, confidential and proprietary business information. Finally, US LEC objects to the interrogatory to the extent they seek information related to special access circuits purchased out of BellSouth's interstate tariff rather than to unbundled network elements.

7. Produce all documents referring or relating to the average number of access lines you provide to end user customers in Kentucky to whom you provide both qualifying and non-qualifying service.

**Response:** US LEC objects to this interrogatory because the term "qualifying service" is undefined. Therefore, this interrogatory is overly broad and it would be unduly burdensome for US LEC to respond to such ambiguous discovery. US LEC also objects to this interrogatory because it is irrelevant and is not reasonable calculated to lead to the discovery of admissible evidence. US LEC also objects on the grounds that the interrogatory asks for information that is irrelevant to the impairment analysis prescribed in the TRO and not reasonably calculated to lead to the discovery of admissible evidence. US LEC also objects to this interrogatory on the grounds it seeks confidential and proprietary business information. Further, US LEC interprets this interrogatory to request aggregate information. If BellSouth intended to request average monthly revenues for each individual end use customer, then US LEC objects on the grounds that the interrogatory is unduly burdensome and oppressive. US LEC objects to the request to the extent it seeks or may be deemed to seek or require the production or disclosure of information or documents subject to the attorney/client, the accountant/client privilege, any confidentiality or non-disclosure agreement or any other applicable privilege, including the work product doctrine or the protection afforded mental impressions, conclusions, opinions or legal theories of US LEC's attorneys or its representatives. US LEC also objects on the grounds this interrogatory seek the disclosure of commercially sensitive, confidential and proprietary business information. Finally, US LEC objects to the interrogatory to the extent they seek information related to special access circuits purchased out of BellSouth's interstate tariff rather than to unbundled network elements.

8. Provide all documents referring or relating to the classifications used by US LEC to offer service to end user customers in Kentucky (e.g., residential customers, small

business customers, mass market customers, enterprise customers, or whatever type of classification that you use to classify your customers).

**Response:** US LEC restates and incorporates by reference its objections to Production of Documents 2-5 above.

9. Produce all documents referring or relating to the average acquisition cost for each class or type of end user customer served by US LEC, as requested in BellSouth's First Set of Interrogatories, No. 34

**Response:** US LEC restates and incorporates by reference its objections to Production of Documents 2-5 above.

10. Produce all documents referring or relating to the typical churn for each class or type of end user customer served by US LEC, as requested in BellSouth's First Set of Interrogatories, No. 35.

**Response:** US LEC restates and incorporates by reference its objections to Production of Documents 2-5 above.

11. Produce all documents referring or relating to how US LEC determines whether to serve an individual customer's location with multiple DS0s or with a DS1 or larger transmission system.

**Response:** US LEC objects to these interrogatories on the grounds that they are inconsistent with the analysis prescribed in the TRO, are unrelated to the analysis the Commission is to make, irrelevant to the issues in the docket and not reasonably calculated to lead to the discovery of admissible evidence. US LEC objects to BellSouth's Interrogatories to the extent they seek information related to special access circuits purchased out of BellSouth's interstate tariff rather than to unbundled network elements. US LEC also objects on the basis that this interrogatory seek the disclosure of confidential and proprietary business information. US LEC objects to these requests to the extent they seek or may be deemed to seek or require the production or disclosure of information or documents subject to the attorney/client, the accountant/client privilege, any confidentiality or non-disclosure agreement or any other applicable privilege, including the work product doctrine or the protection afforded mental impressions, conclusions, opinions or legal theories of US LEC's attorneys or its representatives. US LEC also objects on the grounds this interrogatory as framed are overbroad and unduly burdensome. US LEC objects to this interrogatory on the grounds that they are irrelevant. US LEC's decision making about what type of transmission system with which it should serve a customer is beyond the scope of this proceeding.

12. Produce all documents referring or relating to the typical or average number of DS0s at which US LEC would choose to serve a particular customer with a DS1 or larger transmission system as opposed to multiple DS0, all other things being equal.

**Response:** US LEC restates and incorporates by reference its objections to Production of Documents 11 above.

13. Produce all documents referring or relating to the cost of capital used by US LEC in evaluating whether to offer a qualifying service in a particular geographic market.

**Response:** US LEC objects to this interrogatory on the grounds that the information sought is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. US LEC's capital cost analyses are beyond the scope of this proceeding. Also, such information is confidential and proprietary to US LEC. US LEC also objects to this interrogatory because it will not lead to the discovery of admissible evidence for the reasons explained in US LEC's objection to Production of Documents No. 2, which is incorporated by reference.

14. Produce all documents referring or relating to the time period used by US LEC in evaluating whether to offering a qualifying service in a particular geographic market (e.g., one year, five years, ten years or some other time horizon over which a project is evaluated)?

**Response:** US LEC objects to this interrogatory on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence as more fully explained in US LEC's objection to Production of Documents No. 2 above, which is incorporated by reference. In addition, the period of time over which US LEC may evaluate a product offering is beyond the scope of this proceeding as are US LEC's definitions of the terms "sales expenses," and "general and administrative expenses" and its estimate of those expenses. Finally, US LEC objects to BellSouth's Interrogatories to the extent they seek information related to special access circuits purchased out of BellSouth's interstate tariff rather than to unbundled network elements.

15. Produce all documents referring or relating to your estimates of sales expense when evaluating whether to offer a qualifying service in a particular geographic market.

**Response:** US LEC objects to this interrogatory on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence as more fully explained in US LEC's objection to Production of Documents No. 2 above, which is incorporated by reference. In addition, the period of time over which US LEC may evaluate a product offering is beyond the scope of this proceeding as are US LEC's definitions of the terms "sales expenses," and "general and administrative expenses" and its estimate of those expenses. Finally, US LEC objects to BellSouth's Interrogatories to the extent they seek information related to special access circuits purchased out of BellSouth's interstate tariff rather than to unbundled network elements.

16. Produce all documents referring or relating to your estimates of general and administrative (G&A) expenses when evaluating whether to offer a qualifying service in a particular geographic market.

**Response:** US LEC objects to this interrogatory on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence as more fully explained in US LEC's objection to Production of Documents No. 2 above, which is incorporated by reference. In addition, the period of time over which US LEC may evaluate a product offering is beyond the scope of this proceeding as are US LEC's definitions of the terms "sales expenses," and "general and administrative expenses" and its estimate of those expenses. Finally, US LEC objects to BellSouth's Interrogatories to the extent they seek information related to special access circuits purchased out of BellSouth's interstate tariff rather than to unbundled network elements.

17. Produce all documents referring or relating to any complaints by US LEC or its end user customers about individual hot cuts performed by BellSouth since January 1, 2000.

**Response:** US LEC objects to this interrogatory on the grounds that BellSouth's definition of "hot cut" is vague as explained in General Objection 11 above. Therefore, this interrogatory is overly broad and it would be unduly burdensome for US LEC to respond to such ambiguous discovery. US LEC also objects to this interrogatory on the grounds that providing this information since January 2000 is onerous, oppressive, unduly burdensome and beyond any legitimate discovery need. US LEC also objects to this interrogatory to the extent the information sought is already in BellSouth's possession or is publicly available to BellSouth. US LEC objects to BellSouth's Interrogatories to the extent they seek information related to special access circuits purchased out of BellSouth's interstate tariff rather than to unbundled network elements.

18. Produce all documents referring or relating to a batch hot cut process used by any ILEC in the BellSouth region that is acceptable to US LEC or that US LEC believes is superior to BellSouth's batch hot cut process.

**Response:** US LEC objects to these interrogatories on the grounds that BellSouth's definition of the terms "hot cut," "individual hot cut process," "batch hot cut," "batch hot cut process," and "non-coordinated hot cut" are vague as explained in General Objection 11 above. Therefore, these interrogatories are overly broad and it would be unduly burdensome for US LEC to respond to such ambiguous discovery. US LEC also objects to this interrogatory to the extent the information sought is already in BellSouth's possession or is publicly available to BellSouth. US LEC objects to BellSouth's Interrogatories to the extent they seek information related to special access circuits purchased out of BellSouth's interstate tariff rather than to unbundled network elements.

19. Produce all documents referring or relating to an individual hot cut process used by any ILEC in the BellSouth region that is acceptable to US LEC or that US LEC believes is superior to BellSouth's individual hot cut process.

**Response:** US LEC restates and incorporates by reference its objections to Production of Documents 17 and 18 above.

20. Produce all documents referring or relating to a batch hot cut process used by any ILEC outside the BellSouth region that is acceptable to US LEC or that US LEC believes is superior to BellSouth's batch hot cut process.

**Response:** US LEC restates and incorporates by reference its objections to Production of Documents 17 and 18 above.

21. Produce all documents referring or relating to an individual hot cut process used by any ILEC outside the BellSouth region that is acceptable to US LEC or that US LEC believes is superior to BellSouth's individual hot cut process.

**Response:** US LEC restates and incorporates by reference its objections to Production of Documents 17 and 18 above.

Respectfully submitted this 16th day of December, 2003.

Respectfully submitted,

/s/  
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## CERTIFICATE OF SERVICE

I hereby certify that the electronic version of this filing made with the Commission this 16<sup>th</sup> day of December 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 on December 16<sup>th</sup> to those persons whose postal addresses appear on the service list below.

/s/

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