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September 23, 1997

**BY HAND DELIVERY**

Ms. Blanca Bayo, Director  
Division of Records and Reporting  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Docket No. **960786-TL**

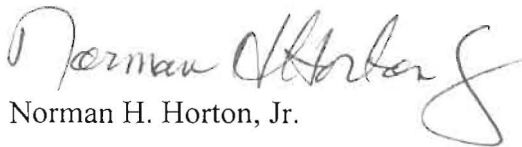
Dear Ms. Bayo:

Enclosed are an original and fifteen copies of American Communications Services of Jacksonville, Inc.'s Posthearing Brief in the above referenced docket. Also enclosed is a 3 1/2" diskette with the document on it.

Please indicate receipt of this document by stamping the enclosed extra copy of this letter.

Thank you for your assistance in this matter.

Sincerely,

  
Norman H. Horton, Jr.

ACK \_\_\_\_\_

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Enclosures

cc: James C. Falvey, Esq.

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DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

In Re: Consideration of BellSouth )  
Telecommunications, Inc.'s entry into )  
InterLATA services pursuant to Section )  
271 of the Federal Telecommunications )  
Act of 1996. )  
\_\_\_\_\_ )

Docket No. 960786-TL  
Filed: September 23, 1997

**POSTHEARING STATEMENT OF  
AMERICAN COMMUNICATIONS SERVICES OF JACKSONVILLE, INC.**

American Communications Services of Jacksonville, Inc. ("ACSI"), through undersigned counsel, pursuant to Rule 25-22.056, Florida Administrative Code, respectfully submits the following Posthearing Statement to the Florida Public Service Commission ("Commission") in the above captioned docket. ACSI urges the Commission, on the basis of this record, to determine that BellSouth has not met the requirements of section 271 of the Telecommunications Act of 1996 and decline to verify compliance.

**I. BASIC POSITION**

BellSouth has not demonstrated that it has met each element of the checklist in Section 271 of the Telecommunications Act of 1996 ("Act") as it is incumbent upon them to do. There is not a significant level of facilities-based competition in Florida and experience in other BellSouth service areas demonstrates that BellSouth has great strides to make before there is any significant level of local competition. The Commission should not recommend that BellSouth be permitted to reenter the interLATA market at this time given the low level of competition and difficulties encountered in entering the local market. It is premature for BellSouth to be seeking to reenter the market.

**ANALYSIS AND ARGUMENT:** In this proceeding, BellSouth is asking this Commission to determine that BellSouth has complied with the 14-point checklist in section 271 of the Telecommunications Act of 1996 and so report to the Federal Communications Commission. Their objective is to enter the interLATA market in Florida.

In order to receive authority to enter the market, BellSouth must show that it has satisfied the requirements of either section 271(c)(1)(A) (“Track A”) or 271(c)(1)(B) (“Track B”) of the Act. For Track A compliance, BellSouth must demonstrate that it has entered into “one or more binding agreements that have been approved under section 252 specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service . . . to residential and business subscribers.” Track B, on the other hand, is available when there has been no request for access and interconnection from a provider and a statement of the terms and conditions by which such access and interconnection has been approved or permitted to take effect.

In two recent Memorandum Opinions and Orders, In re Matter of Application of SBC Communications Inc., CC Docket 97-121 (“SBC” hereafter) and In re Matter of Application of Ameritech Michigan, CC Docket 97-137 (“Ameritech”), the FCC has provided some clarification and guidance as to when the tracks apply and what must be shown by a Bell operating company to enter the interLATA market. In general these orders reinforce the requirements of the Act that BellSouth must share its facilities in such a way that competing carriers have the opportunity to compete at parity with BellSouth. The burden is on BellSouth to show compliance with the checklist and to show that competing providers have the opportunity to enter the local exchange market at

parity. Absent the existence of the opportunity for competition and absent checklist compliance, BellSouth may not enter the interLATA market. BellSouth says that the Ameritech Order is “poor public policy” (Tr. 282) and is not binding on the Commission (Tr. 284). What BellSouth wants is the ability to enter the interLATA market without having afforded the opportunity for local exchange competition to develop. What the SBC and Ameritech Orders reinforce in part, is that BellSouth has an obligation to facilitate local exchange competition, not hinder it. ACSI would not agree that the encouragement of carriers into the local exchange market is “poor public policy.”

Several parties, including ACSI, have asserted that this request is premature. Mr. Varner suggests that the parties take this position so they can continue to receive the windfall that excluding regional Bell operating companies from the market allows them to reap (Varner, p.280) ACSI, however, is not an IXC, but is a local exchange provider, and simply wants the opportunity to compete with BellSouth and other carriers to provide local service. ACSI and others simply want into a market and want compliance before BellSouth enters the interLATA market.

ACSI is presently reselling services in Florida but in Georgia, Alabama and Kentucky, ACSI is a facilities-based carrier. In each of these states ACSI has encountered multiple problems in entering the market. In each of these states ACSI has encountered problems with OSS, the provision of unbundled loops, timeliness, and day-to-day impediments to affording a competitive product. In Georgia the problems reached a point that a complaint had to be filed. Falvey, P. 2261; Ex. 72. In Florida, ACSI has encountered similar problems with its resale activities and has no reason to believe that BellSouth will be able to provide access and interconnection at parity to ACSI when it becomes a facilities based provider later this year. Instead of seeing improvements from state to state as providers gain more experience, ACSI has found the same problems and the same obstacles.

Witness Scheye, testifying for BellSouth says that this Commission should look at live experience in Florida as well as the eight other BellSouth states. Scheye, Ex. 21, p. 32. Since the checklist requirements are the same in each state are the same and since the methods to meet these checklist items are the same, it is reasonable for the Commission to consider experiences in other states but to date these are not favorable.

In response to the problems identified by real experience, BellSouth has pointed to improvements being made and efforts to accommodate competitors. BellSouth also asserts that some of the problems are with the ALECs. In response, it is the burden of BellSouth to demonstrate actual compliance with each checklist item. Paper promises are not sufficient. Secondly, efforts to transfer responsibility to ALECs are misplaced given the results of the analysis of the operations of the LCSC which serve as the contact for carriers for orders contained in Exhibit 22. This initial analysis identified problems and used the term "recurring" as to many of these problems. (Scheye, p. 678) The analysis spoke of excessive errors and rework lowering the quality of service due to missed dates and excessive lead time (Ex. 22, p. 002773). Mr. Scheye agreed that there were issues to be resolved and problems to be solved. After the 22 week study a follow-up executive update was prepared which is also part of Exhibit 22. Contrary to the suggestion that this follow-up reflected corrections had been made (Scheye, p. 682) ) what the follow-up indicates is a significant amount of future activity. (Scheye, pp. 1009-1012.) There is very little substance to the follow-up; only reports of procedures that will hopefully result in improvement. Again simply promises.

BellSouth wants to enter the interLATA market based on promises and hope, not performance. The testimony of ACSI and other parties who have actual experience with BellSouth either in Florida or other BellSouth states, is that BellSouth is not in compliance with checklist

items. BellSouth would have this Commission favorably report their compliance with checklist items on the basis of hope over experience. The Commission should decline to do so.

## II. ISSUES AND POSITIONS

### **ISSUE 1.A.: Has BellSouth met the requirements of section 271(c)(1)(A) of the Telecommunications Act of 1996?**

**SUMMARY OF POSITION:** No. Even though BellSouth has entered into interconnection agreements and competing providers are attempting to provide exchange service, BellSouth is not providing interconnection or access to entry at a level to satisfy the requirements of section 271(c)(1)(A).

**ANALYSIS AND ARGUMENT:** The requirements of section 271(c)(1)(A) apply when BellSouth has entered into one or more binding agreements with competing providers allowing access and interconnection and those competitors are providing exchange service to residential and business customers and the access and interconnection met the requirements of the 14-point checklist in section 271(c)(1)(B). It is the responsibility and burden of BellSouth to prove that it has met each and every condition before it may be allowed in the interLATA market.

BellSouth has entered into agreements with carriers thus, the real question is whether BellSouth has complied with the 14-point checklist and BellSouth simply has not met their burden of proving that they have.

In contrast to the paper offerings of BellSouth and the unproven promises, ACSI and other parties presented specific examples of difficulties with one or more of the checklist items. ACSI and others pointed to problems and delays obtaining access and interconnection; lack of parity with BellSouth services, lack of measurable performance standards, and other deficiencies which occur

and reoccur. (Falvey, pp. 2296, 2310) In response to these examples BellSouth points to untested paper procedures and policies, updated interfaces or various other future actions which will comply. Future improvements do not count however. In order to comply with Track A BellSouth must now be in compliance with all 14 checklist items and as this record demonstrates, they do not now comply. This request is premature and should be denied.

**ISSUE 1.A.(a): Has BellSouth entered into one or more binding agreements approved under Section 252 with unaffiliated competing providers of telephone exchange service?**

**SUMMARY OF POSITION:** \*Yes.\*

**ANALYSIS AND ARGUMENT:** BellSouth has entered into one or more binding agreements but this alone is insufficient to warrant a favorable recommendation by this Commission.

**ISSUE 1.A.(b): Is BellSouth providing access and interconnection to its network facilities for the network facilities of such competing providers?**

**SUMMARY OF POSITION:** \*No. BellSouth is not providing access and interconnection as reflected by testimony of competing providers.\*

**ANALYSIS AND ARGUMENT:** Despite BellSouth's efforts to demonstrate that access and interconnection is being provided, the testimony of those seeking to enter the market is that BellSouth's efforts are less than adequate.

**ISSUE 1.A.(c): Are such competing providers providing telephone exchange service to residential and business**

**customers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities?**

**SUMMARY OF POSITION:** \*No, as for ACSI.\*

**ANALYSIS AND ARGUMENT:** ACSI and BellSouth have an interconnection agreement but BellSouth is not yet providing access and interconnection pursuant to this agreement. Falvey, p. 2254. ACSI is currently offering services as a reseller. Falvey, p. 2292. Services via resale are not sufficient to satisfy the requirements of section 271, however. ACSI testified that the company anticipates becoming a facilities-based provider as it is in four (4) other BellSouth jurisdictions. Falvey, p. 2292. The evidence in this case may indicate that other carriers may be providing service over their facilities but this is minimal and hardly at a level that would constitute effective competition.

**ISSUE 1.B.: Has BellSouth met the requirements of section 271(c)(1)(B) of the Telecommunications Act of 1996?**

**SUMMARY OF POSITION:** \*No. BellSouth has received requests for access and interconnection thus Track B is not available to BellSouth.\*

**ANALYSIS AND ARGUMENT:** The Telecommunications Act of 1996 provides two methods for BellSouth entry into the interLATA market; either by meeting the requirement of Track A Track B (sections 271(c)(1)(A) and (B)). Track A is to be used by a Bell operating company when there has been a request by a competing provider for access and interconnection and Track B which Mr. Varner acknowledged in his summary is unavailable to BellSouth in this case would be available



when there has been no request. Track B in effect is a protective measure for a Bell operating company as it would permit entry in those instances when either there was no competing provider or no provider meeting all the criteria. Track B would also be available when through no fault of its own, a Bell operating company can't satisfy Track A. Thus, Track B is available only in limited circumstances and is not a default mechanism for entry for BellSouth if the requirements of Track A can not be met. There have been Track A requests in Florida, and BellSouth must satisfy the obligations imposed by the Telecommunications Act before entering the interLATA market,

**ISSUE 1.B.(a): Has an unaffiliated competing provider of telephone exchange service requested access and interconnection with BellSouth?**

**SUMMARY OF POSITION:** \*Yes. Several competing providers have requested access and interconnection.\*

**ISSUE 1.B.(b): Has a statement of terms and conditions that BellSouth generally offers to provide access and interconnection been approved or permitted to take effect under Section 252(f)?**

**SUMMARY OF POSITION:** \*BellSouth does not have an SGAT that has been approved or permitted to go into effect. Furthermore, there is no SGAT before the Commission that ought to be approved.\*

**ANALYSIS AND ARGUMENT:** Throughout this proceeding, neither the Commission nor the parties have had an opportunity to review anything other than a "draft" SGAT. Problems with the need for and the propriety of the draft SGATs have been addressed with the Commission

through motions and argument and those arguments will not be repeated; but they are still valid. Even though BellSouth has apparently now filed a “final” SGAT with the Commission the procedural status of that SGAT is not clear and ACSI reserves the opportunity to address the SGAT in further proceedings as necessary.

Notwithstanding the foregoing, ACSI urges the Commission to reject the SGAT submitted by Bell in this case. The SGAT is a general offer to make access and interconnection available, but there must be some demonstration that an element could be provided if requested . (Ameritech Order, ¶ 114.) The SGAT in this case is little more than paper promises of performance with no evidence of the capability to perform.

Despite his acknowledgment that Track B is unavailable in this case, hence no SGAT is needed, Mr. Varner stated that the SGAT was needed to benefit small carriers and is necessary for BellSouth to be granted relief. (Varner, Tr. 279.) There is simply no merit to either assertion. In the first place any ALEC can simply agree to one of the existing interconnection agreements. Scheye, Tr. 674. Secondly, there are numerous ALECs in Florida, many with interconnection agreements, and none of those have had to wait for an SGAT. Those providers wishing to enter the market have been able to do so without an SGAT.

As to the assertions that the SGAT is needed in order to be granted relief that to is without merit. This is a Track A proceeding and what is needed is compliance with the checklist. Since there are qualifying providers under Track A, BellSouth cannot escape the compliance requirement. That is exactly what they would like to do by suggesting that they need the SGAT for relief.

Even assuming the need to have an SGAT, the document filed in this case is seriously flawed. First, BellSouth cannot meet each checklist item thus, it cannot generally offer access and

interconnection. More importantly though, BellSouth has not filed any cost support for the prices in the SGAT, relying instead on prices from arbitration proceedings, agreements in Florida and other states and other sources. (Scheye, pp. 575-579). Rates based on negotiated agreements or rate of return tariffs do not comply with the requirements of section 252(f)(2) which requires, in part that a Commission not approve an SGAT that contains rates which are determined using a rate of return. BellSouth presented no cost studies for the SGAT rates and the PSC would be precluded from approving an SGAT which was not shown to comply with section 251 or 252 of the Telecommunications Act.

The Commission should absolutely and without reservation reject whatever version of the SGAT is sponsored by BellSouth in this case. The SGAT serves no purpose and is nothing more than offers.

**ISSUE 1.C.: Can BellSouth meet the requirements of section 271(c)(1) through a combination of track A (Section 271(c)(1)(A)) and track B (Section 271(c)(1)(B))? If so, has BellSouth met all of the requirements of those sections?**

**SUMMARY OF POSITION:** \*No. BellSouth must meet the requirement through one or the other, but cannot combine Track A and Track B.\*

**ANALYSIS AND ARGUMENT:** Section 271(c)(1) offers BellSouth two methods of meeting the requirements of section 271, either through interconnection and access (Track A) when there have been qualifying requests or Track B when there has been no request. The combination of Track A and Track B creates a third method which is not contemplated by the Telecommunications Act. Once BellSouth has a qualifying request under Track A, that is the

mechanism to follow and BellSouth is required to demonstrate that it has met its obligations under Track A.

The two tracks are mutually exclusive and are available in two entirely distinct situations. The Telecommunications Act does not present BellSouth with the opportunity to mix and match items from Column A with those from Column B to create a new Column C. (Ameritech, ¶62; SBC, ¶ 27.) BellSouth's available alternatives are either Track A or Track B — not a new one.

**ISSUE 2: Has BellSouth provided interconnection in accordance with the requirements of section 251(c)(2) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(i) and applicable rules promulgated by the FCC?**

**SUMMARY OF POSITION:** \*No. BellSouth has not provided interconnection to ACSI pursuant to the Act and applicable rules in Florida. Furthermore, BellSouth has not provided interconnection to other parties in this docket.\*

**ISSUE 3: Has BellSouth provided nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(ii) and applicable rules promulgated by the FCC?**

**(a) Has BellSouth developed performance standards and measurements? If so, are they being met?**

**SUMMARY OF POSITION:** \*No. BellSouth has neither provided nondiscriminatory access nor has the company developed performance standards or measurements.\*

**ANALYSIS AND ARGUMENT:** In order to either resell or provide facilities-based service, competing providers such as ACSI must have access to UNEs and especially unbundled OSS. (Falvey, Tr. 2287.) ACSI has had a number of problems stemming from inadequate OSS (Tr. 2261-2272; 2289) part of which may be attributable to the fact that BellSouth has a variety of interfaces — LENS, EXACT, EDI, EDI-PC but not one affords a single source for the activities needed to accomplish the steps to sign up a customer. Fully operational and compliant OSS is absolutely critical to the development of effective competition and market entry. The FCC has recognized the critical nature of OSS requiring that there must be actual commercial usage not just testing and equivalent access to functions associated with preordering, ordering, and provisioning and repair and maintenance. (Ameritech, pp. 138-143.) This record is replete with examples of problems and differences between ALEC available interfaces and the systems used by BellSouth. For example, BellSouth proposes LENS as the preordering system for ALECs. Despite the high tech demonstration by Ms. Calhoun, LENS has problems and differs from the systems used by BellSouth; LENS requires address verification for each function; the BellSouth RNS and DOES combine preordering and ordering where LENS does not; PIC are listed differently on LENS; the days installation is available are shown differently, pending and completed orders cannot be viewed, and there is a limit to the telephone numbers that can be reserved. LENS currently can't be used to order unbundled loops or types of complex orders. (Tr. 2315.) There are similar infirmities with EDI and the other interfaces proposed by BellSouth. For example, EDI is supposedly the ordering interface but complex services can not be ordered by EDI, only a limited number of services can be ordered through EDI and some orders can not be combined. BellSouth promises improvements but it is actual experience which is the criteria. The development of OSS interfaces is an evolving process

and there will be changes and improvements as competition matures but without reliable interfaces in place competition can not even begin.

It is just as important that access to OSS be at parity with BellSouth and in this regard there must be performance measurements in place. BellSouth, through Mr. Stacy, primarily, advances performance measures contained in various agreements. Mr. Stacy candidly acknowledges that their performance measures are but a starting point (Stacy, Tr. 1537). Competing providers must have parity with BellSouth and this parity can be achieved only by establishing performance measurements the same as actual internal intervals used by BellSouth. In at least one line of questions, Mr. Stacy did not know what those internal intervals are (Stacy, pp. 1624-1630; 1654). BellSouth has not provided nondiscriminatory access so long as it has not achieved parity with its own intervals. ACSI has actively sought performance measures but is getting nowhere (Falvey, p. 2298), nor has ACSI been able to get information as to intervals even though required by their agreement (Falvey, p. 2302). There must be performance measures which reflect parity with BellSouth intervals.

**ISSUE 4: Has BellSouth provided nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by BellSouth at just and reasonable rates in accordance with the requirements of section 224 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(iii) and applicable rules promulgated by the FCC?**

**SUMMARY OF POSITION:** \*BellSouth has not met its burden to demonstrate that it is providing nondiscriminatory access to the poles, ducts, conduits and rights-of-way owned or controlled by it.\*

**ANALYSIS AND ARGUMENT:** ACSI and BellSouth have an interconnection agreement which includes the requirement for nondiscriminatory access as required by section 271(c)(2)(B)iii, but ACSI is currently a reseller and has no direct experience in Florida as to whether BellSouth is in compliance with the Act and applicable rules. However, this record does not demonstrate compliance with this item.

**ISSUE 5: Has BellSouth unbundled the local loop transmission between the central office and the customer's premises from local switching or other services, pursuant to section 271(c)(2)(B)(iv) and applicable rules promulgated by the FCC?**

**SUMMARY OF POSITION:** \*No, and ACSI has encountered difficulties obtaining unbundled loops in other BellSouth states.\*

**ANALYSIS AND ARGUMENT:** although a reseller in Florida, ACSI is a facilities-based carrier in other BellSouth states and has experienced chronic, continuing, recurring difficulties with unbundled loops in those states. In Georgia ACSI was compelled to file a complaint in Georgia and with the FCC because of the degree of the problems. Mr. Falvey testified that ACSI has experienced difficulty in obtaining loops timely and that customers have experienced disruptions. (Falvey, Tr. 2261.) As a result of their continuing experiences, ACSI was forced to hold back orders ACSI has also experienced difficulties in Alabama, although no formal complaints have yet been fixed. Given

the recurring nature of the difficulties and the fact they occur in each jurisdiction it would seem that BellSouth can not yet meet this checklist item.

**ISSUE 6:**     **Has BellSouth unbundled the local transport on the trunk side of a wireline local exchange carrier switch from switching or other services, pursuant to section 271(c)(2)(B)(v) and applicable rules promulgated by the FCC?**

**SUMMARY OF POSITION:**     \*No. BellSouth has not met its burden to demonstrate compliance with checklist item 5.\*

**ANALYSIS AND ARGUMENT:**     See Issue 5.

**ISSUE 7:**     **Has BellSouth provided unbundled local switching from transport, local loop transmission, or other services, pursuant to section 271(c)(2)(B)(vi) and applicable rules promulgated by the FCC?**

**SUMMARY OF POSITION:**     \*No. BellSouth has failed to demonstrate compliance with this checklist item.\*

**ANALYSIS AND ARGUMENT:**     ACSI does not have experience with this item but given the testimony of the parties to this case, ACSI does not believe BellSouth has complied with the checklist item.

**ISSUE 8:**     **Has BellSouth provided nondiscriminatory access to the following, pursuant to section 271(c)(2)(B)(vii) and applicable rules promulgated by the FCC:**

**(a)     911 and E911 services;**



(b) directory assistance services to allow the other telecommunications carrier's customers to obtain telephone numbers; and,

(c) operator call completion services?

**SUMMARY OF POSITION:** \*No. BellSouth has failed to demonstrate compliance with this checklist item.\*

**ANALYSIS AND ARGUMENT:** ACSI does not have experience with this item but given the testimony of the parties to this case, ACSI does not believe BellSouth has complied with the checklist item.

**ISSUE 9:** Has BellSouth provided white pages directory listings for customers of other telecommunications carrier's telephone exchange service, pursuant to section 271(c)(2)(B)(viii) and applicable rules promulgated by the FCC?

**SUMMARY OF POSITION:** \*No. BellSouth has failed to demonstrate compliance with this checklist item.\*

**ANALYSIS AND ARGUMENT:** ACSI does not have experience with this item but given the testimony of the parties to this case, ACSI does not believe BellSouth has complied with the checklist item.

**ISSUE 10:** Has BellSouth provided nondiscriminatory access to telephone numbers for assignment to the other telecommunications carrier's telephone exchange service customers, pursuant to section 271(c)(2)(B)(ix) and applicable rules promulgated by the FCC?

**SUMMARY OF POSITION:** \*No. BellSouth has failed to demonstrate compliance with this checklist item.\*

**ANALYSIS AND ARGUMENT:** ACSI does not have experience with this item but given the testimony of the parties to this case, ACSI does not believe BellSouth has complied with the checklist item.

**ISSUE 11: Has BellSouth provided nondiscriminatory access to databases and associated signaling necessary for call routing and completion, pursuant to section 271(c)(2)(B)(x) and applicable rules promulgated by the FCC?**

**SUMMARY OF POSITION:** \*ACSI does not have experience in Florida.\*

**ANALYSIS AND ARGUMENT:** ACSI does not have experience with this item but given the testimony of the parties to this case, ACSI does not believe BellSouth has complied with the checklist item.

**ISSUE 12: Has BellSouth provided number portability, pursuant to section 271(c)(2)(b)(xi) and applicable rules promulgated by the FCC?**

**SUMMARY OF POSITION:** \*No. BellSouth has not provided number portability to ACSI pursuant to the Act and applicable rules nor has it met its burden to demonstrate compliance.\*

**ANALYSIS AND ARGUMENT:** Checklist item 11 requires BellSouth to provide interim number portability through an arrangement with as little impairment of functionality, quality reliability and convenience as possible. ACSI witness Falvey testified that ACSI had encountered problems coordinating the cutover of numbers and problems with outages. (Falvey, Tr. 2290.)

Either affects the quality of services available to an ACSI customer and the continued difficulties create customer dissatisfaction and defection.

Once again, BellSouth has not shown the capability to provide a checklist item.

**ISSUE 13:** Has BellSouth provided nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xii) and applicable rules promulgated by the FCC?

**SUMMARY OF POSITION:** \*ACSI does not have experience in Florida.\*

**ANALYSIS AND ARGUMENT:** ACSI does not have experience with this item but given the testimony of the parties to this case, ACSI does not believe BellSouth has complied with the checklist item.

**ISSUE 14:** Has BellSouth provided reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xiii) and applicable rules promulgated by the FCC?

**SUMMARY OF POSITION:** \*BellSouth is not in compliance with the requirements of 271(c)(2)(B)(xiii).\*

**ISSUE 15:** Has BellSouth provided telecommunications services available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xiv) and applicable rules promulgated by the FCC?

**ISSUE 15(a): Has BellSouth developed performance standards and measurements? If so, are they being met?**

**SUMMARY OF POSITION:** \*BellSouth is providing services for resale but the lack of parity, insufficient OSS and absence of performance standards are not consistent with checklist compliance. Furthermore, ACSI has encountered unnecessary delays which have hindered entry into the market.\*

**ANALYSIS AND ARGUMENT:** ACSI is currently providing services via resale in Jacksonville and Miami. (Falvey, Tr. 2290.) As reflected by the testimony of ACSI, any resale achievements have been in spite of BellSouth and not because of their efforts. Mr. Falvey related problems with lengthy installation intervals, missed appointments, lost orders and generally unacceptable performance with OSS. In one recent incident, ACSI arranged three separate cut-over times for a resale customer only to have BellSouth miss the appointment each time. (Falvey, Tr. 2323.) ACSI was able to maintain the customer, but the failure of BellSouth to keep an appointment nearly cost ACSI a customer.

In another incident ACSI had a customer with 24 lines to change. Initially BellSouth identified only 1 of the 24 lines to be changed and the customer had to wait to have the other lines changed to the correct IXC. (Falvey, Tr. 2323.) Mr. Falvey also pointed to other problems encountered with BellSouth such as excessive firm order commitments, (Exh. 73) problems with OSS and daily issues to handle. (Falvey, Tr. 2325.) These experiences plus the experiences in other jurisdictions as discussed earlier do not support BellSouth's view that they have met the checklist item.

The problems experienced by ACSI with resale further highlights the problems with inadequate OSS and the performance standards or lack thereof.

**ISSUE 16:** By what date does BellSouth propose to provide interLATA toll dialing parity throughout Florida pursuant to section 271(e)(2)(A) of the Telecommunications Act of 1996.

**SUMMARY OF POSITION:** \*Section 271(e)(2)(A) requires intraLATA toll dialing parity coincident with the exercise of interLATA service, if granted. ACSI does not have adequate information to take a position at this time.\*

**ANALYSIS AND ARGUMENT:**

**ISSUE 17:** If the answer to issues 2-15 is “yes”, have those requirements been met in a single agreement or through a combination of agreements?

**SUMMARY OF POSITION:** \*BellSouth has not met the requirements of the checklist through a single agreement and in this proceeding cannot combine agreements to satisfy the checklist.\*

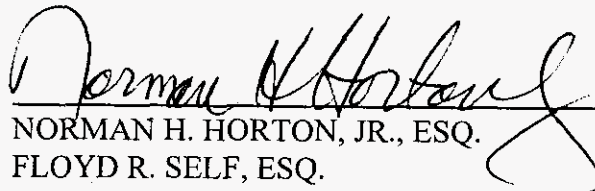
**ANALYSIS AND ARGUMENT:** Since the answer to issues 2-15 is not “yes” as to ACSI or other parties then the response to this issue must be “no.” The FCC in the recent Ameritech decision concluded that a Bell operating company did not have to be providing every checklist item in a single agreement as this would make Bell operating company entry contingent on “competing LECs decision.” (Ameritech, ¶ 111.) Given this, and if BellSouth can combine agreements, then it is imperative that access and interconnection be nondiscriminatory, performance measurements be in place and that there be parity. Further, it is till incumbent upon BellSouth to prove compliance.

**ISSUE 18:** Should this docket be closed?

**SUMMARY OF POSITION:** \*Yes.\*

Dated this 23rd day of September, 1997.

Respectfully submitted,  
MESSER, CAPARELLO, & SELF, P.A.  
Post Office Box 1876  
Tallahassee, FL 32302-1876  
(904) 222-0720

A handwritten signature in cursive script, appearing to read "Norman H. Horton, Jr.", written over a horizontal line.

NORMAN H. HORTON, JR., ESQ.  
FLOYD R. SELF, ESQ.

Attorneys for American Communications Services of  
Jacksonville, Inc.

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of American Communications Services of Jacksonville, Inc. Posthearing Brief in Docket No. 960786-TL have been served upon the following parties by U.S. Mail this 23rd day of September, 1997:

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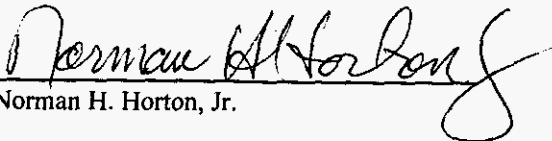
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