

ORIGINAL

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

**DIRECT TESTIMONY OF
GREGORY R. FOLLENSBEE**

**ON BEHALF OF
AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.
AND TCG SOUTH FLORIDA, INC.**

DOCKET NO. 000731-TP

NOVEMBER 16, 2000

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8

9 **Q. PLEASE STATE YOUR NAME, ADDRESS AND EMPLOYMENT.**

10 **A.** My name is Gregory R. Follensbee, and I am employed by AT&T Corp.
11 ("AT&T") as a Director in its Law & Government Affairs organization,
12 providing support for AT&T's regulatory and legislative advocacy in the nine
13 states that make up AT&T's Southern Region. My office is at 1200
14 Peachtree Street, Suite 8100, Atlanta, Georgia 30309.

15

16 **Q. PLEASE DESCRIBE YOUR BACKGROUND AND PROFESSIONAL**
17 **EXPERIENCE AS THEY RELATE TO ISSUES IN THIS**
18 **PROCEEDING.**

19 **A.** I graduated from Florida State University in 1972 with a Bachelors of
20 Science degree in accounting. I began work in August of that year as a field
21 auditor with the Florida Public Service Commission. In 1976, I was
22 promoted to Manager over the accounting group devoted to regulating
23 electric and gas public utilities. In 1978, I was promoted to Manager over the

1 accounting for all public utilities regulated in Florida. In 1979, I was
2 promoted to Director of the Accounting Department, which expanded my
3 responsibilities to include all accounting matters for all public utilities
4 regulated in Florida, which included auditing, cost of capital, and taxes. In
5 1980, the department was expanded to include Management Audits as well.

6 In October 1983, I left the Florida Commission and began work with
7 AT&T. I was a District Manager in its State Governmental Affairs staff
8 organization, supporting AT&T's advocacy of regulatory issues for its
9 Southern Region. In 1990, I became the Assistant Vice President for State
10 Government Affairs for the State of South Carolina. In 1995, I returned to
11 Atlanta and was promoted to Division Manager, responsible for AT&T's
12 regulatory and legislative advocacy in the nine states in AT&T's Southern
13 Region.

14
15 **Q. HAVE YOU TESTIFIED IN OTHER REGULATORY PROCEEDINGS**
16 **IN THE PAST?**

17 **A.** Yes. I have testified in Florida, Georgia, North Carolina and South Carolina.

18
19 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
20 **PROCEEDING?**

21 **A.** I am testifying on behalf of AT&T Communications of the Southern States,
22 Inc. and TCG South Florida (I will refer to these two companies as AT&T)
23 on the following issues:

- 1 • the appropriate terms and conditions that should be applied when
2 AT&T issues orders to migrate services to either network
3 elements or combinations of network elements (Issue 6);
4 • how the FCC's decision on the availability of local circuit
5 switching should be applied to serving customers with four or
6 more lines through combinations of network elements (Issue 11);
7 • why voice calls over Internet Protocol should not be treated as
8 long distance and why switched access charges should not apply
9 (Issue 16);
10 • why the alternative dispute resolution process should be an option
11 for resolving disputes arising under AT&T's interconnection
12 agreement with BellSouth (Issue 27); and,
13 • the terms and conditions that should apply when AT&T purchases
14 a loop/port combination and wishes to share the spectrum on a
15 local loop for voice and data purchases (Issue 33).

16

17 **Q. WERE YOU PART OF THE TEAM FROM AT&T NEGOTIATING**
18 **WITH BELLSOUTH ON THE INTERCONNECTION AGREEMENT**
19 **THAT IS THE SUBJECT OF THIS PETITION?**

20 **A. Yes.**

21

22

23

1 **Q. WHO ELSE WAS PART OF THE AT&T TEAM?**

2 A. The AT&T negotiating team consisted of two commercial attorneys, a lead
3 negotiator, and two support personnel. From time to time, both AT&T and
4 BellSouth would include subject matter experts in the negotiations to help
5 reach resolution on a particular issue.

6

7 **Q. WHAT WERE YOUR RESPONSIBILITIES DURING THE**
8 **NEGOTIATIONS?**

9 A. Because I was involved in the negotiations of the existing interconnection
10 agreement arbitrated by this Commission in 1996, I provided information on
11 what was discussed and agreed to or arbitrated previously in 1996. In
12 addition, I provided input on state and Federal Communications Commission
13 (FCC) regulatory issues that impacted the negotiations.

14

15 **Q. WHO DID YOU NEGOTIATE WITH AT BELLSOUTH?**

16 A. BellSouth's team consisted of two commercial attorneys, a lead negotiator,
17 one support person and one person from its regulatory group.

18

19 **Q. WAS AT&T ABLE TO REACH AN AGREEMENT WITH**
20 **BELLSOUTH ON ALL ISSUES?**

21 A. No. While the vast majority of issues were resolved through negotiations, as
22 can be seen from the agreement attached to AT&T's petition, several issues
23 are still unresolved, and must be arbitrated by this Commission. The issues

1 currently before this Commission for arbitration are ones where the parties
2 “disagree” on the resolution.

3

4 **Q. WHAT AT&T WITNESSES WILL BE ADDRESSING THESE**
5 **REMAINING ISSUES?**

6 **A.** The witnesses supporting AT&T’s arbitration petition are as follows:

- 7 • Greg Follensbee
8 • Joe Gillan
9 • Jay Bradbury
10 • Ron Mills
11 • Ron Lindemann
12 • Dave Talbott

13

14 **ISSUE 6: UNDER WHAT RATES, TERMS, AND CONDITIONS**
15 **MAY AT&T PURCHASE NETWORK ELEMENTS OR**
16 **COMBINATIONS TO REPLACE SERVICES CURRENTLY**
17 **PURCHASED FROM BELLSOUTH TARIFFS?**

18

19 **Q. EXPLAIN THE ISSUE PERTAINING TO THE APPROPRIATE**
20 **TERMS AND CONDITIONS THAT SHOULD BE APPLIED WHEN**
21 **AT&T ISSUES ORDERS TO MOVE TARIFFED SERVICES**
22 **PURCHASED FROM BELLSOUTH TO EITHER NETWORK**
23 **ELEMENTS OR COMBINATIONS OF NETWORK ELEMENTS?**

1 A. There are two remaining areas of disagreement pertaining to AT&T
2 converting tariffed services to network elements. Since the FCC issued its
3 Supplemental Order Clarification in CC Docket 96-98 on June 2, 2000
4 (“Supplemental Order Clarification”), most of the disagreement between the
5 parties has been resolved and the parties have reached agreement on the
6 process for submitting requests for conversions. Thus, the two remaining
7 areas that this Commission needs to address are as follows:

- 8 1. The appropriate rate BellSouth should charge AT&T for converting
9 services to UNEs, which has already been addressed in Docket No.
10 990649-U; and
- 11 2. The application of termination liability charges to services converted
12 to either unbundled network elements or combination of unbundled
13 network elements, which I will address below.

14
15 **Q. WHY IS THERE AN ISSUE ON CONVERTING TARIFFED**
16 **SERVICES TO NETWORK ELEMENTS?**

17 A. In the past AT&T purchased tariffed services from BellSouth to provide local
18 service to customers in Florida. As a result of the Telecommunications Act
19 of 1996 and several FCC orders implementing that Act, AT&T is able to
20 convert these services to network elements, including combinations of
21 network elements. The FCC issued an order outlining certain criteria AT&T
22 would have to meet in order to obtain these conversions from Bellsouth. The
23 issue that BellSouth has raised is whether BellSouth should be allowed to

1 charge AT&T any cancellation charges for converting these tariffed services
2 to network elements.

3

4 **Q. WHAT CANCELLATION CHARGES ARE INVOLVED?**

5 A. While the exact charges that may apply are dependent upon the specific
6 service purchased by AT&T from BellSouth's tariffs, generally cancellation
7 charges are assessed whenever tariffed services are purchased under some
8 term or volume plan, and the purchaser decides to cancel the service before
9 the end of the term of the plan. In this case, the service is completely
10 terminated and not replaced with another service.

11

12 **Q. TO WHAT NETWORK ELEMENTS OR COMBINATIONS OF**
13 **NETWORK ELEMENTS WOULD THE TARIFFED SERVICES BE**
14 **CONVERTED?**

15 A. Predominantly, AT&T is looking to convert special access services to either
16 unbundled loops or loop/transport combinations (commonly known as
17 Enhanced Extended Links or EELs) that begin at a customer's premise and
18 terminate into AT&T collocation space in a BellSouth central office, where
19 AT&T then terminates the trunk in one of its switches used to provide local
20 service.

21

22

23

1 **Q. WHAT IS AT&T PROPOSING?**

2 A. AT&T is proposing that it should not be assessed any cancellation charges
3 when requesting to convert services originally purchased from BellSouth's
4 tariffs to network elements or combinations of network elements. AT&T
5 originally purchased these tariffed services mainly because BellSouth was
6 unwilling to provide combinations of network elements in lieu of special
7 access. Rather than wait for the issue to be fully resolved either through
8 regulatory proceedings or litigation, AT&T utilized the only option it had
9 available. AT&T and its customers should not be penalized for BellSouth's
10 refusal to provide combinations of network elements. Furthermore, the FCC
11 did not state or even imply that ILECs were free to impose a penalty upon
12 ALECs for such conversions. What BellSouth seeks to do contravenes the
13 clear intent of the FCC. If this Commission approves BellSouth's proposal,
14 then BellSouth ultimately ends up with what it wanted all along - ALECs
15 would not be able to use network elements to serve customers who are
16 currently served through special access service. The Commission should not
17 allow ALECs to be penalized when converting the purchase of special access
18 services to network elements.

19

20 **Q. IS AT&T CANCELING SERVICE PURCHASED FROM**
21 **BELLSOUTH?**

22 A. No. AT&T is seeking to convert the existing tariffed services to network
23 elements or combinations of network elements. The customers will still

1 receive the same service from AT&T and the service provided by BellSouth
2 to AT&T will remain the same.

3

4 **Q. WHAT IS AT&T ASKING THIS COMMISSION DO?**

5 **A.** AT&T requests that this Commission order that no cancellation charges will
6 be applied when AT&T requests to convert services purchased out of
7 BellSouth's tariffs to network elements, including combinations of network
8 elements.

9

10 **ISSUE 11: SHOULD BELLSOUTH BE ALLOWED TO**
11 **AGGREGATE LINES PROVIDED TO MULTIPLE LOCATIONS OF**
12 **A SINGLE CUSTOMER TO RESTRICT AT&T'S ABILITY TO**
13 **PURCHASE LOCAL CIRCUIT SWITCHING AT UNE RATES TO**
14 **SERVE ANY OF THE LINES OF THAT CUSTOMER?**

15

16 **Q. DESCRIBE THE UNRESOLVED ISSUE PERTAINING TO USE OF**
17 **LOCAL SWITCHING IN PROVIDING EXCHANGE AND**
18 **EXCHANGE ACCESS SERVICE TO CUSTOMERS?**

19 **A.** As a result of the Supreme Court's decision in AT&T Corp. v. Iowa Board of
20 Utilities, 525 U.S. 366 (1999), the issue of network elements was remanded
21 to the FCC with instructions to review its decision on what network elements
22 must be provided by ILECs. As part of this remand, the FCC determined that
23 ILECs need not provide alternative local exchange carriers (ALECs) with

1 local circuit switching capability where the ALEC intends to serve customers
2 who have four or more voice grade (DS0) equivalents or lines and, (i) the
3 affected local circuit switches are located in one of the top 50 Metropolitan
4 Statistical Areas (MSAs) in density zone 1, and (ii) the incumbent LEC
5 provides access to combinations of unbundled loops and transports
6 throughout density zone 1, as defined as of January 1, 1999.

7

8 **Q. WHAT IS A LOCAL CIRCUIT SWITCH?**

9 A. A local circuit switch is the type of switch deployed by telecommunications
10 carriers to provide dial tone to a customer so the customer can receive local
11 service.

12

13 **Q. WHAT IS A METROPOLITAN STATISTICAL AREA?**

14 A. This is a geographic area within a state as defined by the United States
15 Government Office of Management and Budget. MSAs are often used to
16 administer federal programs. Presently, there are 258 MSAs in the United
17 States. In Florida, the MSAs affected by the FCC rules are Ft. Lauderdale,
18 Miami and Orlando.

19

20 **Q. WHAT LIMITATION IS BELLSOUTH PROPOSING ON THE USE**
21 **OF LOOP/SWITCH COMBINATIONS TO SERVE CUSTOMERS IN**
22 **THE FLORIDA MSAS?**

1 A. BellSouth is proposing the following limitation on the use of loop/switch
2 combinations in the Florida MSAs:

- 3 • If a customer has multiple locations throughout the MSA, receives
4 one bill from BellSouth for all lines, and the total number of lines
5 from all locations is more than three, none of the lines at any
6 location could be served using the loop/switch combination at
7 cost-based rates.

8

9 **Q. DOES AT&T AGREE WITH THIS RESTRICTION?**

10 A. No. BellSouth's interpretation of the FCC's rule is unreasonable.
11 Furthermore, BellSouth's proposed restriction impedes competition.
12 Additionally, some customers may actually want to have some lines served
13 by one carrier and some lines served by another. This option of choice of
14 carriers allows the customer to take advantage of service offerings from
15 various companies and protect their business/home telephone service from
16 disruption if there is a problem with one company.

17

18 **Q. IN THE FCC'S UNE REMAND ORDER, THE FCC DECIDED THAT**
19 **AN ILEC COULD CEASE PROVIDING LOCAL CIRCUIT**
20 **SWITCHING AT COST-BASED RATES IF THE ILEC PROVIDES**
21 **ACCESS TO ENHANCED EXTENDED LINKS THROUGHOUT THE**
22 **MSA. WHY ISN'T THE USE OF SUCH COMBINATIONS OF**

1 **NETWORK ELEMENTS PRACTICAL TO SERVE A CUSTOMER IN**
2 **THIS SITUATION?**

3 A. The use of an enhanced extended link makes sense if the customer has more
4 than two lines at one location. In its Remand Order, the FCC used four lines
5 as the economic cut-off between using individual lines and high capacity
6 trunks such as a DS1. AT&T has requested that the FCC reconsider four as
7 the appropriate cut-off, but for purposes of this arbitration AT&T is agreeing
8 to the four line limitation. Clearly less than four lines is not the appropriate
9 number of lines a customer would use make a decision as to whether to buy,
10 for instance, flat rated business service versus PBX service.

11

12 Furthermore, BellSouth is proposing that even though no one customer
13 physical location has more than three lines, if a customer receives one bill
14 from BellSouth or AT&T that aggregates service across the MSA and the
15 total number of lines on the bill from multiple locations exceeds three, then
16 all lines could not be served by use of a loop/port combination at cost-based
17 rates.

18

19 **Q. WHAT IS AT&T ASKING THIS COMMISSION DO?**

20 A. AT&T is asking that this Commission order that any local line limitation that
21 applies to the use of local switching in the three specific MSAs in Florida
22 apply to each physical location where AT&T orders local switching from

1 BellSouth, and not to a specific customer with multiple locations on the same
2 bill.

3

4 **ISSUE 16: WHAT IS THE APPROPRIATE TREATMENT OF**
5 **OUTBOUND VOICE CALLS OVER "INTERNET PROTOCOL ("IP")**
6 **TELEPHONY?**

7

8 **Q. DESCRIBE THE ISSUE THAT BELLSOUTH HAS RAISED**
9 **CONCERNING INTERNET PROTOCOL TELEPHONY?**

10 **A.** BellSouth proposed the following language to AT&T during negotiations to
11 address this issue:

12 The origination and end point of the call shall determine the
13 jurisdiction of the call, regardless of transport protocol
14 method. Unless expressly agreed to by the Parties in this
15 Agreement, neither Party shall represent as Local Traffic
16 any traffic for which access charges may be lawfully
17 assessed. The Parties have been unable to agree as to
18 whether "Voice-over Internet Protocol" transmissions
19 ("VOIP") which cross LATA boundaries constitute
20 Switched Access Traffic. Notwithstanding the foregoing,
21 and without waiving any rights with respect to either
22 Party's position as to the jurisdictional nature of VOIP, the
23 Parties agree to abide by any effective and applicable FCC

1 rules and orders regarding the nature of such traffic and the
2 compensation payable by the Parties for such traffic, if any.
3 Until such time as there is an effective and applicable FCC
4 Rule or Order, VOIP traffic which crosses LATA
5 boundaries will be considered switched access traffic.

6

7 AT&T proposed that this language not be included in the interconnection
8 agreement.

9

10 **Q. WHY IS BELLSOUTH'S PROPOSAL INAPPROPRIATE FOR THE**
11 **REGULATION OF INTERNET PROTOCOL TELEPHONY?**

12 **A.** BellSouth's claim that Internet Protocol telephony or VOIP is simply "plain
13 old telephone service" that should be subject to payment of switched access
14 charges is a continuation of a monopoly trying to hold on to its monopoly
15 service. IP telephony is in its infancy. There is no need for, and this
16 Commission should not, stifle its innovation by imposing burdensome
17 regulatory rules that in fact may not even work. The nature of Internet
18 Protocol could make enforcement of traditional regulatory classification next
19 to impossible. While BellSouth argues that there is no service distinction
20 involved between Internet Protocol and circuit-switched networks, Internet
21 Protocol technology blurs traditional distinctions between local and long
22 distance service and between voice, fax, data, and video services, thereby
23 making "one-size fits all regulation" a difficult proposition. The fundamental

1 design of Internet Protocol networks converts all forms of information into
2 indistinguishable packets of digital bits. Packets are routed through networks
3 based on a non-geographical, non-hierarchical addressing scheme that allows
4 packets to follow several possible routes between network nodes. At any
5 given node, it is impossible to determine the geographic origin of an
6 incoming packet, or its destination.

7

8 **Q. WHAT DOES VOICE OVER INTERNET PROTOCOL MEAN?**

9 A. The FCC has described IP Telephony or VOIP as "services that enable
10 real-time voice transmission using Internet protocols." The FCC has
11 observed that the service can be provided through "gateways" that enable
12 applications originating and/or terminating on the public switched
13 telecommunications network. The gateways are computers that transform the
14 circuit-switched voice signal into Internet Protocol packets and vice versa,
15 and perform associated signaling, control and address translation functions.
16 (Federal-State Joint Board on Universal Service, CC Docket No. 96-45,
17 Report to Congress, FCC 98-67, ¶ 84 (rel. April 10, 1998) ("Report to
18 Congress").

19

20 The phrase "Voice over Internet Protocol" can encompass a wide variety of
21 services. For instance, a voice call using Internet Protocol could be phone-to-
22 phone, computer-to-phone, phone-to-computer, or computer-to-computer. In
23 some cases it could be a voice call delivered to a World Wide Web address.

1 In other cases it could be a voice call delivered to a North American
2 Numbering Plan number or to an Internet Protocol address not on the World
3 Wide Web. Since all of these services make use of Internet Protocol
4 technology in handling the voice call, under BellSouth's proposal, switched
5 access charges would apply if the voice call crosses LATA boundaries.

6

7 **Q. WHICH TYPE OF CALL IS BELLSOUTH ADDRESSING?**

8 A. Although BellSouth has indicated in testimony in other states that it is only
9 addressing phone-to-phone Voice over Internet Protocol calls, its proposed
10 language makes no such delineation.

11

12 **Q. DOES AT&T AGREE WITH BELLSOUTH THAT SWITCHED
13 ACCESS CHARGES SHOULD APPLY AT LEAST TO PHONE-TO-
14 PHONE INTERNET PROTOCOL TELEPHONY?**

15 A. No. AT&T's position is that Internet Protocol telephony, including phone-to-
16 phone Internet Protocol telephony, should not be subject to switched access
17 charges.

18

19 **Q. HAS THE FCC EXPRESSLY DECLINED TO CLASSIFY PHONE-TO-
20 PHONE INTERNET PROTOCOL TELEPHONY AS A
21 TELECOMMUNICATIONS SERVICE, AND AS A RESULT
22 EXEMPTED SUCH CALLS FROM SWITCHED ACCESS
23 CHARGES?**

1 A. Yes. On several occasions over the last two years, the FCC has taken the
2 position that phone-to-phone Internet Protocol telephony voice calls are not
3 traditional telecommunications services and should not be treated as such. In
4 its Report to Congress issued April 10, 1998, the FCC declined to classify
5 phone-to-phone IP telephony as a telecommunications service. Report to
6 Congress, ¶ 90. In April 1999, the FCC declined to act on US WEST's
7 petition asking the FCC to declare phone-to-phone Internet Protocol
8 telephony a telecommunications service.

9

10 **Q. HAS THE FCC ISSUED ANY POLICY STATEMENTS ABOUT THE**
11 **TREATMENT OF INTERNET PROTOCOL TELEPHONY?**

12 A. Yes. The Chairman of the FCC has stated that he “does not want to impose
13 ‘legacy’ telephone regulations on any part of the Internet, including Internet
14 telephony.” He further stated:

15 [I]t’s important to recognize that legacy regulation is not
16 necessarily appropriate to emerging network technologies,
17 so when people start asking ‘when are you going to regulate
18 IP telephony,’ my answer is always the same – never.¹

19

¹ *Kennard Pledges No Regulation for Internet Telephony*, WARREN’S WASHINGTON INTERNET DAILY, Vol. 1, No. 3, May 25, 2000, at 1

1 The Chairman reiterated this position in a speech delivered on September 12,
2 2000. FCC Chairman Kennard urged regulators to decline imposing existing
3 regulatory schemes on new technologies:

4 [D]uring this transition, the answer is not to saddle nascent
5 technology with the increasingly obsolete legacy
6 regulations of the past. Their architectures fundamentally
7 differ, and so should their rules. In short, one-size
8 regulation does not fit all. It just doesn't make sense to
9 apply hundred-year old regulations meant for copper wires
10 and giant switching stations to their IP networks of today.
11 And I oppose any plan to levy any new fees or taxes on IP
12 telephony.²

13
14 Chairman Kennard's statements not only support the conclusion that
15 the FCC has not found IP telephony to be the same as switched access traffic,
16 but they further indicate that the FCC believes there is good reason to reject
17 labeling this technological development by reference to older categories of
18 service. Accordingly, although Internet Protocol telephony provides voice
19 calling capability, BellSouth's argument that "if it looks like a duck, it must
20 be a duck" and similar comparisons should not be accepted as justification
21 for classifying new services as telecommunications services subject to
22 applicable regulation.

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Q. WHAT DOES AT&T PROPOSE THIS COMMISSION DO?

A. AT&T recommends that the Commission find that Internet Protocol telephony is not subject to switched access charges, and that BellSouth's proposed language be rejected.

ISSUE 27: SHOULD THE COMMISSION OR A THIRD PARTY COMMERCIAL ARBITRATOR RESOLVE DISPUTES UNDER THE INTERCONNECTION AGREEMENT?

Q. EXPLAIN THE ISSUE CONCERNING ALTERNATIVE DISPUTE RESOLUTION?

A. BellSouth proposes to eliminate the ability for either party to make use of a third party arbitrator in order to settle disputes arising from interpreting or implementing the new interconnection agreement.

Q. WHAT IS AT&T'S PROPOSAL?

A. AT&T had originally proposed the use of third party arbitrators as the preferred means for dispute resolution. Recently AT&T proposed language to BellSouth that would allow the dispute to go to the Commission if both parties agree and also request the Commission to hear the dispute on an

² Remarks by FCC Chairman Kennard before the Voice Over Net Conference, Atlanta,

1 expedited schedule. Alternatively, AT&T's language proposes that the
2 dispute can go to the alternative dispute resolution process if both parties
3 agree. If there is not agreement among the parties, then the aggrieved party
4 can choose the method of resolution. BellSouth has indicated, however, that
5 AT&T's proposed language is still unacceptable, and still prefers to have this
6 Commission resolve all disputes arising from a disagreement on what the
7 interconnection requires. AT&T's proposed language states, in part:

8 Upon agreement of both parties, disputes arising out of this
9 Agreement will be submitted to the Commission and both
10 parties will request the Commission to resolve the dispute on
11 an expedited schedule. An expedited scheduled request
12 would require the Commission to hear the Complaint within
13 60 days of filing. In the alternative and upon the agreement
14 of both parties, disputes arising under this contract may be
15 resolved through a dispute resolution process as outlined
16 below. If there is no agreement between the parties regarding
17 an expedited schedule for disputes submitted to the
18 Commission or for the dispute to be resolved through the
19 dispute resolution process, then the aggrieved party may
20 choose the method of resolution.

21

22 **Q WHAT IS THE PURPOSE OF AT&T'S PROPOSAL?**

Georgia, September 12, 2000.

1 A. The purpose of AT&T's proposed language is the expeditious resolution of
2 disputes. If a dispute can be resolved quicker through the alternative dispute
3 resolution process, then AT&T would prefer the use of that method of
4 resolution. On the other hand, if a dispute can be resolved more quickly
5 through the Commission, then AT&T would want the Commission to hear
6 the dispute. In fact, as I have similarly testified in the arbitration proceedings
7 in both Georgia and North Carolina, if this Commission had rules established
8 for hearing cases on an expedited basis, or a "rocket docket", then AT&T
9 would agree to BellSouth's proposal to take all disputes to the Commission.

10

11 **Q. WHY SHOULD THE COMMISSION ADOPT AT&T'S, AS OPPOSED**
12 **TO BELLSOUTH'S PROPOSAL?**

13 AT&T's proposal is a more reasonable and realistic approach to dispute
14 resolution. It allows both parties a vote in whether the dispute goes to
15 alternative dispute resolution or to the Commission. If one party votes for the
16 dispute to go to the Commission and the other for alternative dispute
17 resolution, then the aggrieved party can choose. AT&T's proposal also
18 allows for the quickest resolution of the dispute. Often, service affecting
19 disputes arise under these interconnection agreements that require immediate
20 resolution. In such circumstances, it may not be feasible to take the dispute
21 to the Commission if the Commission has a full calendar and would be
22 unable to have a hearing for nine to twelve months. Accordingly,
23 BellSouth's proposal that all disputes go to the Commission results in too

1 much uncertainty as to when a final decision would be reached on any given
2 dispute.

3 **Q. IS AT&T OPPOSED TO HAVING THE COMMISSION ADDRESS**
4 **ALL COMPLAINTS ARISING FROM DISPUTES BETWEEN AT&T**
5 **AND BELL SOUTH CONCERNING THE INTERCONNECTION**
6 **AGREEMENT?**

7 **A.** No. However, AT&T is aware that this Commission has already decided that
8 it will not adopt a separate expedited process to resolve such disputes. In
9 responding to an ALECs petition filed on December 10, 1998, requesting
10 among other things the initiation of a rulemaking proceeding to establish
11 expedited dispute resolution procedures, the Commission denied that request,
12 stating:

13 We agree with BellSouth that parties already have the
14 opportunity to file petitions with requests for expedited
15 treatment. Also, we agree that the expedited processes
16 requested would deprive us of the discretion to exercise our
17 jurisdiction as we see fit and would entitle ALECs to
18 special treatment that other entities who come before us do
19 not receive.³

20

³ Order No. PSC-99-0769-FOF-TP issued April 21, 1999 in Docket No. 981834-TP.

1 As AT&T increases its entry into the local market, it is in the best interest of
2 the parties and the Commission that the parties resolve commercial
3 operational disputes as quickly as possible.
4

5 Q. WHAT DOES AT&T PROPOSE THIS COMMISSION DO?

6 A. AT&T requests that this Commission adopt AT&T's language allowing the
7 parties an option of submitting disputes arising under the interconnection
8 agreement to the Commission or to an alternative dispute resolution process.
9

10 **ISSUE 33: SHOULD AT&T BE ALLOWED TO SHARE THE**
11 **SPECTRUM ON A LOCAL LOOP FOR VOICE AND DATA WHEN**
12 **AT&T PURCHASES A LOOP/PORT COMBINATION AND IF SO,**
13 **UNDER WHAT RATES, TERMS, AND CONDITIONS?**
14

15 Q. **WHAT IS THE FUNDAMENTAL ISSUE THAT AT&T SEEKS TO**
16 **RESOLVE IN THIS ARBITRATION WITH RESPECT TO ACCESS**
17 **TO THE HIGH-FREQUENCY SPECTRUM PORTION OF THE**
18 **LOOP?**

19 A. AT&T seeks, through its proposed contract language on this issue, to gain
20 reasonable and nondiscriminatory access to the "high frequency spectrum"
21 portion of the local loops that AT&T leases from BellSouth to provide
22 services to customers based upon the UNE-P and UNE-L architectures. Such
23 access includes the ability for ALECs to purchase line splitters and avail

1 themselves of the same associated ordering, provisioning and maintenance
2 functions that BellSouth provides to itself.

3

4 **Q. WHY SHOULD BELLSOUTH'S POSITION ON THIS ISSUE BE A**
5 **MATTER OF CONCERN TO THE COMMISSION?**

6 A. UNE-P is a key mechanism for rapid and broad market entry for an ALEC
7 seeking to compete with BellSouth for the mass market. It is clear from press
8 reports and pronouncements by the ILECs themselves that advanced services
9 based on DSL technology are a prime source of both potential "new"
10 revenues and a means to retain current customers. For instance, BellSouth is
11 currently advertising its FastAccess Internet Service, and comparing its price
12 to existing Internet service handled through a second telephone line. These
13 DSL technologies were developed to utilize the high frequency spectrum of a
14 traditional local loop and permit advanced services, such as asymmetrical
15 high-speed Internet access, to operate on the same line and at the same time
16 as POTS. Advanced services are attractive to a crucial segment of the market
17 for local telecommunications services. Residential customers would only
18 need one line instead of two when purchasing this service. Because of their
19 importance, the manner in which advanced services are deployed will also
20 affect the potential for competition in markets for traditional
21 telecommunications.

22

1 Thus, regardless of whether AT&T deploys its own xDSL assets (such as
2 DSLAMs and packet switches) or makes the service available to customers
3 via arrangements with third party contractors, it's ability to compete will be
4 significantly constrained unless BellSouth is required to implement
5 nondiscriminatory line splitting procedures that enable it to add, modify, or
6 remove xDSL capabilities operating in the high frequency portion of the loop
7 of a new or already operating UNE loop. It is also important that AT&T not
8 be denied the opportunity to migrate existing BellSouth customers to a UNE-
9 P architecture simply because BellSouth or its data affiliate provides
10 advanced data service on the high frequency portion of the loop.

11

12 **Q. PLEASE EXPLAIN WHAT YOU MEAN BY THE “HIGH**
13 **FREQUENCY PORTION OF THE LOOP” AND DESCRIBE HOW IT**
14 **IS USED IN THE PROVISION OF SERVICES TO CUSTOMERS.**

15 **A.** Advanced services or xDSL technologies take advantage of the ability to split
16 a loop into separate high frequency and low frequency components. The
17 low-frequency portion is used to provide voice services, and the high
18 frequency portion may be used for high-speed digital data services. The
19 xDSL technologies are uniquely capable of supporting efforts to provide
20 voice and high-speed Internet access efficiently to customers over the
21 existing wireline loop infrastructure.

22

1 **Q. PLEASE EXPLAIN THE TERMS USED TO DESCRIBE THE**
2 **VARIOUS CIRCUMSTANCES IN WHICH MULTIPLE PROVIDERS**
3 **PROVISION SERVICE ON A LOOP SIMULTANEOUSLY.**

4 A. ILECs today are required, under the FCC's "line sharing" order, to provide
5 access to the high-frequency portion of the local loop to a requesting ALEC.
6 FCC order 99-255, issued in Docket Nos. 98-147 and 96-98, released
7 December 9, 1999. BellSouth has chosen to interpret the FCC's order on line
8 sharing to mean that only BellSouth can be the voice provider in these
9 circumstances. Under this line sharing arrangement, BellSouth inserts a
10 "splitter" on the line and a data ALEC may then use the high frequency
11 spectrum to provide advanced services, leaving the voice service with ILEC.
12 What AT&T in this arbitration seeks is what I refer to as "line splitting."
13 From a technical viewpoint, "line sharing" and "line splitting" are identical,
14 as I will discuss. Line splitting is distinct in one important respect, however.
15 Under line splitting, BellSouth would not be the voice provider. Instead,
16 AT&T would acquire the loop via the UNE-Platform (UNE-P) arrangement,
17 and in turn would provide both the voice and data services, either by itself or
18 in conjunction with another data carrier.

19

20 **Q. HAS BELLSOUTH BEEN WILLING TO NEGOTIATE WITH AT&T**
21 **TO PROVIDE ACCESS TO THE HIGH-FREQUENCY SPECTRUM**
22 **OF A UNE LOOP WHEN THE LOOP IS PART OF A**
23 **LOOP/SWITCHING COMBINATION?**

1 A. No. BellSouth refuses to provide the capability to perform line splitting.
2 AT&T has requested a line splitting capability that, as I have indicated,
3 would allow AT&T to gain access to the high frequency spectrum portion of
4 the loop for UNE-Loops purchased as a part of the UNE-Platform. BellSouth
5 has been unwilling to negotiate any practical ability by AT&T to gain access
6 to the high frequency portion of the loop under UNE-P. Where UNE-P is
7 involved, BellSouth has indicated that it will deny access to a BellSouth
8 splitter. Instead, BellSouth has proposed that AT&T be required to purchase
9 collocation space in every central office, add its own line splitters, and order
10 and combine loops and switch ports in an uncoordinated manner in order to
11 gain access to the high frequency portion of the loop. In other words, the
12 restrictions insisted upon by BellSouth in negotiations would, as a practical
13 matter, preclude a provider from using the UNE-Platform to provide voice
14 and advanced data services.

15
16 In taking this position BellSouth has chosen to ignore the FCC's First Report
17 and Order in the Local Interconnection proceeding (FCC Order No. 96-325
18 issued Docket No. 98-96, released August 8, 1996), which provides that a
19 ALEC is entitled to utilize all functions and capabilities of the UNE element
20 – in this case, the entire high- and low-spectrum capability of the UNE Loop
21 – which the ALEC has bought and paid for. An ALEC is also entitled to
22 avail itself of any equipment that allows the UNE element to be used to its
23 fullest capability – in this case, the splitter. Moreover, BellSouth is refusing

1 to provision UNE-P in the same manner that it makes loop capabilities
2 available to data ALECs. This discriminates against one class of carriers
3 (i.e., UNE-P ALECs) in favor of another (data ALECs). BellSouth's position
4 would ensure that it remains the voice provider with the data ALEC's
5 advanced data service offerings, while precluding AT&T from providing
6 voice and advanced data services utilizing the UNE-P architecture. This is
7 clearly anticompetitive.

8

9 **Q. OPERATIONALLY, HOW WOULD BELLSOUTH PROVIDE LINE**
10 **SPLITTING HIGH FREQUENCY PORTION OF THE LOOP ACCESS**
11 **ON A UNE-P LOOP?**

12 A. Operationally, BellSouth would provide *line-splitting* high frequency portion
13 of the loop access on a UNE loop in much the same way it provides *line*
14 *sharing* with data ALECs when BellSouth provides the underlying local
15 voice service. BellSouth needs only to simply insert a high frequency portion
16 of the loop line splitter to the UNE-P loop/port combination, and wire the
17 high-frequency output of the splitter to the designated collocation point of
18 interconnection (POI) for the data ALEC.

19

20 **Q. WHY SHOULD BELLSOUTH BE REQUIRED TO DEPLOY THE**
21 **LINE SPLITTERS FOR UNE-P ALECS?**

22 A. First, as the FCC has made clear, when AT&T buys a loop, the ILECs are
23 obligated to provide access to all of the functionalities and capabilities of that

1 loop, including associated electronics (such as the line splitter). In fact, it
2 appears that BellSouth agrees with this, per the testimony of BellSouth
3 witness Ms. Cox in North Carolina. (NCUC Docket No. P-100, SUB 133d)
4 Second, having the ILECs furnish the line splitter as an integral part of the
5 loop electronics is the only way to allow high frequency portion of the loop
6 access to be delivered in an UNE-P architecture in a manner that is efficient,
7 timely, and minimally disruptive to the retail customer. It is also important to
8 note that the line splitter is NOT a separate UNE itself. It is a part of the
9 associated loop electronics that allows access to the high frequency portion of
10 the loop of the loop. Without the option of an ILEC-furnished line splitter,
11 an ALEC provider must, in every end office, purchase collocation space,
12 deploy its own splitter, and go through a non UNE-P provisioning process
13 that is lengthy, cost prohibitive, and unduly disruptive to the customer. Thus,
14 any failure by the ILECs to deploy line splitters effectively destroys the
15 utility of UNE-P as a viable means of competing for residential customers
16 who want advanced services.

17

18 **Q. YOU MENTIONED PREVIOUSLY THAT BELLSOUTH'S**
19 **PROPOSAL FOR ALLOWING ACCESS TO THE HIGH**
20 **FREQUENCY PORTION OF THE LOOP WOULD IN FACT**
21 **RENDER THE HIGH FREQUENCY PORTION OF THE LOOP**
22 **UNAVAILABLE, AS A PRACTICAL MATTER. PLEASE EXPLAIN.**

1 A. Because BellSouth refuses to provide line splitters to UNE-P ALECs like
2 they do for other data ALECs, UNE-P providers cannot provide service
3 without first obtaining collocation space and installing their own line splitters
4 in every central office. BellSouth's method would require AT&T to incur
5 intolerable delays and significantly greater costs to provide both voice and
6 advanced services to its customers. Moreover, AT&T customers would be
7 subject to an unnecessary "hot-cut like" process, because AT&T would have
8 to coordinate the combining of the loop and port elements. The BellSouth
9 process is inconsistent with the concept of UNE-P, whereby the ILEC
10 provides all of the contiguous elements and where the ALEC is not required
11 to install its own equipment to provide service.

12

13 **Q. IN YOUR VIEW, IS BELLSOUTH USING ITS DOMINANT**
14 **POSITION IN THE LOCAL MARKET TO GAIN A COMPETITIVE**
15 **ADVANTAGE IN THE ADVANCED SERVICES MARKET?**

16 A. Yes. Even as it continues to refuse to cooperate in enabling ALECs to add
17 advanced service capabilities to the voice services they provide via UNE-P,
18 BellSouth is racing ahead with its own advanced service deployment and
19 marketing. BellSouth is rolling out advanced services to retail customers at
20 breakneck speed.

21

22 Of course, BellSouth's remarkable progress in rolling out its advanced
23 service offering would not have been possible if the company's retail

1 operation had encountered the same kinds of delays that competitors have
2 faced in obtaining high frequency portion of the loop access. While
3 BellSouth has every right to try to win customers for its bundled local voice
4 and data services, it cannot, at the same time, foreclose competition by
5 denying competitors nondiscriminatory access to xDSL loops or preventing
6 them from adding xDSL to UNE-P lines.

7 **Q. WHAT DOES AT&T RECOMMEND THE COMMISSION DO ON**
8 **THIS ISSUE?**

9 A. AT&T asks that the Commission find that Bellsouth must provide line
10 splitting as requested by AT&T, to be used when AT&T purchases loop/port
11 combinations from BellSouth.

12

13 **Q. CAN YOU SUMMARIZE YOUR TESTIMONY?**

14 A. Yes. AT&T requests this Commission to order the following:

15

16 • no cancellation charges will be applied when AT&T requests to convert
17 services purchased out of BellSouth's tariffs to network elements, including
18 combinations of network elements. (Issue 6);

19 • any local line limitation that applies to the use of local switching in the three
20 specific MSAs in Florida apply to each physical location where AT&T orders
21 local switching from BellSouth, and not to a specific customer with multiple
22 locations on the same bill. (Issue 11);

- 1 • Internet Protocol telephony is not subject to switched access charges, and that
2 BellSouth's proposed language be rejected. (Issue 16);
- 3 • the parties will be allowed the option of submitting disputes arising under the
4 interconnection agreement to the Commission or to an alternative dispute
5 resolution process. (Issue 27); and
- 6 • BellSouth must provide line splitting as requested by AT&T, to be used when
7 AT&T purchases loop/port combinations from BellSouth. (Issue 33).

8 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

9 **A. Yes.**

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