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APR 18 2006

**PUBLIC SERVICE
COMMISSION**

April 18, 2006

Via Hand Delivery

Hon. Beth O'Donnell
Executive Director
Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

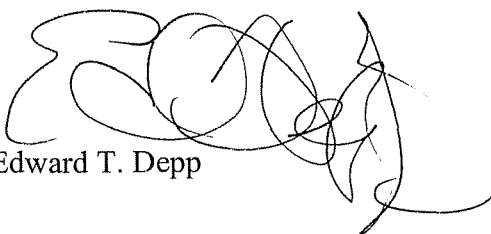
**Re: *In the Matter of: Supplemental Petition of Cinergy Communications Company
for Designation as an Eligible Telecommunications Carrier in Additional
Service Areas; Case No. 2006-00089***

Dear Executive Director O'Donnell:

I have enclosed for filing in the above-styled case the original and eleven (11) copies of the Initial Comments of South Central Rural Telephone Cooperative Corporation, Inc. in this matter. Please file stamp one of the copies and return it to our courier.

Thank you, and if you have any questions, please call me.

Sincerely,


Edward T. Depp

ETD/lb

Enclosures

cc: John E. Selent, Esq. (w/o encl.)
Holly C. Wallace, Esq. (w/o encl.)

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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APR 18 2006

In the Matter of:

PUBLIC SERVICE
COMMISSION

Supplemental Petition of Cinergy Communications)
Company for Designation as an Eligible) Case No. 2006-00089
Telecommunications Carrier in Additional Service)
Areas)

**INITIAL COMMENTS OF SOUTH CENTRAL
RURAL TELEPHONE COOPERATIVE CORPORATION, INC.**

South Central Rural Telephone Cooperative Corporation, Inc. ("South Central"), by counsel, and pursuant to the March 29, 2006 order of the Public Service Commission of the Commonwealth of Kentucky (the "Commission") in this matter, hereby submits its initial comments regarding the petition of Cinergy Communications Company ("Cinergy") for designation as an eligible telecommunications carrier ("ETC"), pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the "Act").

At the outset, South Central notes that its initial comments in this proceeding – by necessity – cannot go into great detail with respect to the specifics of Cinergy's ETC petition because it has had little time to prepare its comments. Cinergy never served South Central with this petition for ETC designation, despite the fact that South Central is the rural incumbent local exchange carrier ("ILEC") serving part of the territory for which Cinergy seeks ETC status. Consequently, South Central only learned of the petition on March 31, 2006, which is the date that South Central received the Commission's March 29, 2006 procedural order in this proceeding. Therefore, these comments represent South Central's initial perception of issues that may be relevant to the Commission's consideration of Cinergy's ETC petition, and South Central expressly reserves the right to expand or limit the scope of its comments and legal positions as discovery is conducted and this matter

proceeds. Even in this early state of the proceeding, however, it is apparent that Cinergy's petition may be fatally flawed.

South Central is a rural ILEC providing local exchange services to approximately 27,000 end-user customers in sixteen exchanges spanning both the Owensboro and Louisville LATA's. Although primarily a rural carrier in the truest sense of the expression, South Central provides service to one exchange that is adjacent to and overlaps with the City of Glasgow. This particular exchange is referred to as "Glasgow Rural" to distinguish it from AllTel's City of Glasgow exchange. Over time, South Central's Glasgow Rural exchange has grown with the City of Glasgow. Based on South Central's current understanding, Cinergy offers services in direct competition with South Central exclusively in a portion of this one exchange, as well as the two smaller, adjacent South Central exchanges. Moreover, South Central understands that Cinergy has, to date, neither obtained nor pursued customers in any of South Central's numerous other, more rural exchanges.

Cinergy's petition in this matter claims that it advertises the availability of its services through several forms of media, including its website at <http://www.cinergycom.com>.¹ Recent review of that website indicates that Cinergy may have great difficulty proving that it is entitled to ETC designation in South Central's service territory. The website does not identify South Central's service territory as one of the operating areas where Cinergy provides services. The website also does not indicate that residential customers will be able to receive local exchange services from Cinergy at all; instead, local exchange services appear to be offered only to "commercial" customers. If the website is any indication of the activity Cinergy has taken to advertise its service offerings to the South Central market, then it is clearly not actively seeking the all-encompassing customer base that applicable law contemplates an ETC will serve. Thus, Cinergy's website raises important

¹ Cinergy offers no specific evidence of any other advertising it undertakes throughout the South Central territory.

questions regarding whether it is truly willing and able to provide local exchange services to all areas (including rural exchanges other than the Glasgow Rural and two adjacent exchanges) of South Central's service territory and all classes of customers within that territory.

Cinergy's claim that it will self-report to the Commission the number of requesting customers it cannot serve only shifts the focus away from what appears to be a more fundamental problem. First, it is obvious that a potential customer must be aware of Cinergy's service offerings in order to request service, and it is doubtful that Cinergy's alleged advertising extends to the more rural of South Central's exchanges. Second, the applicable law for ETC designation does not permit Cinergy to offer service only when it is "commercially reasonable" for it to do so. ETC status depends upon an obligation to serve all potential customers in South Central's service territory², and any attempt to qualify that obligation with a fatally vague "commercially reasonable" standard only underscores the high costs – costs Cinergy no doubt hopes to avoid – that South Central incurs to serve its rural exchanges in the first place. Ultimately, this raises the further question of whether Cinergy's real goal here is to leverage the high cost of service for South Central's rural territories (that Cinergy has no apparent intention of serving) in order to subsidize services to Cinergy's potential customers in the Glasgow Rural exchange. If this is Cinergy's real goal, it is nothing more than gamesmanship designed to "cream skim" from the Universal Service Fund.

Finally, South Central disagrees with Cinergy's claim that the Commission should ignore the FCC's guidelines when considering ETC petitions by wireline carriers. The FCC has given no indication that wireline carriers should be entitled to any lesser standard than wireless carriers. And, while the "public interest" is almost certainly a component of the relevant analysis, there is no basis to assume that factors evaluated in the context of wireless ETC petitions (which, to date, have

² This is no surprise given that ETC designation is tied to the provision of universal service. See 47 U.S.C. §§ 214(e)(1) and 254.

constituted the vast majority of ETC petitions) are not relevant to wireline applications seeking the same designation. Therefore, as a condition of obtaining ETC designation, Cinergy should be required to definitively prove that it meets all the requirements of the FCC guidelines.

As noted above, these comments reflect only South Central's initial impressions of Cinergy's ETC petition. South Central expressly reserves the right to expand or limit the scope of these comments and/or its legal positions as discovery is conducted and this matter proceeds.

Respectfully submitted,



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**COUNSEL TO SOUTH CENTRAL
RURAL TELEPHONE COOPERATIVE
CORPORATION, INC.**

CERTIFICATE OF SERVICE

It is hereby certified that a true and accurate copy of the foregoing Initial Comments of South Central Rural Telephone Cooperative Corporation, Inc. was served via First Class United States Mail, postage prepaid, to the following individuals this 18th day of April, 2006:

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