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Legal Department

MICHAEL P. GOGGIN
General Counsel

99 JUN 15 PM 4: 17

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(305) 347-5561

RECORDS AND
REPORTING

June 15, 1999

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

Re: Docket No. 990108-TP (Access One)

Dear Ms. Bayó:

Enclosed please find the original and fifteen copies of BellSouth Telecommunications, Inc.'s Direct Testimony of Susan Arrington, W. Keith Milner, and Michael Wilburn, which we ask that you file in the above-referenced matter.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Michael P. Goggin
Michael P. Goggin

cc: All Parties of Record
Marshall M. Criser III
William J. Ellenberg II

AFA _____
APP _____
CAF _____
CML *Hinton*
CTR _____
EAG _____
LEG *2*
MAS *3 + orig*
OFC _____
RRR _____
SEC *1*
WAW _____
OTH _____

Wilburn
DOCUMENT NUMBER-DATE
07277 JUN 15 99
FPSC-RECORDS/REPORTING

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

Arrington
DOCUMENT NUMBER-DATE

07275 JUN 15 99

FPSC-RECORDS/REPORTING

Milner
DOCUMENT NUMBER-DATE

07276 JUN 15 99

FPSC-RECORDS/REPORTING

CERTIFICATE OF SERVICE
Docket No. 990108-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

U.S. Mail this 15th day of June, 1999 to the following:

Will Cox
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Access One Communications
3427 N. W. 55th Street
Ft. Lauderdale, FL 33309-6308
Tel. (954) 714-0000
Fax. (954) 739-2476

Everett Boyd
Ervin Law Firm
Post Office Drawer 1170
Tallahassee, FL 32302
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FAX. (850) 224-9135

Stroock Law Firm
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Sean M. Cleary
200 South Biscayne Blvd.
33rd Floor
Miami, FL 33131-2385
Tel. No. (305) 789-9376
Fax. No. (305) 789-9302
Atty. for Access One



Michael P. Goggin 

ORIGINAL

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BELLSOUTH TELECOMMUNICATIONS, INC.
REBUTTAL TESTIMONY OF SUSAN ARRINGTON
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 990108-TP
JUNE 15, 1999

Q. PLEASE STATE YOUR NAME AND COMPANY NAME AND ADDRESS.

A. My name is Susan Arrington. I am employed by BellSouth Telecommunications, Inc. as a Manager in Interconnection Services - Pricing. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. ARE YOU THE SAME SUSAN ARRINGTON WHO FILED DIRECT TESTIMONY IN THIS PROCEEDING?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to rebut the direct testimony filed by Access One witness, Ken Baritz on the contractual elements of Issues 1, 2 and 3 in this proceeding.

DOCUMENT NUMBER-DATE
07275 JUN 15 89
FPSC-RECORDS/REPORTING

1 Q. ON PAGE 2 OF WITNESS BARITZ TESTIMONY, MR. BARITZ
2 IDENTIFIES THE DOCUMENTS THAT MAKE UP THE "ACCESS ONE
3 AGREEMENT". ARE THESE ALL OF THE DOCUMENTS THAT
4 MAKE UP THE "ACCESS ONE AGREEMENT"?

5

6 A. No. In addition to the Agreement dated April 29, 1997 and Amendment
7 dated July 10, 1998, there is another Amendment dated December 29,
8 1998 changing the name on the Resale Agreement from The Other
9 Phone Company, Inc. to The Other Phone Company, Inc. d/b/a Access
10 One Communications, Inc. and replacing Section VII. This
11 Amendment is also considered part of the "Access One Agreement". A
12 copy of this Amendment is attached hereto as Exhibit SMA-1.

13

14 Q. DOES BELLSOUTH AGREE THAT ACCESS ONE IS ENTITLED TO
15 ADOPT A PROVISION OF THE RESALE AGREEMENT BETWEEN
16 BELLSOUTH AND TCCF?

17

18 A. No. Paragraph XVI B of the MFN clause in the Resale agreement
19 between BellSouth and Access One states as follows:

20

21 "In the event that BellSouth, either before or after the effective
22 date of this Agreement, enters into an agreement with any other
23 telecommunications carrier (an "Other Resale Agreement")
24 which provides for the provision within the state of Florida of any
25 arrangements covered by this Agreement upon rates, terms or

1 conditions that differ in material respect from the rates, terms
2 and conditions for such arrangements set forth in this Agreement
3 ("Other Terms"), BellSouth shall be deemed thereby to have
4 offered such other Resale Agreement to Other Phone Company
5 in its entirety. In the event that Other Phone Company accepts
6 such offer, Other Terms shall be effective between BellSouth
7 and Other Phone Company as of the date on which Other
8 Phone Company accepts such offer."
9

10 Access One requested a specific provision from the TCCF agreement
11 and did not desire to adopt the TCCF agreement in its entirety.
12

13 Q. IS THERE ANY OTHER REASON BELLSOUTH DENIED ACCESS
14 ONE'S REQUEST FOR THE TCCF PROVISION?
15

16 A. Yes. The provision requested by Access One was from an agreement
17 that had expired and was therefore no longer available for adoption.
18

19 Q. IS THERE ANYTHING IN THE MFN PROVISION IN THE ACCESS
20 ONE AGREEMENT THAT OBLIGATES BELLSOUTH TO
21 PROACTIVELY DISCLOSE TO ACCESS ONE EVERY PROVISION
22 CONTAINED IN AN ALEC AGREEMENT WHICH MAY DIFFER FROM
23 THE ACCESS ONE AGREEMENT?
24
25

1 A. No. The MFN clause simply states that if BellSouth enters into an
2 agreement with any ALEC containing rates, terms and conditions that
3 differ from the Access One agreement, "BellSouth shall be deemed
4 thereby to have offered such other Resale Agreement (to Access One)
5 in its entirety." This provision does not require BellSouth to notify
6 Access One or any other ALEC when it negotiates an agreement with
7 another ALEC that contains different rates, terms and conditions. All
8 agreements entered into with an ALEC pursuant to the
9 Telecommunications Act are submitted to the Commission for approval.
10 Once filed with the Commission, such agreements are available for
11 review and are considered by BellSouth to be offered to any ALEC with
12 an MFN provision in their agreement. It is then the obligation of the
13 ALEC to request the adoption of another ALEC's agreement. However,
14 the requested agreement must be an active agreement and thus not
15 yet expired.

16
17 Q. IF ACCESS ONE HAD REQUESTED THE SINGLE PROVISION
18 PRIOR TO THE EXPIRATION DATE OF THE TCCF AGREEMENT,
19 WOULD BELLSOUTH HAVE ALLOWED ACCESS ONE TO ADOPT
20 THE TCCF PROVISION?

21
22 A. No. Access One would have only been permitted to adopt the TCCF
23 agreement in its entirety for the remaining term of the TCCF
24 Agreement.

25

1 Q. WHAT SPECIFIC PROVISION DID ACCESS ONE WANT TO ADOPT
2 FROM THE TCCF AGREEMENT?

3

4 A. The provision requested by Access One is found in Section III, General
5 Provision H of the TCCF agreement, which reads as follows:

6

7 "The current telephone number of an end user may be retained
8 by the end user unless the end user has past due charges
9 associated with the BellSouth account for which payment
10 arrangements have not been made. The Company will not,
11 however, make the end user's previous telephone number
12 available to Reseller until the end user's outstanding balance
13 has been paid. If Reseller requests service for an end user that
14 has been denied service or disconnected for non-payment by
15 BellSouth, and the end user still has an outstanding balance with
16 the Company, the Company will establish service for that end
17 user through Reseller. Denied service means that the service of
18 an end user provided by a local exchange telecommunications
19 company, including BellSouth has been temporally suspended
20 for nonpayment and subject to complete disconnection. Reseller
21 is entitled to the same, conditions contained in this paragraph."

22

23 Q. HAS BELL SOUTH AGREED TO OFFER THIS PROVISION TO ANY
24 OTHER ALEC?

25

1 A. No. The provision proved extraordinarily difficult to implement,
2 because BellSouth did not have access to the financial records
3 maintained between TCCF and its end-users and therefore was not
4 able to verify whether or not a customer had an outstanding balance
5 with TCCF to determine if a customer would be entitled to retain his or
6 her phone number when switching local providers.

7

8 Q. ON PAGE 6, LINES 20-23, MR. BARITZ ALLEGES THAT THE TCCF
9 PROVISION AT ISSUE IN THIS PROCEEDING HAS HELPED TCCF
10 AVOID BAD DEBT. DOES BELLSOUTH AGREE WITH THIS
11 ALLEGATION?

12

13 A. No. BellSouth does not agree with this allegation. Access One does
14 not provide any evidence to support its allegation that TCCF has no
15 bad debt, much less that the reason TCCF has no bad debt is directly
16 related to the specific provision in the TCCF agreement requested by
17 Access One.

18

19 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

20

21 A. Yes.

22

23

24

25

**AMENDMENT
TO THE
RESALE AGREEMENT BETWEEN
THE OTHER PHONE COMPANY AND
BELLSOUTH TELECOMMUNICATIONS, INC.
DATED APRIL 29, 1997**

Pursuant to this Agreement, (the "Amendment") The Other Phone Company, Inc. ("Access One") and BellSouth Telecommunications, Inc. ("BellSouth"), hereinafter referred to collectively as the "Parties," hereby agree to amend that certain Resale Agreement between the Parties dated April 29, 1997 ("Resale Agreement").

NOW THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

1. The Other Phone Company, Inc. has changed the name of said business to The Other Phone Company, Inc. d/b/a Access One Communications, Inc. ("Access One"). The Resale Agreement is hereby amended to reflect the name change.
2. Exhibit 1 of this Amendment, Statement of Assumption of Services and All Outstanding Indebtedness and Future Charges, as signed by authorized party of Access One, is hereby an attachment to the Resale Agreement
3. Exhibit 2 of this Amendment, Authorization for Transfer and Release Notice, as signed by authorized party of The Other Phone Company, Inc., is hereby an attachment to the Resale Agreement.
4. Section VII Payment and Billing Arrangements is hereby deleted in its entirety and replaced with a new Section VII as follows:

VII. Payment And Billing Arrangements

- A. Prior to submitting orders to the Company for local service, a master account must be established for Access One. The Access One is required to provide the following before a master account is established: proof of PSC/PUC certification, the Application for Master Account, an Operating Company Number ("OCN") assigned by the National Exchange Carriers Association ("NECA") and a tax exemption certificate, if applicable.
- B. The Company shall bill Access One on a current basis all applicable charges and credits.
- C. Payment of all charges will be the responsibility of Access One. Access One shall make payment to the Company for all services billed. The Company is not responsible for payments not received by Access One from Access One's customer. The Company will not become involved in billing disputes that may arise between Access One and its customer. Payments made to the Company as payment on account will be credited to an accounts receivable master account and not to an end user's account.
- D. The Company will render bills each month on established bill days for each of Access One's accounts.

- E. The Company will bill Access One, in advance, charges for all services to be provided during the ensuing billing period except charges associated with service usage, which charges will be billed in arrears. Charges will be calculated on an individual end user account level, including, if applicable, any charges for usage or usage allowances. BellSouth will also bill all charges, including but not limited to 911 and E911 charges, telecommunications relay charges, and franchise fees, to Access One.
- F. The payment will be due by the next bill date (i.e., same date in the following month as the bill date) and is payable in immediately available funds. Payment is considered to have been made when received by the Company.
1. If the payment due date falls on a Sunday or on a Holiday which is observed on a Monday, the payment due date shall be the first non-Holiday day following such Sunday or Holiday. If the payment due date falls on a Saturday or on a Holiday which is observed on Tuesday, Wednesday, Thursday, or Friday, the payment due date shall be the last non-Holiday day preceding such Saturday or Holiday. If payment is not received by the payment due date, a late payment penalty, as set forth in I. following, shall apply.
 2. If Access One requests multiple billing media or additional copies of bills, the Company will provide these at an appropriate charge to Access One.

G. Billing Disputes

1. Each Party agrees to notify the other Party upon the discovery of a billing dispute. In the event of a billing dispute, the Parties will endeavor to resolve the dispute within sixty (60) calendar days of the Bill Date on which such disputed charges appear. Resolution of the dispute is expected to occur at the first level of management resulting in a recommendation for settlement of the dispute and closure of a specific billing period. If the issues are not resolved within the allotted time frame, the following resolution procedure will begin:
 - 1.1 If the dispute is not resolved within sixty (60) days of the Bill Date, the dispute will be escalated to the second level of management for each of the respective Parties for resolution. If the dispute is not resolved within ninety (90) days of the Bill Date, the dispute will be escalated to the third level of management for each of the respective Parties for resolution.
 - 1.2. If the dispute is not resolved within one hundred and twenty (120) days of the Bill Date, the dispute will be escalated to the fourth level of management for each of the respective Parties for resolution.
2. If a Party disputes a charge and does not pay such charge by the payment due date, such charges shall be subject to late payment charges as set forth in the Late Payment Charges provision of this Attachment. If a Party disputes charges and the dispute is resolved in favor of such Party, the other Party shall credit the bill of the disputing Party for the amount of the disputed charges along with any late payment charges assessed no later than the second Bill Date after the resolution of the dispute. Accordingly, if a Party disputes charges and the dispute is resolved in favor of the other Party, the disputing Party shall pay the other Party the amount of the

disputed charges and any associated late payment charges assessed no later than the second bill payment due date after the resolution of the dispute. In no event, however, shall any late payment charges be assessed on any previously assessed late payment charges.

- H. Upon proof of tax exempt certification from Access One, the total amount billed to Access One will not include any taxes due from the end user. Access One will be solely responsible for the computation, tracking, reporting and payment of all federal, state and/or local jurisdiction taxes associated with the services resold to the end user.
 - I. As the customer of record, Access One will be responsible for, and remit to the Company, all charges applicable to its resold services for emergency services (E911 and 911) and Telecommunications Relay Service (TRS) as well as any other charges of a similar nature.
 - J. If any portion of the payment is received by the Company after the payment due date as set forth preceding, or if any portion of the payment is received by the Company in funds that are not immediately available to the Company, then a late payment penalty shall be due to the Company. The late payment penalty shall be the portion of the payment not received by the payment due date times a late factor. The late factor shall be as set forth in Section A2 of the General Subscriber Services Tariff and Section B2 of the Private Line Service Tariff.
 - K. Any switched access charges associated with interexchange carrier access to the resold local exchange lines will be billed by, and due to, the Company. No additional charges are to be assessed to Access One.
 - L. The Company will not perform billing and collection services for Access One as a result of the execution of this Agreement. Requests by the Access One for assistance with billing services should be referred to the appropriate entity or operational group within the Company.
 - M. Pursuant to 47 CFR Section 51.617, the Company will bill Access One end-user common line charges identical to the end-user common line charges the Company bills its end-users.
 - N. In general, the Company will not become involved in disputes between Access One and Access One's end-user customers over resold services. If a dispute does arise that cannot be settled without the involvement of the Company, Access One shall contact the designated Service Center for resolution. The Company will make every effort to assist in the resolution of the dispute and will work with Access One to resolve the matter in as timely a manner as possible. Access One may be required to submit documentation to substantiate the claim.
5. All of the other provisions of the Resale Agreement, dated April 29, 1997, shall remain in full force and effect.
6. Either or both of the Parties is authorized to submit this Amendment to each Public Service Commission for approval subject to Section 252(e) of the Federal Telecommunications Act of 1996.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below.

Access One Communications, Inc.

By: *Ken Baritz*

Name: Ken Baritz

Title: CEO

Date: 12-23-98

BellSouth Telecommunications, Inc.

By: *Jerry Hendrix*

Name: Jerry Hendrix

Title: Director

Date: 12/29/98

**STATEMENT OF ASSUMPTION OF SERVICES AND
ALL OUTSTANDING INDEBTEDNESS AND FUTURE CHARGES**

For and in consideration of the mutual promises contained herein, BellSouth Telecommunications, Inc. ("BellSouth") and Access One agree as follows:

1. BellSouth agrees, pursuant to the terms of this Agreement to furnish telecommunications services to Access One. Service includes any service offered by BellSouth Telecommunications under its intrastate tariffs or the Resale Agreement executed between BellSouth and The Other Phone Company, Inc.
2. Access One hereby agrees that any transfer of service through the sale, merger, consolidation, acquisition, or any other corporate buy-sell agreement shall be in accordance with the requirements of this Agreement and applicable tariffs or other agreement(s) in effect at the time of the sale, merger, consolidation, acquisition or buy-sell arrangement.
3. Access One hereby
 - assumes all obligations for services provided to The Other Phone Company, Inc. and agrees to pay BellSouth, upon demand, account security, applicable service ordering charges, future, current, past due and presently outstanding bills which are attributed to The Other Phone Company, Inc. for such services pursuant to the applicable tariff or resale agreement.
 - does NOT assume all obligations for services offered to The Other Phone Company, Inc. and thereby agrees to pay BellSouth, upon demand, account security, applicable service ordering charges and future bills.
4. Access One specifically agrees to pay all bills and charges for billing account numbers on Attachment(s) that were incurred during the time period the account was in the name of The Other Phone Company, Inc. as well as any and all charges incurred during the time period that Access One is a customer.
5. Access One specifically agrees to assume the unexpired portion of the minimum period and the termination liability applicable to such services.
6. Access One agrees that the requirements of this Agreement apply where The Other Phone Company, Inc. requests a final bill on its account and establishes a new account or requests a modification or change of the existing services of The Other Phone Company, Inc..
7. Access One understands that BellSouth requires 60 days notification prior to the effective date of such assumption of service in order to comply with such request.
8. BellSouth will provide written acknowledgment of such notification 15 days from the receipt of such notification.

9. The undersigned is a duly authorized representative of Access One and by the authority granted to the undersigned by The Other Phone Company, Inc. is authorized to bind it to the terms and conditions contained herein.

10. Signed this 23 day of December 19 98.

Access One Billing Name & Address:


By: *Ken Bant*
(Signature)

AUTHORIZATION FOR TRANSFER AND RELEASE NOTICE

For and in consideration of the mutual promises contained herein, BellSouth Telecommunications, Inc. ("BellSouth") and The Other Phone Company, Inc. agree as follows:

1. The Other Phone Company, Inc. agrees to transfer services in the name of Access One specifically including attached billing account number(s) and thereby relinquish all claims to this account, together with all rights, privileges, refund rights and credits which may accrue and have not yet been actually provided to The Other Phone Company, Inc..
2. Payment of any refund or extension of any credit or other rights required by law in connection with the above must be made by BellSouth Telecommunications in the manner and to the person required by the applicable tariff or regulatory authority, notwithstanding anything to the contrary in this document.
3. Notwithstanding any agreement between The Other Phone Company, Inc. and Access One, to the contrary, The Other Phone Company, Inc. recognizes that under applicable tariffs agreements, BellSouth Telecommunications is authorized to demand from The Other Phone Company, Inc., current, past due and presently outstanding bills which are attributed to The Other Phone Company, Inc..
4. Notwithstanding any agreement between The Other Phone Company, Inc. and Access One, to the contrary, The Other Phone Company, Inc. recognizes that under applicable tariffs and agreements, the transfer of service(s) does not relieve or discharge The Other Phone Company, Inc. from remaining jointly or severally liable with Access One for any obligations existing at the time of transfer.
5. Signed this 23 day of December 1998.

The Other Phone Company, Inc. Billing Name & Address:

By: 
(Signature)