

**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

Competitive Carriers of the South, Inc. (hereinafter "Movant"), hereby requests that portions of the pre-filed rebuttal testimony of Gary J. Ball and Joseph Gillan, including a reference in Exhibit 8 (affidavit of James Falvey), 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 testimony.
2. Movant transmits herewith its rebuttal testimony, including certain confidential information used to support the positions asserted in the testimony. Much of this information is derived from information disclosed confidentially by BellSouth, e.g., confidential exhibit SWP-3, furnished to Movant under the terms of a protective agreement that requires Movant to assist in the protection of information confidentially disclosed. The information disclosed by BellSouth includes commercially sensitive information about interconnecting carriers (the

“disclosing parties”) who compete not only with BellSouth, but in some cases with Movant.

3. Movant hereby seeks ensure that it does not inadvertently disclose trade secrets or other proprietary information of disclosing parties or other carriers who furnished information in response to data requests.
4. The confidential portions are not being filed electronically with the public filings in this case. The confidential testimony and exhibit will be provided to BellSouth 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. As discussed above, the information contained in Movant 's testimony and supporting exhibits includes data relating to other carriers that Movant believes may contain proprietary and commercial information that would permit an unfair advantage to competitors, including competitors who may have chosen not to participate in this docket. Movant is bound by a regionwide protective agreement and was able to obtain this information for use only in accordance with its terms. 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, could provide an unfair commercial advantage to competitors of the disclosing parties, thereby causing irreparable harm

7. Upon information and belief Movant asserts that BellSouth or other disclosing parties have independently sought confidential treatment for the information Movant seeks to protect from public disclosure.
8. With respect to Exhibit 8 to the testimony of Joe Gillan, this exhibit includes information concerning the number of voice grade equivalents and DS-0s operational for Xspedius Communications. If publicly disclosed, this information could be used to the detriment of Xspedius.
9. Disclosure of confidential information of this nature will be detrimental to disclosing parties and potentially to Movant because it contains data that is not otherwise available to the Company's competitors. The information sought to be protected is not known outside Movant or the disclosing parties, nor is it provided to the public; its use is restricted to only those witnesses, consultants and attorneys who have a legitimate reason for reviewing such in connection with this proceeding. Indeed, by granting the petition, the public interest will be served because competition will be protected.

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

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 31st 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.

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/s/

Douglas F. Brent

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