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BELLSOUTH TELECOMMUNICATIONS, INC.
DIRECT TESTIMONY OF CARLOS MORILLO
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 040604-TL
NOVEMBER 17, 2004

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH"), AND YOUR BUSINESS ADDRESS.

A. My name is Carlos Morillo. I am employed by BellSouth as Director – Policy Implementation for the nine-state BellSouth region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE.

A. I graduated from West Virginia University in 1984 with Bachelor of Science degrees in Economics & Geology. In 1986, I received a Masters in Business Administration with concentrations in Economics and Finance from West Virginia University. After graduation, I began employment with Andersen Consulting supporting various projects for market research, insurance, and hospital holding companies. In 1990, I joined MCI, Inc. as a Business Analyst. My responsibilities included supporting the implementation of processes and systems for various business products and services. In addition to my Business

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1 Analyst duties, I worked as a Financial Analyst evaluating the financial
2 performance of various price adjustments as well as promotion deployment,
3 including the state and Federal tariff filings. I was also a Product Development
4 Project Manager supporting the deployment of business services. In 1994, I
5 joined BellSouth International as a Senior Manager of IT Planning, and later
6 became Director of Business Development. In 1999, I became Director of
7 eCommerce in BellSouth's domestic operations and in 2002, Director of
8 International Audit. I assumed my current position in May of 2004.

9
10 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

11
12 A. The purpose of my testimony is to provide BellSouth's position on some basic
13 questions surrounding the propriety of the Florida Commission's decision to
14 Order enhancements to the existing Lifeline and Link-Up programs in Florida.
15 I will also discuss the policy implications of the issues. More specifically, I
16 will provide testimony for Issues 1, 2, 3, and 6. The other BellSouth witness in
17 this matter, Rod DeYonker, will provide BellSouth's positions for Issues 4 and
18 5.

19
20 ***Issue 1: Is the Commission authorized under state or federal law to order the***
21 ***actions set forth in Order No. PSC-04-0781-PAA-TL?***

22
23 Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?

24
25 A. The question of whether or not the Commission has the proper authority to

1 order the actions set forth in Order No. PSC-04-0781-PAA-TL is ultimately a
2 legal determination. Although I am not an attorney, it is my opinion that
3 neither current federal nor state laws or statutes provide this Commission with
4 the authority to unilaterally add or amend rules affecting the distribution of
5 monetary assistance for basic telecommunications services, e.g., Lifeline and
6 Link-Up programs, to Florida consumers.

7

8 Q. WOULD YOU PLEASE EXPLAIN YOUR ANSWER?

9

10 A. Yes. In its Order in WC Docket No. 03-109, released April 29, 2004, the FCC
11 adopted the Joint Board's *Recommended Decision* issued on April 2, 2003, that
12 included several changes to improve the effectiveness of the federal low-
13 income support mechanism. The FCC was clear that the modifications only
14 affect the federal "default" states, that is, states that have elected to adopt
15 federal Lifeline support guidelines.¹ Florida is not a default state, and within
16 BellSouth's Region, only Louisiana and Kentucky have that designation.
17 Therefore, in my opinion, the FCC Order does not apply to Florida.

18

19 Under Florida law, Chapter 364.10 provides for local exchange companies to
20 tariff and provide Lifeline service to customers who meet an income eligibility
21 test at 125 percent or less of the federal poverty income guidelines for Lifeline
22 customers. Chapter 364 contains no language that authorizes the Commission
23 to amend or add to the income test included in subsection (3) (a). Therefore, as

¹ FCC *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 03-109, issued April 29, 2004, at paragraph 5

1 a layperson, I do not interpret Chapter 364 to provide the Commission with the
2 authority to unilaterally change or add to the eligibility tests currently in effect
3 in Florida.

4
5 Q. DO YOU BELIEVE THAT THE COMMISSION ACTED
6 APPROPRIATELY BY ORDERING THE ADOPTION OF THE
7 NATIONAL SCHOOL LUNCH PROGRAM FOR THE PURPOSES OF
8 DETERMINING ELIGIBILITY IN THE LIFELINE AND LINK-UP
9 PROGRAMS IN FLORIDA?

10

11 A. No, BellSouth does not believe that the Commission acted appropriately. First,
12 as discussed above, BellSouth does not believe that the Commission has
13 sufficient authority under federal law or under Chapter 364, Florida Statutes to
14 mandate additions of new eligibility tests, such as the National School Lunch
15 program, however beneficial those programs may be to Florida's citizens. In
16 addition, the Commission did not take the ramifications and effects of the new
17 eligibility tests into consideration before making its decision.

18

19 Q. DO YOU BELIEVE IT IS APPROPRIATE TO INCLUDE AN INCOME-
20 BASED ELIGIBILITY COMPONENT AS A STANDARD TO DETERMINE
21 QUALIFICATION FOR ASSISTANCE?

22

23 A. Generally, yes. An income-based eligibility component is a relevant factor in
24 the determination of a consumer's need for basic telecommunications
25 assistance. Further, BellSouth agrees that providing Lifeline and Link-Up

1 services is consistent with the public interest and is good policy. However,
2 while BellSouth agrees that income-based criteria are appropriate and that
3 current Florida law authorizes a 125% income test, BellSouth opposes any
4 mandated increase by the Commission above the 125% income test currently
5 in effect in Florida.

6

7 Q. HAS BELLSOUTH PREVIOUSLY TAKEN ANY POSITION REGARDING
8 THE INCLUSION OF INCOME ELIGIBILITY CRITERION OF 135% OF
9 THE POVERTY LEVEL?

10

11 A. Yes. In the Rate Rebalancing proceeding in Docket No. 030869-TP, BellSouth
12 agreed, as part of our proposal to rebalance basic local rates and intrastate
13 switched access charges, that we would increase the income eligibility criterion
14 for Lifeline to 135% of the poverty level. It is BellSouth's intention to include
15 this criterion in the BellSouth Lifeline tariff upon approval by the Court to go
16 forward with the rate rebalancing proposal as previously approved by the
17 Commission.

18

19 Q. WHY WOULD THE COMMISSION ADVOCATE A TWO-TIER
20 APPROACH TO PROVIDING THE MONTHLY LIFELINE CREDIT?

21

22 A. It appears that this approach is an attempt to eliminate the "risk" that BellSouth
23 (and other ETCs) would incur by having to fund a subscriber who signs up for
24 Lifeline/Link-Up through the Commission's self-certification process. The
25 customer would have to sign under "penalty or perjury" that they receive

1 benefits from one of the Lifeline-eligible programs in Florida, as opposed to
2 providing documented proof of participation in an eligible program. The
3 “perception” is that BellSouth would not be funding the \$3.50, as we do today
4 for eligible participants, so there should be “no problem”.

5

6 Q. WHY THEN WOULD BELLSOUTH BE OPPOSED TO THIS DESIGN?

7

8 A. Mr. DeYonker will address the customer and operational concerns that
9 BellSouth has with this design. However, BellSouth believes that this plan is
10 discriminatory. If someone is eligible to participate in the Lifeline/Link-Up
11 program in Florida, then that person should receive the full benefits of the plan.
12 If it is deemed inappropriate for BellSouth to not have to contribute \$3.50
13 when “self-certification” is used because of the assumed “risk”, it is also not
14 right to have the Federal Universal Service Fund assume the “risk”. Only
15 those truly deserving should benefit.

16

17 If a self-certification plan is found to be appropriate, then all qualified
18 participants should receive full benefits, and the specific self-certification plan
19 as proposed by BellSouth in Mr. DeYonker’s testimony should be adopted.

20

21 Q. WHAT IS THE COMMISSION’S INTENDED RESULT OF ADOPTING
22 THE NATIONAL SCHOOL LUNCH PROGRAM AND INCREASING THE
23 INCOME-BASED ELIGIBILITY COMPONENT FOR DETERMINING
24 ELIGIBILITY IN THE LIFELINE AND LINK-UP PROGRAMS IN
25 FLORIDA?

1 A. It is my understanding that the intended result of expanding the current
2 eligibility criteria is to increase subscribership in the LifeLine and Link-Up
3 program in Florida.

4
5 Q. DO YOU BELIEVE THAT ADDING THE ADDITIONAL ELIGIBILITY
6 CRITERIA ORDERED BY THE COMMISSION WILL RESULT IN
7 INCREASED LIFELINE AND LINK-UP SUBSCRIBERSHIP?

8
9 A. Not necessarily. BellSouth is unaware of any criteria or studies that are
10 conclusive in predicting a percentage increase in subscribership as a result of
11 simply increasing the base of subscribers eligible for the programs. The
12 limited data that may exist on the subject is unlikely to suggest with any
13 certainty that the percentage of consumers who sign up will increase
14 substantially.

15
16 Moreover, BellSouth does not believe its current outreach efforts and Lifeline
17 processes are broken. BellSouth believes that before expanding the eligibility
18 criteria, the Commission should determine if the current criteria are faulty and
19 if the processes used by the various companies are, in fact, in need of revision.

20
21 Q. WHAT DOES BELLSOUTH BELIEVE WILL INCREASE PENETRATION
22 RATES IN THE LIFELINE PROGRAM IN FLORIDA?

23
24 A. BellSouth believes first and foremost that we should ensure that the current
25 base of eligible persons are aware of what is currently available. This can and

1 is being done currently by BellSouth through effective outreach efforts. These
2 efforts include a partnership with Linking Solutions to educate the public on
3 the availability of the Lifeline and Link-Up programs, and by assisting
4 qualified individuals in obtaining this support as quickly and efficiently as
5 possible. Pursuant to Commission Order No. PSC-04-1124-FOF-TP issued
6 November 15, 2004, the Commission directed an additional \$1.6 million
7 dollars to Lifeline and Link-Up programs from a fund of unclaimed refunds
8 associated with late payment charges. These additional funds will aid the
9 promotion of Lifeline and Link-Up and will help in the effort to increase
10 Lifeline/Link-Up subscribership in Florida.

11

12 *Issue 2: Are the actions taken by the Commission in Order No PSC-04-0781-PAA-*
13 *TL reasonable and non-discriminatory?)*

14

15 Q. WHAT IS BELL SOUTH'S POSITION ON THIS ISSUE?

16

17 A. As stated previously, BellSouth believes that the Commission's Order is
18 unreasonably discriminating in the amount of benefits received by Lifeline and
19 Link-Up customers. For example, the proposed process for Lifeline benefits
20 results in a two-tiered system. Today, Florida consumers applying for Lifeline
21 or Link-Up must follow a standard process requiring the consumer to provide
22 documentation of eligibility. In return, the consumer receives a monthly credit
23 amount of \$13.50. Under the Commission's Order, a Florida consumer may
24 use a "self-certification" process to apply for assistance by simply calling the
25 Eligible Telecommunications Carrier ("ETC") and completing a form. This

1 “self-certified” consumer receives a monthly credit amount of \$8.25. This
2 difference in monthly benefit is based solely on the production of the necessary
3 documentation vs. self-certification and not the actual need of the recipient
4 and, therefore, appears to be unreasonably discriminatory.

5
6 Q. DOES BELLSOUTH OFFER AN ALTERNATIVE TO THE TWO-TIERED,
7 POSSIBLY DISCRIMINATORY BENEFIT STRUCTURE?

8
9 A. Yes. Consistent with BellSouth’s belief that such programs provide assistance
10 to those truly in need, BellSouth is proposing a Lifeline certification plan that
11 is described in detail in BellSouth witness Rod DeYonker’s testimony.
12 BellSouth’s proposal contains a single credit amount of \$13.50 that is the
13 higher of the proposed two options, and thus eliminates the apparent
14 discriminatory difference in monthly benefits under the Commission’s plan.

15
16 ***Issue 3: Should the Commission address the Lifeline and Link-Up issues in***
17 ***rulemaking pursuant to Section 120.54, Florida Statutes?***

18
19 Q. WHAT IS BELLSOUTH’S POSITION ON THIS ISSUE?

20
21 A. Yes. In a rulemaking proceeding, all affected parties, both carriers and
22 recipients, would be allowed to participate and provide recommendations. A
23 rulemaking proceeding allows for open communications between the parties in
24 a workshop environment. This allows all parties involved to fully discuss and
25 examine the proposal in an informal environment (i.e., workshop), which could

1 ultimately lead to negotiations that negate the need for rules or further review.
2 Further, through a rulemaking proceeding the Commission will be able to
3 investigate the costs of any such proposal on the carriers affected as well as on
4 other participants and agencies that may be ultimately involved in some part of
5 the final plan. BellSouth agrees with concerns expressed by Commissioners
6 Deason and Jaber in their dissenting comments on Order No. PSC-04-0781-
7 PAA-TL, and their conclusion that a rulemaking process would be the most
8 appropriate forum for resolution of this issue and thereby ensure that any
9 resulting new rules, in addition to alterations of existing rules, will apply to all
10 telecommunications companies in Florida.

11

12 If the Commission chooses not to pursue a rulemaking process, BellSouth
13 urges the Commission to approve the alternative proposal presented in Mr.
14 DeYonker's testimony, which will ensure that the appropriate amount of
15 assistance will be given to those truly in need in a non-discriminatory and
16 efficient method.

17

18 *Issue 6: Is the Commission authorized under state or federal law to establish a*
19 *state Lifeline funding mechanism? If so, (a) should a state Lifeline funding*
20 *mechanism be established? (b) What is the appropriate state Lifeline funding*
21 *mechanism and how should it be implemented and administered?*

22

23 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

24

25 A. While I am not an Attorney, it is my opinion that the Commission is not

1 authorized to implement changes in the assistance programs or eligibility
2 criteria as I responded to in Issue 1. Therefore, BellSouth does not believe that
3 the Commission is likewise authorized to establish cost recovery mechanisms
4 associated with changes in the Lifeline program. However, if the Commission
5 chooses to order changes to the programs as proposed, then BellSouth believes
6 individual ETCs should have the option to implement a recovery mechanism.

7

8 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

9

10 A. Yes.