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January 24, 2006

ELECTRONIC FILING

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

RE: Case No. 2004-00427 – Georgia PSC Decision to Set Rates for § 271 Elements

Dear Ms. O'Donnell:

Enclosed for your consideration is an Order of the Georgia Public Service Commission issued Friday, January 20, 2006, in the Georgia generic "change-of-law" proceeding. The Georgia proceeding in which this decision was issued addressed the same issues list as is before the Commission in this proceeding.

In the Order, entitled "Order Initiating Hearings To Set A Just And Reasonable Rate Under Section 271," Georgia joined Tennessee and other states in asserting jurisdiction over Section 271 checklist unbundling rates, and launched an expedited evidentiary proceeding to establish such rates by March 11, 2006. In the Order, the Georgia Commission concluded that "it is reasonable to assert jurisdiction to set just and reasonable rates for de-listed UNEs pursuant to Section 271 of the Federal Telecom Act. Pursuant to this jurisdiction, the Commission will proceed with an expedited hearing schedule as detailed below for the purpose of setting just and reasonable rates for de-listed UNEs pursuant to Section 271." Order at 4.

After considering the language of Section 271, decisions of the FCC and the federal courts, the Georgia Commission held that the Act does not preempt states from arbitrating rates and terms for Section 271 checklist elements. The Georgia Commission also noted that the United States District Court in Maine had reviewed and rejected the same preemption argument raised by BellSouth, and that the Maine case is the first and, so far, only court decision in the

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country directly addressing a state commission's jurisdiction to arbitrate 271 UNE rates. The Georgia Commission found that BellSouth "had not cited to any federal court decision directly on point" in support of its arguments that state commissions are preempted from addressing Section 271 unbundling in Section 252 interconnection agreements. *Id.*

CompSouth has also enclosed for your information an ex parte letter from CompSouth to the FCC concerning the Section 271 jurisdictional issue. The letter, filed on January 23, 2006, responds to BellSouth's pending preemption petition and defends state commissions' statutory authority to establish rates, terms, and conditions for Section 271 unbundling in interconnection agreements approved by the states under Section 252. The CompSouth ex parte letter to the FCC also discusses in more detail the arguments outlined above.

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 your office by returning an electronic receipt.

Very truly yours,

STOLL KEENON OGDEN PLLC

A handwritten signature in black ink, appearing to read "Douglas F. Brent". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Douglas F. Brent