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February 25, 2004

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**VIA CERTIFIED MAIL and**  
**EMAIL: Dorothy.Chambers@BellSouth.com**

Dorothy J. Chambers, Esq.  
General Counsel/Kentucky  
BellSouth Telecommunications, Inc.  
601 W. Chestnut Street  
Room 407  
Louisville, KY 40203

Re: **Review of Federal Communication Commission's Triennial Review Order  
Regarding Unbundling Requirements for Individual Network Elements**  
Kentucky Public Service Commission, Case No. 2003-00379

Dear Ms. Chambers:

I represent the Electric Plant Board of the City of Paducah d/b/a/ Paducah Power System. This letter is in response to a subpoena *duces tecum* served upon my client by BellSouth Telecommunications, Inc. requiring Paducah Power System to give deposition testimony on March 1, 2004, and to produce all materials referenced in certain data requests that accompanied the subpoena. Because the data sought by BellSouth, in this instance, can be quickly and inexpensively provided, my client has elected to provide responsive information rather than seek to have the subpoena quashed. For the record, however, Paducah Power System denies that the Public Service Commission has jurisdiction over Paducah Power System such as would authorize the PSC to issue an enforceable subpoena *duces tecum* in this matter. We are aware of no provisions of the Kentucky Revised Statutes or the FCC's Triennial Review Order that would authorize the Public Service Commission, either directly or by delegation, under these circumstances to compel deposition testimony and document production by Paducah Power System.

Subject to the above objection and qualification, enclosed please find the affidavit of David R. Clark, General Manager of Paducah Power System. The intent of the affidavit is to respond in the negative to Data Request Nos. 1 and 3 of BellSouth's data request concerning the Impairment of Local Switching for Mass Market and Data Request Nos. 1, 2 and 3 of BellSouth's data requests concerning Impairment of Transport and Dedicated Loops.

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BellSouth has represented to the Public Service Commission and to my client that provision of the information contained in Mr. Clark's affidavit will cause BellSouth to cancel the deposition noticed for March 1, 2004, at the offices of the Public Service Commission. I would appreciate receiving your confirmation that the deposition has been cancelled. Likewise, if BellSouth maintains that the affidavit provided herein is not sufficient to cause BellSouth to cancel the deposition, kindly let me know as soon as possible so that Paducah Power System may take whatever protective action it deems prudent prior to the scheduled deposition date, including action to have the subpoena quashed.

Very truly yours,

McMURRY & LIVINGSTON, PLLC



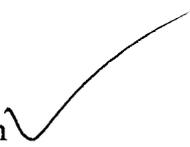
G. Kent Price

E-Mail Address: [kent@ml-lawfirm.com](mailto:kent@ml-lawfirm.com)

GKP:mlm  
Enclosure

cc: Mr. David R. Clark  
Paducah Power System  
P.O. Box 180  
Paducah, KY 42002

Mr. Thomas Dorman  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602





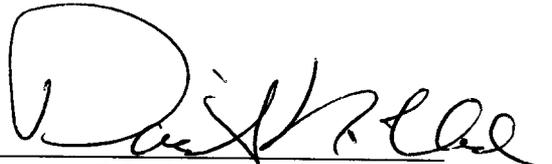
the facility.

5. Paducah Power System does not offer to carriers on a wholesale basis DS1 or higher transport facilities, or dark fiber transport facilities that it owns, that provide a route between a pair of ILEC central offices or wire centers, to one or more pair of wire centers, in Kentucky. Paducah Power System neither has legal title to such transport facilities nor has it obtained on an unbundled, leased or purchased basis dark fiber to which it has attached its own optronics to light the facility and serve customers using the facility.

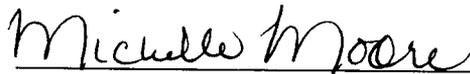
6. Paducah Power System has not acquired on a wholesale basis from a third party (other than BellSouth) DS1, DS3, or dark fiber transport between two or more ILEC central offices in Kentucky.

8. It is my intention that the statements made in paragraphs 4, 5 and 6 above would suffice to answer as "none" Data Requests 1, 2 and 3 of BellSouth Telecommunications, Inc.'s Data Requests to Paducah Power System for the Impairment of Transport and Dedicated Loops.

Further, the affiant saith naught.

By:   
DAVID R. CLARK

Subscribed, sworn to and acknowledged before me by DAVID R. CLARK, on this the 25<sup>th</sup> day of February, 2004.

  
NOTARY PUBLIC  
KENTUCKY STATE AT LARGE

My commission expires:  
11/30/05