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ELECTRONIC FILING

July 21, 2005

Ms. Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
P.O. Box 615
Frankfort, KY 40602

Re: Case No. 2004-00427

Dear Ms. O'Donnell,

On April 26, 2005, Cinergy Communications Company ("CCC") filed a petition for emergency declaratory ruling asking the Commission to determine that CLECs unable to obtain certain network elements from incumbent local carriers under Section 251 of the Communications Act may continue to obtain those elements from BellSouth, albeit under a different pricing standard, pursuant to Section 271 and under this Commission's auspices. CCC's petition also asked the Commission to:

- (1) determine the pricing for these network elements pursuant to its authority under Section 252 of the Communications Act; and
- (2) set an interim price (equal to the transition rates established under the FCC's TRRO) for those elements to apply until permanent prices for Section 271 elements are incorporated into the parties' interconnection agreements.

The authority of a state commission to do *all of those things* is confirmed by a well-reasoned decision of the Missouri Public Service Commission issued last week in Case No. TO-2005-0336, a generic proceeding comparable to the broad change of law docket in which CCC filed its emergency motion.

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In its July 11, 2005 order (filed herewith as Exhibit 1), the Missouri PSC determined that rates patterned on the FCC's transition period rates for declassified UNEs provide a suitable interim rate structure for Section 271 UNEs. *Mo. PSC order at p. 30.* The Commission then directed parties to use such rates in their interconnection agreements. *Id.*

In requiring SBC to utilize the transition period rates for pricing of Section 271 network elements, the Missouri commission obviously found jurisdiction to set a rate and determined that the interim rates under the TRRO would satisfy the "just and reasonable" requirements embodied in the Act and the TRRO. The Commission realized that a failure to act would "leave the parties no guidance on the appropriate interim § 271 UNE rate to be included in ...successor ICAs." *Id.* at p. 29. The rates determined by the Missouri commission are based on the same standard CCC has asked the Kentucky Commission to apply. CCC requests that the Commission take notice of this sister state's order and similarly determine rates for Section 271 network elements so that CLECs' undisputed right to obtain those elements from Bell Operating Companies is not merely an illusory one.

I certify that this filing was uploaded electronically today to the Commission's web filing portal, and that the electronic version is a true copy of the document filed in paper form. Please indicate receipt of this filing by returning an electronic receipt.

Sincerely yours,

/s/ Douglas F. Brent

Douglas F. Brent

DFB:jms