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October 8, 2002

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Mrs. Blanca S. Bayó
Director, Division of the Commission
Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 020129-TP (CCS7 Docket)

Dear Mrs. Bayó:

Enclosed is an original and fifteen copies of BellSouth's Post-Hearing Brief which we ask that you file in the above-captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Patrick W. Turner

Patrick W. Turner (LA)

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White

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CERTIFICATE OF SERVICE
DOCKET NO. 020129-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail and U.S. Mail this 8th day of October 2002 to the following:

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(+) Signed Protective Agreement

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition of US LEC of Florida, Inc., Time Warner Telecom of Florida, LP and ITC^DeltaCom Communications Objecting to And Requesting Suspension of Proposed CCS7 Access Arrangement Tariff filed by BellSouth Telecommunications, Inc.	Docket No.: 020129-TP Filed: October 8, 2002

POST-HEARING BRIEF OF BELLSOUTH TELECOMMUNICATIONS, INC.

BellSouth Telecommunications, Inc. ("BellSouth"), respectfully submits this Post-Hearing Brief. As explained herein, BellSouth's CCS7 Access Arrangement Tariff ("CCS7 Tariff") filing that is the subject of this proceeding complies with all applicable statutes, rules, and regulations. The Florida Public Service Commission ("Commission"), therefore, should reject all challenges to BellSouth's CCS7 Tariff and allow it to remain in effect.

I. PROCEDURAL HISTORY

BellSouth filed its CCS7 Tariff with the Commission on January 28, 2002. As explained in more detail below, this filing introduces a per-message charge for the signaling services BellSouth provides to other carriers. It also restructures the offering for Commercial Mobile Radio Service ("CMRS") providers (or "wireless carriers") and directs these carriers to the CCS7 Tariff for signaling-related services. Finally, this filing reduces the local switching component of intrastate switched access services to reflect the introduction of per-message charges for non-local, intrastate CCS7 services. The tariff went into effect on February 17, 2002.

On February 15, 2002, US LEC of Florida, Inc. ("US LEC"), Time Warner Telecom of Florida, L.P. ("Time Warner), and ITC^DeltaCom Communications

("DeltaCom") filed a Joint Petition objecting to and requesting suspension of BellSouth's CCS7 Tariff.[1] On May 21, 2002, the Commission voted to set this docket for hearing on its own motion, noting that BellSouth agreed to hold any revenues collected under the CCS7 Tariff subject to refund. The Commission held a hearing in this matter on September 10, 2002, during which it heard testimony from DeltaCom witness Steve Brownworth and BellSouth witnesses Gregory R. Follensbee, Clyde L. Greene, Thomas S. Randlkev, and W. Keith Milner. Pursuant to stipulation of the parties, the Commission also accepted the stipulated testimony of US LEC witness Wanda G. Montano and WorldCom witness Mark E. Argenbright into the record. (Tr. at 126-27; 144-45). A transcript of the hearing, consisting of 363 pages and 16 Exhibits, was prepared.

II. BACKGROUND AND FACTS

The following facts and background information are pertinent to the Commission's decision in this docket.

A. What the CCS7 Network Does

When an end user places a call, the telecommunications network must set up the transmission path over which that call will be carried, maintain that transmission path during the duration of the call, and "tear down" that transmission path once the call is over. In order to do this, signaling messages containing information necessary to set

[1] Subsequently, MCI WorldCom Communications, Inc. and MCImetro Access Transmission Service, LLC (collectively "WorldCom") filed a Petition to Intervene, and the Commission granted that Petition by Order dated July 16, 2002. For ease of reference, this Brief will refer to US LEC, Time Warner, DeltaCom, and WorldCom collectively as "the Petitioners."

up, maintain, and tear down the transmission path for a given call must be sent back and forth between the voice switches that are involved in carrying that call. In the past, these signaling messages were transmitted over the same network facilities that were used to carry the call itself. (See Tr. at 228-29; 328). This is sometimes referred to as "in-band" or "dual tone multi-frequency" signaling. (*See Id.*).

While some carriers still use this in-band method of signaling, most carriers today now use some version of Common Channel Signaling to carry these signaling messages. (*Id.*). BellSouth refers to its Common Channel Signaling network as the CCS7 network. Rather than using the same network facilities that are used to carry calls, the CCS7 network uses a separate shared (common) channel (signaling link) to convey the signaling information. (Tr. at 328).

Generally, the CCS7 network (which is sometimes called the Signaling System 7, or "SS7" network) provides signaling functionality for call routing and completion as well as access to various databases that may need to be accessed in order to set up a particular call.[2] (Tr. at 194). The CCS7 network uses two types of signaling messages to accomplish these tasks: Integrated Services Digital Network User Part ("ISUP") messages are used to set up, monitor, and tear down a voice transmission path for a particular call, (Tr. at 75); and Transaction Capability Application Part ("TCAP") messages are used when it is necessary to access information from databases. (*Id.*).

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2 If an end user dials an 800 number, for instance, that number must be translated into an NPA-NXX-XXXX number so the network will know how to complete the call. In that case, a TCAP message is launched into the CCS7 network, which then sends signals to the appropriate database that ask the database to "dip" into its information and return the NPA-NXX-XXXX number associated with the 800 number that was dialed. After the database returns the requested information, the CCS7 network can set up the call. (*See* Tr. at 67).

B. The Basic Components of the CCS7 Network

For the purposes of this proceeding, the basic components of the CCS7 network are Signaling Transfer Points ("STPs"), A-Links, and B-Links. STPs receive signaling messages and route them to their appropriate destination. (Tr. at 73). A-links are facilities that transport signaling messages between an end office switch or a tandem switch and an STP. (*See* Tr. at 73-74). B-Links are facilities that transport signaling messages between one STP and another STP. (*See* Tr. at 74). The CCS7 network facilities of several different carriers can be involved in the signaling associated with any given non-local intrastate call.[3]

This is demonstrated by Hearing Exhibit No. 8,[4] which DeltaCom witness Brownworth prepared in association with pre-hearing depositions. (Tr. at 69-70). In this Exhibit, the DeltaCom long distance end-user on the bottom left side of the page is placing an intrastate, non-local call to the end user on the bottom right side of the page, who is served by another ALEC. In this scenario, signaling messages will travel back and forth over: the A-Link that connects the DeltaCom voice switch to the DeltaCom STP; the B-Link that connects the DeltaCom STP to the BellSouth STP; and the A-Link that connects the BellSouth STP with the other ALEC's voice switch. (Tr. at 74).[5]

As those signaling messages flow back and forth, BellSouth's STP will determine the next point to which those messages should be sent, and it will send those signaling messages along to that point (in this example, to either the ALEC voice switch or the

[3] As explained in the discussion of Issue 1 below, BellSouth's CCS7 tariff applies only to non-local, intrastate calls.

[4] Attachment A to this brief is a copy of Hearing Exhibit No. 8.

[5] In this scenario, signaling messages will also travel back and forth over the A-link between the BellSouth STP and the BellSouth voice tandem switch.

Deltacom STP, depending on the direction a particular signal is traveling).[6] (Tr. at 77). If BellSouth's STP failed to perform this function, the signaling messages would fail, and the call would not go through. (Tr. at 107). Clearly, when BellSouth's STP receives signaling messages from one carrier, determines where to send those signaling messages, and passes those signaling messages along to another carrier, it is performing a valuable service for both carriers – a service that is the difference between a call going through and a call not going through. (*See* Composite Hearing Exhibit No. 2, Brownworth Depo. at 50-51).

BellSouth performs a similar function with regard to TCAP messages. When it is necessary to access a database in order to establish a call, BellSouth's STP receives TCAP messages from a carrier and routes those messages to the appropriate call-related database. (*See* Tr. at 80-88). In doing so, BellSouth clearly is providing a valuable service for the carriers involved in the process.

C. Why BellSouth Filed the CCS7 Tariff

In the past, BellSouth was unable to count individual ISUP and TCAP messages that travel across A-Links or B-Links that connect BellSouth's STPs with the facilities of other carriers. (Tr. at 335). BellSouth, therefore, was unable to bill customers on a per-message basis for the signaling service that it was providing them. (*Id.*). Recently, however, BellSouth developed the ability to count such messages. (*Id.*).

As a result, BellSouth implemented its CCS7 Tariff to allow recovery of BellSouth's CSS7 costs in a manner that reflects more accurately the manner in which

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6 The same is true for messages flowing in the opposite direction: BellSouth's STP will add routing information to signaling messages that it receives from the ALEC voice switch, and it will send those messages along to the DeltaCom STP.

those costs are incurred. (Tr. at 218). CSS7 services are no longer recovered through the provision of switched access services, but instead they are now recovered on a separate per-message basis. (*Id.*). Because the cost of setting up a call is not dependent on the duration of a call, but instead depends on the volume of messages passed over the SS7 network, the per-message charges more accurately reflect the manner in which signaling costs are incurred. (*Id.* at 281-19). Under this tariff, therefore, carriers who are actually making use of BellSouth's signaling network are the ones that are being billed for signaling. (Tr. at 227).

As such, BellSouth's CCS7 tariff is very similar to an Ameritech tariff filing the Federal Communications Commission ("FCC") addressed in a 1996 Order. *See* Order, *In the Matter of Ameritech Operating Companies Petition for Waiver of Part 69 of the Commission's rules to Establish Unbundled rate Element for SS7 Signaling*, 11 FCC Rcd. 3839 (March 27, 1996). Ameritech had "purchased equipment capable of measuring third-party usage of its SS7 network and deployed such equipment on each of its customers' SS7 links." *Id.* at ¶25. Having developed the ability to monitor signaling messages, Ameritech filed a tariff in which it sought to establish a per-message charge for the signaling service it provided to other carriers. The FCC noted that prior to Ameritech's tariff filing, the costs associated with signaling messages were "presumably embedded in the transport interconnection charge and the local switching charge." *Id.* at ¶10. In granting Ameritech's request for a waiver that would enable Ameritech to implement its tariff, the FCC noted that Ameritech's tariff filing

> will permit recovery of Ameritech's SS7 costs in a way that reflects more accurately the manner in which those costs are incurred because Ameritech's provision of SS7 services will no longer be bundled with the provision of switched access services, and because the rates for such

> services will be charged on a per-message basis. This more accurate reflection of the underlying costs will enable potential competitive entrants to engage in more rational economic decision-making.
>
> *   *   *
>
> Because the cost of setting up a call is not dependent upon the duration of the telephone call, but does depend to some extent on the volume of traffic passed over the SS7 network, the proposed rate structure more accurately reflects the manner in which signaling costs are incurred.

Id. at ¶¶ 31, 33. The same is true of BellSouth's CCS7 tariff filing.

III. ARGUMENT

A. BellSouth Should Be Compensated on a Per-Message Basis for the Signaling Service its CCS7 Network Performs for Other Carriers.

As explained above, when BellSouth's STP receives signaling messages, determines where to send those signaling messages, and passes those signaling messages along to another carrier, it is performing a valuable service for that carrier – a service that is the difference between a call going through and a call not going through. In fact, during depositions, DeltaCom acknowledged that the function a BellSouth STP performs is similar to the function a BellSouth voice tandem switches performs – the voice tandem switch takes a voice message it receives from a carrier and routes it to the appropriate destination, and if the voice tandem switch failed to perform that function, the voice message would fail. (Composite Hearing Exhibit No. 2, Brownworth Depo. at 109-10.) DeltaCom acknowledges that carriers pay BellSouth a per-minute-of-use charge for the functionality performed by the voice tandem switch. (*Id.*). When asked why it would be inappropriate for BellSouth to ask carriers to pay a per-message charge when BellSouth's STP performs the analogous function with regard to signaling messages, DeltaCom's witness could only say "*I don't have an answer for you.*" (*Id.* at 110) (emphasis added).

DeltaCom could not answer this straight-forward question for one simple reason – BellSouth *should* receive compensation on a per-message basis for the service its CCS7 network performs. In fact, BellSouth already is being compensated on a per-message basis for that service in association with local calls pursuant to negotiated local interconnection agreements. (Tr. at 196-97). BellSouth also is being compensated on a per-message basis for that service in association with interstate calls pursuant to its BellSouth's FCC Tariff no. 1. (Tr. at 195-96).

In the remainder of this Brief, BellSouth will address each of the 11 Issues that are before the Commission in this proceeding. In doing so, BellSouth will demonstrate that there are compelling reasons that BellSouth should be compensated on a per-message basis for the service its CCS7 network provides to other carriers in association with non-local intrastate calls, just like it is compensated on a per-message basis for that same service in association with interstate and local calls. The Commission, therefore, should reject the Petitioners' challenges to BellSouth's CCS7 tariff and allow the tariff to remain in effect.

ISSUE 1: TO WHAT KIND OF TRAFFIC DOES BELLSOUTH'S CCS7 ACCESS ARRANGEMENT TARIFF APPLY?

Position: It is undisputed that BellSouth's CCS7 Tariff applies only to signaling associated with non-local intrastate calls.

A carrier may use BellSouth's signaling in association with (1) interexchange calls between locations in the state of Florida and locations in other states ("interstate calls"); (2) local calls; and (3) interexchange calls between locations within the state of

Florida ("non-local intrastate calls"). (Tr. at 195). Carriers using BellSouth's signaling network are supposed to provide a signaling percent interstate usage factor ("signaling PIU") and a signaling percent local usage factor ("signaling PLU") to BellSouth,[7] and BellSouth applies those factors to that carrier's total number of TCAP and ISUP messages to determine the number of such messages that are interstate, non-local intrastate, and local. (Tr. at 198). Once this determination is made, the rates from the Federal Tariff are applied to the interstate signaling messages, the rates from the CCS7 tariff are applied to the non-local intrastate signaling messages, and the rates from any applicable interconnection agreement[8] are applied to the local signaling messages. (*Id.*). These factors are used in a similar manner to calculate the recurring charges for connections (links) and terminations (ports). (Tr. at 199).[9]

Accordingly, BellSouth's CCS7 Tariff applies only when carriers like the Petitioners use BellSouth's CCS7 service in relation to non-local intrastate calls. (Tr. at 195-98). This is a matter that is not in dispute in this proceeding. The witnesses presented by DeltaCom, US LEC, and WorldCom are all in agreement that BellSouth Tariff applies only to signaling messages associated with non-local intrastate calls.

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7 Carriers can submit jurisdictional factors for signaling messages that are different than the jurisdictional factors they submit for voice messages (Tr. at 360-61). If a carrier does not provide these signaling factors to BellSouth, the CCS7 tariff provides that default factors of 50% interstate and 50% intrastate, non-local will apply to that carrier's signaling messages. (Tr. at 187).

8 Under the CCS7 Tariff, when third party hubbing vendors that are *not* ALECs (and thus do not have local interconnection agreements with BellSouth) use BellSouth's CCS7 service in relation to local calls, they pay the CCS7 rates set forth in the CCS7 Tariff. When third party hubbing vendors that *are* ALECs with local interconnection agreements with BellSouth use BellSouth's CCS7 service in relation to local calls, they continue to pay the CCS7 rates set forth in their approved local interconnection agreements. (Tr. at 197).

9 This process is described in greater detail at pages 198-99 of the Hearing Transcript.

(*See* Tr. at 78; Composite Hearing Exhibit No. 2, Argenbright Depo. at 12; Montano Depo. at 13-14).

ISSUE 2: DID BELLSOUTH PROVIDE CCS7 ACCESS SERVICE TO ALECS, IXCS, AND OTHER CARRIERS PRIOR TO FILING ITS CCS7 TARIFF?

Position: ***Yes, but until recently, BellSouth was unable to bill third parties for these services on a per-message basis.***

BellSouth has provided CCS7 access service to Alternative Local Exchange Carriers ("ALECs"), Interexchange Carriers ("IXCs"), Independent Companies, and Wireless Carriers for a number of years. (Tr. at 330). Until recently, however, BellSouth has been unable to count individual ISUP and TCAP messages that are transported by BellSouth for another carrier. (*Id.*). Thus, until BellSouth developed the ability to count such messages, BellSouth was unable to bill third parties on a per-message basis for this service that it was providing them. (*Id.*).

ISSUE 3: IS BELLSOUTH'S CCS7 ACCESS ARRANGEMENT TARIFF REVENUE NEUTRAL? WHY OR WHY NOT?

Position: ***BellSouth tried in good faith to make its CCS7 Tariff filing revenue neutral. To date, the amount of revenue BellSouth has received for signaling messages associated with non-local intrastate calls has exceeded the amount of revenue BellSouth has foregone as a result of the reductions it implemented in this tariff filing, but this is due, at least in part, to the fact that carriers have not provided BellSouth with signaling factors.***

DeltaCom claims that "[t]his tariff filing is not revenue neutral for ITC^DeltaCom." (Tr. at 36).[10] Whether this claim is accurate or not, it has no bearing whatsoever on the

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10 This is not surprising. As a third-party hubbing provider, DeltaCom uses its CCS7 network to provide signaling for other carriers that do not want to invest in their own signaling network. (Tr. at 104). As a result, DetaCom is paying more for signaling than it would pay if it were not a third-party hubbing provider because DeltaCom

validity of BellSouth's CCS7 Tariff. Whether a tariff filing is revenue neutral is not based on the impact on a specific customer or class of customers. Instead, whether a tariff filing is revenue neutral is based on a comparison of the total projected revenue increases associated with the tariff to the total projected revenue decreases associated with the tariff. (Tr. at 212-13). It is not surprising, therefore, that the witnesses for DeltaCom, US LEC, and WorldCom all agreed that the fact that one entity pays more than it had previously paid for services as a result of a tariff filing does not mean that the tariff filing is not revenue-neutral. (Composite Hearing Exhibit No. 2, Argenbright Depo. at 10. Brownworth Depo. at 14. Montano Depo. at 25-26.)

The Petitioners also make much of the fact that BellSouth did not include a growth factor in its revenue-neutral calculations. None of the Petitioners, however, can point to any requirement under federal or state law that would suggest that BellSouth is required to present a forward-looking trend for demand in a revenue-neutral filing. (*See, e.g.,* Composite Hearing Exhibit No. 2, Argenbright Depo at 8; Brownworth Depo. at 17-18). Moreover, the Petitioners' "growth factor" attacks are based primarily on a proprietary document that reflects the amount by which signaling messages grew from 1999 to 2000. As BellSouth witness Tom Randklev explained, however, the growth reflected in that document was driven by the fact that many wireless carriers were

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appropriately is being charged for signals associated with its own voice traffic as well as for signals associated with the voice traffic of carriers that are its signaling customers. (*Id.*). DeltaCom, however, appropriately is only receiving the benefit of the rate reductions that are part of this tariff filing to the extent that it is carrying its own voice customers' traffic (because the carriers that are its signaling customers receive the benefits of those reductions when they carry their own voice – as opposed to signaling – traffic). As DeltaCom's witness acknowledged in response to Commissioner Deason's questions, however, if BellSouth's tariff is revenue neutral and DeltaCom is experiencing a net cost, "there has to be someone else who is a net beneficiary ." (Tr. at 100).

converting from in-band signaling to CCS7 signaling during that time frame. (Tr. at 309-10). Given that those one-time conversions have been completed by now, "this particular type growth shouldn't continue to occur" in the future. (*Id.*). Finally, if it were appropriate to require BellSouth to include some type of growth factor for signaling messages in a revenue-neutral analysis (which it is not), BellSouth should also be allowed to account for any increase in demand for the local switching component of switched access in making its analysis. (*See* Tr. at 238).

The simple fact is that BellSouth tried in good faith to make this tariff filing revenue neutral. BellSouth offset the revenue increase associated with the CCS7 Tariff by reductions to the local switching component of its intrastate access charges, (*see* Composite Exhibit No. 2, Argenbright Depo. at 37), and by reductions in BellSouth's interconnection for mobile service provider offering reflected in Section A35.1 of BellSouth's Florida General Subscriber Service Tariff. (Tr. at 200).[11] With regard to the per-message signaling demand BellSouth used to try to make this filing revenue-neutral, BellSouth did what it normally does in similar Florida tariff filings – it used one month's historical demand and annualized it. (Tr. at 237).

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[11] WorldCom argues that "[a]llowing BellSouth to offset revenue increases it receives through increases in its intrastate switched access rates with reductions in rates for services BellSouth provides out of its retail tariff is bad policy." (Tr. at 158-59). This statement is misleading. During depositions, MCI's witness acknowledged that the "retail tariff" referenced in this statement is BellSouth's A35 Tariff, and he acknowledged that the rates that were reduced in that Tariff are related to signaling services BellSouth provides to wireless carriers. (Composite Hearing Exhibit No. 2, Argenbright Depo. at 24). Regardless of whether this A35 tariff is considered a "retail" tariff, therefore, the fact remains that the rates in the A35 tariff that were reduced are related to signaling services BellSouth provides to wireless carriers and not to retail services BellSouth provides to its end user customers. (*Id.*, Argenbright Depo. at 24-25).

In this instance, however, BellSouth had little if any actual demand figures regarding non-local intrastate signaling messages. (Tr. at 213). Prior to this tariff filing, BellSouth's systems had been counting the number of ISUP and TCAP messages that were passing between BellSouth's network and the networks of other carriers. The system used to count those messages, however, cannot ascertain the origination and termination points of the call that is being set up. (Tr. at 353). Moreover, carriers were not submitting signaling PLUs to BellSouth before the introduction of this tariff. Thus, although BellSouth had an aggregate count of ISUP and TCAP messages, it had no way of determining how many of those messages were associated with non-local intrastate calls instead of interstate calls or local calls. (Tr. at 259, 353). BellSouth, therefore, made a good-faith effort to derive an historical number of non-local intrastate signaling messages from an historical number of non-local intrastate voice minutes of use. (See Composite Hearing Exhibit No. 2, Randklev Depo. at 135.). It was this derived demand figure that was used to attempt to make this filing revenue neutral. (*Id.*).

Since this tariff has been in effect, the amount of revenue BellSouth has received for signaling messages associated with non-local intrastate calls has exceeded the amount of revenue BellSouth has foregone as a result of the various rate reductions in the CCS7 Tariff filing. (Tr. at 220-21). This may be because the method BellSouth used to derive per-message signals from voice minutes of use understated the signaling demand. Alternatively, this may be because even after the CCS7 Tariff went into effect, carriers still have not been providing appropriate signaling factors to BellSouth.

DeltaCom, for example, acknowledges that it has never filed a signaling PLU with BellSouth. (Tr. at 104-05). As a result, the CCS7 Tariff's default factors of 50% interstate and 50% non-local intrastate apply, (Tr. at 187), and none of DeltaCom's signaling messages are being billed at the lower rates available under DeltaCom's interconnection agreement with BellSouth. DeltaCom acknowledges that if it were to submit a signaling PLU to BellSouth, the amount it pays for signaling would decrease because some of the messages that are currently being billed under the tariff would begin being billed under the lower rates available under the interconnection agreement. (Tr. at 105-06). The revenue BellSouth has collected to date under the tariff, therefore, is not an accurate reflection of the revenue impact of the CCS7 Tariff because DeltaCom (and probably other carriers as well) has failed (or refused) to provide signaling factors to BellSouth.

Having said that, BellSouth acknowledges that in light of the unique circumstances that required BellSouth to use derived, as opposed to actual, historical signaling demand in making this tariff filing revenue-neutral, it is perhaps appropriate to take another one-time look at the revenue impact of this filing. Accordingly, if the Commission determines that the CCS7 Tariff will remain in effect (as it should), BellSouth requests that the Commission require the Petitioners and other carries to immediately provide BellSouth with signaling factors. BellSouth will use those factors to determine the amount of revenue it would have billed carriers to date under this tariff had those factors been in effect. If the revenue that results from this analysis continues to significantly exceed the revenues BellSouth has foregone to date as a result of the reductions in this filing, BellSouth is willing to make a further, one-time reduction in the local switching rate to reflect the difference. (Tr. at 220-21).

ISSUE 4: DOES BELLSOUTH'S CCS7 ACCESS ARRANGEMENT TARIFF VIOLATE SECTION 364.163 OR ANY OTHER PROVISIONS OF CHAPTER 364, FLORIDA STATUTES?

Position: No.

As explained below, BellSouth's CCS7 Tariff complies with Section 364.051(5) because it constitutes a "new service" under Commission precedent. It also complies with Section 364.163 because BellSouth's intrastate access rates have already reached parity with BellSouth's interstate access rates. Finally, WorldCom's suggestion that such parity must exist each and every time BellSouth increases rates for network access services flies in the face of both the plain language and the legislative intent of Section 364.163

A. BellSouth's CCS7 Tariff Constitutes a "New Service" to Which the Restrictions of Section 364.163 Do Not Yet Apply.

BellSouth's CCS7 tariff does not violate the price cap statute, Section 364.051(5), Florida Statutes, because it constitutes a "new service" as that term has been interpreted by the Commission. Under the price cap statute, BellSouth is prohibited from increasing the price of any non-basic service category by more than 6 percent within a 12-month period. *See* Section 364.051(5)(a), Florida Statutes. As recognized by the Commission, however, this price increase limitation does not apply to a "new" nonbasic service. *See In re: Investigation Into BellSouth's Tariff Filing to Restructure Its Late Payment Charge*, Order No. PSC-01-1869-FOF-TL at 10 (Aug. 30, 2001) ("For monitoring compliance with Section 364.051(5)(a), Florida Statutes, revenues for a new nonbasic service are excluded from the basket calculation for the first twelve (12) months that the service is offered. Thereafter, these revenues become part of the basket's benchmark revenues.").

Accordingly, if a service constitutes a "new" non-basic service, the price increase limitations established in Section 364.051(5)(a) do not apply. The Commission has defined a "new service" under the price cap statute to mean a service that addresses a "'concern' or 'issue' that BellSouth has never addressed." *Id.* As explained above, BellSouth has never previously addressed per-message charges for CCS7 service because BellSouth could not monitor CCS7 signaling messages until it implemented a new monitoring system. (Tr. at 330). BellSouth's CCS7 Tariff, therefore, satisfies the Commission's definition of a "new service," and the per-message charges for the CCS7 service are not subject to the price cap statute's six percent price increase limitation.

B. BellSouth's CCS7 Tariff Complies with Section 364.163 Because BellSouth's Intrastate Switched Access Rates Already Have Reached Parity with its Interstate Switched Access Rates.

The Petitioners, primarily through the testimony of WorldCom's witness, argue that BellSouth cannot implement its CCS7 Tariff yet because BellSouth's intrastate switched access rates have not yet reached parity with its interstate switched access rates as required by Section 364.163(2). Clearly, this is an issue of statutory construction, and the Supreme Court of Florida has held that in construing statutes,

> it is a primary rule that the intent is the vital part. It is the essence of the law. The primary rule of construction is to ascertain and give effect to that intent.

City of Boca Raton v. Gidman, 440 So. 2d 1277, 1281 (Fla. 1983). Accordingly, "[n]o literal interpretation should be given that leads to an unreasonable or ridiculous conclusion or to a purpose not designated by the lawmakers." *Id.* Applying these principles to both the plain language and legislative history of Section 364.163 leads to the unmistakable conclusion that BellSouth has satisfied the statute's "parity" requirement.

Section 364.163(2) allows BellSouth to increase rates for network access services after two events have occurred: (1) the 1999 cap on switched access rates has expired; and (2) BellSouth's intrastate switched access rates have reached parity with its interstate switched access rates.[12] It is undisputed that the 1999 cap expired, by its own terms, on January 1, 2001.[13] The only issue in dispute, therefore, is whether BellSouth has satisfied the statute's "parity" requirement.

There can be no legitimate dispute that BellSouth's intrastate access rates reached parity with its interstate access rates in 1997. (Tr. at 202).[14] WorldCom,

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[12] Specifically, Section 364.163(2) provides, in pertinent part:

> After the termination of the caps imposed on rates by subsection (1) and *after a local exchange telecommunications company's intrastate switched access rates reach parity with its interstate switched access rates*, a company subject to this section, may on 30 days' notice, *annually adjust* any specific network access service rate in an amount not to exceed the cumulative change in inflation experienced after the date of the last adjustment, provided, however, that no such adjustment shall ever exceed 3 percent annually of the then-current prices.

(Emphasis added).

[13] WorldCom's witness agrees that at the time BellSouth filed its CCS7 Tariff, this cap had expired. (*See* Composite Hearing Exhibit No. 2, Argenbright Depo. at 19).

[14] Although he was uncertain of specific dates, WorldCom's witness acknowledged that at some point after the original version of Section 364.163 went into effect in 1996, and before the amendment to Section 364.163 went into effect in 1998, BellSouth's intrastate switched access rates reached parity with its interstate switched access rates. (*See* Composite Hearing Exhibit No. 2, Argenbright Depo. at 14-15.). Moreover, as discussed below, the Commission itself has recognized that BellSouth reached parity in 1997.

however, claims that this is not good enough. WorldCom (and presumably the other Petitioners) claims that because the statute was amended in 1998, BellSouth is required to reach parity yet again – subsequent to that amendment – in order to satisfy the "parity" requirement of the statute. That, however, is not what the statue says, and that is not what the statute means.

The original version of Section 364.163(2) that went into effect in 1996 provided that after a company's intrastate switched access rates reached parity with its interstate switched access rates, the company could adjust its rates for network access services by no more than 3% annually. (Tr. at 202). Between the time this language went into effect in 1996 and the time this language was amended in 1998, BellSouth and one other company reached parity. (*See* Tr. at 202). The remaining companies in Florida, however, were not expected to reach parity until two to twelve years later. (*Id.*).

Accordingly, when the Legislature stated in the 1998 amendment that a company could increase network access rates "after" reaching parity, at least two companies had already reached that parity. Had the Legislature intended for those companies to reach parity yet again, it would have said so. The fact that it did not clearly indicates that the Legislature intended to retain the original point of reference (1996) and not establish a new point of reference (1998) after which a company is required to reach parity in order to increase rates for network access services.

Further buttressing this conclusion are the amendments the Legislature made to Section 364.163(6) in 1998. Before it was amended, Section 364.163(6) required companies whose intrastate access rates were higher than their interstate access rates to reduce their intrastate rates by five percent annually until the rates were at parity.

See 364.163(6), Florida Statutes (1996). Once a company reached parity, however, the prior version of Section 365.163(6) provided that no further reductions would be required.

In 1998, the Legislature amended Section 364.163(6) to provide that "any local exchange telecommunications company with more than 100,000 but fewer than 3 million, basic local telecommunications service access lines in service on July 1, 1995, shall reduce its intrastate switched access rates by 5 percent on July 1, 1998 and by 10 percent on October 1, 1998." *See* §364.163(6), Florida Statutes. In July 1995, BellSouth had more than 3 million access lines. (Tr. at 203). Thus, the Legislature consciously decided *not* to require BellSouth to further reduce its access charges when it amended Section 364.163(6) in 1998.

Significantly, when it made this conscious decision not to require BellSouth to further reduces its intrastate access charges, the Legislature knew that BellSouth's already had achieved parity in 1997. It knew this because in its *Competition in the Telecommunications Market* report dated December 1997, the Commission reported to the Legislature that

> BellSouth's March 2, 1997 intrastate switched access rate reductions filed pursuant to Order No. PSC-97-0128-FOF-TL, in Docket No. 920260-TL, brought BellSouth's intrastate composite switched access rate below its December 31, 1994, interstate composite switched access rate, *thus achieving parity*.

(Tr. at 202; Composite Hearing Exhibit No. 15, JAR-3)(emphasis added). WorldCom witness Argenbright claims that BellSouth's intrastate and interstate rates were no longer in parity at the time the 1998 amendments went into effect. (Composite Hearing Exhibit No. 2, Argenbright Depo. at 15). Assuming this is correct, if the Legislature had intended for BellSouth to reach parity again in the future, it would not have consciously exempted BellSouth from a requirement to reduce its intrastate access rates in the future. The fact that it did exempt BellSouth from this requirement conclusively demonstrates that the Legislature was satisfied that BellSouth already had reached parity and that it was not required to do so again.

Simply put, BellSouth has satisfied the express language of Section 364.163(2) regarding increasing intrastate access rates. To impose any additional requirements on BellSouth would violate the clear and ordinary language of the statute as well as the Legislature's intent and thus is prohibited as a matter of law.

C. The Commission must reject MCI's Argument that Section 364.163 Requires Parity at the Time of Each and Every Tariff Filing.

Despite the plain language and intent of Section 364.163, WorldCom argues that once is not enough. WorldCom believes that even if BellSouth were to reach parity again tomorrow, BellSouth still could not increase rates for network access services in the future unless such parity existed at the time BellSouth filed its increased rates. WorldCom is wrong.

To demonstrate the fallacy of WorldCom's argument, assume that BellSouth's intrastate access rates are equal to BellSouth's interstate access rates at the time BellSouth files a tariff to increase rates for network access services. According to WorldCom, parity would exist and BellSouth could implement the rate increases. (Composite Hearing Exhibit No. 2, Argenbright Depo. at 22). Assuming no other changes in BellSouth's intrastate or interstate access rates, the following year BellSouth's intrastate access rates would be higher than BellSouth's interstate access rates, and parity would no longer exist. According to WorldCom, therefore, Section

364.163(2) would prohibit BellSouth from increasing rates for any network access charges the following year.

The plain language of the statute, however, provides that "after a local exchange telecommunications company's intrastate switched access rates reach parity with its interstate switched access rates," that company may "*annually* adjust *any specific network access service rate* in an amount not to exceed" an inflation-based cap. *See* §364.163(2)(emphasis added). The statute does not say that after reaching parity, a company may increase rates "in an amount not to exceed its then-existing interstate switched access rates" or "in an amount that does not take the company's intrastate access rates out of parity with its interstate access rates." Instead, the Legislature clearly determined that once parity is achieved, the inflation-based cap on subsequent increases that it created – and not the level of the company's interstate access charges – governs the amount by which a company can subsequently increase its network access service rates.

For all of the reasons set forth above, BellSouth's CCS7 Tariff does not violate Section 364.163 or any other provisions of Chapter 364, Florida Statutes.

ISSUE 5: WHAT DOES BELLSOUTH CHARGE SUBSCRIBERS UNDER THE CCS7 ACCESS ARRANGEMENT TARIFF FOR THE TYPES OF TRAFFIC IDENTIFIED IN ISSUE 1?

Position: There is no factual dispute that BellSouth charges the rates set forth in its tariff. The dispute is whether those rates are appropriate, and they are.

BellSouth's CCS7 Tariff sets forth a per-message ISUP rate and a per message TCAP rate that apply to signaling messages associated with non-local, intrastate calls. (Tr. at 197-98). It also sets forth monthly recurring charges for transport facilities (i.e., signaling links) and terminations (i.e., ports attached to those signaling links) for CCS7 facilities associated with non-local, intrastate calls. (*Id.*). The rate elements associated with BellSouth's CCS7 Tariff are set forth in at pages 204-205 of the Hearing Transcript, and no factual disputes regarding these rates exist.

Instead, the dispute is whether BellSouth can charge its tariffed rates for signaling messages associate with non-local intrastate calls, and the three carriers that presented witnesses in this proceeding have very different views on the issue. US LEC does not believe that BellSouth should charge anything at all for signaling messages and is so adamant in that position that even in the period leading up to the hearing in this case, indeed less than two weeks before the hearing, its witness had no position on what the actual rates ought to be if BellSouth is allowed to charge for signaling messages. (Composite Hearing Exhibit No. 2, Montano Depo. at 16-17; 19).[15] Although DeltaCom does not want BellSouth to charge DeltaCom for signaling messages, DeltaCom has no objection whatsoever to BellSouth's charging IXCs (such as MCI) for signaling messages. (Composite Hearing Exhibit No. 2, Brownworth Depo. at 40).

Like US LEC's witness, MCI's witness is aware of no requirement that the rates for signaling messages that are addressed in BellSouth's tariff must bear any specific relationship to the cost of those signaling messages. (Composite Hearing Exhibit No. 2, Argenbright Depo. at 11). In fact, MCI "would not find every filing based on this

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15 In fact, US LEC's witness is aware of no requirement that the rates for signaling messages that are addressed by BellSouth's tariff must bear any specific relationship to the cost of those signaling messages. (Composite Hearing Exhibit No. 2, Montano Depo. at 72). As a result, nothing in US LEC's testimony is designed to attack the actual rate BellSouth has established for ISUP or TCAP messages. (Composite Hearing Exhibit No. 2, Montano Depo. at 20).

structure to be – to be something that we would oppose." (Composite Hearing Exhibit No. 2, Argenbright Depo. at 29-30). If the Commission does not reject BellSouth's tariff, however, MCI urges the Commission to "reduce BellSouth's proposed rates to match those TELRIC rates established in docket number 990649-TP" for signaling-related charges. (Tr. at 168).

Despite this urging, MCI's witness is unaware of any State commission or the FCC imposing a TELRIC pricing requirement on any access services. (Composite Hearing Exhibit No. 2, Argenbright Depo. at 31-32). The reason for this, of course, is that no such requirement exists. To the extent that CCS7 signaling associated with local calls is an unbundled network element, sections 251 and 252 of the federal Telecommunications Act of 1996 require BellSouth to charge cost-based or TELRIC rates for those elements. BellSouth does so. (Tr. at 213-14). BellSouth, however, is not obligated to charge cost-based rates for CCS7 services associated with non-local, intrastate calls. Instead, the rates BellSouth may charge for such services are limited only by the Florida price regulation statutes, and the rates set forth in the tariff at issue in this proceeding comply with those statues.

During the hearing, the Petitioners also suggested that BellSouth should not be allowed to apply its tariffed charges because the number of ISUP messages that travel over the facilities connecting BellSouth's network to the network of any particular carrier may be roughly equal. As BellSouth witness Mr. Milner testified, however, there are at least three types of situations that would cause an unequal number of ISUP messages, (Tr. at 354-55), and BellSouth does not have enough data to determine the magnitude of the disparity in ISUPPU messages that could arise from these situations. (Tr. at 356-

57). However, even assuming for the sake of argument that the ISUP message between BellSouth and a given ALEC would be roughly equal, the ALEC would, in all likelihood, still owe a net amount to BellSouth for TCAP messages. (Tr. at 297).

Finally, despite insinuations to the contrary, BellSouth's tariff treats its affiliates in the same manner as it treats other carriers. US LEC's witness, for example, agrees that BellSouth's tariff treats BellSouth's wireless affiliate in the same manner as it treats any other wireless entity. (*See* Composite Hearing Exhibit No. 2, Montano Depo. at 61-62). Moreover, once BellSouth is granted authority to provide interLATA long distance services, those services will be provided by BellSouth Long Distance Inc. ("BSLD"), which is BellSouth's section 272 affiliate. (Tr. at 214). As a structurally separate 272 affiliate, the rates that BSLD will pay will be the same tariffed rates that any other interexchange carrier pays BellSouth for CCS7 network services. (*Id.*).

ISSUE 6: IS MORE THAN ONE CARRIER BILLED FOR INTEGRATED SERVICES DIGITAL NETWORK USER PART (ISUP), FOR THE SAME SEGMENT OF ANY GIVEN CALL, UNDER THE BELLSOUTH CCS7 ACCESS ARRANGEMENT TARIFF? IF SO, IS IT APPROPRIATE?

Position: BellSouth does not charge more than one carrier for ISUP messages that are exchanged on any given segment of any given call.

As explained above, multiple carriers can be involved in setting up, maintaining, and tearing down a call. BellSouth's tariff, however, does not attempt to charge every carrier that is involved in that process. Nor does it attempt to charge for all signaling that may take place in that process. Instead, BellSouth's tariff only charges a carrier for the use that carrier makes of BellSouth's CCS7 network. (Tr. at 331).

Thus, while BellSouth may bill an IXC for some of the signaling messages involved in a call and may bill an ALEC for other signaling messages involved in the same call, only one entity is billed for any particular signaling message involved in a call. (*Id.*). Accordingly, an IXC and an ALEC will not be billed for the same message, and there is no double billing. (Tr. at 331). This is most clearly demonstrated by referring to Exhibit GFR-1 to the pre-filed rebuttal testimony of BellSouth Witness Gregory Follensbee, which is part of Composite Hearing Exhibit No. 14.[16]

Regardless of where the call depicted in this Exhibit originates, the signaling necessary to set up the call will work its way to the IXC's STP that is depicted on the left side of Exhibit GRF-1. (Tr. at 180). The IXC's STP will exchange signals with BellSouth's STP, and BellSouth's STP will exchange signals with DeltaCom's STP. (*Id.*). Other signals could be exchanged on either the left side or on the right side of the diagram, but BellSouth is not involved in such signaling and does not bill anyone for such signaling. (*Id.*). Instead, BellSouth bills the IXC for signaling messages that traverse the facility connecting the IXC's STP to BellSouth's STP, and BellSouth bills DeltaCom for signaling messages that traverse the facility connecting BellSouth's STP to DeltaCom's STP. (Tr. at 181).[17] Clearly, BellSouth's CCS7 tariff does not result in any double billing.

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16 Attachment B to this brief is a copy of this Exhibit, which illustrates the relevant portion of the signaling that is involved in the call that DeltaCom witness Mr. Brownworth describes in his testimony on page 38 of the Hearing Transcript.

17 DeltaCom witness Mr. Brownworth acknowledged this on cross-examination during the hearing. (Tr. at 90-91). Moreover, in depositions, US LEC's witness acknowledged that she has no information to dispute the testimony that BellSouth is not billing US LEC for any messages that do not traverse a link that directly connects a BellSouth STP to a US LEC facility. (Composite Hearing Exhibit No. 2, Montano Depo. at 33-34).

DeltaCom (the only carrier to present any significant testimony addressing this issue) presented two examples of purported double billing, both of which were proven to be meritless during the hearing. (*See* Tr. at 38-40). The first example involves what DeltaCom describes as "jointly provisioned switched access between BellSouth and ITC^DeltaCom," (Tr. at 38), and this example is depicted by Hearing Exhibit No. 7 (Tr. at 69). DeltaCom's claim of "double billing" in this example is based on its assertion that "[i]f there are six (6) ISUP messages sent and received by the IXC carrier, the IXC carrier will end up getting billed for twelve (12) messages: six (6) ISUP messages from BellSouth *and six (6) ISUP messages from ITC^DeltaCom.*" (Tr. at 39)(emphasis added). As a factual matter, however, no such double billing is occurring because DeltaCom acknowledges that it is *not* billing any such IXC any for any such signaling messages today. (Tr. at 92). As a policy matter, there is no *direct connection* between the IXC and DeltaCom, and as such, BellSouth cannot understand any reason that DeltaCom should bill the IXC for signaling. (Tr. at 180). In any event, if DeltaCom were to attempt to do so, that would be a dispute between DeltaCom and the IXC, and not a dispute between DeltaCom and BellSouth.

DeltaCom's second example of purported double billing involves what DeltaCom describes as "ITC^DeltaCom as an IXC carrier terminat[ing] an intrastate call to offices other than BellSouth off the BellSouth access tandem." (Tr. at 39). This example is depicted by Hearing Exhibit No. 8. (Tr. at 69-70). DeltaCom's claim of "double billing" in this example is based on its assertion that "ITC^DeltaCom can expect to be billed from both BellSouth and the other [ALEC]." (Tr. at 39). As a factual matter, however, no such double billing is occurring because DeltaCom acknowledges that in the months that BellSouth's tariff has been in effect, no such ALEC has sent it any bill for any such signaling messages. (Tr. at 79-80). As a policy matter, there is no *direct connection* between the other ALEC in this example and DeltaCom, and as such, BellSouth cannot understand any reason that the other ALEC should be billing DeltaCom for signaling. (Tr. at 183-84). In any event, if another ALEC were to attempt to do so, that would be a dispute between that other ALEC and DeltaCom, and not a dispute between DeltaCom and BellSouth.

ISSUE 7: UNDER BELLSOUTH'S CCS7 ACCESS ARRANGEMENT TARIFF, IS BELLSOUTH BILLING ISUP AND TRANSACTIONAL CAPABILITIES APPLICATION PART (TCAP) MESSAGES CHARGES FOR CALLS THAT ORIGINATE ON AN ALEC'S NETWORK AND TERMINATE ON BELLSOUTH'S NETWORK? IF SO, IS IT APPROPRIATE?

Position: BellSouth charges for ISPU and TCAP messages associated with non-local intrastate calls regardless of the network upon which the call originates, and it is appropriate for BellSouth to do so.

Under its CCS7 Tariff, BellSouth charges for usage of its CCS7 network regardless of which direction signaling messages are sent and regardless of whether the call originates on BellSouth's network or on another carrier's network. Stated another way, regardless of whether the call originates or terminates on a carrier's network, the carrier is charged for its use of BellSouth's CCS7 network. Since the carrier is using BellSouth's CCS7 network when CCS7 messages are sent in either direction, it is appropriate to bill for each use of the network, regardless of the direction of the query and regardless of the network on which the call originated. (Tr. at 332).

With regard to TCAP messages, BellSouth only charges carriers for TCAP messages that traverse links that connect the carriers' facilities to BellSouth's CCS7 network. Hearing Exhibit No. 9, for example, depicts a scenario in which the ALEC end user on the right side of the page makes a non-local intrastate call to the DeltaCom end user on the left side of the page. (Tr. at 80-82).[18] Assuming that a database query is required in order to establish the call, and assuming that the ALEC serving the end user on the right side of the page uses BellSouth's databases, the ALEC voice switch will send a TCAP message across the A-Link to BellSouth's STP. (Tr. at 82-83). BellSouth's STP will route that TCAP message to its database, which will retrieve the information requested and send it back to the STP by way of a TCAP message. (Tr. at 83). The STP will route that TCAP message across the A-link back to the ALEC's voice switch, which will use the information retrieved from BellSouth's database to begin the process of setting up the transmission path over which the call will be carried. (Tr. at 83). Under the CCS7 Tariff, BellSouth will charge the ALEC for the TCAP messages that travel back and forth along the A-link between the ALEC voice switch and the BellSouth STP. (Tr. at 83-84). BellSouth will not charge any carrier for the TCAP messages that travel back and forth along the facilities connecting the BellSouth STP to the BellSouth database. (*Id.*). Instead, BellSouth will charge the ALEC a database query charge, (which often is called a "dip charge") for the use of BellSouth's database. (*Id.*).

Some carriers, such as DeltaCom, use third-party databases and, therefore, they do not access BellSouth's databases. (Tr. at 86). These carriers avoid "dip charges" for the use of BellSouth's databases, and they avoid some or all TCAP messages involved in a call. Hearing Exhibit No. 10, for example, depicts a scenario in which the

[18] Attachment C to this Brief is a copy of Hearing Exhibit No. 9.

DeltaCom end user on the left side of the page makes a non-local intrastate call to the ALEC end user on the right side of the page. (Tr. at 86-87).[19] Assuming that a database query is required in order to establish the call, and assuming that DeltaCom uses a third-party database (instead of BellSouth's database), the DeltaCom voice switch will send a TCAP message along the A-Link to the DeltaCom STP. (Tr. at 87). The DeltaCom STP will route that TCAP message to the third-party database, which will retrieve the information requested and send it back to the DeltaCom STP by way of a TCAP message. (Tr. at 87-88). The DeltaCom STP will route that TCAP message along the A-link back to the DeltaCom voice switch, which will use the information retrieved from the third-party database to begin the process of setting up the transmission path over which the call will be carried. (Tr. at 88). Because none of the TCAP messages involved in this example traverse a facility connecting BellSouth's CCS7 network to the facilities of any other carrier, BellSouth will not bill any carrier for any of the dip charges or for any of the TCAP messages involved in this example. (*Id.*).

ISSUE 8: WHAT IS THE IMPACT, IF ANY, OF BELLSOUTH'S CCS7 ACCESS ARRANGEMENT TARIFF ON SUBSCRIBERS? DOES SUCH IMPACT, IF ANY, AFFECT WHETHER BELLSOUTH'S CCS7 ACCESS ARRANGEMENT TARIFF SHOULD REMAIN IN EFFECT?

Position: BellSouth's tariff has no improper impact on subscribers and, therefore, it should remain in effect.

DeltaCom originally claimed that BellSouth's tariff "fails to meet minimum industry standard billing and auditing practices," (Tr. at 33), and it suggested that BellSouth is required to provide more information than is set forth in the bills it submits to carriers

[19] Attachment D to this Brief is a copy of Hearing Exhibit No. 10.

under the CCS7 tariff. (Tr. at 42). During depositions, however, DeltaCom's witness Mr. Brownworth was unable to identify any minimum industry standard with which BellSouth's tariff fails to comply, (Composite Hearing Exhibit No. 2, Brownworth Depo. at 58-60), and he acknowledged that "[t]here is a difference between the billing detail that ITC DeltaCom needs and the minimum industry billing detail." (*Id.* at 103). Accordingly, the first thing DeltaCom's witness did at the hearing was modify his pre-filed testimony such that rather than referring to any "minimum industry standard," his testimony now states that BellSouth's tariff filing "fails to meet *the carrier customer needs for* billing and auditing practices." (Tr. at 29, 64) (emphasis added).

Even as amended, DeltaCom's claims are meritless. As explained by BellSouth witness Clyde Greene, BellSouth provides sufficient detail for the verification and auditing of BellSouth's per-message signaling billing. (*See, e.g.,* Tr. at 279). Moreover, it is not possible for BellSouth to provide DeltaCom or any other carrier with any greater level of billing detail than the Originating Point Code and Destination Point Code information that it currently provides in relation to the link sets connecting the carriers' facilities to BellSouth's signaling network. (Tr. at 277).

DeltaCom's witness summarized the driving force behind this issue when he testified that "I need to find a mechanism that I can utilize to pass those costs [i.e., the rates DeltaCom pays for signaling under BellSouth's tariff] on to my customers sitting behind my STP pairs." (Tr. at 101). In other words, DeltaCom is raising an issue of cost recovery. (Tr. at 94-95). DeltaCom, however, already recovers signaling-related costs from its customers, and it has presented no valid reason that it cannot use similar cost-recovery mechanisms to recover any costs it incurs under BellSouth's CCS7 Tariff.

DeltaCom is a third-party hubbing provider, which means that DeltaCom provides CCS7 signaling services to other carriers who do not want to invest in their own signaling network. (Tr. at 104; 210). DeltaCom has incurred costs to establish and maintain the CCS7 network it uses to provide third-party hubbing services, (Tr. at 107-09), and DeltaCom recovers those costs in the rates it charges its signaling customers.[20] More specifically, DeltaCom charges its signaling customers a port charge, a link charge, and an "OPD/DPC or translation charge" *that is a fixed amount that DeltaCom charges for the signals that go from one STP to another.* (Tr. at 109-10). DeltaCom, therefore, already has a mechanism in place to recover costs associated with signaling messages, and there is no reason it could not use the same or a similar mechanism to recover from its customers any charges it pays BellSouth for signaling under its tariff.

During the hearing, DeltaCom protested against using a fixed charge to recover these costs from its customers, claiming that a fixed charge creates a situation in which

> you may have some carriers utilizing the network for hundreds of thousands of messages and some carriers only utilizing the network for very few messages. To charge a fix cost for a carrier who is not utilizing the network to carry that, or not utilizing it much to carry that, or not significantly utilizing the network, we haven't found that to be a fair mechanism.

(Tr. at 102). DeltaCom never explained why this exact same concern has not prevented it from imposing a fixed charge for signaling messages in its contracts with its signaling customers – surely those customers do not all have the same amount of messages. Even so, DeltaCom easily could address its concerns by, among other things,

[20] Those rates are not set forth in tariffs, but instead, they are set forth in contracts that DeltaCom negotiates with carriers that buy its signaling service. (Tr. at 109). DeltaCom apparently does not file these contracts with the Commission. (*Id.*).

implementing a tiered structure by which customers with less than a certain amount of messages pay one fixed amount, customers with more than a certain amount of messages pay a higher fixed amount, and customers with a number of messages falling between those threshold amounts pay a fixed amount somewhere in the middle.

Alternatively, DeltaCom could install facilities that would allow it to count messages just like BellSouth has done,[21] and it could obtain jurisdictional factors from its customers just as BellSouth does.[22] As DeltaCom's witness acknowledged in response to questions from Chairman Jaber, "we can go back to our carriers, carrier customers and tell them what our situation is and see how we can negotiate something that is acceptable." (Tr. at 102-03). BellSouth's CCS7 Tariff, therefore, has no improper impact on DeltaCom or any other carrier.

ISSUE 9: DOES BELLSOUTH BILL ILECS FOR THE SIGNALING ASSOCIATED WITH THE TYPES OF TRAFFIC IDENTIFIED IN ISSUE 1? (A) IF NOT, WHY NOT? (B) HAS BELLSOUTH OFFERED ILECS A BILL AND KEEP ARRANGEMENT FOR LOCAL AND/OR INTRASTATE CCS7 MESSAGES AND B-LINKS?

[21] Given that DeltaCom's CCS7 network is not as large as BellSouth's, DeltaCom should be able to install such facilities at less than what it cost BellSouth to install its facilities. (Tr. at 357-58). Moreover, such facilities could provide benefits to DeltaCom above and beyond its ability to count and bill for signaling on a per-message basis. The facilities BellSouth has installed, for example, do more than enable BellSouth to bill on a per-message basis – they do "a lot of other things for [BellSouth] in terms of keeping [its] signaling network healthy." (Tr. at 358).

[22] DeltaCom does not believe that its carrier customers would provide competitively-sensitive jurisdictional factors to DeltaCom – which competes with them for voice traffic. (Composite Hearing Exhibit No. 2, Brownworth Depo. at 80-81). Mr. Brownworth explained that carriers do not have the same concerns about sharing this type of information with BellSouth because when BellSouth receives such information and tells the ALEC community that such information will stay within a given department and not be shared with other departments, the general perception is that this is exactly what happens. (Tr. at 81-82).

Position: ***BellSouth has a separate tariff that applies to services BellSouth provides to ILECs. While that tariff does not contain per-message signaling charges, the local switching charges in that tariff are the higher charges that applied to ALECs, IXCs, and wireless carriers before the CCS7 Tariff went into effect. BellSouth's tariff, therefore, does not unjustly or unreasonable discriminate against any group of carriers.***

Each state in BellSouth's region addresses BellSouth's relationship with other ILECs in a unique manner. (*See* Tr. at 242-47). In Florida, a separate tariff (Section E16) addresses services BellSouth provides to ILECs, and BellSouth's CCS7 tariff filing has no effect on this separate tariff. (Tr. at 223-24). This means that ILECs in Florida currently do not pay per-message signaling charges. (*Id.*). This also means that ILECs in Florida are still paying the higher rates for the local switching component of intrastate switched access that ALECs, IXCs, and wireless carriers paid before the CCS7 Tariff went into effect. (*Id.*). BellSouth's tariff, therefore, does not unjustly or unreasonably discriminate against any group of carriers.

BellSouth has not offered ILECs a "bill-and-keep" arrangement for CCS7 messages and B-Links in Florida. (Tr. at 206).[23] Moreover, although the Petitioners seem to be under the mistaken impression that BellSouth only bills wireless carriers for signaling associated with one-half of the calls they carry, this simply is not the case. As BellSouth witness Gregory Follensbee stated, "we are not only assessing 50 percent of the charges, we are assessing 100 percent of the charges to cellular carriers. There is

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[23] During the hearing, DeltaCom suggested that BellSouth may have offered what DeltaCom incorrectly refers to as a "bill-and-keep arrangement" for B-links to certain ILECs in the state of Georgia. (Tr. at 245-47). As noted above, however, the relationship between BellSouth and other ILECs varies from state to state, and the fact that BellSouth may have offered a particular arrangement to ILECs in Georgia has nothing to do with whether BellSouth has offered the same arrangement to ILECs in Florida.

nothing in a cellular carrier contract or in the tariff that says otherwise." (Tr. at 220). *See also* Tr. at 312 (BellSouth witness Thomas Randklev testifying that "[t]o my knowledge wireless carriers are billed for all of their [signaling] messages just like any ALEC or IXC.").

ISSUE 10: SHOULD BELLSOUTH'S CCS7 ACCESS ARRANGEMENT TARIFF REMAIN IN EFFECT? IF NOT, WHAT ACTION(S) SHOULD THE FLORIDA PUBLIC SERVICE COMMISSION TAKE?

Position: BellSouth's tariff should remain in effect.

For all of the reasons set forth in this Brief, BellSouth's CCS7 Tariff should remain in effect. BellSouth is providing a valuable service to carriers, and it is being compensated when it provides that service in relation to interstate calls and local calls. BellSouth should be compensated when it provides the same service in relation to non-local intrastate calls as well.

If, however, the Commission disagrees and orders BellSouth to withdraw its CCS7 Tariff and refund the rates it has collected to date under the tariff, the Commission should take at least two additional actions. First, the Commission should order BellSouth to reinstate the higher local switching rates that existed before the CCS7 Tariff went into effect. Second, the Commission should allow BellSouth to bill carriers for the difference between the lower local switching rates they have been enjoying since the CCS7 Tariff went into effect and the higher local switching rates they would have paid if the CCS7 Tariff had not gone into effect. If carriers are going to be placed in the same position they would have occupied had the CCS7 Tariff never gone into effect, then fairness, equity, and the law dictate that BellSouth also must be placed in the same position it would have occupied had the CCS7 Tariff never gone into effect.

ISSUE 11: If the tariff is to be withdrawn, what alternatives, if any, are available to BellSouth to establish a charge for non-local CCS7 access service pursuant to Florida law?

Position: BellSouth's tariff should not be withdrawn.

BellSouth's tariff should not be withdrawn. If, however, the Commission decides to the contrary, the Commission should establish appropriate procedures to be followed when introducing a charge for a network access service that is being provided but for which there is no tariffed rate. BellSouth should not be prohibited from amending its tariffs to more accurately reflect the manner in which costs are incurred merely because BellSouth's tariffs had not previously set forth a charge for that network access service.

IV. CONCLUSION

For all of the reasons set forth above, the Commission should reject all of the Petitioners' challenges to BellSouth's CCS7 Tariff and allow the tariff to remain in effect. If, however, the Commission disagrees and orders BellSouth to withdraw its CCS7 Tariff and refund the rates it has collected to date under the tariff, the Commission should: (1) order BellSouth to reinstate the higher local switching rates that existed before the CCS7 Tariff went into effect; and (2) allow BellSouth to bill carriers for the difference between the lower local switching rates they have been enjoying since the implementation of the CCS7 Tariff and the higher local switching rates they would have paid if the CCS7 Tariff had not gone into effect.

Respectfully submitted this 8th day of October 2002.

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ITC^D and CLEC/Wireless routing calls via BellSouth Tandem

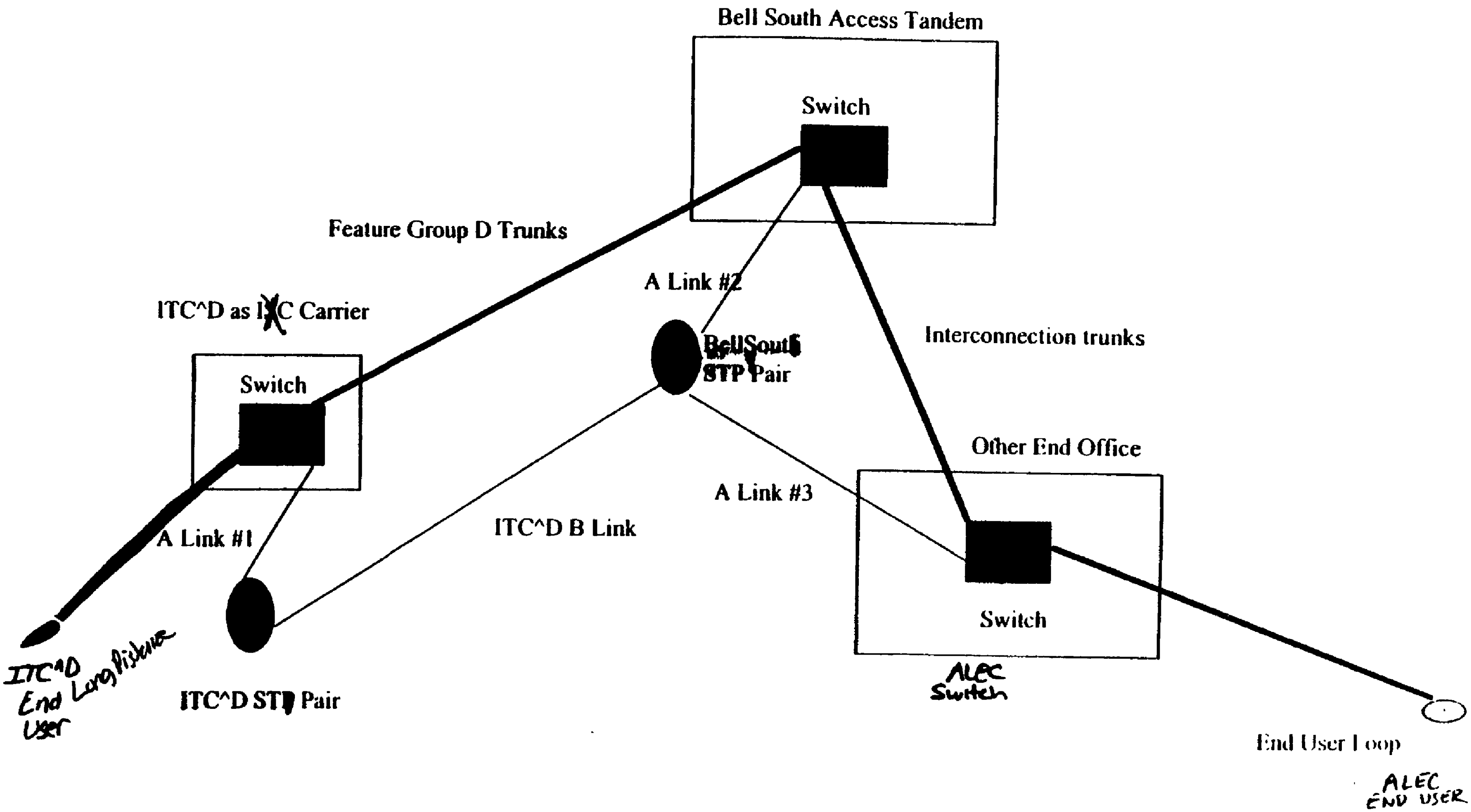
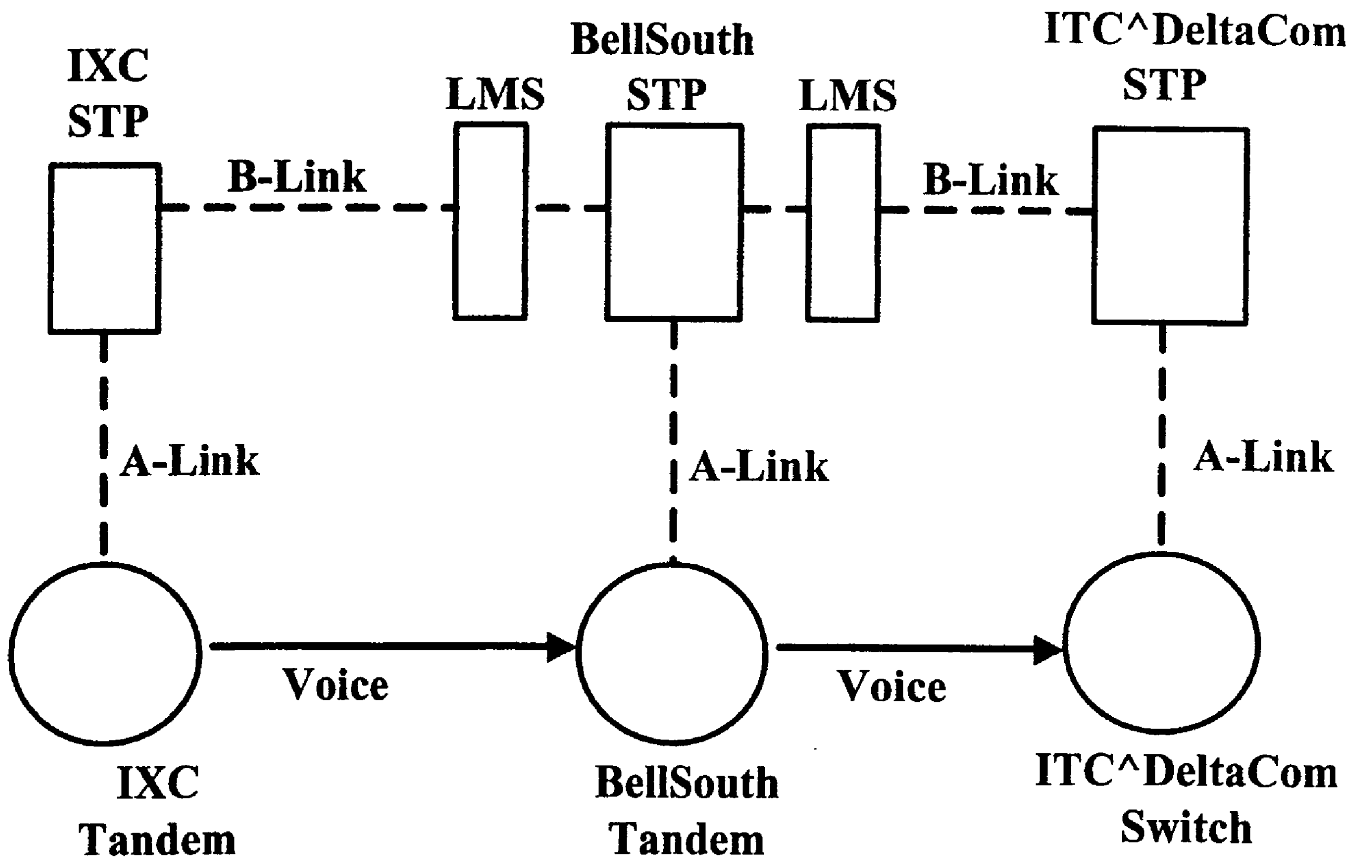
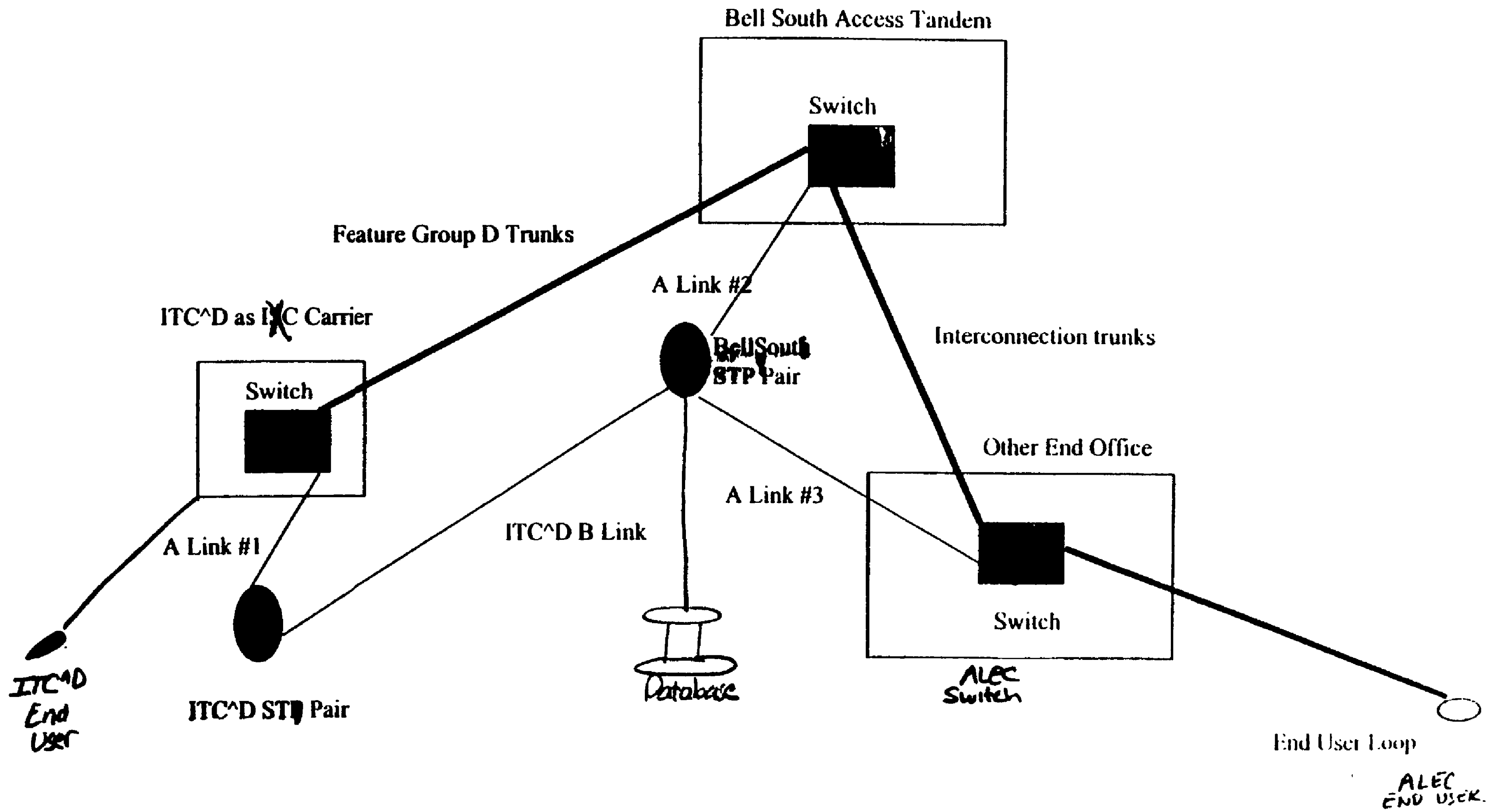


Exhibit GRF-1



(LMS- Link Monitoring Systems)
(Dotted Lines Are SS7)

ITC^D and CLEC/Wireless routing calls via BellSouth Tandem



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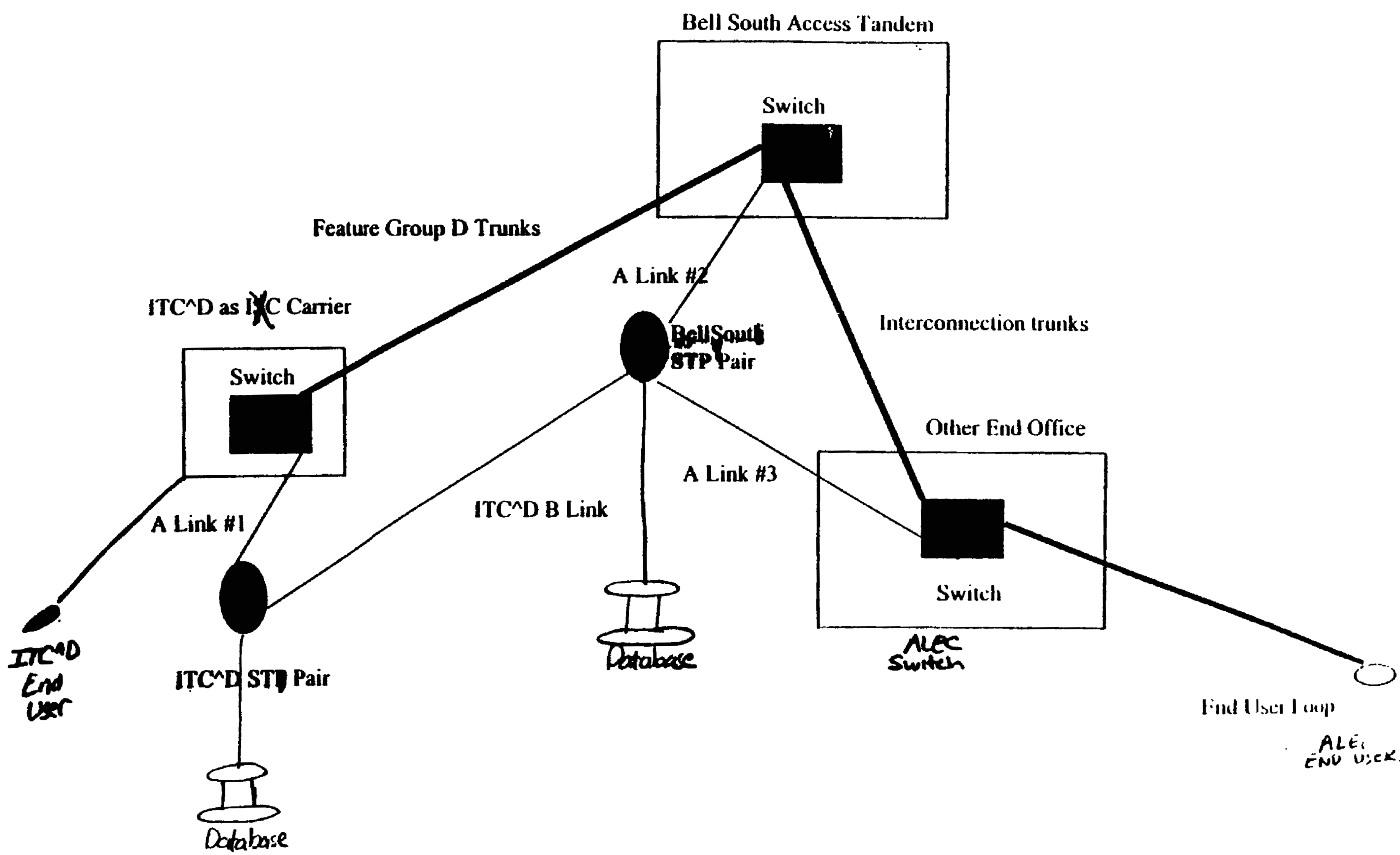
Attachment D
BellSouth Post-hearing Brief

ITC^D and CLEC/Wireless routing calls via BellSouth Tandem



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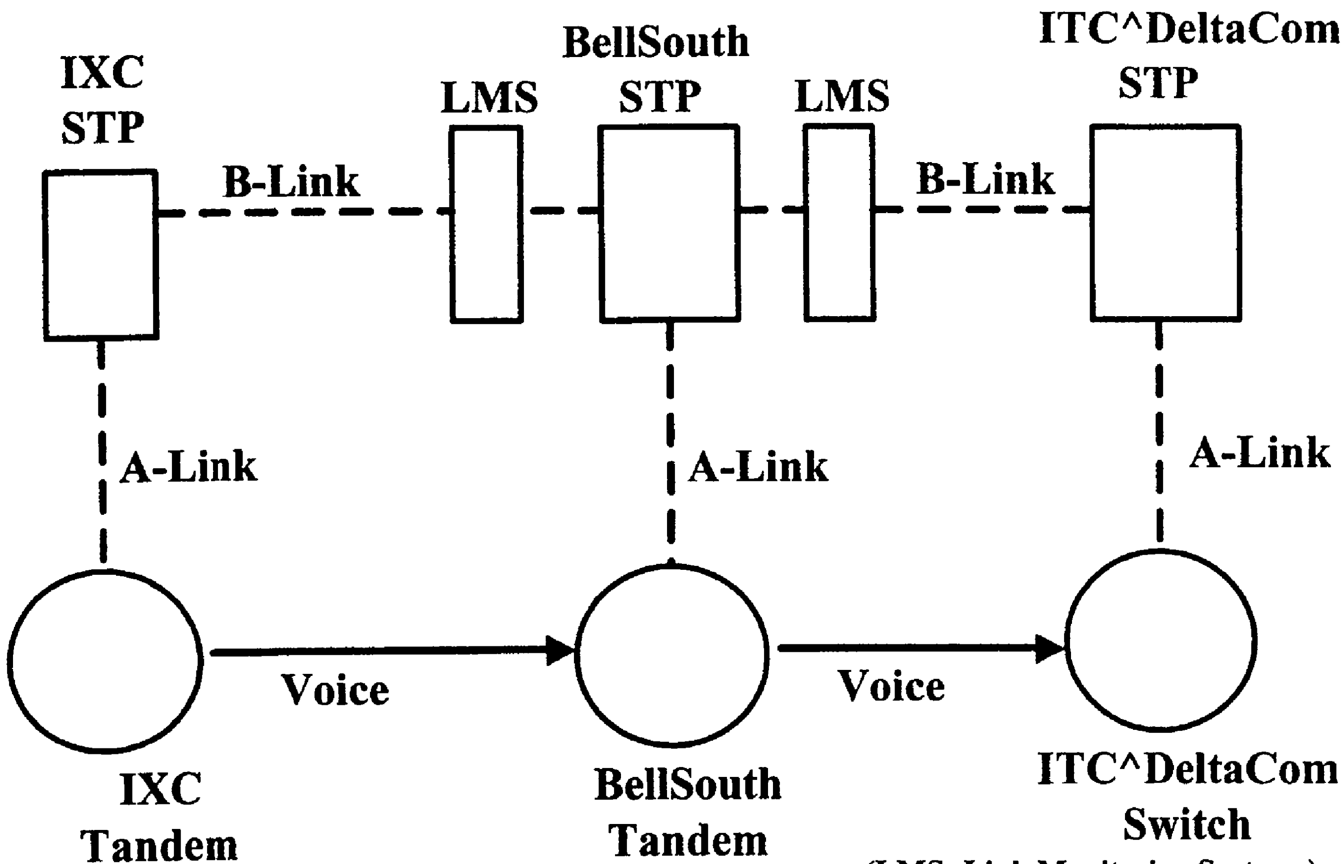

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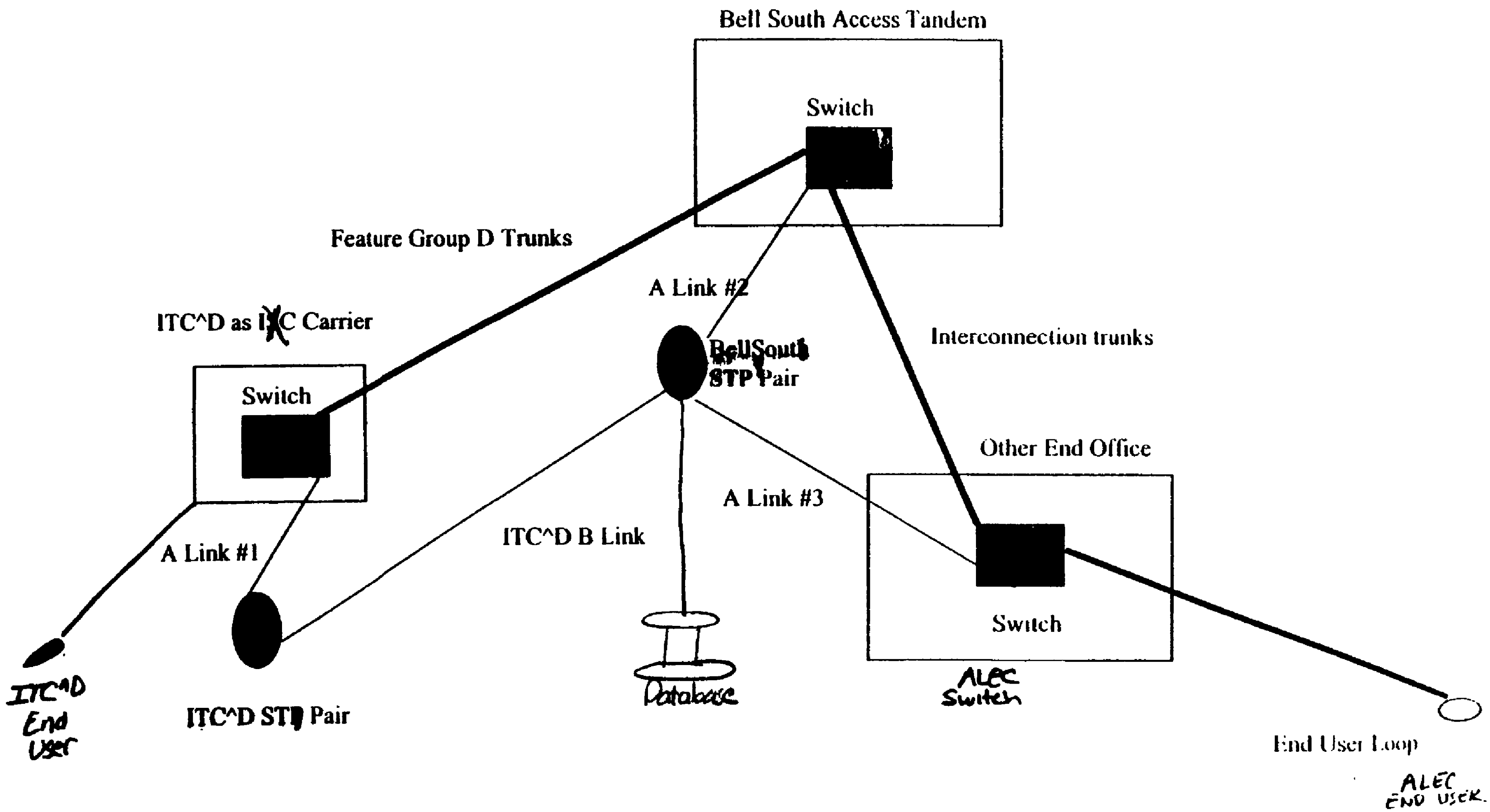

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