

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
Nashville, Tennessee

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In Re: *Implementation of the Federal Communication Commission's Triennial  
Review Order (Nine-month Proceeding) (Switching)*  
Docket No. 03-00491

TRA DOCKET ROOM

*Implementation of the Federal Communications Commission's Triennial  
Review Order (Nine-month Proceeding) (Hot Cuts)*  
Docket No. 03-00526

**PRELIMINARY OBJECTIONS OF  
ELECTRIC POWER BOARD OF CHATTANOOGA  
TO BELL SOUTH'S FIRST SET OF INTERROGATORIES AND  
FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS**

Electric Power Board of Chattanooga ("EPB") pursuant to the procedural schedule established by the Order on October 21, 2003 Status Conference (the "Order"), hereby generally and specifically objects to BellSouth Telecommunications, Inc.'s (hereinafter "BellSouth") First Set of Interrogatories and First Request for Production of Documents to EPB. The Objections stated herein are preliminary in nature and are made at this time for the purpose of complying with the November 6, 2003 deadline set forth in the Order. Any answer that EPB may provide in response to the BellSouth discovery will be provided subject to, and without waiver of, these objections.

**I. General Objections**

EPB makes the following General Objections to BellSouth's First Set of Interrogatories and First Request for Production of Documents, including the applicable definitions and general instructions therein ("BellSouth discovery"), which as appropriate will be incorporated into each relevant response when EPB's responses are served on BellSouth.

1. EPB objects to the BellSouth discovery to the extent that such discovery calls for information which is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

2. EPB objects to the BellSouth discovery insofar as such discovery is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations and are not properly defined or explained for purposes of these requests.

3. EPB objects to the BellSouth discovery insofar as such discovery is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action.

4. EPB objects to the BellSouth discovery insofar as it seeks information or documents, or seek to impose obligations on EPB which exceed the requirements of the Tennessee Rules of Civil Procedure or Tennessee law.

5. EPB objects to providing information to the extent that such information is already in the public record before the Tennessee Regulatory Authority (the "Authority"), is otherwise publicly available, or which is already in the possession, custody, or control of BellSouth.

6. EPB objects to the BellSouth discovery to the extent that such discovery is overly broad, unduly burdensome, expensive, oppressive, or excessively time consuming as written.

7. EPB objects to the BellSouth discovery that seeks to obtain "all," "each," or "every" document, item, customer, or other such piece of information to the extent that such discovery is overly broad and unduly burdensome.

8. EPB objects to the BellSouth discovery to the extent such discovery seeks to have EPB create documents not in existence at the time of the request.

9. EPB objects to the BellSouth discovery as overly broad and unduly burdensome to the extent that such discovery is not limited to any stated period of time or a stated period of time that is longer than is relevant for purposes of the issues in this docket.

10. In light of the short period of time EPB has been afforded to respond to the BellSouth discovery, the development of EPB'S positions and potentially responsive information to the BellSouth requests is necessarily ongoing and continuing. This process is further complicated since at this point in time, the actual issues to be set forth for hearing in this docket have not yet been established. Accordingly, these are preliminary objections to comply with the Order. EPB reserves the right to supplement, revise, or modify its objections at the time that it serves its actual responses to the BellSouth discovery. However, EPB does not assume an affirmative obligation to supplement its answers on an ongoing basis, contrary to the BellSouth General Instruction.

11. EPB objects to the BellSouth discovery to the extent that it seeks disclosure 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 Rule 26.02(4) of the Tennessee Rules of Civil Procedure.

12. EPB objects to the BellSouth discovery to the extent that the definitions operate to seek discovery of matters other than those subject to the jurisdiction of the Authority, pursuant to the FCC's Triennial Review Order.

13. EPB objects to the BellSouth discovery to the extent that it asks for information that may not be available in precisely the same format, category, or definitions from EPB systems, which systems are limited in terms of their capacity to produce unlimited reports and information in any format, category or definition requested.

14. EPB objects to the BellSouth discovery to the extent it seeks documents and information in the possession of third parties.

## **II. Specific Objections**

EPB makes the following Specific Objections to BellSouth discovery, which as appropriate will be incorporated into each relevant response when EPB's responses are served on BellSouth.

15. EPB objects to each and every interrogatory or request for production that seeks information regarding enterprise customers as such discovery is irrelevant for purposes of this docket and is not reasonably calculated to lead to the discovery of admissible evidence since the scope of this proceeding, as set forth by the FCC and the Authority, is limited to local circuit switching for mass market customers.

16. EPB objects to each and every interrogatory or request for production that seeks information regarding non-switched services (e.g., services that do not depend on local Class 5 switches), as such discovery is irrelevant for purposes of this docket and is not reasonably calculated to lead to the discovery of admissible evidence since the scope of this proceeding, as set forth by the FCC and the Authority, is limited to local circuit switching for mass market customers.

17. EPB objects to each and every interrogatory or request for production that seeks to obtain information regarding "former officers, employees, agents, directors, and all other persons acting or purporting to act on behalf of EPB" as such information is not within EPB'S control, would be unduly burdensome to attempt to obtain and is likely irrelevant.

18. EPB 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

EPB does not use such terms in the ordinary course of business and answering in these terms would require EPB to provide a legal interpretation of the FCC's terms. The terms in question are not relevant to the subject matter of this proceeding. Moreover, such discovery is overly broad and it would be unduly burdensome for EPB to respond to such ambiguous discovery.

19. EPB objects to the definitions for "hot cut, "batch hot cut," and "individual hot cut," and each and every interrogatory or request for production that includes such terms, as such definitions are vague in that it is not clear whether or to what extent BellSouth's practices are consistent with the FCC's use of such terms, however such terms may be defined by the FCC. Thus, such discovery is overly broad and it would be unduly burdensome for EPB to respond to such ambiguous discovery. EPB further objects to BellSouth's use of such terms as they apply to BellSouth's individual hot cut process as EPB is not privy to each and every process or procedure employed by BellSouth in implementing such hot cuts.

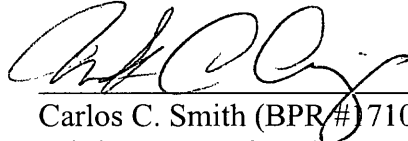
20. EPB objects to Interrogatory 54 regarding the development of BellSouth's process for individual hot cuts and an April 16, 2000 memorandum of understanding as EPB's current management has no information regarding the development of the process and has not found any such memorandum of understanding.

21. EPB objects to each and every interrogatory or request for production that seeks information regarding EPB'S projections regarding future services, revenues, marketing strategies, equipment deployments, or other such future business plans as such requests are trade secrets and, for purposes of this proceeding, would be highly speculative and irrelevant to the issues to be decided in this docket.

Respectfully Submitted,

STRANG, FLETCHER, CARRIGER,  
WALKER, HODGE & SMITH, PLLC

By:

A handwritten signature in black ink, appearing to be 'C. Smith', written over a horizontal line.

Carlos C. Smith (BPR # 710)

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## CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2003, the foregoing document was served on the parties of record, via the method indicated:

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