

ORIGINAL

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

DOCKET NO. 991237-TP

REBUTTAL TESTIMONY

OF

RICHARD GUEPE

ON BEHALF OF

AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.

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REBUTTAL TESTIMONY OF
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ON BEHALF OF
AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.
DOCKET NO. 991237-TP

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND TITLE.

A. My name is Richard Guepe, and my business address is 1200 Peachtree Street, N.E., Atlanta, Georgia 30309. I am employed by AT&T as a District Manager in the Law & Government Affairs organization.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to address several positions taken by BellSouth witnesses concerning BellSouth's application of carrier common line charges. Specifically, my testimony demonstrates that this Commission has consistently maintained an access structure that reflects the use of each of the network elements used to originate and terminate long distance calls; BellSouth's misapplication of the CCL does impact AT&T and the interexchange carrier industry; BellSouth's misapplication of the CCL is not consistent with its own tariff; and BellSouth's misapplication of the CCL is not in compliance with Florida statutes.

1 Q. MR. HENDRIX OPINES AT NUMEROUS POINTS IN HIS TESTIMONY
2 THAT THERE IS NO REQUIREMENT THAT EACH OF THE NETWORK
3 COMPONENTS THAT CORRESPOND TO THE ACCESS ELEMENTS BE
4 ACTUALLY USED IN ORDER TO APPLY THE FULL RANGE OF ACCESS
5 ELEMENTS TO CALLS THAT ACCESS BELLSOUTH'S NETWORK. DO
6 YOU AGREE?

7 A. No. From the very beginnings of the Commission's development and
8 implementation of switched access charges, the Commission has followed an access
9 charge structure that is premised on and corresponds to the various network
10 elements in a local exchange company's network that are used to originate and
11 terminate long distance calls carried by interexchange carriers (IXCs). The
12 Commission announced its intended permanent access charge structure in Order
13 No. 11551, adopted its access charge rates and structure in Order No. 12765,
14 implemented its access rates and structure in Order No. 13934, the implemented of
15 bill and keep for access charges in Order 14452 and further developed its switched
16 access rates and structure in Order 15481. The Commission has consistently
17 maintained an access structure that reflects the use of each of the network elements
18 used to originate and terminate long distance calls.

19 Mr. Hendrix's claim that all access minutes should be charged the same rates
20 regardless of which elements are used to originate or terminate long distance calls is
21 not only inconsistent with the Commission's access charge structure but is also
22 completely illogical in the face of the access charge rate structure adopted by the
23 Commission. If Mr. Hendrix were correct in his assertion, the Commission
24 engaged in a completely pointless exercise of developing the individual access

1 elements based on their associated billing units. Moreover, this exercise would
2 have wasted countless man-hours and money of all of the LECs that were involved
3 in generating the data upon which the access rates were based. If Mr. Hendrix
4 were correct, the Commission need only have established the number of interLATA
5 minutes and calculated a single per minute charge that would have generated the
6 desired access revenue target. This is a far simpler task than that which the
7 Commission undertook to establish its switched access charges rate structure and
8 rates.

9 The final flaw in Mr. Hendrix's assertion is that it is also inconsistent with the
10 FCC's determination on the applicability of the CCL charge to the same call flows
11 at issue in this proceeding. Mr. Hendrix's assertion on page 20 of his direct
12 testimony that the FCC's decision [Order No. E95-006] is not binding on the
13 Commission is of no consequence. In adopting its access rates and rate structure,
14 the Florida Commission adopted the usage sensitive rates and rate structure that the
15 FCC adopted for interstate switched access charges. In expressly adopting the
16 FCC's rates and rate structure for the CCL, as well as the local switching and line
17 termination elements, the Florida Commission could not have intended a completely
18 different mode of application of access charges to the use of the local network
19 elements used to originate and terminate calls than the FCC for the same calls under
20 the same circumstances. Further, Mr. Hendrix concedes that the FCC has
21 determined that BellSouth incorrectly imposed CCL charges for unused common
22 lines.

23

1 Q. MR. HENDRIX CLAIMS (DIRECT TESTIMONY, P.7-8) THAT AS A
2 RESULT OF THE ACCESS RATE SETTING METHODOLOGY
3 PRESCRIBED BY THE COMMISSION THERE WOULD HAVE
4 BEEN LITTLE IMPACT ON AT&T AND NO IMPACT ON THE IXC
5 INDUSTRY HAD BELL SOUTH ASSESSED ACCESS CHARGES AS
6 ADVOCATED BY AT&T. DO YOU AGREE?

7 A. No. The Florida Commission initially set access rates based on a residual, keep
8 whole methodology. There was no actual access revenue requirement. The
9 Commission's intent was that once initially set, access charge rates would not be
10 reset based on any rate of return process. (See Order No. 17053) As access rates
11 changed over time there was never an access revenue requirement to be achieved.
12 Therefore changes in the application and billing of individual rate elements would
13 impact both individual carriers and the industry as a whole. The revenue from
14 individual elements was not guaranteed through a revenue requirement. As access
15 rates were reduced due to Commission actions, it was not simply a matter of
16 adjusting prices and demand to achieve a revenue bogey. BellSouth knows this is
17 the case since it stated to this Commission in 1986 in Docket No. 820537-TP that
18 they agreed CCL access should be reduced and they did not advocate any
19 corresponding mechanism to offset the revenue decrease. (See Order No. 17053)
20 The Commission simply decreased the originating and terminating CCL rates,
21 without regard to volumes or revenue impacts.

22

23

1 **Q. MR. HENDRIX STATES (DIRECT TESTIMONY, P.7) THAT THE**
2 **MANNER IN WHICH BELLSOUTH ASSESSES CCL CHARGES IS**
3 **CONSISTENT WITH BELLSOUTH’S TARIFF. DO YOU AGREE?**

4 A. No. The application of CCL charges such that charges are made where common
5 line (loop) facilities are not used is not consistent with BellSouth’s tariff.
6 BellSouth’s application of Carrier Common Line charges is not consistent with the
7 provisions of Section E6.7.1.A.2 of BellSouth’s Access Services Tariff, which
8 plainly states: “Usage rates are rates that apply only when a specific rate element is
9 used.” BellSouth is charging a usage sensitive rate – the Carrier Common Line –
10 to interexchange carriers when the rate element is not used or charging multiple
11 CCLCs when only one common line is used.

12

13 **Q. MR. HENDRIX OPINES (TESTIMONY P.19) THAT BELLSOUTH’S**
14 **APPLICATION OF CCL CHARGES IS IN COMPLIANCE WITH**
15 **SECTION 364.01(4)(G) OF THE FLORIDA STATUES. DO YOU**
16 **AGREE?**

17 A. No. Section 364.04(4)(G) requires that all providers of telecommunications service
18 are treated fairly and forbids anticompetitive behavior. BellSouth seems to feel that
19 it is fair to charge customers for facilities they do not use. By charging carriers for
20 use of facilities they do not use, BellSouth is in violation of this statute.

21

22

1 Q. **WOULD IT BE FAIR AND REASONABLE FOR A TARIFF TO**
2 **ALLOW A CUSTOMER TO BE CHARGED FOR A USAGE BASED**
3 **SERVICE THAT IS NOT USED?**

4 A. No. For any tariff, whether it is an exchange service tariff, a private line tariff or
5 an access tariff, to charge customers usage for services that are not used is not
6 reasonable, nor would it be fair. Customers may not always like the prices that
7 they pay for services, but they do expect to pay for things they use. Customers
8 should not have to pay for things they do not use. And just as a local subscriber is
9 not liable for charges that are "crammed" on the local bill, interexchange carriers
10 should not have to pay for the use of common lines that were not used, and, in a
11 sense, crammed on the IXC's bill. Charging a CCLC where a common line is not
12 used or charging multiple as though multiple common lines are in use when only
13 one is used is unfair and anticompetitive by any measure.

14

15 Q. **MR. HENDRIX OPINES (TESTIMONY P.19) THAT BELLSOUTH'S**
16 **APPLICATION OF CCL CHARGES IS IN COMPLIANCE WITH**
17 **SECTION 364.08 OF THE FLORIDA STATUTES. DO YOU AGREE?**

18 A. No. Through its misapplication of the CCL, BellSouth is, in some instances, billing
19 multiple charges for use a single common line and, at other times, billing for
20 common line facilities that have not been used. This is not consistent with Section
21 E6.7.1(A)(2) of BellSouth's tariff and not in compliance with Section 364.08 of the
22 Florida Statutes. Importantly, both Mr. Hendrix and Mr. Milner omit any
23 reference to Section E6.7.1(A)(2) of BellSouth's access tariff which provides that

1 access customers will only be charged only for the access elements that are used.
2 Mr. Milner and Mr. Hendrix describe in some detail each of the call scenarios at
3 issue in this proceeding. Nowhere in either Mr. Milner's or Mr. Hendrix's
4 testimony do either of them describe how or when a common line is used in any of
5 the call scenarios.

6

7 **Q. MR. HENDRIX NOTES ON PAGE 4 OF HIS TESTIMONY THAT THE**
8 **COMMISSION CREATED THREE EXCEPTIONS TO THE APPLICATION**
9 **OF CCL CHARGES. ARE THESE EXCEPTIONS CONSISTENT WITH HIS**
10 **THEORY THAT CCL CHARGES SHOULD BE ASSESSED REGARDLESS**
11 **OF WHETHER A COMMON LINE IS USED?**

12 **A. No. Mr. Hendrix correctly notes in his testimony that the Commission, in Order**
13 **No. 13934, ordered that CCL charges not be assessed on the traffic originated over**
14 **a WATS service because the loop cost of the WATS dedicated access line (DAL)**
15 **used to originate WATS calls was already recovered in the \$38 monthly charge for**
16 **the DAL. Under Mr. Hendrix's theory that any minute of access to any portion of**
17 **the local network should result in application of the full range of switched access**
18 **charges, the Commission would never have exempted WATS service from switched**
19 **access charges. Mr. Hendrix agrees that calls routed to paging services should not**
20 **be assessed CCL charges. He does not explain why calls to paging services should**
21 **be assessed access charges in a different manner than the other call types at issue.**
22 **Indeed, Mr. Hendrix's logic, that actual use of a common line is not required in**
23 **order to assess a CCL charge, would require assessment of the CCL charge on**

1 traffic to and from RCCs. The Commission's exemptions from imposition of CCL
2 charges clearly support the fact that the Commission did not intend that CCL
3 charges be applied in those instances where no common line was used or charged
4 multiple charges for use of only one common line.

5

6 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

7 **A. Yes.**