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E. GARY EARLY

March 13, 1998

Ms. Blanca Bayo  
Director, Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

RE: PSC Docket No. 971056-TX

Dear Ms. Bayo:

On behalf of BellSouth BSE, Inc. enclosed for filing in the above referenced docket are the original and fifteen (15) copies of the Notice of Filing Rebuttal Testimony of Robert C. Scheye.

If you have any questions please call me at (850) 222-3471. Thank you.

Sincerely,



E. Gary Early

ACK \_\_\_\_\_  
AFA 1  
APP \_\_\_\_\_  
CAF EGE/mcd  
CMI Isler  
CTP \_\_\_\_\_  
EAC cc: All parties of record  
LE 2  
LIR Storg  
OPC \_\_\_\_\_  
RCH \_\_\_\_\_  
SEC 1 FORT LAUDERDALE \* MIAMI \* ORLANDO \* TALLAHASSEE \* TAMPA \* WEST PALM BEACH  
WAS \_\_\_\_\_  
OTH \_\_\_\_\_

DOCUMENT NUMBER DATE  
03198 MAR 13 1998  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for certificate to  
provide alternative local exchange  
telecommunications service by  
BellSouth BSE, Inc.

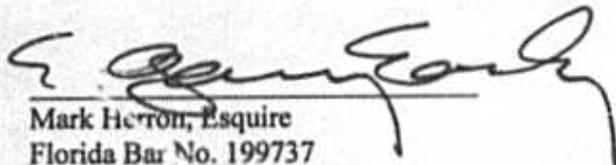
Docket No. 971056-TX

Filed: March 13, 1998

BELLSOUTH BSE, INC.'S NOTICE OF  
FILING REBUTTAL TESTIMONY OF ROBERT C. SCHEYE

Pursuant to the Order Establishing Procedure entered in the above styled proceeding,  
BellSouth BSE, Inc., through undersigned counsel, files this Notice of Filing the attached  
rebuttal testimony of Robert C. Scheye, this 13th day of March, 1998.

Respectfully Submitted,



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Attorneys for BellSouth BSE, Inc.

DOCUMENT NUMBER-DATE

03198 MAR 13 88

FPSC-RECORDS/REPORTING

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties by United States mail or hand delivery this 13th day of March, 1998:

**By Hand Delivery to:**

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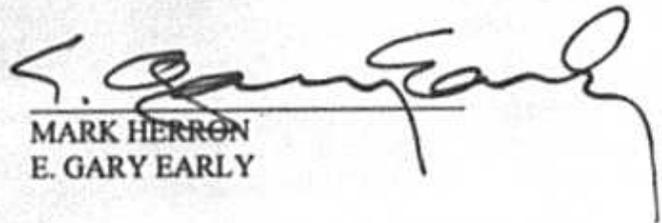
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E. GARY EARLY

1 BELL SOUTH BSE, INC.

2 REBUTTAL TESTIMONY OF ROBERT C. SCHEYE

3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

4 DOCKET NO. 97-1056

5

6 Q. PLEASE STATE YOUR NAME AND ADDRESS.

7

8 A. My name is Robert C. Scheye and my business address is 2727 Paces Ferry Road, Suite  
9 1100, Atlanta, Georgia 30339.

10

11 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

12

13 A. The purpose of my testimony is to address those points raised by Mr. Gillan in his direct  
14 testimony submitted in this proceeding. Mr. Gillan attempts to argue that BSE's certificate  
15 should be denied for that portion of Florida in which BellSouth Telecommunications (BST)  
16 operates.

17

18 Q. IS THERE ANYTHING IN MR. GILLAN'S TESTIMONY THAT WOULD SUGGEST  
19 THE COMMISSION NOT APPROVE OR PLACE LIMITS ON BSE'S CERTIFICATE  
20 AS AN ALEC IN FLORIDA?

21

22 A. No. Mr. Gillan presents no new issues. These same issues have been dealt with in other  
23 states and at the FCC. The basis of his argument includes "concerns" over hypothetical  
24 impacts on competition in Florida, as well as the 1996 and the FCC rules. He also cites a  
25 press release issued by the Texas Public Service Commission as a reason for denying BSE's

1 request. An analysis of the issues raised by Mr. Gillan actually provides support for  
2 granting BSE's request.

3  
4 Attached Exhibit 1 (a revised version of the Exhibit 1 attached to my prefiled testimony)  
5 summarizes twenty-three instances where ALECs have been approved in the territory  
6 served by their affiliated ILEC. These include approvals of BellSouth BSE by public  
7 service commissions in South Carolina, Alabama and most recently, Georgia. To my  
8 knowledge, in only two cases (GTE in Texas, mentioned by Mr. Gillan, and GTE in  
9 Michigan) in the country have commissions denied a request by a CLEC affiliate of an  
10 ILEC for authority in the territory served by the ILEC. However, in those cases, unique  
11 circumstances, not applicable here, existed. This difference was even cited by the  
12 Hearing Officer's recommendation to approve BSE in Georgia. "The decision by the  
13 Texas Public Utility Commission (Docket No. 16495, November 20, 1997) cited as  
14 support for denying the Applicant certification, is distinguishable in that that decision was  
15 based upon specific Texas laws." Therefore, the overwhelming weight of authority of  
16 other commissions that have addressed this issue indicates that approval should be granted.

17  
18 Mr. Gillan also states the Commission should deny BellSouth a certificate to "compete  
19 against itself." At least Mr. Gillan recognizes that BSE will be a competitive carrier.  
20 However, by contrast, this argument is the exact opposite of the testimony filed by the  
21 witness for AT&T and MCI in other states where BSE has filed for certification. In the  
22 most recent instance in Tennessee, testimony in opposition to BSE's request was that  
23 "within the home service territory of BST, BSE can not, by any reasonable measure, be  
24 considered a "competitive" carrier." More importantly, companies having several affiliates  
25 or products in direct competition with each other are certainly quite common. Outside our

1 industry, one can think about General Motors or Coca Cola as just two such companies.  
2 Within telecommunications, companies such as MCI have several affiliates in the same  
3 product and market area.

4  
5 Mr. Gillan says we are trying to rewrite the 1996 Act, Chapter 364 and the FCC rules. In  
6 fact (as is discussed below), both the 1996 Act and the FCC's rules fully recognize that  
7 ILECs may wish to establish ALEC affiliates. Thus, safeguards contained in the Act and  
8 the FCC rules under the Act anticipated this situation.

9  
10 Overall, it seems more probable that Mr. Gillan's objections are founded more in the  
11 belief that his sponsors anticipate that BSE will be a viable competitor providing services  
12 that customers may want and, would prefer not to have to deal with such a competitor.

13  
14 Q. DOES THE DECISION OF THE TEXAS COMMISSION SUPPORT DENIAL OF  
15 BELLSOUTH BSE'S APPLICATION IN FLORIDA?

16  
17 A. No. The order of the Texas Commission, mentioned by Mr. Gillan, states that its  
18 decision was based on a Texas statute, in "PURA 54.102(e)", which prohibits affiliated  
19 companies from being certificated as both a ALEC and an ILEC. I am not aware of any  
20 such law applicable to the State of Florida, nor could Mr. Gillan reference any Florida  
21 statute similar in effect to the one in Texas. As discussed previously, the Hearing  
22 Officer's recommendation for approval in Georgia indicated that the Texas decision was  
23 based upon a specific legal requirement in Texas.

24  
25

1 Q. CAN YOU DESCRIBE HOW OTHER COMMISSIONS IN THE BELLSOUTH  
2 REGION HAVE DEALT WITH SOME OF THESE ISSUES?

3

4 A. Yes. As stated in my direct testimony, with regard to claims of adverse effects on the  
5 public interest and safeguards to forestall anticompetitive activity, the South Carolina  
6 Commission said, "...there is simply no evidence in the record of such adverse effects on  
7 the public...and ...the parties made no showing of the need for the establishment of  
8 safeguards from potential anticompetitive effects." Also, after hearing the same  
9 testimony from AT&T and MCI the Alabama Commission found, "...that the Applicant  
10 has demonstrated that it possesses the technical, managerial and financial resources to  
11 provide the services proposed. It further appears that the Applicant had demonstrated that  
12 the public interest would be best served by its proposed operations." Further, the Georgia  
13 Commission certified BSE on March 5, 1998 and adopted the Hearing Officer's  
14 recommendation 5 to 0. Attached here as Exhibit 2, is the Recommendation of the  
15 Hearing Officer in Georgia Docket No. 8043-U, BellSouth BSE, Inc. Application for  
16 Certification of Authority to Provide Local Exchange Telephone Service. Also attached  
17 as Exhibits 3 and 4 are the Orders granting BellSouth BSE ALEC certificates for the  
18 states of South Carolina and Alabama.

19

20 Q. DOES THE 1996 TELECOMMUNICATIONS ACT SUPPORT THE ABILITY OF AN  
21 AFFILIATE OF AN ILEC TO PROVIDE LOCAL EXCHANGE SERVICE WITHIN  
22 THE SERVING TERRITORY OF THE ILEC?

23

24 A. Yes. As pointed out in my direct testimony, both the 1996 Act and the rules of the FCC  
25 under the 1996 Act specifically address the situation when a company that is an affiliate

1 of an ILEC provides local exchange service in the same serving territory as the ILEC.  
2 Both the 1996 Act and the FCC adopt specific provisions as to how this must be done.  
3 Obviously, if the 1996 Act and the FCC did not agree that such activity might take place,  
4 there would have been no need to adopt such provisions. Section 272(e) of the 1996 Act  
5 states that the ILEC must "fulfill any requests from an unaffiliated entity for telephone  
6 exchange service and exchange access within a period no longer than the period in which  
7 it provides such ...[services]... to itself or to its affiliates." (emphasis added). Further,  
8 Section 272(g) clearly permits the affiliate of a BOC to provide telephone exchange  
9 services if the BOC permits other entities to market and sell its services as well. For the  
10 purpose of applying these type of provisions, BellSouth BSE can be considered to be  
11 such an affiliate.

12  
13 Also as described in my direct testimony, Sections 251 and 252 of the Act require the  
14 ILEC to treat all ALECs on a nondiscriminatory basis. These provisions ensure, despite  
15 Mr. Gillan's assertion of collusion and favoritism, that BST cannot provide any advantage  
16 in the marketplace to BellSouth BSE.

17  
18 Q. DO THE FCC'S RULES ALSO RECOGNIZE THAT AN ILEC COULD HAVE AN  
19 AFFILIATE THAT CAN ALSO PROVIDE LOCAL EXCHANGE SERVICE?

20  
21 A. Yes. The FCC has clearly endorsed the position that the 1996 Act approves the provision  
22 of local exchange services by an ALEC affiliate of an ILEC within the ILEC's territory.  
23 The FCC stated in its Order No. 96-149 (December 23, 1996) that "We find no basis...to  
24 find that a BOC affiliate must be classified as an incumbent LEC under Section 251(h)(2)  
25 merely because it is engaged in local exchange activities." Supra at para. 312. The FCC

1 specifically found that an ALEC affiliate of a BOC or an ILEC is not subject to ILEC  
2 status unless it is a successor or assign of the BOC or ILEC. Id. BellSouth BSE is not a  
3 successor or assign of BellSouth Telecommunication and therefore is not an ILEC.  
4 Again, as pointed out in my direct testimony, the FCC found that the same arguments put  
5 forth by Mr. Gillan in opposition to BellSouth BSE's certification in Florida (i.e.,  
6 allowing ILEC affiliates to provide local exchange service provides opportunities for  
7 discrimination and cross-subsidy) to be "speculative" and "non-persuasive." FCC Order  
8 No. 96-149 at para. 314. The FCC concluded "In sum, we find no basis in the record for  
9 concluding that competition in the local market would be harmed if a section 272 affiliate  
10 offers local exchange service to the public that is similar to local exchange service offered  
11 by the BOC" (Emphasis added). FCC Order No. 96-149 at para. 315. Additionally, the  
12 FCC wrote that the "increased flexibility resulting from the ability to provide both  
13 interLATA and local services from the same entity serves the public interest" by  
14 encouraging such an affiliate to "provide innovative new services." Id.

15  
16 These provisions from both the Act and the FCC's Order are only applicable to a situation  
17 such as that presented here, i.e. an ILEC's affiliate seeking certification to provide local  
18 services within the territory served by the ILEC. To suggest that such a situation was not  
19 envisioned is simply ludicrous.

20  
21 Q. IS BELLSOUTH BSE SEEKING ANY ADVANTAGES OVER OTHER ALECS?

22  
23 A. No. Mr. Gillan says we are seeking back door deregulation. Again this is simply not  
24 true. BellSouth BSE will comply with all rules in place for ALECs. Any interconnection  
25 agreement between BSE and BST will be available for review by all interested parties.

1 Similarly, if BSE chooses to operate under the terms of an approved statement of  
2 Generally Available Terms and Conditions ("SGAT"), it too must be publicly available.  
3 In interfacing with BST, we will use the identical Operational Support Systems (OSS)  
4 capabilities as are available to any other ALEC.

5  
6 BSE anticipates reselling BST local wireline service in BST's serving territory.  
7 Therefore, by definition, BSE will not provide any underlying capability that BST does  
8 not have. However, by coupling these resold services with other services and offering  
9 these services across a broader geographic area, the overall services BSE offers to its  
10 customers will differ from those provided by BST. If they want, any other ALEC can  
11 purchase these services from BST at the same discount rate, terms and conditions and do  
12 exactly the same thing as BSE. Therefore, BSE is acting as an ALEC in every possible  
13 way.

14  
15 Q. WILL BELLSOUTH BST BE ABLE TO AVOID ITS OBLIGATIONS UNDER THE  
16 ACT IF THIS COMMISSION APPROVES BSE'S REQUEST FOR CERTIFICATION?

17  
18 A. Absolutely not. Mr. Gillan apparently believes that the certification of BSE will permit  
19 BST to avoid its resale obligations because BSE could price services at or below the  
20 wholesale rates we must pay to BST. BSE will obtain wholesale services from BST and  
21 other ILECs on the same terms as everyone else. We will have to develop new and  
22 innovative ways to sell these and other services to customers in order for BSE to be  
23 profitable, just as all other ALECs must. If we are able to provide services that customers  
24 want at prices they are willing to pay, then, of course, customers benefit.

25

1 Further, on a common sense basis, Mr. Gillan's argument just doesn't make sense. BST is  
2 paid its wholesale rate by any reseller. Therefore, BST is indifferent as to who the  
3 reseller is. In fact, if BSE were to purchase wholesale services and lose money by not  
4 pricing its retail services adequately, then BellSouth Corporation as a whole is actually  
5 worse off than if some unaffiliated reseller is purchasing the wholesale service and paying  
6 BST its wholesale rate. In other words, if BSE priced its retail services as Mr. Gillan  
7 suggests, BellSouth Corporation would be making less money than if a non-affiliate  
8 purchased the resold service. This result is certainly not in accord with prudent financial  
9 and business criteria. Finally, it is probable that if BSE attempted to do what Mr. Gillan  
10 suggests, some other carriers would bring these practices to the attention of this  
11 Commission or the courts.

12  
13 Q. IS MAXIMIZING SHAREHOLDER VALUE INCONSISTENT WITH AN ARMS  
14 LENGTH RELATIONSHIP, AS MR. GILLAN APPARENTLY BELIEVES?

15  
16 A. No, just the opposite. The creation of BSE is intended to grow shareholder value by  
17 providing customers new, innovative services. The creation of a separate affiliate can  
18 foster that effort by allowing it to focus on and provide services different from and in  
19 addition to those that are available from the incumbent. To believe that a company  
20 cannot have two (or more) independently operating units that both contribute to  
21 shareholder value ignore the realities of the marketplace.

22  
23 Q. IS THERE ANY REASON THAT BELL SOUTH BSE SHOULDN'T WANT TO  
24 CAPITALIZE ON THE BELL SOUTH NAME?

25

1 A. Capitalizing on a corporate brand is very common. The list of companies that  
2 consciously extend their brands is very long, e.g. Coca-Cola, Honda, General Motors,  
3 Harley Davidson, etc. Within the telecommunications industry, GTE, Sprint, AT&T, to  
4 name just a few, have relied on their corporate brands. These companies offer many  
5 products through many entities and their customers are not confused. They spend millions  
6 of dollars on brand recognition. Even in the telecommunications field, companies such as  
7 AT&T and MCI market numerous services under their brand name. Somehow, though,  
8 Mr. Gillan believes this is wrong for BellSouth. Additionally, Congress and the FCC  
9 established rules for the creation of affiliates that assure full and fair competition and  
10 nondiscrimination of treatment of all carriers, including CLECs. Nothing in these rules  
11 prohibit an affiliate from using its corporate name in providing services. Any such  
12 prohibition would seem to 1) limit competition, not foster it, and 2) lead to customer  
13 confusion because the name of the company is not adequately identified.

14

15 Q. DOES BELLSOUTH BSE PLAN TO PROVIDE DIFFERENTIATED PRODUCTS?

16

17 A. Yes. Mr. Gillan uses the argument that he believes that BSE is not an independent entity  
18 and therefore could not provide any differentiation. As stated previously, BSE will  
19 package resold services with other services and offer these services to customers within  
20 and beyond the nine state BellSouth region. Mr. Gillan seems to think only in terms of  
21 price issue and ignores service. For example, he concludes that resale can only be  
22 attractive to BSE because the economics of resale do not apply to BSE. This is clearly  
23 not the case, nor does this represent a comprehensive view of the marketplace.  
24 Additional customer convenience and the benefit of customers having additional choices  
25 are meaningful. Providing separate services, customer convenience and service of having

1 one point of contact over a multi-state area and benefits of additional choices will make  
2 BSE distinctive in the marketplace. This benefit was recognized in the Georgia  
3 proceeding, see Exhibit 2. Of course, Mr. Gillan's comments also ignore the fact that  
4 there are resellers already that have created successful businesses.

5  
6 Q. DO YOU HAVE ANY CONCLUDING REMARKS?

7  
8 A. Yes. Mr. Gillan states that the carriers sponsoring his testimony have no objection to  
9 BSE's entry as an ALEC outside BST's territory. This, in itself, says that they agree that  
10 BSE has the technical, financial and managerial capabilities to provide local exchange  
11 services in Florida, the fundamental criteria for certification. To restate Section 364.337  
12 (1), Fla. Stat., "The commission shall grant a certificate of authority to provide alternative  
13 local exchange service upon a showing that the applicant has sufficient technical, financial  
14 and managerial capability to provide such service in the geographic area proposed to be  
15 served.... It is the intent of the Legislature that the commission act expeditiously to grant  
16 certificates of authority under this section and that the grant of certificates not be affected by  
17 the application of any criteria other than that specifically enumerated in this subsection."  
18 (emphasis added). Presumably, after a company was certified, the Commission had ample  
19 authority to deal with any legitimate concerns that arose and that it would not have to deal  
20 with the purely theoretical.

21  
22 As has already occurred in other states, the Commission should apply the same standard  
23 for certification to BSE as it has for the numerous other ALECs already approved in  
24 Florida. The rules of the Florida Public Service Commission, the Federal  
25 Communications Act of 1996 and the rules and regulations of the FCC encourage the

1 type of new and innovative competitive services that BSE will provide as a benefit to  
2 consumers. These same rules and regulations contain adequate safeguards to insure  
3 against any potential harm to competition or to customers that might occur.  
4

5 In addition, Mr. Gillan has attempted to raise several issues attempting to show why the  
6 certificate as requested should not be granted. As has been shown, all these arguments  
7 are without merit. For example, the "sum and substance" of the argument is that BSE  
8 should not favor select customers by offering targeted products (p. 10), can only be  
9 attractive if the economics of service resale do not apply (p. 15), cannot be an  
10 independent entity if it is attempting to maximize shareholder value (p. 6), and is  
11 advantaged if it uses the "BellSouth" name (p. 7). These supposed concerns ignore the  
12 terms of the 1996 Act, the FCC's rules, and this Commission's authority and rules. They  
13 also ignore the telecommunications marketplace. BSE will be offering customers  
14 services and options not currently available. It is this final point that actually appears to  
15 be motivating the intervenors.  
16

17 Apparently, they view BSE as a real potential competitor that they would simply prefer  
18 not to contend with -- an attitude completely opposite the open market policies which  
19 benefit consumers and are the bedrock of the 1996 Telecommunications Act. Therefore, I  
20 respectfully request that the Commission approve BSE's application for certification as an  
21 ALEC.  
22

23 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

24  
25 A. Yes.

BEFORE THE FLORIDA PUBLIC SERVICE  
COMMISSION

DOCKET #97-1058  
FLORIDA PUBLIC SERVICE COMMISSION

IN RE: APPLICATION FOR CERTIFICATE TO PROVIDE ALTERNATIVE  
LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE BY  
BELLSOUTH BSE, INC.

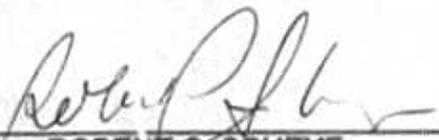
AFFIDAVIT OF ROBERT C. SCHEYE

STATE OF GEORGIA  
COUNTY OF FULTON

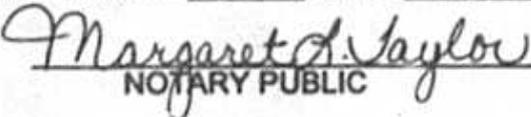
THIS DAY personally came and appeared before me, the undersigned  
who, being by me duly sworn, deposes and says:

1. I, Robert C. Scheye, am appearing as a witness for BellSouth BSE,  
Inc. before the Florida Public Service Commission and did cause to be filed  
written Rebuttal Testimony in the above styled and numbered cause. My written  
Rebuttal Testimony consists of eleven (11) pages and four (4) exhibits.
2. If I were present before the Commission and duly sworn, my answers to  
the question set forth would be the same.

Further, the affiant says not.

  
\_\_\_\_\_  
ROBERT C. SCHEYE

Sworn to and subscribed before me, this the 12<sup>th</sup> day of March  
19 98.

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_  
Notary Public, Fulton County, Georgia  
My Commission Expires February 11, 2002

CLECs Approved in Affiliate's ILEC Territory

STATE	ILEC	CLEC	DATE OF ORDER
California	GTE	Approved	12/30/95 & 2/23/96
Connecticut	SNET	Approved	6/25/97
Florida	GTE	Approved	2/24/97
Florida	SPRINT	Approved	12/28/95
Georgia	BELLSOUTH	Approved	3/5/98
Kansas	SPRINT	Approved	8/7/96
Michigan	AMERITECH	Approved	8/28/96
Missouri	Sprint	Approved	2/28/97
Nebraska	SPRINT	Approved	3/10/97
Nevada	SPRINT	Approved	11/17/97
New Jersey	SPRINT	Approved	7/17/96
North Carolina	GTE	Approved	4/16/97
North Carolina	SPRINT	Approved	3/24/97
Pennsylvania	SPRINT	Approved	
South Carolina	GTE	Approved	9/12/97
South Carolina	SPRINT	Approved	12/3/96
Tennessee	SPRINT	Approved	10/3/96
Virginia	SPRINT	Approved	11/8/96
Washington	SPRINT	Approved	7/9/97
Wisconsin	AMERITECH	Approved	11/26/96

\* Approved by PSC, protests filed.



## Docket No. 8043-U

In Re: **BellSouth BSE, Inc. Application for Certificate of Authority to Provide Local Exchange Telephone Service**

Recommendation of the Hearing Officer

On September 9, 1997, BellSouth BSE, Inc. ("Applicant" or "BSE") filed with the Georgia Public Service Commission ("Commission") an application for a certificate of authority to provide local exchange telephone service. This application was made pursuant to O.C.G.A. § 46-5-163. Under the authority granted the Commission in O.C.G.A. § 46-2-7, this matter was assigned for hearing before a hearing officer and on December 15, 1997, the hearing was held.

Numerous parties filed petitions or applications for intervention. Those parties are the Consumers' Utility Counsel ("CUC"); MCI Telecommunications Corporation and MCI Access Transmission Services (collectively referred to hereafter as "MCI"); BellSouth Telecommunications ("BST"); DeltaCom, Inc. ("DeltaCom"); Access Integrated Networks, Inc. ("Access"); Georgia Comm South, Inc. ("Georgia Comm"); ICG Telecom Group ("ICG"); AT&T Communications of the Southern States, Inc. (AT&T); American Communications Services, Inc. ("ACSI"); Teleport Communications Atlanta ("Teleport"); the Georgia Public Communications Association, Inc. ("GPCA"); and NEXTLink Georgia, Inc. ("NEXTLink"). No objection was raised to the intervention of any of the above mentioned parties and all were granted intervention.

At the hearing on December 15, the Applicant sponsored the testimony of Mr. Robert Scheye, Vice President, Supplier Development and Business Relations for the Applicant. A number of intervenors (MCI, DeltaCom, AT&T, ACSI, and ICG) sponsored the testimony of Mr. L. G. Sather, President of Synergy-1 Resource & Consulting, Inc.

At the direction of the hearing officer, the Applicant filed a correction to its tariff on December 22, 1997. All parties were given an opportunity to review the tariff correction and request an additional hearing if they so desired. However, no party requested the additional hearing. Post hearing briefs and reply briefs were filed on January 15, 1998 and January 21, 1998, respectively.

Evidence presented by the Applicant and the intervenors is uncontroverted on whether the Applicant has the technical capability to provide the services for which it is applying. The Applicant is staffed and operated by personnel with experience in the telecommunications industry. Many, if not all, of these personnel who transferred to the Applicant's organization came from BellSouth Telecommunications, Inc.

There is some dispute, however, as to whether the Applicant could, as a stand-alone entity, be financially able to support the provision of competitive local service. The Applicant has stated that it will rely upon the resources of its parent, BellSouth Corporation for financial support in the initial phase of its provision of competitive local exchange service. The need for financial support from an affiliate to an applicant has not been sufficient cause to make this Commission deny certification. Many of the competing local exchange carrier applicants are startup companies. That the parent affiliate of the Applicant is also the parent affiliate of the incumbent local exchange carrier is not a fact, which will disqualify the Applicant from certification.

The critical issue that is raised in this proceeding stems from the affiliate relationship the Applicant has with the predominant incumbent local exchange carrier in Georgia, BellSouth Telecommunications, Inc. Testimony presented by the intervenors raises questions as to whether the service expected to be provided by the Applicant will indeed be in competition with BST. Or, will the entry of the Applicant into the local exchange market simply garner for the parent corporation an even larger share of the market in Georgia and thereby thwart the movement toward telecommunications competition in the state. The Applicant argues that the question of its affiliation with the incumbent local exchange carrier should not even be considered. They argue that the law in Georgia governing the certification of competitive local exchange carriers requires certification upon the applicant's meeting the technically and financially capable standards.

The intervening parties, though in opposition to the granting of a certificate to the Applicant to serve the same exchanges as BST, are generally not opposed to a granting of a certificate to the Applicant to serve the exchanges that are outside the BST service area. Such positions advocate that any certificate of authority that may be granted should carry with it certain conditions that restrict the service territory to that not presently served by BST. Support for such positions are found in the decisions by other state's commissions in denying

an incumbent local exchange carriers affiliate a competing local exchange certificate. The decision by the Texas Public Utility Commission (Docket No. 16495, November 20, 1997) cited as support for denying the Applicant certification, is distinguishable in that that decision was based upon specific Texas laws.

Further evidence shows that the Applicant will not have any advantage over any other competing local exchange carrier when it comes to the rates it will pay for the services it resells. The Applicant will receive the same terms, conditions and prices for all services it receives from BellSouth Telecommunications, Inc. that are available to all other competing local exchange carriers.

While there is not any sufficient cause for denying the Applicant a certification, there are certain conditions that may be imposed. The Applicant shall use the same operating system support (OSS) as all other competing local exchange carriers use. The Applicant should not, because of its affiliation, have an advantage in the ordering of service for its customers. The Applicant should have no greater access to customer service records than any other competing local exchange carrier. Testimony of the Applicant is that it will not offer any services to its customers that are not also offered by the incumbent local exchange carrier, BellSouth Telecommunications.

Certain reporting requirements shall also be imposed. An annual filing with the Commission demonstrating that the Applicant is not pricing below cost and that cross-subsidization from BellSouth Telecommunications is not occurring. Additionally, on a quarterly basis, the Applicant shall file with the Commission, under Trade Secret protection, an report showing the number of customers who have migrated to the Applicant from BellSouth Telecommunications, and the revenues the Applicant has gained from this migration. Included in this quarterly filing shall be a schedule or schedules, demonstrating the number units purchased from BellSouth Telecommunications, Inc., and the price per unit paid to BellSouth Telecommunications, Inc.

**WHEREFORE, it is**

**ORDERED**, that the above numbered certificate is hereby granted to BellSouth BSE, Inc, whose principal business address is 2727 Pace Ferry Road, Suite 1100, Atlanta, Georgia

30339, to provide resold competitive local exchange local exchange telecommunications services.

ORDERED FURTHER, that BellSouth BSE, Inc, is hereby granted authority to provide resold local exchange telecommunications services in the following exchanges:

Acworth	Covington	Lawrenceville	Savannah
Adairsville	Cumming	Leary	Senoia
Albany	Cusseta	Leesburg	Smithville
Alpharetta	Dallas	Lithonia	Smyrna
Americus	Douglasville	Loganville	Social Circle
Appling	Dublin	Louisville	Sparks
Arlington	Duluth	Lula	Sparta
Athens	Eastman	Lumber City	Stockbridge
Atlanta	Easton	Lumpkin	Stone Mountain
Augusta	Elberton	Luthersville	Swainsboro
Austell	Fairburn	Lyons	Sylvester
Baconton	Fayetteville	Macon	Tallapoosa
Bainsbridge	Flowery Branch	Madison	Temple
Barnesville	Forsyth	Marietta	Tenna
Baxley	Fort Valley	McCaysville	Thomasville
Blackshear	Franklin	McDonough	Thomson
Bogart-Statham	Gainesville	Millen	Tifton
Bowdon	Gay	Monticello	Tucker
Bremen	Gibson	Newman	Tybee Island
Brunswick	Grantville	Newton	Valdosta
Buchanan	Greensboro	Norcross	Vidalia
Buford	Greenville	Palmetto	Villa Rica
Calhoun	Griffin	Panola	Wadley
Camilla	Hamilton	Pelham	Warner Robins
Carrollton	Hampton	Pine Mountain	Warrenton
Cartersville	Harlem	Pooler	Watkinsville
Cave Spring	Hazelhurst	Richland	Waycross
Cedartown	Hephzibah	Rockmart	Waynesboro
Chamblee	Hogansville	Pome	Woodsbury
Claxton	Jackson	Roopville	Woodstock
Clermont	Jekyll Island	Rossville	Wrens
Cochran	Jesup	Royston	Wrightsville
Colquitt	Johnson Corner	Rutledge	Zebulon
Columbia	Jonesboro	St. Simons Island	
Concord	Kingston	Sandersville-	
Conyers	LaGrange	Tennille	
Cordele	Lake Park	Sardis	

**ORDERED FURTHER**, that tariff filed by the Applicant is hereby approved.

**ORDERED FURTHER**, that BellSouth BSE shall on all advertisements and announcements pertaining to this certification and the service which it will provide pursuant to this certification, place a disclaimer that it is not the same entity as the incumbent local exchange carrier, BellSouth Telecommunications.

**ORDERED FURTHER**, that granting this certificate of authority to BellSouth BSE, Inc. does not relieve BellSouth Telecommunications of any of its incumbent local exchange carrier responsibilities, or obligations, under the Georgia Telecommunications and Development Act and the Federal Telecommunications Act of 1996.

**ORDERED FURTHER**, that if BellSouth, BSE proposes to acquire or build any facilities, including switching, they must first come to this Commission and seek an amendment to this certificate.

**ORDERED FURTHER**, that BellSouth BSE shall file with the Commission on an annual basis information demonstrating that it is not pricing below cost and that cross-subsidization from BellSouth Telecommunications, Inc. is not occurring.

**ORDERED FURTHER**, that BellSouth BSE shall on a quarterly basis file with this Commission a report showing the number of customers who have migrated to it from BellSouth Telecommunications, Inc., the revenues gained from such migrations, the number of units purchased from BellSouth Telecommunications, Inc. and the price per unit paid to BellSouth Telecommunications.

**ORDERED FURTHER**, that the interim certificate is issued subject to the conditions adopted by the Commission in Docket No. 5778-U and subject to all other applicable requirements and rules of the Commission.

**ORDERED FURTHER**, that BellSouth BSE, Inc. shall contribute to the Universal Access Fund as prescribed in Docket No. 5825-U.

**ORDERED FURTHER**, that jurisdiction over this matter is expressly retained for the purpose of entering such further Order or Orders as this Commission may deem just and proper.

**ORDERED FURTHER**, that any motion for reconsideration or rehearing in this case shall not have the effect of staying this Order of Commission, except insofar as the Commission may otherwise provide.

**BY ORDER OF THE GEORGIA PUBLIC SERVICE COMMISSION**, this \_\_\_\_ day of March 1998.

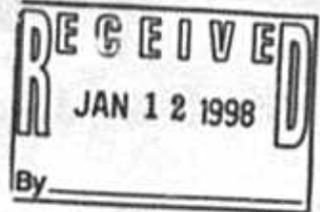
\_\_\_\_\_  
Deborah Flannagan  
Assistant Executive Secretary

\_\_\_\_\_  
Mac Barber  
Chairman

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Docket No. 8043-U  
Page 6 of 6



BEFORE

THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 97-361-C - ORDER NO. 97-1063

DECEMBER 23, 1997

IN RE: Application of BellSouth BSE, Inc.	)	ORDER
for a Certificate of Public Convenience	)	APPROVING
and Necessity to Provide Local Exchange	)	CERTIFICATE TO
Telecommunications Services in the State	)	PROVIDE LOCAL
of South Carolina.	)	SERVICE

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the Application of BellSouth BSE, Inc. ("BSE" or "the Company"). The Application requests that the Commission issue a Certificate of Public Convenience and Necessity authorizing BSE to provide local telephone service in the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1996), and the Regulations of the Commission.

By letter, the Commission's Executive Director instructed BSE to publish, one time, a prepared Notice of Filing and Hearing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing and Hearing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings and to provide notice of the hearing date on this matter. BSE complied with this instruction and provided the Commission with proof of publication of the Notice of Filing and

Hearing. Petitions to Intervene were received from the South Carolina Telephone Coalition ("SCTC"), MCI Telecommunications Corporation (MCI) and MCI Metro Access Trans. (Metro)(also collectively known as MCI), South Carolina Cable Television Association (SCCTA), AT&T Communications of the Southern States, Inc. (AT&T), and American Communications Services, Inc. (ACSI).

A hearing was convened on November 5, 1997, at 2:30 p.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. BSE was represented by Harry M. Lightsey, III, Esquire and Kevin A. Hall, Esquire. MCI and Metro were represented by John M.S. Hoefer, Esquire. SCCTA was represented by B. Craig Collins, Esquire. AT&T was represented by Francis P. Mood, Esquire and Steve A. Matthews, Esquire. ACSI was represented by Russell B. Shetterly, Esquire. The Commission Staff ("Staff") was represented by F. David Butler, General Counsel. SCTC did not appear at the hearing.

Prior to the hearing, BSE and the SCTC executed a Stipulation. The Stipulation was filed with the Commission prior to the hearing in this matter. As a result of the Stipulation, SCTC withdrew its intervention in the Docket. The Stipulation provides the following:

- (1) The SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to BSE if the Commission makes the necessary findings to grant the Certificate and if all stipulated conditions are met;
- (2) BSE agrees that any Certificate granted by the Commission will authorize BSE to provide service only to customers located in non-rural local exchange company ("LEC") service areas except as

otherwise provided;

- (3) BSE agrees that it is not requesting the Commission to find whether competition is in the public interest for rural areas;
- (4) BSE agrees that it will not provide local service, by its own facilities or otherwise, to any customer in a rural incumbent LEC's service area, unless and until BSE provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. BSE also acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;
- (5) BSE agrees that if, after BSE gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then BSE will not provide service to any customer located within the service area in question without prior and further Commission approval;
- (6) BSE acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures and guidelines do not conflict with Federal or State law;
- (7) BSE and the SCTC agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and

- (8) BSE agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No. 96-494 (Docket No. 96-073-C). It was signed voluntarily by both the SCTC and BSE and was filed with the Commission prior to the hearing in this matter. We therefore approve the stipulation.

In support of its Application, BSE presented Robert C. Scheye, Vice-President, to testify. The purpose of Mr. Scheye's testimony was (1) to demonstrate that BSE possesses sufficient technical, managerial, and financial resources and abilities to provide the services for which BSE seeks authority and (2) to show that the granting of this authority to BSE is in the public interest.

#### DISCUSSION

S.C. Code Ann. §58-9-280 (Supp. 1997) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, BSE's Application, and the evidence presented at the hearing, the Commission finds and concludes that the Certificate sought by BSE should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (Supp. 1996) and the evidence presented at the hearing which relates to that criteria:

(1) The Commission finds that BSE possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1997). Mr. Scheye testified that BSE's technical ability is based upon that shown by the vast experience and financial qualifications of its ultimate parent, BellSouth Telecommunications, Inc. (BST), which furnished independent employees for BSE. We believe that because of this experience, BSE's management has an exceptional understanding of the importance of customer care, billing, and the operation of a telecommunications network.

No other party offered any evidence in opposition to Mr. Scheye's testimony on these points. Based on the undisputed evidence of the record, the Commission finds that BSE possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that BSE will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1997). Mr. Scheye testified that BSE intends to provide local exchange services. Mr. Scheye specifically stated that BSE will comply with all applicable rules, policies, and statutes applicable to the offering of those services and that BSE fully intends to meet the Commission's service standards. Furthermore, Mr. Scheye stated that BSE would make certain changes to its tariff, as suggested by Staff, to bring the tariff into compliance with Commission Rules and Regulations. No party offered any evidence to dispute Mr. Scheye's testimony.

Based on the undisputed testimony from Mr. Scheye, the Commission believes, and so finds, that BSE will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that BSE's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1996). Mr. Scheye stated that BSE's service offerings would not adversely impact the availability of affordable local exchange service. Mr. Scheye offered that certification of BSE would serve the public interest through enhanced competition in the market for local services. BSE noted that it wished to provide integrated "one stop shopping" for all their telecommunications and related services. No party offered any evidence that the provision of local exchange service by BSE would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by BSE will not adversely impact affordable local exchange service.

(4) The Commission finds that BSE will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1997). The Stipulation with SCTC shows that BSE will comply with the Commission's universal service requirements. Based on the undisputed evidence of record, the Commission finds that BSE will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by BSE "does not otherwise adversely impact the public

interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1997). Mr. Scheye offered that approval of BSE to provide local telecommunications services will benefit consumers by increasing competition. Through the promotion of competition, Mr. Scheye offers that telephone companies will be forced to provide high quality services at competitive rates, which will ultimately benefit the consumers. Mr. Scheye noted that BSE would interface with BST like any other competitive local exchange carrier. Mr. Scheye's testimony was undisputed as no party offered any evidence that approval of BSE's Application would adversely impact the public interest. Therefore, the Commission finds that approval of BSE's Application for a Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1997).

MCI made two Motions at the hearing which we must discuss. The two Motions, made at the close of the hearing on this matter, were as follows: (1) that the Commission should dismiss the application for want of jurisdiction because its application did not contain a price list; and (2) that BSE should not be certificated as an incumbent local exchange company (ILEC) pursuant to South Carolina law, because of its affiliate nature with BST. We have examined both of these Motions, and we must deny them.

MCI's first Motion is based on the fact that BSE's filing does not contain a piece of paper specifically labeled "price list." MCI's argument ignores the fact that BSE's filing does contain a proposed tariff that meets all Commission requirements for a tariff

and a price list. Further, BSE has committed to this Commission that before it begins to provide service in South Carolina, it will file for Commission approval of a tariff and final price list which will include all regulated service offerings. We think that, under the circumstances, BSE has met the statutory requirements of SC Code Ann. Section 58-9-280(B). Having a meaningful separate price list prior to the establishment of an interconnection agreement with other carriers, or without fully constructing the facilities necessary to provide the service is an impossibility. Therefore, we hold that BSE did everything it could to furnish an appropriate "price list" under the circumstances of the case, and we deny MCI's first Motion.

MCI's second Motion was based on the statutory definition of an ILEC found at S.C. Code Ann. Section 58-9-10(11) (Supp. 1997). MCI alleges, and other intervenors agree, that BSE, being an affiliate of BST, is therefore an ILEC, and may not provide service in BST's territory. We disagree. The term "incumbent local exchange carrier" is defined to mean any entity which provides local exchange service "pursuant to a certificate of public convenience and necessity issued by the Commission before July 1, 1995." As BSE points out in its brief, it was not even incorporated until July 17, 1997. Therefore, should we award BSE a certificate through the present application, it will be operating pursuant to a certificate issued after December 31, 1995. Therefore, BSE will be, by statutory definition, a "new entrant LEC," which is defined to mean "a telecommunications company holding a certificate of

public convenience and necessity issued by the Commission pursuant to Section 59-9-280(B) after December 31, 1995 to provide local exchange services within a certificated geographic area of the State." See S.C. Code Section 58-9-10(13)(Supp. 1997). MCI's second Motion must be denied,

Therefore, based on the findings above, the Commission finds and concludes that the Certificate sought by BSE should be granted.

**IT IS THEREFORE ORDERED THAT:**

1. The Application of BSE for a Certificate of Public Convenience and Necessity authorizing BSE to provide all forms of local telephone service in the State of South Carolina, except as described and excepted below.

2. The Stipulation filed by BSE and the SCTC is approved by this Commission, is binding upon BSE and the SCTC, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina. BSE shall conduct its operations in compliance with the Stipulation until further Order of the Commission.

3. BSE shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include any modifications and changes as proposed by the Commission Staff and to which BSE agreed.

4. BSE shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs.

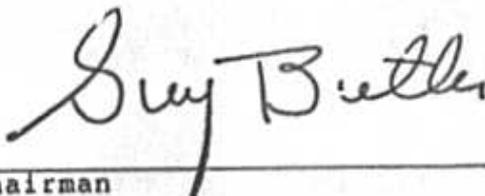
In addition, BSE shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. BSE shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, BSE shall promptly notify the Commission in writing if the representatives are replaced. BSE is directed to comply with all Commission regulations unless expressly waived by the Commission.

5. BSE shall conduct its business in accordance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

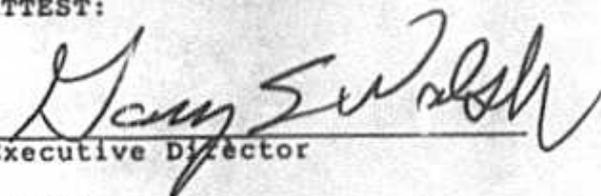
6. The Motions of MCI and Metro are denied.

7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
\_\_\_\_\_  
Chairman

ATTEST:

  
\_\_\_\_\_  
Deputy Executive Director

(SEAL)

DOCKET NO. 97-361-C - ORDER NO. 97-1063  
DECEMBER 23, 1997  
ATTACHMENT A

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INFORMATION OF THE AUTHORIZED UTILITY REPRESENTATIVES  
FOR INTEREXCHANGE, LOCAL AND AOS COMPANIES

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION  
REGULATION 103-612.2.4(b), each utility shall file and  
maintain with the Commission the name, title, address, and  
telephone number of the persons who should be contacted in  
connection with Customer Relations/Complaints.

---

Company Name/DBA Name

---

Business Address

---

City, State, Zip Code

---

Authorized Utility Representative (Please Print or Type)

---

Telephone Number

Fax Number

---

E-Mail Address

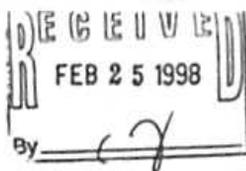
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This form was completed by

Signature

If you have any questions, contact the Consumer Services  
Department at 803-737-5230

STATE OF ALABAMA  
ALABAMA PUBLIC SERVICE COMMISSION  
P. O. BOX 991  
MONTGOMERY, ALABAMA 36101-0991



JIM SULLIVAN, PRESIDENT  
JAN COOK, ASSOCIATE COMMISSIONER  
CHARLES B. MARTIN, ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.  
SECRETARY

BELLSOUTH BSE, INC.,  
Applicant

APPLICATION: For a Certificate of  
Public Convenience and Necessity to  
provide Local Telecommunications  
Service.

DOCKET 26192

REPORT AND ORDER

BY THE COMMISSION:

This Order is substituted for and takes the place of the Order of February 6, 1998, under Docket 26192.

By application filed on or about October 15, 1997, BellSouth BSE, Inc., 2727 Paces Ferry Road, Suite 1100, Atlanta, Georgia 30339, seeks a Certificate of Public Convenience and Necessity to provide local telecommunications service in the State of Alabama.

Pursuant to notice dated October 24, 1997, the application was heard on November 19, 1997. American Communication Services, Inc. (ACSI); MCI Telecommunications Corporation (MCI); MCImetro Access Transmission Services, Inc. (MCImetro); Deltacom, Inc.; AT&T Communications of the South Central States, Inc. (AT&T); and the Office of the Alabama Attorney General intervened and participated in the hearing and the staff also participated. The Applicant sponsored one witness. ACSI, Deltacom, MCI and MCImetro jointly sponsored one witness.

It appears from the record in this proceeding, and we find, that the Applicant has demonstrated that it possesses the technical, managerial and financial resources to provide the services proposed. It further appears that the Applicant has demonstrated that the public interest would be best served by its proposed operations. Accordingly, it appears that the Applicant should be granted a certificate authorizing the provision of local

DOCKET 26192 - #2

exchange service which is consistent with the services similarly situated applicants have been authorized to provide. The local exchange services authorized herein must be provided in compliance with the rules and regulations governing such service established by the Commission in its Local Competition proceedings in Dockets 24030, 24472, 24499 and 24865, as well as all other applicable rules and regulations of the Commission. Further, the Applicant's certification to provide local exchange service will expire in one (1) year if the Applicant has not submitted for Commission approval an interconnection/resale contract or agreement for local service and has not filed a final tariff governing said service.

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That a Certificate of Public Convenience and Necessity is hereby issued to BellSouth BSE, Inc., 2727 Paces Ferry Road, Suite 1100, Atlanta, Georgia 30339, authorizing operations as a Local Exchange telecommunications carrier in all areas of the State of Alabama as authorized by this Commission in its September 20, 1995, Report and Order in Dockets 24030, 24472, 24499 and 24865; provided, however that service under this Certificate may be commenced only after the Applicant has complied with all orders, rules and regulations that have and shall be promulgated by the Commission under Dockets 24030, 24472, 24499 and 24865.

IT IS FURTHER ORDERED BY THE COMMISSION, That the Local Exchange telecommunications services herein authorized may be commenced only after the Applicant has filed with this Commission a final tariff governing the services authorized herein and an interconnection/resale contract or agreement with all applicable incumbent local exchange carriers. Unless the Applicant complies with these requirements within one (1) year after the date of this Order, or within such additional time as may be authorized by the Commission, the grant of authority made in this Order shall be considered as null and void and the application shall stand denied in its entirety effective upon the expiration of said compliance time.

IT IS FURTHER ORDERED BY THE COMMISSION, That the Applicant shall not commence operations until such time as the Applicant has submitted tariffs governing said services which have been approved by the Commission.

DOCKET 26192 - #3

IT IS FURTHER ORDERED BY THE COMMISSION, That the Applicant shall file annual reports and shall maintain adequate books of account and financial records in accordance with the rules and regulations promulgated by this Commission. Said books and records shall separate the telephone service from all other businesses in which the Applicant may be engaged.

IT IS FURTHER ORDERED BY THE COMMISSION, That the Applicant shall render sufficient and continuous service in accordance with the rules and regulations of the Commission and the Certificate of Public Convenience and Necessity issued herein.

IT IS FURTHER ORDERED BY THE COMMISSION, That jurisdiction in this cause is hereby retained for any further order or orders as this Commission may find just and reasonable in the premises.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this *20th* day of February, 1998.

ALABAMA PUBLIC SERVICE COMMISSION

*Jan Cook*  
Jan Cook, Commissioner

*Charles B. Martin*  
Charles B. Martin, Commissioner

ATTEST: A True Copy

*Walter L. Thomas, Jr.*  
Walter L. Thomas, Jr., Secretary

COMMISSION PRESIDENT JIM SULLIVAN VOTES NO.