

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for approval of resale agreement negotiated by BellSouth Telecommunications, Inc. with Time Warner Connect, pursuant to Sections 251 and 252 of the Telecommunications Act of 1996.

DOCKET NO. 970767-TP
ORDER NO. PSC-97-1067-FOF-TP
ISSUED: September 9, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
DIANE K. KIESLING
JOE GARCIA

ORDER APPROVING RESALE AGREEMENT

BY THE COMMISSION:

On June 24, 1997, BellSouth Telecommunications, Inc. (BST) and Time Warner Connect (TWC) filed a request for approval of a resale agreement under the Telecommunications Act of 1996, 47 U.S.C. § 251 et seq. (the Act). The agreement is attached to this Order as Attachment A and incorporated by reference herein.

Both the Act and Chapter 364, Florida Statutes, encourage parties to enter into negotiated agreements to bring about local exchange competition as quickly as possible. Under the requirements of 47 U.S.C. § 252(e), negotiated agreements must be submitted to the state commission for approval. Section 252(e)(4) requires the state to reject or approve the agreement within 90 days after submission or it shall be deemed approved.

This agreement governs the relationship between the companies regarding the resale of various services. Under 47 U.S.C. § 252(a)(1), the agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. The agreement states that telecommunications services provided by BellSouth for resale will be available for purchase by ~~residential~~ at a discount rate of 18% for residential services and 12% for business services.

DOCUMENT NUMBER-DATE

09054 SEP-96

FPS-RECORDS/REPORTING

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Upon review of the proposed agreement, we find that it complies with the Telecommunications Act of 1996; thus, we hereby approve it. BST and TWC must file any supplements or modifications to their agreement with the Commission for review under the provisions of 47 U.S.C. § 252(e).

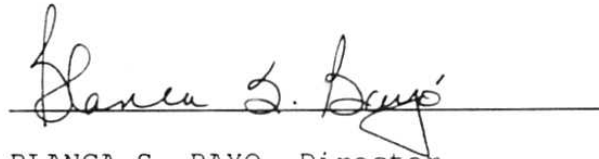
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the resale agreement between BellSouth Telecommunications, Inc. and Time Warner Connect, as set forth in Attachment A and incorporated by reference in this Order, is hereby approved. It is further

ORDERED that any supplements or modifications to this agreement must be filed with the Commission for review under the provisions of 47 U.S.C. § 252(e). It is further

ORDERED that this docket shall be closed.

BY ORDER of the Florida Public Service Commission this 9th, day of September, 1997.

A handwritten signature in cursive script, reading "Blanca S. Bayo", is written over a horizontal line.

BLANCA S. BAYO, Director
Division of Records and Reporting

(S E A L)

KMP

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ATTACHMENT A

**AGREEMENT BETWEEN ~~ATTACHMENT A~~ TELECOMMUNICATIONS, INC.
AND TIME WARNER CONNECT REGARDING THE SALE OF
TELECOMMUNICATIONS SERVICES TO TIME WARNER CONNECT FOR THE
PURPOSES OF RESALE**

THIS AGREEMENT is by and between BellSouth Telecommunications, Inc., ("BellSouth or Company"), a Georgia corporation, and Time Warner Connect ("Reseller"), a New York general partnership, and shall be deemed effective as of April 25, 1997

WITNESSETH

WHEREAS, BellSouth is a local exchange telecommunications company authorized to provide telecommunications services in, inter alia, the states of Florida, North Carolina, and Tennessee; and

WHEREAS, Reseller is an alternative local exchange telecommunications company authorized to provide telecommunications services in the states of Florida, North Carolina and Tennessee; and

WHEREAS, Reseller desires to resell BellSouth's telecommunications services; and

WHEREAS, BellSouth has agreed to provide such services to Reseller for resale purposes and pursuant to the terms and conditions set forth herein;

NOW, THEREFORE, for and in consideration of the mutual premises and promises contained herein, BellSouth and Reseller do hereby agree as follows:

I. Term of the Agreement

A. The term of this Agreement shall be two years beginning April 25, 1997 and shall apply to all of BellSouth's serving territory as of January 1, 1996, in the state(s) of Florida, North Carolina and Tennessee (the "States").

B. This Agreement shall be automatically renewed for two additional one year periods unless either party indicates its intent not to renew the Agreement. Notice of such intent must be provided, in writing, to the other party no later than 60 days prior to the end of the then-existing contract period. The terms of this Agreement shall remain in effect after the term of the existing agreement has expired and while a new agreement is being negotiated.

C. The rates pursuant by which Reseller is to purchase services from BellSouth for resale shall be at a discount rate off of the retail rate for the telecommunications service. The discount rates in Florida, North Carolina and Tennessee shall be as required by the Commission of each state; provided, however, that the rates set forth in Exhibit A, attached hereto and incorporated herein by this reference, shall be the rates in effect for each state until such time as

an Order of that state's Commission relating to resale rates shall become final and non-appealable, or Company commences to provide resale to any other reseller at the rates set forth in the order of that Commission. Such discount shall reflect the costs avoided by BellSouth when selling a service for wholesale purposes.

II. Definition of Terms

- A. COMMISSION means the appropriate regulatory agency with authority to supervise or regulate the operations of local exchange carriers in Florida, North Carolina and Tennessee.
- B. CUSTOMER OF RECORD means the entity responsible for placing application for service; requesting additions, rearrangements, maintenance or discontinuance of service; payment in full of charges incurred such as toll, directory assistance, etc.
- C. DEPOSIT means assurance provided by a customer in the form of cash, surety bond or bank letter of credit to be held by the Company.
- D. END USER means the ultimate user of the telecommunications services.
- E. END USER CUSTOMER LOCATION means the physical location of the premises where an end user makes use of the telecommunications services.
- F. NEW SERVICES means functions, features or capabilities that are not currently offered by BellSouth. This includes packaging of existing services or combining a new function, feature or capability with an existing service.
- G. OTHER LOCAL EXCHANGE COMPANY (OLEC) means a telephone company certificated by the public service commissions of the Company's franchised area to provide local exchange service within the Company's franchised area.
- H. RESALE means an activity wherein a certificated OLEC, such as Reseller subscribes to the telecommunications services of the Company and then reoffers those telecommunications services to the public (with or without "adding value").
- I. RESALE SERVICE AREA means the area, as defined in a public service commission approved certificate of operation, within which an OLEC, such as Reseller, may offer resold local exchange telecommunications service.

III. General Provisions

- A. Reseller may resell all of the tariffed local exchange and toll telecommunications services that BellSouth offers at retail to its customers subject to the terms and conditions specifically set forth herein. BellSouth shall make available such services as BellSouth is required to make available in any state that is the subject of this Agreement as a result of any

final and effective order (from a generic docket or as the result of an arbitration award in which BellSouth was a party) of that state's Commission relating to resale and will make available any other service Company is making available to any other reseller. BellSouth shall make available to Reseller to sell to its End Users voice messaging service and inside wire maintenance plan without the wholesale discount, unless a final and effective order of that state's Commission requires BellSouth to make voice messaging service or the inside wire maintenance service plan available at the wholesale discount rate.

B. The provision of services by the Company to Reseller does not constitute a joint undertaking for the furnishing of any service.

C. Reseller will be the customer of record for all services purchased from BellSouth. Except as specified herein, the Company will take orders from, bill and expect payment from Reseller for all services.

D. Reseller will be the Company's single point of contact for all services purchased pursuant to this Agreement. The Company shall have no contact with the end user except to the extent provided for herein.

E. The Company will continue to bill the end user for any services that the end user specifies it wishes to receive directly from the Company.

F. The Company maintains the right to serve directly any end user within the service area of Reseller. The Company will continue to directly market its own telecommunications products and services and in doing so may establish independent relationships with end users of Reseller.

G. Reseller shall not interfere with the right of any person or entity to obtain service directly from the Company.

H. The current telephone number of an end user may be retained by the end user if the end user moves to a new location served by the same end office or if the end user changes local service providers from Company to Reseller or Reseller to Company.

I. Telephone numbers are assigned to the service furnished. Reseller has no property right to the telephone number or any other call number designation associated with services furnished by the Company, and no right to the continuance of service through any particular central office. The Company reserves the right to change such numbers, or the central office designation associated with such numbers, or both, whenever the Company deems it necessary to do so in the conduct of its business, but only on a non-discriminatory basis where Company is changing similarly situated numbers or designations affecting its own retail customers as well.

J. The Company may provide any service or facility for which a charge is not established herein, as long as it is offered to Reseller on terms consistent with the terms of this Agreement.

K. Service is furnished subject to the condition that it will not be used for any unlawful purpose.

L. Company shall discontinue service to an end user of Reseller in the same manner it discontinues service to its own subscribers where any law enforcement agency has advised Company or Reseller that the service being used is in violation of the law. In the event law enforcement advises Company directly, Company shall give notice to Reseller as soon as practicable of the discontinuance of the end user's service.

M. The Company may refuse service when it has reasonable grounds to believe that service will be used in violation of law.

N. The Company accepts no responsibility to any person for any unlawful act committed by Reseller or its end users as part of providing service to Reseller for purposes of resale or otherwise.

O. The Company will cooperate fully with law enforcement agencies with subpoenas and court orders for assistance with the Company's customers. Law enforcement agency subpoenas and court orders regarding end users of Reseller will be directed to Reseller. The Company will bill Reseller for reasonable, necessary and actual costs it incurs in implementing any requests by law enforcement agencies regarding Reseller end users.

P. The characteristics and methods of operation of any circuits, facilities or equipment provided by other than the Company shall not:

1. Interfere with or impair service over any facilities of the Company, its affiliates, or its connecting and concurring carriers involved in its service;
2. Cause damage to their plant;
3. Impair the privacy of any communications; or
4. Create hazards to any employees or the public.

Q. Reseller assumes the responsibility of notifying the Company regarding less than standard operations with respect to services provided by it.

R. Facilities and/or equipment utilized by BellSouth to provide service to Reseller remain the property of BellSouth.

S. Company will provide for Reseller's end users at no additional charge the same type of white page directory listing as it provides to its own end users and provide additional and enhanced listings at the prices applicable to Company's end users less the applicable discount. BellSouth will deliver white and yellow pages directories to Reseller's end users on the same basis as it delivers directories to its own end users.

T. Company will notify Reseller of any additions to withdrawals of or changes to (including price changes) retail service offerings available for resale at the time it submits the applicable tariff reflecting the change to the Commission or at least 45 days in advance of the effective date of such change, whichever is earlier. Reseller recognizes that certain revisions may occur between the time BellSouth notifies Reseller of a change and BellSouth's tariff filing of such change. BellSouth shall notify Reseller of such revisions. Reseller accepts the consequences of such midstream changes as an uncertainty of doing business and thus will not hold BellSouth responsible for any resulting inconvenience or costs incurred.

IV. BellSouth's Provision of Services to Reseller

A. Reseller agrees that its resale of BellSouth services shall be as follows:

1. Resale of telecommunications services in any state shall be subject to any and all restrictions upon resale authorized by or contained in duly adopted and effective rules, regulations or orders of the Commission of that state adopted after February 8, 1996, or in any tariff filed by BellSouth and expressly approved by a Commission after August 8, 1996, unless such restriction is preempted by the FCC, in which case such restriction shall not apply while such FCC preemption is effective. Until such time as a Commission issues a final and effective order relating to resale restrictions the following restrictions shall apply:
 - a. Resold services can only be used in the same manner as specified in the Company's Tariff. Resold services are subject to the same terms and conditions as are specified for such services when furnished to an individual end user of the Company in the appropriate section of the Company's Tariffs. Specific tariff features, e.g. a usage allowance per month, shall not be aggregated across multiple resold services. Resold services cannot be used to aggregate traffic from more than one end user customer except as specified in Section A23 of the Company's Tariff referring to Shared Tenant Service.
 - b. Resale of services shall be limited to users and uses conforming to the class of service restrictions.
 - c. Hotel and Hospital PBX service are the only telecommunications services available for resale to Hotel/Motel and Hospital end users,

respectively. Similarly, Access Line Service for Customer Provided Coin Telephones is the only local service available for resale to COCOTS customers. Shared Tenant Service customers can only be sold those telecommunications services available in the Company's A23 Shared Tenant Service Tariff.

- d. Reseller is prohibited from furnishing both flat and measured rate service on the same business premises to the same subscribers (end users) as stated in A2 of the Company's Tariff except for backup service as indicated in the applicable state tariff Section A3.
2. To the extent Reseller is a telecommunications carrier that serves greater than 5 percent of the Nation's presubscribed access lines, Reseller shall not jointly market its interLATA services with the telecommunications services purchased from BellSouth pursuant to this Agreement in any of the states covered under this Agreement. For the purposes of this subsection, to jointly market means any advertisement, marketing effort or billing in which the telecommunications services purchased from BellSouth for purposes of resale to customers and interLATA services offered by Reseller are packaged, tied, bundled, discounted or offered together in any way to the end user. Such efforts include, but are not limited to, sales referrals, resale arrangements, sales agencies or billing agreements. This subsection shall be void and of no effect for a particular state covered under this Agreement as of February 8, 1999 or on the date BellSouth is authorized to offer interLATA services in that state, whichever is earlier.
3. If telephone service is established and it is subsequently determined that a class of service restriction permitted by the Commission has been violated, Reseller will be notified and billing for that service will be immediately changed to the appropriate class of service. Service charges for such changes between class of service shall apply. Back billing and interest may apply subject to discussion and review with Reseller.
4. The Company reserves the right to periodically audit services purchased by Reseller to establish authenticity of use. Reseller reserves the right to audit call records and related materials of Company, where available, to verify the accuracy of Company's billing. No such audit shall occur more than once in a calendar year. The party subject to audit shall make any and all records and data available to the auditing party or its auditors on a reasonable basis. The auditing party shall bear the cost of said audit.
5. Company will provide all services for resale at the same level of quality that it provides itself and its own end users.

B. Reseller may resell services only within the specific resale service area as defined in its certificate.

C. Telephone numbers transmitted via any resold service feature are intended solely for the use of the end user of the feature. Resale of this information is prohibited.

D. No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement. Reseller is strictly prohibited from any use, including but not limited to sales, marketing or advertising, of any BellSouth name or trademark. Nothing herein shall prohibit Reseller from disclosing the sources of its services to customers in response to a specific inquiry.

E. Company will make available to Reseller any electronic interfaces that it makes available to another OLEC for pre-service ordering, service trouble reporting, service order processing and provisioning, customer usage data transfer or local maintenance.

F. To the extent branding or unbranding is made available to any other Reseller in Florida, North Carolina or Tennessee, or ordered by a state commission in Florida, North Carolina or Tennessee, Company shall brand or unbrand Operator Services and Directory Assistance Services as directed by Reseller in such state where branding or unbranding has been offered to another Reseller or ordered by that state's commission at an appropriate charge.

G. When a Reseller end user who continues to be located within the local calling area changes its local service provider or moves and does not retain its original telephone number, Company will provide a new number announcement on the inactive telephone number at parity with the duration and terms under which such service is provided to its own end users.

H. When wholesale basic local service is purchased by Reseller, Company will, at no additional charge, establish Reseller's end user customer information in existing databases (e.g., DA, E911, LIDB) in the same manner Company establishes its own customer information in those databases. Company will also provide signaling support for wholesale services provided to Reseller equal to that provided to Company's customers, at no additional charge, unless BellSouth would charge its own customers for such signaling support.

I. Any Service made available for resale by Company to Reseller shall be equal in quality to the identical service provided by Company to itself or to any subsidiary, affiliate or any other person to which Company directly provides the Resale Service, including BellSouth's retail End Users.

V. Maintenance of Services

A. Services resold under the Company's Tariffs and facilities and equipment provided by the Company shall be maintained by the Company. Company will provide response times to trouble calls, resolution of trouble calls and telephone response times to

Reseller's calls to Company's repair bureau that are at least as favorable as those provided to its own end users.

B. Reseller or its end users may not rearrange, move, disconnect, remove or attempt to repair any facilities owned by the Company, other than by connection or disconnection to any interface means used, except with the written consent of the Company.

C. Each party will notify the other of situations that arise that may result in a service problem.

D. Reseller will be the Company's single point of contact for all repair calls on behalf of Reseller's end users.

E. Reseller will contact the appropriate repair centers in accordance with procedures established by the Company. Company will have a toll free number staffed on a 24 x 7 basis for the purposes of receiving trouble reports from Reseller. A trouble ticket number will be assigned to each report received by telephone from Reseller for tracking purposes. For telephone number identified services, the telephone number will be the ticket number used for tracking purposes.

F. For all repair requests, Reseller accepts responsibility for adhering to the Company's prescreening guidelines prior to referring the trouble to the Company. Company will provide Reseller with reference materials and training, as needed and in a mutually agreed upon manner, for prescreening end user troubles.

G. The Company will bill Reseller for handling troubles that are found not to be in the Company's network pursuant to its standard time and material charges. The standard time and material charges will be no more than what BellSouth charges to its retail customers for the same services.

H. The Company reserves the right to contact Reseller's customers, if deemed necessary and it is not practical under the circumstances to contact the customer through Reseller, for maintenance purposes. Company shall not make any disparaging remarks about Reseller or its service or attempt to market Company's service in the course of such contact. When Company personnel are on Reseller's end users' premises, they will advise customers that they are representing Reseller and will provide Reseller's end users with Reseller-supplied or generic "leave behind cards" as directed by Reseller. Such cards shall be provided by Reseller in sufficient quantity to BellSouth at Reseller's cost.

VI. Establishment of Service

A. After receiving certification as a local exchange company from the appropriate regulatory agency, Reseller will provide the appropriate Company service center the necessary documentation to enable the Company to establish a master account for Reseller. Such documentation shall include the Application for Master Account, proof of authority to provide

telecommunications services, an Operating Company Number ("OCN") assigned by the National Exchange Carriers Association ("NECA") and a tax exemption certificate, if applicable. When necessary deposit requirements are met, the Company will begin taking orders for the resale of service. In applying deposit requirements, Company shall take into account the financial strengths of Reseller's partners and ultimate parent companies.

B. Service orders will be in a standard format designated by the Company.

C. Until such time as an electronic interface is available, pre-ordering and provisioning provided by Company to Reseller under this Agreement shall be equal in quality and with the same timeliness to that provided by Company to any other reseller. When such electronic interface is available, such interface shall be provided to Reseller at the same time or the same terms and conditions as provided any other reseller. Notwithstanding the foregoing, Reseller does not waive its right to pre-ordering and provisioning under this Agreement equal in quality to that provided by Company to itself, to a subsidiary or affiliate, or to any other person to whom Company directly provides the Resale Services, including Company's retail End Users. The interface will be consistent with industry standards.

D. Company shall provision Resale Services in a manner that is equal in quality and with the same timeliness as such Resale Services are provisioned to Company's subsidiaries, affiliates or other person to whom Company directly provides the Resale Service, including Company's retail End Users.

E. When notification is received from Reseller that a current customer of the Company will subscribe to Reseller's service, standard service order intervals for the appropriate class of service will apply.

F. The Company will not require end user confirmation prior to establishing service for Reseller's end user customer. Reseller must, however, be able to demonstrate end user authorization upon reasonable request in the event of a dispute.

G. Reseller will be the single point of contact with the Company for all subsequent ordering activity resulting in additions or changes to resold services except that the Company will accept a request directly from the end user for conversion of the end user's service from Reseller to the Company or will accept a request from another OLEC for conversion of the end user's service from the Reseller to the other LEC. The Company will notify Reseller that such a request has been processed.

H. In the event that either party receives a complaint alleging an unauthorized change in local service provider by the other party, the party receiving the complaint will promptly contact the other party and notify it of the complaint. The party alleged to be providing local service without customer authorization shall have three (3) business days to produce a Letter of Authorization from the applicable customer or other mutually agreed upon verification of customer authorization complying with applicable law. In the event that the party is unable to produce evidence of such verification within three (3) business days, it shall pay the applicable

non-recurring charges to reestablish the customer's service with the appropriate local service provider and an investigation fee of \$19.41 per line or trunk for residence or business customers.

I. The Company may, in order to safeguard its interest, require Reseller to make a deposit to be held by the Company as a guarantee of the payment of rates and charges, unless satisfactory credit has already been established. Any such deposit may be held during the continuance of the service as security for the payment of any and all amounts accruing for the service.

J. Such deposit may not exceed two months' estimated billing.

K. The fact that a deposit has been made in no way relieves Reseller from complying with the Company's regulations as to advance payments and the prompt payment of bills on presentation nor does it constitute a waiver or modification of the regular practices of the Company providing for the discontinuance of service for non-payment of any sums due the Company.

L. The Company reserves the right to increase the deposit requirements when, in its reasonable judgment, the conditions justify such action.

M. In the event that Reseller defaults on its account, any deposits held will be applied to its account after grace periods set forth in Section VIII, B., below.

N. In the case of a cash deposit, interest at the rate of six percent per annum shall be paid to Reseller during the continuance of the deposit. Interest on a deposit shall accrue annually and, if requested, shall be annually credited to Reseller by the accrual date.

O. Company will provide Primary Interexchange Carrier ("PIC") processing for the carrier initially selected by Reseller's End Users on the initial service order. Thereafter, Company will not process PIC changes received by it directly from IXCs without Reseller's consent unless a Commission, in a final and effective order, rules otherwise. If PIC changes are received by Company directly from IXCs, Company will reject the PIC change back to the IXC with the appropriate carrier contact.

P. Company will provide Reseller the ability to assign telephone numbers and schedule appointments with the customer on-line.

Q. Company shall cooperate with Reseller, before Reseller offers commercial service, in testing all electronic ordering, provisioning, maintenance, billing and other Electronic Interfaces, when available, and internal systems to insure accurate and timely installation and billing occurs.

VII. Payment And Billing Arrangements

- A. When the initial service is ordered by Reseller, the Company will establish an accounts receivable master account for Reseller.
- B. The Company shall bill Reseller on a current basis all applicable charges and credits.
- C. Payment of all charges will be the responsibility of Reseller. Reseller shall make payment to the Company for all services billed. The Company is not responsible for payments not received by Reseller from Reseller's customer. In general, the Company will not become involved in billing disputes that may arise between Reseller and its customer except for disputes arising from quality of services provided by BellSouth. Notwithstanding the foregoing, Company will provide Reseller with records or other documentation relating to Reseller's dispute with its customer. Payments made to the Company as payment on account will be credited to an accounts receivable master account and not to an end user's account. The bill will include sufficient detail to allow Reseller to reconcile the bill charge with usage data.
- D. The Company will render bills each month on established bill days for each of Reseller's accounts.
- E. The Company will bill Reseller, in advance, charges for all services to be provided during the ensuing billing period except charges associated with service usage, which charges will be billed in arrears. Charges will be calculated on an individual end user account level, including, if applicable, any charges for usage or usage allowances. BellSouth will also bill all applicable charges, including but not limited to 911 and E911 charges, telecommunications relay charges, and franchise fees to Reseller; however, Company will be responsible for remitting such amounts to the appropriate governmental entity.
- F. The payment will be due by the next bill date (i.e., same date in the following month as the bill date) and is payable in immediately available funds. Payment is considered to have been made when received by the Company.
- If the payment due date falls on a Sunday or on a Holiday which is observed on a Monday, the payment due date shall be the first non-Holiday day following such Sunday or Holiday. If the payment due date falls on a Saturday or on a Holiday which is observed on Tuesday, Wednesday, Thursday, or Friday, the payment due date shall be the last non-Holiday day preceding such Saturday or Holiday. If payment is not received by the payment due date, a late payment penalty, as set forth in H. following, shall apply.
- G. Upon proof of tax exempt certification from Reseller, the total amount billed to Reseller will not include any taxes due from the end user. Reseller will be solely responsible for the computation, tracking, reporting and payment of all federal, state and/or local jurisdiction taxes associated with the services resold to the end user.

H. If any portion of the payment is received by the Company after the payment due date as set forth preceding, or if any portion of the payment is received by the Company in funds that are not immediately available to the Company, then a late payment penalty shall be due to the Company. The late payment penalty shall be the portion of the payment not received by the payment due date times a late factor. The late factor shall be as set forth in the current General Subscriber Service Tariff, Section A2 or the Private Line Service Tariff, Section B2, whichever is applicable to the service in question.

I. Any switched access charges associated with interexchange carrier access to the resold local exchange lines will be billed by, and due to, the Company. No additional charges are to be assessed to Reseller.

J. The Company will not perform billing and collection services for Reseller as a result of the execution of this Agreement. All requests for billing services should be referred to the appropriate entity or operational group within the Company. Company will provide to Reseller at no additional charge at agreed upon monthly intervals the detailed billing records in a standard format necessary for Reseller to issue a bill to its end users. If such billing records are provided by an electronic document at Reseller's request, additional charges will apply.

K. Pursuant to 47 CFR Section 51.617, the Company will bill the charges shown below which are identical to the EUCL rates billed by Company to its end users.

	Monthly Rate
1. Residential	
(a) Each Individual Line or Trunk	\$3.50
2. Single Line Business	
(b) Each Individual Line or Trunk	\$3.50
3. Multi-line Business	
(c) Each Individual Line or Trunk	\$6.00

L. In general, the Company will not become involved in disputes between Reseller and Reseller's end user customers over resold services. If a dispute does arise that cannot be settled without the involvement of the Company, Reseller shall contact the designated Service Center for resolution. The Company will make every effort to assist in the resolution of the dispute and will work with Reseller to resolve the matter in as timely a manner as possible. Reseller may be required to submit documentation to substantiate the claim.

M. BellSouth will provide Reseller with outage credits on resold services that are equivalent to the outage credits that BellSouth provides to its retail customers as specified in the appropriate BellSouth tariff for the equivalent retail service.

VIII. Discontinuance of Service

- A. The procedures for discontinuing service to an end user are as follows:
1. Where possible, the Company will deny service to Reseller's end user on behalf of, and at the request of, Reseller. Upon restoration of the end user's service, restoral charges will apply and will be the responsibility of Reseller.
 2. At the request of Reseller, the Company will disconnect a Reseller end user customer.
 3. All requests by Reseller for denial or disconnection of an end user for nonpayment must be in writing, or may be transmitted electronically or by fax once BellSouth's system can accommodate those options.
 4. Reseller will be made solely responsible for notifying the end user of the proposed disconnection of the service.
 5. The Company will continue to process calls made to the Annoyance Call Center and will advise Reseller when it is determined that annoyance calls are originated from one of their end user's locations. Company will also process complaints made by Reseller on behalf of its end users to the Annoyance Call Center and take corrective action with its customer who make annoyance calls. Reseller acknowledges that the Annoyance Call Center may be required to contact Reseller's end user to obtain information necessary to process the complaint. The Company shall be indemnified, defended and held harmless by Reseller and/or the end user against any claim, loss or damage arising from providing this information to Reseller. It is the responsibility of Reseller to take the corrective action necessary with its customers who make annoying calls. Failure to do so will result in the Company's disconnecting the end user's service.

IX. Termination

A. If Reseller fails to comply with the material provisions of this Agreement, and such failure is not cured within thirty (30) calendar days written notice to the person designated by Reseller to receive notices of noncompliance, Company shall have the right to terminate this Agreement. In addition, Company shall be entitled to pursue all available legal and equitable remedies for such breach. In the case of such termination, all billed charges, as well as applicable termination charges, shall become due.

B. If Company fails to comply with the material provisions of this Agreement which failure adversely affects Reseller's End Users, and such failure is not cured with ten (10)

business days written notice to the person designated by Company to receive notices of noncompliance, Reseller shall have the right to terminate this Agreement. If Company fails to comply with any other material provision of this Agreement and such failure is not cured within forty-five (45) calendar days written notice to the person designated by Company to receive notices of noncompliance, Reseller shall have the right to terminate this Agreement. In addition, Reseller shall be entitled to pursue all available legal and equitable remedies for such breach.

C. If the non-compliance by Reseller is failure to pay amounts due and payment is not received or arrangements made for payment by the end of the cure period applicable under section IX.A., above, Reseller's services will be discontinued. Upon discontinuance of service on a Reseller's account, service to Reseller's end users will be denied. The Company will also reestablish service at the request of the end user or Reseller upon payment of the appropriate connection fee and subject to the Company's normal application procedures.

D. If within fifteen days after an end user's service has been denied no contact has been made in reference to restoring service, the end user's service will be disconnected.

X. Liability

A. Except for its liability for willful misconduct, the liability of the Company for damages arising out of mistakes, omissions, interruptions, preemptions, delays errors or defects in transmission, or failures or defects in facilities furnished by the Company, occurring in the course of furnishing service or other facilities and not caused by the negligence of Reseller, or of the Company in failing to maintain proper standards of maintenance and operation and to exercise reasonable supervision shall in no event exceed an amount equivalent to the proportionate charge to Reseller for the period of service during which such mistake, omission, interruption, preemption, delay, error or defect in transmission or defect or failure in facilities occur. Except for its liability for willful misconduct, the liability of Reseller for damages arising out of mistakes, omissions, interruptions, preemptions, delays or errors shall in no event exceed an amount equivalent to the proportionate charge to Reseller for the period of service during which such mistake, omission, interruption, preemption, delay or error occur. In no event shall either party have any liability whatsoever to the other party for any indirect, special, consequential, incidental or punitive damages including loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said omitted or done hereunder even if the other party has been advised of the possibility of such damages.

B. Each party shall be indemnified and saved harmless by the other party against any and all claims, actions, causes of action, damages, liabilities, or demands (including the costs, expenses and reasonable attorneys' fees, on account thereof) of whatever kind or nature that may be made by any third party as a result of such other party's breach, willful or negligent acts or omissions, mistakes, interruptions, preemptions, delays, or errors.; provided, however, that a party's obligation to indemnify and save harmless the other party ("Indemnified Party") shall not extend to that portion of the claim, action, cause of action, liability or demand that is caused by the Indemnified Party's negligence.

C. The Company shall be indemnified, defended and held harmless by Reseller and/or the end user against any claim, loss or damage arising from the use of services offered for resale involving:

1. Claims for libel, slander, invasion of privacy or infringement of copyright arising from Reseller's or end user's own communications.
2. Claims for patent infringement arising from acts combining or using Company services in connection with facilities or equipment furnished by the end user or Reseller.

D. Reseller accepts responsibility for providing access for maintenance purposes of any service resold under the provisions of this Agreement. The Company shall not be responsible for any failure on the part of Reseller with respect to any end user of Reseller.

E. In the event Recorded Usage Data of Reseller is determined to have been lost, damaged or destroyed as a result of an error or omission by Company in its performance of the recording function, upon Reseller's request, Company shall attempt to recover the Recorded Usage Data at no charge to Reseller. In the event the data cannot be recovered by Company, Company and Reseller shall mutually agree upon a credit amount based upon an estimate of the affected messages and associated revenue, reduced by a mutually agreed upon estimate of associated Recording Service charges, based upon the method described below. This method shall be applied on a consistent basis, subject to modifications agreed to by Company and Reseller. This estimate shall be used to adjust amounts Reseller owes Company for services Company provides in conjunction with the provision of Recorded Usage Data, and Company's liability for lost, damaged or destroyed Recorded Usage Data shall be limited to the application of the credit described in this section.

The lost revenue per day will be based upon the daily average of revenues for the corresponding days of the week (e.g., four Mondays) in the most recent month for which actual usage data is available before the day of loss, except:

1. If the loss occurs on a weekday which is a holiday (except Mother's Day or Christmas), Company will use the daily average of revenues from the four Sundays of the most recent month for which actual usage data is available before the day of loss;
2. If the loss occurs on Mother's Day or Christmas, Company will use the daily average of revenue from that day in the preceding year (if available from actual usage data before the day of loss); and
3. If the loss occurs on a day not a holiday but one (or more) of the days lost is a holiday, Company will use additional corresponding days from the next most recent month for which actual usage data is available before the day of loss.

XI. Treatment of Proprietary and Confidential Information

A. Both parties agree that it may be necessary to provide each other during the term of this Agreement with certain confidential information, including trade secret information, including but not limited to, technical and business plans, technical information, proposals, specifications, drawings, procedures, customer account data and like information (hereinafter collectively referred to as "Information"). Both parties agree that all Information shall either be in writing or other tangible format and clearly marked with a confidential, private or proprietary legend, or, when the Information is communicated orally, it shall also be communicated that the Information is confidential, private or proprietary. All Information reviewed pursuant to an audit under Section IV.A.4 and information relating to Reseller's customers shall be treated as confidential whether or not so marked. The Information will be returned to the owner within a reasonable time. Both parties agree that the Information shall not be copied or reproduced in any form. Both parties agree to receive such Information and not disclose such Information. Both parties agree to protect the Information received from distribution, disclosure or dissemination to anyone except employees of the parties with a need to know such Information and which employees agree to be bound by the terms of this Section. Both parties will use the same standard of care to protect Information received as they would use to protect their own confidential and proprietary Information.

B. Notwithstanding the foregoing, both parties agree that there will be no obligation to protect any portion of the Information that is either: 1) made publicly available by the owner of the Information or lawfully disclosed by a nonparty to this Agreement; 2) lawfully obtained from any source other than the owner of the Information; or 3) previously known to the receiving party without an obligation to keep it confidential.

C. Each Party agrees not to reveal, divulge, make known, sell, exchange, lease or in any other way transfer any Confidential Information or to utilize such information in direct or indirect competition with the other Party.

XII. Resolution of Disputes

The parties agree that in the event of a default or violation hereunder, or for any dispute arising under this Agreement or related agreements the parties may have in connection with this Agreement, the parties shall first confer to discuss the dispute and seek resolution prior to taking any action before any court or regulator, or before authorizing any public statement about or authorizing disclosure of the nature of the dispute to any third party. Each party shall designate a representative with authority to settle the dispute to participate in the conference. Such representative shall be at least on a level higher than the person responsible for the day-to-day operations relating to the issues underlying the dispute. Thereafter, the parties shall submit any dispute that remains unresolved to arbitration conducted in the state where the default or violation allegedly occurred in accordance with the CPR Institute for Dispute Resolution Rules for Non-Administered Arbitration and business disputes in effect on the date that such notice is given. The decision of the arbitrators shall be final and binding upon the parties and judgment

may be obtained thereon by either party in a court of competent jurisdiction. Each party shall bear the cost of preparing and presenting its case. The costs of arbitration, including the fees and expenses of the arbitrators will be shared equally by the parties unless the award otherwise provides. The resolution of disputes under this Article shall be consistent with the Act. Nothing herein shall preclude either party from filing a complaint or pursuing any remedy it may have with a commission in the event of a default or violation hereunder.

XIII. Limitation of Use

The parties agree that this Agreement shall not be proffered by either party in another jurisdiction as evidence of any concession or as a waiver of any position taken by the other party in that jurisdiction or for any other purpose.

XIV. Waivers

Any failure by either party to insist upon the strict performance by the other party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement, and each party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

XV. Governing Law

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State in which the services in question are being provided, without regard to its conflict of laws principles.

XVI. Arm's Length Negotiations

This Agreement was executed after arm's length negotiations between the undersigned parties and reflects the conclusion of the undersigned that this Agreement is in the best interests of all parties.

XVII. More Favorable Provisions

A. The parties agree that if ---

1. the Federal Communications Commission ("FCC") or the Commission finds that the terms of this Agreement are inconsistent in one or more material respects with any of its or their respective decisions, rules or regulations, or
2. The parties agree, subject to dispute resolution, as set forth in Section XI, that any provision of this Agreement is inconsistent with a rule, order or decision of the FCC, the Commission or a court of competent jurisdiction, or

3. the FCC or the Commission preempts the effect of this Agreement, then, in either case, upon such occurrence becoming final and no longer subject to administrative or judicial review,

the parties shall immediately commence good faith negotiations to conform this Agreement to the requirements of any such decision, rule, regulation or preemption. The revised agreement shall have an effective date that coincides with the effective date of the original FCC or Commission action giving rise to such negotiations. The parties agree that the rates, terms and conditions of any new agreement shall not be applied retroactively to any period prior to such effective date except to the extent that such retroactive effect is expressly required by such FCC or Commission decision, rule, regulation or preemption.

B. If, as a result of an agreement or arbitration proceeding pursuant to the Act or pursuant to any applicable state law, BellSouth becomes obligated to provide services for resale to another telecommunications carrier operating within a State within the territory at rates or on terms and conditions more favorable to the carrier than the applicable provisions of this Agreement, BellSouth shall be deemed thereby to have offered the rates, terms and conditions contained in such Agreement, Resale Section or Resale Part of any Interconnection Agreement (collectively referred to as "Other Resale Agreement") to Reseller in its entirety. In the event that Reseller accepts such offer within sixty (60) days after the Commission approves such Other Resale Agreement pursuant to 47 U.S.C. § 252, or within thirty (30) days after Reseller acquires actual knowledge of an Other Resale Agreement not requiring the approval of the Commission pursuant to 47 U.S.C. § 252, as the case may be, such Other Terms shall be effective between BellSouth and Reseller as of the effective date of such Other Resale Agreement. In the event that Reseller accepts such offer more than sixty (60) days after the Commission approves such Other Resale Agreement pursuant to 47 U.S.C. § 252, or more than thirty (30) days after acquiring actual knowledge of an Other Resale Agreement not requiring the approval of the Commission pursuant to 47 U.S.C. § 252, as the case may be, such Other Resale Agreement shall be effective between BellSouth and Reseller as of the date on which Reseller accepts such offer.

C. If the more favorable provision is a result of the action of an appropriate regulatory agency or judicial body after the effective date of this Agreement (although the proceeding itself may have commenced prior to the effective date of this Agreement) ("Resale Order"), then upon such Resale Order becoming final and not subject to further administrative or judicial review, BellSouth shall be deemed to have offered such arrangements to Reseller upon such Other Terms in their entirety, which Reseller may only accept in their entirety by written notice to BellSouth. In the event that Reseller accepts such offer within sixty (60) days after the date on which such Resale Order becomes final and not subject to further administrative or judicial review, such Other Terms shall be effective between BellSouth and Reseller as of the effective date of such Resale Order. In the event that Reseller accepts such offer more than sixty (60) days after the date on which such Resale Order becomes final and not subject to further administrative or judicial review, such Other Terms shall be effective between BellSouth and Reseller as of the date on which Reseller accepts such offer.

D. In the event that after the effective date of this Agreement, BellSouth files and receives approval for a tariff offering to provide any substantive service of this Agreement in a way different than that provided for herein, or upon Other Terms, then upon such tariff becoming effective, BellSouth shall be deemed thereby to have offered such arrangements to Reseller upon such Other Terms, which Reseller may accept as provided in Section XVI.C. In the event that Reseller accepts such offer within sixty (60) days after the date on which such tariff becomes effective, such Other Terms shall be effective between BellSouth and Reseller as of the effective date of such tariff. In the event that Reseller accepts such offer more than sixty (60) days after the date on which such tariff becomes effective, such Other Terms shall be effective between BellSouth and Reseller as of the date on which Reseller accepts such offer.

E. In the event this Agreement does not cover an aspect of the resale arrangement between the parties, either party may, by written notice, commence negotiation with respect to any matter not already covered by this Agreement. If no agreement is reached within 60 days either party may invoke the dispute resolution procedures set forth in Article XII.

F. Notwithstanding the foregoing, in the event Company permits a reseller who has an existing unexpired interconnection and/or resale agreement with Company to take Other Terms which are less than the entirety of any Other Agreement or the Resale Order, Company shall be deemed to have offered such arrangements to Reseller which Reseller may accept as provided in Section XX.B. In the event that Reseller accepts such offer within sixty (60) days after the date on which Reseller has actual knowledge that such terms are available, such Other Terms shall be effective between BellSouth and Reseller for the applicable state(s) as of the date such terms were first made available to any other reseller.

G. The terms of this Agreement, other than those affected by the Other Terms accepted by Reseller, shall remain in full force and effect.

H. Corrective Payment. In the event that --

1. BellSouth and Reseller revise this Agreement pursuant to Section XVI.A, or
2. Reseller accepts a deemed offer of an Other Resale Agreement or Other Terms, then BellSouth or Reseller, as applicable, shall make a corrective payment to the other party to correct for the difference between the rates set forth herein and the rates in such revised agreement or Other Terms for substantially similar services for the period from the effective date of such revised agreement or Other Terms until the date that the parties execute such revised agreement or Reseller accepts such Other Terms, plus simple interest at a rate equal to the thirty (30) day commercial paper rate for high-grade, unsecured notes sold through dealers by major corporations in multiples of \$1,000.00 as regularly published in The Wall Street Journal.

XVIII. Notices

A. Every notice, consent, approval, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered in person or given by postage prepaid mail, address to:

BellSouth Telecommunications, Inc.
O&E Account Team
3535 Colonnade Parkway-E4E1
Birmingham, Alabama 35243

Reseller Time Warner Connect
160 Inverness Dr W.
Englewood, Co 80111
ATTN: Gary Lane - President

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or at such other address as the intended recipient previously shall have designated by written notice to the other party.

B. Where specifically required, notices shall be by certified or registered mail. Unless otherwise provided in this Agreement, notice by mail shall be effective on the date it is officially recorded as delivered by return receipt or equivalent, and in the absence of such record of delivery, it shall be presumed to have been delivered the fifth day, or next business day after the fifth day, after it was deposited in the mails.

XIX. Amendments

This Agreement may be amended at any time upon written agreement of both parties.

XX. Severability

If any part of this Agreement is held to be invalid for any reason, such invalidity will affect only the portion of this Agreement which is invalid. In all other respects this Agreement will stand as if such invalid provision had not been a part thereof, and the remainder of the Agreement shall remain in full force and effect.

XXI. Assignment

Any assignment by either party to any non-affiliated entity of any right, obligation or duty, or of any other interest hereunder, in whole or in part, without the prior written consent of the other party shall be void. Upon written notice to the other party, a party may assign this Agreement or any right, obligation, duty or other interest hereunder to an Affiliate company of the party, as defined in the Telecommunications Act of 1996, without the consent of the other party. All obligations and duties of any party under this Agreement shall be binding on all successors in interest and assigns of such party. No assignment or delegation hereof shall relieve the assignor of its obligations under this Agreement in the event that the assignee fails to perform such obligations.

XXII. Entire Agreement

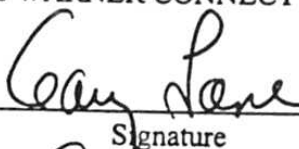
This Agreement sets forth the entire understanding and supersedes prior agreements between the parties relating to the subject matter contained herein and merges all prior discussions between them, and neither party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the party to be bound thereby.

BELLSOUTH TELECOMMUNICATIONS, INC. TIME WARNER CONNECT

By: 
Signature

Name: Jerry Hendrix
Printed Name

Title: Director

By: 
Signature

Name: Gary Lane
Printed Name

Title: President

EXHIBIT "A"

APPLICABLE DISCOUNTS

The telecommunications services available for purchase by Reseller for the purposes of resale to Reseller end users shall be available at the following discount off of the retail rate.

STATE	RESIDENCE	DISCOUNT	
			BUSINESS
FLORIDA	18%		12%
NORTH CAROLINA	12%		9%
TENNESSEE*	16%		16%

* The Wholesale Discount is set as a percentage off the tariffed rates. If OLEC provides its own operator services and directory services, the discount shall be 21.56%. These rates are effective as ordered by the Tennessee Regulatory Authority.