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May 27, 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:

This is in response to the request made by Cinergy Communications Company for the Commission to take judicial notice of the *Sage Telecom, LP vs. Public Utility Commission of Texas*, Case No. A-04-CA-364-SS ("*Sage Telecom*"). In *Sage Telecom*, the United States District Court for the Western District of Texas upheld a decision of the Public Utility Commission of Texas ("PUC") that required the filing of a "commercial agreement" between Sage Telecom and SBC. Although *Sage Telecom* is distinguishable from the facts of this case in many respects, the purpose of this letter is to point out one material distinction.

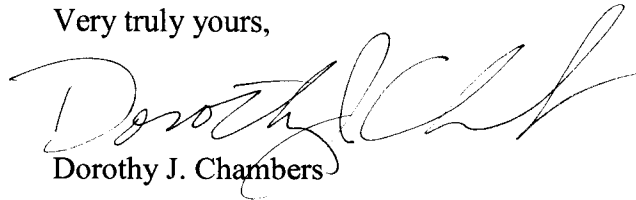
The Sage/SBC commercial agreement, known as a Local Wholesale Complete Agreement ("LWC"), contains certain services and elements that SBC has an obligation to provide pursuant to Section 251 of the Telecommunications Act of 1996 (the "Act"). *Sage Telecom* at 6 ("Sage and SBC do not dispute the LWC is an agreement fulfilling at least two of SBC's duties under § 251 . . ."). Based on its review of § 252 of the Act, the District Court concluded that the Act did not permit the piecemeal filing of portions of an interconnection agreement and thus ruled in favor of the PUC. *Sage Telecom* at 9 ("None of the Act's provisions suggest the filing and approval requirements apply only to select portions of an agreement reached under § 252(a) and (b). Rather, each of the Act's provisions refer only to the "agreement" itself, not to individual portions of an agreement."). While BellSouth does not necessarily agree with the District Court's interpretation of § 252, it is clear that the District Court reasoned that the inclusion of § 251 obligations in the LWC triggered § 252 filing requirements.

In contrast, the commercial agreements that BellSouth has entered into with over one hundred CLECs, including AmeriMex, do not contain provisions fulfilling any of BellSouth's

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§ 251 obligations. BellSouth and the CLECs that have entered into commercial agreements also maintain, to the extent necessary, an interconnection agreement filed and approved by this Commission setting forth obligations pursuant to Section 251. As such, *Sage Telecom* is not applicable.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Dorothy J. Chambers".

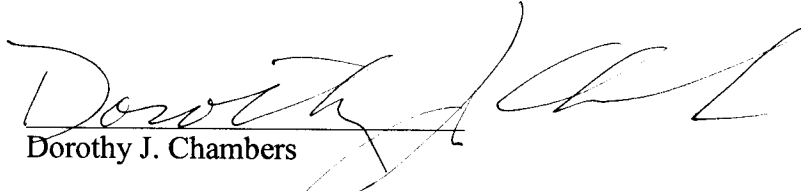
Dorothy J. Chambers

cc: Parties of Record

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**CERTIFICATION**

I hereby certify that the electronic version of this filing made with the Commission this 27th day of May 2005 is a true and accurate copy of the documents filed herewith in paper form on May 27, 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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