

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of
BellSouth Telecommunications,
Inc.'s entry into interLATA
services pursuant to Section 271
of the Federal Telecommunications
Act of 1996.

DOCKET NO. 960786-TL
ORDER NO. PSC-97-1007-PHO-TL
ISSUED: August 22, 1997

Pursuant to Notice, a Prehearing Conference was held on August 19, 1997, in Tallahassee, Florida, before Chairman Julia L. Johnson, as Prehearing Officer.

APPEARANCES:

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FPSC-RECORDS/REPORTING

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On behalf of the Commission Staff.

PREHEARING ORDER

I. CASE BACKGROUND

Pursuant to Section 271(d)(3) of the Telecommunications Act of 1996 (the Act), the Federal Communications Commission (FCC) has ninety (90) days to issue a written determination approving or denying a Bell Operating Company's (BOC) application for interLATA authority. Further, the FCC is directed to consult with the applicable State Commission before making a determination regarding the BOC's entry into the interLATA market. Specifically, the Act requires the FCC to consult with the State Commission in order to verify the compliance of the BOC with the requirements of Section 271(c) of the Act. On June 28, 1996, we opened this docket to begin to fulfill our consultative role. Since that time, issues to be considered in this proceeding have been identified and extensive discovery has been undertaken on those issues.

On June 12, 1997, Order No. PSC-97-0703-PCO-TL was issued which set forth the hearing schedule to be followed in this docket. The parties will present evidence on whether BellSouth has met the requirements of Section 271(c) of the Act during the hearing which is scheduled to begin on September 2, 1997.

II. 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(2), 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.

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

- 1) 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.
- 2) 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.
- 3) 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.
- 4) 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.

- 5) 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 Records and Reporting confidential files.

Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 75 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 75 words, it must be reduced to no more than 75 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

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 100 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS

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. 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.

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.

IV. ORDER OF WITNESSES

<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>ISSUE NO.</u>
<u>DIRECT & REBUTTAL</u>		
Alphonso J. Varner	BellSouth	All
Robert C. Scheye	BellSouth	2-15
W. Keith Milner	BellSouth	2-15
Gloria Calhoun	BellSouth	2-15
William N. Stacy	BellSouth	3, 15a
Joseph Gillan (available 9/5, 9/6, and 9/8/97 only)	FCCA/MCI/AT&T & WorldCom (joint)	1, 1A, *1B, 3, 7, 13 & *15
Don J. Wood (Will testify on 9/5/97)	MCI/AT&T (joint)	1, 3
David Kaserman	MCI/AT&T (joint)	*1
John Hamman	AT&T	1A(b), 1(A)(c), 2, 3, 4, 5, 6, 7, 8(a)(b)(c), 10, 11, 12 & 14
Jay Bradbury	AT&T	1A(b), 2, 3, 3(a), 9, 10, 12, 15 & 15(a)
C. Michael Pfau	AT&T	3(a) & 15(a)
James C. Falvey	ACSI	1-18
Douglas Kinkoph	FCCA	3(a), 15(a)
Patricia L. Pacey	FCTA	*1
Julia A. Strow (Is <u>not</u> available 9/5/97 and 9/6/97)	Intermedia	All

<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>ISSUE NO.</u>
J. Lans Chase (Is <u>not</u> available 9/6/97)	Intermedia	15, 15(a)
James S. Gulino	MCI	2-15
Ronald Martinez	MCI	1, 2, 3, 4, 5, 6, 7, 11, 12, 13 & 15
Robert W. McCausland	WORLDCOM	1-18
Melissa L. Closz (Will testify on 9/8/97)	Sprint	3 & 3(a)
Frank Hoffman, Jr.	TCG	*2
Paul Kouroupas (Is <u>not</u> available 9/3, 9/4 & 9/10/97)	TCG	*2, 3a
Bob Gaskins	Time Warner	*1A, 3, 8, 9 & 12

* Indicates Rebuttal only.

V. BASIC POSITIONS

BELLSOUTH:

BellSouth has filed with this Commission, pursuant to Section 252 of the Act, a draft Statement of the Generally Available Terms and Conditions, and will file an actual Statement in the near future. This Commission should approve the Statement as compliant with Section 252(f) and with the Competitive Checklist found in Section 271(c)(2)(b). Further, this Commission should find that BellSouth has in place negotiated agreements, which have been filed with this Commission, by which it is providing interconnection arrangements, and that at least some of these arrangements are being utilized by competing providers to serve residential and business customers. Finally, this Commission should find that BellSouth's interconnection agreements, in conjunction with the Statement filed by BellSouth, satisfy the 14-point Checklist, and should advise the FCC to this effect.

ACSI: BellSouth has not demonstrated that it has met each element of the checklist in Section 271 of the Telecommunications Act of 1996 ("Act") as it is incumbent upon them to do. There is not a significant level of facilities-based competition in Florida and experience in other BellSouth service areas demonstrates that BellSouth has great strides to make before there is any significant level of local competition. The Commission should not recommend that BellSouth be permitted to reenter the interLATA market at this time given the low level of competition and difficulties encountered in entering the local market. It is premature for BellSouth to be seeking to reenter the market.

AT&T: BellSouth has not met the requirements for entry into the Florida interLATA market under Section 271 of the Telecommunications Act of 1996. Section 271 provides two avenues for a Bell operating company to enter the long distance market: Track A or Track B. Both tracks require compliance with the 14-point competitive checklist found in Section 271(c)(2)(B). BellSouth is not eligible for Track B, as shown below, and cannot fulfill the requirements of Track A and the competitive checklist at this time.

Track A is available to a Bell operating company that "is providing access and interconnection to its network facilities", consistent with the 14-point checklist, to a competitor who provides local exchange service to business and residential subscribers. BellSouth currently is not providing all 14 elements of the checklist to a facilities-based provider and therefore cannot meet the requirements of Track A at this time. BellSouth is ineligible to proceed under Track B because several providers have made qualifying requests for interconnection and access under Section 252 of the Act.

Whether it approaches the competitive checklist via Track A or Track B, BellSouth presently is unable to prove that it has fulfilled all checklist requirements. In order to do so, it must demonstrate its ability to provide checklist elements through actual performance by showing that it is providing service to competitors, has implemented nondiscriminatory methods and procedures for provisioning service, and is able to measure such

performance against its own internal processes. Without such proof, competitors are left with paper promises.

BellSouth's promises are not proof of compliance. BellSouth has, for example, promised this Commission and other Commissions that it is able to provide its competitors with nondiscriminatory access to unbundled switching, yet in the real world, cannot provide usage detail or billing information for such access -- information which is an essential component of local switching under 47 USC 153 (45). This deficiency is fatal to BellSouth's case, but was not discovered until AT&T requested loop combinations for testing purposes. The Act requires BellSouth to prove - not just promise - that it can provide all checklist elements.

FCCA:

Based on the benefits which competition has provided to users of long distance service, Congress enacted the Telecommunications Act of 1996 to extend competition to the local exchange market. To achieve that end, Congress required local exchange companies such as BellSouth to open their networks to competitors. Congress realized that this is a necessary first step toward the objective of a telecommunications industry in which multiple providers may compete to provide both local and long distance services. To ensure that the RBOC's would not thwart the intent of the Act by combining their local monopoly with long distance service before local competition is established, Congress required each RBOC that receives a request for interconnection and access to fully implement a 14-point competitive checklist designed to ensure that competitors are using the RBOCs network on the same terms that the RBOC uses it prior to seeking a removal of the present restriction on in-region interLATA service from the FCC.

BellSouth acknowledges it has received such requests for access and interconnection. However, it is not providing the items of the competitive checklist as required by the Act. BellSouth's petition is a concerted effort to gain interLATA authority before it has supplied the tools that will make local competition possible. In support of its attempt, BellSouth essentially claims that Congress intended RBOCs to be able to enter the long distance business whether or not the means for local competition

have been established. BellSouth's "interpretation" turns the 1996 Act on its head. The FCC has already expressly rejected it. BellSouth also attempts to support its entry in the long distance market by addressing in a written "statement" the hypothetical future availability of checklist items it has not delivered -- and in the case of some checklist items cannot deliver -- in the real world. The Act requires a demonstration of actual performance by BellSouth, not promises on paper. If the objectives of the Act are to be achieved, BellSouth must be held to the standards of the law. The Commission should report to the FCC that BellSouth has not complied with the competitive checklist.

FCTA:

FCTA's interest in this proceeding is to demonstrate that BellSouth has not met the terms for entry into the InterLATA market pursuant to Section 271 of the Federal Telecommunications Act of 1996. FCTA was granted intervention on behalf of the following certificated telecommunications companies owned by or affiliated with cable companies: Comcast MH Telephony of Florida, Inc., Comcast Telephony Communications of Florida, Inc., Time Warner Connect, Hyperion Telecommunications of Florida, Inc., Media One Fiber Technologies, Inc., Media One Florida Telecommunications, Inc., TWC Cable Partners, Inc., Cox Cable Pensacola, Inc., and Cox Communications, Inc. (hereinafter collectively referred to as the "Companies").

The Companies entered into a binding agreement with BellSouth on December 7, 1995 that contained terms of local interconnection, among other things. The agreement was approved pursuant to Section 364.162, Florida Statutes. The Federal Act had not yet passed.

Since December 7, 1995, only one of the Companies entered into a separate negotiated resale (only) agreement with BellSouth. This agreement was executed on April 25, 1997 pursuant to the Federal Act.

The Companies' position is that any interconnection agreement used by BellSouth to satisfy Section 271 must be fully operational as to all 14 Checklist items. Section 271(d)(3)(A) (1) requires a finding by the FCC

that "the Bell Operating Company . . . has fully implemented the competitive checklist." "Implemented" plainly means that each Checklist item is actually being provided to a competitor in a fully operational manner. To ignore this agreement would be to disregard the plain words chosen by Congress. Moreover, it would frustrate the public policy goals behind Section 271(d)(3)(A)(1). Therefore, Section 271(c)(1)(A) may not be read to mean anything less than requiring a fully functional agreement approved pursuant to Section 252 of the Federal Act. BellSouth has not met its burden of proving these requirements are met.

Moreover, Track A [Section 271(c)(1)(A)] and Track B [Section 271(c)(1)(B)] are mutually exclusive. This position is consistent with the FCC's recent Memorandum Opinion and Order with regards to SBC Communications' petition for in-region InterLATA authority as well as the plain language of Section 271(c)(1)(B). BellSouth may not blend Track A and Track B requirements and has failed to demonstrate that the requirements of either Track is met.

Finally, the Commission should adopt and apply criteria in determining compliance with Track A. Specifically, such criteria should be utilized to determine whether BellSouth is providing interconnection to a qualifying facilities-based competitor under the Federal Act, i.e. an unaffiliated, facilities-based competing provider of telephone exchange service to residential and business customers. The FCC Memorandum Opinion and Order released in the case of SBC Communications' petition for in-region InterLATA authority suggests the use of such objective criteria as:

- (1) Whether the competitor is providing exchange service to residential and business customers pursuant to an agreement approved under Section 252;
- (2) The nature and size of the presence of the competing provider;
- (3) Whether an actual competitor exists, i.e. whether the competitor has implemented the agreement and is

operational versus whether the competitor has only paper commitments to provide service;

- (4) Whether the competitor is functioning in the market as opposed to merely providing services on a test or promotional basis;
- (5) Whether the competitor has an effective tariff or price list on file with the Commission by which is presently bills customers, i.e. whether billing systems are fully functional;
- (6) Whether the competitor provides and offers services to the public at large as opposed to a select group or company employees;
- (7) The scope and nature of any marketing activity.

These criteria are not intended to be all-inclusive. For example, the Commission may also wish to evaluate whether and to the extent to which prices have dropped for consumers in the relevant market and whether the quality of local service is improved by the presence of a competitor. BellSouth has failed to demonstrate these criteria are met. Therefore, BellSouth should not be permitted into the in-region InterLATA market at this time.

INTERMEDIA:

Section 271 of the Telecommunications Act of 1996 (the "1996 Act") conditions Bell Operating Company ("BOC") entry into the in-region interLATA market upon a demonstration that the BOC's local market is open to competition. In particular, the 1996 Act requires that, before a BOC may be authorized to provide in-region interLATA services, the Federal Communications Commission ("FCC") must first find that a BOC (1) has fully implemented approved access and interconnection agreements with one or more facilities-based competing carriers providing service to both business and residential subscribers, or, in very limited circumstances, has an approved or effective Statement of Generally Available Terms and Conditions ("SGAT"); (2) provides or generally offers the 14 items under Section

272(c)(2)(B) (the "fourteen-point competitive checklist"); (3) satisfies the requirements of Section 272, including the establishment of a separate long distance subsidiary and the satisfaction of nondiscrimination conditions; and (4) has demonstrated that in-region interLATA entry would be in the public interest. The Florida Public Service Commission's (the "Commission") primary role is to advise the FCC on the first two items.

BellSouth has not satisfied the preconditions of Section 271(c)(1)(A) ("Track A") or section 271(c)(1)(B) ("Track B") of the 1996 Act. More particularly, BellSouth can qualify only for Track A consideration, not Track B, because BellSouth has received, at the very least, several requests for access and interconnection within the meaning of Section 271(c)(1)(B). Although BellSouth may seek in-region interLATA authority under Track A, BellSouth has not demonstrated that it meets the requirements of Track A because no operational facilities-based competing provider or providers of telephone exchange now serve, individually or collectively, residential and business customers in Florida.

Regardless of the "track" BellSouth elects to pursue, BellSouth has not shown that it has satisfied the requirements of the fourteen-point competitive checklist, either through fully implemented interconnection agreements with unaffiliated competing providers or through an approved or effective SGAT, in a manner that would enable its competitors to fully and meaningfully compete, at parity, with BellSouth. An essential requirement for compliance with the fourteen-point competitive checklist is BellSouth's ability to provide nondiscriminatory access to its operations and support systems ("OSS") for both resale and access to UNEs. BellSouth has not demonstrated that competing providers of telephone exchange service have nondiscriminatory access to OSS for the provision of resale services and UNEs.

MCI:

As a result of this proceeding, the Commission should provide its findings and conclusions to the FCC on three categories of issues:

(1) Under which of the two mutually exclusive provisions of Section 271(c) is BellSouth eligible to seek interLATA authority -- Track A or B?

BellSouth has received multiple requests for access and interconnection from potential facilities-based providers of telephone exchange service to business and residential exchange subscribers, and in fact has entered Commission-approved interconnection agreements with a number of such providers. BellSouth has made no allegation that any of these providers, much less all of them, have failed to negotiate in good faith or have failed to implement their agreements in accordance with any applicable implementation schedule. Therefore, BellSouth is no longer eligible to proceed under Track B, and can seek interLATA authority only under Track A.

Because BellSouth is not eligible to seek interLATA authority under Track B, the Commission need not consider BellSouth's proposed statement of generally available terms (SGAT) in this proceeding. If the Commission does consider the SGAT, it should find that the SGAT does not comply with Sections 251 and 252(d), and that the access and interconnection offered by the SGAT does not comply with the requirements of the fourteen point checklist.

(2) Is BellSouth in fact providing access and interconnection pursuant to approved interconnection agreements to one or more companies that are providing telephone exchange service to residential and business subscribers either exclusively or predominantly over their own facilities?

No, BellSouth is not providing access and interconnection to any unaffiliated competing provider of residential telephone exchange service. Therefore, BellSouth does not meet the requirements of Section 271(c)(1)(A) and does not qualify for interLATA authority in Florida at this time.

(3) Assuming that BellSouth is providing access and interconnection to competing facilities-based providers of both business and residential telephone exchange service, has BellSouth fully implemented the provisions of the 14-item competitive checklist in Section 271(c)(2)(B)?

No, BellSouth has not fully implemented the competitive checklist. Among other things, BellSouth is not providing commercially significant quantities of a number of key unbundled network elements (including unbundled loops and unbundled switching); BellSouth has not implemented operational support systems (OSS) that are capable of supporting the ordering and provisioning of unbundled network elements and resold services at a parity with BellSouth's own OSS; and BellSouth has not implemented performance standards and performance measurement systems necessary to establish whether it is providing elements and services to competitors at parity. Therefore BellSouth does not meet the requirements of Section 271(c)(2)(A)(ii) or (c)(2)(B), and does not qualify for interLATA authority in Florida at this time.

WORLDCOM: BellSouth has not demonstrated that it has met each element of the checklist in section 271 of the Telecommunications Act of 1996 ("Act"). BellSouth has the responsibility to show that it has complied with each of the checklist items and until there is a satisfactory demonstration of compliance by BellSouth, the Commission should recommend that BellSouth's application be denied.

SPRINT/SMNI:

The Telecommunications Act of 1996 ("Act") requires state and Federal Communications Commission (FCC) review of Bell Operating Company ("BOC") compliance with a comprehensive checklist before BOCs are allowed to provide in-region interLATA long distance. Whether the Act results in actual local telephone competition will depend in large measure upon whether this checklist is followed and enforced. If the BOCs forthrightly comply with all of the requirements to open local telephone markets to competition, the promise of competition will be realized.

TCG: BellSouth has failed to demonstrate that it is in compliance with the Competitive Checklist set forth in Section 271(c)(2)(B) of the Act.

TIME WARNER:

1. BellSouth must have a fully operational interconnection agreement in order to satisfy some of the 14 checklist items. BellSouth has not been able to meet one of the most fundamental provisions of the BellSouth/Time Warner Communications agreement--the Firm Order Commitment ("FOC") with a facilities check.

2. Track A versus Track B. Track B is now closed to BellSouth since interconnection has been requested by many new entrants. The Commission must decide whether BellSouth has met the 14 checklist items required by Track A. As noted above, BellSouth has not.

The Telecommunications Act of 1996, 47 USC 151, et. seq. (the "Act"), defines the conditions under which a regional bell operating company, such as BellSouth, may enter the in-region interLATA market. Under 47 USC Section 271(c)(1)(A), only if the requirements of Track A are not met because competitive local exchange providers have not requested interconnection, can BellSouth seek to comply with the Track B requirements in 47 USC Section 217(c)(1)(B). BellSouth is not given a choice of pursuing either Track A or B at its option. Given the Act's fundamental commitment to the development of local exchange competition, Congress has clearly mandated that Track A be pursued since it would result in the creation of facilities-based competition. Only the inaction of competitive providers permits BellSouth to pursue Track B. Since competitive providers have sought interconnection with BellSouth under Track A, the Statement of Generally Available Terms under Track B is unavailable to BellSouth in Florida. Section 271(c)(1)(A) defines the process to determine whether the interLATA relief requirements are satisfied if an interconnection agreement is reached between BellSouth and a competing facilities-based carrier. That provision applies when BellSouth has entered into one or more binding agreements approved under Section 252 of the Act. In contrast, Section 271(c)(1)(B) demonstrates that only

if BellSouth has not entered into a binding interconnection agreement with one or more unaffiliated local exchange competitors, or has not been requested to do so by one or more competitive carriers, can BellSouth proceed to file a Statement of Generally Available Terms as a means of demonstrating that it has complied with Section 271. Under the express terms of the statute, if BellSouth has received a request for access and interconnection by a competing provider, BellSouth must pursue Track A compliance, including reaching and implementing an interconnection agreement with a facilities-based carrier in order to satisfy Section 271. It may not pursue Track B in these circumstances. Only if no request for interconnection has been made, or an agreement is not reached within the time frame prescribed by Section 271, may a Bell Operating Company proceed under Track B to obtain permission from the State Commission to provide access and interconnection telecommunication services by filing a Statement of Generally Available Terms.

In Florida, BellSouth has received numerous requests for interconnection by competing providers of local exchange service, such as AT&T, MCI, Sprint and Time Warner, within the time frame required by Section 271. In addition, BellSouth has actually entered into interconnection agreements, pursuant to which facilities based local exchange services are being provided to business customers. No competing provider is currently offering services to residential customers, although they are authorized to provide such services. Consequently, only Track A is available to BellSouth to pursue to obtain interLATA relief. Notwithstanding this plain language of Section 271, BellSouth has indicated it might ignore the requirements of Track A by attempting to submit its application under Track B. As the Act and Conference Report unequivocally state, the purpose for the Statement is to allow BellSouth into the interLATA market if, and only if, BellSouth has not received a request for interconnection from a facilities-based carrier under Track A. Accordingly, BellSouth's statement cannot be used as evidence that it has fulfilled its obligation under Section 271 of the Act.

The Conference Committee Report is consistent with the statutory language in demonstrating that only Track A, and not Track B, is available to BellSouth. The Conference Report conclusively demonstrates that Congress intended, whenever possible, to use requests for interconnection and interconnection arrangements with competing facilities-based carriers to satisfy Section 271. Congress also plainly commanded that a Statement of Generally Available Terms is a default process which is not relevant and serves no purpose if requests for interconnection have been submitted. Since BellSouth has interconnection agreements with competing providers in Florida, the Commission is compelled to conclude that Section 271(c)(1)(A) applies under these circumstances. Based on the clear statutory language and legislative history of the Act, and the interpretation of the FCC in the matter of implementation of the local competition provisions in the Telecommunications Act of 1996, FCC Docket No. 96-325 Order, August 8, 1996), Track B is not available to BellSouth and a Statement of Generally Available Terms is irrelevant to the Section 271 compliance in Florida.

The Florida Public Service Commission has approved interconnection agreements under Sections 251 and 252 of the Telecommunications Act of 1996 between BellSouth and a number of competing providers. These agreements, on their face, are the type of agreements with facilities-based carriers envisioned under Section 271. The Conference Report instructs that the State Commission must determine whether the agreement is "operational," and not simply signed, in order to satisfy Track A under Section 271. According to the report, "the requirement that the BOC is providing access and interconnection means that the competitor has implemented the agreement and the competitor is operational." Conference Report, New Section 271, page 148.

In Florida, binding agreements exist. Competing providers are currently providing switched local exchange services to business customers, but they are not currently providing services to residential customers pursuant to the terms of their interconnection agreements with BellSouth. Because these agreements exist, BellSouth is bound by the provisions of Track A.

Moreover, BellSouth cannot satisfy Section 271 at this time unless one of these agreements with a competitive provider is deemed implemented or operational. BellSouth is entitled to interLATA relief when it can demonstrate compliance with Section 271. BellSouth cannot circumvent this congressional determination by trying to comply with Track B. The Commission is under no obligation to assist BellSouth in that effort.

STAFF: No position at this time.

VI. ISSUES AND POSITIONS

ISSUE 1.A.

Has BellSouth met the requirements of section 271(c)(1)(A) of the Telecommunications Act of 1996?

- (a) Has BellSouth entered into one or more binding agreements approved under Section 252 with unaffiliated competing providers of telephone exchange service?
- (b) Is BellSouth providing access and interconnection to its network facilities for the network facilities of such competing providers?
- (c) Are such competing providers providing telephone exchange service to residential and business customers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities?

POSITION:

BELLSOUTH:

Yes. BellSouth has entered into a number of binding agreements approved under Section 252 with unaffiliated competing providers, (b) BellSouth is providing access and interconnection to competitive providers that (c) are providing service to residential and business customers.

ACSI: No. ACSI and BellSouth have an interconnection agreement but BellSouth is not yet providing access and interconnection pursuant to this agreement. ACSI is currently offering services as a reseller.

AT&T: No. Although Section 271(c) (1) (A) (Track A) is the appropriate avenue under which BellSouth must apply for interLATA authority, it cannot meet Track A requirements at this time because it is not providing access and interconnection to a competitor who provides service to both residential and business subscribers exclusively or predominantly over its own facilities.

a) Yes. AT&T and BellSouth have entered into an arbitrated agreement approved by the Commission under Section 252 on June 10, 1997.

b) No. With regard to AT&T, BellSouth is providing only limited access and interconnection pursuant to a test. BellSouth has not been able to provide unbundled switching as requested and has not provided nondiscriminatory access to its operational support systems.

c) No. AT&T is not providing telephone exchange service in Florida and is not aware of any other competitor presently providing service to residential and business customers exclusively or predominantly over its own facilities.

FCCA: No.

a) Yes, BellSouth has acknowledged that it has entered into arbitrated agreements which encompass all of the items of the competitive checklist.

b) BellSouth acknowledges that it is not presently providing access and interconnection in Florida in the manner required by the Act. The testimony of individual carriers demonstrates specific deficiencies.

c) FCCA is not aware of any competitor that meets the requirements.

FCTA: No.

- a) Yes.
- b) No.
- c) No.

INTERMEDIA:

No, BellSouth has not met the requirements of Section 271(c)(1)(A), although this is the only avenue through which BellSouth may appropriately seek in-region interLATA authority. The 1996 Act requires meaningful facilities-based competition for business and residential customers. BellSouth has not demonstrated that there currently exist in Florida competing providers of telephone exchange service providing service to both residential and business customers either exclusively over their own facilities or predominantly over their own facilities in combination with resale.

a) Yes, BellSouth has entered into one or more binding agreements approved under Section 251 with unaffiliated competing providers of telephone exchange service in Florida.

b) BellSouth is providing some level of access and interconnection to its network facilities for the network facilities of such competing providers, but the level of access and interconnection being provided is not sufficient to satisfy the requirements of the 1996 Act.

c) No competing provider or providers of telephone exchange service are now providing such service to residential and business customers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities. While the 1996 Act does not require a qualifying facilities-based provider to serve both residential and business customers, if BellSouth is relying on a single provider to justify its petition for interLATA relief, that provider would have to be competing with BellSouth and serving both business and residential customers. Similarly, the service or

services being provided by the competing provider must be, among other things, significant and geographically dispersed.

MCI: No. BellSouth has not met the requirements of Track A.

a) Yes. BellSouth has entered into an agreement approved under Section 252 with MCI, which plans to offer both business and residential service either exclusively or predominantly over its own facilities.

b) BellSouth is providing interconnection to MCI, but not through the physical collocations that MCI has requested. BellSouth is providing MCI with only a small number of resold services, and only one unbundled loop, all for test customers.

c) No.

WORLD COM: No. MFS and BellSouth have an interconnection agreement, and MFS intends to provide local service but BellSouth is not providing MFS with access and interconnection to BellSouth facilities at this time. Whether BellSouth has met the requirements of section 271 through arrangements with other carriers is for BellSouth to show.

SPRINT/SMNI:

(a) Yes. BellSouth has entered into agreements approved under Section 252 with unaffiliated competing providers of telephone exchange service.

(b) No. BellSouth is not providing access and interconnection to its network facilities for the network facilities of such competing providers. The Act is clear that the BOC must be actually providing access and interconnection to an unaffiliated company. The mere existence of an agreement to provide such is insufficient. Further, if the BOC is actually providing access and interconnection to an unaffiliated company, the Act then sets forth criteria in Section 271(c)(2)(B) outlining the terms and conditions under which such access and interconnection is to be provided.

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(c) Sprint/SMNI is without sufficient knowledge, information or belief to state a position.

TCG:

No.

a) Yes.

b) No. BellSouth does not provide nondiscriminatory access and interconnection for competing providers.

c) TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c)(1)(B) of the Act.

TIME WARNER:

a) Yes. Time Warner Communications has entered into a binding Interconnection Agreement with BellSouth.

b) No. BellSouth is not meeting provisions contained in the Interconnection Agreement with Time Warner Communications.

c) Time Warner Communications is just beginning to offer service to business customers predominantly over its own facilities.

STAFF:

No position at this time.

ISSUE 1.B.

Has BellSouth met the requirements of section 271(c)(1)(B) of the Telecommunications Act of 1996?

- (a) Has an unaffiliated competing provider of telephone exchange service requested access and interconnection with BellSouth?
- (b) Has a statement of terms and conditions that BellSouth generally offers to provide access and interconnection been approved or permitted to take effect under Section 252(f)?

POSITION:

BELLSOUTH:

- a) Yes, and agreements have been entered into, as described above in answer to Issue 1.
- b) Not yet. BellSouth's Statement has not yet been approved by this Commission. BellSouth's statement, however, is fully compliant with Section 252(f) and should be approved.

ACSI:

No. BellSouth has received requests for access and interconnection and Track B is not available to BellSouth.

AT&T:

No. Track B provides a limited avenue for entry under circumstances which are not present in this case. BellSouth is precluded from Track B because competing providers, including AT&T, have made qualifying requests for the access and interconnection described in Section 271(c)(1)(A).

- a) Yes. A number of such providers, including AT&T, have timely requested access and interconnection with BellSouth pursuant to Section 271(c)(1)(A). Track B therefore is unavailable to BellSouth in Florida.
- b) No. Further, this issue is moot; Track B is unavailable to BellSouth in Florida because competitors have timely requested access and interconnection; thus, BellSouth is required to proceed under Track A.

FCCA: No.

a) Yes, BellSouth has received such requests. Accordingly, BellSouth cannot proceed under Section 271(c)(1)(B), which is a limited exception governing circumstances not applicable to this case.

b) Whether such a statement has been approved or permitted to take effect under Section 252(f) is irrelevant to the issue of whether BellSouth complies with §271, because, as stated above, BellSouth has received requests for interconnection and access that require BellSouth to proceed under Section 271(c)(1)(A).

FCTA: No.

INTERMEDIA:

No, BellSouth has not met the requirements of Section 271(c)(1)(B) because several competing providers of telephone exchange service to residential and business customers have, at least three months prior to the date on which BellSouth may seek in-region inter LATA authority, requested the access and interconnection described in Section 271(c)(1)(A). Similarly, the Commission has not certified that any of the qualifying providers has delayed the negotiation or implementation process.

a) Yes, several unaffiliated competing providers of telephone exchange service, including Intermedia, have requested access and interconnection with BellSouth.

b) No, BellSouth's SGAT has not been approved or permitted to take effect under Section 252(f).

MCI: No. As a result of requests for access and interconnection from potential providers of facilities-based business and residential service, BellSouth is ineligible to proceed under Track B at this time.

a) Yes, MCI has requested such access and interconnection.

b) No. BellSouth has not yet filed a statement of generally available terms and conditions (SGAT) with the Commission, though it submitted a "draft SGAT" with its testimony in this case. In any event, the approval of a

BellSouth SGAT is not relevant to its ability to seek interLATA authority where, as here, BellSouth has received qualifying requests for access and interconnection from potential providers of facilities-based business and residential telephone exchange service.

WORLDCOM: No. BellSouth has received at least one request for access and interconnection thus section 271(c)(1)(B) is not available to BellSouth. Track B is a limited exception to Track A and available only in narrow circumstances. Since there have been qualifying requests of BellSouth and BellSouth must rely on Track A. Further, BellSouth has not filed an SGAT.

SPRINT/SMNI:

No. BellSouth has not met the requirements of Section 271(c)(1)(B) since (a) it has received requests for interconnection in the State of Florida. The only exception provided in Section 271(c)(1)(B) would require that this Commission certify that the only provider or providers making such requests for interconnection have (i) failed to negotiate in good faith as required by Section 252, or (ii) violated the terms of an agreement approved under Section 252 by the provider's failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement. This exception does not apply in this case. (b) To the best of Sprint/SMNI's knowledge, information and belief, a statement of general terms and conditions has not been approved or allowed to take effect under Section 252(f).

TCG:

No. Section 271(c)(1)(B) is applicable only if no provider has requested access or interconnection within the designated time period. Providers have requested such access and interconnection. Moreover, BellSouth has entered into agreements to provide such access and interconnection, and BellSouth is not eligible to seek relief under Section 271(c)(1)(B).

a) Yes. TCG and other carriers have requested access and interconnection from BellSouth.

b) TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each

requirement of the Competitive Checklist in Section 271(c)(1)(B) of the Act.

TIME WARNER:

No.

a) Yes.

b) No.

STAFF: No position at this time.

ISSUE 1. C.

Can BellSouth meet the requirements of section 271(c)(1) through a combination of track A (Section 271(c)(1)(A)) and track B (Section 271(c)(1)(B))? If so, has BellSouth met all of the requirements of those sections?

POSITION:

BELLSOUTH:

Yes. BellSouth can meet the requirements of Section 271(c)(1)(A) through agreements for interconnection and access. To the extent that these agreements may not address particular checklist items, BellSouth may use the Statement to demonstrate the availability of these items.

ACSI: No. BellSouth must meet the requirements through one or the other.

AT&T: No. Section 271(c)(1) specifies that an agreement under 271(c)(1)(A) or a statement under 271(c)(1)(B) is required; under the Act, once BellSouth receives an interconnection request from a potential facilities based competitor, it must proceed under Track A. Nowhere in Section 271 is there authority for BellSouth to "pick and choose" Track A with Track B requirements.

FCCA: No. The language of the Act clearly establishes that the two tracks are mutually exclusive. Even if that were not the case, such an approach would hold arguable theoretical plausibility only in a situation in which (1) no competitor had asked for all of the items on the

checklist and (2) the Act permitted a competitor to construct an interconnection agreement by combining individual components of different, previously approved agreements. In this case, it is not even necessary to reach (2) (although the result would be to reject the approach), because BellSouth has received requests that encompass all of the items of the checklist. For that reason the (impermissible) concept is not relevant to BellSouth's petition.

FCTA: No, BellSouth cannot meet the requirements of Tracks A and B by combining them.

INTERMEDIA:

No, BellSouth cannot meet the requirements of section 271(c) (1) through a combination of both Track A and Track B. Congress envisioned two ways of authorizing BOC entry into the in-region interLATA market: (1) facilities-based competition via interconnection (i.e., Track A), or, (2) in the absence of qualifying requests, via an SGAT (i.e., Track B). These two tracks are mutually exclusive both under the plain meaning of the statute and as a practical matter. If these two tracks are not mutually exclusive, a BOC has no incentive to implement a negotiated or arbitrated interconnection agreement because it can unilaterally set terms and conditions more favorable to it under an SGAT.

MCI: No. Tracks A and B are mutually exclusive.

WORLDCOM: No. BellSouth either qualifies under one or the other and cannot combine requirements of the two tracks to make a third track of its choice and thereby claim compliance.

SPRINT/SMNI:

No. Subparagraphs (A) and (B) of Section 271(c) (a) are mutually exclusive. Since BellSouth cannot meet the requirements of 271(c) (1) (B) it is clearly precluded from using a combination of Sections 271(c) (1) (A) and 271(c) (1) (B).

TCG: No. Section 271 does not permit BellSouth to meet the requirements of Section 271(c) (1) through a combination of Track A (Section 271(c) (1) (A)) and Track B (Section 271(c) (1) (B)).

TIME WARNER:

As set forth in detail above, in Time Warner's Statement of Basic Position, Track B is not available to BellSouth. Further, BellSouth has not yet demonstrated it has the ability to meet the requirements of section 271 (c) (1) (A) of the Telecommunications Act of 1996.

STAFF: No position at this time.

ISSUE 2: Has BellSouth provided interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(i) and applicable rules promulgated by the FCC?

POSITION:

BELLSOUTH:

Yes. Interconnection Services are functionally available from BellSouth, and BellSouth has procedures in place for the ordering, provisioning and maintenance of its interconnection services. As of June 1, 1997 BellSouth has provisioned approximately 7,612 trunks to interconnect its network with the network of ALECs in Florida.

ACSI: No. BellSouth has not provided interconnection to ACSI pursuant to the Act and applicable rules in Florida.

AT&T: BellSouth has not provided such interconnection to AT&T.

FCCA: Based on the testimony of individual carriers, BellSouth has not actually provided interconnection in Florida as required by the Act and applicable rules.

FCTA: No.

INTERMEDIA:

BellSouth has provided some level of interconnection to Intermedia, although to date some aspects of the BellSouth-Intermedia interconnection agreement remain unimplemented.

MCI: No. Among other things, BellSouth has not yet implemented any of the numerous pending requests it has received for physical collocation; the terms and conditions for collocation arrangements are not nondiscriminatory; and BellSouth is not yet providing MCI interconnection at local tandems. In addition, it is unclear whether BellSouth will provide the interconnection required to terminate calls to the customers of independent telephone companies where a single local calling area is served in part by BellSouth and in part by an independent company.

WORLDCOM: No. Although MFS has an interconnection agreement with BellSouth, neither access nor interconnection is being provided to MFS thus BellSouth is not in compliance with the Act or applicable rules.

SPRINT/SMNI:

No. BellSouth has not provided interconnection: (1) at any technically feasible point; (2) at least equal in quality to that provided to itself; (3) on rates, terms and conditions that are just, reasonable and nondiscriminatory. It should be presumed that interconnection at switching points is technically feasible. BellSouth should have the burden of proof if it believes that a requested interconnection is not technically feasible. Once provided, an interconnection should be presumed to be technically feasible. There should be no discrimination in the interconnection allowed. Prices should be cost-based. There should be no restrictions on how interconnection can be used.

TCG: No. BellSouth is not providing interconnection in accordance with Section 271(c)(1)(B)(i) because it has not demonstrated that it is providing interconnection services to its competitors that is at least equal to that provided by BellSouth to itself, its own customers, and its affiliates.

TIME WARNER:

No.

STAFF: No position at this time.

ISSUE 3: Has BellSouth provided nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(ii) and applicable rules promulgated by the FCC?

- (a) Has BellSouth developed performance standards and measurements? If so, are they being met?

POSITION:

BELLSOUTH:

Yes. Access is available and provided to network elements on a nondiscriminatory basis. Also, a number of physical collocation arrangements are in progress.

a) Yes. BellSouth has reached agreement for performance measurements with AT&T and with other ALECs. BellSouth has taken steps, including changes to its organizational structure and processes, to ensure that these measures are met.

ACSI: No. BellSouth has neither provided nondiscriminatory access nor has the company developed performance standards or measurements.

AT&T: No. In order to meet this checklist item, BellSouth must prove that it actually has provided access to all network elements at parity and on a nondiscriminatory basis. BellSouth has not done so. Among other things, BellSouth has not yet implemented nondiscriminatory access to its OSS to order network elements. Further, BellSouth cannot render a bill for usage sensitive elements of the local switch as required by the Act. 47 USC 251(c)(3), 47 USC 153(45).

a) No. The performance standards and measurements proposed by BellSouth are insufficient to demonstrate parity or nondiscriminatory access.

FCCA: No. As a significant example of BellSouth's deficiencies, FCCA witness Joseph Gillan identifies BellSouth's failure to provide nondiscriminatory access to unbundled switching, as a separate element and in combination with other fundamental elements ("the platform"). BellSouth fails to acknowledge that a

competitor that utilizes unbundled switching becomes the provider of exchange access service. Because of BellSouth's acknowledged inability to provide automated billing for unbundled switching on terms of parity, ALECs cannot compete with BellSouth's service, and BellSouth cannot even assure its own bills for access are accurate. BellSouth's proposal to prepare hundreds of thousands of bills for usage of unbundled switching manually is preposterous on its face. It illustrates the premature nature of BellSouth's petition and the feebleness of its claim of compliance with §271.

Other ALEC witnesses collectively provide overwhelming evidence that BellSouth has failed to provide nondiscriminatory access to other items. Until BellSouth develops the support systems needed to provide nondiscriminatory access to UNEs -- and, in the course of doing so, also develops parallel systems necessary to fully support resale and facilities-based competition, -- the local competition envisioned by Congress will not materialize.

a) No, BellSouth has not developed sufficient performance standards and has not provided measurements of its own performance. Absent sufficient standards and information concerning BellSouth's own performance, neither ALECs nor this Commission can begin to assess whether BellSouth is providing parity to its competitors, as required by the Act and FCC rules. For this reason alone, the Commission must inform the FCC that BellSouth has not complied with Section 271.

FCTA: No.

a) No.

INTERMEDIA:

No, BellSouth has not provided Intermedia with access to unbundled network elements ("UNEs") (e.g., unbundled frame relay loops and unbundled subloops) at any technically feasible point consistent with the requirements of the 1996 Act. Similarly, because nondiscriminatory access to BellSouth's OSS is not completely available to Intermedia and other competing providers of telephone exchange services at parity with BellSouth, BellSouth is not providing nondiscriminatory access to network elements consistent with the 1996 Act.

a) BellSouth has not developed performance standards and measures applicable specifically to Intermedia. Such performance standards necessarily should focus on both traditional voice services and advanced data services provided by BellSouth.

MCI:

No. BellSouth's operations support systems do not provide competing carriers with nondiscriminatory access to the preordering, ordering, provisioning, maintenance and repair, and billing functionalities for unbundled network elements. Such systems are not equal in quality to the systems that BellSouth employs for its own retail customers. Even these inferior systems have not been shown to be capable of handling commercially significant quantities of transactions. In addition, there are a number of UNEs (and combinations of UNEs) for which cost-based prices have not been established. Further, the prices established by the Commission for other UNEs do not meet the cost-based standard of the Act; for example, unbundled loop rates are not cost-based because of BellSouth's failure to appropriately deaverage loop prices. Finally, BellSouth has refused to provide MCI and AT&T with combinations of UNEs even at the sum of the prices established by the Commission for the individual UNEs.

a) Some BellSouth interconnection agreements include selected performance standards and measurements. However, BellSouth has not provided sufficient information on its own internal performance to enable the parties or the Commission to establish standards that would ensure parity between BellSouth and its competitors. Also, even the rudimentary performance standards which have been established for such things as installation intervals are not being met.

WORLDCOM: No. BellSouth is not providing nondiscriminatory access to network elements. Moreover, BellSouth has not developed or produced any statistically valid performance measurements.

SPRINT/SMNI:

No. Loop, switch and transport unbundling is technically feasible. Network elements are not the same as retail services for pricing purposes. BellSouth must prove a requested network element is not technically feasible. There should be no discrimination in the provision of

network elements. Once provided, a network element should be presumed to be technically feasible. Prices for network elements should be cost-based. There should be no restrictions on how network elements can be used.

(a) No. Sprint/SMNI have not been provided any data with respect to BellSouth's performance standards and measurements.

TCG: No. BellSouth has not demonstrated that it is providing nondiscriminatory access to network elements in accordance with the requirements of Sections 253(c)(3) and 252(d)(1) of the Act.

a) No. BellSouth has not developed performance standards and measurements that would allow it to demonstrate its compliance with any of the Section 271 Competitive Checklist requirements.

TIME WARNER:

No.

STAFF: No position at this time.

ISSUE 4: Has BellSouth provided nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by BellSouth at just and reasonable rates in accordance with the requirements of section 224 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(iii) and applicable rules promulgated by the FCC?

POSITION:

BELLSOUTH:

Yes. BellSouth provides nondiscriminatory access to poles, ducts, conduits and rights-of-way to any ALEC by way of a standard agreement. To date, 13 ALECs have executed this agreement. Also, the functional availability of this access is proven by the fact that BellSouth has provided it to interexchange carriers, cable television and power companies for years.

ACSI: ACSI and BellSouth have an interconnection agreement which includes the requirement for nondiscriminatory access but ACSI is currently a reseller and has no experience as to whether BellSouth is in compliance with the Act and applicable rules.

AT&T: BellSouth has not provided such access to AT&T and cannot demonstrate compliance with this checklist item until methods and procedures have been tested and implemented and it actually provides such access to competitors.

FCCA: The testimony of individual carriers demonstrates that BellSouth has not actually provided these in Florida, in compliance with the Act.

FCTA: No.

INTERMEDIA:

Although the BellSouth-Intermedia interconnection agreement provides for nondiscriminatory access to poles, ducts, and conduits, Intermedia has very limited experience, if any, within this matter.

MCI: No.

WORLDCOM: No.

SPRINT/SMNI:

No. BellSouth should provide competitors access to poles, ducts, conduits and rights-of-way. Such access should be nondiscriminatory. Prices should be cost-based. Terms and conditions should be set out in tariffs and contracts. Sprint/SMNI are unaware that BellSouth has, in fact, provided nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by BellSouth at just and reasonable rates. Agreements reviewed by Sprint/SMNI appear to contain a number of exculpatory clauses that would permit BellSouth to refuse access to these elements.

TCG: TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c)(1)(B) of the Act.

TIME WARNER:

No position.

STAFF: No position at this time.

ISSUE 5: Has BellSouth unbundled the local loop transmission between the central office and the customer's premises from local switching or other services, pursuant to section 271(c)(2)(B)(iv) and applicable rules promulgated by the FCC?

POSITION:

BELLSOUTH:

Yes. Unbundled local loop transmission is functionally available from BellSouth. BellSouth has implemented procedures for the ordering, provisioning, and maintenance of unbundled loops and sub-loops. As of June 1, 1997, BellSouth has provisioned 1,085 unbundled loops to ALECs in Florida.

ACSI: No, and ACSI has encountered difficulties obtaining unbundled loops in other BellSouth states.

AT&T: No. The testimony of other carriers in Georgia and Louisiana reveals that the methods and procedures for a CLEC desiring to provide customers with local loop clearly are not in place, nor have they been tested to ensure that service changes will happen in a nondiscriminatory time frame. BellSouth's systems are the same throughout the region; there is no reason to expect that BellSouth has capabilities in Florida that it does not have in other states.

FCCA: The testimony of individual carriers demonstrates that BellSouth has not actually provided this item in Florida in compliance with the Act and applicable rules.

FCTA: No.

INTERMEDIA:

BellSouth has not provided Intermedia with access to requested UNEs and, as a result, BellSouth has not provided Intermedia with unbundled loop transmission. In

particular, BellSouth has not provided Intermedia with unbundled digitally conditioned loops and unbundled subloops in conformity with Section 271(c)(2)(B)(iv) of the 1996 Act.

MCI: No. BellSouth has not fully implemented the provisioning of unbundled loops. BellSouth's current OSS do not support unbundled local loops for competitors on a parity with BellSouth. Limited experience to date shows that BellSouth is not provisioning local loops to competitors in a time frame that is at parity with itself.

WORLDCOM: No. Although covered in the interconnection agreement, BellSouth has not yet provided unbundled local loop transmission as required by the Act and applicable rules.

SPRINT/SMNI:

No. BellSouth has failed to provide any cost studies to support the reasonableness of their prices for their unbundled local loops transmission network elements. While the FCC order did not specify what subelements of local loop transmission should be unbundled, the order did encourage states to pursue unbundling the local loop into subelements and stated that the FCC would pursue unbundling the local loop into sub elements in 1997. Prices should be cost-based. There should be no restrictions on how local loop transmission can be used.

TCG: TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c)(1)(B) of the Act.

TIME WARNER:

Based upon the situations described by Bob Gaskins in his rebuttal testimony in this proceeding and Exhibit A to his testimony, Time Warner is not certain that BellSouth is yet ready to provide these network elements.

STAFF: No position at this time.

ISSUE 6: Has BellSouth unbundled the local transport on the trunk side of a wireline local exchange carrier switch from switching or other services, pursuant to section 271(c)(2)(B)(v) and applicable rules promulgated by the FCC?

POSITION:

BELLSOUTH:

Yes. Local transport is functionally available from BellSouth. BellSouth has technical service descriptions outlining dedicated and common interoffice transport and has procedures in place for the ordering, provisioning, and maintenance of these services. As of June 1, 1997, BellSouth has 277 dedicated trunks providing interoffice transport to ALECs in Florida.

ACSI: No.

AT&T: No. BellSouth has provided common transport for IXCs but CLECs cannot utilize it without additional work by BellSouth. Further, BellSouth has not put in place the methods and procedures that provide certainty that common transport can be provided between end offices and billed on a nondiscriminatory basis. For example, in Florida, AT&T ordered four test loop combinations but cannot confirm receipt of shared transport or how BellSouth will render a usage sensitive bill for this shared transport. Therefore, BellSouth cannot claim that it has met the Act's requirement to provide unbundled local transport.

FCCA: The testimony of individual carriers demonstrate that BellSouth has not actually provided unbundled local transport in Florida in compliance with Act and applicable rules.

FCTA: No.

INTERMEDIA:

BellSouth has not provided Intermedia with access to requested UNES and, as a result, BellSouth has not provided Intermedia with unbundled local transport in a usable manner consistent with Section 271(c)(2)(B)(vi).

MCI: No. BellSouth has not fully implemented the provisioning of unbundled local transport. BellSouth's OSS do not

support unbundled local transport for competitors on a parity with BellSouth. BellSouth does not offer the trunk ports and tandem ports which are needed to fully unbundle local transport from local switching. BellSouth also does not permit interLATA, intraLATA and local traffic to be combined on multi-jurisdictional trunks.

WORLDCOM: No. Although covered in the interconnection agreement, BellSouth has not yet provided unbundled local transport as required by the Act and applicable rules.

SPRINT/SMNI:

No. Local transport provides transmission from the trunk side of a switch to any other point. Local transport does not include switching. Tandem switching should be unbundled from transmission. Prices should be cost-based. There should be no restrictions on how local transport can be used. BellSouth has not met the requirements of this provision of the checklist.

TCG: TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c) (1) (B) of the Act.

TIME WARNER:

Based upon the situations described by Bob Gaskins in his rebuttal testimony in this proceeding and Exhibit A to his testimony, Time Warner is not certain that BellSouth is yet ready to provide these network elements.

STAFF: No position at this time.

ISSUE 7: Has BellSouth provided unbundled local switching from transport, local loop transmission, or other services, pursuant to section 271(c) (2) (B) (vi) and applicable rules promulgated by the FCC?

POSITION:

BELLSOUTH:

Yes. Unbundled local switching is functionally available from BellSouth. BellSouth has a technical service

description and has procedures in place for the ordering, provisioning, and maintenance of its switched services. As of June 1, 1997, BellSouth has seven unbundled switch ports in service in Florida.

ACSI: No.

AT&T: No. BellSouth cannot provide local switching on a bundled or unbundled basis because it cannot provide usage detail or billing information for such access -- information which is an essential component of local switching under 47 USC 153 (45).

FCCA: No. See response to Issue 3, above.

FCTA: No position.

INTERMEDIA:

BellSouth has not provided Intermedia with access to UNES and, as a result, BellSouth has not provided Intermedia with local switching unbundled from transport, local loop transmission, or other services consistent with Section 271(c)(2)(B)(vi).

MCI: No. BellSouth is not actually providing unbundled local switching and BellSouth's OSS do not support unbundled local switching for competitors on a parity with BellSouth.

WORLDCOM: No. Although covered in the interconnection agreement, BellSouth has not yet provided unbundled local loop transmission as required by the Act and applicable rules.

SPRINT/SMNI:

No. Local switching routes exchange service and exchange access traffic. Prices should be cost-based. There should be no restrictions on how local switching can be used. BellSouth has failed to meet the requirements of this provision of the checklist.

TCG: TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c)(1)(B) of the Act.

TIME WARNER:

Based upon the situations described by Bob Gaskins in his rebuttal testimony in this proceeding and Exhibit A to his testimony, Time Warner is not certain that BellSouth is yet ready to provide these network elements.

STAFF: No position at this time.

ISSUE 8: Has BellSouth provided nondiscriminatory access to the following, pursuant to section 271(c)(2)(B)(vii) and applicable rules promulgated by the FCC:

- (a) 911 and E911 services;
- (b) directory assistance services to allow the other telecommunications carrier's customers to obtain telephone numbers; and,
- (c) operator call completion services?

POSITION:

BELLSOUTH:

a) Yes. BellSouth's statement offers local exchange providers nondiscriminatory access to 911 and E911 service. BellSouth has had procedures in place since early 1996 by which ALECs can connect their switches to BellSouth E911 tandems. As of June 1, 1997, BellSouth had 88 trunks in service connecting ALECs with BellSouth E911 arrangements in Florida.

b) Yes. Nondiscriminatory access to directory assistance (DA services) is functionally available from BellSouth. As of June 1, 1997, there were 156 directory assistance trunks in place serving ALECs in Florida.

Yes. Operator call processing is functionally available from BellSouth, which allows ALECs to obtain both live operator and mechanized functionality. As of June 1, 1997, there were 31 such trunks in place serving ALECs in Florida.

ACSI: The interconnection agreement requires nondiscriminatory access to these services but ACSI does not have the experience in Florida.

- AT&T:**
- a) BellSouth has not provided such access to AT&T.
 - b) No. Although nondiscriminatory access is technically feasible and can be provided by direct routing from the switch or other means, BellSouth continues to brand these services as its own even for AT&T customers.
 - c) No. Although nondiscriminatory access is technically feasible and can be provided by direct routing from the switch or other means, BellSouth continues to brand these services as its own even for AT&T customers.

FCCA: The testimony of individual carriers demonstrates that BellSouth has not actually provided these items in Florida as required by the Act and applicable rules.

FCTA: No.

INTERMEDIA:

BellSouth has provided Intermedia with access to 911/E911, directory assistance services, and operator call completion services, but only to the extent limited local exchange service is being provided by Intermedia over Intermedia's local exchange facilities. To the extent that intermedia has requested such access in association with requested UNEs, BellSouth has not provided nondiscriminatory access to such services. Intermedia does not know whether BellSouth will be able to provide access to such services in connection with requested UNEs.

- MCI:**
- a) BellSouth has provided access to 911 and E911 services. To date, such access appears to be provided on a nondiscriminatory basis.
 - b) No. BellSouth does not provide access to directory service listings in its database for independent telephone companies and other ALECs. This requires an MCI customer to either be transferred to a BellSouth DA position, or dial a special code to bypass MCI and reach that position, in order to obtain telephone numbers of users served by these companies.
 - c) BellSouth has provided access to operator call completion services. To date, such access appears to be provided on a nondiscriminatory basis.

WORLD COM: Yes, BellSouth has provided access but there has not been ample opportunity to evaluate the access.

SPRINT/SMNI:

No. All telecommunications carriers should have access to incumbent LECs 911, E911, directory assistance, and operator call completion capabilities on the same terms and conditions as enjoyed by the ILEC. All telecommunications carriers should be allowed to have their telephone numbers included in directory assistance, line information database ("LIDB"), and other operator services at the same price, terms, and conditions as does the incumbent. Resale prices should include population of the databases and access to the services. Access to these databases should be nondiscriminatory. BellSouth has not complied with this provision of the checklist.

TCG:

a) TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c)(1)(B) of the Act.

b) TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c)(1)(B) of the Act.

c) TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c)(1)(B) of the Act.

TIME WARNER:

Based upon the situations described by Bob Gaskins in his rebuttal testimony in this proceeding and Exhibit A to his testimony, Time Warner is not certain that BellSouth is yet ready to provide these network elements.

STAFF: No position at this time.

ISSUE 9: Has BellSouth provided white pages directory listings for customers of other telecommunications carrier's telephone exchange service, pursuant to section 271(c)(2)(B)(viii) and applicable rules promulgated by the FCC?

POSITION:

BELLSOUTH:

Yes. BellSouth arranges with its directory publisher to make available white pages directory listings to ALECs and their subscribers which include the subscriber's name, address, and telephone number at no charge.

ACSI: Yes.

AT&T: BellSouth has not provided such listings to AT&T. BellSouth cannot meet this requirement until it provides competitors the same capability to submit orders as BellSouth enjoys. This capability is not yet available.

FCCA: The testimony of individual carriers demonstrates that BellSouth has not actually provided these elements in Florida as required by the Act and applicable rules.

FCTA: No position.

INTERMEDIA:

BellSouth has provided very limited white pages directory listings for Intermedia's customers. Intermedia does not know, however, if BellSouth will be able to provide such listings in connection with unbundled network elements, which BellSouth has not yet been able to provide.

MCI: Through its agreement with BAPCO, MCI has been provided with white page listings in BellSouth directories; however, MCI has experienced problems with such listings.

WORLDCOM: Although covered by the Interconnection Agreement, BellSouth has not yet provided these services.

SPRINT/SMNI:

No. Incumbent LECs' directories should include other carriers' customers. Listings should be nondiscriminatory. White pages distribution should be nondiscriminatory. Access to yellow pages should be

nondiscriminatory. White pages should be included in the wholesale service.

TCG: TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c)(1)(B) of the Act.

TIME WARNER:

As set forth in Bob Gaskins rebuttal testimony, Time Warner has experienced delays in the listing of customers by BellSouth, but not to the extent that it takes the position that BellSouth cannot provide Directory Listings.

STAFF: No position at this time.

ISSUE 10: Has BellSouth provided nondiscriminatory access to telephone numbers for assignment to the other telecommunications carrier's telephone exchange service customers, pursuant to section 271(c)(2)(B)(ix) and applicable rules promulgated by the FCC?

POSITION:

BELLSOUTH:

Yes. BellSouth's Statement provides nondiscriminatory access to telephone numbers. Also, BellSouth, as the North American Numbering Plan administrator for its territory, ensures that ALECs have nondiscriminatory access to telephone numbers for assignment to their customers. As of June 23, 1997, BellSouth had assigned a total of 140 NPA/NNX codes for ALECs in Florida.

ACSI: The interconnection agreement requires nondiscriminatory access to these services but ACSI does not have experience in Florida.

AT&T: No. AT&T cannot order telephone numbers on a nondiscriminatory basis. BellSouth must establish methods and procedures for assignment of telephone numbers that apply to all competitors, including BellSouth, and further must implement nondiscriminatory electronic ordering procedures and capabilities.

FCCA: The testimony of individual carriers demonstrates that BellSouth has not actually provided this item in Florida as required by the Act and applicable rules.

FCTA: No.

INTERMEDIA:

Yes, BellSouth has provided nondiscriminatory access to telephone numbers to Intermedia.

MCI: No. In situations where an ALEC does not have an NXX code, BellSouth imposes significant restrictions on an ALEC's ability to assign telephone numbers. For example, an ALEC is permitted to assign a maximum of six telephone numbers per customer and, unlike BellSouth, does not receive real-time verification of the number assignment. This places an ALEC at a competitive disadvantage because (unlike BellSouth) its customers cannot begin publicizing their telephone numbers for several days after an order for service has been placed. In addition, ALECs do not have access to the ATLAS database used by BellSouth to manage available vanity numbers and the selection of such numbers, though LENS, is a cumbersome process.

WORLDCOM: Although covered by the Interconnection Agreement, BellSouth has not yet provided these services.

SPRINT/SMNI:

No. Access to telephone number should be nondiscriminatory. Competitors to BellSouth should have non-discriminatory access to sufficient blocks of telephone numbers to offer service. Service order procedures should be nondiscriminatory.

TCG: TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c) (1) (B) of the Act.

TIME WARNER:

Yes.

STAFF: No position at this time.

ISSUE 11: Has BellSouth provided nondiscriminatory access to databases and associated signaling necessary for call routing and completion, pursuant to section 271(c)(2)(B)(x) and applicable rules promulgated by the FCC?

POSITION:

BELLSOUTH:

Yes. BellSouth's Statement provides access to the signaling elements necessary for call routing and completion, including Signaling Links, Signal Transfer Points (STPs), and Service Control Points (SCPs). Moreover, from January through April, 1997, ALECs and other telecommunications providers made approximately 8 million queries to BellSouth's 800 database, which evidences the functional availability of these services.

ACSI: The interconnection agreement requires nondiscriminatory access to these services but ACSI does not have experience in Florida.

AT&T: No. There are no methods and procedures in place for nondiscriminatory access to databases and associated signaling, nor has testing been conducted to determine how BellSouth will provide access to its Advanced Intelligent Network.

FCCA: The testimony of individual carriers demonstrates that BellSouth has not actually provided this item in Florida as required by the Act and applicable rules.

FCTA: No position.

INTERMEDIA:

No, BellSouth has not provided Intermedia with nondiscriminatory access to databases and associated signaling necessary for call routing and completion in conjunction with requested UNES.

MCI: No. BellSouth is not providing nondiscriminatory access to its advanced intelligent network (AIN) database nor to its service creation environment (SCE)/service management system (SMS). Further, BellSouth is not permitting nondiscriminatory access to its Toll Free Database for

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the purpose of obtaining the routing information needed for an SS7-capable carrier to complete 800/888 calls.

WORLDCOM: Although covered by the Interconnection Agreement, BellSouth has not yet provided these services.

SPRINT/SMNI:

No. Telecommunications carriers should be allowed to have access to directory assistance, LIDB, Advanced Intelligent Network ("AIN"), 800, and other databases and have access to such resources equal in price, functionality, and quality as do incumbent local exchange carriers. Interconnection should be seamless and equivalent to that of BellSouth. Nondiscriminatory electronic access should be provided for other databases necessary for local resale. Prices should be cost-based.

TCG: TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c)(1)(B) of the Act.

TIME WARNER:

Based upon the situations described by Bob Gaskins in his rebuttal testimony in this proceeding and Exhibit A to his testimony, Time Warner is not certain that BellSouth is yet ready to provide these network elements.

STAFF: No position at this time.

ISSUE 12: Has BellSouth provided number portability, pursuant to section 271(c)(2)(B)(xi) and applicable rules promulgated by the FCC?

POSITION:

BELLSOUTH:

Yes. BellSouth's Statement describes the interim number portability arrangements that are available, which include Remote Call Forwarding (RCF) and Direct Inward Dialing (DID). Interim number portability is functionally available from BellSouth, as evidenced by the fact that as of June 10, 1997, BellSouth has ported

2,484 business directory numbers and 14 residence directory numbers in Florida using interim number portability.

ACSI: No. BellSouth has not provided number portability to ACSI pursuant to the Act and applicable rules.

AT&T: BellSouth has not provided number portability to AT&T; and until it has methods and procedures in place to provide any requesting CLEC with number portability through a permanent or interim solution, it cannot meet this checklist requirement. At present, BellSouth provides only limited number portability options with no electronic ordering capability.

FCCA: The testimony of individual carriers demonstrates that BellSouth has not actually provided this element in Florida as required by the Act and applicable rules.

FCTA: No.

INTERMEDIA:

Yes, BellSouth has provided interim number portability to Intermedia principally through Remote Call Forwarding and Direct Inward Dialing, which complies with the 1996 Act until such time as a permanent number portability solution is required.

MCI: No. While BellSouth is providing interim number portability via remote call forwarding, it does not have procedures and practices in place to ensure that the cut-over of a customer takes place without an interruption of service.

WORLDCOM: Although covered by the Interconnection Agreement, BellSouth has not yet provided these services.

SPRINT/SMNI:

No. BellSouth appears to have offered interim number portability, the terms and conditions attached fail to meet the requirements of this checklist item. The definition of number portability should evolve as technology and markets dictate. Sprint supports the Act's definition of number portability to include service provider only at this time. Location routing number architecture should be used for true number portability.

Other portability, including location and service, should be phased in as technology and markets dictate. Remote Call Forwarding should be the method of interim number portability. Interim number portability pricing should encourage the development of true number portability. Interim number portability does not promote competition.

TCG: TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c)(1)(B) of the Act.

TIME WARNER:

This issue is addressed by Bob Gaskins in his rebuttal testimony. Time Warner has experienced difficulties with orders for interim number portability in Tennessee which it expects to suffer similarly in Florida.

STAFF: No position at this time.

ISSUE 13: Has BellSouth provided nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xii) and applicable rules promulgated by the FCC?

POSITION:

BELLSOUTH:

Yes. Local service subscribers in BellSouth's service area in Florida dial the same number of digits to place a local call, without the use of an access code, regardless of their choice of local service provider. This satisfies the local dialing parity requirement.

ACSI: The interconnection agreement requires nondiscriminatory access to these services but ACSI does not have the experience in Florida.

AT&T: BellSouth has not provided such access to AT&T.

FCCA: In his testimony addressing BellSouth's failure to provide nondiscriminatory access to unbundled switching, Mr. Gillan demonstrates that BellSouth must provide the competitor with all of the features and functionality of the switch. BellSouth has not actually provided the services necessary to implement local dialing parity in accordance with the Act and applicable rules.

FCTA: No position.

INTERMEDIA:

BellSouth is providing Intermedia with dialing parity on a very limited scale (i.e., within the limited scope of local exchange services that Intermedia can provide today principally through its own facilities).

MCI: No. In one instance, BellSouth failed to activate MCI's NXX codes in the Orlando area in a timely manner, thereby precluding MCI customers from reaching BellSouth customers for a period of six days. In addition, because BellSouth does not permit ALECs to obtain directory assistance listing information for independent company customers in BellSouth's database, an ALEC customer must dial additional digits to obtain DA for these numbers.

WORLDCOM: Although covered by the Interconnection Agreement, BellSouth has not yet provided these services.

SPRINT/SMNI:

No. Interconnection should allow seamless calling. Competing networks should be interconnected so that customers can seamlessly receive calls that originate on another carrier's network and place calls that terminate on another carrier's network without dialing extra digits, paying extra, or doing anything out of the ordinary. Call routing capabilities should be nondiscriminatory. Competitors to BellSouth should have control over the routing of all N11 numbers (except for 911) for their customers. N11 numbers include 411, 611 and 811. Competitors should also have control over the routing of all 0-, 0= local and directory assistance numbers (e.g. 1-555-1212).

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TCG: TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c)(1)(B) of the Act.

TIME WARNER:

No position.

STAFF: No position at this time.

ISSUE 14: Has BellSouth provided reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xiii) and applicable rules promulgated by the FCC?

POSITION:

BELLSOUTH:

Yes. BellSouth has arrangements in place to provide reciprocal compensation. These arrangements provide for the mutual and reciprocal recovery of the costs of transporting and terminating local calls on BellSouth and ALEC networks.

ACSI: This is a part of the interconnection agreement.

AT&T: Interconnection arrangements are satisfactory but have yet to be implemented. BellSouth must implement methods and procedures for billing in order to comply with this requirement. Further, without an agreement on a Percentage Local Usage factor for local traffic between BellSouth and AT&T the parties will be unable to bill each other properly and BellSouth will be unable to meet this requirement.

FCCA: The testimony of individual carriers demonstrates that BellSouth has not actually provided this item in Florida as required by the Act and applicable rules.

FCTA: No.

INTERMEDIA:

To the extent the BellSouth-Intermedia interconnection agreement calls for reciprocal rates, BellSouth has provided Intermedia with reasonable reciprocal compensation arrangements.

MCI: No. BellSouth does not provide reciprocal compensation in the case in which an ALEC uses an end office switch to complete calls throughout a geographic area that, in BellSouth's network, would be served by a tandem switch.

WORLDCOM: The interconnection agreement contains arrangements for reciprocal compensation but MFS has no experience to determine compliance.

SPRINT/SMNI:

No. Bill-and keep arrangements are not a permanent solution for reciprocal compensation, but should be used for an interim period not to exceed two years. This interim period allows carriers to determine traffic patterns for the interexchange of network usage. Bill-and-keep should apply only to end office usage. Permanent solutions should be flat-rated, capacity-based, charges that are cost-based. ILECs prices for the interconnection portion should be based on the interconnection price and cost standards. BellSouth should not use reciprocal compensation arrangements for the exchange of toll traffic. Interconnection and reciprocal compensation should not be used to fund universal service.

TCG: TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c) (1) (B) of the Act.

TIME WARNER:

Yes.

STAFF: No position at this time.

ISSUE 15: Has BellSouth provided telecommunications services available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xiv) and applicable rules promulgated by the FCC?

(a) Has BellSouth developed performance standards and measurements? If so, are they being met?

POSITION:

BELLSOUTH:

Yes. ALECs are able to resell BellSouth's telecommunications services. BellSouth has developed technical service descriptions in ordering, provisioning, and maintenance procedures for 50 of its top retail telecommunications services. As of May 15, 1997, over 49,000 of these services were being resold by ALECs in Florida.

a) BellSouth has developed processes for handling the ordering, provisioning, maintenance, and repair of all resold services. BellSouth has also put organizations and processes in place to ensure that service standards are met.

ACSI: Yes, BellSouth has provided service for resale but there are no performance standards or measurements. Further, ACSI has not had access to adequate OSS to handle resale orders resulting in delays.

AT&T: BellSouth has not provided such services to AT&T and proposes ordering mechanisms which are discriminatory in nature.

a) No. The performance standards and measurements proposed by BellSouth are insufficient to demonstrate parity or nondiscriminatory access.

FCCA: No. ALECs have demonstrated that the operational support systems necessary to support resale are insufficient to provide parity with BellSouth's own service, as required by the Act and applicable FCC rules.

a) No, BellSouth has not developed sufficient performance standards and has not provided measurements

of its own performance. Absent sufficient standards and information concerning BellSouth's own performance, neither ALECs nor this Commission can begin to assess whether BellSouth is providing parity to its competitors, as required by the Act and FCC rules. For this reason alone, the Commission must inform the FCC that BellSouth has not complied with Section 271.

FCTA: No position.

INTERMEDIA:

Theoretically BellSouth has made its retail services available to Intermedia for resale purposes, however, for practical purposes BellSouth has not made its services available for resale, because nondiscriminatory access to BellSouth's OSS is not available to Intermedia.

a) BellSouth has not developed performance standards and measurements applicable specifically to Intermedia. Such performance standards necessarily should focus on both traditional voice services and advanced data services provided by BellSouth.

MCI:

No. BellSouth's operations support systems do not provide competing carriers with nondiscriminatory access to the preordering, ordering, provisioning, maintenance and repair, and billing functionalities for resold services. Such systems are not equal in quality to the systems that BellSouth employs for its own retail customers. For example, BellSouth has no mechanism in place, other than manual, for resale of complex business services, or business services involving more than six lines. Even the inferior systems which are in place for some services have not been shown to be capable of handling commercially significant quantities of transactions. In addition, BellSouth has refused to provide voice mail service for resale on an unbranded basis, despite the fact that such resale is required by the MCI/BellSouth Interconnection Agreement.

a) Some BellSouth interconnection agreements include selected performance standards and measurements. However, BellSouth has not provided sufficient information on its own internal performance to enable the parties or the Commission to establish standards that would ensure parity between BellSouth and its competitors. Also, even the rudimentary performance

standards which have been established for such things as installation intervals are not being met; for example, it has taken BellSouth an average of six days to process each resale order that MCI has ordered on a test basis.

WORLDCOM: No, not to MFS. Moreover, BellSouth has not developed or produced any statistically valid performance measurements.

SPRINT/SMNI:

No. While BellSouth may offer services for resale, the terms and conditions do not meet the requirements of this checklist item. The only restriction should be that residential services cannot be resold to business. Unbundled network elements are not retail services. Avoided costs should be calculated by cost category. Prices for associated network elements should not provide additional contribution. Prices need to be rebalanced.

TCG: TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c) (1) (B) of the Act.

a) TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c) (1) (B) of the Act.

TIME WARNER:

We have no position on resale at this time as we are offering services predominantly over our own facilities.

STAFF: No position at this time.

ISSUE 16: By what date does BellSouth propose to provide intraLATA toll dialing parity throughout Florida pursuant to section 271(e)(2)(A) of the Telecommunications Act of 1996.

POSITION:

BELLSOUTH:

Section 271(e)(2)(A) requires the provision of intraLATA toll dialing parity by the time that BellSouth enters the interlata market. BellSouth has satisfied this requirement by providing 1+ intralata presubscription in all of its end offices since the end of March 1997.

ACSI: Section 271(e)(2)(A) requires intraLATA toll dialing parity coincident with the exercise of interLATA service, if granted. ACSI does not have information to take a position at this time.

AT&T: Section 271(e)(2)(A), requires a Bell operating company to provide intraLATA toll dialing parity "coincident with" its authorized provision of interLATA service.

FCCA: FCCA is without sufficient information to state a position.

FCTA: No position.

INTERMEDIA:

BellSouth is the proper party to respond to this issue.

MCI: The current provisions for cost recovery for implementation of intraLATA 1+ dialing do not comply with the requirements of FCC Order No. 96-333. Until such a cost-recovery mechanism is in place, it is not possible to determine when BellSouth will be providing intraLATA toll dialing parity in compliance with the Act.

WORLDCOM: MFS/WorldCom does not have sufficient information to respond to this issue at this time.

SPRINT/SMNI:

Sprint and SMNI are without sufficient knowledge, information or belief to state a position on this issue.

TCG: TCG does not have sufficient information to respond to this issue. However, BellSouth carries the burden to affirmatively demonstrate that it has satisfied each requirement of the Competitive Checklist in Section 271(c) (1) (B) of the Act.

TIME WARNER:

BellSouth is in a better position to answer this question than Time Warner Communications.

STAFF: No position at this time.

ISSUE 17: If the answer to issues 2-15 is "yes", have those requirements been met in a single agreement or through a combination of agreements?

POSITION:

BELLSOUTH:

These requirements have been met through a combination of Agreements, and have been met as well by BellSouth's Statement of Generally Available Terms and Conditions.

ACSI: BellSouth has not met the requirements through a single agreement and cannot combine agreements to satisfy the checklist.

AT&T: Not applicable because the answer to each of the above issues is "no".

FCCA: Not applicable, because the answers are not "yes".

FCTA: Not applicable.

INTERMEDIA:

Intermedia incorporates its responses to issues 2-15 as though more fully set forth herein.

MCI: The answer to Issues 1-15 is not "yes." BellSouth has failed in numerous significant ways to meet the requirements of the fourteen item competitive checklist.

WORLDCOM: BellSouth has the responsibility to prove it has met the requirements. MFS has an interconnection agreement but

that alone does not satisfy the requirements of section 271. BellSouth has not met the requirements through a single agreement and cannot meet the requirements through a combination of agreements.

SPRINT/SMNI:

Not applicable.

TCG: The answer to issues 2, 3, 3.A and possibly other issues is "no".

TIME WARNER:

Time Warner answers to ISSUES 2-15 were, in large part, not "yes," but Time Warner does have a single Interconnection Agreement with BellSouth in Florida.

STAFF: No position at this time.

ISSUE 18: Should this docket be closed?

POSITION:

BELLSOUTH:

This docket should be closed only after this Commission has concluded its consultative role to the FCC.

ACSI: ACSI has no position.

AT&T: Yes.

FCCA: Upon formulating the advice to the FCC that BellSouth has not complied with the competitive checklist of §271 the Commission should close the docket.

FCTA: FCTA Adopts Time Warners position on Issue 18.

INTERMEDIA:

Yes, this docket should be closed until such time as BellSouth is able to satisfy the requirements of the 1996 Act for in-region interLATA entry.

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MCI: No, this docket should remain open to enable the parties to conduct further discovery in anticipation of a future BellSouth refiling.

WORLDCOM: The docket should be closed when appropriate.

SPRINT/SMNI:

Yes.

TCG: TCG takes no position.

TIME WARNER :

This docket should remain open until such time as BellSouth can demonstrate its ability to perform under section 271 (c) (1) (A) of the Telecommunications Act of 1996.

STAFF: No position at this time.

VII. EXHIBIT LIST

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. #</u>	<u>DESCRIPTION</u>
Alphonso J. Varner	BellSouth	_____ AJV-1	Congressional Record-House
		_____ AJV-2	Congressional Record-Senate
		_____ AJV-3	Section 271 - Bell Operating Company Entry Into Interlata Services
		_____ AJV-4	Eighth Circuit Court Ruling
		_____ AJV-5	Tennessee Reply to the Tennessee Regulatory Authority

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. #</u>	<u>DESCRIPTION</u>
Alphonso J. Varner	BellSouth	<u> </u> AJV-6	Florida Retail, Resale and Unbundling Comparisons
		<u> </u> AJV-7	ACSI Reply
	Staff	<u> </u> AJV-8	**Deposition and Deposition Exhibits
		<u> </u> AJV-9	**Responses to Staff Interrogatories
		<u> </u> AJV-10	**Responses to Staff POD's
		<u> </u> AJV-11	**Responses to FCCA Interrogatories
		<u> </u> AJV-12	**Responses to FCTA Interrogatories
Robert C. Scheye	BellSouth	<u> </u> RCS-1	Statement of Generally Available Terms and Conditions For Interconnection Unbundling and Resale Provided By BellSouth Telecommunica- tions, Inc., In the State of Florida
		<u> </u> RCS-2	BellSouth Price List - Florida
		<u> </u> RCS-3	Typical Applications

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. #</u>	<u>DESCRIPTION</u>
Robert C. Scheye	BellSouth	<u> </u> RCS-4	Section 271 Checklist Items - Index
	Staff	<u> </u> RCS-5	**Deposition and Deposition Exhibits
W. Keith Milner	BellSouth	<u> </u> WKM-1	Evidence That BellSouth is meeting its Checklist obligations Pursuant to Section 271(c)(2)(B) (I-xiv) of the Telecommunica- tions Act of 1996 (86 Volumes)
		<u> </u> WKM-2	List of Contents
		<u> </u> WKM-3	ALEC Resale of BellSouth
	Staff	<u> </u> WKM-4	**Deposition and Deposition Exhibits
Gloria Calhoun	BellSouth	<u> </u> GC-1	Netscape (Address Validation
		<u> </u> GC-2	CLEC and BellSouth Access to Pre- Ordering Information
		<u> </u> GC-3	Service Address - RNS
		<u> </u> GC-4	Address Validation Screens

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. #</u>	<u>DESCRIPTION</u>
Cloria Calhoun	BellSouth	GC-5	Address Validation - Lens
		GC-6	Lens - Telephone Number Screen
		GC-7	Lens - Address Validation Screen
		GC-8	RNS - Selection Screen
		GC-9	DOE Screen
		GC-10	RNS - Service Screen
		GC-11	DOE - Product and Services Screen
		GC-12	Due Date - RNS
		GC-13	Screen - DOE
		GC-14	Due Date Screen
		GC-15	LENS - Customer Service Record Screen
		GC-16	Exact Screens
		GC-17	EDI Ordering Screen
		GC-18	Electronic Ordering Flow
		GC-19	Services Available for Ordering

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. #</u>	<u>DESCRIPTION</u>
Gloria Calhoun	BellSouth	_____ GC-20	Summary RNS
		_____ GC-21	LENS screen
		_____ GC-22	LENS Screen - Firm Order Commitments
		_____ GC-23	LENS - Error Notification Screen
		_____ GC-24	LENS - Status Information Screen
		_____ GC-25	TAFI - Function and Sub- Function Menus
		_____ GC-26	BellSouth's Currently Available Electronic Interfaces
		_____ GC-27	Ordering Capacity
		_____ GC-28	BellSouth's Currently Available Electronic Interfaces
		_____ GC-29	LENS - Customer Service Record Information
		_____ GC-30	LENS User Guide
		_____ GC-31	Local Exchange Ordering Implementation Guide

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. #</u>	<u>DESCRIPTION</u>
Gloria Calhoun	Staff	GC-32	**Deposition and Deposition Exhibits
William N. Stacy	BellSouth	WNS-A	Performance Measurement
		WNS-B	Service Groups and Measures; BellSouth/AT&T Agreement
	Staff	WNS-C	**Deposition and Deposition Exhibits
Joe Gillan	MCI, FCCA, AT&T WorldCom (joint)	JPG-1	Road-Map to Competition
	Staff	JPG-2	**FCCA's Responses to Staff's Interrogatories
Don J. Wood	MCI	DJW-1	Resume
	Staff	DJW-1	**Deposition and Deposition Exhibits
David Kaserman	MCI & AT&T (joint)	DLK-1	Vita
		DLK-2	CommLaw Conspectus Article
		DLK-3	Number of Long Distance Firms Over Time
		DLK-4	Fiber Capacity Chart
		DLK-5	Output Growth of AT&T's Competitors

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. #</u>	<u>DESCRIPTION</u>
David Kaserman	MCI & AT&T (joint)	DLK-6	AT&T's Market Share Over Time
John Hamman	AT&T	JMH-1	The Unbundled Network Elements (Flow Chart)
		JMHR-1	Checklist Items 1-14, Chart
		JMHR-2	Interconnection and Access to Unbundled Network Elements Checklist
	Staff	JMH-2	**Deposition and Deposition Exhibits
		JMH-3	**Responses to Staff's Interrogatories
Jay Bradbury	AT&T	JB-1	Market Entry Interfaces with BellSouth for LSR
		JB-2	Target Interface Functionality / Target State View for Industry
		JB-3	Daniels letter to Clark (AT&T) re LENS
		JB-4	Corrections and Enhancements to LENS Noted by BellSouth on May 5 and May 13, 1997

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. #</u>	<u>DESCRIPTION</u>
Jay Bradbury	AT&T	_____ JB-5	Electronic Communications Conformance & Intercompany Testing
		_____ JB-6	LENS Capability-Ordering Activities
		_____ JB-7	LENS Support-Industry Standard
		_____ JB-8	List of 114 Services Available to Customers in Sample Central Office, Eight of Which May Be Ordered Via LENS
		_____ JB-9	Disparate Directory Listing Ordering Capability
		_____ JB-10	Provisioning Performance: BellSouth Telecommunications 3/17/97 - 7/5/97
		_____ JB-11	Supplier Provisioning
	Staff	_____ JB-12	**Deposition and Deposition Exhibits
C. Michael Pfau	AT&T	_____ CMP-1	Performance Measures (3 pages)

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. #</u>	<u>DESCRIPTION</u>
C. Michael Pfau	AT&T	<u> </u> CMP-2	Performance Benchmarks (3 pages)
		<u> </u> CMPR-1	Excerpts of BellSouth Witness Stacy Testimony in Dockets Nos. 6863-U and 7253-U before the Georgia Public Service Commission (7/16/97)
	Staff	<u> </u> CMP-3	**Deposition and Deposition Exhibits
James C. Falvey	ACSI	<u> </u> RMM-1	Complaint of American Communication Services of Columbus, Inc. against BellSouth Telecommunications, Inc. before the Georgia Public Service Commission filed December 23, 1996

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. #</u>	<u>DESCRIPTION</u>
James C. Falvey	ACSI	_____ RMM-2	Complaint of American Communications Services, Inc. against BellSouth Telecommunications, Inc. before the Federal Communications Commission filed January 6, 1997
	Staff	_____ JCF-1	**Deposition and Deposition Exhibits
Douglas Kinkoph	FCCA	_____ DWK-1	State of Michigan's Consultation to the FCC
		_____ DWK-2	LCUG's proposed performance standards and measurements
	Staff	_____ DWK-3	**Deposition and Deposition Exhibits
Patricia L. Pacey	FCTA	_____ PLP-1	Resume
		_____ PLP-2	FCC Order
	Staff	_____ PLP-3	**Deposition and Deposition Exhibits
		_____ PLP-4	Responses to Staff's Interrogatories

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. #</u>	<u>DESCRIPTION</u>
Julia Strow	Intermedia	JS-1	LCUG's Service Quality Measures Version 4
		JS-2	FCC Memorandum Opinion and Order, CC Docket 97-121 (SBC 271 Application)
		JS-3	Evaluation of DOJ in FCC Docket 97-121 (SBC 271 Application)
		JS-4	Evaluation of DOJ in FCC Docket 97-137 (Ameritech 271 Application)
		JS-5	Intermedia-BellSouth Interconnection Agreement
		JS-6	Memorandum Dated July 11, 1996 to Rich Dender from Tom Allen, Subject: Intermedia Unbundling Request
		JS-7	Interconnection Agreement Implementation Plan

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. #</u>	<u>DESCRIPTION</u>
Julia Strow	Intermedia	JS-8	Letter Dated January 8, 1997 to Whit W. Jordan from Jonathan E. Canis
		JS-9	Letter Dated June 28, 1997 to Whit W. Jordan from Jonathan E. Canis
		JS-10	Letter Dated January 23, 1997 to Jonathan E. Canis from Whit Jordan; and Letter Dated September 10, 1996 to Tom Allen from Rich Dender
		JS-11	Unbundled Voice Loops (UVL) CLEC Information Package
		JS-12	Notes for WO# 24787 - Unbundled T1
	Staff	JS-13	**Deposition and Deposition Exhibits
		JS-14	**Responses to Staff's Interrogatories
J. Lans Chase	Intermedia	JLC-1	Intermedia-BellSouth Resale Process

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. #</u>	<u>DESCRIPTION</u>
J. Lans Chase	Intermedia	<u>JLC-2</u>	Intermedia-BellSouth Resale MAC Process
		<u>JLC-3</u>	BellSouth MAC Process vs. Intermdia MAC Process
	Staff	<u>JLC-4</u>	**Deposition and Deposition Exhibits
James Gulino	MCI	<u>JSG-1</u>	1/29/97 BS correspondence regarding blocked traffic
	Staff	<u>JSG-2</u>	**Deposition and Deposition Exhibits
		<u>JSG-3</u>	**Responses to Staff's Interrogatories
Ronald Martinez	Staff	<u>RM-1</u>	**Deposition and Deposition Exhibits
Robert W. McCausland	WorldCom	<u>RWM-1</u>	E-mail message from BellSouth to MFS dated May 5, 1997
		<u>RWM-2</u>	Service quality Measurements List
	Staff	<u>RWM-3</u>	**Deposition and Deposition Exhibits
		<u>RWM-4</u>	**Responses to Staff's Interrogatories

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. #</u>	<u>DESCRIPTION</u>
Melissa L. Cloz	Sprint	_____ MLC-1	Exchange of correspondence
	Staff	_____ MLC-2	**Deposition and Deposition Exhibits
		_____ MLC-3	**Responses to Staff's Interrogatories
Frank Hoffman, Jr.	Staff	_____ FH-1	**Deposition and Deposition Exhibits
		_____ FH-2	Responses to Staff's Interrogatories
Paul Kouroupas	TCG	_____ PK-1	List of regulatory commissions that Mr. Kouroupas has testified before.
	Staff	_____ PK-2	**Deposition and Deposition Exhibits
Bob Gaskins	Time Warner	_____ BG-1	Letter from Susan M. Arrington of Bellsouth to Carolyn Marek of Time Warner Communications.
	Staff	_____ BG-2	**Responses to Staff's Interrogatories

** Parties have agreed to move these exhibits into the record by stipulation.

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

VIII. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

IX. PENDING MOTIONS

There are no pending motions at this time.

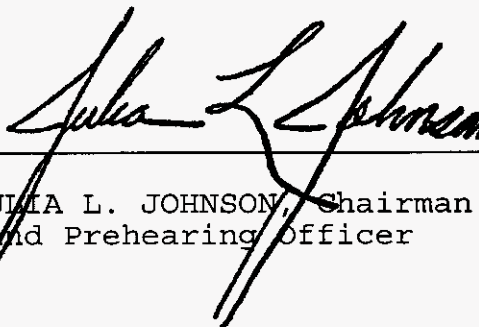
X. RULINGS

1. The word limit for posthearing statements is extended to 75. The page limit for briefs is extended to 100.
2. Parties are permitted to make opening statements. Opening statements will be limited to thirty minutes per side. The intervenors will divide up their 30 minutes among themselves. BellSouth may reserve a portion of its time to continue its opening statement upon the conclusion of the intervenor's opening statements.

It is, therefore,

ORDERED by Chairman Julia L. Johnson, 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 Chairman Julia L. Johnson, as Prehearing Officer, this 22nd day of August 1997.



JULIA L. JOHNSON, Chairman
and Prehearing Officer

(S E A L)

MMB

ORDER NO. PSC-97-1007-PHO-TL
DOCKET NO. 960786-TL
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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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 Records and Reporting, 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.