

MEMORANDUM

December 2, 1998

100-0-1111-03

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (WATTS) *can/mc3*

RE: DOCKET NO. 981114-TP - Request by BellSouth Telecommunications, Inc. for approval of resale agreement with Efficacy Group, Inc. pursuant to Sections 251 and 252 of the Telecommunications Act of 1996.

98-1601-FDF

Attached is an **Order Approving Resale Agreement and Amendment to Existing Resale Agreement, with attachment**, to be issued in the above-referenced docket. (Number of pages in order - 18)

CBW/slh
Attachment
cc: Division of Communications
I:981114.cbw

see 3

ATTACHMENT(S) NOT ON-LINE

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 981114-TP
ORDER NO. PSC-98-1601-FOF-TP
ISSUED: December 2, 1998

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER APPROVING RESALE AGREEMENT AND AMENDMENT
TO EXISTING RESALE AGREEMENT

BY THE COMMISSION:

On September 9, 1998, BellSouth Telecommunications, Inc. (BellSouth) and Efficacy Group, Inc. (Efficacy Group) filed a request for approval of a resale agreement under 47 U.S.C. §252(e) of the Telecommunications Act of 1996 (the Act). The agreement is attached to this Order as Attachment A and incorporated by reference herein.

On November 4, 1998, BellSouth Telecommunications, Inc. (BellSouth) and Efficacy Group, Inc. (Efficacy Group) filed a request for approval of an amendment to the existing resale agreement under 47 U.S.C. §252(e) of the Telecommunications Act of 1996 (the Act). The amendment to the existing agreement is attached to this Order as Attachment B 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)

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requires the state to reject or approve the agreement within 90 days after submission or it shall be deemed approved.

This agreement covers a two-year period and governs the relationship between the companies regarding the resale of tariffed telecommunication 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 Efficacy Group at a discount rate of 21.83% for residential services and 16.81% for business services.

Upon review of the proposed agreement, we find that it complies with the Telecommunications Act of 1996; thus, we hereby approve it. BellSouth and Efficacy Group must file any supplements or modifications to their agreement with the Commission for review under the provisions of 47 U.S.C. § 252(e). We note that Efficacy Group does not currently hold a Florida certificate to provide alternative local exchange telecommunications service, and therefore, it cannot provide alternative local exchange telecommunications services under this agreement until it obtains a certificate from this Commission.

This amendment to the existing agreement governs the relationship between the companies regarding local resale and the exchange of traffic pursuant to 47 U.S.C. § 251. Upon review of the proposed amendment to the existing agreement, we believe that it complies with the Telecommunications Act of 1996; thus, we hereby approve it. BellSouth and Efficacy Group are also required to file any subsequent 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 Efficacy Group, Inc., as set forth in Attachment A and incorporated by reference in this Order, is hereby approved. It is further

ORDERED by that the amendment to the existing resale agreement between BellSouth Telecommunications, Inc. and Efficacy Group, Inc., as set forth in Attachment B and incorporated by reference in this Order is hereby approved. It is further


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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 Efficacy Group, Inc. shall not provide alternative local exchange telecommunications services under this agreement until it obtains a certificate to provide alternative local exchange telecommunications service from this Commission. It is further

ORDERED that this docket shall be closed.

BY ORDER of the Florida Public Service Commission this 2nd day of December, 1998.



BLANCA S. BAYO, Director
Division of Records and Reporting

(S E A L)

CBW

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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 in Federal district court pursuant to the Federal Telecommunications Act of 1996, 47 U.S.C. § 252(e)(6).

ATTACHMENT A

Agreement Between BellSouth Telecommunications, Inc. and Efficy Group, Inc. Regarding The Sale of BellSouth Telecommunications Services to Efficy Group, Inc. For The Purposes of Resale

THIS AGREEMENT is by and between BellSouth Telecommunications, Inc., ("BellSouth" or "Company"), a Georgia Corporation, and Efficy Group, Inc. ("Efficy"), a South Carolina corporation, and shall be deemed effective as of August 31, 1998.

WITNESSETH

WHEREAS, BellSouth is a local exchange telecommunications company authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

WHEREAS, Efficy is or seeks to become an alternative local exchange telecommunications company authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and;

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

WHEREAS, BellSouth has agreed to provide such services to Efficy 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 Efficy do hereby agree as follows:

I. Term of the Agreement

The term of this Agreement shall be two years beginning August 31, 1998 and shall apply to all of BellSouth's serving territory as of January 1, 1998 in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

- A. 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.

The rates pursuant by which Efficy 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 shall be as set forth in Exhibit A, attached hereto and incorporated herein by this reference. Such discount shall reflect the costs avoided by BellSouth when selling a service for wholesale purposes.

II. Definition of Terms

- A. **ALTERNATIVE/COMPETITIVE/OTHER LOCAL EXCHANGE COMPANY (ALEC/CLEC/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.
- 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 non-recurring, monthly recurring, 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.

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- 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. **RESALE** means an activity wherein a certificated CLEC, such as Efficacy subscribes to the telecommunications services of the Company and then reoffers those telecommunications services to the public (with or without "adding value").
- H. **RESALE SERVICE AREA** means the area, as defined in a public service commission approved certificate of operation, within which a CLEC, such as Efficacy, may offer resold local exchange telecommunications service.

III. General Provisions

- A. Efficacy may resell the tariffed local exchange and toll telecommunications services of BellSouth contained in the General Subscriber Service Tariff and Private Line Service Tariff subject to the terms, and conditions specifically set forth herein. Notwithstanding the foregoing, the exclusions and limitations on services available for resale will be as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

BellSouth shall make available telecommunications services for resale at the rates set forth in Exhibit A to this agreement and subject to the exclusions and limitations set forth in Exhibit B to this agreement. It does not however waive its rights to appeal or otherwise challenge any decision regarding resale that resulted in the discount rates contained in Exhibit A or the exclusions and limitations contained in Exhibit B. BellSouth reserves the right to pursue any and all legal and/or equitable remedies, including appeals of any decisions. If such appeals or challenges result in changes in the discount rates or exclusions and limitations, the parties agree that appropriate modifications to this Agreement will be made promptly to make its terms consistent with the outcome of the appeal.

- B. Efficacy may purchase resale services from BellSouth for their own use in operating their business. The resale discount will apply to those services under the following conditions.
 - 1. Efficacy must resell services to other end users.
 - 2. Efficacy must order services through resale interfaces, i. e., the LCSC and/or appropriate Resale Account Teams.
 - 3. Efficacy cannot be an alternative local exchange telecommunications company for the single purpose of selling to themselves.
- C. The provision of services by the Company to Efficacy does not constitute a joint undertaking for the furnishing of any service.
- D. Efficacy 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 Efficacy for all services.
- E. Efficacy 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.
- F. 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.

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- G. The Company maintains the right to serve directly any end user within the service area of Efficy. 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 Efficy.
- H. Neither Party shall interfere with the right of any person or entity to obtain service directly from the other Party.
- I. Current telephone numbers may normally be retained by the end user. However, telephone numbers are the property of the Company and are assigned to the service furnished. Efficy 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.
- J. The Company may provide any service or facility for which a charge is not established herein, as long as it is offered on the same terms to Efficy.
- K. Service is furnished subject to the condition that it will not be used for any unlawful purpose.
- L. Service will be discontinued if any law enforcement agency advises that the service being used is in violation of the law.
- M. The Company can refuse service when it has grounds to believe that service will be used in violation of the law.
- N. The Company accepts no responsibility to any person for any unlawful act committed by Efficy or its end users as part of providing service to Efficy 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 Efficy will be directed to Efficy. The Company will bill Efficy for implementing any requests by law enforcement agencies regarding Efficy end users.
- P. The characteristics and methods of operation of any circuits, facilities or equipment provided by any person or entity 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. Efficy assumes the responsibility of notifying the Company regarding less than standard operations with respect to services provided by Efficy.
- R. Facilities and/or equipment utilized by BellSouth to provide service to Efficy remain the property of BellSouth.
- S. White page directory listings will be provided in accordance with regulations set forth in Section A6 of the General Subscriber Service Tariff and will be available for resale.

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T. BellSouth will provide customer record information to Efficy provided Efficy has the appropriate Letter(s) of Authorization. BellSouth may provide customer record information via one of the following methods: US mail, fax, or by electronic interface. BellSouth will provide customer record information via US mail or fax on an interim basis only.

1. Efficy agrees to compensate BellSouth for all BellSouth incurred expenditures associated with providing such information to Efficy. Efficy will adopt and adhere to the BellSouth guidelines associated with each method of providing customer record information.
2. All costs incurred by BellSouth to develop and implement operational interfaces shall be recovered from CLECs who utilize the services. Charges for use of Operational Support Systems (OSS) shall be as set forth in Exhibit A of this agreement.

U. Where available to BellSouth's end users, BellSouth shall provide the following telecommunication services at a discount to allow for voice mail services:

- Station Message Desk Interface - Enhanced ("SMDI-E")
- Station Message Desk Interface ("SMDI") Message Waiting Indicator ("MWI") start or dialtone and message waiting light feature capabilities
- Call Forward on Busy/Don't Answer ("CF-B/DA")
- Call Forward on Busy ("CF/B")
- Call Forward Don't Answer ("CF/DA")

Further, BellSouth messaging services set forth in BellSouth's Message Service Information Package shall be made available for resale without the wholesale discount.

V. BellSouth's Inside Wire Maintenance Plans may be made available for resale at rates, terms and conditions as set forth by BellSouth and without the wholesale discount.

W. All costs incurred by BellSouth for providing services requested by Efficy that are not covered in the BellSouth tariffs shall be recovered from the reseller who utilizes those services.

IV. BellSouth's Provision of Services to Efficy

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

1. The resale of telecommunication services shall be limited to users and uses conforming to the class of service restrictions.
2. To the extent Efficy is a telecommunications carrier that serves greater than 5 percent of the Nation's presubscribed access lines, Efficy 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 Efficy 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. Hotel and Hospital PBX services 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 Independent Payphone Provider (IPP) customers. Shared Tenant Service customers can only be sold those

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- E. Efficacy will be the Company's single point of contact for all repair calls on behalf of Efficacy's end users. The parties agree to provide one another with toll-free contact numbers for such purposes.
- F. Efficacy will contact the appropriate repair centers in accordance with procedures established by the Company.
- G. For all repair requests, Efficacy accepts responsibility for adhering to the Company's prescreening guidelines prior to referring the trouble to the Company.
- H. The Company will bill Efficacy 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.
- I. The Company reserves the right to contact Efficacy's customers, if deemed necessary, for maintenance purposes.

VI. Establishment of Service

- A. After receiving certification as a local exchange company from the appropriate regulatory agency, Efficacy will provide the appropriate Company service center the necessary documentation to enable the Company to establish a master account for Efficacy. 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.
- B. Service orders will be in a standard format designated by the Company.
- C. When notification is received from Efficacy that a current customer of the Company will subscribe to Efficacy's service, standard service order intervals for the appropriate class of service will apply.
- D. The Company will not require end user confirmation prior to establishing service for Efficacy's end user customer. Efficacy must, however, be able to demonstrate end user authorization upon request.
- E. Efficacy 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 Efficacy to the Company or will accept a request from another CLEC for conversion of the end user's service from Efficacy to the other LEC. The Company will notify Efficacy that such a request has been processed.
- F. If the Company determines that an unauthorized change in local service to Efficacy has occurred, the Company will reestablish service with the appropriate local service provider and will assess Efficacy as the CLEC initiating the unauthorized change, the unauthorized change charge described in F.C.C. Tariff No. 1, Section 13 or applicable state tariff. Appropriate nonrecurring charges, as set forth in Section A4 of the General Subscriber Service Tariff, will also be assessed to Efficacy. These charges can be adjusted if Efficacy provides satisfactory proof of authorization.
- G. In order to safeguard its interest, the Company reserves the right to secure the account with a suitable form of security deposit, unless satisfactory credit has already been established.
 - 1. Such security deposit shall take the form of an irrevocable Letter of Credit or other forms of security acceptable to the Company. Any such security deposit may be held during the continuance of the service as security for the payment of any and all amounts accruing for the service.

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2. If a security deposit is required, such security deposit shall be made prior to the inauguration of service.
3. Such security deposit may not exceed two months' estimated billing.
4. The fact that a security deposit has been made in no way relieves Efficacy 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.
5. The Company reserves the right to increase the security deposit requirements when, in its sole judgment, circumstances so warrant and/or gross monthly billing has increased beyond the level initially used to determine the security deposit.
6. In the event that Efficacy defaults on its account, service to Efficacy will be terminated and any security deposits held will be applied to its account.
7. Interest on a security deposit shall accrue and be refunded in accordance with the terms in the appropriate BellSouth tariff.

VII. Payment and Billing Arrangements

- A. Prior to submitting orders to the Company for local service, a master account must be established for Efficacy. Efficacy is required to provide the following before a master account is established: proof of PSC/PUC certification, the Application for Master Account, an Operating Company Number ("OCN") assigned by the National Exchange Carriers Association ("NECA") and a tax exemption certificate, if applicable.
- B. The Company shall bill Efficacy on a current basis all applicable charges and credits
- C. Payment of all charges will be the responsibility of Efficacy. Efficacy shall make payment to the Company for all services billed. The Company is not responsible for payments not received by Efficacy from Efficacy's customer. The Company will not become involved in billing disputes that may arise between Efficacy and 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.
- D. The Company will render bills each month on established bill days for each of Efficacy's accounts
- E. The Company will bill Efficacy, 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 charges, including but not limited to 911 and E911 charges, telecommunications relay charges, and franchise fees, to Efficacy
- 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.
 1. 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 I. following, shall apply.

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2. If Efficy requests multiple billing media or additional copies of bills, the Company will provide these at an appropriate charge to Efficy.

G. Billing Disputes

1. Each Party agrees to notify the other Party upon the discovery of a billing dispute. In the event of a billing dispute, the Parties will endeavor to resolve the dispute within sixty (60) calendar days of the Bill Date on which such disputed charges appear. Resolution of the dispute is expected to occur at the first level of management resulting in a recommendation for settlement of the dispute and closure of a specific billing period. If the issues are not resolved within the allotted time frame, the following resolution procedure will begin:
 - 1.1 If the dispute is not resolved within sixty (60) days of the Bill Date, the dispute will be escalated to the second level of management for each of the respective Parties for resolution. If the dispute is not resolved within ninety (90) days of the Bill Date, the dispute will be escalated to the third level of management for each of the respective Parties for resolution.
 - 1.2 If the dispute is not resolved within one hundred and twenty (120) days of the Bill Date, the dispute will be escalated to the fourth level of management for each of the respective Parties for resolution.
 2. If a Party disputes a charge and does not pay such charge by the payment due date, such charges shall be subject to late payment charges as set forth in the Late Payment Charges provision of this Attachment. If a Party disputes charges and the dispute is resolved in favor of such Party, the other Party shall credit the bill of the disputing Party for the amount of the disputed charges along with any late payment charges assessed no later than the second Bill Date after the resolution of the dispute. Accordingly, if a Party disputes charges and the dispute is resolved in favor of the other Party, the disputing Party shall pay the other Party the amount of the disputed charges and any associated late payment charges assessed no later than the second bill payment due date after the resolution of the dispute. In no event, however, shall any late payment charges be assessed on any previously assessed late payment charges.
- H. Upon proof of tax exempt certification from Efficy, the total amount billed to Efficy will not include any taxes due from the end user. Efficy 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.
- I. As the customer of record, Efficy will be responsible for, and remit to the Company, all charges applicable to its resold services for emergency services (E911 and 911) and Telecommunications Relay Service (TRS) as well as any other charges of a similar nature.
- J. 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 Section A2 of the General Subscriber Service Tariff and Section B2 of the Private Line Service Tariff.
- K. 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 Efficy.
- L. The Company will not perform billing and collection services for Efficy as a result of the execution of this Agreement. Requests by Efficy for assistance with billing services should be referred to the appropriate entity or operational group within the Company.

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- M. Pursuant to 47 CFR Section 51.617, the Company will bill Efficacy end user common line charges identical to the end user common line charges the Company bills its end users
- N. In general, the Company will not become involved in disputes between Efficacy and Efficacy's end user customers over resold services. If a dispute does arise that cannot be settled without the involvement of the Company, Efficacy 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 Efficacy to resolve the matter in as timely a manner as possible. Efficacy may be required to submit documentation to substantiate the claim.

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 Efficacy's end user on behalf of, and at the request of, Efficacy. Upon restoration of the end user's service, restoral charges will apply and will be the responsibility of Efficacy.
- 2. At the request of Efficacy, the Company will disconnect an Efficacy end user customer.
- 3. All requests by Efficacy for denial or disconnection of an end user for nonpayment must be in writing.
- 4. Efficacy 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 Efficacy when it is determined that annoyance calls are originated from one of their end user's locations. The Company shall be indemnified, defended and held harmless by Efficacy and/or the end user against any claim, loss or damage arising from providing this information to Efficacy. It is the responsibility of Efficacy 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.
- 6. BellSouth may disconnect and reuse facilities when the facility is in a denied state and BellSouth has received an order to establish new service or transfer of service from a customer or customer's CLEC at the same address serviced by the denied facility.

B. The procedures for discontinuing service to Efficacy are as follows:

- 1. The Company reserves the right to suspend or terminate service for nonpayment or in the event of prohibited, unlawful or improper use of the facilities or service, abuse of the facilities, or any other violation or noncompliance by Efficacy of the rules and regulations of the Company's Tariffs.
- 2. If payment of account is not received by the bill day in the month after the original bill day, BellSouth may provide written notice to Efficacy that additional applications for service will be refused and that any pending orders for service will not be completed if payment is not received by the fifteenth day following the date of the notice. In addition BellSouth may, at the same time, give thirty days notice to the person designated by Efficacy to receive notices of noncompliance, discontinue the provision of existing services to Efficacy at any time thereafter.
- 3. In the case of such discontinuance, all billed charges, as well as applicable termination charges shall become due.
- 4. If BellSouth does not discontinue the provision of the services involved on the date specified in the thirty days notice and Efficacy's noncompliance continues, nothing contained herein shall preclude BellSouth's right to discontinue the provision of the services to Efficacy without further notice.

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5. If payment is not received or arrangements made for payment by the date given in the written notification, Efficcy's services will be discontinued. Upon discontinuance of service on an Efficcy account, service to Efficcy's end users will be denied. The Company will also reestablish service at the request of the end user or Efficcy upon payment of the appropriate connection fee and subject to the Company's normal application procedures. Efficcy is solely responsible for notifying the end user of the proposed disconnection of the service.
6. 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.

IX. Liability

- A. 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 Efficcy, 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 Efficcy 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. The Company shall not be liable for damage arising out of mistakes, omission, interruptions, preemptions, delays, errors or defects in transmission or other injury, including but not limited to injuries to persons or property from voltages or currents transmitted over the service of the Company, (1) caused by customer-provided equipment (except where a contributing cause is the malfunctioning of a Company-provided connecting arrangement, in which event the liability of the Company shall not exceed an amount equal to a proportional amount of the Company billing for the period of service during which such mistake, omission, interruption, preemption, delay, error, defect in transmission or injury occurs), or (2) not prevented by customer-provided equipment but which would have been prevented had Company-provided equipment been used.
- B. The Company shall be indemnified and saved harmless by Efficcy 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 the Company's furnishing of service to Efficcy.
- C. The Company shall be indemnified, defended and held harmless by Efficcy 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 Efficcy'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 Efficcy.
 3. All other claims arising out of an act or omission of Efficcy or its end user in the course of using services.
- D. Efficcy accepts responsibility for providing access for maintenance purposes of any service resold under the provisions of this Tariff. The Company shall not be responsible for any failure on the part of Efficcy with respect to any end user of Efficcy.

X. 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

XVI. 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.

Efficy Group, Inc.

CLEC Account Team
9th Floor
600 North 19th Street
Birmingham, AL 35203

Kaye Davis
16 Hyland Road, Suite D
Greenville, SC 29615
(864) 675-1125 Fax (864) 675-5817

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.

XVII. Amendments

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

XVIII. 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.

Efficy Group, Inc.

BY: 

BY: 

Signature

Signature

NAME: Jerry Hendrix
Printed Name

NAME: Kaye Davis
Printed Name

TITLE: Director

TITLE: Secretary

DATE: 8/3/98

DATE: 8-27-98

ATTACHMENT A
EXHIBIT A
APPLICABLE DISCOUNTS

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

STATE	DISCOUNT*	
	RESIDENCE	BUSINESS
ALABAMA	16.3%	16.3%
FLORIDA	21.83%	16.81%
GEORGIA	20.3%	17.3%
KENTUCKY	16.79%	15.54%
LOUISIANA	20.72%	20.72%
MISSISSIPPI	15.75%	15.75%
NORTH CAROLINA	21.5%	17.6%
SOUTH CAROLINA	14.8%	14.8%
TENNESSEE**	16%	16%

- * When a CLEC provides Resale service in a cross boundary area (areas that are part of the local service area of another state's exchange) the rates, regulations and discounts for the tariffing state will apply. Billing will be from the serving state.
- ** In Tennessee, if CLEC provides its own operator services and directory services, the discount shall be 21.56%. CLEC must provide written notification to BellSouth within 30 days prior to providing its own operator services and directory services, to qualify for the higher discount rate of 21.56%.

	OPERATIONAL SUPPORT SYSTEMS (OSS) RATES			
	Interactive Ordering and Trouble Maintenance System		OSS Order Charge	
	Non-Recurring Establishment Charge	Monthly Recurring Charge	Electronic Per LSR received from the CLEC by one of the OSS interactive interfaces	Manual Per LSR received from the CLEC by means other than one of the OSS interactive interfaces
ALABAMA	\$100.00	\$50.00	\$10.80	\$22.00
FLORIDA	\$100.00	\$50.00	\$10.80	\$22.00
GEORGIA	\$200.00	Per 1,000 electronic LSRs received from the CLEC ¹ First 1,000 - \$550.00 Add'l 1,000 - \$110.00	Note ²	\$22.00
KENTUCKY	\$100.00	\$50.00	\$10.89	\$22.00
LOUISIANA	\$100.00	\$50.00	\$9.16	\$22.00
MISSISSIPPI	\$100.00	\$50.00	\$10.80	\$22.00
NORTH CAROLINA	\$100.00	\$50.00	\$10.80	\$22.00
SOUTH CAROLINA	\$100.00	\$50.00	\$10.80	\$22.00
TENNESSEE	\$100.00	\$50.00	\$10.80	\$22.00

Rates for Operational Support Systems stated above are interim and are subject to modification based upon receipt of a final, non-appealable order by each state's Public Service Commission.

In addition to OSS charges, applicable service order and related charges apply per the tariff

¹ The Charge per 1,000 LSRs applies on a per CLEC basis.

² The Georgia Public Service Commission ("PSC") ordered in Docket 7061 that there would be no OSS charge within the Charge for Electronic Order column. Instead the Georgia PSC ordered monthly recurring charges based on the number of LSRs received from the CLEC.

ATTACHMENT A

EXHIBIT B

	Type of Service	AL		FL		GA		KY		LA	
		Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?
1	Grandfathered Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2	Contract Service Arrangements	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
3	Promotions - > 90 Days (Note 2)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
4	Promotions - < 90 Days (Note 2)	Yes	No	Yes	No	Yes	No	No	No	Yes	No
5	Lifeline/Link Up Services	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes
6	911/E911 Services (See Note 8)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
7	N11 Services (See Note 8)	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No
8	AdWatch SM Svc (See Note 7)	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
9	MemoryCall [®] Service	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
10	Mobile Services	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
11	Federal Subscriber Line Charges	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
12	Non-Recurring Charges	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

	Type of Service	MS		NC		SC		TN	
		Resale?	Discount?	Resale?	Discount?	Resale?	Discount?	Resale?	Discount?
1	Grandfathered Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2	Contract Service Arrangements	Note 5	Note 5	Yes	Yes	Yes	No	Yes	Yes
3	Promotions - > 90 Days (Note 2)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Note 3
4	Promotions - < 90 Days (Note 2)	Yes	No	Yes	Yes	Yes	No	No	No
5	Lifeline/Link Up Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Note 4
6	911/E911 Services (See Note 8)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
7	N11 Services (See Note 8)	No	No	No	No	Yes	Yes	Yes	Yes
8	AdWatch SM Svc (See Note 7)	Yes	No	Yes	No	Yes	No	Yes	No
9	MemoryCall [®] Service	Yes	No	Yes	No	Yes	No	Yes	No
10	Mobile Services	Yes	No	Yes	No	Yes	No	Yes	No
11	Federal Subscriber Line Charges	Yes	No	Yes	No	Yes	No	Yes	No
12	Non-Recurring Charges	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No

Applicable Notes:

- Grandfathered services can be resold only to existing subscribers of the grandfathered service.
- Where available for resale, promotions will be made available only to end users who would have qualified for the promotion had it been provided by BellSouth directly.
- In Tennessee, long-term promotions (offered for more than ninety (90) days) may be obtained at one of the following rates:
 - the stated tariff rate, less the wholesale discount;
 - the promotional rate (the promotional-rate offered by BellSouth will not be discounted further by the wholesale discount rate)
- Lifeline/Link Up services may be offered only to those subscribers who meet the criteria that BellSouth currently applies to subscribers National Exchange Carriers Association interstate toll settlement pool just as BellSouth does today. The maximum rate that Efficy may charge for LifeLine Service shall be capped at the flat retail rate offered by BellSouth.
- In Mississippi, all Contract Service Arrangements entered into by BellSouth or terminating after the effective date of the Commission Order (3/10/97) will be subject to resale without the wholesale discount. All CSAs which are in place as of the effective date of the Commission order (3/10/97) will not be eligible for resale.
- Some of BellSouth's local exchange and toll telecommunications services are not available in certain central offices and areas.
- AdWatchSM Service is tariffed as BellSouth[®] AIN Virtual Number Call Detail Service
- Exclusions for N11/E911/E911 are also applicable to equipment associated with the service

ATTACHMENT B

AMENDMENT TO
RESALE AGREEMENT BETWEEN
BELLSOUTH TELECOMMUNICATIONS, INC
AND EFFICY GROUP, INC
DATED AUGUST 31, 1998

Pursuant to this Agreement (the "Amendment"), BellSouth Telecommunications, Inc ("BellSouth") and Efficy Group, Inc ("Efficy") hereinafter referred to collectively as the "Parties" hereby agree to amend that certain Resale Agreement between the Parties dated August 31, 1998 ("Resale Agreement")

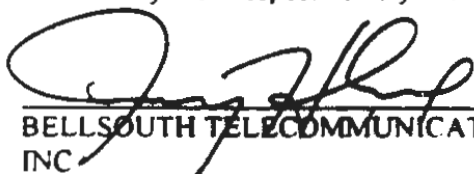
NOW THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows

1 Exhibit B of the Resale Agreement is hereby deleted in its entirety and replaced with a new Exhibit B, with a September 16, 1998 Version dated, attached hereto as Attachment 1

2 The Parties agree that all of the other provisions of the Resale Agreement, dated August 31, 1998 shall remain in full force and effect


4 The Parties further agree that either or both of the Parties is authorized to submit this Amendment to the appropriate regulatory agency having jurisdiction over the subject matter of this Amendment, for approval subject to Section 252(e) of the federal Telecommunications Act of 1996

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below


BELLSOUTH TELECOMMUNICATIONS,
INC

By Jerry D. Hendrix

DATE: 9/21/98


EFFICY GROUP, INC

By Kaye Davis, Secretary

DATE 9.24.98

ATTACHMENT B EXHIBIT B

Type of Service	AL		FL		GA		KY		LA	
	Resale ¹	Discount ²	Resale ¹	Discount ²	Resale ²	Discount ²	Resale	Discount ¹	Resale	Discount ¹
1 Grandfathered Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2 Contract Service Arrangements	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
3 Promotions - > 90 Days (Note 2)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
4 Promotions - < 90 Days (Note 2)	Yes	No	Yes	No	Yes	No	No	No	Yes	No
5 Lifeline/Link Up Services	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes
6 911/E911 Services (See Note 8)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
7 N11 Services (See Note 8)	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No
8 AdWatch SM Svc (See Note 7)	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
9 MemoryCall ^B Service	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
10 Mobile Services	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
11 Federal Subscriber Line Charges	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
12 Non-Recurring Charges	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Type of Service	MS		NC		SC		TN	
	Resale ²	Discount ²	Resale ²	Discount ²	Resale ²	Discount ²	Resale ²	Discount ¹
1 Grandfathered Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2 Contract Service Arrangements	Note 3	Note 3	Yes	Yes	Yes	No	Yes	Yes
3 Promotions - > 90 Days (Note 2)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Note 3
4 Promotions - < 90 Days (Note 2)	Yes	No	Yes	No	Yes	No	No	No
5 Lifeline/Link Up Services	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Note 4
6 911/E911 Services (See Note 8)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
7 N11 Services (See Note 8)	No	No	No	No	Yes	Yes	Yes	Yes
8 AdWatch SM Svc (See Note 7)	Yes	No	Yes	No	Yes	No	Yes	No
9 MemoryCall ^B Service	Yes	No	Yes	No	Yes	No	Yes	No
10 Mobile Services	Yes	No	Yes	No	Yes	No	Yes	No
11 Federal Subscriber Line Charges	Yes	No	Yes	No	Yes	No	Yes	No
12 Non-Recurring Charges	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No

Applicable Notes:

- Grandfathered services can be resold only to existing subscribers of the grandfathered service
- Where available for resale, promotions will be made available only to end users who would have qualified for the promotion had it been provided by BellSouth directly.
- In Tennessee, long-term promotions (offered for more than ninety (90) days) may be obtained at one of the following rates:
 - the stated tariff rate, less the wholesale discount;
 - the promotional rate (the promotional rate offered by BellSouth will not be discounted further by the wholesale discount rate)
- Lifeline/Link Up services may be offered only to those subscribers who meet the criteria that BellSouth currently applies to subscribers National Exchange Carriers Association interstate toll settlement pool just as BellSouth does today. The maximum rate that Reseller may charge for LifeLine Service shall be capped at the flat retail rate offered by BellSouth.
- In Mississippi, all Contract Service Arrangements entered into by BellSouth or terminating after the effective date of the Commission Order (3/10/97) will be subject to resale without the wholesale discount. All CSAs which are in place as of the effective date of the Commission order (3/10/97) will not be eligible for resale.
- Some of BellSouth's local exchange and toll telecommunications services are not available in certain central offices and areas
- AdWatchSM Service is tariffed as BellSouth[®] AIN Virtual Number Call Detail Service
- Exclusions for N11/E911 are also applicable to equipment associated with the service