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June 10, 1998

Mrs. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Dear Mrs. Bayo:

Re: Docket No. 970808-TL

You will find enclosed an original and fifteen (15) copies of AT&T's Brief for filing in the above-referenced docket.

Copies of the foregoing are being served on the parties of record in accordance with the attached certificate of service.

Yours truly,

Tracy Hatch

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Docket No. 970808-TL

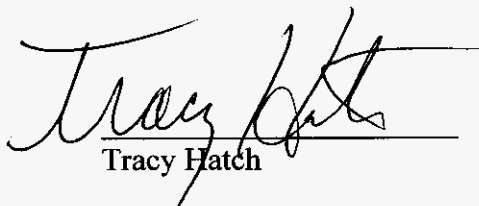
I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S.

Mail this 10th day of June, 1998, to the
following parties of record:

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Tracy Hatch

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of BellSouth) Docket No. 970808-TL
Telecommunications, Inc. to remove)
interLATA subsidy received by)
St. Joseph) Filed: 06/10/98
Telephone & Telegraph Company)

**AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.'S
POST-HEARING BRIEF**

AT&T Communications of the Southern States, Inc. ("AT&T") submits this post-hearing brief to the Florida Public Service Commission ("the Commission") in the above-captioned proceeding pursuant to Rule 25-22.056, Florida Administrative Code. AT&T requests that the Commission find and order that: BellSouth discontinue its current access subsidy to GTC; that BellSouth reduce its intrastate switched access charges by the amount of the access subsidy that is eliminated; that BellSouth's access reduction be effective October 1, 1998; and that GTC is precluded from raising its intrastate switched access charges by Section 364.163, Florida Statutes.

INTRODUCTION AND SUMMARY OF ARGUMENT

This case originates in the Commission's creation and implementation of its intrastate switched access charge rates and rate structure. For over a decade, GTC has been receiving a subsidy from other LECs and finally from BellSouth. This subsidy is fundamentally inconsistent with a competitive marketplace and with the actions of the Commission fostering a competitive marketplace. Upon review of the evidence in this case, the decisions should be abundantly clear. BellSouth Telecommunications, Inc.'s

(BellSouth's) request to eliminate its interLATA access charge subsidy payment to St. Joseph Telephone and Telegraph Company/GTC, Inc. (GTC) should be granted. To avoid a windfall to BellSouth, BellSouth should reduce its switched access charges by the amount of interLATA access subsidy that is eliminated. To the extent that GTC believes that the revenues lost from the elimination of its interLATA access subsidy must be replaced from other sources, it must demonstrate a need for such revenues.

ISSUE 1. What is the interLATA access subsidy and why was the interLATA access subsidy established?

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AT&T Position: The interLATA access subsidy mechanism is a transitory system of subsidy payments to those LECs that would have experienced a shortfall in access revenues if bill and keep had been implemented on a flashcut basis. The interLATA access subsidy mechanism was established to avoid revenue disruption relating to bill and keep of access charges until a subsidy recipient's rates were adjusted to operate on a stand-alone basis.

* * * * *

The access subsidy mechanism was created to avoid adverse effects on any individual LEC stemming solely from the implementation of bill and keep for access charges. As a result, each LEC was kept on a revenue neutral basis. See Order No. 14452. Those LECs experiencing a windfall from bill and keep were required to use such windfall to subsidize those LECs experiencing a shortfall. The access subsidy was created to avoid the probability of having thirteen simultaneous rate cases upon the

implementation of access bill and keep. It was intended as a temporary mechanism that would last only until the Commission could eliminate the subsidies through rate cases or other convenient proceedings. (Tr. 6)

ISSUE 1b. What is the history of the interLATA access subsidy and how has Commission policy regarding the subsidy evolved since the subsidy was established?

* * * * *

AT&T's Position: From the inception of the access subsidy mechanism the Commission has reduced or eliminated the subsidy for each recipient in each practicable instance. In order to avoid a windfall to the contributors of the subsidies, commensurate with the reduction of the access charge subsidies, the Commission also reduced the revenues of the subsidy contributors by a like amount.

* * * * *

In 1983, as a result of the divestiture of the Bell Operating Companies from AT&T and the advent of competition in the long distance industry, the Commission replaced the interLATA portion of the historic intrastate toll pool and its attendant separations and settlements process with the current access charge rate structure. See Order No. 12765. The initial implementation of interLATA switched access charges was designed to be accomplished on revenue neutral basis first with the short-lived access pool and second, with the implementation of access bill-and-keep. See Orders Nos. 12756, 13858 and 13934. To accomplish revenue neutrality for access bill and keep a subsidy mechanism was created that required those LECs with an access revenue surplus to give such surplus to those LECs that experienced a shortfall from access bill and keep. See Order No. 14452. However, the subsidy mechanism was only a tool to aid the transition to a fully competitive long distance market. It was never intended to last for

longer than it took for the Commission to implement each of the features of its industry restructuring plans that would transition the LECs to a fully competitive long distance market. See Orders Nos. 13934 and 14452. Indeed, when the various portions of the plans initially set forth in Order No. 12765 were finally implemented, the Commission intended to make adjustments to local rates to the extent that a LEC was earning either below or above its authorized level of earnings. See Orders Nos. 13934 and 14452. The items described by the Commission as still pending at time of implementation of the access bill and keep subsidy mechanism, such as the implementation of LEC toll bill and keep, were accomplished long ago.

Since the implementation of access bill and keep, each of the recipients of an access revenue subsidy has been weaned from its subsidy with the exception of GTC. (Tr. 16) Each of the former subsidy recipients operate as independent stand-alone competitive companies in a fully competitive long distance market just as the Commission envisioned more than a decade and a half ago. In each instance that the subsidies have been reduced or eliminated, the revenues of the net subsidy contributors were reduced to avoid a windfall. (Tr. 124).

It is axiomatic that entities in a competitive market should neither be subsidized by nor required to subsidize their competitors. Notwithstanding receipt of an access subsidy, GTC has forgone the comforts and protections of rate of return regulation and evidenced its intent to boldly strike out into the competitive arena by electing price regulation. As a result, GTC should no longer receive a subsidy and BellSouth should no longer be required to provide one. Further, to avoid a windfall to BellSouth, it should reduce its switched access charges by the amount of the subsidy that it is no longer

obligated to provide. To the extent that GTC believes that the loss of its subsidy affects its viability as a company, it has statutory tools at its disposal to remedy its problems.

See Section 364.051(5), Florida Statutes.

ISSUE 2. Was the interLATA access subsidy pool intended to be a permanent subsidy? If not, what criteria should be used for ending the interLATA access subsidy pool?

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AT&T's Position: No. The interLATA subsidy pool was never intended to be permanent. Consistent with the Commission's prior policies, any continuation of the access subsidy should be contingent on a clear showing of need by GTC.

* * * * *

Beginning with Order No. 14452, virtually every order issued by the Commission involving the access subsidy mechanism has indicated that subsidy was temporary and would be reduced or eliminated as the earnings of the recipient LECs would allow. (Tr. 12-13). Even GTC's position in the Prehearing Order, Order No. PSC-98-0639-PCO-TL, concedes that the access subsidy mechanism is temporary. The only possible conclusion that can be reached based on the orders and the history involving the subsidy mechanism is that the mechanism is temporary. As such, now is the time to eliminate the subsidy's last vestiges.

ISSUE 3. What is the statutory authority for the BellSouth Telecommunications, Inc.'s proposal to eliminate the interLATA access subsidy of GTC, Inc.?

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AT&T's Position: The Commission has the authority to continue to enforce its prior orders lawfully enacted prior to the adoption of the 1995 amendments to Chapter 364. In addition, the Commission has the authority to eliminate GTC's subsidy pursuant to Section 364.01(4).

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The Commission's authority to oversee the continuing implementation of its orders allows the Commission to terminate the access subsidy payments to GTC by BellSouth. The Commission's authority to act in the creation and implementation of its access charge system and its associated mechanisms stems generally from Section 364.14, Florida Statutes. The adoption of the amendments to Chapter 364 in 1995 did not act as a general repealer of any prior lawful act of the Commission. The Commission's ability to oversee and enforce its prior orders remains unchanged. The current law will govern any new actions not encompassed in the Commission's prior orders. Pursuant to Section 364.01(4)(g), Florida Statutes, the Commission is obligated to ensure that all providers of telecommunications services are treated fairly by preventing anticompetitive behavior. There can be no doubt that the subsidization of GTC's revenues by IXCs through the payment of switched access charges is unfair and anticompetitive. Further such a subsidy is grossly inconsistent with the Commission's underlying policies in adopting a bill and keep system for access charges.

ISSUE 4. Considering that the rates of a small LEC electing price cap regulation may not be altered during the period rates are frozen, except as provided for in Section 364.051(5), Florida Statutes, may the subsidy in effect at the time price cap regulation was elected be discontinued during the period rates are frozen?

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AT&T's Position: Yes. Section 364.051(5), Florida Statutes, provides an opportunity for each price-capped LEC to avoid the limitations of price caps upon a sufficient showing.

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Section 364.051(5), Florida Statutes, is euphemistically called the "escape clause" from the price regulation provisions of Section 364.051. Section 364.051(5) provides that any LEC that is subject to price regulation may raise its rates upon a showing of changed circumstances. GTC is clearly a LEC within the terms of Section 364.051(5) and the elimination of its access subsidy would appear to be a "changed circumstance" that would justify a petition to the Commission for relief from the limitations of price regulation.

ISSUE 5. Should the interLATA access subsidy received by GTC, Inc. be removed?

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AT&T's Position: Yes. Access charge subsidy payments are inconsistent with the competitive environment as was determined by the Commission when the access subsidy mechanism was created. This is particularly true where the subsidy recipient has elected to avail itself of the competitive advantages of Chapter 364 and to forego the protective mechanisms of traditional regulation.

* * * * *

A review of the testimony in this proceeding makes it clear that GTC's access subsidy should be eliminated. No party to this proceeding stated categorically that GTC's access subsidy should not be removed. Both BellSouth's witness Lohman (Tr. 24-25) and AT&T's witness Guedel (Tr.98) testified that GTC's access subsidy should be removed. As Mr. Guedel stated:

The Commission should take the final step through this proceeding to completely and finally eliminate the subsidy pool. GTC should not be allowed to use price cap regulation as a shield to forever protect the continued flow of subsidy dollars - subsidy dollars that were clearly intended for support only during a transitory phase. (Tr. 98)

The Staff's witness, Mr. Mailhot, testified that the subsidy should be removed if GTC had sufficient earnings. (Tr. 120) Even GTC, who did not proffer a witness in this proceeding, took the position that the subsidy could be removed if it could obtain a revenue wash through replacing the lost subsidy revenues with revenues from another source such as access charges. See Order No. 98-0639.

In the increasingly competitive environment in which all telecommunications companies find themselves, there can be no justification for maintaining a system of intercompany subsidies. Particularly in view of GTC's affirmative election to partake of the fruits of the competitive arena through its election of price regulation, GTC's access subsidy must be eliminated.

ISSUE 6. If the access subsidy being paid to GTC, Inc. is eliminated, should BellSouth Telecommunications, Inc. be directed to cease collection of the access subsidy funds? If the access subsidy being paid to GTC, Inc. is eliminated, and collection of the access subsidy funds is not terminated, what disposition should be made of the funds?

* * * * *

AT&T's Position: Yes. The access subsidy payments to GTC should be terminated and BellSouth should be directed to reduce its access charges by the amount of the access subsidy. Since the revenues that feed the subsidy payments made by BellSouth are collected from IXCs in the form of access charges, the only appropriate disposition of access revenue windfall is to reduce BellSouth's switched access charges.

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In every instance in which a subsidy recipient's subsidy was removed or reduced, the Commission has reduced the revenues of the net subsidy contributors. (Tr. 121) Even in Order No. 19692, in which the Commission did not specifically direct BellSouth to reduce its revenues as a result of the elimination of Gulf's subsidy, the windfall to BellSouth was accounted for and disposed of in the Commission's actions to reset the rates of BellSouth in Docket No. 880069-TL. The reduction of revenues of net access subsidy contributors stems from the Commission's policy to preclude windfalls to companies in connection with access bill and keep. See Orders Nos. 13934, 14232 and 14452. This policy has carried through the entire history of access bill and keep. Consistent with this policy, if GTC's access subsidy is eliminated, BellSouth's access rates must be reduced to avoid a windfall. (Tr. 114) Notwithstanding, BellSouth's

suggestion that the revenues that fund the subsidy cannot be traced, (Tr.55-56) it is clear from Order No. 14452, that in the case of switched access, the subsidy was funded by access charge revenues. It is also clear that the access charge revenues that fund the subsidy are collected from IXC's that pay the access charges.(Tr. 123-124). Accordingly, to "get the pot right" BellSouth should be directed to reduce its switched access charges in the amount that GTC's access subsidy is reduced to avoid a windfall.

As a final note, the Commission should reject any notion that GTC should be allowed to increase its access rates to replace the lost subsidy. While GTC presented no cost data in this proceeding, it is safe to assume that GTC's current access rates exceed its costs of providing access service. (Tr. 103) Moreover, Sections 364.163(1) and (2), Florida Statutes, bars any increase in switched access charges for any LEC that is subject to price regulation unless and until the requirements of those sections have been met. GTC has not met the requirements of either section in this case. Finally, increasing access rates in this current competitive is directly contrary to the direction the Commission has been going in striving to reduce access charges. Absent the fine tuning that occurred regarding the initial establishment of access rates and levels reflected in Orders Nos. 12756, 13858, 13934 and 14452, the Commission has not in any instance raised access rates for any reason, let alone the elimination of an access subsidy. (Tr. 123).

The effective date of the access reduction should be October 1, 1998. Since the total amount of access reduction possible is not a large amount in terms of AT&T's commitment to flow the access reductions through to its customers, the most efficient manner to effectuate the access reductions and the concomitant long distance rate

reductions is to combine the reductions with the access reductions already scheduled to be made pursuant to the newly enacted legislation.

ISSUE 7. If the subsidy should be removed, should it be removed entirely at one time, or should the subsidy be phased out over a certain time period?

* * * * *

AT&T's Position: GTC's subsidy should be eliminated immediately. GTC has received an access subsidy for over a decade. GTC's election to pursue the competitive path pursuant to Chapter 364 makes continuation of the subsidy even more inconsistent with a competitive marketplace. If a phase-down of the subsidy is deemed absolutely necessary, it should be accomplished in as short a time as possible.

* * * * *

GTC's subsidy should be eliminated immediately. GTC has received an access subsidy for over a decade. GTC's election to pursue the competitive path pursuant to Chapter 364 makes continuation of the subsidy even more inconsistent with a competitive marketplace. If a phase-down of the subsidy is deemed absolutely necessary, it should be accomplished in as short a time as possible

ISSUE 8. If the subsidy should be removed entirely at one time, on what date should the removal be effective?

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AT&T's Position: The subsidy should be removed and BellSouth's access charges reduced no later than October 1, 1998, the date the access charge reductions of all LECs are required.

* * * * *

The effective date of the subsidy removal and the matching access reduction should be October 1, 1998. Since the total amount of access reduction possible is not a large amount in terms of AT&T's commitment to flow the access reductions through to its customers, the most efficient manner to effectuate the access reductions and the concomitant long distance rate reductions is to combine the reductions with the access reductions already scheduled to be made pursuant to the newly enacted legislation.

ISSUE 9. If the subsidy should be phased out, over what time period should the phase out take place and how much should the reduction of the subsidy be in each period?

* * * * *

AT&T's Position: If a phase-down of the subsidy is deemed absolutely necessary, it should be accomplished in as short a time as possible.

* * * * *

If a phase-down of the subsidy is deemed absolutely necessary, it should be accomplished in as short a time as possible.

CONCLUSION

Upon review of the evidence in this case, the decisions should be abundantly clear. BellSouth Telecommunications, Inc.'s (BellSouth's) request to eliminate its interLATA access charge subsidy payment to St. Joseph Telephone and Telegraph Company/GTC, Inc. (GTC) should be granted. To avoid a windfall to BellSouth, BellSouth should reduce its switched access charges by the amount of interLATA access subsidy that is eliminated. To the extent that GTC believes that the revenues lost from the elimination of its interLATA access subsidy must be replaced from other sources, it must demonstrate a need for such revenues.

Dated: June 10th, 1998

Respectfully submitted,

**AT&T COMMUNICATIONS OF THE
SOUTHERN STATES, INC.**

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