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November 12, 2004

BY ELECTRONIC FILING

Ms. Blanca Bayó, Director
The Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No.
AT&T Communications of the Southern States, LLC's Petition and Complaint
For Suspension and Cancellation of BellSouth's Tariff FL2004-202

Dear Ms. Bayó:

Enclosed for filing is AT&T Communications of the Southern States, LLC's Petition and Complaint for Suspension and Cancellation of BellSouth's Tariff FL2004-00202 – CPN Tariff. Pursuant to the Commission's Electronic Filing Requirements, this version should be considered the official copy for purposes of the docket file. Service has been made as indicated on the Certificate of Service.

Thank you for your assistance with this filing.

Sincerely yours,

s/ Tracy W. Hatch

Tracy W. Hatch

TWH/scd
Attachment

cc: Nancy White
BellSouth Telecommunications, Inc.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition and Complaint of AT&T) Docket No.
Communications Of the Southern States, LLC)
for suspension and cancellation of CPN Tariff)
Floor Percentage Tariff No. FL2004-202 filed)
by BellSouth Telecommunications, Inc.) Filed: November 12, 2004

PETITION AND COMPLAINT

AT&T Communications of the Southern States, LLC (AT&T), hereby files this Petition and Complaint against BellSouth Telecommunications, Inc. (BellSouth) seeking an immediate suspension and cancellation of BellSouth's Tariff establishing a lower floor for the application of the floor provisions of the CPN tariff, Section E.2.3.14(A)(1)(a) of BellSouth's Access Services Tariff. This Petition and Complaint is filed pursuant to Sections 364.01(4)(c), 364.01(4)(g), Florida Statutes, and Rules 25-22.036(2) and 28-106.201, Florida Administrative Code. In support of this petition AT&T states:

1. The name and address of the Petitioner is:

AT&T Communications of the Southern States, LLC
1230 Peachtree Street
4th Floor
Atlanta, Georgia 30309

2. All pleadings, documents, correspondence, notices, staff recommendations and orders filed, served or issued in this docket should be served on the following on behalf of Petitioner:

Tracy Hatch, Esq.
AT&T Communications of the Southern States, LLC
101 N. Monroe Street
Suite 700
Tallahassee, FL 32301

3. BellSouth Telecommunications, Inc. is an incumbent local exchange company certificated by the Commission to provide local exchange services in Florida. BellSouth's address for receiving communications from the Commission is:

Ms. Nancy H. Simms
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1556

4. AT&T is certificated by the Florida Public Service Commission in Florida as an Interexchange Carrier (IXC) and a Competitive Local Exchange Telecommunications Company (CLEC). AT&T is authorized to provide switched and non-switched local exchange and long distance services in Florida. AT&T provides long distance (*i.e.*, interexchange toll) services throughout Florida, including to customers who obtain their local service from BellSouth and/or who make calls to BellSouth's local exchange customers. AT&T obtains intrastate switched access services from BellSouth in order to provide long distance service to those customers. AT&T's substantial interests are significantly affected by the anticompetitive provisions of BellSouth's CPN Tariff, effective October 20, 2004.

5. BellSouth is an incumbent local exchange company (ILEC) and is certificated by this Commission to provide local exchange and interexchange telecommunications services in Florida. BellSouth assesses various fees, collectively known as intrastate switched access charges, to long distance competitors such as AT&T to originate and/or complete long distance calls to customers on the BellSouth network. On a typical long distance call within its service area BellSouth provides switched access on both the originating and terminating ends of the call.

BellSouth's rate for two ends of intrastate switched access is approximately \$0.04649 per minute of use. BellSouth's intrastate switched access rates are substantially higher than its interstate rates.

6. On September 20, 2004, BellSouth filed revisions to its Florida Access Services Tariff to substantially lower the CPN Floor. The tariff was effective October 20, 2004. A copy of the tariff, FL2004-202, is attached hereto as Exhibit 1.

7. BellSouth bills AT&T and other IXCs interstate and intrastate access charges based upon call data sent by the IXCs to BellSouth. This call data is commonly referred to as calling party number ("CPN"). When there is insufficient call detail to allow BellSouth to determine the origin of the calling party, BellSouth bills interstate and intrastate access usage based upon IXC-provided "percentage interstate usage" (PIU) factors. Recognizing that there may be a percentage of usage where it is not possible for IXCs to know, and therefore to send to BellSouth, the needed originating information, BellSouth has limited or placed a "floor" on the amount of toll traffic upon which it will bill access charges based upon PIU factors. See Exhibit 1, BellSouth Access Services Tariff, E2.3.14(A)(1)(a). Any access usage without CPN data that is greater than the established "floor" is automatically presumed to be intrastate traffic and is billed at the higher intrastate access rates regardless of the jurisdictional nature of the calls.

8. It is AT&T's understanding that the new 7% "floor" was developed based on a study by Agilent Technologies that identified the traffic for which IXCs, on average, cannot pass CPN due solely to technical limitations. The previous 19.22% "floor" was based on an overall average of actual CPN received from all IXCs and all states in the BellSouth Region.

9. There are a number of circumstances in which AT&T is not responsible for the lack of CPN on calls terminated by BellSouth. For example, AT&T has no control over the lack of CPN when the originating local exchange carrier does not transmit this information. AT&T and other IXC's should not be penalized and forced to bear the burden of paying higher intrastate access charges on calls for which they have not been supplied the CPN or for calls that are truly interstate. There is no reasonable justification for such a presumption. BellSouth does not need the CPN floor to protect itself from misidentification of jurisdictional traffic. BellSouth is more than adequately protected from misidentification of the jurisdiction of switched access traffic through the audit provisions of its Access Services Tariff. The reduction in the CPN floor is nothing other than an unjustifiable attempt to garner more revenue from its captive access customers. If BellSouth is concerned about access related arbitrage opportunities, it can lower its intrastate access rates to the levels of its federal tariffs.

10. The reduction in the CPN floor is a substantial, unreasonable, unfair and anticompetitive change in the manner in which BellSouth assesses switched access charges to IXC's in violation of Sections 364.01(4)(c) and 364.01(4)(g), Florida Statutes.

Sections 364.01(4)(c) and (g) provide:

(4) The commission shall exercise its exclusive jurisdiction in order to:

(c) Protect the public health safety, and welfare by ensuring that monopoly services provided by telecommunications companies be subject to effective price, rate and service regulation.

(g) Ensure that all providers of telecommunication services are treated fairly, by preventing anticompetitive behavior and eliminating unnecessary regulator(y?) restraint.

11. BellSouth is effectively a monopoly provider of switched access service to those customers to which it provides local service. There is no justification for any presumption that any traffic that does not have the associated CPN data is intrastate switched access traffic. The lack of CPN information, in and of itself, is not determinative of whether a call is an interstate or intrastate call. Hence, the trigger mechanism (i.e., the “floor”) BellSouth uses to determine jurisdiction is arbitrary, capricious, unfair and anticompetitive. BellSouth’s use of its effective monopoly status to impose a presumption on all IXCs decrying all switched access traffic in excess of an arbitrary amount is unjust, unreasonable, unfair, arbitrary and anticompetitive in violation of Sections 364.01(4)(c) and (g).

11. Petitioner anticipates that disputed issues of material fact will include, but not be limited to, BellSouth’s disagreement with some or all of Petitioners’ contentions set forth in this Petition.

WHEREFORE, Petitioners respectfully request that the Commission:

- A. Immediately suspend BellSouth’s CPN Floor Tariff No. FL2004-202;
- B. Schedule and conduct an expedited review/hearing to address disputed issues of fact and law regarding the Tariff pursuant to Sections 120.569 and 120.57(1), Florida Statutes;
- C. Enter a final order denying and canceling the Tariff; and
- D. Grant such further relief as the Commission may deem appropriate.

RESPECTFULLY submitted this 12th day of November, 2004.

s/ Tracy Hatch
Tracy Hatch, Esq.

AT&T Communications of the Southern States, LLC
101 N. Monroe Street
Suite 700
Tallahassee, FL 32301

TARIFF DISTRIBUTION

FILE CODE: 680.3400

FILE PACKAGE NO.: FL2004-202

DATE:

October 20, 2004

STATE:

FLORIDA

EFFECTIVE DATE:

10/20/2004

TYPE OF DISTRIBUTION:

Approved

PURPOSE:

This filing lowers the percentage floor for application of the provisions of the CPN tariff.

TARIFF SECTION

PAGE NUMBER

PAGE REVISION

E002

10

09

BELLSOUTH
TELECOMMUNICATIONS, INC.
FLORIDA
ISSUED: September 20, 2004
BY: Joseph P. Lacher, President -FL
Miami, Florida

ACCESS SERVICES TARIFF

Ninth Revised-Page 10
Cancels Eighth Revised Page 10

EFFECTIVE: October 20, 2004

E2. GENERAL REGULATIONS**E2.3 Obligations of the IC (Cont'd)****E2.3.14 Jurisdictional Report Requirements¹ (Cont'd)****A. Jurisdictional Reports (Cont'd)****1. Percent Interstate Usage (PIU) (Cont'd)****a. (Cont'd)**

Where the Company receives insufficient call detail to identify the calling station to determine the jurisdiction, the Company will charge the applicable rates for terminating BellSouth SWA as set forth in this Tariff. There may be a percentage of usage where it is not possible to know, and therefore to send to BellSouth, the needed originating information. Accordingly, BellSouth will charge the terminating BellSouth SWA rate for only those minutes exceeding 7.00 percent (%) of minutes terminating to the Company without the Calling Party Number information (the "floor"). For example, if 30 percent (%) of a customer's minutes sent to BellSouth do not contain the Calling Party Number, then BellSouth would apply the provisions of this tariff to those minutes exceeding the "floor", or 23.00 percent (%) in this example. (C)

BellSouth may recalculate the overall SWA customer average "floor" quarterly. In addition, subsequent reviews or audits of specific customer usage may result in a new "floor" for that customer.

In the event that BellSouth applies the intrastate terminating access rate to calls without the Calling Party Number as provided in this tariff, BellSouth's access customers will have the opportunity to request backup documentation of BellSouth's basis for such application, and further request that BellSouth change the application of the intrastate access rate upon a showing of why the intrastate rate should not be applied.

For the purpose of this tariff, where the customer is a third-party provider of CCS7 services to its customers ("Third Party Customers"), the customer will develop its projected PIU factor based upon a weighted average of the PIUs of its Third Party Customers' end-user traffic in accordance with the procedures described below. A Third Party Customer may elect to have the Company determine the weighted PIU and in so doing the CCS7 provider shall name and identify their third party customers. In the event a Third Party Customer does not provide a projected PIU or does not elect to have the Company determine the PIU, a 50 percent PIU will be utilized for that Third Party Customer until such time as the Company obtains sufficient data to develop the PIU as specified in b. following.

The IC will provide in its initial order the projected Percent Interstate Usage (PIU) at a statewide level on a local exchange company specific basis. When the IC and/or End User computes the PIU, it will subtract the developed percentage from 100 and the difference is the percent intrastate usage. The sum of the interstate and intrastate percentage will equal 100 percent. A PIU of less than 100 percent is not allowed where the service is not available as an intrastate access service. The projected PIU may include up to two decimals.

The intrastate usage is to be developed as though every call that originates from a calling location within the same state as that in which the called station is situated is an intrastate communication and every call for which the originating location is in a state other than that where the called station is situated is an interstate communication. The manner in which the call is routed through the telecommunications network does not affect the jurisdiction of a call, i.e., a call between two points within the same state is an intrastate communication even if the call is routed through another state.

The Company will designate the number obtained by subtracting the intrastate percentage furnished by the IC from 100 (100 - customer percentage = interstate percentage) as the projected interstate percentage of use.

b. When an IC initially orders service(s), as defined in the following, the IC will state in its order the Percent Interstate Usage (PIU) separately for each, as set forth in a. preceding.

- BellSouth SWA FGA
- BellSouth SWA FGB
- BellSouth SWA FGD
- BellSouth SW 500 Service
- 700 Service
- BellSouth SWA 8XX Toll Free Dialing Ten Digit Screening Service
- BellSouth SWA 900 Service

Note 1: Except where indicated herein, references to BellSouth SWA FGs will also include the applicable BellSouth SWA Basic Serving Arrangement as detailed in the matrix in E6.1.3.A. of this Tariff (e.g., the term BellSouth SWA FGA represents both BellSouth SWA FGA and BellSouth SWA LSBSA).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Petition was furnished by U. S. Mail to the following this 12th day of November, 2004:

Nancy B. White, Esq.
c/o Nancy Sims
BellSouth Telecommunications, Inc.
150 N. Monroe Street, Suite 400
Tallahassee, FL 32301