



**DOCKET NO. 960833-TP**  
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Section 252(b)(4)(c) states that the State commission shall resolve each issue set forth in the petition and response by imposing the appropriate conditions as required. This section requires this Commission to conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received the request under this section.

By letter dated March 4, 1996, AT&T Communications of the Southern States (AT&T), on behalf of its subsidiaries providing telecommunications services in Florida, requested that BellSouth Telecommunications, Inc. (BellSouth) begin good faith negotiations under Section 251 of the Act. On July 17, 1996, AT&T filed its request for arbitration under the Act.

On July 30, 1996, AT&T and MCI filed a joint motion for consolidation with AT&T's request for arbitration with BellSouth. By Order No. PSC-96-1039-TP, issued August 9, 1996, the joint motion for consolidation was granted.

On August 8, 1996, the Federal Communications Commission (FCC) released its First Report and Order in CC Docket No. 96-98 (Order). The Order established the FCC's requirements for interconnection, unbundling and resale based on its interpretation of the 1996 Act. This Commission appealed certain portions of the FCC order, and requested a stay of the Order pending that appeal. On October 15, 1996, the Eighth Circuit Court of Appeals granted a stay of the FCC's rules implementing Section 251(i) and the pricing provisions of the Order.

On October 9 through 11, 1996, we conducted an evidentiary hearing for the consolidated dockets. On November 7, 1996, ACSI reached an agreement with BellSouth that was subsequently approved at our November 12, 1996, Agenda Conference. ACSI filed a notice of withdrawal of its petition for arbitration on November 12, 1996.

On October 9 through 11, 1996, we conducted an evidentiary hearing for the consolidated dockets. On November 7, 1996, ACSI reached an agreement with BellSouth that was subsequently approved at our November 12, 1996, Agenda Conference. ACSI filed a notice of withdrawal of its petition for arbitration on November 12, 1996.

On December 31, 1997, we issued Order No. PSC-96-1579-FOF-TP in which we arbitrated the remaining unresolved issues between AT&T and BellSouth. In the Order, we directed the parties to file agreements memorializing and implementing our arbitration decision within 30 days. The parties filed their arbitrated agreement with the Commission on January 30, 1997 and identified the sections

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where there were still disputes on the specific language. This recommendation addresses approval of the agreement.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission approve AT&T and BellSouth's arbitrated agreement?

**RECOMMENDATION:** Yes. The Commission should approve all sections of the AT&T and BellSouth agreement, except for the sections identified in Table A in the staff analysis. The agreement is consistent with Section 251 of the Act and this Commission's order issued in this proceeding.

**STAFF ANALYSIS:** The parties to the proceeding have agreed to most of the language in the agreement. Section 252(e)(2)(B) states that the Commission can only reject an arbitrated agreement if it finds that the agreement does not meet the requirements of Section 251, including the regulations prescribed by the Commission pursuant to section 251, or the standards set forth in subsection (d) of this section. Staff has reviewed the agreed language for compliance with both the Commission's order issued in this proceeding, the Act and the FCC's implementing rules and order, and believes the language is appropriate. Therefore, staff believes the Commission should approve the language contained in the agreement, except for the sections identified in Table A. The sections in Table A will be discussed in the following issues.

**Table A**

| <b>Agreement ID</b>          | <b>Section</b>   | <b>Title</b>                                |
|------------------------------|------------------|---|
| Preface                      | 1st Paragraph    | Affiliates                                  |
| General Terms and Conditions | 12.1, 12.2, 12.3 | Performance Measurement                     |
| General Terms and Conditions | 13               | Customer Credit History                     |
| Part I                       | 25.5.2           | Contract Service Arrangements               |
| Part II                      | 30.7             | Unbundled Network Elements                  |
| Part IV                      | 34-42            | Pricing                                     |
| Attachment 3                 | 3.4.10.3         | Reservation of Space for Emergency Purposes |

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| Agreement ID  | Section     | Title  |
|---------------|-------------|--|
| Attachment 3  | 3.8.3       | Processing of Applications   |
| Attachment 3  | 3.10.2.2    | Construction of AT&T's Facilities  |
| Attachment 7  | 6           | Lost, Damaged, Destroyed Message Data  |
| Attachment 9  | 2.2, 2.3    | Revenue Protection   |
| Attachment 12 | 1-6         | Performance Measurement  |
| Attachment 12 | 12.2.10.1.1 | SS7 Advanced Intelligent Network (AIN) Access  |
| Attachment 15 | 1-10        | Interface Requirements for Ordering and Provisioning, Maintenance and Repair, and Pre-Ordering |

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**ISSUE 2:** Should the Commission establish language for the dispute associated with SS7 Network and AIN between AT&T Communications of the Southern States, Inc. and BellSouth Telecommunications, Inc.?

**RECOMMENDATION:** No. The Commission should not establish language for this area of dispute.

**STAFF ANALYSIS:**

**Attachment 2 - Service Description: Unbundled Network Elements**

**Sections**

**Title**

|                     |   |
|---------------------|---|
| Section 12.2.10.1.1 | SS7 Advanced Intelligent Network (AIN) Access |
|---------------------|---|

AT&T proposes language that would require BST's local switch to recognize AT&T's SCP at parity with BST's SCP in all cases, including when a mediation device is used. BST proposes that this section of the agreement be deleted. Both the Commission order and FCC order explicitly state that the use of a mediation mechanism may be necessary in some circumstances. Staff believes that there is sufficient language in section 12.2.10.1 of the agreement to reflect the fact that mediation devices may be required. In addition, staff believes that any delay caused by the use of a mediation device would be minuscule. Therefore, staff would agree with BST in this instance and recommend that AT&T's proposed language in section 12.2.10.1.1 be deleted.

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**ISSUE 3:** Should the Commission address the pricing and language disputes for unbundled network elements between AT&T Communications of the Southern States, Inc. and BellSouth Telecommunications, Inc.?

**RECOMMENDATION:** Staff recommends that the Commission establish language for the pricing sections that are in dispute as discussed in the staff analysis. Staff recommends that the Commission should not establish language for Section 30.7 of the agreement. That language dispute concerns an issue not addressed in the arbitration proceeding.

**STAFF ANALYSIS:**

**PART II - Unbundled Network Elements**

| <u>Sections</u> | <u>Title</u>               |
|-----------------|----------------------------|
| 30.7            | Unbundled Network Elements |

**PART IV - Pricing**

| <u>Sections</u> | <u>Title</u> |
|-----------------|--------------|
| 34-42           | Pricing      |

AT&T and BellSouth (BST) have not reached an agreement on rates for several unbundled network elements (UNEs) in Part IV - Pricing, of the proposed agreement. In addition, the parties disagree on language in Section 30.7, Part II - Unbundled Elements, of the proposed agreement.

**PART IV - PRICING**

Each element in dispute is addressed separately.

Local Switching

AT&T claims that BST has taken the position that the rate set by the Commission for Local Switching does not include all features, functions and capabilities of the switch. However, this Commission determined that the Local Switching rate does include all features, functions and capabilities of the switch. Staff recommends that the Commission Order BST to comply with the Commission's Order.

Selective Routing

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AT&T states that BST may incur certain (not disclosed) one time, NRCs to establish routing information in each local switch to send calls to AT&T's platforms. AT&T believes that the local switching per minute charge will cover the costs of switching the call. A charge for selective routing was not an issue addressed in this proceeding. Only the technical feasibility of selective routing was addressed. Therefore, staff recommends that the Commission not set an NRC for selective routing.

#### AIN rates

AT&T requested AIN capabilities as a Unbundled Network Elements (UNE) in this proceeding. However, AT&T was not specific as to what AIN capabilities it was requesting. Therefore, the Commission was not able set rates for AIN. The Commission instructed BST to submit a cost study 30 days after receiving a bona fide request by AT&T for AIN. AT&T claims that it has already made a request for AIN in this proceeding and should not be required to make another request. In order to save time, AT&T proposes that an interim rate of \$0.00004 per message be used until the Commission sets permanent rates for AIN. BellSouth proposed rates for various unbundled elements in its proposed agreement. However, BST did not propose an interim rate for AIN in its proposed agreement. Staff believes that AT&T's proposed rate could be used on an interim basis, since it is sufficiently above BST's TCAP per message rate. Therefore, in the interest of promoting competition, staff recommends that the Commission set an interim AIN rate at \$0.00004 per message until BST provides a TSLRIC cost study.

#### Nonrecurring Charges for Unbundled Network Elements

The Commission set nonrecurring charges (NRCs) for each unbundled element ordered on an individual basis. AT&T claims that BST should only charge an NRC when BST actually incurs the cost to connect UNEs. AT&T states that when BST already has service to its customer and AT&T takes that customer, then AT&T should not have to pay NRCs for each UNE ordered to provide the service because the elements are already combined. AT&T is presenting an argument that was not part of the record in this arbitration. Staff recommends that the Commission not address this dispute, since it was not an issue in the proceeding.

PART II - UNBUNDLED NETWORK ELEMENTS

The parties disagree on the language contained in Section 30.7. The proposed language for each party is as follows:

BellSouth's Proposed Language

BellSouth shall charge AT&T the rates set forth in Part IV when directly interconnecting any Network Element or Combination to any other Network Element or Combination. If BellSouth provides such service to an affiliate of BellSouth, that affiliate shall pay the same charges.

AT&T's Proposed Language

BellSouth shall not charge AT&T an interconnection fee or demand other consideration for directly interconnecting any Network Element or Combination to any other Network Element or Combination provided by BellSouth to AT&T if BellSouth directly interconnects same two Network Elements or Combinations in providing any service to its own Customers or a BellSouth affiliate, including the use of intermediate devices, such as a digital signal cross connect panel, to perform such interconnection.

AT&T states that it should not have to pay NRCs when ordering a combination of network elements that are already combined. The Commission set nonrecurring charges for interconnection of each unbundled network element. The issue of the application of nonrecurring charges when multiple network elements are combined was not addressed. Staff believes this is a new issue, and language for the agreement should not be determined by this Commission.

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**ISSUE 4:** Should the Commission establish language for the dispute associated with Local Services Resale between AT&T Communications of the Southern States, Inc. and BellSouth Telecommunications, Inc.?

**RECOMMENDATION:** Yes. The Commission should approve the staff proposed language identified in the staff analysis.

**STAFF ANALYSIS:**

**Part 1 - Local Services Resale**

| <u>Sections</u> | <u>Title</u>                  |
|-----------------|-------------------------------|
| Section 25.5.2  | Contract Service Arrangements |

Staff would note that BellSouth currently is required to report CSAs quarterly with the Commission (See Order No. 15317, Docket No. 840228-TL). BellSouth is required to file the case number, location, description of the CSA, the reason, and the contract rates for the CSA. The parties have proposed the following language.

**AT&T's Proposed Language**

Unless otherwise publicly available, BellSouth shall use the best efforts to provide AT&T copies of all existing CSAs within a reasonable time after the Effective Date. Any CSA entered into after the Effective Date shall be provided to AT&T no less than thirty (30) days before the Effective Date of any such CSA. In any event, if AT&T identifies a specific CSA, BellSouth shall provide AT&T a copy of AT&T's request.

**BellSouth's Proposed Language**

If AT&T identifies a specific CSA, BellSouth shall provide AT&T a copy within ten (10) business days of AT&T's request.

AT&T proposed language requires BellSouth to provide AT&T copies of all CSAs within a reasonable time after the effective date unless they are otherwise publicly available. AT&T's language further requires that any CSA entered into after the effective date shall be provided to AT&T no less than 30 days before the effective date. AT&T argues that since CSAs are not published or generally disclosed by BellSouth, but were required to be resold by the Commission, BellSouth should be ordered to disclose the CSAs. AT&T

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contends it has a right which it can rarely exercise unless the CSAs are made available. The parties agree that BellSouth shall provide AT&T a copy of any CSA specifically identified by AT&T within 10 business days of AT&T's request.

BellSouth argues that this issue was not specifically addressed by AT&T in its arbitration petition nor in the arbitration proceeding itself. BellSouth contends that this issue is not related to the Commission's decision regarding the resale of CSAs nor is compliance with AT&T request required by the Act.

Although this issue may not have been directly addressed in the arbitration proceeding, staff believes the Commission did address whether CSAs are available for resale at wholesale discount rates. Therefore, staff believes this language is closely related to requiring CSAs to be resold and providing wholesale customers notice of services available for resale. Staff believes it is reasonable to require BellSouth to provide the same CSA detail, as it provides to the Commission, on a monthly basis to AT&T. This will allow AT&T an opportunity to review the CSAs and request more detail on a specific CSA if desired. Since both parties agree that BellSouth shall provide AT&T a copy of any CSA specifically identified by AT&T within 10 business days of AT&T's request, staff believes the Commission should approve staff's recommended language. We believe this should resolve the conflict.

**Staff's Recommended Language**

BellSouth shall provide, every 30 days, a list of all current CSAs, which shall include the level of detail filed with the Commission. In any event, if AT&T identifies a specific CSA, BellSouth shall provide AT&T a copy within ten (10) working days of AT&T's request.

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**ISSUE 5:** Should the Commission establish language for the dispute associated with Performance Measurement between AT&T Communications of the Southern States, Inc. and BellSouth Telecommunications, Inc.?

**RECOMMENDATION:** Yes. The Commission should approve the staff proposed language identified in the staff analysis.

**STAFF ANALYSIS:**

**General Terms and Conditions**

| <u>Sections</u>      | <u>Title</u>                   |
|----------------------|--------------------------------|
| 12.1, 12.2, 12.3     | Performance Measurement        |
| <b>Attachment 12</b> | <b>Performance Measurement</b> |

The Commission ordered BST to provide AT&T telecommunications services for resale and access to unbundled network elements at the same level of quality that it provides to itself and its affiliates. BST and AT&T were ordered to continue negotiations concerning detailed standards of performance to be incorporated into the proposed interconnection agreement to be submitted to the Commission for approval.

Under the General Terms and Conditions section, both BST and AT&T have submitted language covering Performance Measurement. Both parties' language in paragraphs 12.1 and 12.2 addresses the same topics. However, AT&T's language is more concrete and specific. In paragraph 12.3, AT&T proposes that performance be monitored monthly and that the parties develop a Process Improvement Plan to establish a forum to improve quality of service. BST proposes to delete this section, arguing that it goes beyond the intent of the Commission. Staff disagrees. The Commission instructed the parties to develop performance standards and measurements. It is a logical part of the effort to monitor the process and set up a plan for handling improvements. Staff recommends that AT&T's proposed language in paragraphs 12.1, 12.2 and 12.3 be included.

In Attachment 12, AT&T has submitted revised language striking references to damages or penalties in the event of performance failure, and providing detailed standards, Direct Measures of Quality (DMOQs) for six key functions. These six functions are Provisioning, Maintenance Services, Billing-Customer Usage Data, Connectivity Billing and Recording, Line Information Database Processing, and Account Maintenance. BST's proposal includes only

four of the key functions (BST has excluded Connectivity Billing & Recording and Account Maintenance), and has refused to "set goals" for any of them. BST has provided no rationale as to why it has excluded the key functions that AT&T has included. While staff cannot make a specific judgment on the appropriateness of each specific standard or DMOQ submitted by AT&T, neither did BST submit any specific objections to any of the standards.

Staff has reviewed the language proposed by each party, and believes that, for the most part, AT&T's proposed language and standards should be adopted. BST's language is vague, does not contain the required standards, and is not suitable to be used as the basis for a contract. In the absence of any reason why an AT&T-proposed DMOQ should not be adopted, staff is recommending approval.

Specifically, staff recommends the following with respect to each section of Attachment 12 of the agreement:

1. **Performance Measurement - DMOQs.** Approve AT&T's proposed language in its entirety.
2. **Provisioning DMOQs.** Approve AT&T's proposed language in its entirety.
3. **Maintenance DMOQs.** Approve AT&T's proposed language in its entirety.
4. **Billing (Customer Usage Data).** Approve AT&T's proposed language for the entire section except that in Section 4.2, Timeliness, the first sentence should be amended to read:

BellSouth will mechanically transmit all usage records to AT&T's Message Processing Center three (3) times a day.

Staff has recommended that the words, "via CONNECT:Direct" be omitted. We do not know what the term means, and it was not addressed in the proceeding. In the event this is a procedure or system that BST has not already developed, we will not recommend that usage records be required to be transmitted that way. The effect of this change is that BST may mechanically submit the required records via the most efficient method to accomplish the requirements of this section.

5. **Billing (Connectivity Billing and Recording).** Approve AT&T's proposed language in its entirety.

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6. **Line Information Data Base (LIDB).** Approve AT&T's proposed language in its entirety.

7. **Account Maintenance.** Approve AT&T's proposed language for the entire section except that in Section 7.1, the sentence should be amended to delete the words "via CONNECT:Direct," for the same reason cited in Section 4 above.

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**ISSUE 6:** Should the Commission establish language for the dispute associated with access to poles, ducts, conduits and rights-of-way between AT&T Communications of the Southern States, Inc. and BellSouth Telecommunications, Inc.?

**RECOMMENDATION:** Yes, the Commission should approve the staff proposed language identified in the staff analysis.

**STAFF ANALYSIS:**

**Attachment 3 - Rights of way (ROW), Conduits, Pole Attachments**

| <u>Attachment</u> | <u>Sections</u> | <u>Title</u>                            |
|-------------------|-----------------|---|
| 3                 | 3.8.3           | Processing Of Applications              |
| 3                 | 3.10.2.2        | Construction Of AT&T's<br>Facilities    |
| 3                 | 3.4.10.3        | Reservation of Ducts for<br>Emergencies |

Staff does not believe Section 3.8.3 or 3.10.2.2 of Attachment 3 a part of this arbitration. Therefore, staff is recommending the Commission not establish language for these sections.

Staff believes the Commission should establish language for Section 3.4.10.3 of Attachment 3 since we believe it was part of the arbitrated proceeding.

**3.4.10.3 Reservation of Ducts for Emergencies**

**AT&T's Proposed Language**

Where BellSouth has available ducts and inner ducts, BellSouth shall offer such ducts and inner ducts to AT&T for AT&T's use. One full-sized (Typically 4 inch diameter) duct and inner duct shall be assigned for emergencies. If BellSouth or any other service provider utilizes the emergency duct or inner duct, and such duct or inner duct was the last unoccupied full-sized duct or inner duct in the applicable cross-section, said provider shall, at its expense, reestablish a clear, full-sized duct or inner duct for emergency restoration as soon as practicable. If occupancy of the emergency duct or inner duct by BellSouth or other service provider was for non-emergency purposes, such occupancy shall be subject to immediate removal should an emergency arise calling for the need of a restoration conduit. In the event that an emergency situation causes a service outage, pole and/or duct access will be afforded without discrimination to service providers, with the

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following prioritization: (i) fire, police and/or hospital facilities, and (ii) facilities impacting the greatest number of people consistent with an intention to best serve the needs of the people.

**BellSouth's Proposed Language**

BellSouth's proposed to delete this section

AT&T proposes that there be a common emergency duct and inner-duct for use in emergency service restoration situations. AT&T also proposed a priority restoration schedule in an emergency situation to restore service first to fire, police and/or hospital facilities and next to restore service to the facilities impacting the greatest number of people.

AT&T claims that BellSouth did not agree to include any language addressing emergency duct use or restoration priorities. The establishment of an emergency duct would ensure new entrants have some ability to react as quickly as possible in an emergency situation. Sharing the duct as proposed by AT&T is also efficient. Without an emergency duct, AT&T and other new entrants are disadvantaged vis a vis BellSouth which does not restrict itself with regard to using available duct space to respond to an emergency.

BellSouth will reserve space for itself for maintenance spares, that will also be utilized by BellSouth in cases of emergency, based upon a one-year forecast. Further, in compliance with the Commission's decision, BellSouth will allow any telecommunications provider to reserve such space for maintenance and emergency purposes, based upon a one-year forecast. BellSouth's position is consistent with the Commission's determination on this issue and is also the most efficient approach to the issue of use of space in cases of emergency. AT&T's position is quite the contrary. AT&T requires that BellSouth assign a full-sized duct for emergencies that will be common for all occupants of the conduit space. In cases where the emergency is service-affecting to more than one occupant, the access to the common emergency duct would be determined by a priority list as set forth by AT&T in its contract language. AT&T's common emergency duct is simply not practical. BellSouth's experience shows that most emergencies affect all occupants of the space and therefore prioritization of need would, more often than not, be an issue. Secondly, allowing all telecommunications providers to serve a maintenance or emergency duct totally avoids the issues of prioritization and access to the common duct. Lastly, AT&T's position is contrary to the Commission's determination. The

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Commission's determination provides a solution to the issue of emergencies while AT&T's language merely adds a level of complexity and will require BellSouth to reserve additional space in conduit for emergencies.

BellSouth has no objection to allowing AT&T to reserve a duct for itself for emergency purposes and then to offer to share such capacity with other telecommunications carriers willing to enter into such a sharing arrangement.

Staff does not believe that one common duct for emergencies and maintenance would be an efficient or manageable arrangement. Questions on priorities and impediments to restoration of service could arise under a common duct arrangement. Staff does believe that the concept, as ordered in Issue 11 of this proceeding, of requiring BST to allow AT&T and other parties to reserve capacity under the same time frames, terms and conditions that it affords to itself is equitable and is in compliance with the Act.

Staff also believes that BST should allow AT&T to reserve an emergency duct for itself and then offer to share that capacity with other carriers that are willing to enter into such a sharing agreement. Staff believes the Commission should approve staff's recommended language listed below.

**Staff Recommended Language**

BellSouth will allow AT&T and other parties to reserve capacity under the same time frames, terms and conditions that it affords itself. This includes reservations of emergency ducts as well as ducts for growth and other purposes. AT&T, if it so chooses, may reserve one emergency duct for itself and then offer to share this duct with other telecommunication carriers that are willing to enter into such a sharing agreement.

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**ISSUE 7:** Should the Commission approve the language, as identified in the February 11, 1997 letter, for electronic interfaces between AT&T Communications of the Southern States, Inc. and BellSouth Telecommunications, Inc.?

**RECOMMENDATION:** Yes. The Commission should approve the language contained in the February 11, 1997 letter.

**STAFF ANALYSIS:** On January 30, 1997, AT&T and BST submitted a joint proposed interconnection agreement. Contained in Attachment 15 of that agreement is language concerning electronic interfaces. (Attachment 15 - Interface Requirements for Ordering and Provisioning, Maintenance and Repair and Pre-Ordering.) Portions of Attachment 15 were not agreed to by the parties. However, negotiations continued following the January 30, 1997 filing of the agreement, and consensus was reached on the appropriate language for Attachment 15. On February 11, 1997, AT&T filed the revised Attachment 15 with the Commission for inclusion with the interconnection agreement. (See Document Numbers 01547-97 and 01587-97) Staff recommends the Commission approve the revised Attachment 15 because the Attachment is agreed to by the parties.

Staff would note that this recommendation is applicable only to AT&T. In Docket No. 960846-TP, MCImetro's (MCIm) arbitration proceeding with BST, the parties are not in agreement concerning all the electronic interfaces. This is taken up in the MCIm/BST reconsideration proceeding, occurring simultaneously with this proceeding.

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**ISSUE 8:** Should the Commission establish language for the dispute associated with general contract terms and conditions between AT&T Communications of the Southern States, Inc. and BellSouth Telecommunications, Inc.?

**RECOMMENDATION:** No. The Commission should not establish language for this area of dispute.

**STAFF ANALYSIS:**

**Preface**

| <u>Sections</u> | <u>Title</u> |
|-----------------|--------------|
| 1st Paragraph   | Affiliates   |

**General Terms and Conditions**

| <u>Sections</u> | <u>Title</u>            |
|-----------------|-------------------------|
| 13              | Customer Credit History |

**Attachment 7 - Provision of Customer Usage Data**

| <u>Sections</u> | <u>Title</u>                          |
|-----------------|---------------------------------------|
| 6               | Lost, Damaged, Destroyed Message Data |

**Attachment 9 - Network Security**

| <u>Sections</u> | <u>Title</u>       |
|-----------------|--------------------|
| 2.2             | Revenue Protection |

The dispute for this issue is associated with requiring BST's affiliates to comply with the agreement, access to customer credit history data, financial responsibility for unbillables and uncollectables caused by fraud or third party actions.

Staff believes AT&T's request to bind BST's affiliates to the agreement was not an issue arbitrated by this Commission; therefore, we believe the Commission should not establish any language to address this concern.

Staff also believes AT&T's request to require BST to disclose its customer credit history to a credit bureau, thereby providing so AT&T access, was not an issue arbitrated by this Commission;

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therefore, we believe the Commission should not establish any language to address this request.

The Commission decided in this proceeding that it would not arbitrate general contractual terms and conditions. It determined the Commission's authority to arbitrate disputed issues under the Act is limited to those items enumerated in Section 251 and 252 and matters necessary to implement those items. In addition, the Commission determined that it did not have the authority to arbitrate liquidated damages.

Staff believes the sections that discuss financial responsibility for unbillables and uncollectables caused by fraud or third party actions are essentially liquidated damages. Since the Commission has determined not to arbitrate general contractual terms and conditions or liquidated damages, staff believes the Commission should not establish any language for these sections.

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ISSUE 9: Should this docket be closed?

RECOMMENDATION: No, this docket should remain open until the parties have filed their signed arbitration agreement, and the Commission has completed its review of BST's cost studies that were required to be filed pursuant to the order in this proceeding.