

1 BELLSOUTH TELECOMMUNICATIONS, INC.  
2 REBUTTAL TESTIMONY OF P.L. (SCOT) FERGUSON  
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION  
4 DOCKET NO. 040130-TP  
5 FEBRUARY 7, 2005  
6  
7

8 Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH  
9 TELECOMMUNICATIONS, INC. AND YOUR BUSINESS ADDRESS.

10  
11 A. My name is Scot Ferguson. I am employed by BellSouth Telecommunications,  
12 Inc. ("BellSouth") as Manager – Network Interconnection Operations. In this  
13 position, I handle certain issues related to local interconnection matters, primarily  
14 operations support systems ("OSS"). My business address is 675 West Peachtree  
15 Street, Atlanta, Georgia 30375.

16  
17 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?  
18

19 A. Yes. I filed Direct Testimony with five (5) exhibits on January 10, 2005.  
20

21 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?  
22

23 A. The purpose of my Rebuttal Testimony is to address various concerns and issues  
24 raised in the Direct Testimony filed by KMC Telecom V, Inc. and KMC Telecom  
25 III, LLC, (together, "KMC"), NuVox Communications, Inc. and NewSouth

1           Communications Corp. (together, “NuVox/NewSouth”), and the Xspedius  
2           Companies. I refer to these companies collectively as the “Joint Petitioners.”

3  
4           This Rebuttal Testimony should be read in conjunction with my Direct  
5           Testimony.

6

7   Q.    ARE YOU ADOPTING ANY ISSUES IN THIS REBUTTAL TESTIMONY  
8           THAT WERE ADDRESSED BY ANOTHER BELLSOUTH WITNESS IN  
9           BELLSOUTH’S DIRECT TESTIMONY FILED ON JANUARY 10, 2005?

10

11   A.    Yes. I am adopting Item 103 that was originally addressed by BellSouth Witness  
12           Carlos Morillo in his Direct Testimony filed on January 10, 2005.

13

14   Q.    ARE THERE ANY CHANGES TO THE STATUS OF ANY ISSUES FOR  
15           WHICH YOU SUBMITTED DIRECT TESTIMONY ON JANUARY 10, 2005?

16

17   A.    Yes. The Parties settled Item 43.

18

19   ***Item 86(B) (Issue 6-3(B)): How should disputes over alleged unauthorized access to***  
20   ***CSR information be handled under the agreement? (Attachment 6, Sections 2.5.6.2***  
21   ***and 2.5.6.3)***

22

23   Q.    IN HIS TESTIMONY AT PAGE 24, LINES 17-19, JOINT PETITIONERS’  
24           WITNESS JAMES FALVEY CHARACTERIZES BELLSOUTH’S POSITION

1 ON THIS ISSUE AS ONE OF “SELF HELP,” AND SUGGEST THAT IT IS  
2 “INAPPROPRIATE AND COERCIVE.” PLEASE RESPOND.

3

4 A. If anything, BellSouth's proposed language is that of self-protection. As I  
5 described in my Direct Testimony, BellSouth simply wants to ensure that it can  
6 properly protect the proprietary CSR information that it is obligated to protect. If  
7 BellSouth has reason to believe that any CLEC is abusing access to CSR  
8 information, and, therefore, is violating a law, BellSouth needs to have necessary  
9 and *timely* recourse to limit that CLEC's access to protect BellSouth's customers  
10 and the customers of other CLECs.

11

12 Further, BellSouth's language gives the Joint Petitioners an opportunity to cure  
13 unauthorized access to CSR information before terminating such access.

14 BellSouth presented this language for two reasons. First, the fact that the Joint  
15 Petitioners have an opportunity to cure the unauthorized access establishes that  
16 BellSouth will not unilaterally invoke this right without notice to the offending  
17 CLEC. Second, the language encourages the offending CLEC to take appropriate  
18 measures to stop its improper actions, thereby obviating the need for BellSouth to  
19 suspend or terminate access. As I discussed in my Direct Testimony, BellSouth  
20 has resorted to termination only once in its region to my knowledge as a means to  
21 curb abusive CSR access by a CLEC.

22

23 Q. MR. FALVEY STATES, AT PAGE 25, LINES 5-7, THAT DISPUTES  
24 “SHOULD BE HANDLED IN ACCORDANCE WITH THE DISPUTE  
25 RESOLUTION PROVISIONS OF THE CONTRACT.” FURTHER, AT LINES

1 9-10, HE STATES THAT BELLSOUTH “ SHOULD NOT CONTINUE TO  
2 OPPOSE INCLUDING A COURT OF LAW AS AN APPROPRIATE VENUE  
3 FOR DISPUTE RESOLUTIONS.” WHAT IS THE RELEVANCE OF THESE  
4 CLAIMS?

5  
6 A. As I described in my Direct Testimony, BellSouth needs timely resolution of a  
7 situation that places BellSouth, other CLECs and end-user customers at risk.  
8 BellSouth does not suspend or terminate access to OSS interfaces on a whim, and,  
9 generally speaking, CLECs have corrected problems when BellSouth notified  
10 them of the need to do so.

11  
12 The Joint Petitioners seem to suggest that they want BellSouth to file a complaint  
13 with an undefined “court of law.” Of course, a court of law may be unfamiliar  
14 with interconnection agreements and the rules and regulations that apply to such  
15 agreements. Thus, it could take a prolonged period of time before a court could  
16 resolve a dispute and thus allow BellSouth to stop a CLEC’s prohibited activities.

17  
18 Further, I explained that a CLEC could continue to access the Customer  
19 Proprietary Network Information (“CPNI”) of untold numbers of CLEC and  
20 BellSouth customers – unlawfully without proper authority – while BellSouth  
21 waits for the legal process to run its course. Of course, during a protracted legal  
22 process, this Commission would probably have to handle numerous CLEC and  
23 customer complaints about CPNI violations by BellSouth.

24

1 BellSouth is obligated to protect this information as quickly and expeditiously as  
2 possible when abuse is discovered. BellSouth's proposed language balances the  
3 Joint Petitioners' concerns with BellSouth's right to protect its network,  
4 information and processes in the most expedient manner.

5  
6 Mr. Falvey's suggestion, at page 25, lines 14-15, that BellSouth would use  
7 suspension and termination "regardless of its potential impact on its competition  
8 or customers who have been disloyal to BellSouth" is pure imagination and  
9 without merit. BellSouth's past performance indicates that BellSouth is not  
10 predisposed to suspending or terminating a CLEC's OSS access during a good-  
11 faith effort on the part of the CLEC to resolve an issue of CSR access.

12  
13 ***Item 103 (Issue 7-9): Should BellSouth be entitled to terminate service to a CLEC***  
14 ***pursuant to the process for termination due to non-payment if the CLEC refuses to***  
15 ***remit any deposit required by BellSouth within 30 calendar days? (Attachment 7,***  
16 ***Section 1.8.6)***

17

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

19

20 A. BellSouth should be permitted to terminate service to a CLEC if the CLEC  
21 refuses to remit within 30 calendar days any deposit required by BellSouth. Thirty  
22 calendar days is a reasonable time period within which a CLEC should meet its  
23 fiscal responsibilities.

24

25 Q. PLEASE EXPLAIN BELLSOUTH'S POSITION.

1

2 A. The purpose of the deposit is to help mitigate BellSouth's risks as it provides  
3 services worth millions of dollars every month to CLECs. BellSouth has incurred  
4 losses on several occasions over the past few years when a CLEC, for one reason  
5 or another, did not pay or was unable to pay its bills. CLECs are valued  
6 customers; however, BellSouth has a responsibility to its shareholders and to its  
7 other customers to avoid unnecessary risks.

8

9 Q. AT PAGE 51, LINES 9-10 OF HIS TESTIMONY, JOINT PETITIONERS'  
10 WITNESS RUSSELL STATES THAT BELLSOUTH'S LANGUAGE "WOULD  
11 ALLOW BELLSOUTH TO CIRCUMVENT THE DISPUTE RESOLUTION  
12 PROVISIONS OF THE AGREEMENT." DO YOU AGREE?

13

14 A. No. The CLEC has 30 days to dispute the deposit request and BellSouth has  
15 proposed language for Item 104 that will address disputes relating to deposits.  
16 The Petitioners should first send their dispute issue to BellSouth in writing, and  
17 BellSouth will respond in writing, outlining the criteria for the deposit amount  
18 and why BellSouth believes the deposit amount matches the business risk. The  
19 dispute would likely go to arbitration; however, in such a case, BellSouth's  
20 position is that the deposit should be placed in escrow until the dispute is  
21 resolved. CLECs should not have the ability to go to a state commission with no  
22 legitimate reason to dispute the deposit request, but do so only to delay paying the  
23 deposit.

24

25 Q. DOES THAT CONCLUDE YOUR TESTIMONY?

1

2 A. Yes.

