

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint petition by TDS Telecom d/b/a TDS Telecom/Quincy Telephone; ALLTEL Florida, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; GTC, Inc. d/b/a GT Com; Smart City Telecommunications, LLC d/b/a Smart City Telecom; ITS Telecommunications Systems, Inc.; and Frontier Communications of the South, LLC ["Joint Petitioners"] objecting to and requesting suspension and cancellation of proposed transit traffic service tariff filed by BellSouth Telecommunications, Inc.

DOCKET NO. 050119-TP

In re: Petition and complaint for suspension and cancellation of Transit Traffic Service Tariff No. FL2004-284 filed by BellSouth Telecommunications, Inc., by AT&T Communications of the Southern States, LLC.

DOCKET NO. 050125-TP

ORDER NO. PSC-06-0244-PHO-TP

ISSUED: March 22, 2006

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on March 15, 2005, in Tallahassee, Florida, before Commissioner Katrina J. Tew, as Prehearing Officer.

APPEARANCES:

VICKI GORDON KAUFMAN, ESQUIRE, Moyle Flanigan Katz Raymond White & Krasker, PA, 118 North Gadsden Street, Tallahassee, Florida 32301; SUSAN J. BERLIN, Two North Main Street, Greenville, South Carolina 29601  
On behalf of The Competitive Carriers of the South, Inc. and NuVox Communications, Inc.

SUSAN J. BERLIN, ESQUIRE, Two North Main Street, Greenville, South Carolina 29601  
On behalf of NuVox Communications, Inc.

FLOYD R. SELF, ESQUIRE, Messer, Caparello & Self, P.A., 215 South Monroe Street, Suite 701, Tallahassee, Florida 32302; MICHELE K. THOMAS, Sr. Corporate Counsel, 60 Wells Avenue, Newton, MA 02459  
On behalf of T-Mobile USA, Inc.

LEIGH HYER, ESQUIRE, P.O. Box 110, FLTCO717, Tampa, Florida 33601-0110  
On behalf of Verizon Access Transmission Services.

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WILLIAM R. ATKINSON, ESQUIRE, Mail Stop GAATLD0602, 3065 Cumberland Circle, SE, Atlanta, GA 30339; VICKI GORDON KAUFMAN, ESQUIRE, Moyle Flanigan Katz Raymond White & Krasker, PA, 118 North Gadsden Street, Tallahassee, Florida 32301

On behalf of Sprint Spectrum Limited Partnership, Nextel South Corporation, Sprint Communications Company Limited Partnership (Sprint Nextel).

KENNETH A. HOFFMAN, ESQUIRE, AND MARTIN P. MCDONNELL, ESQUIRE, Rutledge, Ecenia, Purnell & Hoffman, P.A., Post Office Box 551, Tallahassee, Florida 32302.

On behalf of TDS Telecom, d/b/a TDS Telecom/Quincy Telephone, Northeast Florida Telephone Company, d/b/a Nefcom, GTC, Inc. d/b/a GT Com, Smart City Telecommunications, LLC d/b/a Smart City Telecom and Frontier Communications of the South, LLC.

J. JEFFRY WAHLEN, ESQUIRE, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302

On behalf of AllTel Florida, Inc.

TRACY W. HATCH, ESQUIRE, 101, North Monroe Street, Suite 700, Tallahassee, Florida 32301

On behalf of AT&T Communications of the Southern States, LLC.

MICHAEL A. GROSS, ESQUIRE, Vice President, Regulatory Affairs and Regulatory Counsel, 246 East 6<sup>th</sup> Avenue, Tallahassee, Florida 32303

On behalf of Florida Cable Telecommunications Association.

CHARLES V. GERKIN, JR., ESQUIRE, Friend, Hudak & Harris, LLP, Three Ravinia Drive, Suite 1450, Atlanta, Georgia 30346; VICKI GORDON KAUFMAN, ESQUIRE, Moyle Flanigan Katz Raymond White & Krasker, PA, 118 North Gadsden Street, Tallahassee, Florida 32301

On behalf of MetroPCS Florida, LLC.

CHARLES F. PALMER, ESQUIRE, Troutman Sanders LLP, 600 Peachtree Street 5200 Bank of America Plaza, Atlanta, Georgia, 30308-2216

On behalf of Verizon Wireless.

NANCY B. WHITE, ESQUIRE AND MANUEL A. GURDIAN, ESQUIRE, c/o Nancy H. Sims. 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301; ROBERT CULPEPPER, ESQUIRE AND JOHN TYLER, ESQUIRE, 675 West Peachtree Street NW, Suite 4300, Atlanta, Georgia 30375

On behalf of BellSouth Telecommunications, Inc.

FELICIA R. BANKS, ESQUIRE AND KIRA SCOTT, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
On behalf of the Commission.

## **PREHEARING ORDER**

### **I. CONDUCT OF PROCEEDINGS**

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

### **II. CASE BACKGROUND**

On February 11, 2005, TDS Telecom d/b/a TDS Telecom/Quincy Telephone; ALLTEL Florida Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; GTC, Inc., d/b/a GT Com; Smart City Telecom; ITS Telecommunications Systems Inc.; and Frontier Communications of the South, LLC (Joint Petitioners) filed a joint petition that objects to and requests suspension and cancellation of BellSouth Telecommunications, Inc.'s (BellSouth) General Subscriber Services Tariff A16.1, Transit Traffic Service. Docket No. 050119-TP was established in response to the petition filed by the Joint Petitioners. On February 17, 2005, AT&T Communications of the Southern States, LLC, (AT&T) also filed a petition and complaint for suspension and cancellation of the same tariff. Docket No. 050125-TP was subsequently established in response to AT&T's petition.

BellSouth filed an answer to the Joint Petitioners in Docket No. 050119-TP, on March 3, 2005, and on March 4, 2005, filed an answer and motion in Docket No. 050125-TP to consolidate Docket No. 050119-TP with Docket No. 050125-TP. By Order No. PSC-05-0623-PAA-TP this Commission consolidated the two dockets but denied the requests for suspension of the Transit Traffic Tariff.<sup>1</sup> However, the Commission deemed it appropriate that revenues from the tariff be held by BellSouth subject to refund pending the outcome of the proceedings.

Due to the numerous issues that arose from the parties' issue identification conference, Commission staff recommended that this matter might be more properly addressed by a generic proceeding involving the major incumbent local exchange companies. On August 26, 2005, the Joint Petitioners filed a petition for a generic investigation into third-party transit traffic. On November 10, 2005, the Commission issued Order No. PSC-05-1133-PCO-TP denying the Joint Petitioners' petition.

Transit traffic is traffic that originates on the network of one carrier, transits over BellSouth's network, then terminates on the network of a third carrier. BellSouth has filed a new

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<sup>1</sup> Transit Traffic Tariff No. FL 2004-284 is also known as BellSouth's General Subscriber Tariff A16.1, Transit Traffic Tariff.

tariff, General Subscriber Services Tariff § A16.1, Transit Traffic Service, which sets forth certain rates, terms and conditions that apply when carriers receive transit service from BellSouth but have not entered into an agreement with BellSouth setting forth rates, terms and conditions for the provision of transit services. BellSouth's transit tariff does not apply to a party with whom BellSouth has an existing contractual relationship because the tariff, by its terms, applies as a default, only in the absence of an existing contractual agreement. Docket Nos. 050119-TP and 050125-TP involve a dispute over the appropriate rates, terms and conditions applicable to transit traffic. By Order No. PSC-05-1206-PCO-TP, issued December 6, 2005, procedural dates were established for this matter.

### III. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

2. In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- a) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.

- b) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- c) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- d) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- e) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of the Commission Clerk and Administrative Service's confidential files.

#### IV. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time on May 9, 2006.

#### V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes. Upon insertion of a witness' testimony,

exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing. It should be noted that direct and rebuttal testimony will be taken up at the same time.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Type</u>	<u>Proffered By</u>	<u>Issues #</u>
Ken McCallen	Direct and Rebuttal	BellSouth	All
Kathy Blake	Rebuttal	BellSouth	5, 11 and general
Steven E. Watkins	Direct and Rebuttal	Small LECs	All
Richard T. Guepe	Direct and Rebuttal	AT&T	1,2,3,5,6,7,10, 11,12,13,15 and 17
Timothy J. Gates	Direct and Rebuttal	CompSouth	Direct:1,2,3,5,6,8,9, 10,11,12,13,14,15 and 16 Rebuttal: 1,2,3,5,6,8,9,11,14, 15,16 and 17
Dena Bishop	Rebuttal	MetroPCS	11a
Marc B. Sterling	Direct	Verizon Wireless	1,2,3,5,6,8,9,12,13, 14,15,16 and 17
Billy H. Pruitt	Direct and Rebuttal	Sprint Nextel/ T-Mobile	All
Don Wood	Rebuttal	FCTA	1,2,3,4,5,6,8,9,11,14, 15,16 and 17

VII. BASIC POSITIONS

COMPSOUTH/NUVOX:

The Commission should reject BellSouth's transit tariff, order refunds for payments made under it, and require BellSouth to continue to provide transiting through § 252 ICAs. Alternately, if the Commission does approve a tariff, it should rectify all the problems in the BellSouth tariff as filed. It should clarify that tariff does not impact ICAs, that it may not be used as a benchmark for future negotiations, and that the rate(s) must be TELRIC-based, just, reasonable and non-discriminatory. The Commission should reject the imposition of requirements between originating and terminating carriers.

SPRINT NEXTEL/T-MOBILE:

The federal Telecommunications Act of 1996 ("the Act") provides a specific statutory framework under which Congress granted telecommunications carriers the right to efficiently interconnect their networks directly or indirectly to exchange traffic. Upon interconnecting with BellSouth, a carrier is entitled to the same level of service that BellSouth provides itself, which includes the ability to exchange traffic with other carriers that are interconnected to BellSouth's network. The ability to utilize BellSouth's network to reach a third party, i.e. "transiting," is essential to a connecting carrier's right to indirectly interconnect and exchange traffic with other carriers that are interconnected with BellSouth. For commercial mobile radio service ("CMRS") providers or competitive local exchange companies ("CLEC"), such as Sprint Nextel (both a CMRS and a CLEC carrier) and T-Mobile (a CMRS carrier), the ability to indirectly exchange traffic with other carriers by utilizing BellSouth transit services is critical to the deployment of cost-efficient, ubiquitous, and competitive local networks.

Several state utility Commissions have found this transiting function to be an interconnection obligation, and the Federal Communications Commission ("FCC") has preliminarily concluded that indirect interconnection is an efficient means to exchange traffic between carriers. *In the matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-02, Further Notice of Proposed Rulemaking at ¶ 125 (Rel. March 3, 2005). The requirement in Section 252(d)(1) of the Act that rates for interconnection services must be developed pursuant to Total Element Long Run Incremental Cost ("TELRIC") pricing standards compels BellSouth's transit service to be priced at TELRIC rather than on a price cap, commercial, or market basis.

The recent FCC decision, *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket 01-92, FCC 05-42, Declaratory Ruling and Report and Order (rel. Feb. 24, 2005), referred to herein as "the *T-Mobile Order*," makes it clear that the appropriate mechanism for establishing compensation arrangements for interconnection services under the Act is through the negotiation and arbitration process. Where carriers choose not to follow that process, no compensation is due. Thus, while BellSouth is entitled to be paid a TELRIC-based rate when a carrier transits BellSouth's network, the terms under which BellSouth provides and is paid for that service must be established through an interconnection

agreement, not by a tariff. Sprint Nextel and T-Mobile have each negotiated interconnection agreements with BellSouth as well as agreements with some of the other parties to this docket. Notwithstanding these contracted arrangements, both indirect interconnection and transit service are appropriately required to foster efficient and competitive networks throughout the state of Florida.

**SMALL LECs:**

Over the past decades, BellSouth and the Small LECs have established service arrangements for the provision of intrastate toll, access to interexchange carriers, and in more recent times, extended area service ("EAS") calling between the end users in some of the Small LECs' exchange areas and end users in BellSouth's neighboring communities. These EAS arrangements, embraced and approved by the Commission, allowed for local calling between customers of BellSouth and the Small LECs between specific areas. Trunking arrangements between the Small LECs and BellSouth were implemented at the border between the two carriers for the exchange of EAS calls. These arrangements have traditionally been conducted on a bill and keep basis.

With the opening of local markets to competition and the advent of competitive carriers, traditional EAS calls from a Small LEC to BellSouth may now also involve EAS calls from the Small LEC to a customer of a CLEC that competes with BellSouth. Rather than doing what BellSouth did, *i.e.*, interconnecting with the Small LECs at the border of the Small LECs' networks, the CLECs chose instead to utilize the services of BellSouth to have this EAS traffic switched and trunked through a BellSouth tandem, commingled with other BellSouth traffic either over toll/access facilities or over EAS trunks.

The CLECs and CMRS providers have entered into interconnection agreements with BellSouth for the use of the BellSouth tandem switch. These negotiations were conducted without participation by the Small LECs. The Small LECs accepted these arrangements because, prior to the filing of BellSouth's proposed Transit Tariff, there was no change in the status quo. Even though new CLECs and CMRS providers had become the new calling or called party on these EAS routes, and had elected to use (and presumably pay for) BellSouth's switching facility to interconnect with the Small LECs - - rather than interconnecting directly with the Small LECs on the Small LECs' respective networks - - the Small LECs were not affected until the filing of BellSouth's proposed Transit Tariff.

After years of engaging in one consistent course of conduct where BellSouth exchanged this EAS traffic with the Small LECs without payment of compensation by either party, BellSouth has now filed its proposed Transit Tariff which, if approved, would impose the costs caused by the unilateral decision of the CLECs and CMRS providers to utilize the BellSouth network on the Small LECs. That result is both inequitable and unlawful.

There are a number of specific issues in this proceeding. As a general road map, the Small LECs offer the following essential components of their overall basic position.



(1) A tariff is not the proper mechanism to establish terms, conditions and rates for BellSouth's provision of transit service where BellSouth is interconnected with a Small LEC. BellSouth should properly establish interconnection terms and conditions in the same manner as other carriers and as required by law.

(2) The BellSouth Transit Tariff should not be permitted to be used as a vehicle to thrust obligations on the Small LECs beyond those that they are subject to under the Federal Telecommunications Act of 1996 and controlling rules. Simply put, the Small LECs' interconnection obligation for the exchange of traffic with the third party CLEC and CMRS providers is only to interconnect at a technically feasible point on the network of the Small LEC. The Small LEC has no obligation to exchange traffic with a CLEC or CMRS provider through an interconnection that is not on the network of the Small LEC - - in this case, the BellSouth tandem. The Small LECs have been and remain willing to continue to exchange traffic under this scenario so long as the cost causing CLEC or CMRS provider utilizing the BellSouth tandem switch - - as an essential extension of its own network - - pays BellSouth for the use of its network.

(3) The Small LECs have no obligation to pay the proposed transit traffic charge or any transit traffic charge caused by the network decision of the CLECs and CMRS providers. The Small LECs have no obligation to incur extra costs to transit local traffic to points beyond a technically feasible interconnection point on their incumbent LEC networks to accommodate a choice and request made by a CLEC or CMRS providers. As previously stated, the Small LECs are willing to continue to provision such extraordinary arrangements so long as the CLECs and CMRS providers are held responsible for the extraordinary costs that they caused (*i.e.*, the expense of the transit service) as a direct result of their preferred interconnection arrangements.

(4) If the Commission determines that the Small LECs, in some situations, are responsible for the true cost of transit services, as opposed to the rate proposed in BellSouth's Transit Tariff, then all interconnection terms and conditions, including proper rates, should be properly established for BellSouth's transit service. Such interconnection terms and conditions should require, among other things, the discontinuation of BellSouth's commingling of third party transit traffic with BellSouth's own access traffic. CMRS transit traffic should be provisioned on trunks separate from wireline CLEC transit traffic. When the traffic with a particular CLEC or CMRS provider reaches a DS-1 level of traffic, then that CLEC or CMRS provider should be required to provision dedicated trunks with the Small LEC as opposed to commingling its traffic with other transit carriers.

**ALLTEL:**

It is preferable for carriers to establish terms and conditions governing the exchange of traffic, including transit service when appropriate, through negotiation without the involvement of any third party, including the Commission. However, when carriers are unable to reach agreement, Commission developed guidelines are preferable to repetitive arbitration between individual carriers. Those guidelines should recognize the value of carrier networks and provide compensation for the terminating carrier and the transit provider under non-discriminatory terms and conditions.

**AT&T:**

AT&T's interconnection agreement with BellSouth provides the rates terms and conditions that apply for AT&T's use of BellSouth's transit service. Pursuant to that ICA, when traffic is originated by AT&T, AT&T is responsible for compensating BellSouth for the transit function that it uses. The principal embodied in the ICA, that the originating carrier is responsible for paying any applicable transit charges, should be adopted by the Commission as the appropriate means of compensation for transit traffic.

**FCTA:**

It is FCTA's position that the rates, terms, and conditions that govern the interconnection of two carriers, including but not limited to the rates, terms, and conditions for transit service, are properly addressed in an interconnection agreement negotiated by the carriers. If the carriers are unable to reach a resolution of any disputed issues, the issues should be brought to the Commission in the context of a §252 arbitration.

The history of the immediate dispute suggests that it began as BellSouth and certain small ILECs attempted to negotiate such rates and terms. In the context of those negotiations, BellSouth sought compensation for a network functionality – transit – that it is providing to small ILECs when the customer of the small ILEC originates a call that is ultimately terminated on the network of another carrier (one with which the small ILEC is not directly interconnected). In response to BellSouth's demand for compensation, the small ILECs took unsupportable positions regarding their interconnection obligations pursuant to §251 and refused to compensate BellSouth for the functionality being provided. Rather than initiate the process that would have brought the issue to the Commission for arbitration, BellSouth chose to file a tariff for the transit functionality that would apply in the absence of an interconnection agreement. While it appears that the refusal of the small ILECs to compensate BellSouth is unreasonable and unlawful, the "presumptively valid, mandatory tariff" is not a remedy that is available to BellSouth. The potential impact of BellSouth's attempt to take a shortcut through the §252 negotiation/arbitration process is compounded by the fact that the transit tariff includes a rate for an essential network function that is well above cost and duplicative of the cost recovery already being accomplished via other rates. This tariff has the potential to impact numerous other carriers and to disrupt how those carriers interconnect, exchange traffic, and compensate each other for doing so. Such a disruption would not only have business implications for a large number of carriers, it would have an adverse impact on end user customers in terms of higher rates, blocked calls, and competitive choice.

The Commission should not intervene substantively in the dispute between BellSouth and the small ILECs at this time, because the issues have not been brought before it in the form of a §252 arbitration. While the Commission has no direct role in the §252 negotiation process, it should encourage BellSouth and the small ILECs to negotiate interconnection agreements that include the rates and terms for the transit services provided by BellSouth. An interconnection agreement, rather than a tariff, is the proper place for interconnection rates and terms.

If the negotiations between BellSouth and the small ILECs fail to result in a resolution of the issue and the Commission is ultimately called upon to arbitrate this dispute pursuant to the §252 process, then it should apply the following principles: (1) The industry standard of cost causation and intercarrier compensation, created by the Act and subsequent FCC rules, requires that the originating carrier – as the cost causer – be responsible for compensating another carrier that performs transport and termination functions in order to complete a call; (2) The small ILECs cannot be excused from their §251 obligations; (3) The rates for transit service functions, like other interconnection rates, must be cost-based.

In order to avoid a disruption in the way that carriers interconnect today and in the future, the Commission should conclude that BellSouth's tariff for transit services seeks to preempt rates and conditions that are properly contained within an interconnection agreement, and therefore the tariff is both unnecessary and an inappropriate intrusion on the negotiation process. If BellSouth's tariff is not rejected by the Commission, the Commission should require that the language be changed to make it clear (1) that the application of the tariff is strictly limited to those instances in which the originating carrier elects not to seek an interconnection agreement with BellSouth, and (2) that the existence of the tariff cannot interfere in any way with the negotiation of the rates or terms of future interconnection agreements. If BellSouth has in place a "transit traffic tariff" that contains a rate that is well above cost and that will apply if no agreement is reached by the parties, BellSouth's incentive to meet its §251(c)(1) obligation to "negotiate in good faith" will be reduced. The existence of the tariff would give BellSouth the leverage to insist on a higher rate or even to try to remove the rates and terms for transit functionalities from the interconnection agreement negotiation entirely.

In summary, the present proceeding has evolved from a specific dispute between carriers, and its focus should remain on that dispute while avoiding a disruption of how other carriers interconnect, exchange traffic, and compensate each other. BellSouth is performing a service for the small ILECs for which it should be fairly compensated at a rate that will permit cost recovery, but the proper remedy for BellSouth is negotiation and if necessary arbitration, not an end-run around the negotiation process with a tariff filing.

### **METROPCS:**

All telecommunications carriers are required by 47 U.S.C. § 251(a) "to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers," and all incumbent local exchange carriers ("ILECs") are required by 47 U.S.C. § 251(c)(2) "to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the [ILEC's] network ... that is at least equal in quality to that provided by the [ILEC] to itself or to any subsidiary, affiliate, or any other party to which the [ILEC] provides interconnection." Under 47 U.S.C. § 252(d)(1), the rates an ILEC may charge for interconnection and network elements are based on the "cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element" and "may include a reasonable profit." 47 U.S.C. § 252(d)(2) further provides that the charges for transport and termination of traffic shall allow for the recovery of a carrier's costs to transport and terminate a call and that the costs shall be determined on the "basis of a reasonable

approximation of the additional costs of terminating such calls.” The Federal Communications Commission (“FCC”) also found that the standards to be used to determine the rates under Section 252(d)(1) and 252(d)(2) were to be the same and established that rates were to be based upon the total elemental long run incremental cost (TELRIC) of the local exchange carrier to provide such network element or transport and termination. *See* 47 C.F.R. § 51.705. Finally, the FCC found that a local exchange carrier (LEC) “may not assess charges on any other telecommunications carrier for telecommunications traffic that originates on the LEC’s network.” 47 C.F.R. § 51.703(b). These rules have withstood appeal and are the law of the land.

Together, these provisions (1) require the Small LECs to permit other carriers to interconnect with their networks indirectly through mutual interconnections with a transit service provider and (2) require BellSouth to perform the transiting function at TELRIC rates. Under the Telecommunications Act and FCC regulations, the originating carrier is solely responsible for the cost of delivering its traffic to the terminating carrier’s network and the originating carrier *may not* assess charges on the terminating carrier for traffic that originates on the originating carrier’s network. *See* 47 C.F.R. § 51.703(b).

The Telecommunications Act has a clear preference for interconnection arrangements between carriers to be resolved via voluntary negotiation. For example, 47 U.S.C. § 252(b)(1) requires that the parties voluntarily negotiate for at least 135 days in good faith before they may file an arbitration petition with the state commission. If the parties are able to voluntarily negotiate an agreement, the state commission is required to review and approve the agreement to ensure that the agreement does not discriminate against telecommunications carriers not a party to the agreement and does not contravene public policy. 47 U.S.C. § 252(e)(2)(A). Only if the carriers are unable to voluntarily negotiate an interconnection arrangement within the voluntary negotiation period is the state public utilities commission to become involved through a state commission arbitration. As a result, ILECs are required to interconnect pursuant to state commission-approved interconnection agreements and are not permitted to require other carriers to interconnect pursuant to the terms of an ILEC-filed tariff. Of course, state commission generic proceedings are appropriate when setting TELRIC rates for network elements, interconnection, transport, and termination as the rates will have an industry wide impact, the ILEC’s costs do not vary substantially based on the interconnecting carrier, and rate setting requires substantial resources of the state commission. In addition, the enumeration of certain principles relating to interconnection, network elements, transport and termination of traffic, such as that the originating carrier is not permitted to charge the terminating carrier for traffic originating on the originating carrier’s network, is also appropriate for generic proceedings. However, specific issues relating to interconnection between parties, such as how interconnection should be accomplished, the mechanisms for interconnection, and the like are better left to voluntary negotiation and arbitration on a case-by-case basis.

### VERIZON:

Transit traffic became a hot issue throughout the nine state BellSouth region in late 2002 and early 2003 when BellSouth began to implement meet point billing (“MPB”), Other regions around the United States have had similar experiences as other ILECs moved to MPB. The

primary issue that has been prevalent in most states is which carrier should be responsible for paying third party transit service charges.

After several state commission rulings, certain federal appellate decisions, and FCC actions, the consensus answer to the question of who is responsible for paying the third party transit provider appears clear - - the originating carrier pays. That has been Verizon Wireless' position throughout these proceedings not just in the instant docket, but also in the other forums in which this issue has arisen.

**BELLSOUTH:**

Transit traffic is traffic that neither originates nor terminates on BellSouth's network, but that is delivered to BellSouth by the service provider that originated the traffic so that BellSouth can deliver the traffic to the service provider that will terminate the traffic. The service BellSouth is providing, taking a call from an originating carrier and handing it off to a terminating carrier, is commonly called "transit service." Transit service is a valuable function and for providing it, BellSouth should be compensated.

Originating carriers could avoid using (and thus paying for) BellSouth's transit service by directly connecting their network with terminating carriers' networks. Originating carriers also could avoid using (and thus paying for) BellSouth's transit service if another service provider were willing to provide transit service to the originating carrier. Alternatively, if the amount of traffic an originating carrier sends to a terminating carrier does not warrant the expense of direct interconnection, and if the originating carrier is unable to find a service provider other than BellSouth that is willing to offer transit service, the originating carrier can choose to send the call to the terminating carrier by way of BellSouth's network.

The transit service BellSouth is willing to provide is valuable and benefits not only service providers, but also their end users. If BellSouth or another service provider were not willing to offer this service, service providers would have to interconnect directly with all other service providers to offer end users ubiquitous calling. Transit services provided by BellSouth enable service providers to maintain ubiquitous calling capabilities without the expense of direct interconnection. In fact, due to the cost associated with direct interconnection, service providers with minimal traffic flowing between them might decide not to send calls to each other - which means their customers could not reach each other. Recognizing the value of the service, many service providers have contractually agreed to pay BellSouth for the transit service BellSouth provides on calls that are originated by their end users. BellSouth's transit tariff does not apply to those service providers. Instead, BellSouth's transit tariff only applies when a service provider that has not contractually agreed to pay BellSouth for transit service nevertheless decides to continue sending calls bound for other carriers through BellSouth's network. In those situations, originating carriers pay the tariffed rate for the transit service they knowingly and intentionally use.

Under the transit tariff, it is the service provider that originates the call that pays the transit charge. The only time a service provider pays BellSouth under the transit tariff is when

that provider has decided not to enter into a contractual arrangement addressing transit traffic and nevertheless decides to send this type of traffic to BellSouth. In a transit situation, both the originating and terminating carriers are providing services to their end users, and are being compensated by those end users. Those carriers are relying on BellSouth to enable them to provide those services, yet without the transit tariff, BellSouth would not be compensated when it provides valuable transit service to other service providers who have not been willing to enter into contractual arrangements to pay BellSouth for this service. As BellSouth has no end user deriving benefit from or paying any compensation for the transit service, it is reasonable to expect the service providers who *are* deriving a benefit and who *are* receiving compensation to pay BellSouth for the transit services they use.

**STAFF:**

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

**ISSUE 1: IS BELLSOUTH'S TRANSIT SERVICE TARIFF AN APPROPRIATE MECHANISM TO ADDRESS TRANSIT SERVICE PROVIDED BY BELLSOUTH?**

**COMPSOUTH/NUVOX:**

No. BellSouth has provided transiting for years through ICAs – not tariffs – under which it has been compensated via Commission-approved, TELRIC-compliant tandem switching and common transport rates. With no justification, BellSouth's tariff alters this long-standing arrangement by establishing onerous terms and dramatically increasing transit rates over which it has near unilateral authority.

**SPRINT NEXTEL/T-MOBILE:**

No. Because transit is an interconnection service, it is not subject to being tariffed unless such tariff constitutes a Statement of Generally Available Terms ("SGAT") under section 252(f) of the Act. The FCC, through the *T-Mobile Order* and its recent rule amendments, established a clear preference for contractual arrangements. Thus, a requesting carrier is entitled to obtain transit, and BellSouth is required to provide transit, pursuant to a negotiated or arbitrated interconnection agreement, and not through the unilateral terms of a non-SGAT tariff.

**SMALL LECS:**

No. Under the *T-Mobile Declaratory Ruling and Report and Order* issued by the Federal Communications Commission ("FCC") on February 24, 2005, the FCC concluded that LEC tariffs are not the appropriate on-going mechanism for the establishment of terms and conditions

for the exchange of non-access traffic. In addition, the FCC concluded that compensation arrangements for the exchange of local traffic should be developed through negotiated agreements and, if necessary, arbitrated agreements. Furthermore, with respect to ISP-bound traffic, the FCC determined that such traffic is interstate in nature. Therefore, to the extent a tariff arrangement might be deemed appropriate, and under the *T-Mobile Declaratory Ruling and Report and Order* it is not, then any such transit tariff must be filed with and approved by the FCC. Further, a unilateral tariff, such as BellSouth's Transit Tariff, fails to adequately address all of the terms, conditions, rights and responsibilities that must be negotiated or arbitrated with regard to the interconnection and exchange of transit traffic.

**ALLTEL:**

Alltel believes a negotiated agreement is the appropriate mechanism to address the provision of transit service. However, if the Commission determines that a tariff is appropriate in the absence of a contract or agreement, then the tariff should contain the general guidelines established by the Commission in this proceeding.

**AT&T:**

If a carrier utilizing BellSouth's transit traffic service does not have a contract or agreement with BellSouth to obtain transit traffic service, the tariff is an appropriate alternative. If transit traffic service is addressed in an agreement between BellSouth and the originating telecommunications service provider, the rates, terms and conditions of the tariff do not apply.

**FCTA:**

No. BellSouth should pursue compensation for transit service through the negotiation (and if necessary, arbitration) of an interconnection agreement.

**METROPCS:**

No. Pursuant to 47 U.S.C. §§ 251 and 252, the interconnection of telecommunications carriers' networks is a matter for voluntary negotiation and, in some cases, arbitration, if necessary. The rights and obligations of interconnecting carriers, including providers of transit services, should be governed by the terms of their interconnection agreements and not by unilaterally filed tariffs.

**VERIZON:**

The terms in any BellSouth transit tariff should not affect the terms of interconnection and reciprocal compensation arrangements between originating and terminating carriers. Under no circumstances should the costs of transit be borne by a terminating carrier, because a terminating carrier has no control over how the call was sent to its network, and therefore it should not be subject to the costs of transporting that call.

**BELLSOUTH:**

Yes, unless the tariff is superseded by a contract addressing transit traffic service. BellSouth is using its network to provide a value-added service and should be compensated accordingly.

**STAFF:**

Staff has no position at this time.

**ISSUE 2: IF AN ORIGINATING CARRIER UTILIZES THE SERVICES OF BELLSOUTH AS A TANDEM PROVIDER TO SWITCH AND TRANSPORT TRAFFIC TO A THIRD PARTY NOT AFFILIATED WITH BELLSOUTH, WHAT ARE THE RESPONSIBILITIES OF THE ORIGINATING CARRIER?**

**COMPSOUTH/NUVOX:**

Originating carriers are responsible for: establishing trunks to the BellSouth access tandem, compensating BellSouth for transit service, delivering their traffic to the terminating party's network (or terminating carrier's POI with the transit carrier) and compensating the terminating carrier for terminating the traffic to the end user.

**SPRINT NEXTEL/T-MOBILE:**

An originating carrier that utilizes BellSouth as a tandem provider to transit traffic to a third party that is not affiliated with BellSouth is obligated: 1) to deliver its traffic to BellSouth in an industry standard format that will allow BellSouth and the terminating carrier to identify the originating carrier and minutes of traffic originated by such carrier that are transited by BellSouth to the terminating carrier; 2) upon request of BellSouth or the originating carrier, to negotiate and arbitrate an interconnection agreement with BellSouth that includes terms and conditions regarding BellSouth's transit service; and 3) upon request of the terminating or originating carrier, to negotiate and arbitrate an interconnection agreement with the terminating carrier regarding the mutual exchange of traffic between the two parties' respective networks.

**SMALL LECS:**

All carriers, including originating carriers, have the obligation to put in place interconnection agreements setting forth the rates, terms and conditions for the exchange of non-access traffic. With respect to BellSouth's proposed Transit Tariff, an originating carrier is not necessarily responsible for the true cost of switching and transporting transit traffic. That cost should be borne by the cost causer. In this case, and based on this record, the cost causers are the CLECs and CMRS providers who have unilaterally and voluntarily chosen to utilize BellSouth's network to interconnect with the Small LECs, rather than making the investment to provide a direct or indirect physical interconnection on the networks of the Small LECs as required by law. The CLECs and CMRS providers have chosen instead to interconnect indirectly by acquiring the



right to use the BellSouth network for that purpose and it would be inequitable and unlawful to impose those costs on the Small LECs.

**ALLTEL:**

The originating carrier is responsible for delivery of its traffic to the tandem provider with appropriate call detail information so that the call can be properly routed to and terminated by the terminating carrier, and to compensate the tandem provider for the transit service. Additionally, the originating carrier is responsible upon request, to negotiate an agreement with the terminating carrier for the mutual exchange of local traffic not covered by tariff.

**AT&T:**

The originating carrier shall be responsible directly to the third party for all reciprocal compensation obligations.

**FCTA:**

The responsibilities of the originating carrier, if a request is made by BellSouth, are to (1) negotiate in good faith with BellSouth to develop an interconnection agreement that sets forth the rates and terms for the transit functions performed by BellSouth, and (2) to compensate BellSouth, pursuant to a negotiated or arbitrated cost-based rate, for providing this function.

**METROPCS:**

An originating carrier that utilizes BellSouth as a tandem provider to transit traffic to a third party that is not affiliated with BellSouth is obligated:

- 1) to deliver its traffic to BellSouth in an industry standard format that will allow BellSouth and the terminating carrier to identify the originating carrier and the minutes of traffic originated by such carrier that are transited by BellSouth to the terminating carrier;
- 2) upon request, to negotiate (and, if necessary, arbitrate) an interconnection agreement with BellSouth that includes terms and conditions regarding the transit service that BellSouth provides to the originating carrier;
- 3) upon request, to negotiate (and, if necessary and to the extent that the negotiation is governed by 47 U.S.C. § 252(b), arbitrate) an interconnection agreement with the terminating carrier regarding the mutual exchange of traffic between the two parties' respective networks; and
- 4) assume all costs associated with the transport and termination of its traffic (including charges for transit) and not charge the terminating (or transiting) carrier any costs for such traffic.

**VERIZON:**

The originating carrier is responsible for delivering its traffic to BellSouth in such a manner that it can be identified, routed, and billed.

**BELLSOUTH:**

The originating carrier, or cost-causer, should pay for the transit and termination of the traffic. This is appropriate because the originating carrier collects the revenue from the originating caller.

**STAFF:**

Staff has no position at this time.

**ISSUE 3: WHICH CARRIER SHOULD BE RESPONSIBLE FOR PROVIDING COMPENSATION TO BELLSOUTH FOR THE PROVISION OF THE TRANSIT TRANSPORT AND SWITCHING SERVICES?**

**COMPSOUTH/NUVOX:**

The originating carrier is responsible for compensating BellSouth for transit services.

**SPRINT NEXTEL/T-MOBILE:**

Pursuant to federal law, the originating carrier is responsible for all costs, including transit costs, associated with delivering traffic originated on its network to the terminating carrier's network. Under the FCC's Calling Party Network Pays ("CPNP") regime, the originating party is not only responsible for the payment of reciprocal compensation to the terminating network party, the originating party is also responsible for all costs associated with the delivery of its originated telecommunications traffic to the terminating party. This principle is based upon the FCC's rule in Subpart H, Reciprocal Compensation, 47 C.F.R. 51.703(b).

**SMALL LECS:**

The CLECs and CMRS providers have elected to utilize this preferred interconnection arrangement in lieu of establishing separate interconnection points with the Small LECs and, therefore, should be responsible for providing compensation to BellSouth for the provision of transit transport and switching services.

**ALLTEL:**

The originating carrier should be responsible for providing compensation to BellSouth for the provision of the transit transport and switching services.

**AT&T:**

The originating carrier should be responsible to pay the transit charges.

**FCTA:**

The originating carrier is responsible for compensating the transit provider.

**METROPCS:**

Pursuant to federal law, an originating carrier is responsible for all costs, including transit costs, associated with delivering traffic originated on its network to the terminating carrier's network. An originating carrier is precluded by 47 C.F.R. § 51.703(b) from charging a terminating carrier (or a transiting carrier) for traffic originating on its network.

**VERIZON:**

The originating carrier is responsible for paying the transit charges for the traffic it originates over a third party's network. This cost allocation is fair, because the originating carrier may choose alternative routes if the indirect route is not economically efficient.

**BELLSOUTH:**

The originating carrier (cost-causer) of the transit traffic should be responsible for paying the transit charges to the transit provider. BellSouth should not be required to use network capacity to complete calls for the originating carrier without compensation.

**STAFF:**

Staff has no position at this time.

**ISSUE 4: WHAT IS BELLSOUTH'S NETWORK ARRANGEMENT FOR TRANSIT TRAFFIC AND HOW IS IT TYPICALLY ROUTED FROM AN ORIGINATING PARTY TO A TERMINATING THIRD PARTY?**

**COMPSOUTH/NUVOX:**

BellSouth is in the best position to provide information on its network arrangements.

**SPRINT NEXTEL/T-MOBILE:**

Typically, BellSouth receives traffic delivered to its tandem by an originating carrier over the originating carrier's interconnection facility with BellSouth, and the tandem then routes the traffic to the terminating carrier. The terminating carrier receives the traffic at the point where its network is interconnected with the BellSouth network.

**SMALL LECS:**

It is the Small LECS' understanding that transit traffic exchanged between Small LECS and CLECS/CMRS providers traverse a BellSouth tandem switch. The traffic is then routed to the Small LECS over common trunk groups to the point of interconnection between BellSouth and the Small LEC.

**ALLTEL:**

Alltel agrees with BellSouth's description in its direct testimony of its network arrangement for transit traffic.

**AT&T:**

AT&T's ICA with BellSouth provides for BellSouth to provide the transit function. BellSouth is in the best position to say how this traffic is typically routed.

**FCTA:**

FCTA believes that BellSouth is in the best position to provide information regarding its network arrangements.

**METROPCS:**

MetroPCS agrees with BellSouth.

**VERIZON:**

Verizon Wireless defers to BellSouth to explain their network arrangement.

**BELLSOUTH:**

The affected transit traffic is generally routed through a BellSouth tandem office to the terminating third-party carrier. The originating ICO should route the call in accordance with the Local Exchange Routing Guide (LERG) over a common trunk group directly to the BellSouth tandem, or, as in the case of local number portability, because the ICO does not perform the query to determine if the number has been ported, it may believe the call to be terminating to BellSouth and route the call to a BellSouth end office over the EAS trunk group, where the call may be further routed in order to be successfully delivered to the appropriate terminating carrier.

**STAFF:**

Staff has no position at this time.

**ISSUE 5: SHOULD THE FPSC ESTABLISH THE TERMS AND CONDITIONS THAT GOVERN THE RELATIONSHIP BETWEEN AN ORIGINATING CARRIER AND THE TERMINATING CARRIER, WHERE BELLSOUTH IS PROVIDING TRANSIT SERVICE AND THE ORIGINATING CARRIER IS NOT INTERCONNECTED WITH, AND HAS NO INTERCONNECTION AGREEMENT WITH, THE TERMINATING CARRIER? IF SO, WHAT ARE THE APPROPRIATE TERMS AND CONDITIONS THAT SHOULD BE ESTABLISHED?**

**COMPSOUTH/NUVOX:**

No. The Commission should establish such terms and conditions only if the parties ask for it in a requested arbitration proceeding. BellSouth's transit tariff would inappropriately require all carriers to have a traffic exchange agreement in effect as a prerequisite to receiving BellSouth's tariffed transit service.

**SPRINT NEXTEL/T-MOBILE:**

No. In the *T-Mobile* decision, the FCC found that interconnecting carriers such as CMRS, CLECs, and the Small LECs should follow the Act and the corresponding FCC rules for the negotiation and arbitration of interconnection agreements. Regarding the Small LECs' relationship with BellSouth as originators of transit traffic, under section 251(a) of the Act, any telecommunications carrier is required to interconnect on a direct or indirect basis. To the extent that the most efficient network alternative for Small LECs to deliver their customer originated traffic to CMRS providers is by sending that intraMTA traffic to a CMRS provider via BellSouth's transit service, the Small LEC should request and enter into an interconnection agreement with BellSouth as provided for under the federal rules and FCC decisions.

**SMALL LECS:**

Yes. The Commission should determine that the CLECs and CMRS providers, the carriers that have elected to use the BellSouth tandem switch for the origination and termination of transit traffic, are responsible for payment to BellSouth for any charges approved by the Commission for BellSouth's transit service. In addition, to the extent that a Small LEC participates in such transit arrangements to ensure the viability of the preferred network interconnection arrangement of the CLEC or CMRS provider, the terms and conditions among all the carriers involved must be set forth in agreements. The proper contractual provisions should include, but not be limited to, the operational, delivery, scope of traffic, billing, payment and auditing, dispute resolution, traffic threshold and enforcement issues addressed in more detail in Mr. Watkins' Prefiled Direct Testimony, at pages 19-21.

**ALLTEL:**

Yes, the Commission should set guidelines in this proceeding that the originating and terminating carriers would adhere to only in the event that they could not reach agreement themselves.

**AT&T:**

No.

**FCTA:**

No. The terms and conditions that govern interconnection and intercarrier compensation should be negotiated by the carriers. It is not necessary for an originating carrier to have an interconnection agreement with the terminating carrier in order for the originating carrier to properly compensate BellSouth. If the terminating carrier elects to pursue compensation for this traffic, it should initiate negotiations with the originating carrier for the development of an interconnection agreement.

**METROPCS:**

No, except that the FPSC should make clear that it is the originating carrier's obligation to pay for all costs associated with traffic originating on its network and that no charges should be assessed by BellSouth (as the transiting carrier) or the originating carrier on the terminating carrier for such traffic. Under applicable provisions of the Telecommunications Act of 1996 and the FCC's implementing regulations, interconnecting carriers such as CMRS, CLECs, BellSouth, and the Small LECs must negotiate and, if necessary, arbitrate interconnection agreements through the defined arbitration process. State commission generic proceedings are appropriate when setting TELRIC rates for network elements, interconnection, transport, and termination as the rates will have an industry wide impact, the ILEC's costs do not vary substantially based on the interconnecting carrier, and rate setting requires substantial resources of the state commission. In addition, the enumeration of certain principles relating to interconnection, network elements, transport and termination of traffic, such as that the originating carrier is not permitted to charge the terminating carrier for traffic originating on the originating carrier's network, is also appropriate for generic proceedings. However, specific issues relating to interconnection between parties, such as how interconnection should be accomplished, the mechanisms for interconnection, and the like are better left to voluntary negotiation and arbitration on a case-by-case basis.

**VERIZON:**

In general, the Commission should refrain from establishing terms and conditions affecting the interconnection obligations for direct and indirect arrangements. The FCC's Declaratory Ruling and Report and Order in CC Docket No. 01-92 released February 24, 2005 (the "T-Mobile Decision") made it clear that the 1996 Act calls for negotiation and arbitration of direct and indirect interconnection arrangements. Any carrier, including a Small LEC, that terminates traffic delivered indirectly via a third party tandem has the right to request negotiation of an interconnection agreement with the originating carrier.

**BELLSOUTH:**

Not initially. Under the provisions of the Telecommunications Act of 1996 (Act), both the originating and terminating carriers have the obligation to negotiate interconnection agreements for the delivery of traffic to each other. Both carriers have options as to how to deliver traffic to the other party. If those carriers cannot agree upon the terms and conditions of that relationship, either carrier may petition the FPSC pursuant to Section 252 of the Act to arbitrate the unresolved issues. In any event, BellSouth will not dictate terms and conditions between other parties.

**STAFF:**

Staff has no position at this time.

**ISSUE 6: SHOULD THE FPSC DETERMINE WHETHER AND AT WHAT TRAFFIC THRESHOLD LEVEL AN ORIGINATING CARRIER SHOULD BE REQUIRED TO FOREGO USE OF BELLSOUTH'S TRANSIT SERVICE AND OBTAIN DIRECT INTERCONNECTION WITH A TERMINATING CARRIER? IF SO, AT WHAT TRAFFIC LEVEL SHOULD AN ORIGINATING CARRIER BE REQUIRED TO OBTAIN DIRECT INTERCONNECTION WITH A TERMINATING CARRIER?**

**COMPSOUTH/NUVOX:**

No. The market can and does determine when it is appropriate to establish direct interconnection between two carriers for exchanging traffic that has been exchanged heretofore as transit traffic. This is especially true since BellSouth is being compensated for its role in transiting the traffic.

**SPRINT NEXTEL/T-MOBILE:**

No. Each originating carrier is solely responsible for the methods it uses to deliver its traffic to the terminating carrier's network. As a practical matter, only the originating carrier is in a position to determine how best to route its traffic and meet the needs of its business.

**SMALL LECS:**

Yes. Generally speaking, a reasonable level of traffic for a threshold would be the amount of traffic that constitutes one T-1 of traffic usage. When the threshold is exceeded by an individual CLEC or CMRS provider, that provider would establish a single, dedicated T-1 trunk group for transit traffic.

**ALLTEL:**

No. The carrier responsible for paying the transit charge should make business decisions as to how it routes and delivers traffic to terminating carriers based on traffic volumes and economics, including the fee paid to the transit provider.

**AT&T:**

No.

**FCTA:**

No. Carriers should be permitted to determine how best to efficiently interconnect their networks.

**METROPCS:**

No. Because of the wide variety of factors that are relevant to a decision whether to establish direct interconnection between two carriers' networks, the decision to interconnect directly or indirectly should be made by the carriers themselves as a result of voluntary negotiations and, if appropriate, case-by-case arbitration, subject to the statutory obligation of ILECs to permit direct interconnection upon request.

**VERIZON:**

The Commission should allow carriers to make their own network engineering and economic determinations as to if and when it is appropriate to shift from indirect to direct connections. While traffic level is one factor, it is not the only factor carriers consider when making such decisions.

**BELLSOUTH:**

Not initially. The threshold for direct interconnection should be negotiated between the carriers that originate and terminate the traffic, and if those carriers cannot agree, either carrier may petition the FPSC pursuant to Section 252 of the Act to arbitrate the unresolved issues. In any event, the traffic level at which any carriers decide to utilize direct interconnection is not a matter within BellSouth's control.

**STAFF:**

Staff has no position at this time.



**ISSUE 7: HOW SHOULD TRANSIT TRAFFIC BE DELIVERED TO THE SMALL LEC'S NETWORKS?**

**COMPSOUTH/NUVOX:**

Traffic should be delivered in the most economically and technically feasible manner.

**SPRINT NEXTEL/T-MOBILE:**

As a practical matter, transit traffic should be delivered to the Small LECs' networks in the most economically and technically feasible manner possible. It is incumbent upon the transit service provider and the Small LEC to determine how best their respective networks should be interconnection so transit traffic can be delivered.

**SMALL LECs:**

The terms and conditions of the delivery of transit traffic to the networks of the Small LECs should be subject to voluntary negotiation and handled on a case by case basis. At the request of the Small LEC, BellSouth should be required to establish separate trunk groups for third party local transit traffic to avoid commingling such traffic with toll/access traffic.

**ALLTEL:**

Each Small LEC, in conjunction with the transit provider, should determine how transit traffic should be delivered to its network.

**AT&T:**

The current process should be continued unless and until parties mutually agree on a different arrangement.

**FCTA:**

The FCTA does not have a position on this issue. The FCTA reserves its right to take a position in its posthearing brief (1) to respond to this issue and/or any new issues generated by the evidence during the hearing and/or properly raised by other parties or the Commission, and (2) to adopt any issue and position properly identified and/or properly stated by any other party or the Commission.

**METROPCS:**

Transit traffic should be delivered to the Small LECs' networks over the Common Traffic Trunk Groups established between BellSouth and the Small LECs for the exchange of local, EAS, transit and switched access traffic.

**VERIZON:**

BellSouth and the Small LECs can best respond.

**BELLSOUTH:**

The majority of the third-party carriers will interconnect with the BellSouth network at the tandem office for delivery of Meet-Point-Billed ("MPB") traffic. The call would then be routed from the tandem over the common trunk group to the ICO network (or, if the ICO is not interconnected at the tandem where the third-party carrier delivers the traffic to BellSouth, BellSouth will route the call to the tandem at which the ICO is interconnected and will then route that call over the common trunk group to the ICO). Some Non-MPB traffic may be routed directly to an end office and be assumed to route over the EAS trunk group.

**STAFF:**

Staff has no position at this time.

**ISSUE 8: SHOULD THE FPSC ESTABLISH THE TERMS AND CONDITIONS THAT GOVERN THE RELATIONSHIP BETWEEN BELLSOUTH AND A TERMINATING CARRIER, WHERE BELLSOUTH IS PROVIDING TRANSIT SERVICE AND THE ORIGINATING CARRIER IS NOT INTERCONNECTED WITH, AND HAS NO INTERCONNECTION AGREEMENT WITH, THE TERMINATING CARRIER? IF SO, WHAT ARE THE APPROPRIATE TERMS AND CONDITIONS THAT SHOULD BE ESTABLISHED?**

**COMPSOUTH/NUVOX:**

No. Transiting arrangements in ICAs sufficiently establish this relationship. No additional terms and conditions are necessary. Parties can request negotiation, and if needed, arbitration with other parties related to transiting arrangements and compensation. Broader Commission involvement into transiting carrier - terminating carrier relationship is unnecessary.

**SPRINT NEXTEL/T-MOBILE:**

No. Section 251(a) of the Act imposes a duty upon all telecommunications carriers to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers. CMRS providers and CLECs have established interconnection agreements with BellSouth that include rates, terms, and conditions for the exchange of traffic with BellSouth and with third-party subtending carriers using BellSouth's transit service. The relationship between a Small LEC, as a terminator of transited traffic, and BellSouth should also be established pursuant to an interconnection agreement between BellSouth and the Small LEC, which should also expressly provide how and what information related to the traffic exchanged will be communicated between the them. Both Sprint Nextel and T-Mobile have such agreements with BellSouth and with some of the other parties to this docket. The relationship between a

terminating carrier and a transit service provider exists regardless of the existence of a contract between the terminating carrier and an originating carrier.

**SMALL LECS:**

Yes. If CLECs and CMRS providers desire to continue to exchange traffic with Small LECs through the use of BellSouth's intermediary transit arrangement, then the CLECs, CMRS providers and BellSouth must address and proffer contractual agreements addressing the rights and responsibilities of all of the participants. The Commission should remain available to arbitrate and resolve open issues to the extent voluntary negotiations do not result in agreements.

**ALLTEL:**

Yes, the Commission should set guidelines in this proceeding that the transit provider and terminating carrier would adhere to only in the event that they could not reach agreement themselves. The terminating carrier should have the ability to negotiate an agreement with the originating carrier for the mutual exchange of local traffic not otherwise covered by a tariff.

**AT&T:**

No. The interconnection agreement between the carriers should govern.

**FCTA:**

No. The terms and conditions that govern interconnection and intercarrier compensation should be negotiated by the carriers. It is not necessary for an originating carrier to have an interconnection agreement with the terminating carrier in order for the originating carrier to properly compensate BellSouth.

**METROPCS:**

No, except that the FPSC should make clear that it is the originating carrier's obligation to pay for all costs associated with traffic originating on its network and that no charges should be assessed by BellSouth (as the transiting carrier) or the originating carrier on the terminating carrier for such traffic. 47 U.S.C. § 251(a) imposes a duty upon all telecommunications carriers to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers. The relationship between BellSouth, as a transit provider, and a terminating carrier should be pursuant to an interconnection agreement.

**VERIZON:**

See Response to Issue No. 5. The terminating carrier, should it desire to do so, has the right to request negotiation of an interconnection agreement with the originating carrier.

**BELLSOUTH:**

No. Although BellSouth is not required to provide a transit function, BellSouth is willing to provide transit services to carriers because BellSouth has a ubiquitous network that is interconnected with most carriers in its region. BellSouth believes its Transit Service Tariff contains sufficient terms and conditions regarding its relationships to either the originating or terminating carriers involved in such transit traffic. Additionally, BellSouth is willing to negotiate interconnection agreements with carriers addressing transit traffic service.

**STAFF:**

Staff has no position at this time.

**ISSUE 9: SHOULD THE FPSC ESTABLISH THE TERMS AND CONDITIONS OF TRANSIT TRAFFIC BETWEEN THE TRANSIT SERVICE PROVIDER AND THE SMALL LECS THAT ORIGINATE AND TERMINATE TRANSIT TRAFFIC? IF SO, WHAT ARE THE TERMS AND CONDITIONS?**

**COMPSOUTH/NUVOX:**

No. Terms and conditions of transit traffic between BellSouth and small LECs should be established as they are established between BellSouth and CLECs – negotiation and ICA. Since transit service must be provided in a nondiscriminatory manner, and the means to establish transit terms and conditions should be the same for all carriers.

**SPRINT NEXTEL/T-MOBILE:**

No. Carriers have the obligation to negotiate or arbitrate interconnection arrangements for the origination, transit, and termination of traffic. Sprint Nextel and T-Mobile have negotiated and will continue to negotiate interconnection agreements for the exchange of such traffic that addresses their unique business needs on a case by case basis. There is no need for the FPSC to impose blanket or arbitrary terms outside of or in opposition to the Act on such relationships, and no legal precedent authorizing it to do so.

**SMALL LECS:**

Yes. See the Small LECs' responses to Issues 5 and 8.

**ALLTEL:**

Yes, the FPSC should establish guidelines in this proceeding that the transit provider and Small LECs would adhere to only in the event that they could not reach agreement themselves.

**AT&T:**

No.

**FCTA:**

No. These terms and conditions should be negotiated by the carriers. The Commission's involvement should be limited to those occasions in which the parties are unable to reach an agreement and have submitted the dispute to the Commission for arbitration.

**METROPCS:**

No, for the same reasons stated in MetroPCS's position on Issue 5.

**VERIZON:**

See Responses to Issue No. 5 and Issue No. 8. Further, the Commission should clarify that the originating carrier is responsible for transit fees charged by the transit service provider.

**BELLSOUTH:**

No. The carrier originating the traffic has the obligation, pursuant to the Act, to negotiate the rates, terms and conditions related to such traffic with the terminating LEC. Although no carrier is obligated to provide a transit function, any carrier wishing to utilize the transit services of another carrier must negotiate that arrangement with the transiting company. If a carrier refuses to negotiate such an arrangement but still uses those services, the transit provider should have some mechanism to be compensated. BellSouth has provided appropriate information regarding the provisioning of transit service within the content of the Transit Traffic Service Tariff language.

**STAFF:**

Staff has no position at this time.

**ISSUE 10: WHAT EFFECT DOES TRANSIT SERVICE HAVE ON ISP BOUND TRAFFIC?**

**COMPSOUTH/NUVOX:**

Transiting allows Carrier A's customer (dial-up internet subscriber) to call Carrier B's customer (ISP) through indirect interconnection. Transiting lets the user access the Internet where its carrier is not directly interconnected with his/her ISP's carrier when economics do not justify direct interconnection. This fosters choice and expands the benefits of the Internet to more Floridians.

**SPRINT NEXTEL/T-MOBILE:**

CMRS providers do not regularly or routinely handle this type of traffic.

**SMALL LECS:**

The Small LECs maintain the Commission is without authority to approve rates, terms and conditions pursuant to tariff for ISP-bound traffic that the FCC has determined to be an interstate service. Nonetheless, should the Commission move forward with the approval of a tariffed arrangement for transit service, and the Small LECs maintain that the Commission cannot and should not take action, then it is the Small LECs position that the CLECs and CMRS providers should be responsible for any transit charges for calls to ISPs that are customers of CLECs and CMRS providers. The fact the CLEC or CMRS provider's customer is an ISP, rather than a more traditional residential or business customer, does not change the fact that any transit charge approved by the Commission has been caused by the CLECS or CMRS provider due to the CLEC or CMRS provider's election of a tandem arrangement for interconnection as opposed to direct interconnection with the Small LEC. As such, there should be no compensation effect on the Small LECs. With respect to the transit charge rate for ISP-bound traffic, given the FCC's limit of \$0.007 per minute of use on intercarrier compensation for ISP-bound traffic and the fact that to date BellSouth and the CLECs have been providing dial-up ISP bound traffic service to ISPs without any charges to the Small LECs, there is no basis for BellSouth to extract compensation for ISP-bound calls from any carrier and certainly not from Small LECs.

**ALLTEL:**

Alltel takes no position on this issue at this time.

**AT&T:**

Transit Service has no effect on ISP bound traffic.

**FCTA:**

The FCTA does not have a position on this issue. The FCTA reserves its right to take a position in its posthearing brief (1) to respond to this issue and/or any new issues generated by the evidence during the hearing and/or properly raised by other parties or the Commission, and (2) to adopt any issue and position properly identified and/or properly stated by any other party or the Commission.

**METROPCS:**

MetroPCS has no position on this issue.

**VERIZON:**

Verizon Wireless does not handle ISP traffic and thus takes no position.

**BELLSOUTH:**

BellSouth transits this traffic and expects to be compensated for the use of its network. ISP traffic is not excluded from the transit traffic charges. BellSouth is neither the originator nor terminator of the ISP traffic and should to be compensated for the use of the network. The originating carrier is compensated by the originating end user, and the originating carrier as the cost causer should compensate other carriers that assist in the termination of such traffic.

**STAFF:**

Staff has no position at this time.

**ISSUE 11: HOW SHOULD CHARGES FOR BELLSOUTH'S TRANSIT SERVICE BE DETERMINED?**

- (a) **WHAT IS THE APPROPRIATE RATE FOR TRANSIT SERVICE?**
- (b) **WHAT TYPE OF TRAFFIC DO THE RATES IDENTIFIED IN (A) APPLY?**

**COMPSOUTH/NUVOX:**

The rates should be TELRIC-based. Sections 251(a) and 251(c) require BellSouth to provide transit service. § 251(c)(2)(D) requires interconnection “. . . in accordance with . . . the requirements of this section and section 252.” Interconnection pricing standards are in § 252(d) for which the FCC adopted the TELRIC pricing methodology. As such, transit should be TELRIC-based. If a single per-minute of use rate is used, it should be no more than \$0.0009368.

**SPRINT NEXTEL/T-MOBILE:**

Pursuant to Section 251(c)(2)(d) of the Act, interconnection obligations are expressly required to be provided “on rates, terms and conditions, that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.” In addition, section 252(d) provides the pricing methodology that an ILEC must use in the development of costs associated with “transporting or terminating calls.” As previously referenced, the methodology prescribed is the TELRIC cost methodology.

11(a) A TELRIC-based rate for BellSouth's interconnection transit service should be no higher than \$0.0009441.

11(b) The rate applies to any originating carrier requesting that its traffic be transited to a third party.

**SMALL LECS:**

- (a) If the Commission approves a charge for BellSouth's transit service, the rates should be no higher than the rate that would apply for BellSouth's equivalent interstate access services. For ISP-bound traffic, no transit rate should be approved. However, if the Commission determines that transit should apply to ISP-bound traffic, the Commission should establish a rate that is less than the reciprocal compensation rate established by the FCC for ISP-bound traffic.
- (b) See response to subpart (a) above.

**ALLTEL:**

- (a) The rate for transit service should be nondiscriminatory.
- (b) The rate should be applied to local traffic that transits the BellSouth network and is terminated to a third-party carrier.

**AT&T:**

AT&T's interconnection agreement with BellSouth provides rates, terms and conditions for the provision of transit service.

**FCTA:**

The appropriate rate for transit service is the rate negotiated by the parties to an interconnection agreement. If no agreement is reached and the issue is submitted for arbitration, the appropriate rate is a cost-based rate as determined by the Commission. This rate would apply whenever a carrier that is not the originating or terminating carrier delivers a local call to the terminating carrier so that the call can be completed.

**METROPCS:**

- (a) The appropriate charge for transit traffic is the sum of the Commission-approved, TELRIC rate elements for the functions that BellSouth actually performs when transiting traffic.
- (b) Unless otherwise agreed between BellSouth and an originating carrier, the charges determined as described under Issue 11(a) should apply to all traffic transited by BellSouth.

**VERIZON:**

Verizon Wireless does not take a position as to the appropriate rate for BellSouth's transit service.



**BELLSOUTH:**

BellSouth will apply the transit traffic rate to the local usage and local ISP-bound usage transited between other carriers. The local traffic and local ISP-bound traffic can be identified by one of three methods: 1) the originating carrier can record and report the actual local usage; 2) the originating carrier can provide a Percent Local Usage ("PLU") factor based on their own traffic study; and 3) BellSouth can provide a PLU factor for the originating carrier based on traffic studies.

(a) BellSouth has established a composite transit tariff rate for all entities of \$0.003 per MOU. This rate is comparable to rates in recently negotiated agreements between BellSouth and CLECs, and between BellSouth and CMRS carriers.

(b) The rates apply to local traffic and local ISP-bound traffic originated by a carrier, handed to BellSouth for transiting and ultimate delivery to the appropriate terminating third-party carrier. Either the rate established by BellSouth's Transit Tariff or within an agreement addressing transit traffic with the originating carrier would apply.

**STAFF:**

Staff has no position at this time.

**ISSUE 12: CONSISTENT WITH ORDER NOS. PSC-05-0517-PAA-TP AND PSC-05-0623-CO-TP, HAVE THE PARTIES TO THIS DOCKET ("PARTIES") PAID BELLSOUTH FOR TRANSIT SERVICE PROVIDED ON OR AFTER FEBRUARY 11, 2005? IF NOT, WHAT AMOUNTS IF ANY ARE OWED TO BELLSOUTH FOR TRANSIT SERVICE PROVIDED SINCE FEBRUARY 11, 2005?**

**COMPSOUTH/NUVOX:**

Transit service provided by BellSouth to CompSouth members is provided via ICA. CompSouth members have paid BellSouth for transit service pursuant to these agreements prior to February 11, 2005 as well as on and after February 11, 2005. To our knowledge, CompSouth members do not owe BellSouth for unpaid transit service charges.

**SPRINT NEXTEL/T-MOBILE:**

Sprint Nextel and T-Mobile each have their own respective interconnection agreements with BellSouth, and the parties have fulfilled their obligations under those individual agreements.

**SMALL LECS:**

Yes. BellSouth has billed Smart City Telecommunications, LLC d/b/a Smart City Telecom and Frontier Communications of the South, LLC and these Small LECs have paid for

transit service billed by BellSouth on or after February 11, 2005. These charges are being held by BellSouth subject to refund pending the outcome of this proceeding.

**ALLTEL:**

Alltel has paid BellSouth for transit service provided on or after February 11, 2005 consistent with Order Nos. PSC-05-0517-PAA-TO and PSC-05-0623-CO-TP.

**AT&T:**

AT&T's interconnection agreement with BellSouth provides the rates terms and conditions for the provision of transit traffic service to AT&T, and as a result, the tariff that is subject of this proceeding is not applicable to AT&T. AT&T has no knowledge of any other parties' transit traffic relationship or financial obligations to BellSouth.

**FCTA:**

The FCTA does not have a position on this issue. The FCTA reserves its right to take a position in its posthearing brief (1) to respond to this issue and/or any new issues generated by the evidence during the hearing and/or properly raised by other parties or the Commission, and (2) to adopt any issue and position properly identified and/or properly stated by any other party or the Commission.

**METROPCS:**

MetroPCS has no information regarding whether other parties to this docket have paid BellSouth for transit services. However, MetroPCS has at all relevant times paid BellSouth for transit service pursuant to its interconnection agreement. Except for invoices that may not yet have been paid because payment is not yet due and any amounts that may have been disputed pursuant to the dispute provisions of the parties' interconnection agreement, MetroPCS does not owe BellSouth any amount for transit service provided before or after February 11, 2005.

**VERIZON:**

Verizon Wireless has negotiated transit rates with BellSouth as a part of its interconnection agreement with them in nine states. Verizon Wireless has paid, and continues to pay, BellSouth for transit service both before and after February 11, 2005. Per our interconnection agreement with BellSouth, we pay at a rate of \$0.002 per minute of use for transiting Verizon Wireless oriented traffic via a BellSouth tandem to other carriers in the same LATA.

**BELLSOUTH:**

Yes. Since February 11, 2005, ICO parties have paid BellSouth, via the existing BellSouth-ICO monthly settlements system, at the tariffed rate for usage.

**STAFF:**

Staff has no position at this time.

**ISSUE 13: HAVE PARTIES PAID BELLSOUTH FOR TRANSIT SERVICE PROVIDED BEFORE FEBRUARY 11, 2005? IF NOT, SHOULD THE PARTIES PAY BELLSOUTH FOR TRANSIT SERVICE PROVIDED BEFORE FEBRUARY 11, 2005, AND IF SO, WHAT AMOUNTS, IF ANY, ARE OWED TO BELLSOUTH FOR TRANSIT SERVICE PROVIDED BEFORE FEBRUARY 11, 2005?**

**COMPSOUTH/NUVOX:**

Transit service provided by BellSouth to CompSouth members is provided via ICA. CompSouth members have paid BellSouth for transit service pursuant to these agreements prior to February 11, 2005 as well as on and after February 11, 2005. To our knowledge, CompSouth members do not owe BellSouth for unpaid transit service charges.

**SPRINT NEXTEL/T-MOBILE:**

Sprint Nextel and T-Mobile each have their own respective interconnection agreements with BellSouth, and the parties have fulfilled their obligations under those separate agreements.

**SMALL LECS:**

No. No amounts have been paid and no amounts are owed to BellSouth for periods prior to February 11, 2005. If the Commission determines that BellSouth is entitled to compensation for transit services provided before this date, the cost causers, the CLECs and CMRS providers, should be responsible for payment. Up until February 11, 2005, BellSouth knowingly provided transit service without charge to the Small LECs, without seeking agreements with the Small LECs, and without establishing any contractual terms for payment of compensation with the Small LECs.

**ALLTEL:**

No. Alltel has not paid BellSouth for transit service provided before February 11, 2005 and believes that no amounts are owed to BellSouth for transit service provided before February 11, 2005.

**AT&T:**

AT&T's interconnection agreement with BellSouth provides the rates terms and conditions for the provision of transit traffic service to AT&T, and as a result, the tariff that is subject of this proceeding is not applicable to AT&T. AT&T has no knowledge of any other parties' transit traffic relationship or financial obligations to BellSouth.

**FCTA:**

The FCTA does not have a position on this issue. The FCTA reserves its right to take a position in its posthearing brief (1) to respond to this issue and/or any new issues generated by the evidence during the hearing and/or properly raised by other parties or the Commission, and (2) to adopt any issue and position properly identified and/or properly stated by any other party or the Commission.

**METROPCS:**

MetroPCS has no information regarding whether other parties to this docket have paid BellSouth for transit services. However, MetroPCS has at all relevant times paid BellSouth for transit service pursuant to its interconnection agreement. Except for invoices that may not yet have been paid because payment is not yet due and any amounts that may have been disputed pursuant to the dispute provisions of the parties' interconnection agreement, MetroPCS does not owe BellSouth any amount for transit service provided before or after February 11, 2005.

**VERIZON:**

See Response to Issue No. 12. Verizon Wireless does not owe BellSouth for any transit service provided before February 11, 2005.

**BELLSOUTH:**

No. ICO's have not paid BellSouth for local transit services prior to February 11, 2005. In connection with this tariff filing, BellSouth is not seeking to collect any funds due from the Small LEC's for local transit prior to February 11, 2005.

**STAFF:**

Staff has no position at this time.

**ISSUE 14: WHAT ACTION, IF ANY, SHOULD THE FPSC UNDERTAKE AT THIS TIME TO ALLOW THE SMALL LECS TO RECOVER THE COSTS INCURRED OR ASSOCIATED WITH BELLSOUTH'S PROVISION OF TRANSIT SERVICE?**

**COMPSOUTH/NUVOX:**

None. The Small LEC recommendations would turn the "originating party pays" concept on its head and force CLECs to pay the costs of calls Small LEC customers originate. The originating carrier should continue to be responsible for transit costs.

**SPRINT NEXTEL/T-MOBILE:**

None. This Docket should only address carrier-to-carrier transiting issues. Any cost recovery issue should be resolved in a separate proceeding. However, if Issue 14 is to be addressed here, the transit costs incurred by a Small LEC to deliver traffic originated by its own end-users to other carriers are a normal cost of doing business and do not require any action by the Commission in this proceeding.

**SMALL LECs:**

If the Commission determines that is appropriate to allow BellSouth to recover the true cost of transit service and the result of this proceeding is to impose additional costs on the Small LECs, the Commission should authorize the Small LECs to recover such additional costs from all end users of the Small LECs, perhaps through a surcharge. Alternatively, the Commission could determine that the change in the historic status quo with respect to payment for transit service reflects a substantial change in circumstances under Section 364.051(4), Florida Statutes, for the Small LECs and make a finding in this proceeding that the imposition of a transit traffic rate constitutes a substantial change in circumstances.

**ALLTEL:**

If the FPSC takes any action on costs recovery, it should be to establish a mechanism whereby small ILECs can recover the additional costs of transit expense from their own end-user customers.

**AT&T:**

No position.

**FCTA:**

It is FCTA's position that any questions regarding the recovery of costs by the small ILECs are separate and distinct from questions regarding the appropriate method of compensation for transit services. Any action regarding small ILEC cost recovery is properly addressed within the context of the Commission's regulation of each individual ILEC.

**METROPCS:**

The FPSC must establish two rules. First, the Small LECs should not be permitted to recover the costs incurred or associated with BellSouth's provision of transit service for traffic originating on the Small LECs' networks from any terminating carrier. Further, the FPSC should not permit the Small LECs to recover costs associated with transit traffic by charging their subscribers differently for calls to customers of other carriers whose numbers are associated with the Small LECs' subscribers' local calling areas (including EAS routes) because such charges

would violate the Small LECs' dialing parity obligations pursuant to 47 U.S.C. § 251(b)(3) and the FCC's implementing regulations.

**VERIZON:**

The Commission should take no unilateral action. The Small LECs have procedural options since the T-Mobile Decision that obviate the need for generic Commission action. If the Commission should choose to act, it should be mindful of the maxim addressed above that the originating carrier is responsible for transit fees. Further, should any individual ILEC pursue recovery of its costs incurred to deliver its originated traffic indirectly, it should do so through a rate case intended to impact the rates charged to all of its landline subscribers. The ILECs should not discriminate against CMRS carriers, and should not be permitted to recover their costs of doing business by imposing charges only on calls to CMRS numbers.

**BELLSOUTH:**

BellSouth is not in a position to determine or address the financial position and recovery options of other carriers.

**STAFF:**

Staff has no position at this time.

**ISSUE 15: SHOULD BELLSOUTH ISSUE AN INVOICE FOR TRANSIT SERVICES AND IF SO, IN WHAT DETAIL AND TO WHOM?**

**COMPSOUTH/NUVOX:**

Yes, just as it does today. The originating carrier should be responsible for compensating BellSouth for the transit charges related to transit traffic. As such, BellSouth should provide the invoice for transit services to the originating carrier.

**SPRINT NEXTEL/T-MOBILE:**

Yes, BellSouth should issue an invoice for transit service to any telecommunications carrier that utilizes its transit service to deliver traffic originated on its network to other carriers subtending BellSouth's network. The invoice should identify the number of minutes transited by BellSouth by element, the price of each invoiced element used, and the CLLI location of the terminating carrier to which BellSouth transited each minute.

**SMALL LECS:**

Any transit service charge approved by the Commission should be reflected by BellSouth in a separate invoice. The charge should not be netted against compensation that BellSouth otherwise owes the Small LECs for traditional access and service revenue settlement

arrangements. The separate invoice should include details of call records and any other information necessary to determine accuracy and completeness of usage.

**ALLTEL:**

Yes. BellSouth should submit an invoice with sufficient details of call records and other information necessary to determine the accuracy and completeness of the charges to the originating carrier.

**AT&T:**

AT&T's ICA with BellSouth governs the rendering and payment of billing for transit traffic.

**FCTA:**

BellSouth should seek payment from the originating carrier according to the terms set forth in its interconnection agreement with that carrier.

**METROPCS:**

Yes, BellSouth should issue an invoice for transit service to each carrier that delivers transit traffic to BellSouth. Such invoices should be provided in an industry standard format that, at a minimum, includes the number of minutes transited, the elements provided in transiting such minutes (*i.e.*, the number of tandem switching minutes billed and, separately identified, the number of transport minutes billed) and adequate information to allow the party billed for the transit service to identify the Common Language Location Identification code ("CLLI") of the end office of the terminating end user customer.

**VERIZON:**

BellSouth should issue invoices for transit services to the originating carrier. The invoices should identify the minutes transited by terminating end office CLLI code.

**BELLSOUTH:**

No. It is unnecessary for BellSouth or the ICOs to develop a different process for billing and paying for transit services than that currently utilized for other services. BellSouth will include the transit traffic charges on the existing ICO settlements system reports/statements, which is the established monthly payment process between BellSouth and the ICO's in Florida. A line item for transit traffic is identified with the month of usage on the Miscellaneous Settlement report. An additional spreadsheet with monthly Transit Minutes of Use can also be found at a BellSouth web-site for further validation by the originating ICO.

**STAFF:**

Staff has no position at this time.

**ISSUE 16: SHOULD BELLSOUTH PROVIDE TO THE TERMINATING CARRIER SUFFICIENTLY DETAILED CALL RECORDS TO ACCURATELY BILL THE ORIGINATING CARRIER FOR CALL TERMINATION? IF SO, WHAT INFORMATION SHOULD BE PROVIDED BY BELLSOUTH?**

**COMPSOUTH/NUVOX:**

Yes. If approved, any tariff should specify that BellSouth will provide sufficiently detailed call records to identify the originating carrier and render accurate bills. Some carriers have SS7 networks that obviate the need for BellSouth's call records. No tariff should require such carriers to pay for records they do not need.

**SPRINT NEXTEL/T-MOBILE:**

Yes. At the BellSouth tandem, traffic from multiple carriers is commingled for routing to BellSouth customers or for routing to other CMRS, CLEC, IXC, ILEC, or other carriers. To facilitate the billing of such commingled traffic, standard routing and billing protocols and standards have been developed. For transit traffic, BellSouth should continue to utilize these procedures, including the provision of the industry standard Category 11-01-01 records to terminating carriers.

**SMALL LECS:**

Yes. At minimum, BellSouth should provide call detail records in the "EMI Category 11 - - Carrier Access Usage" format. The information provided by BellSouth should include the actual originating number, the Carrier Identification Code of the originating carrier, and the local routing number, if present.

**ALLTEL:**

Yes. BellSouth should provide unaltered call detail records in the EMI Category 11 - Carrier Access Usage format including the actual originating number, the CIC of the originating carrier and the LRN and the OCN.

**AT&T:**

AT&T's ICA with BellSouth governs the rendering and payment of billing for transit traffic.



**FCTA:**

Yes. The scope and form of this information should be pursuant to the terminating carrier's interconnection agreement with BellSouth.

**METROPCS:**

Yes. MetroPCS believes that the information described in BellSouth's response to Item No. 4 of the Small LECs' First Interrogatories is adequate and appropriate.

**VERIZON:**

BellSouth, as the provider of transit service, should provide records to the terminating carrier that enable the terminating carrier to bill accurately the originating carrier for call termination. At a minimum, this information should include originating carrier name, originating carrier OCN, and minutes of use. Terminating carriers also have the option of implementing their own measurement systems. Verizon Wireless typically agrees to accept charges from terminating carriers based on usage data provided by BellSouth and typically bills such carriers for reciprocal compensation on traffic terminated by Verizon Wireless based on application of an agreed upon traffic factor to billed mobile-to-land usage.

**BELLSOUTH:**

BellSouth currently provides Industry Standard EMI Records, where available, to terminating carriers for traffic from Meet-Point Billed carriers. The terminating carrier should refer to industry standard documentation for the EMI call detail record data BellSouth provides. In addition, Summary Reports are also provided for UNE-P CLEC usage and for Non-MPB CMRS usage. The Summary Reports contain adequate information to allow the terminating carrier to invoice the originating carrier. The Summary Reports are available on a BellSouth web-site for the terminating carrier's review, analysis, downloading and billing purposes.

**STAFF:**

Staff has no position at this time.

**ISSUE 17: HOW SHOULD BILLING DISPUTES CONCERNING TRANSIT SERVICE BE ADDRESSED?**

**COMPSOUTH/NUVOX:**

Billing disputes between CLECs and BellSouth be addressed according to the terms of their ICAs, and the same should be the case BellSouth and any other party. There is no need to change these processes or create new processes.

**SPRINT NEXTEL/T-MOBILE:**

Transit billing disputes should be addressed pursuant to the dispute resolution provisions of a Commission-approved interconnection agreement between BellSouth and the carrier with whom a dispute may arise. Blocking is never an option.

**SMALL LECS:**

Billing disputes should be resolved among all of the carriers and, if necessary, by the Commission.

**ALLTEL:**

Billing disputes should be addressed pursuant to the dispute resolution process in the contract or agreement.

**AT&T:**

In accordance with parties' Interconnection agreements if such an agreement exists.

**FCTA:**

Billing disputes for transit services, like other interconnection services, should be handled according to the dispute resolution language in each carrier's interconnection agreement with BellSouth.

**METROPCS:**

Billing disputes concerning transit service should be resolved pursuant to the dispute resolution provisions in the parties' interconnection agreements.

**VERIZON:**

Any billing disputes should be resolved pursuant to the process outlined in the applicable interconnection agreement.

**BELLSOUTH:**

Any disputes involving the validity of the terminating carrier's billing to the originating carrier, or the authority of the terminating carrier to bill the originating carrier should be resolved by the controlling regulatory body or pursuant to the dispute resolution process in accordance with their contract. To the extent the dispute involves questions related to the minutes of use billed or other issues surrounding the record information supplied by BellSouth pursuant to the transit tariff, BellSouth will provide support regarding questions on the data. If disputes between

BST as transit provider and one of the carriers arises, as with any tariff, the dispute would be resolved by the FPSC in accordance with the terms of the tariff.

**STAFF:**

Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u> Steven E. Watkins	Small Leacs	_____ (SEW-1)	Summary of Work Experience and Education
Timothy J. Gates	CompSouth/NuVox	_____ (TJG-1)	Qualifications of Timothy J. Gates
		_____ (TJG-2)	Excerpt from BellSouth UNE case
Billy H. Pruitt	Sprint Nextel/ T-Mobile	_____ (BHP-1)	Diagram of the Network configuration associated with a typical transit scenario
		_____ (BHP-2)	North Carolina Utility Commission's September 22, 2003 Order Denying Petition in Docket No. P-19, Sub 454
		_____ (BHP-3)	Texas Public Utility Commission's February 23, 2005 Arbitration Award in Docket No. 28821

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<hr/> (BHP-4)	BellSouth Florida rate page "215 of 800" from existing interconnection agreement between BellSouth, Sprint Communications Company Limited Partnership and Sprint Spectrum L.P.
		<hr/> (BHP-5)	<i>BellSouth Telecommunications, Inc.'s Petition for a Declaratory Ruling Regarding Transit Traffic</i> , Docket No. 16772-U, "Order on Clarification and Reconsideration" (Georgia Public Service Commission, May 2, 2005)
<u>Rebuttal</u>			
Kenneth R. McCallen	BellSouth	<hr/> (KRM-1)	GSST Tariff A16.1 Transit Traffic Service
		<hr/> (KRM-2)	Revised Listing of agreements and transit rates for CLECs in Florida
		<hr/> (KRM-3)	Listings of agreements and transit rates for CMRS in Florida

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Dena J. Bishop	MetroPCS	_____ (DJB-1)	Qwest Interconnection Agreement
Billy H. Pruitt	Sprint Nextel/ T-Mobile	_____ (BHP-6)	Tennessee Regulatory Authority's January 12, 2006 <i>CELLCO</i> <i>Arbitration Order</i>
Don J. Wood	FCTA	_____ (DJW-1)	Qualifications
		_____ (DJW-2)	Rate Page from Comcast-BellSouth Interconnection Agreement

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

XI. PENDING MOTIONS

On March 9, 2006, BellSouth filed a Motion to Strike certain portions of the rebuttal testimony of Don Wood filed by FCTA. In its Motion, BellSouth states portions of witness Wood's testimony go well beyond the appropriate scope of rebuttal testimony and contain arguments and analysis that should have been part of FCTA's case-in-chief or direct testimony. On March 16, 2006, FCTA filed its Response.

The ruling on BellSouth's Motion to Strike and FCTA's Response will be made by separate order.

XII. PENDING CONFIDENTIALITY MATTERS

On February 16, 2006, MetroPCS filed a Request for Confidential Classification. No objection has been filed. In its Request, MetroPCS is requesting confidential classification for portions of the rebuttal testimony filed on behalf of Dena Bishop.

On February 17, 2006, AT&T filed a claim for confidential treatment. In its claim, AT&T asserts that its responses Nos. 7e and 7g of Staff's First Set of Interrogatories to AT&T include confidential and proprietary business information that should be held exempt from public disclosure.

On March 6, 2006, BellSouth filed a Request for Confidential Classification for its supplemental response to MetroPCS' First Request for Production of Documents, Item No. 3. In its Request, BellSouth asserts that information included in the referenced Item No. 3 contains customer specific proprietary information. The time for response has not yet run.

The rulings on the claim and requests for confidential classification will be made by separate order.

XIII. DECISIONS THAT MAY IMPACT COMMISSION'S RESOLUTION OF ISSUES

Parties have stated in their prehearing statements that the following decisions have a potential impact on our decision in this proceeding:

*Federal Decisions*

In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92 (released February 24, 2005) (*T-Mobile Declaratory Ruling and Report and Order*)

Atlas Telephone Co., et al. v. Oklahoma Corporation Commission, et. al., 400 F.3d 1256, (10<sup>th</sup> Cir. 2005)

Mountain Communications, Inc. v. FCC, 355 F.3d 644 (D.C. Cir 2004)

Texcom, Inc. d/b/a Answer Indiana vs. Bell Atlantic Corp. d/b/a Verizon Communications, 16 F.C.C.R. 21, 493 (2001)

In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic, CC Docket Nos. 96-98 and 99-68 (April 2001) (*ISP Remand Order*)

State Decisions

In Re: BellSouth Telecommunications' Petition for a Declaratory Ruling Regarding Transit Traffic, Georgia Public Service Commission, Docket No. 16772-U (March 24, 2005)

In Re: Petition for Arbitration of Cellco Partnership d/b/a Verizon Wireless, et. al., Tennessee Regulatory Authority, Docket No. 03-00585 (January 12, 2006)

XIV. RULINGS

On March 10, 2006, Southern Communications Services, Inc. d/b/a SouthernLINCWireless (SouthernLINCWireless) filed a Petition to Intervene. On March 14, 2006, MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services (Verizon Access) filed a Petition to Intervene. Having reviewed the Petitions, it appears that both companies' substantial interests may be affected by this proceeding. Therefore, these petitions shall be granted. Pursuant to Rule 25-22.039, Florida Administrative Code, SouthernLINCWireless and Verizon Access take the case as they find it.

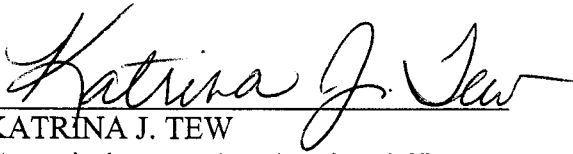
Opening statements, if any, shall not exceed ten minutes for BellSouth, ten minutes for the Small LECs, and five minutes for all other parties individually. Opening statements shall be taken up in the following order:

BellSouth  
Small LECs  
ALLTEL  
AT&T  
CompSouth and NuVox  
MetroPCS  
Verizon Wireless  
Sprint Nextel  
T-Mobile  
FCTA  
SouthernLINCWireless  
Verizon Access

It is therefore,

ORDERED by Commissioner Katrina J. Tew, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Katrina J. Tew, as Prehearing Officer, this 22nd day of March, 2006.

  
KATRINA J. TEW  
Commissioner and Prehearing Officer

( S E A L )

FB/KS

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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 or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.