

**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

MCImetro Access Transmission Services, LLC and MCI WorldCom  
Communications, Inc. (hereinafter "Movant"), hereby requests that portions of the  
pre-filed direct testimony of James D. Webber, including Exhibit 2, and Exhibit 2  
to the testimony of Dr. Mark T. Bryant be provided confidential treatment by the  
Commission pursuant to KRS 61.878 and 807 KAR 5:001, Section 7.

In support of its petition Movant states as follows:

1. The Commission issued an Order in this docket on November 4, 2003 providing for pre-filed direct testimony.
2. Movant transmits herewith its testimony concerning mass market switching issues, including certain confidential information used to support the positions asserted in the testimony.
3. Movant hereby seeks protection of trade secrets disclosed on: four pages of sixty pages of Mr. Webber's pre-filed testimony, Exhibit 2 to Mr. Webber's testimony, and Exhibit 2 to the testimony of Dr. Bryant. The supporting exhibits contain

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

4. The confidential portions are not being filed electronically with the public filings in this case. The confidential exhibits are being provided to BellSouth Telecommunications, Inc. pursuant to a protective agreement, and to the Commission.
5. 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.
6. The information contained in Movant 's supporting exhibits 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 provide an unfair commercial advantage to Movant's competitors, thereby causing irreparable harm to Movant. For example, Exhibit B to Mr. Webber's testimony discloses the geographic areas in which Movant has chosen to provide service

using the UNE platform. In addition, Mr. Webber's testimony discloses the number of lines being served by Movant using UNE-P, and discloses exactly the number of BellSouth wire centers where Movant is providing local service to mass market customers. A competitor could use the data to obtain market information about the Company and its business plans. Such competitor could avoid the expense of business case analysis and simply copy the plans of Movant. Further, 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. As to Dr. Bryant's testimony, there is a single reference (page 6) to a statistic furnished to MCI by BellSouth subject to a protective agreement requiring that MCI not disclose this information publicly. Upon information and belief MCI asserts that BellSouth has independently sought confidential treatment for this information. Finally, Exhibit 2 to Dr. Bryant's testimony, consisting of the MCI "Impairment Analysis Tool," includes highly proprietary worksheets created by MCI containing detailed information on each wire center in certain ILEC operating areas, and a large number of user-adjustable assumptions used in the analysis tool to calculate costs. Among other things, this worksheet includes market assumptions and other estimates created by MCI which could harm MCI if disclosed generally to competitors.

7. 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, the public interest will be served because competition will be protected.

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

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that the electronic version of this filing made with the Commission this 12th day of February 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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