

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

**APPLICATION OF JACKSON ENERGY
AUTHORITY TO EXPAND ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE INTRASTATE
TELECOMMUNICATIONS SERVICES**

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Docket No.: 07-00201

**OBJECTIONS OF JACKSON ENERGY AUTHORITY TO
DISCOVERY REQUESTS OF AENEAS COMMUNICATIONS, LLC**

Jackson Energy Authority (“JEA”) respectfully submits these Objections to the discovery requests of Aeneas Communications, LLC (“Aeneas”).

GENERAL OBJECTIONS

1. JEA avers that the scope of this proceeding should be limited to the statutory requirements of T.C.A. § 65-4-201. JEA objects to Aeneas’ requests to the extent that the requests seek information relating to matters not at issue in this proceeding or to the extent that the requests are not reasonably calculated to lead to the discovery of admissible evidence. Matters involving the JEA telephone business unit that do not relate to the statutory standard set forth in T.C.A. § 65-4-201 may raised in other proceedings and other venues. Matters involving divisions and business units of JEA other than the telephone business unit are beyond the jurisdiction of the Authority and the scope of this proceeding. By providing information in response to these requests, JEA does not concede that such information is relevant, admissible, or discoverable, or that other information on the same or similar subjects would be discoverable. JEA expressly reserves the right to: (a) object to other discovery requests, despite their involving or relating to the subject matter of any of the interrogatories, document requests or requests for

admission being responded to here; and (b) object to the introduction into evidence of any answer or produced document on relevancy or any other grounds.

2. JEA objects to the definitions and instructions contained in the requests to the extent that the definitions and instructions attempt to impose on JEA a burden or obligation greater than that required by the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

3. JEA objects to the definition of “identify” and “identifying” as being unduly burdensome.

4. JEA objects to the requests to the extent they call for information and the production of documents protected from disclosure by the attorney-client privilege, common interest privilege, work product doctrine, or any other applicable privilege or protection. JEA objects to the requests to the extent that Aeneas is attempting to impose on JEA obligations with regard to identification of privileged documents beyond those required by the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

5. JEA objects to Aeneas’s requests to the extent that Aeneas is attempting to require JEA to provide information and produce documents beyond those in its possession, custody, or control as that phrase is used in the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

6. JEA’s objections and responses to these requests are and will be based on information then known to it. JEA reserves the right to amend, modify or supplement its objections and responses if it learns of new information.

7. JEA objects to requests that seek “all” documents pertaining to a certain issue or falling into a certain category. Such requests by their nature are unduly burdensome, and unreasonably cumulative and duplicative. When served on a corporate or other institutional defendant, literal compliance with such a request is impossible to assure. Requiring a party to produce “all” documents showing a certain fact when one will do is, by its nature, unreasonably cumulative and duplicative, and such requests are often vague and indefinite. Where documents are produced in response to such a request, JEA has interpreted the request in light of reason and the matters at issue in this case, and has made a reasonable search for responsive documents. In so doing, JEA has complied with its discovery obligations.

8. For the sake of brevity, JEA expressly incorporates these General Objections in response to each of Aeneas’s discovery requests in this case.

DISCOVERY REQUESTS

1. JEA currently holds a certificate to operate as a “carrier’s carrier to competitive local exchange carriers (‘CLEC’) within Madison County, Tennessee.” TRA Docket 03-00438, Order, at 8. Explain whether this application to “expand” JEA’s existing certificate will affect JEA’s rights and obligations to continue serving as a carrier’s carrier. Include in your answer an explanation of whether and, if so, how the granting of this petition for expanded authority will affect the “Code of Conduct” submitted by JEA in Docket 03-00438.

RESPONSE

2. Provide a detailed comparison between, on the one hand, the three-year pro forma financial statements for the JEA Telecommunications Division filed by JEA in TRA Docket 03-00438 (Petition, Appendix D) with, on the other hand, the actual results for those years. Explain all material differences.

RESPONSE: Subject to and without waiver of the General Objections, JEA will provide a comparison between the JEA telephone business unit's pro forma projections as set forth in Appendix D to the 2003 Petition and the telephone business unit's actual results for the first three full years of operations.

3. To the extent not covered in the response to Question 2, provide a detailed comparison between, on the one hand, the description of the telephone business unit, including its projected assets, network investment, and numbers of employees as described by JEA in TRA Docket 03-00438 and the telephone business unit as it exists today. Explain all material differences.

RESPONSE Please see JEA's response to Discovery Request number 2, above.

4. a. Of the \$60 million in bonds described in TRA Docket 03-00438 (Order, at 7), provide the total amount of bonds issued by JEA to provide for the construction and operations of JEA's telecommunications network.
- b. Estimate the difference between, on the one hand, the interest rate on those bonds and, on the other hand, the interest rate on the bonds if the bonds had not been guaranteed by JEA's Electric Division and the City of Jackson.
- c. Describe the schedule for the retirement of those bonds and the anticipated sources of revenue needed to retire the bonds.

RESPONSE Subject to and without waiver of the General Objections, JEA will provide responses to Discovery Requests 4.a. and 4.c. JEA further objects to Discovery Request 4.b. on the basis that such Request seeks information that is not relevant or likely to lead to the discovery of admissible evidence and calls for speculation on the part of JEA.

5. Describe the “unit fee” for each of the JEA services offered to CLECs as described in JEA’s “Code of Conduct.” Describe how each such “unit fee” was calculated.

RESPONSE Subject to and without waiver of the General Objections, JEA will provide a description of the status of the referenced “unit fee.”

6. Provide the “total long-run incremental cost” as that term is used in T.C.A. §65-5-108, of the following network elements:
- a. Single analog POTS port
 - b. Single T1 port
 - c. Ethernet port with IP speeds of 256K to 1G in increments of 256K, showing both upstream and downstream speeds.

RESPONSE Expanding upon the General Objections, JEA objects to each Discovery Request on the basis that T.C.A. § 65-5-108 is only applicable to incumbent providers and is not relevant to the statutory certification requirements for JEA. JEA is not an incumbent provider. JEA further objects to Discovery Request 6.c. on the basis that such request addresses a service that is not a jurisdictional telecommunications service.

7. Provide the current wholesale network access fee or fees charged by JEA to its Telephone Business Unit and explain in detail how the fee or fees were calculated.

RESPONSE Expanding upon the General Objections, JEA objects to the characterization of the network access charge as a “wholesale” charge. The network access charge is not a wholesale offering from JEA to itself. Subject to and without waiver of the foregoing objections, JEA will provide a description of the network access charge for the telephone business unit’s most recent fiscal year:

8. State, as a percentage of the retail rate, the wholesale rates of JEA's telephone service if the wholesale rates as calculated in accordance with 47 U.S.C. §252(d)(3) and consistent with the formula used by the TRA for determination of the wholesale rates of BellSouth Telecommunications, Inc.

RESPONSE Expanding upon the General Objections, JEA objects on the basis that 47 U.S.C. § 252(d)(3) refers to obligations of incumbent local exchange carriers under 47 U.S.C. § 251(c)(4). JEA is not an incumbent local exchange carrier subject to these provisions of 47 U.S.C. §§ 251 & 252, and the requested information is not relevant to the statutory certification requirements for JEA. *See* 47 U.S.C. § 251(c) ("In addition to the duties contained in subsection (b) of this section, each *incumbent local exchange carrier* has the following duties . . ."); 47 U.S.C. § 252(d)(3) ("For the purposes of section 251(c)(4) . . . , a provision applicable only to incumbent local exchange carriers). Subject to and without waiver of the General Objections, JEA avers that it has not made such a calculation.

9. Provide all documents and explanation concerning JEA's decision in or about May, 2002 to become a wholesale rather than a retail provider of telephone service, including, but not limited to, all studies and analyses used to create the "JEA Wholesale/Retail Option" document introduced as Exhibit 2 in Docket 03-00438.

RESPONSE Expanding upon the General Objections, JEA avers that this Discovery Request is overly broad and unduly burdensome. JEA further avers that a decision in 2002 concerning its business model at that time is not relevant to the statutory certification requirements for JEA and is not reasonably calculated to lead to the development of admissible evidence.

10. Explain whether JEA still supports the analysis described in the “JEA Wholesale/Retail Option” and, if not, explain why that analysis is no longer accurate.

RESPONSE

11. Provide all documents and explanation concerning JEA's decision to become a retail provider of telephone service instead of remaining solely a wholesale provider.

RESPONSE Expanding upon the General Objections, JEA avers that this Discovery Request is overly broad and unduly burdensome. Subject to and without waiver of the General Objections, JEA will provide an explanation concerning JEA's decision to become a retail provider, and JEA will attach a compilation of the primary strategic planning documents that management developed in connection with this decision to become a retail provider.

12. During the period January 1, 2007, through June 30, 2007, provide a comparison of the average time needed to correct a service problem reported by a Cinergy customer with the average time needed to correct a service problem reported by Aeneas.

RESPONSE

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce all current and prior contracts between JEA and Cinergy Communications and all current and prior rate schedules for service offered to Cinergy.

RESPONSE Subject to and without waiver of the General Objections, responsive documents will be attached.

2. Produce all current and prior contracts between JEA and IRIS Network, including but not limited to, all agreements for the use of JEA poles, conduits and right-of-way.

RESPONSE Subject to and without waiver of the General Objections, responsive documents will be attached.

3. Produce all training materials used by JEA to train its employees to ensure compliance with the Code of Conduct.

RESPONSE Subject to and without waiver of the General Objections, responsive documents will be attached.

4. Produce all trouble tickets produced since commercial launch of the first section of the JEA network.

RESPONSE Expanding upon the General Objections, JEA objects on the basis that this Discovery Request is overly broad and unduly burdensome, seeks information that is not relevant and information that is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of the General Objections, JEA will produce, to the extent of available records, a management report showing the total number of trouble tickets of the telephone business unit, sorted by month and by retail provider for the period corresponding to Discovery Request number 12 (January 1, 2007 to June 30, 2007).

5. Produce all training material used by JEA to ensure compliance with the FCC's CPNI requirements and the CPNI requirements set forth in the Aeneas interconnection agreement.

RESPONSE Expanding upon the General Objections, JEA objects on the basis that the requested documents are not relevant to the statutory certification requirements for JEA and this Discovery Request is not reasonably calculated to lead to the discovery of admissible evidence..

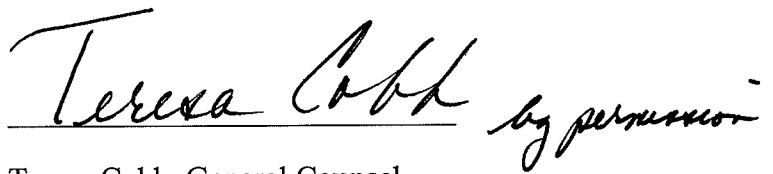
6. Produce job description of everyone in the Telecom Division, and anyone in other divisions who actually do work for the Telecom Division.

RESPONSE Expanding upon the General Objections, JEA objects on the basis that this Discovery Request is overly broad and unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence. JEA files annual cost allocation reports with the Authority concerning cost allocations to the telephone business unit. Subject to and without waiver of the General Objections, JEA will make available for inspection and copying the job descriptions of JEA employees who are identified in the current version of JEA's cost allocation manual.

7. Produce all pre-development market survey material concerning the projected “take rate” of the JEA network.

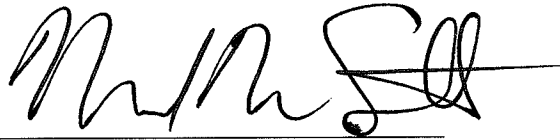
RESPONSE

Respectfully submitted,

by permission

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy has been forwarded via email and U.S. Mail to the following on this the 14th day of December 2007.

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