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November 10, 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 – BellSouth's Petition to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Changes of Law

Dear Ms. O'Donnell,

As counsel to Competitive Carriers of the South, Inc., we hereby respond briefly to BellSouth's recent letter related to a Memorandum Opinion and Order from a district court in Illinois. That decision, while admittedly a setback to the efforts of Illinois regulators to promote competition in that state, is not final.

As the court in the Illinois decision cited by BellSouth stated, the question of whether state utility commissions like the Kentucky Public Service Commission ("PSC") have jurisdiction to establish rates for unbundled network elements required under Section 271 "is a close one," and "both sides are able to cite case authority for their positions." Memorandum Opinion and Order at 23, *Illinois Bell Tel. Co. v. O'Connell-Diaz*, No. 05-C-1149 (N.D. Ill. Sept. 28, 2006). In the Illinois decision, Judge Gottschall noted that both federal courts and state utility commissions have come down on different sides of the question. In fact, the decision does not finally decide several of the issues that were before the court on summary judgment, including the status of the DS1 and DS3 loops and DS1 and DS3 transport unbundled network elements ("UNEs"). In addition, the Illinois decision is not final insofar as the court denied several significant portions of the parties' cross-motions for summary judgment.

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Finally, the Illinois district court relied heavily on the decisions of a few state commissions outside of the BellSouth region which have taken a very narrow view of their own authority under both state and federal law to consider the adequacy of rates for elements required under § 271 of the 1996 Act. The Kentucky Commission has never taken such a narrow view of its legal authority.

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,

Douglas F. Brent
Counsel to Competitive Carriers
of the South, Inc.

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