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OF OHIO
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Trinity Transport,

Complainant,

V.

Ameritech Ohio,

Respondent.

PUCO

Case No. 01-2912-TP-CSS

SBC OHIO'S MOTION TO COMPEL

SBC Ohio¹ moves to compel responses to the routine discovery it served on Complainant on January 24, 2003. In a motion being filed contemporaneously, SBC Ameritech Ohio has also moved for a continuance of the hearing scheduled for February 18, 2003 due to Complainant's non-responsiveness to the Company's discovery request. This motion is made pursuant to Sections 4901-1-12 and 4901-1-23(A)(1) and (2) of the Commission's rules.

Respectfully submitted,

SBC OHIO

By:

Jon F. Kelly
SBC
150 E. Gay St., Room 4-A
Columbus, Ohio 43215

(614) 223-7928

Its Attorney

¹ SBC Ohio is a registered trade name of The Ohio Bell Telephone Company.

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SBC OHIO'S
MEMORANDUM IN SUPPORT OF MOTION TO COMPEL RESPONSES TO DISCOVERY

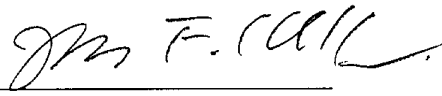
This complaint was filed on November 9, 2001. A number of pre-hearing settlement conference were held. An Entry adopted on December 3, 2002 scheduled a hearing for February 18, 2003. Through a routine discovery request served on January 24, 2003, SBC Ohio has attempted to determine, among other things, what proof Complainant will offer in support on its claims and what exhibits it proposes to offer at the hearing. The ten interrogatories and five requests for production of documents go to the most basic allegations and proof issues in the complaint. They are not burdensome in nature. Complainant has not responded to the Company's discovery request and has not offered a reason for its non-response. SBC Ameritech Ohio is entitled to receive and review the responses to its discovery request before it is required to defend itself at the hearing in this matter. To deprive the Company of that opportunity would violate its due process rights and any reasonable notion of fundamental fairness.

Pursuant to Section 4901-1-23(C)(3) of the Commission's rules, the attached affidavit describes the steps taken to attempt to resolve this matter informally. A copy of the discovery request served on Complainant is also attached pursuant to Section 4901-1-23(C)(2) of the Commission's rules.

For the foregoing reasons, SBC Ohio moves for an order compelling responses to its discovery request served on January 24, 2003.

Respectfully submitted,

SBC OHIO

By: 

Jon F. Kelly
SBC
150 E. Gay St., Room 4-A
Columbus, Ohio 43215

(614) 223-7928

Its Attorney

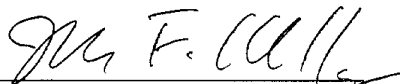
State of Ohio)
) ss.
County of Franklin)

AFFIDAVIT OF JON F. KELLY

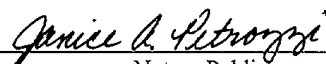
Jon F. Kelly, being duly cautioned and sworn, states as follows:

1. I am counsel for the Respondent, SBC Ohio, in the case entitled Trinity Transport v. Ameritech Ohio, PUCO Case No. 01-2912-TP-CSS.
2. On January 24, 2003, I caused to be served by facsimile and by mail on the Complainant's counsel a document entitled "Respondent's First Set of Interrogatories and First Request for Production of Documents."
3. Under the Commission's rules, and as specified in the request, the Complainant's responses to this discovery were due February 13, 2003.
4. On February 10 and 11, 2003 I made two attempts to contact Complainant's counsel to ask about the status of the responses to said discovery and to discuss the upcoming hearing in this matter. I left messages both times but have not received a response.
5. The due date for the Complainant's responses has passed with no response at all from the Complainant.

Further affiant sayeth naught.


Jon F. Kelly

Jon F. Kelly, being duly cautioned and sworn before me, a notary public in Franklin County, Ohio, subscribed the foregoing this 14th day of February, 2003.


Notary Public

My commission expires: 11-12-05

JANICE A. PETROZZI
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 11-12-05



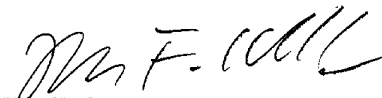
Certificate of Service

I hereby certify that a copy of the foregoing has been served this 14th day of February, 2003, by facsimile and by first class mail, postage prepaid, on the party shown below.

Trinity Transport

VIA FACSIMILE - 513/562-4388

Brian A. Lee
Benjamin, Yocum & Heather, LLC
312 Elm Street, Suite 1850
Cincinnati, Ohio 45202



Jon F. Kelly

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Fax Number: 513/562-4388

Number of Pages: 12

Thank you.

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*****-COMM, JOURNAL-*****
DATE JAN-24-2003 *** TIME 17:30 *** P.01

MODE = MEMORY TRANSMISSION
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END=JAN-24 17:30

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Jon F. Kelly
Sr. Counsel
Legal Department

SBC Ameritech Ohio
150 E. Gay St.
Room 4A
Columbus, OH 43215

January 24, 2003 614.223.7928 Phone
jk2961@sbc.com

VIA FACSIMILE - 513/562-4388

Brian A. Lee
Benjamin, Yocum & Heather, LLC
312 Elm Street, Suite 1850
Cincinnati, Ohio 45202

Re: Trinity Transport v. SBC Ameritech Ohio
PUCO Case No. 01-2912-TP-CSS

Dear Mr. Lee:

In connection with the referenced complaint case, which the PUCO has scheduled for on February 18, 2003, enclosed is our first set of interrogatories and requests for production of documents. Your responses are due February 13, 2003.

I would also like to discuss with you the status of the Complainant's account.

Trinity's recent billing statements have been:

05-10-02	\$426.69	due 05-31-02
06-10-02	\$442.83	due 06-28-02
07-10-02	\$502.55	due 07-29-02
08-10-02	\$478.02	due 08-31-02
09-10-02	\$453.09	due 10-01-02
10-10-02	\$484.48	due 10-30-02
11-10-02	\$476.57	due 12-02-02
12-10-02	\$452.11	due 01-02-03
01-10-03	\$459.12	due 01-31-03

The following payments have been received on those statements:

07-01-02	\$442.83	(The amount of the 06-10-02 statement)
08-05-02	\$507.55	(\$5.00 more than the 07-10-02 statement)
10-01-02	\$453.09	(\$24.93 less than the 08-10-02 statement)

Trinity has not made a payment on its account for over three months - - a violation of the agreement entered into on our last conference call with Mr. Hurst. Under that agreement, Trinity is behind at least \$1,839.85 plus late payment charges for the 05-10-02, 10-10-02, 11-10-02, and 12-10-02 statements.

Brian A. Lee
January 24, 2003
Page 2

As of January 15, 2003, Trinity's account has a past due balance in the amount of \$11,883.84. The Commission does not permit "self help" remedies such as this.

I look forward to discussing this case with you.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. M. F. Call", with a long horizontal flourish extending to the right.

Enclosures

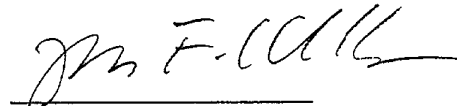
Certificate of Service

I hereby certify that a copy of the foregoing has been served this 24th day of January, 2003, by facsimile and by first class mail, postage prepaid, on the party shown below.

Trinity Transport

VIA FACSIMILE - 513/562-4388

Brian A. Lee
Benjamin, Yocum & Heather, LLC
312 Elm Street, Suite 1850
Cincinnati, Ohio 45202



Jon F. Kelly

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

Trinity Transport,)	
)	
Complainant,)	
)	
v.)	Case No. 01-2912-TP-CSS
)	
Ameritech Ohio,)	
)	
Respondent.)	

RESPONDENT'S FIRST SET OF INTERROGATORIES
AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

The following interrogatories and requests for production of documents are submitted to Complainant Trinity Transport, to be answered in writing under oath as provided by the rules of the Public Utilities Commission of Ohio, Ohio Administrative Code Sections 4901-1-19 and 4901-1-20.

You are requested to supplement your responses in accordance with the requirements of Ohio Administrative Code Section 4901-1-16 (D) and (E).

You are required to produce requested documents, by mail or in person, no later than February 20, 2003, at the offices of Jon F. Kelly, Ameritech Ohio, 150 East Gay Street, Room 4-A, Columbus, OH 43215.

For purposes of these interrogatories, the following definitions apply:

(A) The term "Complainant" means Trinity Transport, its agents, or others acting on its behalf.

(B) "Document" includes any written or recorded or graphic matter, however produced or reproduced, including but not limited to: correspondence, telegrams, or other written, typed or printed communications, contracts, agreements, notes in any form, memoranda, diaries, voice recording tapes, microfilms, microfiche, pictures, data processing cards or disks, computer tapes and other computer generated and stored information or data base, calendars, or any writings or graphic matter, including copies containing marginal notes or variations of any of the foregoing, now or previously in your possession.

(C) "You" or "yours" means Trinity Transport, its agents, or others acting on its behalf.

(D) "Identify" when referring to a person or business organization means to state the name, business address, primary business telephone number and title, if applicable, of the person or business organization.

(E) "Respondent" means Ameritech Ohio, its officers, agents, employees or others acting on its behalf.

INTERROGATORY NO. 1: Please state the names and addresses of each person having personal knowledge of any of the facts or circumstances alleged in the Complaint filed by you with the Public Utilities Commission of Ohio on or about November 9, 2001.

ANSWER:

INTERROGATORY NO. 2: Please identify each witness

you will call at the hearing in this matter, and provide the address and telephone number for each such witness.

ANSWER:

INTERROGATORY NO. 3: Please state the name and address of any attorney-

at-law who will represent you at the hearing in this matter.

ANSWER:

INTERROGATORY NO. 4: Please state the exact dates and times, or the closest

approximation thereof, when you notified and complained to Respondent as to each of the allegations of your complaint.

ANSWER:

INTERROGATORY NO. 5: For each occasion identified in response to the

preceding interrogatory, please state the following:

(a) Whether the notification and complaint was written, oral or both;

ANSWER:

(b) The name of each Ameritech Ohio employee who communicated with you, if known;

ANSWER:

(c) The substance of each conversation or communication engaged in between you and Ameritech Ohio;

ANSWER:

(d) The response of Ameritech Ohio to each such communication.

ANSWER:

INTERROGATORY NO. 6: If any of the notifications and complaints referred to in your responses to Interrogatory Nos. 4 and 5 were in writing, please state whether you have retained copies of any or all of these writings.

ANSWER:

REQUEST FOR PRODUCTION NO. 1: If the response to the previous interrogatory is in the affirmative, please provide copies of those documents.

REQUEST FOR PRODUCTION NO. 2: Please provide a copy of any document you intend to introduce as an exhibit in this case.

INTERROGATORY NO. 7: Do you have in your possession any logs, notes, compilations or the like concerning the allegations of your complaint?

ANSWER:

REQUEST FOR PRODUCTION NO. 3: If the response to the previous interrogatory is in the affirmative, please provide copies of those documents.

INTERROGATORY NO. 8: Please describe the circumstances surrounding your request to have telephone service moved to your new location and then expanded at that location

ANSWER:

REQUEST FOR PRODUCTION NO. 4: Please provide any documents associated with the request to have your telephone service moved to your new location and then expanded at that location.

INTERROGATORY NO. 9: Please describe the circumstances surrounding your non-payment of Ameritech Ohio's bills.

ANSWER:

REQUEST FOR PRODUCTION NO. 5: Please provide any documents associated with the alleged damage to your premises caused by the Respondent.

INTERROGATORY NO. 10: Please identify each individual who assisted in or participated in the preparation of the responses to this discovery.

ANSWER:

VERIFICATION

signature

printed name

State of Ohio)
)
) ss.
)
County of _____)

Before me, a notary public qualified in said county and state, came
_____, who swore to and subscribed the foregoing responses to Interrogatories
No. 1 - 9 before me this ____ day of _____, 2003.

Notary Public

My Commission expires:

Respectfully submitted,

AMERITECH OHIO

By: 

Jon F. Kelly
Ameritech
150 E. Gay St., Room 4-C
Columbus, Ohio 43215

(614) 223-7928

Its Attorney

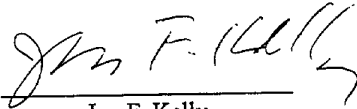
Certificate of Service

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Trinity Transport

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