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August 4, 2005

Ms. Beth O'Donnell
Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602

Re: Petition to Establish Generic Docket to Consider Amendments
to Interconnection Agreements Resulting from Changes of Law
KPSC 2004-00427

Dear Ms. O'Donnell:

BellSouth requests that the Commission take notice of additional decisions that support BellSouth Telecommunications, Inc.'s Motion for Summary Judgment filed in the Generic Change of Law docket, 2004-00427. Copies of these decisions are attached.

On July 14, 2005, the Massachusetts Department of Telecommunications and Industry entered its *Arbitration Order* in Docket No. D.T.E. 04-33. The *Arbitration Order* included a number of issues that are similar to those established by this Commission, including, but not limited to, Section 271 and line sharing. Specifically, the Massachusetts Commission held that "our authority to review and approve interconnection agreements under § 252 does not include the authority to mandate that Verizon include § 271 network elements in any of its § 252 interconnection agreements." See p. 251. Also, the Massachusetts Commission ordered that the "FCC's line sharing rules, which by their terms were effective on October 2, 2003 and sunset on October 2, 2006, are codified at 47 C.F.R. §51.319(a)(1)(i). Parties are directed to include the line sharing rules verbatim in the Agreement." See p. 185.

The Kansas Corporation Commission entered its *Order No. 15: Commission Order on Phase II UNE Issues* addressing a prior recommendation of an arbitrator¹ in Docket Nos. 05-BTKT-365-ARB et al., 2005 Kan. PUC LEXIS 867 on July 18, 2005. In relevant part, the Kansas Commission held that "the FCC has preemptive jurisdiction over 271 matters." See *Order* pp. 7 – 8.

¹ The arbitrator's determinations can be found at 2005 Kan. PUC LEXIS 696.

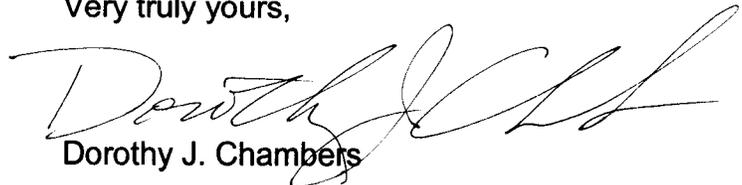
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Also on July 18, 2005, the Idaho Public Utilities Commission entered an order in an arbitration proceeding between Covad and Qwest in Case No. CVD-T-05-1; Order No. 29825; *2005 Ida. PUC LEXIS 139*. The Idaho Commission concluded "that the Commission does not have the authority under Section 251 or Section 271 of the Act to order the Section 271 unbundling obligations as part of an interconnection agreement."

On July 20, 2005, the Tennessee Regulatory Authority ("TRA") issued its written order in Docket No. 04-00186.² The TRA ordered BellSouth to provide line sharing pursuant to "47 U.S.C. § 251(c)(3) as outlined in the FCC's TRO and 47 C.F.R. § 51.319." Order, p. 7. The TRA recognized that BellSouth's Petition for Declaratory Ruling and Preemption of State Action was pending before the FCC, which could "provide clarification regarding state authority . . . for 271 elements."

The attached certificate of service certifies that this filing was filed electronically today and served by email on parties of record. Parties of record can access the information at the Commission's Electronic Filing Center located at <http://psc.ky.gov/efs/efsmain.aspx>.

Very truly yours,



Dorothy J. Chambers

Attachments

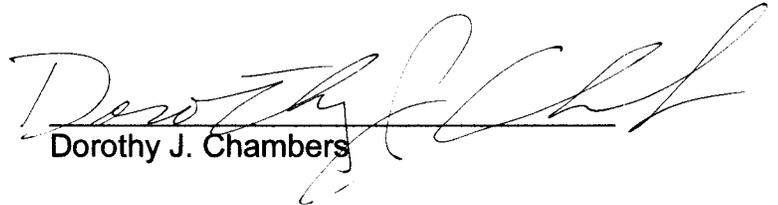
cc: Parties of Record

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² BellSouth referred to the TRA's decision at n. 60 of its Motion with the notation that a written order had not yet been issued.

CERTIFICATION

I hereby certify that the electronic version of this filing made with the Commission this 4th day of August, 2005 is a true and accurate copy of the documents filed herewith in paper form on August 4, 2005, and the electronic version of the filing has been transmitted to the Commission. An electronic copy of the Read1st document has been served electronically on parties.


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ELECTRONIC SERVICE LIST - KPSC 2004-00427

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