BELLSOUTH TELECOMMUNICATIONS, INC.

DIRECT TESTIMONY OF ALPHONSO J. VARNER

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 991838-TP

January 25, 2000

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS ADDRESS.

A. My name is Alphonso J. Varner. I am employed by BellSouth as Senior Director for State Regulatory for the nine-state BellSouth region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE.

A. I graduated from Florida State University in 1972 with a Bachelor of Engineering Science degree in systems design engineering. I immediately joined Southern Bell in the division of revenues organization with the responsibility for preparation of all Florida investment separations studies for division of revenues and for reviewing interstate settlements.

Subsequently, I accepted an assignment in the rates and tariffs organization with responsibilities for administering selected rates and tariffs including preparation of tariff filings. In January 1994, I was appointed Senior Director of Pricing for the nine-state region. I was named Senior Director for Regulatory Policy and Planning in August 1994, and I accepted my current position as Senior Director of Regulatory in April 1997.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to present BellSouth's position on numerous unresolved issues in the negotiations between BellSouth and BlueStar Networks, Inc. ("BlueStar"). Specifically, I address Issues 2, 10, 11, 14 and 15. The remaining unresolved issues are addressed in the testimony of BellSouth witnesses Keith Milner and Ron Pate.

***Issue 2: Should BellSouth be required to:***
***(a) conduct a trial of line sharing with BlueStar, and if so, when?***
***(b) conduct a trial of electronic ordering and provisioning of line sharing with BlueStar and, if so, when?***

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. BellSouth is not required to conduct a trial of line sharing or electronic ordering and provisioning of line sharing with BlueStar. Although BellSouth is obligated to comply with the FCC's recent order on line sharing, BellSouth is not obligated to conduct a trial. BellSouth intends to follow its normal business practices in determining whether, and under what conditions, a trial of line sharing is appropriate. Line sharing is a recent development in the telecommunications industry and, due to the complex issues surrounding provisioning and maintaining shared lines, it is premature to consider a trial with BlueStar, or any other ALEC, at this time. Mr. Ron Pate addresses Issue 2(b) regarding a possible trial of electronic ordering and provisioning of line sharing.

Although the FCC recently set forth rules and guidelines for the provision of line sharing between an ILEC and an ALEC, it recognized that ILECs must make modifications to systems and processes in order to make line sharing available. The FCC therefore indicated that ILECs should make line sharing available to ALECs within 180 days of the issuance of its order, on December 9, 1999, which will be June 6, 2000. The implementation of line sharing between BellSouth and an ALEC involves complex operational issues that require a thorough understanding of the ALEC's needs, necessary systems modifications and an assessment of hardware needs and selection of a hardware vendor. In addition, in order for successful rollout and implementation, methods and procedures must be developed and deployed to field forces. These issues cannot be sidestepped or ignored because line sharing involves implementing the service on a customer's existing, working local service line. BellSouth fully intends to implement line sharing expeditiously, while ensuring the integrity of the customer's local service and the systems that support that service.

Q. DOES BELLSOUTH EXPECT TO CONDUCT SUCH A TRIAL AT SOME

TIME IN THE FUTURE?

A. I am only addressing BellSouth's plans with regard to Issue 2(a). Mr. Pate addresses BellSouth's plans regarding electronic ordering. BellSouth is not certain at this time that a trial of line sharing is even necessary. It may be determined that a trial is the appropriate means to test procedures developed by BellSouth to implement line sharing. Again, it is premature to make that determination. If it is determined that a trial is appropriate, a further determination will be made as to whether BellSouth would conduct the trial with an ALEC trial partner or with a neutral third party.

***Issue 10: What are the TELRIC-based rates for the following:***

***(a) 2-wire ADSL compatible loops, both recurring and nonrecurring;***

***(b) 2-wire HDSL compatible loops, both recurring and nonrecurring;***

***(c) "UCL" loops, both recurring and nonrecurring;***

***(d) loop conditioning for each of the loops listed above, as well as the 4-wire HDSL loop.***

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF THE 2-WIRE ADSL AND 2-WIRE HDSL COMPATIBLE LOOPS AND THE UNBUNDLED COPPER LOOP ("UCL").

A. A 2-wire ADSL compatible loop is up to 18,000 feet in length with a maximum of 2,500 feet of bridge tap where no single bridge tap length exceeds 2,000 feet. An ADSL compatible loop is designed, provisioned with a test point and comes standard with order coordination and a design layout record ("DLR").

A 2-wire HDSL compatible loop is up to 9,000 feet in length with a maximum of 2,500 feet of bridge tap where no single bridge tap length exceeds 2,000 feet. An HDSL compatible loop is designed, provisioned with a test point and comes standard with order coordination and a DLR.

The UCL, as requested by BlueStar, actually encompasses two separate products; a copper loop up to 18,000 feet in length and a copper loop greater than 18,000 feet in length. A UCL up to 18,000 feet is unencumbered by any intervening equipment and may contain up to 2,500 feet of bridge tap in addition to the loop itself. The UCL up to 18,000 feet is a designed circuit, provisioned with a test point and comes standard with a DLR. Order coordination will be offered as a chargeable option.

BlueStar has also requested a UCL greater than 18,000 feet in length. BellSouth is in the process of operationalizing a long dry copper loop to meet BlueStar's request, where facilities exist. The UCL greater than 18,000 feet will be a designed circuit, provisioned with a test point and come standard with a DLR. Order coordination will be offered as a chargeable option.

UCLs will <u>not</u> be held to the service level and performance expectations that apply to ADSL and HDSL loop offerings. BellSouth is only obligated to maintain copper continuity and provide balance relative to tip and ring on

UCLs.

Q. WHAT IS BELLSOUTH'S POSITION WITH RESPECT TO THE APPROPRIATE PRICES FOR THE 2-WIRE ADSL AND 2-WIRE HDSL COMPATIBLE LOOPS?

A. This Commission has already established recurring and nonrecurring prices for two-wire ADSL and HDSL compatible loops. Prices for numerous UNEs were ordered by this Commission in its December 31, 1996 Order No. PSC-96-1579-FOF-TP, Docket Nos. 960833-TP, 960846-TP, and 960916-TP ("December 31, 1996 Order") and subsequently in its April 29, 1998 Order No. PSC-98-0604-FOF-TP, Docket Nos. 960757-TP, 960833-TP, and 960846-TP ("April 29, 1998 Order").

In its December 31, 1996 Order, at page 22, this Commission determined "that the appropriate cost methodology to determine the prices for unbundled elements is an approximation of Total Service Long Run Incremental Cost (TSLRIC)." Further, on page 32, the Commission found that "BellSouth's cost studies are appropriate because they approximate TSLRIC cost studies and reflect BellSouth's efficient forward-looking costs." Finally, on page 33, the Commission stated that "we find it appropriate to set permanent rates based on BellSouth's TSLRIC cost studies. The rates cover BellSouth's TSLRIC costs and provide some contribution toward joint and common costs." In its April 29, 1998 Order, the Commission established prices for 2-wire ADSL and HDSL compatible loops, and these prices are shown on Exhibit AJV-1 attached to my testimony.

Q. WHY DOES BELLSOUTH BELIEVE THAT THE PRICES FOR UNEs PREVIOUSLY ORDERED BY THIS COMMISSION ARE APPROPRIATE FOR BLUESTAR?

A. BellSouth's cost studies are generic in that they determine the costs to BellSouth of providing UNEs to any requesting carrier. These costs do not vary, whether it is AT&T or BlueStar that is requesting the element. Therefore, the costs that this Commission has already used to establish prices for AT&T, MCI, and other ALECs should be the same for BlueStar or for any other ALEC.

Q. WHAT DOES BELLSOUTH PROPOSE AS THE PRICE FOR THE UCL?

A. BellSouth proposes interim prices subject to true-up for UCLs and for loop conditioning. For the UCL up to 18,000 feet BellSouth proposes an interim price based on a price that BellSouth has used with several ALECs in contract negotiations. This price was developed through a TSLRIC study. See Exhibit AJV-1 attached to this testimony for recurring and nonrecurring prices.

Because BellSouth has not yet operationalized the copper loop greater than 18,000 feet, unlike the UCL up to 18,000 feet, there is no existing price that BellSouth has used in contract negotiations. BellSouth is, however, conducting a study for use in Georgia that should be available shortly. BellSouth proposes to supplement this testimony with the results of the Georgia study and use the results as an interim price subject to true-up until a Florida specific price, to be proposed in April, is adopted by the Commission.

In addition to the loops described above, BellSouth will also offer loop conditioning for the removal of load coils on ADSL and HDSL compatible loops and UCLs at interim prices as shown in exhibit AJV-1. Much like the UCL greater than 18,000 feet, BellSouth does not currently have a price used in contract negotiations for loop conditioning. Therefore, similar to the long UCL, BellSouth proposes to supplement this testimony with the results of a loop conditioning study currently being conducted in Georgia. Such price would be interim and subject to true-up until a Florida specific price, to be proposed in April, is adopted by the Commission.

Q. WHY DOES BELLSOUTH PROPOSE INTERIM PRICES SUBJECT TO TRUE-UP FOR THESE ELEMENTS?

A. The Commission has set a procedural schedule in Docket No. 990649-TP that requires UNE cost studies be filed on April 17, 2000. As part of that filing, BellSouth will sponsor cost studies for each UNE it is required to provide, including UCLs up to 18,000 feet, UCLs greater than 18,000 feet, as well as loop conditioning. BellSouth believes it is appropriate to set interim prices subject to true-up based on the Commission's determination of the appropriate permanent prices in Docket No. 990649-TP.

***Issue 11: What is the TELRIC-based recurring and nonrecurring rate for the high frequency portion of a shared loop?***

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. BellSouth recognizes its obligation to provide line sharing according to the rules recently adopted by the FCC for line sharing. However, it is premature to attempt to determine a cost for the high frequency portion of the loop until such time as the specifications are known, hardware has been identified and system modifications have been determined. When requirements are known, a cost study can be conducted to determine the appropriate cost-based price for this service.

***Issue 14: BellSouth's proposed issue: What, if any, provisions should the agreement include for liquidated damages?***

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. BellSouth believes it is totally inappropriate for this Commission to impose liquidated damages in an interconnection agreement because liquidated damages are not a requirement of Section 251 of the Telecommunications Act of 1996 (the "Act") nor are they an issue to be arbitrated under Section 252. As such, on January 14, 2000 BellSouth filed its Motion to Remove Issues from Arbitration with the Commission. In its motion, BellSouth noted that the Commission has repeatedly ruled that imposition of liquidated damages is not an appropriate issue for arbitration under Section 252 of the Act. Further, as this Commission recently concluded in the MediaOne/BellSouth Arbitration proceeding (Docket No. 990149-TP), it lacks the authority under state law to impose liquidated damages provisions in arbitrated agreements. Therefore, BlueStar is simply attempting to force BellSouth to do something the Commission has already determined BellSouth is not obligated to do.

Q. WHAT DOES BELLSOUTH PLAN TO OFFER REGARDING SELF-EFFECTUATING ENFORCEMENT MECHANISMS?

A. BellSouth believes that the only remedies appropriate for inclusion in an interconnection agreement are those to which the parties mutually agree. BellSouth is currently working with the FCC to finalize BellSouth's proposal for self-effectuating enforcement measures. To-date, BellSouth has presented three such proposals to the FCC. The last proposal was well received by the FCC Staff. Contract language is being prepared to enable BellSouth to offer that proposal to CLECs. When the proposal is finalized, BellSouth will offer it to BlueStar and any other CLECs. It is vitally important that all CLECs operate under the same plan. It is important to note that the FCC's primary purpose in BellSouth developing an acceptable enforcement proposal is to prevent "backsliding" upon BellSouth's entry into interLATA long distance. For this reason, any such enforcement mechanism should appropriately be applicable only upon BellSouth's ability to provide interLATA long distance.

Q. PLEASE COMMENT ON THE PLAN FILED WITH THE TENNESSEE

REGULATORY AUTHORITY (TRA).

A. The TRA requested BellSouth's latest proposal to the FCC dated December 3, 1999. BlueStar apparently wants this Commission to order BellSouth to use the document filed in Tennessee, whether or not the FCC approves the document. In addition, BlueStar apparently wants this Commission to order this document to be effective with the new interconnection agreement, without being tied to BellSouth's provision of interLATA long distance. Such a request is totally inappropriate. BellSouth's enforcement mechanism proposal is a voluntary proposal made by BellSouth which would take effect on a state-by-state basis concurrent with approval for BellSouth to enter into long distance in each state and subject to acceptance by the FCC.

BellSouth's proposal to the FCC should not be interpreted in any way as BellSouth's admission that the Commission or the FCC have the authority to impose self-executing penalties or liquidated damages without BellSouth's agreement. BellSouth has no obligation under Section 251 of the Act to include an enforcement mechanism in an interconnection agreement. The FCC recognizes this point and views BellSouth's enforcement mechanism proposal as a public interest item in BellSouth's pursuit of interLATA long distance and not as a Section 251 requirement or a requirement of the competitive checklist. In contrast, BlueStar is requesting that BellSouth be forced to pay penalties and/or liquidated damages beginning immediately and without regard to any action by the FCC. In other words, BlueStar argues that BellSouth should be made, by this Commission, to involuntarily include a liquidated damages provision in the Agreement, an action that this Commission has specifically ruled that it cannot take.

***Issue 15: What, if any, provisions should the agreement include for alternative dispute resolution?***

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. BellSouth does not believe that an alternative dispute resolution ("ADR") provision is suitable for interconnection agreements. Through experience with such provisions in other agreements, BellSouth has found that commercial arbitrators typically lack knowledge and understanding of complex telecommunications issues and are less likely to render knowledgeable, well-informed decisions. In addition, commercial arbitrators can be costly and BellSouth believes they are unnecessary, because the Commission is fully capable of handling disputes under current procedures.

The Act has now been effective for nearly four years. In that time several complaints have come before the Commission for resolution and the Commission has handled them using the expertise within the Commission Staff in an expeditious manner. It is unnecessary for the Commission to now establish a new process for the handling disputes. Indeed, the Commission addressed this same issue in a Petition filed by the Florida Competitive Carriers Association ("FCCA") in Docket No. 981834-TP. In its petition, the FCCA argued that an expedited dispute resolution process should be implemented via a formal rulemaking. However, in its order dated April 21, 1999, the Commission denied the FCCA's request stating, "We agree with BellSouth that parties already have the opportunity to file petitions with requests for expedited treatment." The Commission is clearly more capable of handling disputes between telecommunications carriers than commercial arbitrators and the Commission is also fully capable of determining whether or not a dispute requires expedited treatment.

Q. HAS BLUESTAR ALTERED ITS POSITION ON THIS ISSUE?

A. Yes. Apparently, BlueStar's latest proposal is that disputes be handled through the Commission's Division of Consumer Complaints. This proposal is inappropriate. First, from a policy perspective, such a proposal is exactly contrary to the intent of the Act. One of the primary purposes of the Act is to reduce regulation to the extent possible, not to create additional regulatory mechanisms to micro-manage the business relationships between new entrants and incumbents. Second, the customer complaint process is not suitable for disputes between telecommunications carriers. A review of the process clearly reveals that the process is intended to assist consumers by having a Commission Staff member guide the parties through the dispute. This process is ill suited to resolve disputes between telecommunications carriers which can be infinitely more complex than consumer complaints.

Third, even if such an approach were workable, it would prove so time consuming that this Commission would likely have to establish and staff an entire "Division of Carrier Complaints" to handle the disputes that would likely be brought before the Commission. Adoption of the approach urged by BlueStar would place an extreme burden on Commission resources and would provide parties with a mechanism to avoid the sort of negotiations clearly contemplated by the Act.

This Commission elected not to set up special procedures to resolve carrier disputes in its April 21, 1999 order when it determined that existing procedures are adequate for handling these disputes. BlueStar's request is simply a new variation on an old, and previously rejected, theme.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

DOCs # 193556

# Florida Price List

| Cost Ref. # | Rate Element | Rate | | | Source |
|---|---|---|---|---|---|
| | | Recurring | Non-recurring Electronic | Non-recurring Manual | |
| **A.0** | **Unbundled Local Loop** | | | | |
| *A.6* | *2-Wire Asymmetrical Digital Subscriber Line (ADSL) Loop* | | | | |
| A.6.1 | 2-wire asymmetrical digital subscriber line (ADSL) loop | 15.81 | 113.85<br>99.61 | | 4/29/98 Order |
| | | | | | |
| *A.7* | *2-Wire High Bit Rate Digital Subscriber Line (HDSL) Loop* | | | | |
| A.7.1 | 2-wire high bit rate digital subscriber line (HDSL) loop | 12.12 | 113.85<br>99.61 | | 4/29/98 Order |
| | | | | | |
| | Unbundled copper loop up to18,000 feet | 21.98 | 113.85<br>99.61 | | Recurring is negotiated price. NRC is same as ADSL/HDSL |
| | Unbundled copper loop up to 18,000 feet – Order Coordination | | 16.19<br>16.19 | | Negotiated price |
| | Unbundled copper loop beyond 18,000 feet | To be determined | To be determined | | Supplement testimony with interim price from GA study. |
| | Loop Conditioning | To be determined | To be determined | | Supplement testimony with interim price from GA study. |



Under the non-recurring column, where there are two entries, the first entry is for the first unit installed, and the second entry is for each additional unit installed.
Shaded prices or those to be determined are interim and subject to true-up.
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