

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)	

**OBJECTIONS AND RESPONSES OF CINERGY COMMUNICATIONS
COMPANY TO BELL SOUTH TELECOMMUNICATIONS,
INC'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (1-21)**

Cinergy Communications Company ("CCC") hereby provides its objections and responses to BellSouth Telecommunications, Inc.'s ("BellSouth") First Request for Production of Documents (1-21).

GENERAL OBJECTIONS

CCC makes the following general objections to the Requests:

1. CCC objects to the "Definitions" section, the "General Instructions," and the individual request items of BellSouth's First Requests for Production of Documents to Cinergy Communications Company to the extent that they are overly broad, unduly burdensome, and/or oppressive. CCC will attempt to identify specific requests to which this objection applies within the specific objections that follow.

2. CCC objects to the "Definitions," the "General Instructions," and the individual request items to the extent they are irrelevant and not likely to lead to the discovery of admissible evidence. By way of illustration and not limitation, CCC objects to requests that seek materials and documents that are inconsistent with or unrelated to the parameters and methodology of the impairment analysis prescribed by the FCC in its Triennial Review Order. CCC will attempt to

identify individual requests to which this general objection is applicable within the specific objections that follow.

3. CCC objects to the “Definitions,” the “General Instructions,” and the request items to the extent they are vague, ambiguous, imprecise, or utilize terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these Requests.

4. CCC objects to the “General Instructions” and the request items of BellSouth’s First Set of Requests for Production to CCC to the extent that they purport to impose discovery obligations on CCC that exceed the scope of discovery allowed by the applicable Kentucky Rules of Civil Procedure.

5. CCC objects to the “General Instructions” section and the individual request items of BellSouth’s First Requests for Production to CCC to the extent that the “instructions” purport to seek disclosure of “all” documents, materials or information in CCC’s possession. CCC’s responses will provide all nonprivileged and otherwise discoverable information obtained by CCC after a reasonable and diligent search conducted in connection with the Requests. Such search will include a review of only those files that are reasonably expected to contain the requested documents and/or information. To the extent that “instructions” or individual requests require more, CCC objects on the grounds that compliance would be unduly burdensome, expensive, oppressive, or excessively time consuming, and unnecessary to accomplish BellSouth’s legitimate discovery needs.

6. CCC objects to BellSouth’s First Requests for Production to the extent that the requests seeks discovery of materials and/or information protected by attorney/client privilege, the work product doctrine, the accountant/client privilege, or any other applicable privilege.

7. CCC objects to BellSouth's First Set of Requests for Production to the extent that the requests would require disclosure of information that constitutes trade secrets and/or confidential and proprietary information that should be disclosed either not at all or only pursuant to the terms of a mutually acceptable confidentiality agreement and use of the Commission's rules and orders governing confidentiality

8. CCC objects to all requests which would require the production of materials and/or information which is already in BellSouth's possession or is in the public record before the Commission. To duplicate information that BellSouth already has or is readily available to BellSouth would be unduly burdensome and oppressive.

9. CCC objects to BellSouth's First Request for Production to the extent BellSouth seeks to impose an obligation on CCC to respond on behalf of subsidiaries and/or former officers, employees, agents, and directors on the grounds that such requests for production are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

SPECIFIC OBJECTIONS TO REQUESTS

CCC hereby incorporates the above general objections by reference. To the extent possible within the expedited time frame for the filing of preliminary objections, CCC will attempt to identify individual items that are subject to objection. CCC reserves the right to add or enlarge upon these objections when CCC files its responses.

REQUEST NO. 1: Produce all documents identified in response to BellSouth's First Set of Interrogatories.

OBJECTION: CCC objects to the extent No. 1 seeks confidential and proprietary documents. CCC also incorporates by reference its Objections to the First Set of Interrogatories.

Request No. 1 also seeks confidential information which is protected by contractual confidentiality clauses and may only be produced upon order from the Public Service Commission. Without waiving the foregoing objections, see Exhibit A.

REQUEST NO. 2: Produce every business case in your possession, custody or control that evaluates, discusses, analyzes or otherwise refers or related to the offering of a qualifying service in the Commonwealth of Kentucky.

OBJECTION: CCC objects to No. 2 on the grounds that it seeks discovery of documents that, inasmuch as the FCC ruled the state commissions' impairment analyses are not to be based on individual carriers' business cases, are unrelated to the analysis the Commission will conduct, are irrelevant to the issues in the case, and not reasonably calculated to lead to the discovery of admissible evidence. CCC also objects on the grounds the request seeks the disclosure of confidential and proprietary business information.

REQUEST NO. 3: Produce all documents referring or relating to the average monthly revenues you receive from end users customers in Kentucky to whom you only provide qualifying service.

OBJECTION: CCC objects to Request No. 2 on the grounds that the request seeks documents that are unrelated to the analysis of impairment prescribed by the FCC and irrelevant to the issues in this case, and not reasonably calculated to lead to the discovery of admissible evidence. CCC objects on the grounds the request seeks the disclosure of confidential and proprietary information. CCC objects to No. 3 on the grounds that the request to produce "all documents" relating to the average monthly revenues is oppressive and unduly burdensome. Without waiving the foregoing objection, see Exhibit B.

REQUEST NO. 4: Produce all documents referring or relating to the average number of access lines you produce to end user customers in Kentucky to whom you only provide qualifying service.

OBJECTION: CCC objects to no. 4 on the grounds the request to provide all documents is onerous, unduly burdensome, and goes far beyond any legitimate discovery needs. Providing specific documentation would encompass the data run which would list each CCC customer specifically, with the number of lines involved. CCC also objects on the basis the information is proprietary and confidential. Without waiving the foregoing objection, see Exhibit B.

REQUEST NO. 8: Produce all documents referring or relating to the classifications used by CCC Corporation to offer service to end user customer 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).

OBJECTION: CCC objects to No. 8 on the grounds the request for “all documents” is onerous, unduly burdensome, oppressive, and goes far beyond any legitimate discovery need. CCC will provide documents reasonably sufficient to demonstrate the classifications and the basis for those classifications. Without waiving the foregoing objection, CCC states that it uses the classifications of “business” and “residential.”

REQUEST NO. 9: Produce all documents referring or relating to the average acquisition cost for each class or type of end user customer served by CCC Corporation, as requested in BellSouth’s First Set of Interrogatories, No. 34.

OBJECTION: CCC objects to No. 9 on the grounds that, because they relate to CCC’s individual business model, the request seeks documents that are unrelated to the

impairment analysis prescribed in the Triennial Review Order, irrelevant to the issues in the case, and not reasonably calculated to lead to the discovery of admissible evidence. CCC also objects on the grounds the request seeks disclosure of confidential and proprietary business information. CCC also objects to the request to produce “all” documents as overbroad, unduly burdensome, and oppressive.

REQUEST NO. 10: Produce all documents referring or relating to the typical churn for each class or type of end user customer served by CCC Corporation, as requested in BellSouth’s First Set of Interrogatories, No. 35.

OBJECTION: CCC objects to the request because it seeks carrier-specific information that is unrelated to and inconsistent with the impairment analysis prescribed within the Triennial Review Order, and the requested documents are therefore irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. CCC also objects to the request that it provide “all” documents as overbroad and unduly burdensome. In addition, CCC objects because the request seeks confidential and proprietary business information. Without waiving the foregoing objections, see Exhibit A.

REQUEST NO. 11: Produce all documents referring or relating to how CCC Corporation determines whether to serve an individual customer’s location with multiple DS0s or with a DS1 or larger transmission system.

OBJECTION: As stated in the general objections, which have been incorporated into each specific objection, CCC objects to the request that it provide “all” documents. In addition, CCC objects because the request seeks confidential and proprietary business information. Without waiving the foregoing objection, see Exhibit A.

REQUEST NO. 12: Produce all documents referring or relating to the typical or average number of DS0s at which CCC Corporation would choose to serve a particular customer with a DS1 or larger transmission system as opposed to multiple DS1s, all other things being equal.

OBJECTION: As stated in the general objections, which have been incorporated into each specific objection, CCC objects to the request that it provide “all” documents. In addition, CCC objects because the request seeks confidential and proprietary business information. waiving the foregoing objection, see Exhibit A.

REQUEST NO. 13: Produce all documents referring or relating to the cost of capital used by CCC Corporation in evaluating whether to offer a qualifying service in a particular geographic market.

OBJECTION: CCC objects to the request on the grounds that, because they relate to CCC’s specific business model, it requests documents that are unrelated to the impairment analysis prescribed by the FCC in its Triennial Review Order, irrelevant to the issues in the case, and not reasonably calculated to lead to the discovery of admissible evidence. CCC objects to the request for “all” documents as overbroad and unduly burdensome. CCC also objects on the grounds the information sought is confidential and proprietary business information.

REQUEST NO. 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.

OBJECTION: CCC objects to No. 15 on the grounds it requests documents that, because they relate to financial aspects of CCC’s specific business model, are unrelated to the impairment analysis prescribed within the Triennial Review Order, irrelevant to the issues in this

case, and not reasonably calculated to lead to the discovery of admissible evidence. CCC objects on the grounds the request for “all” documents is overbroad and unduly burdensome. CCC also objects on the grounds that the request seeks documents that are confidential and proprietary business information. Without waiving the foregoing objection, CCC states that it does not presently calculate sales expense for this purpose.

REQUEST NO. 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.

OBJECTION: CCC objects to No. 16 on the grounds that it seeks documents that, because they relate to CCC’s specific business model, are unrelated to the prescribed impairment analysis, irrelevant to the issues in the case, and not reasonably calculated to lead to the discovery of admissible evidence. CCC also objects on the grounds the request seeks the disclosure of confidential and proprietary business information. Further, the request for “all” documents is overbroad and unduly burdensome. Without waiving the foregoing objection, CCC states that it does not calculate G&A expenses for this purpose.

REQUESTS NO. 17 through 21:

RESPONSE: CCC has no documents responsive to any of these requests, which all relate to the hot cut process.

Respectfully submitted this 18th day of December, 2003.

Respectfully submitted,

Robert Bye
CINERGY COMMUNICATIONS COMPANY
8829 Bond Street
Overland Park, Kansas 66214
(913) 492-1230

/s/

C. Kent Hatfield
Douglas F. Brent
STOLL, KEENON & PARK, LLP
2650 AEGON Center
400 West Market Street
Louisville, Kentucky 40202
(502) 568-9100

Attorneys for Cinergy Communications Company

CERTIFICATE OF SERVICE

I hereby certify that the electronic version of this filing made with the Commission this 18th 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 18th to those persons whose postal addresses appear on the service list below.

James T. Meister
ALLTEL Kentucky, Inc.
Kentucky ALLTEL, Inc.
ALLTEL Communications, Inc.

james.t.meister@alltel.com

BellSouth Telecommunications, Inc.
BellSouthKY.CaseFiling@BellSouth.com

/s/

Douglas F. Brent

Hon. Ann Louise Chevront
Office of the Attorney General
Utility & Rate Intervention Division

ann.chevront@law.state.ky.us

Cincinnati Bell
jouett.Kinney@cinbell.com
mark.romito@cinbell.com
pat.rupich@cinbell.com

Competitive Carriers of the South, Inc.

glsharp@comcast.net

tonykey@att.com

hwalker@boultcummings.com

Wanda Montano

Vice President, Regulatory & Industry

US LEC Communications

wmontano@uslec.com

Jonathan N. Amlung

Counsel for:

SouthEast Telephone, Inc.

Jonathon@amlung.com

AT&T Communications of the
South Central States

rossbain@att.com

soniadaniels@att.com

Kennard Woods

Senior Attorney

MCI WorldCom Communications

ken.woods@mci.com

Kentucky Cable Telecommunications

Association

P.O. Box 415

Burkesville, KY 42717

Charles (Gene) Watkins

Senior Counsel

Diecca Communications, Inc

d/b/a Covad Communications

gwatkins@covad.com

jbelle@covad.com