

AUSLEY & MCMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET
P.O. BOX 391 (ZIP 32302)
TALLAHASSEE, FLORIDA 32301
(850) 224-9115 FAX (850) 222-7560

June 18, 2001

BY HAND DELIVERY

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

Re: ALLTEL Communications, Inc.; Docket No. 010302-TP

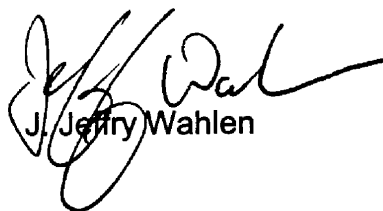
Dear Ms. Bayo:

Enclosed for filing on behalf of ALLTEL Communications, Inc. in the above-referenced docket are the original and fifteen (15) copies of the Direct Testimony and Exhibits (JE-1 to JE-6) of Jayne Eve.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to this writer.

Thank you for your assistance in this matter.

Sincerely,



J. Jeffrey Wahlen

JJW/jh

cc: Parties of Record

h:\data\jjw\alltel.com\010302\bayo ltr 061801.doc

DOCUMENT NUMBER-DATE

07565 JUN 18 2001

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re:)
)
Petition of ALLTEL Communications, Inc.)
for arbitration with BellSouth Telecommuni-)
cations, Inc. pursuant to Sec. 252 of the)
Telecommunications Act of 1996 respecting)
an Interconnection Agreement)
_____)

Filed: June 18, 2001
Docket No. 010302-TP

**DIRECT TESTIMONY OF JAYNE EVE
ON BEHALF OF
ALLTEL COMMUNICATIONS, INC.**

1 **Q. Please state your name, business address and business position.**

2 **A.** My name is Jayne Eve. My business address is 236 West Center
3 Avenue, Mooresville, North Carolina. I am employed by ALLTEL
4 Communications, Inc., formerly known in Florida as ALLTEL Long
5 Distance, Inc., ("ALLTEL") as Staff Manager – State Regulatory Affairs.

6

7 **Q. Please provide information on your educational and business**
8 **background and experience.**

9 **A.** I received a Bachelor of Science in Business Administration and
10 Accounting from the University of South Carolina in 1982. I am a Certified
11 Public Accountant ("CPA") in the state of North Carolina and, from 1982
12 until 1986, I worked with a large CPA firm as an auditor and participated in
13 the BellSouth Corporation audits for each of those years. I have been
14 employed by ALLTEL since 1986 and have held positions in Access
15 Billing, Settlements and Revenue Requirements, Special Projects,
16 Industry Relations, Marketing, Interconnection Services and State
17 Regulatory. I have been involved personally in previous and current
18 interconnection negotiations with BellSouth Telecommunications, Inc.
19 ("BellSouth") on behalf of ALLTEL including the negotiations leading up to
20 this arbitration, and have testified in an arbitration proceeding involving
21 BellSouth before the Public Service Commission of South Carolina.

22

23 **Q. What is the purpose of your testimony?**

1 **A.** The purpose of my testimony is to describe (i) the relationship between
2 ALLTEL and BellSouth (collectively, the "Parties") in connection with their
3 existing interconnection agreement in Florida, (ii) the negotiations between
4 the Parties for a new interconnection agreement to take effect upon the
5 expiration of the existing agreement, and (iii) the background information
6 and ALLTEL's position regarding the various issues which have not been
7 resolved as yet by the Parties in those negotiations.

8

9 **Q.** Please describe generally ALLTEL's corporate structure, operations
10 in Florida and relationship with BellSouth.

11 **A.** ALLTEL is a wholly owned subsidiary of ALLTEL Corporation. ALLTEL
12 has been certificated by the Florida Public Service Commission
13 ("Commission") to provide telecommunications services in Florida,
14 including local exchange services in BellSouth's local exchange service
15 area.

16

17 BellSouth is a Georgia corporation, is certificated to provide local
18 exchange telecommunications services within certain service areas in the
19 State of Florida, and is an incumbent local exchange carrier ("ILEC")
20 within the meaning of 47 U.S.C. §251 and 252.

21

22 ALLTEL and BellSouth are parties to an interconnection agreement
23 ("Existing Interconnection Agreement") originally effective on July 23, 1997
24 and approved by the Commission in Docket No. 971017-TP by Order No.

1 PSC-97-1461-FOF-TP issued November 20, 1997. The expiration date of
2 the Existing Interconnection Agreement was thereafter extended by
3 agreement of the Parties until September 1, 1999. The Parties have
4 continued to provide and receive services under the terms and conditions
5 of the Existing Interconnection Agreement and a related Interim
6 Agreement, which was executed by the parties to be effective as of
7 June 27, 2000, pending final determination of the terms and conditions of
8 a Follow-on Agreement by negotiation or arbitration.

9
10 A copy of the General Terms and Conditions of the Existing
11 Interconnection Agreement is attached hereto as Exhibit No. ____ (JE-1).
12 A copy of the Interim Agreement is attached hereto as Exhibit No. ____
13 (JE-2).

14
15 **Q. Please describe generally the negotiations which occurred between**
16 **the parties leading up to the Petition for Arbitration and any**
17 **additional negotiations subsequent thereto.**

18 **A.** By letter sent by BellSouth on September 19, 2000, and received by
19 ALLTEL on September 20, 2000, (which is attached hereto as Exhibit No.
20 ____ (JE-3), BellSouth gave ALLTEL notice as to the commencement of
21 negotiations pursuant to Section 2.2 of the Existing Interconnection
22 Agreement for new terms, conditions and prices of a Follow-on Agreement
23 to take effect as of the expiration of the Existing Interconnection
24 Agreement.

1 Between September 20, 2000, and the filing of ALLTEL's Petition for
2 Arbitration on March 8, 2001, ALLTEL and BellSouth have engaged in
3 numerous conference calls, exchanges of electronic messages,
4 exchanges of drafts of "red-lined" proposed contract language, and one
5 face-to-face meeting in an attempt to negotiate prices, terms and
6 conditions for the Follow-on Agreement that would be acceptable to the
7 Parties on all issues. The proposed Follow-on Agreement is over 700
8 pages long and was attached as Exhibit A to the Response filed by
9 BellSouth in this docket on April 2, 2001.

10

11 As of the filing of the Petition, there were still approximately eighteen (18)
12 unresolved issues, which are referenced on the "Issues Matrix," which
13 was attached to ALLTEL's Petition and is attached hereto as Exhibit No.
14 ___ (JE-4). It should be noted that the unresolved issues are identified by
15 Issue numbers which are not in consecutive order (e.g., the "first" issue
16 listed on the matrix is #3), as many other issues which were previously
17 given numbers by the Parties as part of the same numbering sequence
18 have been subsequently resolved. The document attached hereto as
19 Exhibit No. ___ (JE-5) was included as an exhibit to the Petition and is the
20 Contract Language Proposals for the Unresolved Issues in this case as of
21 the filing of the Petition.

22

23 As of the issues identification conference in this docket on May 8, 2000,
24 the number of unresolved issues between the parties had been reduced

1 via negotiation to a total of six (6). Since the issues identification
2 conference, the parties have continued to negotiate and have resolved all
3 but three (3) of the original issues. The remaining issues to be decided by
4 the Commission in this docket are: Issue 25 – FPSC’s Ability to Hear
5 Waiver Petitions Regarding Special Access Conversions, Issue 39 –
6 Inclusion of Provisioning Interval Guides in the Agreement, and Issue 40 –
7 Effective Date of Performance Enforcement Measures. These issues
8 were renumbered as Issue Nos. 3, 4 and 5, respectively, in the Order
9 Establishing Procedure, issued May 16, 2001, in this proceeding.

10

11 **Q. With respect to Issue No. 3 [initially No. 25], allowing ALLTEL the**
12 **option of seeking a waiver from either the FCC or this Commission**
13 **permitting the conversion of special access service combinations,**
14 **what is ALLTEL's concern?**

15 **A. As shown on page 7 of 9 of Exhibit No. ____ (JE-5), Attachment 2, Section**
16 **5.3.7.2 of the proposed Follow-on Agreement relates to ALLTEL's ability to**
17 **petition either the FCC or this Commission for a waiver to convert special**
18 **access service combinations to UNEs under appropriate circumstances. It**
19 **states:**

20 In addition, there may be extraordinary circumstances where
21 ALLTEL is providing a significant amount of local exchange
22 service, but does not qualify under any of the three options
23 set forth in Section 5.3.7.1. In such case, ALLTEL may
24 petition the FCC or the state commission for a waiver of the

1 local usage options set forth above. If a waiver is granted,
2 then upon ALLTEL's request the Parties shall amend this
3 Agreement to the extent necessary to incorporate the terms
4 of such waiver for such extraordinary circumstance.
5 [Emphasis added. BellSouth objects to the inclusion of the
6 underlined language.]

7
8 When a CLEC, such as ALLTEL, desires to convert an existing BellSouth
9 special access service facility to a UNE combination, the FCC has
10 established certain criterion (i.e., three specific "safe harbor"
11 circumstances) for these conversions. See Supplemental Order
12 Clarification, *In the Matter of Implementation of the Local Competition*
13 *Provisions of the Telecommunications Act of 1996*, CC Dkt No. 96-98, Rel.
14 No. FCC 00-183 (June 2, 2000), ¶¶ 22-23. ("Supplemental Order
15 Clarification") The FCC, however, has also acknowledged that there
16 might be circumstances under which a requesting carrier is providing a
17 significant amount of local exchange service but otherwise does not
18 expressly qualify under any of the three defined safe harbor options.
19 Under such circumstances, the FCC has acknowledged that a waiver
20 might be appropriate. See Id.

21
22 ALLTEL proposes being able to petition either the FCC or this
23 Commission for such a waiver. BellSouth objects and wants to limit
24 ALLTEL's opportunity to such relief to the FCC. ALLTEL does not agree

1 that the only available avenue for petitioning for a waiver is with the FCC
2 but (since the primary issue involved is the amount and nature of local
3 exchange traffic). Rather, ALLTEL proposes that this Commission also be
4 available to consider and grant such waivers and to provide for an
5 alternative and expedited way for ALLTEL to be able to convert this
6 facility.

7
8 There is nothing in the FCC's Supplemental Order Clarification, see id.
9 which expressly prohibits this Commission from considering and granting
10 such a waiver. ALLTEL's proposed language in Attachment 2, Section
11 5.3.7.2, regarding Issue No. 3 [originally No. 25] should be approved by
12 this Commission.

13
14 **Q. With respect to Issue No. 4 [originally No. 39] (Provisioning Intervals**
15 **in the Agreement), what are ALLTEL's concerns?**

16 **A.** As shown on page 9 of 9 of Exhibit No. ____ (JE-5), Attachment 6, Section
17 3.9 of the proposed Follow-on Agreement is ALLTEL's proposed language
18 relating to provisioning intervals. It states:

19 Provisioning Intervals. The Parties have agreed to the
20 provisioning intervals for Resale and Unbundled Network
21 Elements as shown in Attachment 6, Exhibit A - BellSouth
22 Products & Services Interval Guide, Issue 3, July, 2000, as
23 stated or any shorter intervals as BellSouth may provide.

1 The FOC interval would be as stated or as required by
2 Attachment 9 Performance Measurements.

3
4 BellSouth objects to the inclusion of this language in the final agreement.
5 The issue in dispute here is not the final resolution of performance
6 measurement intervals or enforcement, which will be addressed and
7 resolved in the Commission's ongoing generic docket on performance
8 measures. Issue 39 deals with BellSouth's ordering interval "guides" or
9 "targets," which BellSouth currently places on its Internet web-site. These
10 interval guides/targets currently may be unilaterally and arbitrarily changed
11 by BellSouth to ALLTEL's detriment with no prior notice to ALLTEL and no
12 opportunity for ALLTEL to bargain for any different target intervals if the
13 proposed changes would be harmful to ALLTEL. ALLTEL would like these
14 intervals, instead, to be incorporated into this Agreement to the extent
15 necessary to avoid such harm.

16
17 Under ALLTEL's proposal, BellSouth would be allowed to unilaterally
18 shorten (but not lengthen) them without notice to ALLTEL. If BellSouth
19 desires to lengthen them in a manner detrimental to ALLTEL, ALLTEL
20 would then have the right and opportunity to negotiate for different
21 intervals.

22
23 ALLTEL's proposal is just and reasonable. Every time BellSouth changes
24 a provisioning interval ALLTEL is required to change its process and

1 procedures so that customers are not given unreasonable expectations as
2 to when the conversion might occur. Without compensating controls, i.e.,
3 requiring BellSouth to renegotiate or at least substantiate interval changes
4 to ALLTEL, it is likely that the intervals will get longer and longer.

5
6 ALLTEL relies upon the consistency of these provisioning intervals to
7 develop internal processes and procedures, as well as relying on these
8 intervals as a basis for determining conversions of our customers. If that
9 reliability is compromised because BellSouth wishes to have flexibility to
10 change the intervals without notice, then competition and ALLTEL's
11 goodwill with its customers will be impaired along with its ability to provide
12 quality service.

13
14 The BellSouth posted interval targets are used by ALLTEL for submitting
15 local service orders ("LSRs"). In preparing LSRs ALLTEL must know how
16 many days it's going to take to convert a particular UNE. For example, if
17 BellSouth targets seven days, ALLTEL must submit an LSR with that
18 seven-day interval. ALLTEL is not allowed to submit an interval within four
19 days, because BellSouth would just reject it, saying that their target
20 interval is seven days, unless ALLTEL wanted to pay extra to expedite it.
21 In any cases in which BellSouth wants to increase the interval, ALLTEL
22 should be allowed to require an amendment be negotiated so that
23 BellSouth cannot arbitrarily change those intervals without affording

1 ALLTEL input. ALLTEL relies on those intervals to provide its customers
2 with a reasonable expectation of when their service will be converted.

3

4 For the foregoing reasons, the Commission should approve ALLTEL's
5 proposed language regarding Issue No. 4 [originally No. 39].

6

7 **Q. With respect to Issue No. 5 [originally No. 40] (effective date of**
8 **performance enforcement mechanisms), what are ALLTEL's**
9 **concerns?**

10 **A.** BellSouth proposes that all issues related to performance measure
11 enforcement and penalties be deferred until BellSouth obtains §271
12 authority to provide interLATA long distance. As shown on page 9 of 9 of
13 Exhibit No. ___ (JE-5), BellSouth's proposed contract language as it would
14 appear in Attachment 9, Section 4.2 of the Follow-on Agreement is as
15 follows:

16 **"Effective Date. The enforcement mechanisms set**
17 **forth in this section shall only become effective upon**
18 **an effective FCC order, which has not been stayed,**
19 **authorizing BellSouth to provide interLATA**
20 **telecommunications services under section 271 of**
21 **the Act within a particular state and shall only apply**
22 **to BellSouth's performance in any state in which the**
23 **FCC has granted BellSouth interLATA authority."**

1 [ALLTEL objects to this language appearing in the
2 agreement.]

3

4 BellSouth has taken a similar position with respect to this issue in this
5 Commission's yet to be resolved generic docket regarding performance
6 measurements and enforcement procedures that would be generally
7 applicable to all CLECs in Florida regarding BellSouth. See In re:
8 Investigation into the Establishment of Operations Support Systems
9 Permanent Performance Measures for Incumbent Local Exchange
10 Telecommunication Companies, Docket No. 000121-TP, Issue 8 - When
11 should the Performance Assessment Plan become effective? Since
12 BellSouth has only recently applied for §271 authority in Florida, BellSouth
13 knows that this will give BellSouth a competitive advantage over ALLTEL
14 for some time to come.

15

16 Upon commencement of negotiations between ALLTEL and BellSouth in
17 September, 2000, for a Follow-on Agreement, BellSouth offered ALLTEL
18 BellSouth's Regional Service Quality Measurements ("SQMs") and
19 Voluntary Self-Effectuating Enforcement Measurements ("VSEEMs"),
20 Version 2Q00:8/2/00, which contained BellSouth's generally available
21 regional performance measurements and remedy plan. At the time, these
22 SQMs and VSEEM were contained in Exhibits A, B, C, D and E, located on
23 the BellSouth website. These SQMs can be seen at

1 <https://pmap.bellsouth.com/help.cfm>. BellSouth proposed to include them in the
2 Follow-on Agreement as Attachment 9 -- Performance Measures.

3
4 ALLTEL has agreed to accept the BellSouth SQM ~~and VSEEM, Version~~ ⁵⁶¹
5 ~~2Q00:8/2/00 and Exhibits A, B, C, D and E,~~ as initially presented by
6 BellSouth with a modification. ALLTEL, however, has proposed that the
7 performance measurement and remedy plan should be effective
8 immediately, not upon BellSouth's obtaining §271 approval as proposed
9 by BellSouth.

10
11 The Commission should not be influenced by BellSouth's attempt to offer
12 a guaranteed level of service to ALLTEL only after it has been rewarded
13 the ability to provide InterLATA toll services because competition will be
14 inhibited due to poor performance long before that approval occurs. With
15 limited capital investment and resources for deployment, CLEC's are
16 under pressure to deploy in states that are favorable to competition. Many
17 factors affect the CLEC's determination of which states are most receptive
18 to competition. Among these factors are a CLEC's assurance of a level
19 playing field on which to compete with the ILEC through assurance of
20 parity performance. ALLTEL's ability to effectively deliver a quality service
21 to end users depends partly on BellSouth's ability and willingness to fulfill
22 its obligations under the terms of the interconnection agreement.

23

1 Currently, in the state of Florida, the only way to address performance or
2 breach of contract situations is through a state Commission complaint
3 procedure. This procedure places a recurring financial and administrative
4 burden on both the CLECs and the Commission, even though BellSouth's
5 actions are responsible for the complaint. An alternative method, currently
6 available in other states and originally offered to ALLTEL by BellSouth in
7 the VSEEMs, is self-effectuating enforcement measures. Such self-
8 effectuating enforcement measures are also under consideration by this
9 Commission in its pending generic docket. This alternative would
10 establish a consistent process that assures a CLEC either a level of
11 service to be provided by the incumbent which is in parity with the ILEC or
12 a mechanism to improve this service. However, ALLTEL needs to have
13 such enforcement procedures in place on an interim basis while the
14 generic docket is pending (including a reconsideration proceeding and any
15 judicial review period).

16
17 The Georgia Public Service Commission concluded its generic
18 performance measure proceeding in Docket No. 7892-U by ordering
19 BellSouth's adoption and implementation of performance measurements,
20 benchmarks and retail analogs and enforcement mechanisms
21 substantially similar to those sought by ALLTEL here. The Georgia
22 generic proceeding on performance measures and remedies has taken
23 approximately a year and a half and has been conducted with input from
24 BellSouth, CLECs and the Commission Staff.

1 As an interim measure with respect to this Follow-on Agreement and to
2 assist competition while Florida's generic Docket No. 000121-TP is
3 progressing, this Commission should implement (i) the performance
4 measurements and remedy plan ordered regarding BellSouth in Georgia
5 Docket No. 7892-U [(See attached Exhibit No. ____ (JE-6)] or (ii) in the
6 alternative, the version of Attachment 9 which was originally proposed to
7 ALLTEL by BellSouth in this case (except for the provision delaying
8 implementation until BellSouth obtains §271 relief).

9

10 **Q. Does this conclude your direct testimony?**

11 **A. Yes, it does.**

AGREEMENT

between

BellSouth Telecommunications, Inc.

and

ALLTEL Long Distance, Inc.

Effective Date: July 23, 1997

FLORIDA

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
AGREEMENT	1
PREFACE.....	1
RECITALS	1
DEFINITIONS and ACRONYMS	1
GENERAL TERMS AND CONDITIONS.....	2
1. Provision of Local Service and Unbundled Network Elements	2
2. Term of Agreement.....	3
3. Termination of Agreement; Transitional Support.....	4
4. Good Faith Performance	4
5. Option to Obtain Local Services, Network Elements and Combinations Under Other Agreements.....	5
6. Responsibility of Each Party	5
7. Governmental Compliance.....	5
8. Responsibility For Environmental Contamination.....	6
9. Regulatory Matters	7
10. Liability and Indemnity	7
11. Audits and Inspections.....	10
12. Remedies for Failure to Meet DMOQs.....	12
13. Force Majeure	12
14. Certain Federal, State and Local Taxes	13
15. Alternative Dispute Resolution	16
16. Notices.....	17
17. Confidentiality and Proprietary Information	17

18. Branding	19
19: Directory Listings Requirements	20
20. Subscriber List Information/Local Number Portability.....	21
21. Miscellaneous.....	23
Part I: Local Services Resale	26
22. Telecommunications Services Provided for Resale.....	26
23. General Terms and Conditions for Resale	27
24. Requirements for Specific Services.....	28
25. Support Functions.....	35
26. Service Functions	38
PART II: UNBUNDLED NETWORK ELEMENTS	47
27. Introduction	47
28. Unbundled Network Elements	47
PART III: ANCILLARY FUNCTIONS.....	50
29. Introduction	50
30. BellSouth Provision of Ancillary Functions	50
31. Standards for Ancillary Functions	50
PART IV: PRICING	52
32. General Principles	52
33. Local Service Resale	52
34. Unbundled Network Elements	52
35. Compensation For Call Transport and Termination.....	52
36. Ancillary Functions	52
37. Local Number Portability	53
38. Recorded Usage Data	53

ATTACHMENTS

Attachment 1	Alternative Dispute Resolution
Attachment 2	Services Description: Unbundled Network Elements
Attachment 3	Service Description: Ancillary Functions
Attachment 4	Provisioning and Ordering
Attachment 5	Maintenance
Attachment 6	Connectivity Billing and Recording
Attachment 7	Provision of Customer Usage Data
Attachment 8	Local Number Portability
Attachment 9	Network Security
Attachment 10	Acronyms
Attachment 11	Definitions
Attachment 12	Performance Measurement
Attachment 13	BAPCO Agreement
Attachment 14	Bona Fide Request Process

AGREEMENT

PREFACE

This Agreement, which shall become effective as of the 23rd day of July, 1997, is entered into by and between ALLTEL Long Distance, Inc., a Delaware Corporation, having an office at One Allied Drive, Little Rock, Arkansas 72203, on behalf of itself, its successors and assigns, (individually and collectively "ACI"), and BellSouth Telecommunications, Inc. ("BellSouth"), a Georgia corporation, on behalf of itself, its successors and assigns, having an office at 675 West Peachtree Street, Atlanta, Georgia 30375.

RECITALS

WHEREAS, The Telecommunications Act of 1996 (the "Act") was signed into law on February 8, 1996; and

WHEREAS, the Act places certain duties and obligations upon, and grants certain rights to Telecommunications Carriers; and

WHEREAS, BellSouth is an Incumbent Local Exchange Carrier; and

WHEREAS, BellSouth is willing to provide Telecommunications Services for resale, Interconnection, Unbundled Network Elements and Ancillary Functions which include, but are not limited to, access to poles, ducts, conduits and rights-of-way, and collocation of equipment at BellSouth's Premises on the terms and subject to the conditions of this Agreement; and

WHEREAS, ACI is a Telecommunications Carrier and has requested that BellSouth negotiate an Agreement with ACI for the provision of Interconnection, Unbundled Network Elements, and Ancillary Functions as well as Telecommunications Services for resale, pursuant to the Act and in conformance with BellSouth's duties under the Act,

NOW, THEREFORE, in consideration of the promises and the mutual covenants of this Agreement, ACI and BellSouth hereby agree as follows:

DEFINITIONS and ACRONYMS

For purposes of this Agreement, certain terms have been defined in Attachment 11 and elsewhere in this Agreement to encompass meanings that may differ from, or be in addition to, the normal connotation of the defined word. Unless the context clearly indicates otherwise, any term defined or used in the singular shall include the plural. The words "shall" and "will" are used interchangeably

throughout this Agreement and the use of either connotes a mandatory requirement. The use of one or the other shall not mean a different degree of right or obligation for either Party. A defined word intended to convey its special meaning is capitalized when used. Other terms that are capitalized, and not defined in this Agreement, shall have the meaning in the Act. For convenience of reference, Attachment 10 provides a list of acronyms used throughout this Agreement.

GENERAL TERMS AND CONDITIONS

1. Provision of Local Service and Unbundled Network Elements

This Agreement sets forth the terms, conditions and prices under which BellSouth agrees to provide (a) Telecommunications Service that BellSouth currently provides, or may offer hereafter for resale along with the Support Functions and Service Functions set forth in this Agreement (hereinafter collectively referred to as "Local Services") and (b) certain unbundled Network Elements, or combinations of such Network Elements ("Combinations") and (c) Ancillary Functions to ACI (Local Services, Network Elements, Combinations, and Ancillary Functions, collectively referred to as "Services and Elements"). This Agreement also sets forth the terms and conditions for the interconnection of ACI's network to BellSouth's network and the mutual and reciprocal compensation for the transport and termination of telecommunications traffic. BellSouth may fulfill the requirements imposed upon it by this Agreement by itself or, in the case of directory listings for white pages may cause BellSouth Advertising and Publishing Company ("BAPCO") to take such actions to fulfill BellSouth's responsibilities. This Agreement includes Parts I through IV, and their Attachments 1 - 15 and all accompanying Appendices and Exhibits. Unless otherwise provided in this Agreement, BellSouth will perform all of its obligations hereunder throughout its entire service area. The Parties further agree to comply with all provisions of the Act.

1.A The Services and Elements provided pursuant to this Agreement may be connected to other Services and Elements provided by BellSouth or to any Services and Elements provided by ACI itself or by any other vendor. ACI may purchase unbundled Network Elements for the purpose of combining Network Elements in any manner that is technically feasible, including recreating existing BellSouth services.

1.1 Subject to the requirements of this Agreement, ACI may, at any time add, relocate or modify any Services and Elements purchased hereunder. Requests for additions or other changes shall be handled pursuant to the Bona Fide Request Process provided in Attachment 14. Terminations of any Services or Elements shall be handled pursuant to Section 3.1 of the General Terms and Conditions of this Agreement.

1.2 **BellSouth shall not discontinue any Network Element, Ancillary Function, or Combination provided hereunder without the prior written consent of ACI. Such consent shall not be unreasonably withheld. BellSouth shall not discontinue any Local Service provided hereunder unless BellSouth provides ACI prior written notice of intent to discontinue any such service. BellSouth agrees to make any such service available to ACI for resale to ACI's Customers who are subscribers of such services from ACI until the date BellSouth discontinues any such service for BellSouth's customers. BellSouth also agrees to adopt a reasonable, nondiscriminatory transition schedule for BellSouth or ACI Customers who may be purchasing any such service.**

1.3 **This Agreement may be amended from time to time as mutually agreed in writing between the Parties. The Parties agree that neither Party will take any action to proceed, nor shall either have any obligation to proceed on a requested change unless and until a modification to this Agreement is signed by authorized representatives of each Party.**

2. **Term of Agreement**

2.1 **When executed by authorized representatives of BellSouth and ACI, this Agreement shall become effective as of the Effective Date stated above, and shall expire one (1) years from the Effective Date unless terminated in accordance with the provisions of Section 3.2 of the General Terms and Conditions.**

2.2 **No later than one hundred and eighty (180) days prior to the expiration of this Agreement, the Parties agree to commence negotiations with regard to the terms, conditions, and prices of a follow-on agreement for the provision of Services and Elements to be effective on or before the expiration date of this Agreement ("Follow-on Agreement"). The Parties further agree that any such Follow-on Agreement shall be for a term of no less than one (1) year unless the Parties agree otherwise.**

2.3 **If, within one hundred and thirty-five (135) days of commencing the negotiation referenced to Section 2.2, above, the Parties are unable to satisfactorily negotiate new terms, conditions and prices, either Party may petition the Commission to establish an appropriate Follow-on Agreement pursuant to 47 U.S.C. § 252. The Parties agree that in such event they shall encourage the Commission to issue its order regarding such Follow-on Agreement no later than the expiration date of this Agreement. The Parties further agree that in the event the Commission does not issue its order by the expiration date of this Agreement, or if the Parties continue beyond the expiration date of this Agreement to negotiate without Commission intervention, the terms, conditions and prices ultimately ordered by the Commission, or negotiated by the Parties, will be effective, retroactive to the day following the expiration date of this Agreement . Until the Follow-on Agreement becomes effective, BellSouth shall**

provide Services and Elements pursuant to the terms, conditions and prices of this Agreement that are then in effect. Prior to filing a Petition pursuant to this Section 2.3, the Parties agree to utilize the informal dispute resolution process provided in Section 3 of Attachment 1.

3. **Termination of Agreement: Transitional Support**

3.1 ACI may terminate any Local Service(s), Network Element(s), Combination(s), or Ancillary Function(s) provided under this Agreement upon thirty (30) days written notice to BellSouth unless a different notice period or different conditions are specified for termination of such Local Services(s), Network Element(s), or Combination(s) in this Agreement or pursuant to any applicable tariff, in which event such specific period or conditions shall apply, provided such period or condition is reasonable, nondiscriminatory and narrowly tailored. Where there is no such different notice period or different condition specified, ACI's liability shall be limited to payment of the amounts due for any terminated Local Service(s), Network Element(s), Combination(s) or Ancillary Service provided up to and including the date of termination. Notwithstanding the foregoing, the provisions of section 10, *infra*, shall still apply. Upon termination, BellSouth agrees to cooperate in an orderly and efficient transition to ACI or another vendor such that the level and quality of the Services and Elements is not degraded and to exercise its best efforts to effect an orderly and efficient transition. ACI agrees that it may not terminate the entire Agreement pursuant to this section.

3.2 If a Party is in breach of a material term or condition of this Agreement ("Defaulting Party"), the other Party shall provide written notice of such breach to the Defaulting Party. The Defaulting Party shall have fifteen (15) business days from receipt of notice to cure the breach. If the breach is not cured, the Parties shall follow the dispute resolution procedure of Section 15 of the General Terms and Conditions and Attachment 1. If the Arbitrator determines that a breach has occurred and the Defaulting Party fails to comply with the decision of the Arbitrator within the time period provided by the Arbitrator (or a period of thirty (30) days if no time period is provided for in the Arbitrator's order), this Agreement may be terminated in whole or part by the other Party upon sixty (60) days prior written notice.

4. **Good Faith Performance**

In the performance of their obligations under this Agreement, the Parties shall act in good faith and consistently with the intent of the Act. Where notice, approval or similar action by a Party is permitted or required by any provision of this Agreement, (including, without limitation, the obligation of the Parties to further negotiate the resolution of new or open issues under this Agreement) such action shall not be unreasonably delayed, withheld or conditioned.

5. **Option to Obtain Local Services, Network Elements and Combinations Under Other Agreements**

If as a result of any proceeding or filing before any Court, State Commission, or the Federal Communications Commission, voluntary agreement or arbitration proceeding pursuant to the Act or pursuant to any applicable state law, BellSouth becomes obligated to provide Services and Elements, whether or not presently covered by this Agreement, to a third Party at rates or on terms and conditions more favorable to such third Party than the applicable provisions of this Agreement, ACI shall have the option to substitute such more favorable rates, terms, and conditions for the relevant provisions of this Agreement which shall apply to the same States as such other Party, and such substituted rates, terms or conditions shall be deemed to have been effective under this Agreement as of the effective date thereof. BellSouth shall provide to ACI any BellSouth agreement between BellSouth and any third Party within fifteen (15) days of the filing of such agreement with any state Commission.

6. **Responsibility of Each Party**

Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of all employees assisting in the performance of such obligations. Each Party will be solely responsible for all matters relating to payment of such employees, including compliance with social security taxes, withholding taxes and all other regulations governing such matters. Each Party will be solely responsible for proper handling, storage, transport and disposal at its own expense of all (i) substances or materials that it or its contractors or agents bring to, create or assume control over at Work Locations or, (ii) Waste resulting therefrom or otherwise generated in connection with its or its contractors' or agents' activities at the Work Locations. Subject to the limitations on liability and except as otherwise provided in this Agreement, each Party shall be responsible for (i) its own acts and performance of all obligations imposed by Applicable Law in connection with its activities, legal status and property, real or personal and, (ii) the acts of its own affiliates, employees, agents and contractors during the performance of that Party's obligations hereunder.

7. **Governmental Compliance**

7.1 ACI and BellSouth each shall comply at its own expense with all Applicable Law that relates to (i) its obligations under or activities in connection with this Agreement or (ii) its activities undertaken at, in connection with or relating to Work Locations. ACI and BellSouth each agree to indemnify, defend (at the other Party's request) and save harmless the other, each of its officers,

directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from (i) its failure or the failure of its contractors or agents to so comply or (ii) any activity, duty or status of it or its contractors or agents that triggers any legal obligation to investigate or remediate environmental contamination. BellSouth, at its own expense, will be solely responsible for obtaining from governmental authorities, building owners, other carriers, and any other persons or entities, all rights and privileges (including, but not limited to, space and power), which are necessary for BellSouth to provide the Services and Elements pursuant to this Agreement. ACI, at its own expense, will be solely responsible for obtaining from governmental authorities, building owners, other carriers, and any other persons or entities, all rights and privileges which are ACI's obligation as a provider of telecommunications services to its Customers pursuant to this Agreement.

7.2 BellSouth shall accept orders for Service and Elements in accordance with the Federal Communications Commission Rules or State Commission Rules.

8. **Responsibility For Environmental Contamination**

8.1 ACI shall in no event be liable to BellSouth for any costs whatsoever resulting from the presence or Release of any Environmental Hazard or Hazardous Materials that ACI did not introduce to the affected Work Location so long as ACI's actions do not cause or substantially contribute to the release of any Environmental Hazard or Hazardous Materials. BellSouth shall indemnify, defend (at ACI's request) and hold harmless ACI, each of its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from (i) any Environmental Hazard or Hazardous Materials that BellSouth, its contractors or agents introduce to the Work Locations or (ii) the presence or Release of any Environmental Hazard or Hazardous Materials for which BellSouth is responsible under Applicable Law, to the extent the release of any Environmental Hazard or Hazardous Materials is not caused or substantially contributed to by ACI's actions.

8.2 BellSouth shall in no event be liable to ACI for any costs whatsoever resulting from the presence or Release of any Environmental Hazard or Hazardous Materials that BellSouth did not introduce to the affected Work Location, so long as BellSouth's actions do not cause or substantially contribute to the release of any Environmental Hazards or Hazardous Materials. ACI shall indemnify, defend (at BellSouth's request) and hold harmless BellSouth, each of its officers, directors and employees from and against any losses, damages, claims, demands, suits, liabilities, fines, penalties and expenses (including reasonable attorneys' fees) that arise out of or result from (i) any Environmental Hazard or Hazardous Materials that ACI, its contractors or agents introduce to

the Work Locations or (ii) the presence or Release of any Environmental Hazard or Hazardous Materials for which ACI is responsible under Applicable Law, to the extent the release of any Environmental Hazard or Hazardous Materials is not caused or substantially contributed to by BellSouth's actions.

9. **Regulatory Matters**

9.1 BellSouth shall be responsible for obtaining and keeping in effect all Federal Communications Commission, State Commissions, franchise authority and other regulatory approvals that may be required in connection with the performance of its obligations under this Agreement. ACI shall be responsible for obtaining and keeping in effect all Federal Communications Commission, state regulatory Commission, franchise authority and other regulatory approvals that may be required in connection with its offering of services to ACI Customers contemplated by this Agreement. ACI shall reasonably cooperate with BellSouth in obtaining and maintaining any required approvals for which BellSouth is responsible, and BellSouth shall reasonably cooperate with ACI in obtaining and maintaining any required approvals for which ACI is responsible.

9.2 In the event that BellSouth is required by any governmental authority to file a tariff or make another similar filing ("Filing") in order to implement this Agreement, BellSouth shall (i) consult with ACI reasonably in advance of such Filing about the form and substance of such Filing, (ii) provide to ACI its proposed tariff and obtain ACI's agreement on the form and substance of such Filing, and (iii) take all steps reasonably necessary to ensure that such Filing imposes obligations upon BellSouth that are no less favorable than those provided in this Agreement and preserves for ACI the full benefit of the rights otherwise provided in this Agreement. In no event shall BellSouth file any tariff to implement this Agreement that purports to govern Services and Elements that is inconsistent with the rates and other terms and conditions set forth in this Agreement unless such rate or other terms and conditions are more favorable than those set forth in this Agreement.

9.3 In the event that any final and nonappealable legislative, regulatory, judicial or other legal action materially affects any material terms of this Agreement, or the ability of ACI or BellSouth to perform any material terms of this Agreement, ACI or BellSouth may, on thirty (30) days' written notice (delivered not later than thirty (30) days following the date on which such action has become legally binding and has otherwise become final and nonappealable) require that such terms be renegotiated, and the Parties shall renegotiate in good faith such mutually acceptable new terms as may be required. In the event that such new terms are not renegotiated within ninety (90) days after such notice, the Dispute shall be referred to the Alternative Dispute Resolution procedures set forth in Attachment 1.

10. **Liability and Indemnity**

- 10.1 **Liabilities of BellSouth** - Unless expressly stated otherwise in this Agreement, the liability of BellSouth to ACI during any Contract Year resulting from any and all causes shall not exceed the amount due and owing by ACI to BellSouth during the Contract Year in which such cause arises or accrues.
- 10.2 **Liabilities of ACI** - Unless expressly stated otherwise in this Agreement, the liability of ACI to BellSouth during any Contract Year resulting from any and all causes shall not exceed the amount due and owing by ACI to BellSouth during the Contract Year in which such cause arises or accrues.
- 10.3 Each party shall, to the greatest extent permitted by Applicable Law, include in its local switched service tariff (if it files one in a particular State) or in any State where it does not file a local service tariff, in an appropriate contract with its customers that relates to the Services and Elements provided under this Agreement, a limitation of liability (i) that covers the other Party to the same extent the first Party covers itself and (ii) that limits the amount of damages a customer may recover to the amount charged the applicable customer for the service that gave rise to such loss.
- 10.4 **No Consequential Damages** - NEITHER ACI NOR BELLSOUTH SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, OR SPECIAL DAMAGES SUFFERED BY SUCH OTHER PARTY (INCLUDING WITHOUT LIMITATION DAMAGES FOR HARM TO BUSINESS, LOST REVENUES, LOST SAVINGS, OR LOST PROFITS SUFFERED BY SUCH OTHER PARTIES), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, STRICT LIABILITY, OR TORT, INCLUDING WITHOUT LIMITATION NEGLIGENCE OF ANY KIND WHETHER ACTIVE OR PASSIVE, AND REGARDLESS OF WHETHER THE PARTIES KNEW OF THE POSSIBILITY THAT SUCH DAMAGES COULD RESULT. EACH PARTY HEREBY RELEASES THE OTHER PARTY AND SUCH OTHER PARTY'S SUBSIDIARIES AND AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY SUCH CLAIM. NOTHING CONTAINED IN THIS SECTION 10 SHALL LIMIT BELLSOUTH'S OR ACI'S LIABILITY TO THE OTHER FOR (i) WILLFUL OR INTENTIONAL MISCONDUCT (INCLUDING GROSS NEGLIGENCE); (ii) BODILY INJURY, DEATH OR DAMAGE TO TANGIBLE REAL OR TANGIBLE PERSONAL PROPERTY PROXIMATELY CAUSED BY BELLSOUTH'S OR ACI'S NEGLIGENT ACT OR OMISSION OR THAT OF THEIR RESPECTIVE AGENTS, SUBCONTRACTORS OR EMPLOYEES, NOR SHALL ANYTHING CONTAINED IN THIS SECTION 10 LIMIT THE PARTIES' INDEMNIFICATION OBLIGATIONS AS SPECIFIED HEREIN.
- 10.5 **Obligation to Indemnify** Each Party shall, and hereby agrees to, defend at the other's request, indemnify and hold harmless the other Party and each of its officers, directors, employees and agents (each, an "Indemnitee") against and

in respect of any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any nature or kind, known or unknown, liquidated or unliquidated, including without limitation all reasonable costs and expenses incurred (legal, accounting or otherwise) (collectively, "Damages") arising out of, resulting from or based upon any pending or threatened claim, action, proceeding or suit by any third Party (a "Claim") (i) alleging any breach of any representation, warranty or covenant made by such indemnifying Party (the "Indemnifying Party") in this Agreement, (ii) based upon injuries or damage to any person or property or the environment arising out of or in connection with this Agreement that are the result of the Indemnifying Party's actions, breach of Applicable Law, or status of its employees, agents and subcontractors, or (iii) for actual or alleged infringement of any patent, copyright, trademark, service mark, trade name, trade dress, trade secret or any other intellectual property right, now known or later developed (referred to as "Intellectual Property Rights") to the extent that such claim or action arises from ACI or ACI's Customer's use of the Services and Elements provided under this Agreement.

10.6

Obligation to Defend; Notice; Cooperation - Whenever a Claim shall arise for indemnification under this Section 10, the relevant Indemnitee, as appropriate, shall promptly notify the Indemnifying Party and request the Indemnifying Party to defend the same. Failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party's ability to defend such Claim. The Indemnifying Party shall have the right to defend against such liability or assertion in which event the Indemnifying Party shall give written notice to the Indemnitee of acceptance of the defense of such Claim and the identity of counsel selected by the Indemnifying Party. Except as set forth below, such notice to the relevant Indemnitee shall give the Indemnifying Party full authority to defend, adjust, compromise or settle such Claim with respect to which such notice shall have been given, except to the extent that any compromise or settlement shall prejudice the Intellectual Property Rights of the relevant Indemnitees. The Indemnifying Party shall consult with the relevant Indemnitee prior to any compromise or settlement that would affect the Intellectual Property Rights or other rights of any Indemnitee, and the relevant Indemnitee shall have the right to refuse such compromise or settlement and, at the refusing Party's or refusing Parties' cost, to take over such defense, provided that in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify the relevant Indemnitee against, any cost or liability in excess of such refused compromise or settlement. With respect to any defense accepted by the Indemnifying Party, the relevant Indemnitee shall be entitled to participate with the Indemnifying Party in such defense if the Claim requests equitable relief or other relief that could affect the rights of the Indemnitee and also shall be entitled to employ separate counsel for such defense at such Indemnitee's expense. In the event the Indemnifying Party does not accept the defense of

any indemnified Claim as provided above, the relevant Indemnitee shall have the right to employ counsel for such defense at the expense of the Indemnifying Party. Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other Party in the defense of any such Claim and the relevant records of each Party shall be available to the other Party with respect to any such defense.

11. **Audits and Inspections**

11.1 For carrier billing purposes, the audit process provided in Section 11.1 shall apply.

11.1.1 Subject to BellSouth's reasonable security requirements and except as may be otherwise specifically provided in this Agreement, ACI may audit BellSouth's books, records and other documents once in each Contract Year for the purpose of evaluating the accuracy of BellSouth's billing and invoicing. ACI may employ other persons or firms for this purpose. Such audit shall take place at a time and place agreed on by the Parties no later than thirty (30) days after notice thereof to BellSouth.

11.1.2 BellSouth shall promptly correct any billing error that is revealed in an audit, including making refund of any overpayment by ACI in the form of a credit on the invoice for the first full billing cycle after the Parties have agreed upon the accuracy of the audit results. Any Disputes concerning audit results shall be resolved pursuant to the Alternate Dispute Resolution procedures described in Section 15 of the General Terms and Conditions and Attachment 1.

11.1.3 BellSouth shall cooperate fully in any such audit, providing reasonable access to any and all appropriate BellSouth employees and books, records and other documents reasonably necessary to assess the accuracy of BellSouth's bills.

11.1.4 ACI may audit BellSouth's books, records and documents more than once during any Contract Year if the previous audit found previously uncorrected net variances or errors in invoices in BellSouth's favor with an aggregate value of at least two percent (2%) of the amounts payable by ACI for Services and Elements or Combinations provided during the period covered by the audit.

11.1.5 Audits shall be at ACI's expense, subject to reimbursement by BellSouth in the event that an audit finds an adjustment in the charges or in any invoice paid or payable by ACI hereunder by an amount that is, on an annualized basis, greater than two percent (2%) of the aggregate charges for the Services and Elements during the period covered by the audit.

11.1.6 Upon (i) the discovery by BellSouth of overcharges not previously reimbursed to ACI or (ii) the resolution of disputed audits, BellSouth shall promptly reimburse ACI the amount of any overpayment times the highest interest rate

(in decimal value) which may be levied by law for commercial transactions, compounded daily for the number of days from the date of overpayment to and including the date that payment is actually made. In no event, however, shall interest be assessed on any previously assessed or accrued late payment charges.

- 11.2 Subject to reasonable security requirements, either Party may audit the books, records and other documents of the other for the purpose of evaluating usage pertaining to transport and termination of local traffic. Where such usage data is being transmitted through CABS, the audit shall be conducted in accordance with CABS or other applicable requirements approved by the appropriate State Commission. If data is not being transferred via CABS, either Party may request an audit for such purpose once each Contract Year. Either Party may employ other persons or firms for this purpose. Any such audit shall take place no later than thirty (30) days after notice thereof to the other Party.
- 11.2.1 Either Party shall promptly correct any reported usage error that is revealed in an audit, including making payment of any underpayment after the Parties have agreed upon the accuracy of the audit results. Any Disputes concerning audit results shall be resolved pursuant to the Alternate Dispute Resolution procedures described in Section 15 of the General Terms and Conditions and Attachment 1.
- 11.2.2 The Parties shall cooperate fully in any such audit, providing reasonable access to any and all appropriate employees and books, records and other documents reasonably necessary to assess the usage pertaining to transport and terminating of local traffic.

12. Performance Measurement

12.1 In providing Services and Elements, BellSouth will provide ACI with the quality of service BellSouth provides itself and its end-users. BellSouth's performance under this Agreement shall provide ACI with the capability to meet standards or other measurements that are at least equal to the level that BellSouth provides or is required to provide by law or its own internal procedures. BellSouth shall satisfy all service standards, measurements, and performance requirements set forth in the Agreement and the measurements specified in Attachment 12 of this Agreement. Any conflict between the standards, measurements, and performance requirements BellSouth provides itself and the standards, measurements and performance requirements set forth in Attachment 12 shall be resolved in favor of the higher standard, measurement and performance.

12.2 The Parties acknowledge that the need will arise for changes to the measurements specified in Attachment 12 during the term of this Agreement. Such changes may include the addition or deletion of measurements or a change in the performance standard for any particular metric, as well as the provision of target performance levels, as set forth in Attachment 12. Unless otherwise specified in Attachment 12, the parties agree to review all measurements on a semi-annual basis or as mutually agreed to by the Parties to determine if any changes are appropriate, and may include the provision to ACI of any additional measurements BellSouth may provide itself.

12.3 The Parties agree to monitor actual performance on a monthly basis and, if the Parties conclude it is required, develop a process improvement plan to improve quality of service provided as measured by the performance measurements, if necessary. Such a plan shall be developed where BellSouth's performance falls below either the level of performance it provides itself or the level of performance required in Attachment 12.

13. Force Majeure

13.1 Neither Party shall be liable for any delay or failure in performance of any part of this Agreement caused by a Force Majeure condition, including acts of the United States of America or any state, territory or political subdivision thereof, acts of God or a public enemy, fires, floods, disputes, freight embargoes, strikes, earthquakes, volcanic actions, wars, civil disturbances, or other causes beyond the reasonable control of the Party claiming excusable delay or other failure to perform. Force Majeure shall not include acts of any Governmental Authority relating to environmental, health or safety conditions at Work Locations. If any Force Majeure condition occurs, the Party whose

performance fails or is delayed because of such Force Majeure condition shall give prompt notice to the other Party, and upon cessation of such Force Majeure condition, shall give like notice and commence performance hereunder as promptly as reasonably practicable.

13.2 Notwithstanding Subsection 1, no delay or other failure to perform shall be excused pursuant to this Section 13 by the acts or omission of a Party's subcontractors, material persons, suppliers or other third persons providing products or services to such Party unless: (i) such acts or omissions are themselves the product of a Force Majeure condition, (ii) such acts or omissions do not relate to environmental, health or safety conditions at Work Locations and, (iii) unless such delay or failure and the consequences thereof are beyond the control and without the fault or negligence of the Party claiming excusable delay or other failure to perform. Notwithstanding the foregoing, this Section 13 shall not excuse failure or delays where BellSouth is required to implement Disaster Recovery plans to avoid such failures and delays in performance.

14. **Certain Federal, State and Local Taxes**

14.1 **Definition** For purposes of this Section 14, the terms "taxes" and "fees" shall include but not be limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) imposed on, or sought to be imposed, either of the parties and measured by the charges or payments, for the services furnished hereunder, excluding any taxes levied on income.

14.2 **Taxes And Fees Imposed Directly On Either Seller Or Purchaser**

14.2.1 Taxes and fees imposed on the providing Party, which are neither permitted nor required to be passed on by the providing Party to its Customer, shall be borne and paid by the providing Party.

14.2.2 Taxes and fees imposed on the purchasing Party, which are not required to be collected and/or remitted by the providing Party, shall be borne and paid by the purchasing Party.

14.3 **Taxes And Fees Imposed On Purchaser But Collected And Remitted By Seller**

14.3.1 Taxes and fees imposed on the purchasing Party shall be borne by the purchasing Party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing Party.

- 14.3.2 **To the extent permitted by Applicable Law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.**
- 14.3.3 **If the purchasing Party determines that in its opinion any such taxes or fees are not lawfully due, the providing Party shall not bill such taxes or fees to the purchasing Party if the purchasing Party provides written certification, reasonably satisfactory to the providing Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefor, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing Party has determined and certified not to be lawfully due, or any such tax or fee that was not billed by the providing Party, the purchasing Party may contest the same in good faith, at its own expense. In the event that such contest must be pursued in the name of the providing Party, the providing Party shall permit the purchasing Party to pursue the contest in the name of providing Party and providing Party shall have the opportunity to participate fully in the preparation of such contest. In any such contest, the purchasing Party shall promptly furnish the providing Party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing Party and the taxing authority.**
- 14.3.4 **In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency or such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.**
- 14.3.5 **If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.**
- 14.3.6 **Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereof, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are reasonably and necessarily incurred by the providing Party in connection with any claim for or contest of any such tax or fee.**
- 14.3.7 **Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but**

in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.

14.4 Taxes And Fees Imposed On Seller But Passed On To Purchaser

14.4.1 Taxes and fees imposed on the providing Party, which are permitted or required to be passed on by the providing Party to its Customer, shall be borne by the purchasing Party.

14.4.2 To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.

14.4.3 If the purchasing Party disagrees with the providing Party's determination as to the application or basis for any such tax or fee, the Parties shall consult with respect to the imposition and billing of such tax or fee and with respect to whether to contest the imposition of such tax or fee. Notwithstanding the foregoing, the providing Party shall retain responsibility for determining whether and to what extent any such taxes or fees are applicable. The providing Party shall further retain responsibility for determining whether and how to contest the imposition of such taxes or fees, provided, however, the Parties agree to consult in good faith as to such contest and that any such contest undertaken at the request of the purchasing Party shall be at the purchasing Party's expense. In the event that such contest must be pursued in the name of the providing Party, providing Party shall permit purchasing Party to pursue the contest in the name of the providing Party and the providing Party shall have the opportunity to participate fully in the preparation of such contest.

14.4.4 If, after consultation in accordance with the preceding Section 14.4.3, the purchasing Party does not agree with the providing Party's final determination as to the application or basis of a particular tax or fee, and if the providing Party, after receipt of a written request by the purchasing Party to contest the imposition of such tax or fee with the imposing authority, fails or refuses to pursue such contest or to allow such contest by the purchasing Party, the purchasing Party may utilize the dispute resolution process outlined in Section 15 of the General Terms and Conditions of this Agreement and Attachment 1. Utilization of the dispute resolution process shall not relieve the purchasing party from liability for any tax or fee billed by the providing Party pursuant to this subsection during the pendency of such dispute resolution proceeding. In the event that the purchasing Party prevails in such dispute resolution proceeding, it shall be entitled to a refund in accordance with the final decision therein. Notwithstanding the foregoing, if at any time prior to a final decision in such dispute resolution proceeding the providing Party initiates a contest with the imposing authority with respect to any of the issues involved in such dispute resolution proceeding, the dispute resolution proceeding shall be dismissed as

to such common issues and the final decision rendered in the contest with the imposing authority shall control as to such issues.

- 14.4.5 In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee with the imposing authority, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 14.4.6 If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
- 14.4.7 Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other reasonable charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
- 14.4.8 Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority, such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.

14.5 **Mutual Cooperation**

In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest. Each Party agrees to indemnify and hold harmless the other Party from and against any losses, damages, claims, demands, suits, liabilities, and expenses, including reasonable attorney's fees, that arise out of its failure to perform its obligations under this Section.

15. **Alternative Dispute Resolution**

- 15.1 All disputes, claims or disagreements (collectively "Disputes") arising under or related to this Agreement or the breach hereof shall be resolved in accordance with the procedures set forth in Attachment 1, except: (i) disputes arising pursuant to Attachment 6, Connectivity Billing; and (ii) disputes or matters for which the Telecommunications Act of 1996 specifies a particular remedy or

procedure. Disputes involving matters subject to the Connectivity Billing provisions contained in Attachment 6, shall be resolved in accordance with the Billing Disputes section of Attachment 6. In no event shall the Parties permit the pendency of a Dispute to disrupt service to any ACI Customer contemplated by this Agreement. The foregoing notwithstanding, neither this Section nor Attachment 1 shall be construed to prevent either Party from seeking and obtaining temporary equitable remedies, including temporary restraining orders. A request by a Party to a court or a regulatory authority for interim measures or equitable relief shall not be deemed a waiver of the obligation to comply with Attachment 1.

16. **Notices**

Any notices or other communications required or permitted to be given or delivered under this Agreement shall be in hard-copy writing (unless otherwise specifically provided herein) and shall be sufficiently given if delivered personally or delivered by prepaid overnight express service to the following (unless otherwise specifically required by this Agreement to be delivered to another representative or point of contact):

If to ACI:

Jayne Eve
Carrier Services
ALLTEL Communications, Inc.
131 Matthews Street.
Mathews, NC 28106-0428

If to BellSouth:

OLEC Account Team
Interconnection Services
Room E4E1
3535 Colonnade Parkway
Birmingham, AL

Either Party may unilaterally change its designated representative and/or address for the receipt of notices by giving seven (7) days prior written notice to the other Party in compliance with this Section. Any notice or other communication shall be deemed given when received.

17. **Confidentiality and Proprietary Information**

17.1 For the purposes of this Agreement, "Confidential Information" means confidential or proprietary technical or business information given by the Discloser to the Recipient. All information which is disclosed by one Party to the other in connection with this Agreement shall automatically be deemed proprietary to the Discloser and subject to this Agreement, unless otherwise confirmed in writing by the Discloser. In addition, by way of example and not

limitation, all orders for Services and Elements placed by ACI pursuant to this Agreement, and information that would constitute Customer Proprietary Network pursuant to the Act and the rules and regulations of the Federal Communications Commission, and Recorded Usage Data as described in Attachment 7, whether disclosed by ACI to BellSouth or otherwise acquired by BellSouth in the course of the performance of this Agreement, shall be deemed Confidential Information of ACI for all purposes under this Agreement.

- 17.2 For a period of five (5) years from the receipt of Confidential Information from the Discloser, except as otherwise specified in this Agreement, the Recipient agrees (a) to use it only for the purpose of performing under this Agreement, (b) to hold it in confidence and disclose it to no one other than its employees having a need to know for the purpose of performing under this Agreement, and (c) to safeguard it from unauthorized use or disclosure with at least the same degree of care with which the Recipient safeguards its own Confidential Information. If the Recipient wishes to disclose the Discloser's Confidential Information to a third Party agent or consultant, the agent or consultant must have executed a written agreement of non-disclosure and non-use comparable in scope to the terms of this Section.
- 17.3 The Recipient may make copies of Confidential Information only as reasonably necessary to perform its obligations under this Agreement. All such copies shall bear the same copyright and proprietary rights notices as are contained on the original.
- 17.4 The Recipient agrees to return all Confidential Information in tangible form received from the Discloser, including any copies made by the Recipient, within thirty (30) days after a written request is delivered to the Recipient, or to destroy all such Confidential Information, except for Confidential Information that the Recipient reasonably requires to perform its obligations under this Agreement. If either Party loses or makes an unauthorized disclosure of the other Party's Confidential Information, it shall notify such other Party immediately and use reasonable efforts to retrieve the lost or wrongfully disclosed information.
- 17.5 The Recipient shall have no obligation to safeguard Confidential Information: (a) which was in the possession of the Recipient free of restriction prior to its receipt from the Discloser; (b) after it becomes publicly known or available through no breach of this Agreement by the Recipient; (c) after it is rightfully acquired by the Recipient free of restrictions on its disclosure; or (d) after it is independently developed by personnel of the Recipient to whom the Discloser's Confidential Information had not been previously disclosed. In addition, either Party shall have the right to disclose Confidential Information to any mediator, arbitrator, state or federal regulatory body, the Department of Justice or any court in the conduct of any mediation, arbitration or approval of this Agreement or in any proceedings concerning the provision of interLATA services by BellSouth that are or may be required by the Act. Additionally, the Recipient

may disclose Confidential Information if so required by law, a court, or governmental agency, so long as the Discloser has been notified of the requirement promptly after the Recipient becomes aware of the requirement. In all cases, the Recipient must undertake all lawful measures to avoid disclosing such information until Discloser has had reasonable time to seek and comply with a protective order that covers the Confidential Information to be disclosed.

17.6 Each Party's obligations to safeguard Confidential Information disclosed prior to expiration or termination of this Agreement shall survive such expiration or termination.

17.7 Except as otherwise expressly provided elsewhere in this Agreement, no license is hereby granted under any patent, trademark, or copyright, nor is any such license implied, solely by virtue of the disclosure of any Confidential Information.

17.8 Each Party agrees that the Discloser would be irreparably injured by a breach of this Agreement by the Recipient or its representatives and that the Discloser shall be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any breach of the provisions of this Agreement. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Agreement, but shall be in addition to all other remedies available at law or in equity.

18. **Branding**

The Parties agree that the services offered by ACI that incorporate Services and Elements made available to ACI pursuant to this Agreement shall be branded as ACI services, unless BellSouth determines to unbrand such Services and Elements for itself, in which event BellSouth may provide unbranded Services and Elements. ACI shall provide the exclusive interface to ACI Customers, except as ACI shall otherwise specify. In those instances where ACI requires BellSouth personnel or systems to interface with ACI Customers, such personnel shall identify themselves as representing ACI, and shall not identify themselves as representing BellSouth. Except for material provided by ACI, all forms, business cards or other business materials furnished by BellSouth to ACI Customers shall be subject to ACI's prior review and approval. In no event shall BellSouth, acting on behalf of ACI pursuant to this Agreement, provide information to ACI local service Customers about BellSouth products or services. BellSouth agrees to provide in sufficient time for ACI to review and provide comments, the methods and procedures, training and approaches, to be used by BellSouth to assure that BellSouth meets ACI's branding requirement. For installation and repair services, ACI agrees to provide BellSouth with branded material at no charge for use by BellSouth ("Leave Behind Material"). ACI will reimburse BellSouth for the reasonable and demonstrable costs BellSouth would otherwise incur as a result of the use of the generic leave behind material. BellSouth will notify ACI of material supply

exhaust in sufficient time that material will always be available. BellSouth may leave a generic card if BellSouth does not have an ACI specific card available. BellSouth will not be liable for any error, mistake or omission, other than intentional acts or omissions or gross negligence, resulting from the requirements to distribute ACI's Leave Behind Material.

19. **Directory Listings Requirements**

19.1 BellSouth shall make available to ACI, for ACI subscribers, non-discriminatory access to its telephone number and address directory listings ("Directory Listings"), under the below terms and conditions. In no event shall ACI subscribers receive Directory Listings that are at less favorable rates, terms or conditions than the rates, terms or conditions that BellSouth provides its subscribers.

19.1.1 Subject to execution of an Agreement between ACI and BellSouth's affiliate, BellSouth Advertising & Publishing Corporation ("BAPCO") substantially in the form set forth in Attachment 13: (1) listings shall be included in the appropriate White Pages or local alphabetical directories (including Foreign Language directories as appropriate), via the BellSouth ordering process, (basic listing shall be at no charge to ACI or ACI's subscribers); (2) ACI's business subscribers' listings shall also be included in the appropriate Yellow Pages or local classified directories, via the BellSouth ordering process, at no charge to ACI or ACI's subscribers; (3) copies of such directories shall be delivered by BAPCO to ACI's subscribers; (4) ACI will sell enhanced White Pages Listings to ACI subscribers and BellSouth shall provide the enhanced White Listings; and (5) Yellow Pages Advertising will be sold and billed to ACI subscribers.

19.1.2 BAPCO will provide ACI the necessary publishing information to process ACI's subscribers directory listings requests including, but not limited to:

1. Classified Heading Information
2. Telephone Directory Coverage Areas by NPANXX
3. Publishing Schedules
4. Processes for Obtaining Foreign Directories
5. Information about Listing ACI's Customer Services, including telephone numbers, in the Customer Call Guide Pages.

19.2 BellSouth will provide ACI the proper format for submitting subscriber listings as outlined in the OLEC Handbook. BellSouth and BAPCO will accord ACI's directory listing information the same level of confidentiality that BellSouth and BAPCO accord BellSouth's and BAPCO'S own directory listing information, and BellSouth shall limit access to ACI's Customer proprietary, confidential directory

information to those BellSouth or BAPCO employees who are involved in the preparation of listings.

19.3 BellSouth will include ACI subscriber listings in BellSouth's directory assistance databases and BellSouth will not charge ACI to maintain the Directory Assistance database. The Parties agree to cooperate with each other in formulating appropriate procedures regarding lead time, timeliness, format, and content of listing information.

20. **Subscriber List Information/Local Number Portability**

20.1 BellSouth shall refer any requests from third parties for ACI's Subscriber List Information to ACI.

20.2 Local Number Portability shall be provided as set forth in Attachment 8.

20.A **Insurance Requirements**

At all times during the term of this Agreement, each Party shall maintain, at its own expense, (i) all insurance required by applicable Law including insurance and approved self insurance for statutory workers compensation coverage and (ii) commercial general liability coverage in the amount of not less than ten million dollars (\$10,000,000) or a combination of commercial general liability and excess/umbrella coverage totaling ten million dollars (\$10,000,000). Upon request from the other Party, each Party shall furnish the other Party with certificates of insurance which evidence the minimum levels of insurance set forth herein. Each Party may satisfy all or part of the coverage specified herein through self insurance. Each Party shall give the other Party at least thirty (30) days advance written notice of any cancellation or non-renewal of insurance required by this Section.

20.B **Costs**

Except as otherwise specified in this Agreement, the Act, or any Commission order, each Party shall be responsible for all costs and expenses that it incurs to comply with its obligations under this Agreement.

20.C **Pre-Ordering Information**

20.C.1 BellSouth shall provide ACI with access on a real-time basis via electronic interfaces to all services and features technically available from each switch, by switch CLLI and access to street address detail for the provisioning of a service request. This information is currently contained in BellSouth's Regional Street Address Guide ("RSAG") and Products and Services Inventory Management (P/SIMS).

20.C.2 If ACI dials in, ACI will obtain from BellSouth a security card featuring a unique password identification which will be changed periodically by BellSouth. A nonrecurring charge of One Hundred (\$100.00) Dollars will be applied to each security card provided, including duplicates furnished to additional users or furnished as a replacement of lost or stolen cards.

20.C.3 ACI acknowledges that (i) this information is provided for the limited purposes of facilitating the establishment of new Customer accounts and identifying services and features available in specific BellSouth central offices. ACI agrees that it will not sell or otherwise transfer such information to any third Party for any purpose whatsoever without the prior written consent of BellSouth; (ii) BellSouth does not warrant that services provided under this Section will be uninterrupted or error free. In the event of interruptions, delays, errors or other failure of the services, BellSouth's obligation shall be limited to using reasonable efforts under the circumstances to restore the services. BellSouth shall have no obligation to retrieve or reconstruct any transmitted messages or transmission data which may be lost or damaged. ACI is responsible for providing back-up for data deemed by BellSouth to be necessary to its operations; (iii) the services provided under this Section are provided "As Is." BellSouth makes no warranty, express or implied, with respect to the services, including but not limited to any warranty of merchantability or fitness for a particular purpose, which warranties are hereby expressly disclaimed.

20.D **Disaster Recovery**

BellSouth and ACI agree to jointly develop and implement a detailed service restoration plan and disaster recovery plan. A joint task team will commence development for implementation throughout 1997.

Such plans shall incorporate BellSouth Emergency Contingency Plans for Residence and Business Repair Centers. The Plans shall conform to the FCC Restoration Guidelines, to the National Security Emergency Preparedness ("NSEP") procedures and adhere to the guidelines developed by the Telecommunications Service Priority ("TSP") System office within the National Communications System ("NCS") Agency.

In developing the plans, the team will address the following ACI proposed terms: (i) provision for immediate notification to ACI via the Electronic Interface, to be established pursuant to Section 3 of Attachment 6 of the Agreement, of the existence, location, and source of any emergency network outage affecting ACI Customers; (ii) establishment of a single point of contact responsible for initiating and coordinating the restoration of all Local Services and Network Elements or Combinations; (iii) establishment of procedures to provide ACI with real-time access to information relating to the status of restoration efforts and problem resolution during the restoration process; (iv) provision of an inventory and description of mobile restoration equipment by locations; (v) establishment of methods and procedures for the dispatch of

mobile equipment to the restoration site; (vi) establishment of methods and procedures for re-provisioning all Services and Elements, after initial restoration; (vii) provision for equal priority, as between ACI Customers and BellSouth Customers, for restoration efforts, consistent with FCC Service Restoration guidelines, including, but not limited to, deployment of repair personnel and access to spare parts and components; and (viii) establishment of a mutually agreeable process for escalation of maintenance problems, including a complete, up-to-date list of responsible contacts, available twenty-four (24) hours per day, seven (7) days per week.

Such plans shall be modified and updated as necessary. For purposes of this Section, an emergency network outage is defined as 5,000 or more blocked call attempts in a ten (10) minute period in a single exchange.

In the event the Parties are unable to reach agreement on either plan, the matter shall be resolved pursuant to Section 15 and Attachment 1 of this Agreement.

21. **Miscellaneous**

21.1 **Delegation or Assignment**

Either Party may not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other which will not be unreasonably withheld. Notwithstanding the foregoing, either Party may assign its rights and benefits and delegate its duties and obligations under this Agreement without the consent of the other to a 100 percent owned Affiliate company, provided that the performance of any such assignee is guaranteed by the assignor. Any prohibited assignment or delegations shall be null and void.

21.2 **Subcontracting**

If any Party's obligation under this Agreement is performed by a subcontractor or Affiliate, the Party subcontracting the obligation nevertheless shall remain fully responsible for the performance of this Agreement in accordance with its terms, and shall be solely responsible for payments due its subcontractors or Affiliate. In entering into any contract, subcontract or other agreement for the performance of any obligation under this Agreement, the Party shall not enter into any agreement that it would not enter into if the supplier was performing services directly for said Party.

21.3 **Nonexclusive Remedies**

Except as otherwise expressly provided in this Agreement, each of the remedies provided under this Agreement is cumulative and is in addition to any remedies that may be available at law or in equity.

21.4 No Third-Party Beneficiaries

Except as may be specifically set forth in this Agreement, this Agreement does not provide and shall not be construed to provide third Parties with any remedy, claim, liability, reimbursement, cause of action, or other privilege.

21.5 Referenced Documents

Whenever any provision of this Agreement refers to a technical reference, technical publication, BellSouth Practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this Agreement, it will be deemed to be a reference to the most recent version or edition (including any amendments, supplements, addenda, or successors) of such document that is in effect, and will include the most recent version or edition (including any amendments, supplements, addenda, or successors) of each document incorporated by reference in such a technical reference, technical publication, BellSouth Practice, or publication of industry standards (unless ACI elects otherwise). Should there be an inconsistency between or among publications or standards, the Parties shall mutually agree upon which requirement shall apply. If the Parties cannot reach agreement, the matter shall be handled pursuant to Attachment 1 of this Agreement.

21.6 Applicable Law

The validity of this Agreement, the construction and enforcement of its terms, and the interpretation of the rights and duties of the Parties shall be governed by the laws of the State of Florida other than as to conflicts of laws, except insofar as federal law may control any aspect of this Agreement, in which case federal law shall govern such aspect.

21.7 Publicity and Advertising

Neither Party shall publish or use any advertising, sales promotions or other publicity materials that use the other Party's logo, trademarks or service marks without the prior written approval of the other Party.

21.8 Amendments or Waivers

Except as otherwise provided in this Agreement, no amendment or waiver of any provision of this Agreement, and no consent to any default under this Agreement, shall be effective unless the same is in writing and signed by an officer of the Party against whom such amendment, waiver or consent is claimed. In addition, no course of dealing or failure of a Party strictly to enforce any term, right or condition of this Agreement shall be construed as a waiver of such term, right or condition.

21.9 **Severability**

If any term, condition or provision of this Agreement is held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall not invalidate the entire Agreement, unless such construction would be unreasonable. The Agreement shall be construed as if it did not contain the invalid or unenforceable provision or provisions, and the rights and obligations of each Party shall be construed and enforced accordingly; provided, however, that in the event such invalid or unenforceable provision or provisions are essential elements of this Agreement and substantially impair the rights or obligations of either Party, the Parties shall promptly negotiate a replacement provision or provisions.

21.10 **Entire Agreement**

This Agreement, which shall include the Attachments, Appendices and other documents referenced herein, constitutes the entire Agreement between the Parties concerning the subject matter hereof and supersedes any prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein.

21.11 **Survival of Obligations**

Any liabilities or obligations of a Party for acts or omissions prior to the cancellation or termination of this Agreement, any obligation of a Party under the provisions regarding indemnification, Confidential Information, limitations on liability, and any other provisions of this Agreement which, by their terms, are contemplated to survive (or to be performed after) termination of this Agreement, shall survive cancellation or termination thereof.

21.12 **Executed In Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original; but such counterparts shall together constitute one and the same instrument.

21.13 **Headings of No Force or Effect**

The headings of Articles and Sections of this Agreement are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement.

Part I: Local Services Resale

22. Telecommunications Services Provided for Resale

22.1 At the request of ACI, and pursuant to the requirements of the Act, BellSouth will make available to ACI for resale (see Section 23.3 of Part 1) any Telecommunications Service that BellSouth currently provides, or may offer hereafter. BellSouth shall also provide Support Functions and Service Functions, as set forth in Sections 25 and 26 of this Part. The Telecommunications Services, Service Functions and Support Functions provided by BellSouth to ACI pursuant to this Agreement are collectively referred to as "Local Service."

22.2 This Part describes several services which BellSouth shall make available to ACI for resale pursuant to this Agreement. This list of services is neither all inclusive nor exclusive. All Telecommunications Services of BellSouth which are to be offered for resale pursuant to the Act are subject to the terms herein, even though they are not specifically enumerated or described.

22.2.1 Features and Functions Subject to Resale

BellSouth agrees to make available for resale all features and functions available in connection with Telecommunications Services, including but not limited to the following:

- Dial tone and ring
- Capability for either dial pulse or touch tone recognition
- Capability to complete calls to any location
- Same extended local calling area
- 1+ IntraLATA toll calling
- PIC 1+ service
- CIC dialing (10 XXXX)
- Same access to vertical features and functions
- Call detail recording capability required for end user billing
- Flat and Measured Service
- International Calling
- 911, 500, 700, 800, 888, 900, 976 dialing
- Ringling
- Repeat dial capability
- Multi-line hunting
- PBX trunks and DID service

22.3 BellSouth will provide ACI with at least the capability to provide an ACI Customer the same experience as BellSouth provides its own Customers with respect to all Local Services. The capability provided to ACI by BellSouth shall be in accordance with standards or other measurements that are at least equal to the level that BellSouth provides or is required to provide by law and its own internal procedures.

23. **General Terms and Conditions for Resale**

23.1 **Primary Local Exchange Carrier Selection**

BellSouth shall apply the principles set forth in Section 64.1100 of the Federal Communications Commission Rules, 47 C.F.R. §64.1100, to the process for end-user selection of a primary local exchange carrier. BellSouth shall not require a disconnect order from the Customer, another carrier, or another entity, in order to process an ACI order for Local Service for a Customer.

23.2 **Pricing**

The prices charged to ACI for Local Service are set forth in Part IV of this Agreement.

23.3 **Restrictions on Resale**

With the exception of short-term promotions, defined as those promotions that are offered for a ninety (90) day period or less and which are not offered on a consecutive basis, BellSouth shall offer for resale at wholesale prices all telecommunications services that BellSouth provides at retail to non-telecommunications carriers, including governmental bodies and information providers. Short-term promotions may be resold at the retail rate. Long term promotions, defined as those promotions that are offered for more than a ninety (90) day period, may be resold at the tariff rate less the wholesale discount.

No terms and conditions, including use and user restrictions, shall be applicable to the resale of BellSouth's telecommunications services except for:

- (i) A restriction on the resale of residential service to residential customers;
- (ii) LifeLine/Link-up services shall be available for resale by ACI only to those customers who are eligible to purchase such service directly from BellSouth;
- (iii) All grandfathered services are available for resale by ACI to those customers or subscribers who already have grandfathered status; and
- (iv) N11/E911/911 services shall be available for resale by ACI.

23.3.1 **Dialing Parity**

23.3.1.1 BellSouth agrees that ACI Customers will experience the same dialing parity as BellSouth's Customers, such that, for all call types: (i) an ACI Customer is not required to dial any greater number of digits than a BellSouth Customer; (ii) the post-dial delay (time elapsed between the last digit dialed and the first network

response), call completion rate and transmission quality experienced by an ACI Customer is at least equal in quality to that experienced by a BellSouth Customer; and (iii) the ACI Customer may retain its local telephone number.

23.3.2 Changes in Retail Service

23.3.2.1 BellSouth agrees to notify ACI electronically of any changes in the terms and conditions under which it offers Telecommunications Services to subscribers who are non-telecommunications carriers, including, but not limited to, the introduction or discontinuance of any features, functions, services or promotions, at least forty-five (45) days prior to the effective date of any such change or concurrent with BellSouth's internal notification process for such change, whichever is earlier. ACI recognizes that certain revisions may occur between the time BellSouth notifies ACI of a change pursuant to this Section and BellSouth's tariff filing of such change. BellSouth shall notify ACI of such revisions consistent with BellSouth's internal notification process but ACI accepts the consequences of such mid-stream changes as an uncertainty of doing business and, therefore, will not hold BellSouth responsible for any resulting inconvenience or cost incurred by ACI unless caused by the intentional misconduct of BellSouth for the purposes of this section. The notification given pursuant to this Section will not be used by either party to market its offering of such changed services externally in advance of BellSouth filing of any such changes.

23.3.2.2 BellSouth agrees to notify ACI electronically of proposed price changes at least thirty (30) days prior to the effective date of any such price change.

23.3.2.3 BellSouth agrees to use electronic mail to notify ACI of any operational changes within at least six (6) months before such changes are proposed to become effective and within twelve months for any technological changes. If such operational or technological changes occur within the six or twelve month notification period, BellSouth will notify ACI of the changes concurrent with BellSouth's internal notification process for such changes.

24. Requirements for Specific Services

24.1. CENTREX Requirements

At ACI's option, ACI may purchase CENTREX services. Where ACI purchases such CENTREX services, ACI may purchase the entire set of features, any single feature, or any combination of features which BellSouth has the capability to provide. BellSouth will provide ACI with the same service levels and features of CENTREX Service provided by BellSouth to its end users. Requests by ACI for CENTREX Service levels and features that are different from what BellSouth provides to its end users will be handled under the Bona Fide Request Process. The CENTREX service provided for resale will meet the following requirements:

- 24.1.1 **All features and functions of CENTREX Service, whether offered under tariff or otherwise, shall be available to ACI for resale, without any geographic or Customer class restrictions.**
- 24.1.2 **BellSouth's CENTREX Service may be used by ACI to provide Local Service to ACI's end users**
- 24.1.3 **BellSouth shall provide to ACI a list which describes all CENTREX features and functions offered by BellSouth within ten (10) days of the Effective Date, and shall provide updates to said list as required by Section 23.3.2 of Part 1.**
- 24.1.4 **ACI may aggregate the CENTREX local exchange and IntraLATA traffic usage of ACI Customers to qualify for volume discounts on the basis of such aggregated usage.**
- 24.1.5 **ACI may aggregate multiple ACI Customers on dedicated access facilities. ACI may require that BellSouth suppress the need for ACI Customers to dial "9" when placing calls outside the CENTREX System. When dedicated facilities are utilized, BellSouth will provide, upon ACI's request, station ID or ANI, as well as FGD trunking.**
- 24.1.6 **ACI may use remote call forwarding in conjunction with CENTREX Service to provide service to ACI Local Service Customers residing outside of the geographic territory in which BellSouth provides local exchange service. In cases where existing BellSouth Customers choose ACI for their local service provider, and where ACI serves these Customers via CENTREX, in order that such Customers may keep the same phone number, BellSouth shall either move Customer's line and phone number to a CENTREX system, or use remote call forwarding to route Customer's old phone number to new CENTREX phone number. Not all features and functions will be compatible when remote call forwarding is utilized. In such cases, ACI customers shall have the same functionality as BellSouth customers under the same circumstances.**
- 24.1.7 **BellSouth shall make available to ACI for resale, at no additional charge, intercom calling among all ACI Customers who utilize resold CENTREX service where the ACI Customers' numbers all reside in the same central office switch.**
- 24.1.8 **ACI may utilize BellSouth's Automatic Route Selection (ARS) service features to provision and route calls from various end users to various Interexchange Carriers (IXC) Networks.**
- 24.2 **CLASS and Custom Features Requirements**
- ACI may purchase the entire set of CLASS and Custom features and functions, or a subset of any one or any combination of such features, on a Customer-specific basis, without restriction on the minimum or maximum number of lines or features that may be purchased for any one level of service. BellSouth shall**

provide to ACI a list of all such CLASS and Custom features and functions within ten (10) days of the Effective Date and shall provide updates to such list when new features and functions become available.

24.3 Voluntary Federal and State Customer Financial Assistance Programs

Local Services provided to low-income subscribers, pursuant to requirements established by the appropriate state regulatory body, include programs such as Voluntary Federal Customer Financial Assistance Program and Link-Up America ("Voluntary Federal Customer Financial Assistance Programs"). When a BellSouth Customer eligible for the Voluntary Federal Customer Financial Assistance Program or other similar state programs chooses to obtain Local Service from ACI, BellSouth shall forward available information regarding such Customer's eligibility to participate in such programs to ACI, in accordance with procedures to be mutually established by the Parties and applicable state and federal law.

24.4 E911/911 Services

BellSouth shall provide access to E911/911 in the same manner that it is provided to BellSouth Customers. BellSouth will enable ACI Customers to have E911/911 call routing to the appropriate Public Safety Answering Point (PSAP). BellSouth shall provide and validate ACI Customer information to the PSAP. BellSouth shall use its service order process to update and maintain, on the same schedule that it uses for its end users, the ACI Customer service information in the ALI/DMS (Automatic Location Identification/Database Management System) used to support E911/911 services.

24.4.1 Telephone Relay Service

Where BellSouth provides to speech and hearing-impaired callers a service that enables callers to type a message into a telephone set equipped with a keypad and message screen and to have a live operator read the message to a recipient and to type message recipient's response to the speech or hearing-impaired caller ("Telephone Relay Service"), BellSouth shall make such service available to ACI at no additional charge, for use by ACI Customers who are speech or hearing-impaired. If BellSouth maintains a record of Customers who qualify under any applicable law for Telephone Relay Service, BellSouth shall make such data available to ACI as it pertains to ACI Customers.

24.5 Contract Service Arrangements ("CSAS")

24.5.1 CSA's shall be available for resale at the wholesale discount.

24.5.2 If ACI identifies a specific CSA, BellSouth shall provide ACI a copy within ten (10) business days of ACI's request.

24.6 Nonrecurring Services

24.6.1 BellSouth shall offer for resale all non-recurring services.

24.7 Inside Wire Maintenance Service

24.7.1 BellSouth shall provide Inside Wire Maintenance Service for resold services, but the resale discount will not apply.

24.8 Pay Phone Service

BellSouth shall offer for resale, at a minimum, the following pay phone services: Coin Line (currently sold as SmartLinesm), COCOT Line Coin (currently sold as Independent Payphone Provider (IPP) Line), and COCOT Line Coinless (currently sold as IPP Line Coinless). To the extent BellSouth demonstrates that it does not provide the payphone features and functionality requested by ACI to BellSouth Customers, ACI may request that BellSouth provide such functionality pursuant to the Bona Fide Request Process identified in Section 1.1 of the General Terms and Conditions of this Agreement.

- Billed Number Screening
- Originating line screening
- Ability to "freeze" PIC selection
- One bill per line
- Point of demarcation at the Network Interface location
- Detailed billing showing all 1+ traffic on paper, diskette or electronic format
- Wire Maintenance option
- Touchtone service
- Option for listed or non-listed numbers
- Access to 911 service
- One directory per line
- Access to ANI Information
- Line and/or station monitoring and diagnostic routines

24.8.1 In addition, BellSouth shall offer for resale, at a minimum, the following features with its resold Coin Line service:

- Access to all CO intelligence required to perform answer detection, coin collection, coin return, and disconnect.
- Answer Detection
- Option to block all 1+ calls to international destinations
- IntraLATA Call Timing
- Option of one way or two way service on line
- Coin Refund and Repair Referral Service
- Ability to block any 1+ service that cannot be rated by the coin circuits
- ACI rate tables for local and intraLATA service
- Option of Flat Rate Service or Measured Service or both
- Protect against clip on fraud

Protect against blue box fraud

- 24.8.2 **BellSouth shall offer for resale, at a minimum, the following features with its COCOT Line Coin and COCOT Line Coinless services:**
- Ability to keep existing serving telephone numbers if cutover to ACI Resale Line
 - Option of One Way or Two Way service on the line
 - Option of Flat Rate Service or Measured Service or both
- 24.8.3 **BellSouth shall offer for resale, at a minimum, the following feature with its COCOT Line Coin service:**
- Blocking for 1+ international, 10XXXX1+ international, 101XXXX1+ international, 1+900, N11, 976
 - Option to block all 1-700 and 1-500 calls
 - Line side supervision option
- 24.8.4 **BellSouth shall offer for resale, at a minimum, the following features with its COCOT Line Coinless service:**
- Blocking for 1+ international, 10XXXX1+ international, 101XXXX1+ international, 1+900, N11, 976, 7 or 10 digit local, 1+DDD
- 24.8.5 **BellSouth shall offer for resale, at a minimum, the following features with its SemiPublic Coin service:**
- Ability to keep existing serving telephone numbers if cutover to ACI
 - Touchtone Service
 - Option for listed, nonlisted, or non published numbers
 - Provision 911 service
 - Access to ANI information
 - Access to all CO intelligence required to perform answer supervision, coin collect, coin return and disconnect
 - Far end disconnect recognition
 - Call timing
 - PIC protection for all 1+local, interLATA, and intraLATA traffic
 - Same call restrictions as available on BellSouth phones for interLATA, international, intraLATA, and local calling
 - One bill per line
 - Detailed billing showing all 1+ traffic in paper or electronic format
 - Option to have enclosure installed with set
 - One directory per line installed
 - Install the station to at least BellSouth standards
 - Ability to block any 1+ service that cannot be rated by the coin circuits
 - ACI to be the PIC for local and intraLATA calls
 - Option to block all 1+ international calls

Option of one way or two way service

Wire Maintenance option

ACI rate tables for local and intraLATA service

Option to have BellSouth techs collect, count, and deposit vault contents on behalf of ACI

Monitor vault contents for slugs and spurious non-US currency or theft and notify ACI of discrepancies

Station or enclosure equipment should only bear the name/brand designated by ACI on the order form

Protect against clip on fraud

Protect against red box fraud

Protect against blue box fraud

Provide option for use of "bright" station technology including debit cards

Provide revenue, maintenance, collection reports as specified by ACI on order form on a periodic basis in paper or electronic format

24.8.6 BellSouth shall provide the following features for Coin Line, SemiPublic Coin, COCOT Line Coin, and COCOT Line Coinless services:

Blocking of inbound international calls

Point of demarcation at the set location

Special screen codes unique to ACI and/or its Customers

Single Point of Contact for bills and orders dedicated to Public

Service outage transfers to ACI help center

Access to ACI Directory Assistance

Access to ACI's Network Access Interrupt

Use ACI branded invoice

Provide all information requested to ensure ACI can bill for access line

Provide all information requested to ensure ACI can bill for usage on the line

All calls originating from stations serviced by these lines should be routed to ACI lines, except where designated

24.9 Voice Mail Service

24.9.1 Where available to BellSouth's end users, BellSouth shall provide the following feature capabilities to allow for voice mail services:

Station Message Desk Interface - Enhanced ("SMDI-E")

Station Message Desk Interface ("SMDI")

Message Waiting Indicator ("MWI") stutter dialtone and message waiting light feature capabilities

Call Forward on Busy/Don't Answer ("CF-B/DA")

Call Forward on Busy ("CF/B")

Call Forward Don't Answer ("CF/DA")

24.10 Hospitality Service

- 24.10.1 **BellSouth shall provide all blocking, screening, and all other applicable functions available for hospitality lines.**
- 24.11 **Blocking Service**
- 24.11.1 **BellSouth shall provide blocking of 700, 900, and 976 services individually or in any combination upon request, including bill to third Party and collect calls, from ACI on a line, trunk, or individual service basis at parity with what BellSouth provides its end users.**
- 25. **Support Functions**
- 25.1 **Routing to Directory Assistance, Operator and Repair Services**
- 25.1.1 **BellSouth shall make available to ACI pursuant to Section 18 of the General Terms and Conditions of this Agreement the ability to route:**
- 25.1.1.1 **Local Directory Assistance calls (411, (NPA) 555 1212) dialed by ACI Customers directly to the ACI Directory Assistance Services platform. Local Operator Services calls (0+, 0-) dialed by ACI Customers directly to the ACI Local Operator Services Platform. Such traffic shall be routed over trunk groups between BellSouth end offices and the ACI Local Operator Services Platform, using standard Operator Services dialing protocols of 0+ or 0-.**
- 25.1.1.2 **611 repair calls dialed by ACI Customers directly to the ACI repair center.**
- 25.1.2 **Until a permanent industry solution exists for routing of traffic from BellSouth's local switch to other than BellSouth platforms, BellSouth will provide such routing using line class codes. BellSouth agrees to work with ACI on a routing resource conservation program to relieve routing resource constraints to ensure that no switch exceeds 95% capacity of line class codes. BellSouth and ACI shall continue to work with the appropriate industry groups to develop a long-term solution for selective routing. BellSouth may reserve for itself an appropriate and reasonable number of line class codes for its own use.**
- 25.1.3 **All direct routing capabilities described herein shall permit ACI Customers to dial the same telephone numbers for ACI Directory Assistance, Local Operator Service and Repair that similarly situated BellSouth Customers dial for reaching equivalent BellSouth services.**
- 25.1.4 **BellSouth, no later than fifteen (15) days after the Effective Date, shall provide to ACI, the emergency public agency (e.g., police, fire, ambulance) telephone numbers linked to each NPA-NXX. Such data will be compiled as an electronic flat file in a mutually agreed format and transmitted via either diskette or Network Data Mover. BellSouth will transmit to ACI, in a timely manner, all changes, alterations, modifications and updates to such data base via the same method as the initial transfer.**

25.2 Operator Services - Interim Measures

25.2.1 Where BellSouth is the provider of Directory Assistance service, BellSouth agrees to provide ACI Customers with the same Directory Assistance available to BellSouth Customers. If requested by ACI, BellSouth will provide ACI Directory Assistance Service under the ACI brand.

25.2.1.1 ACI recognizes that BellSouth's providing to ACI Directory Assistance Service under ACI's brand may require additional costs to be incurred by BellSouth. BellSouth will charge ACI for such branded Directory Assistance capability under the wholesale rate plus the reasonable and demonstrable costs necessary to implement ACI's branding request.

25.2.2 Additionally, BellSouth warrants that such service will provide the following minimum capabilities to ACI's Customers:

- (1) Two Customer listings and/or addresses per ACI Customer call.**
- (2) Name and address to ACI Customers upon request, except for unlisted numbers, in the same states where such information is provided to BellSouth Customers.**
- (3) Upon request, call completion to the requested number for local and intraLATA toll calls, where this service is available.**
- (4) Populate the listing database in the same manner and in the same time frame as if the Customer was a BellSouth Customer.**
- (5) Any information provided by a Directory Assistance Automatic Response Unit (ARU) will be repeated the same number of times for ACI Customers as for BellSouth's Customers.**
- (6) Service levels will comply with the applicable state Regulatory Authority requirements for:
 - a) number of rings to answer**
 - b) average work time**
 - c) disaster recovery options.****
- (7) Intercept service for Customers moving service will include:
 - a) referral to new number, either 7 or 10 digits**
 - b) repeat of the new number twice on the referral announcement**
 - c) repeat of the new recording twice.****

- 25.2.3 **BellSouth shall provide Operator Services to ACI's Customers at the same level of service available to BellSouth end users.**
- 25.2.4 **BellSouth agrees to provide ACI Customers the same Operator Services available to BellSouth Customers, branded as required by Section 18.**
- 25.2.5 **Additionally, BellSouth warrants that such service will provide the following minimum capabilities to ACI Customers:**
- (1) **Instant credit on calls, as provided to BellSouth Customers.**
 - (2) **Routing of calls to ACI when requested via existing Operator Transfer Service (OTS).**
 - (3) **Busy Line Verification/Emergency Line Interrupt (BLV/ELI) services.**
 - (4) **Emergency call handling.**
 - (5) **Notification of the length of call.**
 - (6) **Caller assistance for the disabled in the same manner as provided to BellSouth Customers.**
 - (7) **Handling of collect calls: person to person and/or station to station.**

25.3 Busy Line Verification and Emergency Line Interrupt

Where BellSouth does not route Operator Services traffic to ACI's platform, BellSouth shall perform Busy Line Verification and Emergency Line Interrupt for ACI on resold BellSouth lines. Where BellSouth routes Operator Services traffic to ACI's platform, BellSouth shall provide BLV/ELI services when requested by ACI Operators. ACI and BellSouth shall work together to ensure that sufficient facilities exist to support increased BLV/ELI volume due to ACI's presence as a Local Service provider. Specifically, BellSouth will engineer its BLV/ELI facilities to accommodate the anticipated volume of BLV/ELI requests during the Busy Hour. ACI may, from time to time, provide its anticipated volume of BLV/ELI requests to BellSouth for planning purposes. In those instances when the BLV/ELI facilities/systems cannot satisfy forecasted volumes, BellSouth shall promptly inform ACI, and the Parties shall work together to resolve capacity problems expediently.

25.4 Access to the Line Information Database

BellSouth shall use its service order process to update and maintain, on the same schedule that it uses for its end users, the ACI Customer service information in the Line Information Database ("LIDB").

25.5 **Telephone Line Number Calling Cards**

Effective as of the date of an end-user's subscription to ACI Service, BellSouth will terminate its existing telephone line number - based calling cards and remove any BellSouth-assigned Telephone Line Calling Card Number (including area code) ("TLN") from the LIDB. ACI may issue a new telephone calling card to such Customer, utilizing the same TLN and enter such TLN in LIDB for calling card validation purposes via the service order process.

26. **Service Functions**

26.1 **Electronic Interface**

BellSouth shall provide real time electronic interfaces ("EI") for transferring and receiving Service Orders and Provisioning data and materials (e.g., access to Street Address Guide ("SAG") and Telephone Number Assignment database). In addition, (i) BellSouth agrees to use its best efforts to carry out its responsibilities, and (ii) ACI agrees to use its best efforts to carry out its responsibilities. ACI and BellSouth have agreed on solutions described below to address the Pre-ordering, Ordering and Provisioning interfaces. BellSouth warrants that such interim solutions shall provide ACI Customers with the same level of service available to BellSouth Customers.

26.1.1 **Pre-Ordering**

26.1.1.1 BellSouth will supply ACI with Interval Guide Job Aids to be used to determine service installation dates. BellSouth will make available an electronic interface, using a LAN-to-LAN connection or DIALS Access to its Due Date Support Application (DSAP). Such access will be made available within eight to ten weeks for LAN-to-LAN and within four weeks for DIALS Access, from the official request date by ACI.

26.1.1.2 BellSouth will reserve up to 100 telephone numbers per NPA-NXX at ACI's request, for ACI's sole use. BellSouth will provide additional numbers at ACI's request in order that ACI have sufficient numbers available to meet expected needs. The telephone number reservations made in this manner are valid for ACI's assignment for ninety (90) days from the reservation date. BellSouth will make the telephone number reservations available to ACI via diskette or by electronic file transfer using LAN-to-LAN connection or DIALS Access. Such access will be made available within eight to ten weeks for LAN-to-LAN and within four weeks for DIALS Access, from the official request date by ACI.

26.1.1.3 BellSouth Local Carrier Service Center (LCSC) will assign vanity numbers and blocks of numbers for use with complex services including, but not limited to, DID and Hunting arrangements, as requested by ACI.

26.1.2 **Ordering**

- 26.1.2.1 **BellSouth agrees to provide operations support system access to ACI for ordering Local Services that is no less favorable than what is provided to its own retail customers. The ordering process and related transactions, (i.e., order, confirmation, firm order commitments, supplements and completions) shall be provided via the selected operations support system interface.**
- 26.1.2.2 **BellSouth agrees to implement the required electronic interface, using LAN-to-LAN connection or DIALS Access, to support processes for Local Services for residence POTS and features, business POTS and features and PBX trunks with Direct Inward Dialing. Such access will be made available within eight to ten weeks for LAN-to-LAN and within four weeks for DIALS Access, from the official request date by ACI.**
- 26.2 **Work Order Processes**
- 26.2.1 **BellSouth shall ensure that all work order processes used to provision Local Service to ACI for resale meet the service parity requirements set forth in this part.**
- 26.2.2 **Prior to ACI sending BellSouth the first Service Order, BellSouth and ACI shall develop mutually agreed-upon escalation and expedite procedures to be employed at any point in the Service Ordering, Provisioning, Maintenance, Billing and Customer Usage Data transfer processes to facilitate rapid and timely resolution of disputes.**
- 26.3 **Point of Contact for the ACI Customer**
- 26.3.1 **Except as otherwise provided in this Agreement, ACI shall be the single and sole point of contact for all ACI Customers.**
- 26.3.2 **BellSouth shall ensure that all BellSouth representatives who receive inquiries regarding ACI services when providing services on behalf of ACI: (i) refer such inquiries to ACI at a telephone number provided by ACI; (ii) do not in any way disparage or discriminate against ACI, or its products or services; and (iii) do not provide information about BellSouth products or services.**
- 26.4 **Single Point of Contact**
- 26.4.1 **Each Party shall provide the other Party with a single point of contact ("SPOC") for all inquiries regarding the implementation of this Part. Each Party shall accept all inquiries from the other Party and provide timely responses.**
- 26.4.2 **Each Party shall keep the SPOC numbers current.**
- 26.5 **Service Order**

To facilitate the ordering of new service for resale or changes to such service to an ACI Customer ("Service Order"), BellSouth shall provide ACI's

representative with real time access (as described in Section 26.1 of this Part 1) to BellSouth Customer information to enable the ACI representative to perform the following tasks:

- 26.5.1 Obtain Customer profile information via telephone or other mutually acceptable procedures.**
- 26.5.2 Obtain information on all Telecommunication Services that are available for resale, including new services via an electronic file with feature and service information in each BellSouth switch.**
- 26.5.3 BellSouth will provide ACI with interactive direct order entry via LAN-to-LAN connection or DIALS Access. Such access will be made available within eight to ten weeks for LAN-to-LAN and within four weeks for DIALS Access, from the official request date by ACI. Until this capability is available, BellSouth agrees to establish the Local Carrier Service Center (LCSC) as the SPOC for order entry. Orders will be received at the LCSC. BellSouth agrees to enter the Service Order promptly on receipt and provide Firm Order Confirmation (FOC) within 24 hours of receipt of a correct Local Service Request.**
- 26.5.4 BellSouth will provide ACI with on line access to telephone number reservations, via LAN-to-LAN connection or DIALS Access. Such access will be made available within eight to ten weeks for LAN-to-LAN and within four weeks for DIALS Access, from the official request date by ACI. Until on line access is available via electronic interface, BellSouth agrees to provide ACI with a ready supply of telephone numbers. The process for telephone number reservations is described in Section 26.1.1.4 of this Agreement.**
- 26.5.5 Bellsouth includes CLEC subscriber listings in BellSouth's directory assistance databases at no charge. CLECs must provide timely updates in the appropriate format. The same procedures and time intervals will apply to the entry of directory assistance information and updates for BellSouth, CLEC and independent telephone company end-users.**
- 26.5.6 BellSouth will provide ACI with the appropriate information and training materials (job aids) to assist ACI work centers to determine whether a service call will be required on a service installation. These job aids are to be the same information available to BellSouth employees.**
- 26.5.7 Until on line access is available, BellSouth agrees to provide ACI with interval guides for BellSouth services.**
- 26.5.8 BellSouth will provide ACI with the ability to order local service, local intraLATA toll service, and designate the end users' choice of primary intraLATA and interLATA Interexchange Carriers on a single unified order.**

- 26.5.9 **BellSouth will suspend, terminate or restore service to an ACI Customer at ACI's request.**
- 26.6 **Provisioning**
- 26.6.1 **BellSouth shall provide ACI with service status notices, within mutually agreed upon intervals. Such status notices shall include the following:**
 - 26.6.1.1 **Firm order confirmation, including service availability date and information regarding the need for a service dispatch for installation.**
- 26.6.2 **BellSouth will provide ACI with on-line notice of service installation. Until this capability is available, BellSouth will provide ACI with completion information on a daily basis for all types of Service Orders. If an installation requires deviation from the Service Order in any manner, or if an ACI Customer requests a service change at the time of installation, BellSouth will call ACI in advance of performing the installation for authorization. BellSouth will provide to ACI at that time an estimate of additional labor hours and/or materials required for that installation. After installation is completed, BellSouth will immediately inform ACI of actual labor hours and/or materials used.**
- 26.6.3 **BellSouth will provide ACI with on-line information exchange for Service Order rejections, Service Order errors, installation jeopardizes and missed appointments. Until this capability is available, BellSouth agrees to:**
 - 26.6.3.1 **Use its best efforts to notify ACI via telephone of any Service Order rejections or errors within one hour of receipt;**
 - 26.6.3.2 **Confirm such telephone notices in writing via facsimile at the end of each business day; and**
 - 26.6.3.3 **BellSouth shall promptly notify ACI via telephone if an installation or service appointment is in jeopardy of being missed.**
- 26.6.4 **BellSouth will provide ACI with on-line information on charges associated with necessary construction no later than August 1, 1997. Until this capability is available, BellSouth agrees that BellSouth's LCSC will promptly notify ACI of any charges associated with necessary construction.**
- 26.6.5 **BellSouth will provide ACI with on-line access to status information on Service Orders dispatch and installation via LAN-to-LAN connection or DIALS Access. Such access will be made available within eight to ten weeks for LAN-to-LAN and within four weeks for DIALS Access, from the official request date by ACI. Until this capability is available, BellSouth agrees to provide status at the following critical intervals: acknowledgment, firm order confirmation, and completion on Service Orders. In addition, BellSouth Local Carrier Service Center will provide ACI with status, via telephone, upon request.**

- 26.6.6 **BellSouth will perform all pre-service testing on resold Local Services.**
- 26.6.7 **Where BellSouth provides installation and the ACI Customer requests a service change at the time of installation, BellSouth shall immediately notify ACI at the telephone number on the Service Order of that request. The BellSouth technician should notify ACI in the presence of the ACI Customer so that ACI can negotiate authorization to install the requested services directly with that Customer and the technician, and revise appropriate ordering documents as necessary.**
- 26.6.8 **To ensure that ACI's Customers have the same ordering experience as BellSouth's Customers:**
- 26.6.8.1 **BellSouth shall provide ACI with the capability to have ACI's Customer orders input to and accepted by BellSouth's Service Order Systems outside of normal business hours, twenty-four (24) hours a day, seven (7) days a week, the same as BellSouth's Customer orders received outside of normal business orders are input and accepted.**
- 26.6.8.2 **Such ordering and provisioning capability shall be provided via an electronic interface, except for scheduled electronic interface downtime. Downtime shall not be scheduled during normal business hours and shall occur during times where systems experience minimum usage.**
- 26.6.9 **BellSouth provides CLECs electronic options for the exchange of ordering and provisioning information. The Exchange Access Control and Tracking System (EXACT) is for service requests involving interconnection trunking and many unbundled network elements. BellSouth provides an Electronic Data Interchange (EDI) arrangement for resale requests and some unbundled network elements. As an alternative to the EDI arrangement, BellSouth also provides through LENS an ordering and provisioning capability that is integrated with the LENS pre-ordering capability.**
- 26.6.10 **BellSouth will provide ACI with the capability to provide ACI Customers the same ordering, provisioning intervals, and level of service experiences as BellSouth provides to its own Customers, in accordance with standards or other measurements that are at least equal to the level that BellSouth provides or is required to provide by law and its own internal procedures.**
- 26.6.11 **BellSouth will maintain and staff an account team to support ACI's inquiries concerning the ordering of local complex service and designed business services for local services resale. This team will provide information regarding all services, features and functions available, know the forms and additional information required beyond the standard local service request, assist ACI in preparation of such orders, and coordinate within BellSouth.**

- 26.6.12 **BellSouth will provide ACI with the information ACI will need to certify Customers as exempt from charges, or eligible for reduced charges associated with the provisioning of new services, including but not limited to handicapped individuals, and certain governmental bodies and public institutions. BellSouth, when notified that an order for new service is exempt in some fashion, will not bill ACI.**
- 26.6.13 **BellSouth will provide the same intercept treatment and transfer of service announcements to ACI's Customers as BellSouth provides to its own end users without any branding.**
- 26.6.14 **BellSouth will provide ACI with appropriate notification of all area transfers with line level detail 120 days before service transfer, and will also notify ACI within 120 days before such change of any LATA boundary changes, or within the time frame required by an approving regulatory body, if any.**
- 26.6.15 **BellSouth agrees to develop with ACI's cooperation, mutually acceptable interface agreements between work centers regarding the exchange of information and process expectations.**
- 26.6.16 **BellSouth will suspend ACI local Customers' service upon ACI's request via the receipt of a Local Service Request. The service will remain suspended until such time as ACI submits a Local Service Request requesting BellSouth to reactivate.**
- 26.6.17 **BellSouth will provide ACI's end users the same call blocking options available to BellSouth's own end users.**
- 26.6.18 **BellSouth will work cooperatively with ACI in practices and procedures regarding Law Enforcement and service annoyance call handling. To the extent that circuit-specific engineering is required for resold services, BellSouth will provide the same level of engineering support as BellSouth provides for its comparable retail services.**
- 26.6.19 **BellSouth will provide information about the certification process for the provisioning of LifeLine, Link-up and other similar services.**
- 26.6.20 **BellSouth will provide a daily electronic listing of ACI Customers who change their local carrier. The process is described as OUTPLOC (See reference in Local Account Maintenance Requirements of Attachment 7.)**

26.7 Maintenance

Maintenance shall be provided in accordance with the requirements and standards set forth in Attachment 5. Maintenance will be provided by BellSouth in accordance with the service parity requirements set forth in this Part.

Service Trouble Reporting and repair allows CLECs to report and monitor **service troubles** and obtain repair services. BellSouth provides CLECs **service trouble reporting** availability and monitoring in a non-discriminatory manner that provides the same ability to report and monitor service trouble that BellSouth provides itself. BellSouth also provides CLECs an estimated time to repair, an appointment time or a commitment time, as appropriate, on all trouble reports.

26.8 Provision of Customer Usage Data

BellSouth shall provide the Customer Usage Data recorded by the BellSouth. Such data shall include complete ACI Customer usage data for Local Service, including both local and intraLATA toll service (e.g., call detail for all services, including flat-rated and usage-sensitive features), in accordance with the terms and conditions set forth in Attachment 7.

Customer daily usage data provides detailed information for determining billable usage for services such as directory assistance or toll calls associated with a resold line or a ported telephone number. This usage option allows CLECs to bill their end user customers at their discretion, rather than on BellSouth's billing cycles, it also allows a CLEC to establish toll limits, detect fraudulent calling or analyze the usage patterns of its customers.

26.9 Service/Operation Readiness Testing

26.9.1 In addition to testing described elsewhere in this Section, BellSouth shall test the systems used to perform the following functions in a mutually agreed upon time frame prior to commencement of BellSouth's provision of Local Service, in order to establish system readiness capabilities:

26.9.1.1 All interfaces between ACI and BellSouth work centers for Service Order, Provisioning;

26.9.1.2 Maintenance, Billing and Customer Usage Data;

26.9.1.3 The process for BellSouth to provide Customer profiles;

26.9.1.4 The installation scheduling process;

26.9.1.5 Telephone number assignment;

26.9.1.6 Procedures for communications and coordination between ACI SPOC and BellSouth SPOC;

26.9.1.7 Procedures for transmission of Customer Usage Data; and

26.9.1.8 Procedures for transmitting bills to ACI for Local Service; and the process for wholesale billing for local service.

- 26.9.2 **The functionalities identified above shall be tested by BellSouth in order to determine whether BellSouth performance meets the applicable service parity requirements, quality measures and other performance standards set forth in this Agreement. BellSouth shall make available sufficient technical staff to perform such testing. BellSouth technical staff shall be available to meet with ACI as necessary to facilitate testing. BellSouth and ACI shall mutually agree on the schedule for such testing.**
- 26.9.3 **At ACI's reasonable request, BellSouth shall provide ACI with service readiness test results of the testing performed pursuant to the terms of this Part.**
- 26.9.4 **During the term of this Agreement, BellSouth shall participate in cooperative testing requested by ACI whenever both companies agree it is necessary to ensure service performance, reliability and Customer serviceability.**
- 26.10 **Billing For Local Service**
- 26.10.1 **BellSouth shall bill ACI for Local Service provided by BellSouth to ACI pursuant to the terms of this Part, and in accordance with the terms and conditions for Connectivity Billing and Recording in Attachment 6.**
- 26.10.2 **BellSouth shall recognize ACI as the Customer of record for all Local Service and will send all notices, bills and other pertinent information directly to ACI unless ACI specifically requests otherwise.**

PART II: UNBUNDLED NETWORK ELEMENTS

27. Introduction

This Part II sets forth the unbundled Network Elements that BellSouth agrees to offer to ACI in accordance with its obligations under Section 251(c)(3) of the Act. The specific terms and conditions that apply to the unbundled Network Elements and the requirements for each Network Element are described below and in the Network Elements Service Description, Attachment 2. The price for each Network Element is set forth in Part IV of this Agreement. BellSouth shall offer Network Elements to ACI as of the Effective Date.

28. Unbundled Network Elements

28.1 BellSouth shall offer Network Elements to ACI on an unbundled basis on rates, terms and conditions that are just, reasonable, and non-discriminatory in accordance with the terms and conditions of this Agreement.

28.2 BellSouth will permit ACI to interconnect ACI's facilities or facilities provided by ACI or by third Parties with each of BellSouth's unbundled Network Elements at any point designated by ACI that is technically feasible.

28.3 BellSouth will deliver to ACI's Served Premises any interface that is technically feasible. ACI, at its option, may designate other interfaces through the Bona Fide Request process delineated in Attachment 14.

28.4 ACI may use one or more Network Elements to provide any feature, function, or service option that such Network Element is capable of providing or any feature, function, or service option that is described in the technical references identified herein.

28.5 BellSouth shall offer each Network Element individually and in combination with any other Network Element or Network Elements in order to permit ACI to provide Telecommunications Services to its Customers subject to the provisions of Section 1A of the General Terms and Conditions of this Agreement.

28.6 For each Network Element, BellSouth shall provide a demarcation point (e.g., an interconnection point at a Digital Signal Cross Connect or Light Guide Cross Connect panel or a Main Distribution Frame) and, if necessary, access to such demarcation point, which ACI agrees is suitable. However, where BellSouth provides contiguous Network Elements to ACI, BellSouth may provide the existing interconnections and no demarcation point shall exist between such contiguous Network Elements.

- 28.7 The charge assessed to ACI to interconnect any Network Element or Combination to any other Network Element or Combination provided by BellSouth to ACI if BellSouth does not directly interconnect the same two Network Elements or Combinations in providing any service to its own Customers or a BellSouth affiliate (e.g., the interconnection required to connect the Loop Feeder to an ALEC's collocated equipment), shall be cost based.
- 28.8 Attachment 2 of this Agreement describes the Network Elements that ACI and BellSouth have identified as of the Effective Date of this Agreement. ACI and BellSouth agree that the Network Elements identified in Attachment 2 are not exclusive. Either Party may identify additional or revised Network Elements as necessary to improve services to Customers, to improve network or service efficiencies or to accommodate changing technologies, Customer demand, or regulatory requirements. Upon BellSouth's identification of a new or revised Network Element, BellSouth shall notify ACI of the existence of and the technical characteristics of the new or revised Network Element.
- ACI shall make its request for a new or revised Network Element pursuant to the Bona Fide Request Process identified in Section 1.1 of the General Terms and Conditions of this Agreement. Additionally, if BellSouth provides any Network Element that is not identified in this Agreement, to itself, to its own Customers, to a BellSouth affiliate or to any other entity, BellSouth will provide the same Network Element to ACI on rates, terms and conditions no less favorable to ACI than those provided to itself or to any other Party. Additional descriptions and requirements for each Network Element are set forth in Attachment 2.
- 28.9 **Standards for Network Elements**
- 28.9.1 BellSouth shall comply with the requirements set forth in the technical references, as well as any performance or other requirements identified in this Agreement, to the extent that they are consistent with the greater of BellSouth's actual performance or applicable industry standards. If another Bell Communications Research, Inc. ("Bellcore"), or industry standard (e.g., American National Standards Institute ("ANSI")) technical reference or a more recent version of such reference sets forth a different requirement, ACI may request, where technically feasible, that a different standard apply by making a request for such change pursuant to the Bona Fide Request Process identified in Section 1.1 of the General Terms and Conditions of this Agreement.
- 28.9.2 If one or more of the requirements set forth in this Agreement are in conflict, the parties shall mutually agree on which requirement shall apply. If the parties cannot reach agreement, the Alternative Dispute Resolution Process identified in Section 15 of the General Terms and Conditions of this Agreement shall apply.

- 28.9.3** Each Network Element provided by BellSouth to ACI shall be at least equal in the quality of design, performance, features, functions and other characteristics, including but not limited to levels and types of redundant equipment and facilities for power, diversity and security, that BellSouth provides in the BellSouth network to itself, BellSouth's own Customers, to a BellSouth affiliate or to any other entity for the same Network Element.
- 28.9.3.1** BellSouth agrees to work cooperatively with ACI to provide Network Elements that will meet ACI's needs in providing services to its Customers.
- 28.9.4** Unless otherwise designated by ACI, each Network Element and the interconnections between Network Elements provided by BellSouth to ACI shall be made available to ACI on a priority basis that is equal to or better than the priorities that BellSouth provides to itself, BellSouth's own Customers, to a BellSouth affiliate or to any other entity for the same Network Element.

PART III: ANCILLARY FUNCTIONS

29. Introduction

This Part and Attachment 3 set forth the Ancillary Functions and requirements for each Ancillary Function that BellSouth agrees to offer to ACI so that ACI may provide Telecommunication Services to its Customers.

30. BellSouth Provision of Ancillary Functions

Part IV of this Agreement sets forth the prices for such Ancillary Functions. BellSouth will offer Ancillary Functions to ACI on rates, terms and conditions that are just, reasonable, and non-discriminatory and in accordance with the terms and conditions of this Agreement.

30.1 The Ancillary Functions that ACI has identified as of the Effective Date of this Agreement are Collocation, Rights Of Way (ROW), Conduits and Pole Attachments. ACI and BellSouth agree that the Ancillary Functions identified in this Part III are not exclusive. Either Party may identify additional or revised Ancillary Functions as necessary to improve services to Customers, to improve network or service efficiencies or to accommodate changing technologies, Customer demand, or regulatory requirements. Upon BellSouth's identification of a new or revised Ancillary Function, BellSouth shall notify ACI of the existence of and the technical characteristics of the new or revised Ancillary Function.

ACI shall make its request for a new or revised Ancillary Function pursuant to the Bona Fide Request Process identified in Section 1.1 of the General Terms and Conditions of this Agreement.

30.2 If BellSouth provides any Ancillary Function to itself, to its own Customers, to a BellSouth affiliate or to any other entity, BellSouth will provide the same Ancillary Function to ACI at rates, terms and conditions no less favorable to ACI than those provided by BellSouth to itself or to any other Party. The Ancillary Functions and requirements for each Ancillary Function are set forth in Attachment 3.

31. Standards for Ancillary Functions

31.1 Each Ancillary Function shall meet or exceed the requirements set forth in the technical references, as well as the performance and other requirements, identified in this Agreement. If another Bell Communications Research, Inc. ("Bellcore"), or industry standard (e.g., American National Standards Institute ("ANSI")) technical reference sets forth a different requirement, ACI may elect, where technically feasible, which standard shall apply by making a request for such change pursuant

to the Bona Fide Request Process identified in Section 1.1 of the General Terms and Conditions of this Agreement.

- 31.2 Except as otherwise expressly agreed to herein, each Ancillary Function provided by BellSouth to ACI herein shall be at least equal in the quality of design, performance, features, functions and other characteristics, including, but not limited to levels and types of redundant equipment and facilities for diversity and security, that BellSouth provides in BellSouth network to itself, its own Customers, its affiliates or any other entity. This Section is not intended to limit BellSouth's ability during this Agreement to offer to ACI nor ACI's ability to accept Ancillary Functions with varying degrees of features, functionalities and characteristics.
- 31.2.1 BellSouth agrees to work cooperatively with ACI to provide Ancillary Functions that will meet ACI's needs in providing services to its Customers.
- 31.3 Ancillary Functions provided by BellSouth to ACI shall be allocated to ACI on a basis that is at least equal to that which BellSouth provides to itself, its Customers, its affiliates or any other entity.

PART IV: PRICING

32. General Principles

All services currently provided hereunder (including resold Local Services, Network Elements, Combinations and Ancillary Functions) and all new and additional services to be provided hereunder shall be priced in accordance with all applicable provisions of the Act and the rules and orders of the Federal Communications Commission and the Florida Public Service Commission.

33. Local Service Resale

The rates that ACI shall pay to BellSouth for resold Local Services shall be BellSouth's Retail Rates less the applicable discount. The following discount will apply to all Telecommunications Services available for resale in Florida.

Residential Service	21.83%
Business Service:	16.81%

34. Unbundled Network Elements

The prices that ACI shall pay to BellSouth for Unbundled Network Elements are set forth in Table 1.

34.1 Charges for Multiple Network Elements

Any BellSouth non-recurring and recurring charges shall not include duplicate charges or charges for functions or activities that ACI does not need when two or more Network Elements are combined in a single order. BellSouth and ACI shall work together to mutually agree upon the total non-recurring and recurring charge(s) to be paid by ACI when ordering multiple Network Elements. If the parties cannot agree to the total non-recurring and recurring charge(s) to be paid by ACI when ordering multiple Network Elements within sixty (60) days of the Effective Date, either party may petition the Florida Public Service Commission to settle the disputed charge or charges.

35. Compensation For Call Transport and Termination

The prices that ACI and BellSouth shall pay are set forth in Table 1.

36. Ancillary Functions

36.1 Collocation - The prices that ACI shall pay to BellSouth are set forth in Table 2.

- 36.2 **Rights-of-Way** - The prices that ACI shall pay to BellSouth are set forth in Table 3.
- 36.3 **Poles, Ducts and Conduits** - The prices that ACI shall pay to BellSouth are set forth in Table 4.
37. **Local Number Portability**
The prices for interim number portability are set forth in Table 5.
38. **Recorded Usage Data**
The prices for recorded usage data are set forth in Table 6.
39. **Electronic Interfaces**
Each party shall bear its own cost of developing and implementing Electronic Interface Systems because those systems will benefit all carriers. If a system or process is developed exclusively for certain carriers, however, those costs shall be recovered from the carrier who is requesting the customized system.

TABLE 1

UNBUNDLED NETWORK ELEMENTS

Network Interface Device, Per Month	\$0.76 (interim rate)
Loops, including NID	
2 wire, per month	\$ 17.00
NRC First	\$140.00
NRC Add'l	\$ 42.00
4 wire, per month	\$ 30.00
NRC First	\$141.00
NRC Add'l	\$ 43.00
2 wire ISDN, per month	\$ 40.00
NRC First	\$306.00
NRC Add'l	\$283.00
DS1, per month	\$ 80.00
NRC First	\$540.00
NRC Add'l	\$465.00
Unbundled Loop Channelization System (DS1 to VG)	
Per system, per month	\$480.00
NRC, First	\$350.00
NRC, Add'l	\$ 90.00
Per voice interface, per month	\$ 1.50
NRC, First	\$ 5.75
NRC, Add'l	\$ 5.50
Loop Distribution	

Per pair, per month	\$ 7.00
NRC, First Pair	BFR
NRC, Add'l Pair, ea.	BFR
End Office Switching	
Ports	
2 wire	\$ 2.00
NRC First	\$38.00
NRC Add'l	\$15.00
4 wire	\$10.00 (interim rate)
NRC First	\$38.00 (interim rate)
NRC Add'l	\$15.00 (interim rate)
2 wire ISDN	\$13.00
NRC First	\$88.00
NRC Add'l	\$66.00
2 wire DID	TBD
NRC First	TBD
NRC Add'l	TBD
4 wire ISDN	TBD
NRC First	TBD
NRC Add'l	TBD
4 wire DS1	\$125.00
NRC First	\$112.00
NRC Add'l	\$ 91.00
Usage	
Initial Minute	\$0.0175
Additional Minutes	\$0.005

Features, functions, capabilities	No additional charge
Operator Systems	
Operator Call Handling-Station & Person	\$1.00 per minute
Automated Call Handling	\$0.10 per call attempt
Directory Assistance	\$0.25 per call
DA Call Completion	\$0.03 per call attempt
Intercept	\$0.01 per call
Busy Line Verification	\$0.80 per call
Emergency Interrupt	\$1.00 per call
Directory Assistance	
DA Database	
per listing	\$0.001
monthly	\$100.00
Direct access to DA service	
per query	\$0.01
monthly	\$5,000.00
NRC, service establish charge	\$820.00
DA transport	
switched local channel	\$133.81 (interim rate)
NRC, first	\$866.97 (interim rate)
NRC, add'l	\$486.83 (interim rate)
switched dedicated DS1 level	
per mile	\$16.75 (interim rate)
per facility termination	\$59.75 (interim rate)
NRC	\$100.49 (interim rate)
switched common	

per DA call	\$0.0003
per DA call per mile	\$0.00001
tandem switching	
per DA call	\$0.00055
Dedicated Transport	
DS1, facility termination	\$ 59.75
DS1, per mile	\$ 1.60
NRC	\$100.49 (interim rate)
Common Transport	
Facility termination, per MOU	\$0.0005
Per mile, per MOU	\$0.000012
Tandem Switching	\$0.00029 per minute
Signaling Links	
Link	\$5.00 per link, per month
NRC	\$400.00
Link termination	\$113.00
Signal Transfer Points	
ISUP	\$0.00001 per message
TCAP	\$0.00004 per message
Usage surrogate	\$64.00 per month
Service Control Points	
LIDB (1)	TBD

Toll Free Database (1)	TBD
AIN, per message	\$0.00004 (interim rate)
AIN, Service Creation Tools (1)	TBD
AIN, Mediation (1)	TBD
(1) BellSouth and ACI shall negotiate rates for this offering. If agreement is not reached within sixty (60) days of the Effective Date, either party may petition the Florida PSC to settle the disputed charge or charges.	
Call Transport and Termination (1)	
Direct End Office interconnection	\$.002 per MOU
Interconnection at the Tandem Switch, - Tandem switch + transport - End Office Switch - Combined	\$.00125 per MOU \$.00200 per MOU \$.00325 per MOU
(1) The Parties agree to bill a mutually agreed upon composite interconnection rate of \$0.004 per mou until approximately January, 1998, unless otherwise agreed to by the Parties. This interim composite rate will be billed in lieu of interconnection rates on an elemental basis.	

TABLE 2

PHYSICAL AND VIRTUAL COLLOCATION

The following are interim rates, subject to true-up based on permanent rates. Permanent rates will be set once BellSouth files appropriate TSLRIC cost studies and such studies are reviewed and approved by the Florida PSC.

PHYSICAL COLLOCATION

Application - Per Arrangement/Per Location-Nonrecurring	\$3,100.00
Space Preparation Fee - Nonrecurring	ICB
Space Construction Fee - Nonrecurring	\$3,750.00
Cable Installation - Per Entrance Cable	\$2,750.00
Floor Space Zone A, Per Square Foot, Per Month	\$4.28
Floor Space Zone B, Per Square Foot, Per Month	\$4.09
Power Per AMP, Per Month	\$3.86
Cable Support Structure, Per Entrance Cable	\$13.35
POT Bay (Optional Point of Termination Bay)	
Per 2-Wire Cross - Connect, Per Month	\$0.18
Per 4-Wire Cross - Connect, Per Month	\$0.44
Per DS1 Cross - Connect, Per Month	\$0.44
Per DS3 Cross - Connect, Per Month	\$3.66
Cross-Connects	
2-Wire Analog, Per Month	\$0.30
4-Wire Analog, Per Month	\$0.50
Nonrecurring 2-wire and 4-wire	\$9.25
DS1, Per Month	\$3.07
Nonrecurring - First/Additional	\$113.75/14.25
DS3, Per Month	\$39.64
Nonrecurring - First/Additional	\$113.75/14.25
Security Escort	
Basic - 1st half hour	\$41.00
Overtime - 1st half hour	\$48.00
Premium - 1st half hour	\$55.00
Basic - additional	\$25.00
Overtime - additional	\$30.00
Premium - additional	\$35.00

VIRTUAL COLLOCATION

Rates tariffed by BellSouth in its FCC Tariff No. 1, Section 20.

TABLE 3

RIGHTS OF WAY

BellSouth shall provide access to rights-of-way at rates that are consistent with Section 224 of the Telecommunications Act of 1934.

TABLE 4

POLE ATTACHMENTS, CONDUIT AND DUCT OCCUPANCY

Pole Attachment	\$4.20 per attachment, per year
Conduit, per foot	\$0.56 per foot, per year
Work performed by BellSouth Employee, per hour	Labor rate as developed in accordance with FCC Accounting Rules for work performed by BellSouth employees.

TABLE 5

LOCAL NUMBER PORTABILITY

ACI and BellSouth shall pay its own costs in the provision of interim number portability. ACI and BellSouth shall track their costs of providing interim number portability with sufficient detail to verify the costs, in order to facilitate the Florida PSC's consideration of recovery of these costs in Docket No. 950737-TP.

TABLE 6

RECORDED USAGE DATA

Recording Services (only applied to unbundled operator services messages), per message	\$.008
Message Distribution, per message	\$.004
Data Transmission, per message	\$.001

42. Execution of the Interconnection Agreement by either Party does not confirm or infer that the executing Party agrees with any decision(s) issued pursuant to the Telecommunications Act of 1996 and the consequences of those decisions on specific language in this Agreement. Neither Party waives its rights to appeal or otherwise challenge any such decision(s) and each Party reserves all of its rights to pursue any and all legal and/or equitable remedies, including appeals of any such decision(s). If such appeals or challenges result in changes in the decision(s), the Parties agree that appropriate modifications to this Agreement will be made promptly to make its terms consistent with those changed decision(s).

IN WITNESS WHEREOF, the Parties have executed this Agreement through their authorized representatives.

ALLTEL Long Distance, Inc.

BellSouth Telecommunications, Inc.

By: Mike Rhoda

By: Jerry Hendrix

Signature

Signature

Vice President-Business Development
Title

Director-Interconnection Services
Title

July 23, 1997
Date

July 23, 1997
Date

**Interim Agreement
by and between
BellSouth Telecommunications, Inc.
and ALLTEL Communications
Florida**

This Notice of Agreement ("Notice") is made by and between ALLTEL Communications, Inc. ("ALLTEL"), incorporated under the laws of the State of Delaware, on behalf of itself and its successors and assigns, and BellSouth Telecommunications, Inc., ("BellSouth"), a Georgia corporation, having an office at 675 W. Peachtree Street, Atlanta, Georgia, 30375, on behalf of itself and its successors and assigns, and shall be deemed effective as of June 27, 2000.

WHEREAS, the Telecommunications Act of 1996 (the "Act") was signed into law on February 8, 1996; and

NOW, THEREFORE, by this Notice and in consideration of the promises and mutual covenants contained herein, ALLTEL and BellSouth state the following:

1. BellSouth will make available to ALLTEL at ALLTEL's request specific conversion times for UNE Loops. Provisions for specific conversion times are as set forth in Exhibit 1 to this Agreement.
2. The interim rates for the provision of specific conversion times are set forth in Exhibit 2 to this Agreement.
3. The term of this Agreement shall be for one year or until such time as ALLTEL and BellSouth complete the negotiations or arbitration of an interconnection agreement pursuant to section 252 of the Act.

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

BellSouth Telecommunications, Inc.

ALLTEL Communications, Inc.

ON FILE

Signature

ON FILE

Signature

Jerry Hendrix

Name

Steve Rowell

Name

Senior Director

Title

Sr. Vice President – State Government Affairs

Title

8/9/00

Date

July 28, 2000

Date

Exhibit 1

1. Definition

A loop is a transmission facility between a distribution frame [cross-connect], or its equivalent, in a BellSouth central office or wire center, and the network interface device at a subscriber's premises, to which ALLTEL is granted exclusive use. This includes, but is not limited to two-wire and four-wire analog voice-grade loops, and two-wire and four-wire loops that are conditioned to transmit the digital signals needed to provide ISDN, ADSL, HDSL, and DS1-level signals. Two-wire analog voice-grade loops may be provisioned as Service Level 1 (SL1) or Service Level 2 (SL2). SL1 loops are non-designed, do not have test points, and do not come with any Order Coordination (OC) or engineering information/circuit make-up data. Upon issuance of an order in the service order system, BellSouth shall activate SL1 loops on the due date in the same manner and time frames that BellSouth normally activates POTS-type loops for its customers. These time frames are as documented in BellSouth's Products and Services Interval Guide and BellSouth will provide 30 days written advance notice of any changes to the Products and Services Interval Guide which might impact ALLTEL's service to its end users. A loop may be composed of the following components:

Loop Concentrator/Multiplexer
Loop Feeder
Network Interface Device (NID)
Distribution

- 1.1 BellSouth Order Coordination includes two types: "Order Coordination" and "Order Coordination – Time Specific".
- 1.2 "Order Coordination" refers to standard BellSouth service order coordination involving SL2 voice loops and all digital loops. Order Coordination is a coordinated conversion of an existing dial-tone customer from one local service provider to another. The conversion must include disconnecting the existing circuit, performing any required number portability translations and activating the new loop to ALLTEL's collocation space in a coordinated manner. BellSouth shall schedule and perform this work during normal working hours on the committed due date and shall advise ALLTEL of the work schedule 24 to 48 hours prior to the due date and will provide a completion status at the completion of the conversion. Such notice shall be provided as soon as feasible but within two hours. Order Coordination, as provided for in this paragraph, includes coordination of the porting of a number where SPNP and PNP is ordered with a loop. The confirmed due date is the date returned on the FOC. Order Coordination is included in the SL2 voice loop and digital loop price.
- 1.3 "Order Coordination – Time Specific" ("OC-TS") refers to service order coordination in which ALLTEL requests a specific time for a service order conversion to take place. BellSouth shall charge ALLTEL an additional charge for such orders only if the conversion occurs within one hour of the time specified on the order. If BellSouth is not available or not ready within thirty (30) minutes of the specified time, the Parties will reschedule and BellSouth will waive the OC-TS additional nonrecurring charge for such OC-TS work whenever it is performed pursuant to an agreed-upon rescheduling.

2. True-up

Exhibit 1

The interim rates set forth in Exhibit 2 shall be subject to true-up according to the following procedures:

- 2.1 The interim prices shall be trued-up, either up or down, based on final prices determined either by further agreement between the Parties, or by a final order (including any appeals) of the Commission which final order meets the criteria of (3) below. The Parties shall implement the true-up by comparing the actual volumes and demand for each item, together with interim prices for each item, with the final prices determined for each item. Each Party shall keep its own records upon which the true-up can be based, and any final payment from one Party to the other shall be in an amount agreed upon by the Parties based on such records. In the event of any disagreement as between the records or the Parties regarding the amount of such true-up, the Parties agree that the body having jurisdiction over the matter shall be called upon to resolve such differences, or the Parties may mutually agree to submit the matter to the Dispute Resolution process in accordance with the provisions of Section 15 of the Agreement.
- 2.2 The Parties may continue to negotiate toward final prices, but in the event that no such Agreement is reached within nine (9) months, either Party may petition the Commission to resolve such disputes and to determine final prices for each item. Alternatively, upon mutual agreement, the Parties may submit the matter to the Dispute Resolution Process set forth in Section 15, so long as they file the resulting Agreement with the Commission as a "negotiated Agreement" under Section 252(e) of the Act.
- 2.3 A final order of this Commission that forms the basis of a true-up shall be the final order as to prices based on appropriate cost studies, or potentially may be a final order in any other Commission proceeding which meets the following criteria:
 - 2.3.1 BellSouth and ALLTEL are entitled to be a full Party to the proceeding;
 - 2.3.2 It shall apply the provisions of the federal Telecommunications Act of 1996, including but not limited to Section 252(d)(1) (which contains pricing standards) and all then-effective implementing rules and regulations; and,
 - 2.3.3 It shall include as an issue the geographic deaveraging of network element and other services prices, which deaveraged prices, if any are required by said final order, shall form the basis of any true-up.

Exhibit 2: UNE Loop Rates for Specific Conversion Times

Rate Element	USOC	NRC*
2-Wire Analog VG Loop		
Incremental Charge - Order Coordination-Time Specific (per LSR)	OCOSL	\$35.46
2-Wire Analog VG Loop-SL2 w/loop or ground start signaling		
Incremental Charge - Order Coordination-Time Specific (per LSR)	OCOSL	\$35.46
2-Wire Analog VG Loop-SL2 w/ reverse battery signaling		
Incremental Charge - Order Coordination-Time Specific (per LSR)	OCOSL	\$35.46
4-Wire Analog VG Loop		
Incremental Charge - Order Coordination-Time Specific (per LSR)	OCOSL	\$35.46
2-Wire ISDN Digital Grade Loop		
Incremental Charge - Order Coordination-Time Specific (per LSR)	OCOSL	\$35.46
2-Wire Asymmetrical Dig Subscriber Line (ADSL) Compatible Loop		
Incremental Charge - Order Coordination-Time Specific (per LSR)	OCOSL	\$35.46
2-Wire High Bit Rate Dig Subscriber Line (HDSL) Compatible Loop		
Incremental Charge - Order Coordination-Time Specific (per LSR)	OCOSL	\$35.46
4-Wire High Bit Rate Dig Subscriber Line (HDSL) Compatible Loop		
Incremental Charge - Order Coordination-Time Specific (per LSR)	OCOSL	\$35.46
4-Wire DS1 Digital Loop		
Incremental Charge - Order Coordination-Time Specific (per LSR)	OCOSL	\$35.46
4-Wire 56 Kbps Dig Grade Loop		
Incremental Charge - Order Coordination-Time Specific (per LSR)	OCOSL	\$35.46
4-Wire 64 Kbps Dig Grade Loop		
Incremental Charge - Order Coordination-Time Specific (per LSR)	OCOSL	\$35.46

*Rates are interim and subject to true-up.



BellSouth Interconnection Services

675 West Peachtree Street, NW
Room 34591
Atlanta, Georgia 30375

Shelley P. Walls
(404) 927-7311
Fax: (404) 529-7839

September 19, 2000

VIA OVERNIGHT MAIL

Jayne Eve
Staff Manager - Interconnection Services
ALLTEL Communications, Inc.
236 West Center Avenue
P.O. Box 689
Mooresville, NC 28115

RE: Request that ALLTEL Communications, Inc. engage in negotiations with BellSouth Telecommunications, Inc. pursuant to Section 251(c)(1) of the Telecommunications Act of 1996 and Section 2.2 of the Interconnection Agreement Between ALLTEL Communications, Inc. and BellSouth Telecommunications, Inc.

Dear Ms. Eve:

On June 13, 1997, BellSouth Telecommunications, Inc. ("BellSouth") and ALLTEL Communications, Inc. (ALLTEL) entered into an Interconnection Agreement for North Carolina. On July 23, 1997, BellSouth Telecommunications, Inc. ("BellSouth") and ALLTEL Communications, Inc. (ALLTEL) entered into an Interconnection Agreement for Florida. The expiration date for those Agreements were September 1, 1999.

Pursuant to Section 2.2 of the Agreements and in compliance with Section 251(c)(1) of the Communications Act of 1934, as amended ("Act"), BellSouth is hereby documenting the need for negotiations between ALLTEL Communications, Inc. and BellSouth. With this letter, good-faith negotiations shall officially commence between BellSouth and ALLTEL Communications, Inc. to enter into a new Interconnection Agreement for North Carolina. Negotiations for a new Interconnection Agreement for Florida. Pursuant to ALLTEL's request, negotiations for an initial Interconnection Agreement in Louisiana shall officially commence on September 29.

This letter is intended to fulfill BellSouth's notification obligation set forth in the Agreements. BellSouth looks forward to working with ALLTEL in reaching mutually agreeable Agreements. Should you have questions regarding this letter, please do not hesitate to call me.

Sincerely,

A handwritten signature in cursive script that reads "Shelley P. Walls".

Shelley P. Walls
Manager, Interconnection Services

cc: Jerry Hendrix, BellSouth
Stephen Klimacak, BellSouth
Sandra Cetti, BellSouth
Larry Thaxton, BellSouth
Angela Williams, BellSouth

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re:)
)
Petition of ALLTEL Communications, Inc.)
for arbitration with BellSouth Telecommuni-)
cations, Inc. pursuant to Sec. 252 of the)
Telecommunications Act of 1996 respecting)
an Interconnection Agreement)
_____)

**UNRESOLVED ARBITRATION ISSUES
BETWEEN ALLTEL AND BELL SOUTH IN FLORIDA**

Exhibit B: Unresolved Arbitration Issues between ALLTEL and BellSouth in Florida

Issue No. and Title	Contract Ref.	ALLTEL's Position	BELLSOUTH's Position
3) Parity language:	GT&C, Section 7	ALLTEL proposes 3 additional clauses: BST to provide (1) UNEs in a manner so as not to prevent compliance with PSC requirements, (2) parity in number portability provisioning, and (3) resale provisioning in a manner so as not to prevent ALLTEL from providing customer service in parity with BST.	BST opposes all three additional clauses. The Act does not require BST to provide ALLTEL with service at levels greater than it provides to its own end users, nor is BST responsible for whether ALLTEL meets its service requirements.
4) Directory Listings: White Page Verification List	GT&C, Section 13.2.2	Proposes language for obtaining white page verification list.	Not appropriate for Agreement.
5) Directory Listings: Customer Guide Pages	GT&C, Section 13.2.3 & 13.2.4.1	Proposes language for obtaining customer guide pages	Not appropriate for Agreement.
6) Directory Listings: Additional Directory Books	GT&C, Section 13.2.4.2	Proposes language for purchasing directory books in bulk.	Not appropriate for Agreement.
8) Directory Listings: Posting Directory Listings	GT&C, Section 13.3.1	Proposes language for directory listings to be posted on a secure web-site to allow for periodic verification.	Not appropriate for Agreement.
9) Directory Listings: Notice of Publication Schedule	GT&C, Section 9	Proposes BST continue current agreed upon practice of providing ALLTEL reasonable prior notice of directory publication schedule	Not appropriate for Agreement.
13a) Modification of Agreement Timeline Restriction	GT&C, Section 24.1	Disagrees that BST has the right to restrict the opt-in language set forth in the Act.	Proposes language which places timeline restrictions on CLEC ability to opt-in to another CLECs agreement.
13b) Modification of Agreement Pick & choose	GT&C, Section 24.1	BST should not be able to limit ALLTEL's ability to pick and choose provisions under 252(I).	Proposes additional language that limits the terms & conditions of pick and choose.
14a) MFN Effective Date	GT&C, Section 24.7	Proposes language that sets forth terms for the effective date of the MFN.	Disagrees and believes ALLTEL is trying to extend its pick and choose rights.
17) Order Coordination-Time Specific	ATT. 2, Section 2.1.6	Proposes to maintain current language that waives the nonrecurring charge if the time specific cut is missed.	Disagrees. Proposal constitutes improper liquidated damage.

Issue No. and Title	Contract Ref.	ALLTEL's Position	BELLSOUTH's Position
18) Interval on Multiple Trouble Tickets	ATT. 2, Section 2.1.15	Agrees with delayed maintenance status however, sole responsibility to find problem should not be just ALLTEL but both parties should be work cooperatively to isolate within the BST network and resolve.	Proposes delayed maintenance status for 24 hours while ALLTEL performs further testing.
23) Enhanced Extended Loops "EELs"	ATT. 2, Section 5.3	Proposes to utilize the GA PSC-ordered language that allows EEL combinations to be offered regardless of whether such EELs are currently combined for a particular customer at a particular location.	Disagrees, BST is offering EELs only to the extent that the facility is "Currently Combined" to a particular customer at a specific location in Zone Density 1. No new EEL combinations would be allowed in any states, except in GA, where BST was ordered to offer.
24) Special Access Conversions to EELs	ATT. 2, Section 5.3.7.1	Proposes conversion certification letter will be maintained on file and not mailed/sent to BST causing additional paper flow. Proposes to add in electronic LSR remarks field indicating which conversion option chosen.	Disagrees. Unable to accept info. in the remarks field.
25) Conversions with Extraordinary Circumstances	ATT. 2, Section 5.3.7.2	Proposes that ALLTEL may petition either the FCC or the state commission for a waiver of the designated options.	Disagrees, the FCC's EEL Order specified that waiver requests were to go through the FCC only.
34) Access Card Security System	ATT. 4, Sect. 5.6.2	Proposes to continue current contract language (Sect. 11.6), which requires utilization of an access card security system.	Disagrees. BST is not obligated to install specific types of security arrangements upon ALLTEL's demand.
37a) Virtual to Physical Collocation Transition	ATT. 4, Section 6.13	Proposes to allow ALLTEL to obtain a security escort when security issues arise for VC to PC transition in-place.	Disagrees. BST should be able to secure its own equipment and its discretion where to locate collocations.
37b) Downtime for Virtual to Physical Conversions	ATT. 4, Section 6.13	Maximum "downtime" for completing the VC to PC transition should be less than 15 calendar days.	Disagrees. BST proposes 30 day freeze on orders.
39) Provisioning Intervals	ATT. 6, Section 3.9	ALLTEL proposes to insert into the Interconnection Agreement the BST provisioning intervals for resale and unbundled network elements currently found in BellSouth's Products and Services Interval Guide, Issue 3, July 2000.	Disagrees. There is no requirement and BST needs flexibility to change these intervals.

Issue No. and Title	Contract Ref.	ALLTEL's Position	BELLSOUTH's Position
40) Effective Date of Performance Measurements and Enforcement Mechanisms	ATT. 9, Section 4.2	Proposes that the Effective Date of Att. 9 Performance Measures and Enforcement Mechanism should become effective concurrently with the Interconnection Agreement.	The Effective Date of Attachment 9 should be after the FCC has issued an order granting intraLATA toll authority to BST under Section 271 of the Act.
42) Enforcement Mechanism Measure	ATT. 9, All Sections including 4.5.3	All references to the term "quarter" should be deleted. Consecutive months of noncompliance are not required to be within a given quarter.	This issue should be referred to the generic performance measurements docket.

\\ausley_law_2\vol1\data\jw\arbitration exhibit b.doc

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re:)
)
Petition of ALLTEL Communications, Inc.)
for arbitration with BellSouth Telecommuni-)
cations, Inc. pursuant to Sec. 252 of the)
Telecommunications Act of 1996 respecting)
an Interconnection Agreement)
_____)

**CONTRACT LANGUAGE PROPOSALS
REGARDING UNRESOLVED ISSUES**

Exhibit C: Contract Language Proposals Regarding Unresolved Issues

Issue 3 – GT&C, Section 7 Parity:

7. Parity

When ALLTEL purchases, pursuant to Attachment 1 of this Agreement, telecommunications services from BellSouth for the purposes of resale to end users, BellSouth shall provide said services so that the services are equal in quality, subject to the same conditions, and provided within the same provisioning time intervals that BellSouth provides to its affiliates, subsidiaries and end users. In connection with such resale, BellSouth will provide ALLTEL with pre-ordering, ordering, maintenance and trouble reporting, and daily usage data functionality in a manner which will not prevent ALLTEL from providing levels of customer service to ALLTEL's local exchange customers in parity with levels BellSouth provides to its own end users. To the extent technically feasible, the quality of a Network Element, as well as the quality of the access to such Network Element provided by BellSouth to ALLTEL shall be at least equal in quality to that which BellSouth provides to itself, its affiliates or any other telecommunications carrier and in any event in a manner so as not to prevent ALLTEL from providing service to ALLTEL end users in compliance with Commission requirements. The quality of the interconnection and number portability provided ALLTEL between the networks of BellSouth and the network of ALLTEL shall be at a level that is equal to that which BellSouth provides itself, a subsidiary, an Affiliate, or any other party. The interconnection facilities shall be designed to meet the same technical criteria and service standards that are used within BellSouth's network and shall extend to a consideration of service quality as perceived by end users and service quality as perceived by ALLTEL.

[Language in **BOLD** is proposed by ALLTEL and disputed by BellSouth.]

Issue 4 – GT&C. Section 13.2.2 White Page Verification List:

13.2.2 At least sixty (60) calendar days prior to the business office close date for a particular directory, BellSouth will provide ALLTEL a verification list of ALLTEL's subscriber listings, as such listings are to appear in the directory. The verification list will also include Directory Delivery Address (DDA) information for each ALLTEL end user and will be provided in a paper or an agreed upon electronic format. ALLTEL will review this verification list and will submit to BellSouth any necessary additions, deletions or modifications within thirty (30) calendar days from receipt of the list from BellSouth. BellSouth will not release the book for publication until all ALLTEL modifications are completed to ALLTEL's satisfaction.

Issue 5 – GT&C. Section 13.2.3 Customer Guide Pages:

13.2.3 At its option, ALLTEL may purchase additional Customer Guide Pages in the informational section of the BellSouth White Pages directory covering the geographic area(s) it is serving. These pages will be in alphabetical order with other local service providers and will be no different in style, size, color and format than BellSouth information pages. Sixty (60) calendar days prior to the directory close date, ALLTEL will provide to BellSouth the information page(s) in camera ready format.

13.2.4.1 BellSouth shall make available additional Customer Guide pages per section 13.2.3 above for ALLTEL's exclusive use and BellSouth may assess a \$500.00 per-page annual rate.

Issue 6 – GT&C. Section 13.2.4.2 Directory Books:

13.2.4.2 BellSouth shall make available, at ALLTEL's option, when ordered in bulk, directory books for any areas where ALLTEL provides local service and BellSouth will assess a \$xx.xx per book charge when delivered in bulk to ALLTEL.

Issue 8 – GT&C. Section 13.3.1 Posting of Directory Listings:

13.3.1 BellSouth will post ALLTEL's directory listings as such listings are to appear in the directory and update daily to a secure website for ALLTEL's on-line viewing.

Issue 9 – GT&C. Section 13.9 Directory Listings Publication Schedule:

13.9 Publication Schedule. BellSouth will provide to ALLTEL the directory close dates for the calendar year for all areas where ALLTEL is providing local service. Updates to this schedule will be provided in a timely manner as they occur but not less than ninety (90) calendar days prior to publication.

[Language in BOLD is proposed by ALLTEL and disputed by BellSouth.]

Issue 13a – GT&C, Section 24.1 Modification Timeline Restriction:
Issue 13b – GT&C, Section 24.1 Limits on "Pick and Choose":

24.1 BellSouth shall to the extent required by law make available to ALLTEL, pursuant to 47 USC § 252 and the FCC rules and regulations regarding such availability, to ALLTEL any interconnection, service, or network element provided under any other agreement filed and approved pursuant to 47 USC § 252.

BellSouth Proposal:

BellSouth shall make available, pursuant to 47 USC § 252 and the FCC rules and regulations regarding such availability, to ALLTEL any interconnection, service, or network element provided under any other agreement filed and approved pursuant to 47 USC § 252, provided a minimum of six months remains on the term of such Agreement. The Parties shall adopt all rates, terms and conditions concerning such other interconnection, service or network element and any other rates, terms and conditions that are legitimately related to or were negotiated in exchange for or in conjunction with the interconnection, service or network element being adopted. The adopted interconnection, service, or network element and agreement shall apply to the same states as such other agreement. The term of the adopted agreement or provisions shall expire on the same date as set forth in the agreement which was adopted.

Issue 14a – GT&C, Section 24.7 Effective Date of MFN Terms and Conditions:

24.7 If, as a result of any proceeding or filing before any Court, State Commission, or the Federal Communications Commission, voluntary agreement or arbitration proceeding pursuant to the Act or pursuant to any applicable state law, BellSouth becomes obligated to provide Services and Elements, whether or not presently covered by this Agreement, to a third party at rates or on terms and conditions more favorable to such third party than the applicable provisions of this Agreement, ALLTEL shall have the option to substitute such more favorable rates, terms, and conditions for the relevant provisions of this Agreement and such substituted rates, terms or conditions shall be deemed to have been effective under this Agreement as of the effective date of the third parties' provisions.

[Language in **BOLD** is proposed by ALLTEL; double underlined is proposed by BellSouth.]

Issue 17 – Attachment 2, Section 2.1.6 Order Coordination – Time Specific:

2.1.6 "Order Coordination – Time Specific" (or "OC-TS") refers to service order coordination in which ALLTEL requests a specific time for a service order conversion to take place. BellSouth will make every effort to accommodate ALLTEL's specific conversion time request. However, BellSouth reserves the right to negotiate with ALLTEL a conversion time based on load and force availability when necessary. Loops on a single service order of 14 or more loops will be provisioned on a project basis. This is a chargeable option for any coordinated order and is billed in addition to the OC charge. ALLTEL may specify a time between 9:00 a.m. and 4:00 p.m. (location time) Monday through Friday (excluding holidays). If ALLTEL specifies a time outside this window, or selects a time or quantity of loops that requires BellSouth technicians to work outside normal work hours, overtime charges will apply in addition to the OC and OC-TS charges. Overtime charges will be applied according to actual costs based on type of force group required to perform the work, overtime hours worked and any special circumstances. **BellSouth shall charge ALLTEL an additional charge for orders with OC-TS only if the conversion occurs within one hour of the time specified on the order. If BellSouth is not available or not ready within thirty (30) minutes of the specified time, the Parties will reschedule and BellSouth will waive the OC-TS additional nonrecurring charge for such OC-TS work whenever it is performed pursuant to an agreed-upon rescheduling.**

BellSouth Proposal:

BellSouth shall charge ALLTEL for orders with OC-TS only if the conversion appointment is met pursuant to the relevant state commission-approved service quality measurements or as provided for in attachment 9 and incorporated herein by this reference. In the event that an appointment must be rescheduled to another day, BellSouth will charge ALLTEL the OC-TS nonrecurring charge when the OC-TS work is performed. OCTS is a single per LSR charge and therefore is not subject to multiple non-recurring OCTS charges.

Issue 18 – Attachment 2, Section 2.1.15 Intervals on Multiple Trouble Tickets:

2.1.15 ALLTEL will be responsible for testing and isolating troubles on the loops. Once ALLTEL has isolated a trouble to the BellSouth provided loop, ALLTEL will issue a trouble to BellSouth on the loop. BellSouth will take the actions necessary to repair the loop if a trouble actually exists. BellSouth will repair these loops in the same time frames that BellSouth repairs similarly situated loops to its customers. **If no trouble is found by BellSouth and where a trouble is intermittent, ALLTEL may request BellSouth to place the ticket in delayed maintenance status for 24 hours while ALLTEL performs further testing. If, after 24 hours, ALLTEL has not contacted BellSouth to authorize the acceptance of the loop, BellSouth will close the ticket. However, if additional testing results in the isolation of a trouble in the BellSouth network, BellSouth will reopen the ticket and take the appropriate actions necessary to repair the loop to meet the technical standards of TR73600 for the type of loop being repaired.**

[Language in **BOLD** is proposed by ALLTEL; double underlined is proposed by BellSouth.]

Issue 23 – Attachment 2, Section 5.3 Enhanced Extended Loops “EELs”:

5.3.3 BellSouth shall provide EEL combinations to ALLTEL regardless of whether or not such EELs are Currently Combined.

BellSouth Proposal:

BellSouth shall make available to ALLTEL those EEL combinations described in Section 5.3.4 below only to the extent such combinations are Currently Combined. Furthermore, BellSouth will make available EEL combinations to ALLTEL in density Zone 1, as defined in 47 C.F.R. 69.123 as of January 1, 1999, in the Atlanta, GA; Miami, FL; Orlando, FL; Ft. Lauderdale, FL; Charlotte-Gastonia-Rock Hill, NC; Greensboro-Winston Salem-High Point, NC; Nashville, TN; and New Orleans, LA, MSAs regardless of whether or not such EELs are Currently Combined. Except as stated above, EELs will be provided to ALLTEL only to the extent such network elements are Currently Combined.

5.3.8 Rates

5.3.8.1 The non-recurring and recurring rates for the EEL Combinations of network elements set forth in 5.3.4 whether Currently Combined or new, are as set forth in Exhibit D of this Amendment.

BellSouth Proposal:

Subject to Section 5.3.2 and 5.3.3 preceding, the non-recurring and recurring rates for the Currently Combined EEL combinations set forth in Section 5.3.4 and other Currently Combined network elements will be the sum of the recurring rates for the individual network elements plus a non recurring charge set forth in Exhibit D of this Attachment.

5.3.8.2 On an interim basis, for combinations of loop and transport network elements not set forth in Section 5.3.4, where the elements are not Currently Combined but are ordinarily combined in BellSouth's network, the non-recurring and recurring charges for such UNE combinations shall be the sum of the stand-alone non-recurring and recurring charges of the network elements which make up the combination. These interim rates shall be subject to true-up based on the Commission's review of BellSouth's cost studies.

5.3.8.3 To the extent that ALLTEL seeks to obtain other combinations of network elements that BellSouth ordinarily combines in its network which have not been specifically priced by the Commission when purchased in combined form, ALLTEL, at its option, can request that such rates be determined pursuant to the Bona Fide Request/New Business Request (NBR) process set forth in this Agreement.

5.4 Other Network Element Combinations

5.4.1.1 BellSouth shall make available to ALLTEL, in accordance with Section 5.4.2.1 below: (1) combinations of network elements other than EELs that are Currently Combined; and (2) combinations of network elements other than EELs that are not Currently Combined but that BellSouth ordinarily combines in its network.

BellSouth Proposal:

BellSouth shall make available to ALLTEL, in accordance with Section 5.4.2.2 below, combinations of network elements other than EELs only to the extent such combinations are Currently Combined.

5.4.2 Rates

5.4.2.1 The non-recurring and recurring rates for Other Network Element combinations, whether Currently Combined or new, are as set forth in Exhibit D of this Attachment.

BellSouth Proposal:

The non-recurring and recurring rates for the Other Network Element Combinations that are Currently Combined will be the sum of the recurring rates for the individual network elements plus a non recurring charge set forth in Exhibit D of this Attachment.

5.4.2.1.1 On an interim basis, for Other Network Element combinations where the elements are not Currently Combined but are ordinarily combined in BellSouth's network, the non-recurring and recurring charges for such UNE combinations shall be the sum of the stand-alone non-recurring and recurring charges of the network elements which make up the combination. These interim rates shall be subject to true-up based on the Commission's review of BellSouth's cost studies.

5.4.2.1.2 To the extent that ALLTEL seeks to obtain other combinations of network elements that BellSouth ordinarily combines in its network which have not been specifically priced by the Commission when purchased in combined form, ALLTEL, at its option, can request that such rates be determined pursuant to the Bona Fide Request/New Business Request (NBR) process set forth in this Agreement.

Issue 24 – Attachment 2, Section 5.3.7.1 Special Access Conversion to EELs:

5.3.7.1 ALLTEL may not convert special access services to combinations of loop and transport network elements, whether or not ALLTEL self-provides its entrance facilities (or obtains entrance facilities from a third party), unless ALLTEL uses the combination to provide a significant amount of local exchange service, in addition to exchange access service, to a particular customer. To the extent ALLTEL requests to convert any special access services to combinations of loop and transport network elements at UNE prices, ALLTEL shall document [provide] in a letter certifying that ALLTEL is providing a significant amount of local exchange service (as described in this Section) over such combinations. The certification letter will be maintained on file by ALLTEL, the conversion option placed in the remarks field on the LSR and the letter shall [also] indicate under what local usage option ALLTEL seeks to qualify for conversion of special access circuits. ALLTEL shall be deemed to be providing a significant amount of local exchange service over such combinations if one of the following options is met.

[Language in BOLD is proposed by ALLTEL; double underlined is proposed by BellSouth.]

Issue 25 – Attachment 2. Section 5.3.7.2 Waiver Petition for Conversion:

5.3.7.2 In addition, there may be extraordinary circumstances where ALLTEL is providing a significant amount of local exchange service, but does not qualify under any of the three options set forth in Section 5.3.7.1. In such case, ALLTEL may petition the FCC or the state commission for a waiver of the local usage options set forth above. If a waiver is granted, then upon ALLTEL's request the Parties shall amend this Agreement to the extent necessary to incorporate the terms of such waiver for such extraordinary circumstance.

Issue 34 – Attachment 4. Section 5.6.2 Access Card Security System:

5.6.2 **If the area where collocation is located does not have an access card security system, BellSouth will install such a system. The access card system shall have a database which tracks and reports entrance and exit. If surveillance is recorded on videotape, upon request from ALLTEL's security department for the purposes of investigating an incident within the Premises affecting ALLTEL's space or equipment, BellSouth will provide access to such videotapes. This information will be made available to ALLTEL within 5 days upon request to BellSouth.**

[Language in **BOLD** is proposed by ALLTEL; double underlined is proposed by BellSouth.]

Issue 37a – Att. 4, Section 6.13 Virtual to Physical Collocation Transition:
Issue 37b – Att. 4, Section 6.13 Downtime for VC to PC Conversions:

- 6.13 Virtual to Physical Collocation Transition. In the event physical Collocation Space was previously denied at a location due to technical reasons or space limitations, and that physical Collocation Space has subsequently become available, ALLTEL may relocate its virtual collocation arrangements to physical collocation arrangements and pay the appropriate non-recurring fees for physical collocation and for the rearrangement or reconfiguration of services terminated in the virtual collocation arrangement, as outlined in the appropriate BellSouth tariffs. In the event that BellSouth knows when additional space for physical collocation may become available at the location requested by ALLTEL, such information will be provided to ALLTEL in BellSouth's written denial of physical collocation. To the extent that (i) physical Collocation Space becomes available to ALLTEL within 180 calendar days of BellSouth's written denial of ALLTEL's request for physical collocation, (ii) BellSouth had knowledge that the space was going to become available, and (iii) ALLTEL was not informed in the written denial that physical Collocation Space would become available within such 180 calendar days, then ALLTEL may transition its virtual collocation arrangement to a physical collocation arrangement and will receive a credit for any nonrecurring charges previously paid for such virtual collocation. ALLTEL must arrange with a BellSouth Certified Supplier for the relocation of equipment from its virtual Collocation Space to its physical Collocation Space and will bear the cost of such relocation. ALLTEL may request the conversion of any existing virtual collocation arrangements to physical collocation arrangements. BellSouth will authorize the conversion of virtual collocation arrangements to physical collocation arrangements without requiring the relocation of the virtual arrangement where there are no extenuating circumstances or technical reasons that would cause the arrangement to become a safety hazard within the Premises or otherwise being in conformance with the terms and conditions of this Attachment and where (1) there is no change to the arrangement; and (2) the conversion of the virtual arrangement would not cause the arrangement to be located in the area of the Premises reserved for BellSouth's forecast of future growth; and (3) due to the location of the virtual collocation arrangement, the conversion of said arrangement to a physical arrangement would not impact BellSouth's ability to secure its own facilities . If denial of the in-place conversion is for BellSouth security reasons, at its option, ALLTEL can request a security escort during all visits so the in-place conversion can then occur. Notwithstanding the foregoing, if the BellSouth Premises is at or nearing space exhaust, BellSouth may authorize the conversion of the virtual arrangement to a physical arrangement even though BellSouth could no longer secure its own facilities. The maximum amount of time that ALLTEL agrees to suspend order activity in that Premise so that BellSouth can convert the equipment in their systems is 15 calendar days.

[Language in BOLD is proposed by ALLTEL; double underlined is proposed by BellSouth.]

Issue 39 – Att. 6, Section 3.9 Intervals:

3.9 Provisioning Intervals. The Parties have agreed to the provisioning intervals for Resale and Unbundled Network Elements as shown in Attachment 6, Exhibit A - BellSouth Products & Services Interval Guide, Issue 3, July, 2000 as stated or any shorter Intervals as BellSouth may provide. The FOC interval would be as stated or as required by Attachment 9 Performance Measurements.

Issue 40 – Att. 9, Performance Mechanisms Effective Date:

Issue 42 – Att. 9, Performance Mechanisms Period for Noncompliance:

4.2 Effective Date

The enforcement mechanisms set forth in this section shall only become effective upon an effective FCC order, which has not been stayed, authorizing BellSouth to provide inter-ATA telecommunications services under section 271 of the Act within a particular state and shall only apply to BellSouth's performance in any state in which the FCC has granted BellSouth inter-ATA authority.

4.5.3 Tier-3 Enforcement Mechanisms will be triggered by BellSouth's failure to achieve Enforcement Measurement Compliance or Enforcement Measurement Benchmarks for a State for given Enforcement Measurement Elements for three consecutive months in a given calendar quarter. The method of calculation for specified submeasures is identical to the method of calculation for Tier-2 Enforcement Mechanisms as described above. The specific submeasures which are the mechanism for triggering and removing a Tier-3 Enforcement Mechanisms are described in more detail in Exhibit D.

[Language in **BOLD** is proposed by ALLTEL; double underlined is proposed by BellSouth.]

DOCKET NO. 7892-U

ORDER

**In re: Performance Measurements For Telecommunications Interconnection, Unbundling
And Resale**

BY THE COMMISSION:

This matter comes before the Georgia Public Service Commission ("Commission") to establish generic performance measurements for BellSouth Telecommunications, Inc., for interconnection, unbundling and resale and to establish appropriate enforcement mechanisms for those performance measurements.

I. INTRODUCTION

A. Background

This Commission first held hearings in this docket in November 1997, and has required BellSouth to submit performance reports since May 1998. The purpose of these reports was to assist the Commission and the parties in determining whether BellSouth provides nondiscriminatory service to CLECs. BellSouth's Service Quality Measurements ("SQM") originated in 1998 as the result of the Commission's decision in Docket No. 7892-U. Since the Commission issued its order in May 1998, the Federal Communications Commission ("FCC") has stated more definitively its requirements for an adequate performance measurement plan. In addition, the parties have had the time to observe the Georgia plan in action, test its effectiveness, and identify many of its strengths and weaknesses.

The Commission initiated this phase of this Docket with a Procedural and Scheduling Order issued on June 8, 2000. The Scheduling Order stated that the purpose of this proceeding was to establish performance measurements, and to establish appropriate enforcement mechanisms for those performance measurements, for telecommunications interconnection, unbundling and resale. Given the more extensive experience available since the 1997 hearings, the Commission initiated this new phase to refine and upgrade the set of performance measures so that it will more clearly reveal whether BellSouth is adequately opening its market to competition on a nondiscriminatory basis and to adopt a complete remedies plan that will provide adequate consequences should BellSouth fail to meet the standards.

Hearings were held before the Commission on July 5-7, 2000. Briefs were filed by BellSouth and the CLEC Coalition (AT&T Communications of the Southern States, Inc., Broadslate Networks, Inc., DIECA Communications, Inc. d/b/a Covad Communications Company, ICG Telecom Group, Inc. and Intermedia Communications, Inc., ITC^DeltaCom Telecommunications, Inc., MediaOne Telecommunications of Georgia, LLC., NewSouth Communications Corp., Rhythms

Links, Inc., The Southeastern Competitive Carriers Association, US LEC Corp., WorldCom, Inc., and Z-Tel Communications, Inc.).

B. Jurisdiction

The Commission has general authority and jurisdiction over the subject matter of this proceeding, conferred upon the Commission by Georgia's Telecommunications and Competition Development Act of 1995 (Georgia Act), O.C.G.A. §§46-5-160 *et seq.*, and generally O.C.G.A. §§ 46-1-1 *et seq.*, 46-2-20, 46-2-21, and 46-2-23. Under the Federal Telecommunications Act of 1996 (Federal Act), State Commission's are also authorized to set terms and conditions for interconnection and access to unbundled elements pursuant to Sections 251 and 252 of the Federal Act.

II. FINDINGS AND CONCLUSIONS

There are three basic parts to a comprehensive performance plan: An appropriate set of performance measurements; an appropriate set of benchmarks and retail analogs to apply to those measurements; and, a remedy plan to ensure compliance with the performance goals.

A. Performance Measures.

A well-defined, effective and meaningful set of performance measurements is essential in order to provide the Commission with the information necessary to assess BellSouth's service to CLECs. This includes comparative measurements that monitor all areas of support, *i.e.*, pre-ordering, ordering, provisioning, collocation, maintenance and repair, operator services, directory assistance, E911, trunk group performance, and billing. Measurements and appropriate methodologies must be documented in detail so that clarity exists regarding what will be measured, how it will be measured, and in what situations a particular event may be excluded from monitoring. Measurement results must be sufficiently disaggregated so that only the results for similar operational conditions are compared and so that the results will not mask discrimination.

1. BST Proposed SQM

BellSouth has proposed a set of SQM to the Commission. BellSouth's SQM covers 9 different functional categories including: Pre-ordering; ordering; provisioning; maintenance and repair; billing; operator services and directory assistance; E911; trunk group performance; and, collocation. Coon, Tr. at 99. BellSouth states that each of these categories corresponds to a function on which BellSouth's performance to CLECs should be measured. Within each of these functional categories BellSouth proposes a series of measurements. Each measurement is broken down into 10 categories including: The measurement itself; a definition of the measure; any exclusions to the measure; business rules; levels of disaggregation; a calculation of the measurement; report structure; data retained relating to CLEC experience; data retained relating to BST experience; and, retail analog/benchmark. Coon, Tr. at 100. BellSouth asserts that these 10 categories provide all of the

information necessary to understand the measurement, analyze the result of the measurement, and assess performance against the retail analogue or benchmark. BellSouth states that the format of the SQM is comparable to that of both the Bell Atlantic plan and the Southwestern Bell plan. Coon, Tr. at 100-01.

BellSouth states that in addition to adopting BellSouth's current SQM, the Commission should adopt the five additional measurements that BellSouth is in the process of adding to the SQM. The five additional measures are:

- (1) Service Inquiry with Firm Order (Manual);
- (2) Loop Makeup Inquiry (Manual and Electronic);
- (3) Timeliness of Change Management Notice;
- (4) Percent Functional Acknowledgments Returned On Time; and,
- (5) Percent Troubles Within 7 Days of a Hot Cut.

In addition, BellSouth has added a measure for Hot Cut Timeliness Percentage Within Interval and Average Interval (P-6A, BST Ex. 1) to the SQM. BellSouth also states that it is in the process of adding additional levels of disaggregation to the current SQM to break out xDSL loops, ISDN unbundled loops, and line sharing. Coon, Tr. at 107. Finally, BellSouth states that it has revised its Trunk Blockage Report. BellSouth Exhibits 1 and 2; Coon, Tr. at 150.

After considering BellSouth's proposal and the testimony and arguments presented in this matter, the Commission hereby approves the use of BellSouth's proposed SQM as modified below in Table 1. Any of BellSouth's proposed SQMs not listed below and not otherwise addressed in this order are approved.

TABLE 1

BST Proposed SQMs	Commission Determination
Service Inquiry with Firm Order (Manual)	Adopt BST SQM: Benchmark: 95% returned within 5 business days.
Loop Make Up Inquiry (Manual and Electronic)	See Table 2 for Average Response Time to LMU Information (Manual and Electronic).
Timeliness of Change Management Notices and Documentation	Adopt this BST SQM. 30 days after this order Change Management Team shall file with the Commission the interval to include in this measure.
Percent FAs Returned On Time	See Table 2 for Acknowledgment Timeliness.
Percent Troubles Within 7 days of a HOT CUT.	Adopt BST SQM.
OSS-1 Avg. Response Time and Response Interval	Adopt this SQM with the following Business Rule change: The response interval starts when the client application (LENS or TAG for CLECs and RNS for BST) submits a

	request to the legacy system and ends when the appropriate response is returned to the client application.
P-1 Percent Flow Through Service Request	<p>Adopt this SQM with the following addition:</p> <p>Add the following measure to the flow-through report:</p> <p><u>BellSouth Achieved Flow-Through</u></p> <p style="text-align: center;"><u>Issued Service Orders</u></p> <p>Total Mech. LSR's- [(Auto Clarify)+(CLEC fallout)] x 100</p> <p>The Commission includes the current CLEC Error Excluded Calculation in the VSEEM III Plan.</p> <p>BST and the CLECs shall form an Improvement Task Force. This Task force shall jointly prepare an implementation report, that includes implementation target dates to eliminate the high BellSouth Caused Failures and the designed manual fallout for electronically submitted LSR's. This report shall be filed with the Commission 3 months after the date of this Commission Order.</p> <p>BST is ordered to resume reporting its retail business flow-through results and provide data back to May of 2000.</p>
O-6 Reject Interval	<p>Adopt this SQM with the following amendments:</p> <p>Fully Mechanized: The elapsed time form receipt of a valid electronically submitted LSR (date and time stamp in EDI, LENS or TAG) until the LSR is rejected (date and time stamp or reject in EDI, TAG OR LENS). Auto Clarifications are considered in the Fully Mechanized Category.</p> <p>Partially Mechanized: The last sentence should read: "The stop time on partially mechanized LSRs is when the LCSC Service Representative clarifies the LSR back to the CLEC via (LENS, EDI or TAG)."</p>
O-7 FOC Timeliness	The stop time is meant to represent the time that BST actually returns the FOC to the CLEC.
O-9 LNP- Percent Rejected Service Requests O-10 LNP- Reject Interval Distribution & Average Reject Interval O-11 LNP- FOC Timeliness Interval Distribution & FOC Average Interval P-10 LNP Missed Installation Appointments P-2 Average Jeopardy Notice Interval & % of Orders Given a Jeopardy Notice P-5 Average Completion Notice Interval P-11 LNP Disconnect Timeliness	These measures should not exclude Non-Mechanized LSRs.

P-12 LNP Total Service Order Cycle Time											
P-5 Average Completion Notice Interval	<p>Adopt the SQM with the following change:</p> <p>Business Rules: The start time is the completion time stamp either by the field technician or the 5PM due date stamp; the end time is the time stamp the notice is transmitted to the CLEC Interface (LENS, EDI or TAG).</p>										
P-8 Total Service Order Cycle Time	<p>Adopt the SQM with the following changes:</p> <p>Definition: This report measures the total service order cycle time from receipt of a valid service order request to the return of a completion notice to the CLEC Interface.</p> <p>Business Rules: This measurement combines three reports: FOC Timeliness, Average Order Completion Interval and Average Completion Notice Interval.</p> <p>This interval starts with the receipt of a valid service order request and stops when a completion notice is sent to the CLEC Interface (LENS, TAG or EDI).</p>										
MR-3 Maintenance Average Duration	<p>Adopt the SQM with the following Change:</p> <p>Exclusions: Delete Trouble Reports greater than 10 days.</p>										
P-9 Service Order Accuracy	<p>Adopt the SQM with the following Change:</p> <p>Benchmark: 95% Accurate</p>										
C-1 Average Response Time	<p>Adopt with the following changes:</p> <p>Definition: Measures the average time (counted in calendar days) from receipt of a complete and accurate collocation application (including receipt of application fees) to the date BellSouth responds in writing. Within 10 calendar days after having received a bona fide application for physical collocation, BellSouth must respond as to whether space is available or not.</p> <p>Level of Disaggregation: Caged/Cageless shall be added.</p> <p>Benchmark:</p> <p><u>Now</u></p> <table> <tr> <td>Virtual-</td> <td>20 Calendar Days</td> </tr> <tr> <td>Physical-</td> <td>30 Calendar Days</td> </tr> <tr> <td>Caged/Cageless-</td> <td>30 Calendar Days</td> </tr> </table> <p><u>6 Months</u></p> <table> <tr> <td>Virtual-</td> <td>10 Calendar Days</td> </tr> <tr> <td>Physical-</td> <td>20 Calendar Days</td> </tr> </table>	Virtual-	20 Calendar Days	Physical-	30 Calendar Days	Caged/Cageless-	30 Calendar Days	Virtual-	10 Calendar Days	Physical-	20 Calendar Days
Virtual-	20 Calendar Days										
Physical-	30 Calendar Days										
Caged/Cageless-	30 Calendar Days										
Virtual-	10 Calendar Days										
Physical-	20 Calendar Days										

	Caged/Cageless- 20 Calendar Days
C-2 Average Arrangement Time	<p>Adopt with the following changes:</p> <p>Definition: Measures the average time from receipt of a complete and accurate Bona Fide firm order (including receipt of appropriate fee) to the date BST completes the collocation arrangement and notifies the CLEC (counted in calendar days).</p> <p>Level of Disaggregation: Caged/Cageless shall be added</p> <p>Benchmark:</p> <p style="padding-left: 40px;">Virtual: 50 Calendar Days (Ordinary) 75 Calendar Days (Extraordinary)</p> <p style="padding-left: 40px;">Physical/Caged: 90 Calendar Days</p> <p style="padding-left: 40px;">Cageless: 60 Calendar Days (Ordinary) 90 Calendar Days (Extraordinary)</p>
C-3 Percent Due Dates Missed	<p>Adopt with the following changes:</p> <p>Level of Disaggregation: Caged/Cageless shall be added</p> <p>Benchmark: 95% on time</p>

2. Additional CLEC Proposed SQM

The CLEC Coalition argues that BellSouth's SQM are inadequate and do not meet the needs of CLECs and the Commission to evaluate the local market. The CLEC Coalition states that the BellSouth plan lacks many key measures and has proposed that thirty-nine additional performance measurements be added to BellSouth's SQM. Emch Dir. Ex. 1; Emch Rebuttal Ex. 4.

The CLEC Coalition states that a comparison of the measures included in the Texas and New York plans approved by the FCC demonstrates the inadequacies of the measures currently provided by BellSouth. More than 70% of the New York measures are missing from the BellSouth SQM. Emch Dir. Ex. 2. Similarly, 48 of the measures in the Texas plan are not included in BellSouth's SQM. Emch Dir. Ex. 3. The deficiencies in BellSouth's proposal include: Loop hot cuts; software issues; xDSL pre-ordering; ordering and provisioning; change management; data base accuracy and

timely updates; order status completeness; and, billing completeness. Emch Rebuttal 3. The CLEC Coalition argues these are significant shortcomings, not minor issues, as BellSouth has contended.

The Commission agrees that some, but not all, of the CLEC Coalition's proposed additional SQM should be adopted. After considering the CLEC Coalition's additional proposed SQM and the testimony and arguments presented in this matter, the Commission hereby approves the use of the following additional measures as set forth below in Table 2.

TABLE 2

CLEC SQM PROPOSALS	COMMISSION DETERMINATION
Average Response time for LMU information (MANUAL)	<p>A) Disaggregation: ADSL, HDSL, Other DSL and Line Sharing.</p> <p>B) LMU Information: BST shall deliver all the information it has on the makeup of the loop. This list may be updated pending the outcome of Docket 11900-U</p> <p>C) Benchmark 95% in 3 business days</p>
Average Response time for LMU information (ELECTRONIC)- EDI, TAG, LENS & RoboTAG.	<p>A) Disaggregation: ADSL, HDSL, Other DSL and Line Sharing.</p> <p>B) LMU Information: BST shall deliver all the information it has on the makeup of the loop. This list may be updated pending the outcome of Docket 11900-U.</p> <p>C) Benchmark 90% within 5 minutes. 6 months – 95% within 1 minute.</p>
Acknowledgment Timeliness (ELECTRONIC)	<p>A) Functional Acknowledgment Response Interval</p> <p>Definition: The correct start time is the receipt time of the LSR at BellSouth's side of the interface (gateway). The end time is when the acknowledgment is transmitted by BellSouth at BellSouth's side of the interface (gateway).</p> <p>B) Exclusions: none</p> <p>C) Benchmark: <u>6 Months</u> EDI- 90% within 30 minutes. 95% within 30 minutes.</p>

	TAG- 95% within 30 minutes.
Acknowledgment Completeness (Fully Mechanized, Partially Mechanized and Total Mechanized)	A) Percent of Functional Acknowledgments Returned. Definition: This measurement provides the percent of LSRs received via EDI or TAG, which are acknowledged electronically. B) Exclusions: none C) Benchmark: 100% Returned
Firm Order Confirmation and Reject Response Completeness.	Adopt the CLEC SQM. <u>Deletions:</u> Business Rules: Everything after and including ILEC Results. Calculation –Multiple or Differing FOC/Reject Responses. Level of Disaggregation: Volume Benchmark: 95 % Returned
Timeliness of Response to Request for BST- to CLEC Trunks Mean Time to Provide Response % Within 7 days % Negative Responses	DO NOT ADOPT AT THIS TIME. Please provide the Commission with the BellSouth's detailed process for Trunk Augmentation.
Percent Completion/ Attempts without notice or with Less than 24 hours notice.	Adopt the CLEC SQM. Do not report by MSA. Benchmark: DIAGNOSTIC
Percent Service Loss for Early Cuts Percent Service Loss for Late Cuts	DO NOT ADOPT AT THIS TIME. ADOPT BST MEASURE P-6A. Coordinated Customer Conversion- Hot Cut Timelines % within Interval and Average Interval.
Percent Orders Canceled or Supplemented at the request of the ILEC.	DO NOT ADOPT AT THIS TIME.
Percent of Coordinated Cuts Not Working as Initially Provisioned.	DO NOT ADOPT AT THIS TIME. THIS INFORMATION WILL BE CAPTURED IN BST PROPOSED PROVISIONING TROUBLES WITHIN 7 DAYS OF HOT CUT COMPLETION.
Average Recovery Time for Coordinated Cuts	Adopt the CLEC SQM with the following deletions or additions: 1) Exclusion: add Cutovers where service disruptions are due to end-user or CLEC caused reasons. 2) Delete the business rule For ILEC Results. 3) Delete BST Aggregate

	<p>4) Delete MSA and Volume Category. 5) This measure is Diagnostic.</p>
<p>Mean Time to Restore a Customer to ILEC Percent of Customers Restored to ILEC</p>	<p>DO NOT ADOPT AT THIS TIME.</p>
<p>Cooperative Acceptance Testing (What percentage of xDSL Loops are tested)</p>	<p>Adopt the following measure:</p> <p>Title: % of cooperative testing attempts for xDSL lines to cooperative line tests requested.</p> <p>Definition: The loop will be considered cooperatively tested when the BellSouth tech places a call to the CLEC representative to initiate cooperative testing and jointly perform the test with the CLEC.</p> <p>Exclusions:</p> <ul style="list-style-type: none"> a) xDSL lines requested for testing by the CLEC but the CLEC contact number is incorrect or the CLEC representative is not available or not ready for testing. b) xDSL lines of CLEC who do not request cooperative testing. <p>Business Rules: When a BellSouth tech finishes delivering an xDSL Loop at the customer premise, he is to call a toll free number to the CLEC's testing center. The tech and the CLEC rep. at the center then test the line. As an example of the type of testing performed, the testing center may ask the tech to put a short on the line, so that the center can run a test to see if it can identify the short.</p> <p>Calculation: (Total number of successful xDSL cooperative test for xDSL lines where cooperative testing was requested)/ (Total number of xDSL line tests requested by the CLEC and scheduled in the reporting period.</p> <p>Report Structure: CLEC Aggregate CLEC Specific Specific as to the loop type</p> <p>Level of Disaggregation: Region State ADSL HDSL UCL Other DSL</p> <p>Benchmark: 95% of requested lines tested.</p>

Percent Completion of Loop Modification/Conditioning on xDSL Loops.	DO NOT ADOPT AT THIS TIME. The time to perform loop modification/conditioning is included in the Order Completion interval for the xDSL Loops.
Percent Billing Errors Corrected in X Days	DO NOT ADOPT AT THIS TIME.
Usage Timeliness	DO NOT ADOPT AT THIS TIME.
Recurring and Non-recurring Charge Completeness	Adopt CLEC SQM BST has 90 days to put this measure into production.
Percent On-Time Mechanized Local Services Invoice Delivery.	DO NOT ADOPT AT THIS TIME.
Meantime To Notify CLEC of Network Outages	Adopt the CLEC SQM with the following deletions: Level of Disaggregation: Delete By Switch and Tandem. Retail Analog/ Benchmark: Parity by design.
Average Database Update Interval Percent Database Update Accuracy NXX and LRN(s) Loaded by LERG Effective Date	Adopt CLEC SQM
Notification of Interface Outages	Adopt CLEC SQM.
Timeliness of Change Management Notices Timeliness of Final Versions of Documents Associated w/ Change Average Delay Days for Notices Average Delay Days for Documentation	Adopt the BST SQM of Timeliness of Change Management Notice with Average Delay Days. 30 days after this order Change Management Team shall file with the Commission the interval to include in this measure.
% ILEC vs. CLEC Changes Made Accuracy of Change Notices Percent Software Certification Failures Software Problem Resolution Timeliness Software Problem Resolution Avg. Delay Days	DO NOT ADOPT AT THIS TIME.
Percent Response Commitments Met (On-Time)	DO NOT ADOPT AT THIS TIME.
Percentage of Request Processed within 30 Business Days (TX)	Adopt CLEC SQM with following change: Exclusions: Excludes weekends and holidays
Percentage of Quotes provided for Authorized BFR/Special requests Within X (10, 30, 60) days. (TX)	Adopt the CLEC SQM with the following changes. Exclusions: Requests that are subject to pending arbitration. Retail analog/Benchmark: Change calendar days to business days.

3. Performance Measurements Audit

BellSouth states that its proposed audit policy provides the Commission and the CLECs with adequate audit opportunities to ensure that the data used to measure performance is reliable. BellSouth's Audit Policy states as follows:

If requested by a Public Service Commission or by a CLEC exercising contractual audit rights, BellSouth will agree to undergo a comprehensive audit of the aggregate level reports for both BellSouth and the CLEC(s) for each of the next five (5) years (2000-2005), to be conducted by an independent third party. The results of that audit will be made available to all parties subject to proper safeguards to protect proprietary information. This aggregate level audit includes the following specifications:

1. The cost shall be borne 50% by BellSouth and 50% by the CLEC or CLECs;
2. The independent third party auditor shall be selected with input from BellSouth, the PSC, if applicable, and the CLEC(s);
3. BellSouth, the PSC and the CLEC(s) shall jointly determine the scope of the audit."

BST Ex. 2, Appendix C. Moreover, BellSouth states that it provides the CLECs with the raw data underlying many of the SQMs as well as a user manual describing how to manipulate the data into reports. Coon, Tr. at 162. The CLECs can use this raw data to validate the results in the SQM reports posed every month on the BellSouth website. Id.

Sprint has requested an audit mechanism that would include "mini-audits" of individual measurements. See Lenihan Rebuttal, at 2-5. BellSouth argues that Sprint's proposal is unworkable and would place an unreasonable burden on BellSouth for little incremental gain over the value of BellSouth's proposed yearly audit.

The Commission adopts BellSouth's audit proposal with the following change: Revise "(2000-2005)" in the Audit Policy to read "(2001-2005)." The Commission does not adopt the Sprint proposal.

B. Benchmarks and Retail Analogs.

Analogs and benchmarks are the measuring sticks of a good performance measurements plan. As described by CLEC Coalition witness Emch:

A retail analog is service or function that BellSouth provides for itself, its customers or its affiliates that is analogous to a service or function that BellSouth provides to CLECs. When a BellSouth retail analog exists, BellSouth's performance for itself, its customers and its affiliates should be compared to its performance for CLECs to determine if BellSouth is meeting The Act's parity requirement. If no retail analog exists, BellSouth's performance must be gauged by a performance standard, also known as a benchmark.

Emch Dir. 24. The CLECs argue that benchmarks should be established based on a level of performance that will allow CLECs to compete, not simply on BellSouth's historical performance. Where BellSouth provides service to its affiliate that is superior to the service provided to its retail operations, the CLECs argue that comparisons should be made between performance for CLECs and performance for the BellSouth affiliate. The CLEC Coalition proposes the analogs and benchmarks set forth in Exhibit 7 to Ms. Emch's Rebuttal Testimony, as clarified for xDSL loops by Exhibit A to the CLEC Coalition's Brief.

BellSouth argues that the Commission should adopt the retail analogs and benchmarks set forth in BellSouth Exhibit 2 (DAC-2). BellSouth states that each analog and/or benchmark will provide the Commission with the information it needs to assess BellSouth's performance with respect to the CLEC community. BellSouth states that its current set of proposed analogs and benchmarks are based on collaborative work between BellSouth and the CLECs in the Louisiana performance measurement workshops, as well as on input from KPMG and the Commission and its Staff during the Georgia OSS testing and performance measurement audit. Coon, Tr. at 110. BellSouth states that, in large part, its proposed analogs and benchmarks mirror those established by the Commission in its July 5, 2000 Order in Docket No. 8354-U. BellSouth states, however, that there are certain analogs and benchmarks that the Commission should amend from the 8354-U Order. These analogs and benchmarks are as follows:

- (1) Business and UNE Flow-Through;
- (2) Average Response Time;
- (3) Reject Interval (Electronic);
- (4) Average Disconnect Timeliness Interval for LNP;
- (5) Average Arrangement Time for Collocation Orders; and,
- (6) FOC and Reject Intervals for Interconnection Trunks.

After considering the testimony and arguments presented in this matter, the Commission hereby approves the benchmarks and retail analogs set forth below in Table 3. The Commission

does not adopt the CLEC proposal that where BellSouth provides service to its affiliate that is superior to the service provided to its retail operations, comparisons should be made between performance for CLECs and performance for the BellSouth affiliate. If a CLEC believes that BellSouth is showing preference to its affiliate, however, the CLEC may file a complaint with the Commission. See, e.g., O.C.G.A. §§ 46-5-163(d) and 46-5-169(6).

TABLE 3

CATEGORY	MEASURES AND SUB-METRICS	BENCHMARK/ANALOG
<u>PRE-ORDERING</u>	Percent Response Received within "X" Seconds (LENS & TAG) Customer Service Record Due Date Availability Address Validation Product and Service Availability Telephone No. Availability	Parity
	Service Inquiry with Firm Order (Manual)	95% in 5 business days
	Loop Makeup Inquiry (Manual) ADSL HDSL UCL Other DSL Line Sharing	95% in 3 business days
	Loop Makeup Inquiry (Electronic: EDI, TAG and LENS) ADSL HDSL UCL Other DSL Line Sharing	90% in 5 minutes 6 months after going into production 95% in 1 minute
	OSS Interface Availability (All Systems)	99.5%
<u>ORDERING</u>	Acknowledgment Timeliness (Electronic)	EDI: 90% in 30 mins. TAG: 95% in 30 mins. 6 months EDI: 95% in 30 mins.
	Acknowledgment Completeness (Fully Mechanized, Partially Mechanized & Total Mechanized)	100% Returned
	Percent Flow Through Service Request Resale Residence Resale Business UNE LNP	95% 90% 85% 85%

	<u>Percent Rejected Service Request (Mechanized, Partially Mechanized & Non-Mechanized)</u>	Diagnostic
	<u>Reject Interval (Mechanized)</u> Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2W Analog Loop Design 2W Analog Loop Non-Design 2W Analog Loop w/ INP Design 2W Analog Loop w/ INP Non- Design 2W Analog Loop w/ LNP Design 2W Analog Loop w/ LNP Non- Design UNE xDSL (ADSL, HDSL, UCL) Line Sharing INP Standalone LNP Standalone Switch Ports Loop + Port Combinations Local Transport UNE Other Non- Design UNE Other Design Local Interconnection Trunks	97% within 1 hour
	<u>Reject Interval (Partially Mechanized)</u> Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2W Analog Loop Design 2W Analog Loop Non-Design 2W Analog Loop w/ INP Design 2W Analog Loop w/ INP Non- Design 2W Analog Loop w/ LNP Design 2W Analog Loop w/ LNP Non- Design UNE xDSL (ADSL, HDSL, UCL) Line Sharing INP Standalone LNP Standalone Switch Ports Loop + Port Combinations Local Transport UNE Other Non- Design UNE Other Design Local Interconnection Trunks	85% w/in 18 hours (3 months) 85% w/in 10 hours (6 months)

	Reject Interval (Non- Mechanized) (Same as above) Local Interconnection Trunks	85% within 24 hours 85% within 4 days
	Firm Order Confirmation Timeliness Mechanized Partially Mechanized Non-Mechanized Local Interconnection Trunks	95% within 3 hours 85% w/in 18 hours (3 months) 85% w/in 10 hours (6 months) 85% within 36 hours 95% within 10 days
	Firm Order Confirmation and Reject Response Completeness	95% Returned
	Speed of Answer in Ordering Center	Parity with retail
PROVISIONING	Mean Held Order Interval Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2W Analog Loop Design 2W Analog Loop Non-Design 2W Analog Loop w/ INP Design 2W Analog Loop w/ INP Non- Design 2W Analog Loop w/ LNP Design 2W Analog Loop w/ LNP Non- Design UNE Digital Loop < DS1 UNE Digital Loop >= DS1 UNE xDSL (ADSL, HDSL, UCL) UNE ISDN Line Sharing INP Standalone LNP Standalone Switch Ports Loop + Port Combinations UNE Combo Other Local Transport UNE Other Non-Design UNE Other Design Local Interconnection Trunks	Parity with retail Residence Parity with retail Business Parity with retail Design Parity with retail PBX Parity with retail Centrex Parity with retail ISDN Retail Res. and Bus. Dispatch Retail Res. and Bus. (POTS)* Retail Res. and Bus. Dispatch Retail Res. and Bus. Dispatch Retail Res. and Bus. Dispatch Retail Res. and Bus. Dispatch Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 ADSL provided to retail Retail ISDN- BRI ADSL provide to retail Retail POTS Retail POTS Retail POTS Retail Res. and Bus. (POTS) Retail Res, Bus & Design (Dispatch) Retail DS1/DS3 Interooffice Retail Res. & Bus. Retail Design Parity with retail
	Percent Orders given Jeopardy Notice (Electronic) Resale Residence Resale Business	Parity with retail Residence Parity with retail Business

	<p>Resale Design Resale PBX Resale Centrex Resale ISDN 2W Analog Loop Design 2W Analog Loop Non-Design 2W Analog Loop w/ INP Design 2W Analog Loop w/ INP Non- Design 2W Analog Loop w/ LNP Design 2W Analog Loop w/ LNP Non- Design UNE Digital Loop < DS1 UNE Digital Loop >= DS1 UNE xDSL (ADSL, HDSL, UCL) UNE ISDN Line Sharing INP Standalone LNP Standalone Switch Ports Loop + Port Combinations UNE Combo Other</p> <p>Local Transport UNE Other Non-Design UNE Other Design Local Interconnection Trunks</p>	<p>Parity with retail Design Parity with retail PBX Parity with retail Centrex Parity with retail ISDN Retail Res. and Bus. Dispatch Retail Res. and Bus. (POTS)* Retail Res. and Bus. Dispatch Retail Res. and Bus. Dispatch Retail Res. and Bus. Dispatch Retail Res. and Bus. Dispatch Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 ADSL provided to retail Retail ISDN- BRI ADSL provide to retail Retail POTS Retail POTS Retail POTS Retail Residence and Business Retail Res, Bus &Design (Dispatch) Retail DS1/DS3 Interoffice Retail Res. & Bus. Retail Design Parity with retail</p>
	<p><u>Order Completion Interval</u> Resale Residence Resale Business Resale Design Resale PBX Resale Centrex Resale ISDN 2W Analog Loop Design 2W Analog Loop Non-Design 2W Analog Loop w/ INP Design 2W Analog Loop w/ INP Non- Design 2W Analog Loop w/ LNP Design 2W Analog Loop w/ LNP Non- Design UNE Digital Loop < DS1 UNE Digital Loop >= DS1 UNE xDSL (ADSL, HDSL, UCL)</p> <p>UNE ISDN Line Sharing INP Standalone LNP Standalone Switch Ports Loop + Port Combinations</p>	<p>Parity with retail Residence Parity with retail Business Parity with retail Design Parity with retail PBX Parity with retail Centrex Parity with retail ISDN Retail Res. and Bus. Dispatch Retail Res. and Bus. (POTS)* Retail Res. and Bus. Dispatch Retail Res. and Bus. Dispatch Retail Res. and Bus. Dispatch Retail Res. and Bus. Dispatch Retail Digital Loop < DS1 Retail Digital Loop ≥ DS1 7 bus days (w/o conditioning) 14 bus days (w/conditioning) Retail ISDN- BRI ADSL provide to retail Retail POTS Retail POTS Retail POTS Retail Residence and Business</p>

	<p>UNE Combo Other</p> <p>Local Transport</p> <p>UNE Other Non-Design</p> <p>UNE Other Design</p> <p>Local Interconnection Trunks</p>	<p>Retail Res, Bus & Design (Dispatch)</p> <p>Retail DS1/DS3 Interoffice</p> <p>Retail Res. & Bus.</p> <p>Retail Design</p> <p>Parity with retail</p>
	<p>Average Jeopardy Notice Interval (Electronic)</p> <p>Same Disaggregation as above.</p>	95% >= 48 hours
	<p>Percent Missed Installation Appointments</p> <p>Average Completion Notice Interval (Electronic)</p> <p>% Provisioning Troubles within 30 days</p>	Same analog and benchmarks as Held Orders
	<p>Total Service Order Cycle Time</p>	Diagnostic
	<p>Cooperative Acceptance Testing</p> <p>ADSL</p> <p>HDSL</p> <p>UCL</p> <p>Other DSL</p>	95% of requested lines tested
<p>MAINTENANCE & REPAIR</p>	<p>Missed Repair Appointments</p> <p>Customer Trouble Report Rate</p> <p>Maintenance Average Duration</p> <p>% Repeat Troubles within 30 days</p> <p>Out of Service > 24 hours</p> <p>Resale Residence</p> <p>Resale Business</p> <p>Resale Design</p> <p>Resale PBX</p> <p>Resale Centrex</p> <p>Resale ISDN</p> <p>LNP (Standalone)</p> <p>2W Analog Loop Design</p> <p>2W Analog Loop Non-Design</p> <p>UNE Switch Ports</p> <p>UNE Loop + Port Combo</p> <p>UNE Combo Other</p> <p>UNE xDSL (HDSL, ADSL & UCL)</p> <p>UNE ISDN</p> <p>UNE Line Sharing</p> <p>UNE Other Design</p> <p>UNE Other Non-Design</p> <p>Local Interconnection Trunks</p> <p>Local Transport</p>	<p>Parity with retail Residence</p> <p>Parity with retail Business</p> <p>Parity with retail Design</p> <p>Parity with retail PBX</p> <p>Parity with retail Centrex</p> <p>Parity with retail ISDN</p> <p>Retail POTS</p> <p>Retail Res. and Bus. Dispatch</p> <p>Retail Res. and Bus. (POTS)*</p> <p>Retail POTS</p> <p>Retail Residence and Business</p> <p>Retail Res, Bus & Design (Dispatch)</p> <p>ADSL provided to retail</p> <p>Retail ISDN- BRI</p> <p>ADSL provide to retail</p> <p>Retail Res. & Bus</p> <p>Retail Design</p> <p>Parity with retail</p> <p>Retail DS1/DS3 Interoffice</p>

	<u>OSS Response Interval</u> TAFI (Front End) CRIS DLETH DLR LMOS LMOSupd LNP MARCH OSPCM Predictor SOCS	Parity with retail Parity by design
	<u>Average Answer time - Repair Center</u>	Parity with retail
<u>BILLING</u>	<u>Invoice Accuracy</u> <u>Mean time to Deliver Invoices</u> <u>Usage Data Delivery Timeliness</u> <u>Usage Data Delivery Completeness</u> <u>Mean time to Deliver Usage</u>	Parity with retail
	<u>Recurring and Non-Recurring Charge Completeness</u> Resale UNE Interconnection	Parity 90% 90%
<u>OPERATOR SERVICES</u>	<u>Average Speed to Answer</u>	Parity by design
	<u>% Answered in "X" Seconds</u>	Parity by design
<u>DA</u>	<u>Average Speed to Answer</u>	Parity by design
	<u>% Answered in "X" Seconds</u>	Parity by design
<u>E911</u>	<u>Timeliness</u> <u>Accuracy</u> <u>Mean Interval</u>	Parity by design
<u>LNP</u>	<u>Average Disconnect Timeliness</u>	95% within 15 minutes
<u>CUSTOMER COORDINATED CONVERSIONS</u>	<u>Coordinated Customer Conversions- UNE Loops w LNP</u> <u>Coordinated Customer Conversions- UNE Loops w/o LNP</u>	95% <= 15 minutes

*Exclude switch based orders. Separate for both (UNEs and Retail) orders that require only Central Office work from those that require fieldwork.

C. Remedies and Enforcement Plan.

The development of an effective performance measurement plan does not end with the establishment of a set of comprehensive, adequately defined measures, benchmarks and analogs. It also includes an appropriate remedies plan to provide incentives for BellSouth to meet the established benchmarks and analogs. The FCC identified five key characteristics of an effective enforcement plan:

1. Potential liability that provides a meaningful and significant incentive to comply with the designated performance standards;
2. Clearly articulated, pre-determined measures and standards, which encompass a comprehensive range of carrier-to-carrier performance;
3. A reasonable structure that is designed to detect and sanction poor performance when it occurs;
4. A self-executing mechanism that does not leave the door open unreasonably to litigation and appeal; and,
5. Reasonable assurances that the reported data is accurate.

BA NY Order, ¶ 433.

A well-developed remedies plan serves several important purposes. First, it promotes the initial development of competition by providing further incentive for BellSouth to allow nondiscriminatory access to its network. The ability to offer customers at least the same level of service that they would receive from BellSouth is critical to CLEC efforts to attract and retain customers. Second, once competition develops, self-enforcing penalties help to guarantee that BellSouth will continue to provide CLEC customers with the same quality service it provides to its retail customers. Third, where BellSouth does provide discriminatory or non-parity service to CLEC customers, penalties are paid to CLECs to partially defray the additional costs attributable to inferior service provided by BellSouth. Fourth, uncovering discriminatory service may lead to the discovery of underlying problems in BellSouth's systems and/or procedures. Once such problems are identified, penalties provide the incentive for BellSouth to address them head-on rather than to simply implement quick, short term fixes. Fifth, rather than waiting for problems to be discovered, the prospect of remedies for discriminatory performance will provide an incentive for BellSouth to take proactive steps to avoid providing poor quality performance to CLECs. Finally, adverse consequences for discriminatory behavior will discourage backsliding once BellSouth has attained approval to enter the interLATA market.

The object of a self-executing remedies plan is to avoid coming to the Commission to resolve disputes about poor performance. Self-executing remedies remove the delays and expense of pursuing litigation. As the FCC stated, an effective enforcement plan shall "have a self-executing mechanism that does not leave the door open unreasonably to litigation and appeal." BA NY Order ¶ 433.

BellSouth argues that the Commission should adopt BellSouth's proposed penalty plan, BellSouth's Voluntary Self-Effectuating Enforcement Mechanism (VEESM) proposal. BellSouth states that VEESM is based on key outcome-oriented measurements contained in the BellSouth

SQM as well as the corresponding analogs and benchmarks and that it meets all five of the key characteristics expressed by the FCC. The VSEEM Plan establishes a three-tiered schedule for penalties for non-performance. The three tiers are as follows:

- Tier-1 enforcement mechanisms are triggered when BellSouth fails on any one of the Tier-1 VSEEM measurements for a particular month and are paid directly to the individual CLECs;
- Tier-2 enforcement mechanisms are triggered when BellSouth fails at the CLEC aggregate level on any one of the Tier-2 VSEEM measurements in a calendar quarter. These payments would be made directly to the State;
- Tier-3 enforcement mechanisms are triggered when BellSouth consistently fails at the CLEC aggregate level on any 5 of the 12 Tier-3 VSEEM measurements for 3 consecutive months in a calendar quarter. Under Tier-3, BellSouth will voluntarily discontinue marketing long distance service in Georgia until such time as BellSouth's performance improves.

Coon, Tr. at 114. Moreover, BellSouth states, VSEEM recognizes that not all metrics are created equal and that some are more important to end users than others by offering greater remedies for certain measurements, such as UNE Installation Intervals, than others, such as OSS Response Interval. Coon, Tr. at 123. Also, the multi-tiered structure of the plan is designed to incent BellSouth to continue to provide service parity by creating escalating penalties for continuing violations. Coon, Tr. at 123.

In contrast to BellSouth, the CLECs recommend that the Commission adopt a remedies plan with a two tiered structure that measures: (1) the quality of support delivered to each individual CLEC (Tier 1), and (2) the quality of support delivered to the CLEC industry as a whole (Tier 2). For Tier 1 violations, BellSouth would pay penalties directly to the affected CLEC as compensatory damages. For Tier 2 violations, BellSouth would make payment directly to a governmental agency, to protect the public interest, as regulatory fines. Bursh Dir. 8. The dollar value of the consequences for both Tier 1 and Tier 2 violations depend on the severity of the violation.

All measures proposed by CLECs in the performance measurement plan are included in the CLECs proposed remedies plan. The CLECs argue that if a measure is important enough to be included in the performance measurement plan, then the plan must provide the incentive for BellSouth to meet the applicable analog or benchmark by including the measure in the remedies plan. The CLECs recommend the use of the modified z score as the appropriate statistical methodology. Where there is no retail analog to the service provided to CLECs and a benchmark has been established, BellSouth either passes or fails. Bursh, Direct 9. In either case, the monetary consequences increase with the severity of the violation.

The CLECs argue that increasing penalties as the severity of the violation increases is appropriate because the more severe the violation, the more disruption and inconvenience experienced by CLECs and their customers. In addition, increasing the consequences as severity increases will encourage BellSouth to provide the best service possible even if BellSouth recognizes that it will not meet a certain measure within a given month. Under the CLECs' remedy plan, Tier 1 violations would be assessed on a monthly basis and penalties for noncompliant performance would be paid directly to the CLEC that received the degraded service. Bursh, Direct 9. The CLEC plan addresses chronic performance failures by increasing the monthly penalty payment to the rate assessed for severe violations (\$25,000) beginning in the third month that a particular submeasure is violated. This additional payment would continue monthly until BellSouth complied with that measure. *Id.* at 11.

The CLECs state that payments for Tier 2 violations would be made to a state-designated fund. Bursh, Direct 12. Penalties for Tier 2 violations also would increase depending on severity, with parameters defined for those violations, which are market impacting, and those designated as market damaging or market constraining. In addition, a factor "n" would be applied as a multiplier to the basic penalty amount. The value of "n" would decrease as the CLEC market penetration increases. *Id.* at 13. Thus, the CLECs argue, the plan is devised to encourage BellSouth to open its market by reducing its exposure to penalties as it does so.

BellSouth states that the Commission should not adopt the CLECs' penalty plan because: Its Tier-1 remedies are unsubstantiated; it uses a per measure approach; it incorporates all of the CLECs' performance measures as opposed to a subset of key measures; it fails to incorporate a balancing critical value; it misuses the Z-statistic; it incorporates the wrong statistical test; and, it inappropriately bases BellSouth's liability on market share.

After considering the testimony and arguments presented in this matter, the Commission, using the provisions of the VSEEM plan as a starting point, hereby finds that the remedy plan shall be adopted with the following characteristic:

1. Truncated-Z Methodology using the balancing critical value.

BellSouth's VSEEM plan is based on a statistical methodology known as the "Truncated Z," a methodology invented by Dr. Colin Mallows of AT&T during a collaborative process in Louisiana. Mallows, Tr. at 950-51. The Truncated Z represents a significant enhancement to the LCUG version 1.0 modified Z methodology, the statistical methodology proposed by the CLECs. Mulrow, Tr. at 472. In general terms, the Truncated Z statistic is a summary of the results of many statistical comparisons made with like-to-like categories. These categories, or cells, are formed by sorting both CLEC transactions, and BellSouth retail analog transactions on such factors as service type, order type, time of month, and wire center. Mulrow, Tr. at 465. In each comparison cell, a "modified Z" type statistic is calculated. The form of the Z statistic may vary depending on the performance measure, but it should be distributed approximately as a standard normal "bell curve" with a mean zero and a standard deviation of one.

One of the keys of the Truncated Z methodology, which the CLECs' proposed methodology lacks, is the ability to balance Type I and Type II errors. A Type I error occurs when the statistical test decision rule indicates that BellSouth is favoring its own customers when it is not. A Type II error, on the other hand, occurs when the statistical test decision rule indicates BellSouth is not favoring its own customers when in fact, it is. Mulrow, Tr. at 467. The concept of "balancing" is crucial because if the methodology balances, it will ensure that the two error probabilities are equal and neither the ILEC nor the CLEC is unfairly prejudiced. Mulrow, Tr. at 468. The formula to balance the critical values depends on the materiality factor of "delta," the number of BellSouth transactions, and the number of CLEC transactions. *Id.*

The Commission adopts the Truncated-Z Methodology using the balancing critical value.

2. Effect 45 days from issuance of order.

BellSouth maintains that remedies should only be adopted to prevent backsliding once BellSouth has entered the long distance market. Yet avoiding backsliding is only one of the purposes served by a remedies plan. By delaying adoption of a penalty plan until BellSouth enters the long distance market, the Commission would forego the opportunity to enable more rapid development of competition. At the hearing, many CLECs testified that they are currently experiencing problems with the quality of service they are receiving from BellSouth. These problems could make it more difficult for CLECs to attract and retain customers. An appropriate penalty plan will further encourage BellSouth to provide nondiscriminatory service during the critical early stages of competition, while providing some compensation to CLECs for the additional costs they incur when BellSouth's performance falls short. The Commission finds that the remedy plan shall go into effect 45 days from issuance of order. This time will allow BST to put statistical methods and the remedy plan into operation.

3. Delta.

The "delta" is a measure of the meaningful difference between BellSouth performance and CLEC performance. In other words, certain levels of differing performance may have statistical significance, but in terms of impact on the end user, be meaningless. *See* Varner, Tr. at 39. The delta takes into account this fact and ensures that a component of materiality is present in the statistical methodology. As explained by Mr. Varner, "the delta provides a way to determine whether a difference in performance measurements indicates that a difference in performance provided by BellSouth to itself and to a CLEC is material and should trigger the application of penalties." Varner, Tr. at 39. The FCC has recognized the need for a delta. In the *Bell Atlantic Order*, the FCC noted that random variation is inherent in the ILEC's process of providing interconnection and access to UNEs. Consequently, it is appropriate to determine whether or not such difference is material. Varner, Tr. at 39; *Bell Atlantic Order*, ¶ 59.

In its VSEEMs plan, BellSouth has proposed a delta of 1.0 to evaluate individual CLEC performance (Tier-1), and a delta value of 0.5 to evaluate CLEC aggregate results (Tier-2). Varner, Tr. at 40. The CLECs propose that this Commission adopt .25 as the parameter delta value. The

CLECs state that this value is based on a judgment of an acceptable disparity in the number of CLEC customers and BellSouth customers receiving like quality service.

The Commission finds that the following delta values are appropriate and reasonable and shall be adopted for use in the plan: .50 for individual CLECs and .35 for CLEC Aggregate.

4. Absolute Cap.

The VSEEM Plan sets an automatic financial cap based on a percentage of BellSouth's net revenues in Georgia. Coon, Tr. at 115-16. The CLECs recommend a review threshold, or procedural cap, that only determines the point at which the ILEC is permitted to seek relief from additional penalties from the state commission. The CLECs argue that, even after reaching the review threshold, BellSouth should be required to continue Tier 1 payments to CLECs because Tier 1 payments are intended in part to compensate CLECs for the harm incurred due to BellSouth's poor performance. In addition, while the review process is ongoing, BellSouth should continue to make Tier 2 payments into an interest-bearing registry or escrow account. To escape penalties beyond the threshold, BellSouth would have the burden of showing during the review hearing that its performance for CLECs in the aggregate did not merit the remedies invoked.

The Commission finds that this plan shall have an absolute cap of 44% of BellSouth's net revenues, which equals approximately \$340 million dollars.

5. Remedy Plan is subject to modification.

The Commission recognizes that the enforcement plan and the SQM are still largely untested and intends to closely monitor the effectiveness of the plan. Accordingly, the Commission reserves the right to modify the enforcement plan or SQMs at any time it deems necessary.

6. Tier II and III measures determined on a 3-month rolling basis.

Under BellSouth's proposal, Tier-2 enforcement mechanisms are triggered when BellSouth fails at the CLEC aggregate level on any one of the Tier-2 VSEEM measurements in a calendar quarter. Tier-3 enforcement mechanisms are triggered when BellSouth consistently fails at the CLEC aggregate level on any 5 of the BellSouth's 12 Tier-3 VSEEM measurements for 3 consecutive months in a calendar quarter.

The CLECs complain that VSEEM would permit a pattern of Tier 2 violations so long as they were timed so as not to occur within all three months of the same calendar quarter. Under BellSouth's proposal, for example, BellSouth could miss two months, be compliant for one month and avoid Tier 2 sanctions. Further, BellSouth could miss even four months in a row not in the same calendar quarter such as February, March, April and May and still not face Tier 2 sanctions.

To trigger Tier 3 consequences, BellSouth would need to violate the same five measures for

an entire quarter. Coon Tr. 405. All five measures would need to be violated within the same quarter. Therefore, if BellSouth violated five measures in January, the same five measures in February and four of the same measures in March along with a different measure not violated in January and February, Tier 3 would not be invoked. *Id.* at 406. Further, BellSouth could violate the same five measures in February, March, April and May and Tier 3 would still not be invoked because the violations did not continue through an entire calendar quarter.

The Commission finds that Tier II and III measures should be determined on a 3-month rolling basis. For example, Tier-2 enforcement mechanisms shall be triggered when BellSouth fails at the CLEC aggregate level on any one of the Tier-2 VSEEM measurements for three consecutive months.

7. Tier III failures.

As discussed below, Tier III now contains 26 submetrics. When any 12 of the 26 experience failures for 3 consecutive months, Tier III is triggered. For a Tier III failure, BST may begin marketing long distance when all 12 of the 26 failed sub-metrics show favorable results for 3 consecutive months.

8. Approved Metrics.

The Commission approves the Metrics set forth below in each Tier of enforcement. The Performance Measures below represent the same SQMs, analogs/benchmarks approved in this Order.

ENFORCEMENT PLAN SUBMETRICS

TIER I AND TIER II SUBMETRICS

- Percent Response Received within “X” seconds
- Interface Availability (All Systems)(Exclude from Tier I Metric)
- Average Response Time for LMU Information (Non- Mechanized & Electronic)
- Percent Flow-Through Service Request (Electronic- Residence, Business, UNE and LNP)
- Reject Interval (Mechanized)
- FOC Timeliness (Mechanized, Partially Mechanized and Non-Mechanized)
- Acknowledgment Timeliness
- Acknowledgment Completeness
- FOC and Reject Completeness
- Order Completion Interval
 - Resale POTS
 - Resale Design
 - Loop + Port Combo

UNE Loops
UNE xDSL
UNE Line Sharing
Interconnection Trunks

- Percent Cooperative Testing for xDSL Loops
- Percent Missed Installation Appointments
 - Resale POTS
 - Resale Design
 - Loop + Port Combo
 - UNE Loops
 - UNE xDSL
 - UNE Line Sharing
 - Interconnection Trunks
- Percent Provisioning Troubles within 30 days
(Same disaggregation as Order Completion Interval)
- Missed Repair Appointments
(Same disaggregation as Order Completion Interval)
- Customer Trouble Report Rate
(Same disaggregation as Order Completion Interval)
- Percent Troubles within 7 days of Hot Cut
- Coordinated Customer Conversion- Hot Cut Timeliness % within Interval and Average Interval
- Coordinated Customer Conversion
- Maintenance Average Duration
(Same disaggregation as Order Completion Interval)
- Percent Repeat Troubles Within 30 Days
(Same disaggregation as Order Completion Interval)
- LNP Disconnect Timeliness
- LNP Missed Installation Appointments
- Invoice Accuracy
- Mean Time to Deliver Invoices
- Usage Data Delivery Accuracy
- Trunk Group Performance
 - Aggregate
 - CLEC Specific
- Percent Missed Collocation Due Dates
- Timeliness of Change Management Notices and Documentation

TIER III SUBMETRICS

- Order Completion Interval

- Resale POTS
- Resale Design
- Loop + Port Combo
- UNE Loops
- UNE xDSL
- UNE Line Sharing
- Interconnection Trunks
- Percent Missed Installation Appointments
 - Resale POTS
 - Resale Design
 - Loop + Port Combo
 - UNE Loops
 - UNE xDSL
 - UNE Line Sharing
 - Interconnection Trunks
- Percent Missed Repair Appointments
(Same disaggregation as Percent Missed Installation Appointments)
- Invoice Accuracy
- Mean Time to Deliver Invoices
- Trunk Group Performance-Aggregate
- Timeliness of Change Management Notice and Documentation
- Percent of Collocation Due Dates Missed

9. Late and incomplete reports.

In addition to Tier 1 and Tier 2 payments, the CLECs also propose that the Commission set consequences for certain problem activities related to the implementation of the performance measurements plan itself such as late performance reports. Since the performance plan is completely dependent on timely and reliable reporting, BST shall pay the following for late and incomplete reports:

Late performance reports - If performance reports are not available to a CLEC by the due day, BST should be liable for payments of \$2,000 to the CLEC for every day past the due date of the reports posting on the web.

Incomplete or revised reports – If performance reports are incomplete, or if previously reported data are revised, then BST should be liable for payments of \$400 to the effected CLEC for every day past the due date of the original reports posting on the web.

10. Market penetration adjustment.

BellSouth shall implement a market penetration adjustment for new and advanced services

as follows:

- 1 In order to ensure parity and benchmark performance where CLECs order low volumes of advanced and nascent services, BST shall make additional payments to the Commission for deposit in the Georgia State Treasury when there are more than 10 and less than 100 observations for those measures listed below on average statewide for a three-month period.
 - Percent Missed Installation Appointments
 - UNE Loop+Port Combo
 - UNE xDSL
 - UNE Line Sharing
 - Average Completion Interval
 - UNE Loop+Port Combo
 - UNE xDSL
 - UNE Line Sharing
 - Missed Repair Appointments
 - UNE Loop+Port Combo
 - UNE xDSL
 - UNE Line Sharing
 - Maintenance Average Duration
 - UNE Loop+Port Combo
 - UNE xDSL
 - UNE Line Sharing
 - Average Response Time for Loop Make-Up Information
 - UNE Loop+Port Combo
 - UNE xDSL
 - UNE Line Sharing
- 2 The additional payments referenced in 1, above, shall be made if BST fails to provide parity for the above measurements as determined by the use of the Truncated Z-Test and the balancing critical value for 3 consecutive months.
- 3 If, for the three months that are utilized to calculate the rolling average, there were 100 observations or more on average for the sub-metric, then no additional voluntary payments under this market penetration adjustment provision will be made to Commission for deposit with the State Treasury. However, if during the same time frame there is an average of more than 10 but less than 100 observations for a sub metric on statewide basis, then BST shall calculate the additional payments to the Commission for deposit with the State Treasury by trebling the normal Tier II remedy and applying the method of calculating affected volumes ordered by the Commission.

- 4 Any payments made under this market penetration adjustment provision are subject to the Absolute Cap set by the Commission.

11. Corrective action plans.

If any measure fails twice in any 3 consecutive months in a calendar year, BST must perform a "root cause analysis" and file with the Commission a corrective action plan within 30 days after the failure. The Commission will recommend to the Change Control Committee the priority to be given to the corrective action plan.

12. Staff Review.

Staff shall conduct a 6-month review of the SQMs as follows:

- 1 8 months after the date of a Commission order and every 6 months thereafter, the Commission Staff shall conduct a review of the measurements, benchmarks and analogs applicable to the performance of BellSouth. This review shall be for the purpose of modifying the SQMs and applicable analogs and benchmarks as deemed necessary by the Commission.
- 2 BellSouth, the CLEC Coalition, and any other interested parties shall file any proposed revisions to the SQMs, benchmarks and analogues 1 month prior to the beginning of each review period.
- 3 BellSouth, the CLEC Coalition, and any other interested party shall be allowed to submit comments on proposed changes and to submit any proposed additions.
- 4 The Commission Staff shall prepare a recommendation as to appropriate action to be taken by the Commission, if any, in connection with the review and shall submit this recommendation to the Commission for formal review and adoption.
- 5 The Commission Staff shall be authorized to modify this schedule at any time with written notice to interested parties.

13. Payments to the State.

All payments to the state under the enforcement plan shall be paid to the Commission for deposit in the State Treasury as penalties under O.C.G.A. § 46-2-91.

14. Force majeure.

The Commission recognizes that BellSouth's performance data may be influenced by factors beyond its control. Accordingly, in the event of a force majeure, BellSouth may file a petition for an exception with the Commission seeking to have the monthly service quality results modified. BellSouth will also be allowed to file an expedited petition seeking immediate relief from a payment pursuant to the enforcement plan in the event of a force majeure. In any such petition, BellSouth shall have the burden of demonstrating that the performance standard was not met due to causes beyond BellSouth's control and which could not have been avoided by exercise of due care. The filing of any such petition shall not stay any payments under the enforcement plan unless otherwise ordered by the Commission.

III. CONCLUSION AND ORDERING PARAGRAPHS

The Commission finds and concludes that the performance measurements, the benchmarks and retail analogs, and the enforcement mechanisms set forth above are reasonable and appropriate and should be adopted pursuant to Georgia's Telecommunications and Competition Development Act of 1995 and Sections 251 and 252 of the Telecommunications Act of 1996.

WHEREFORE IT IS ORDERED, that all findings, conclusions, statements, and directives made by the Commission and contained in the foregoing sections of this Order are hereby adopted as findings of fact, conclusions of law, statements of regulatory policy, and orders of this Commission.

ORDERED FURTHER, the performance measurements, the benchmarks and retail analogs, and the enforcement mechanisms set forth in the body of this Order are adopted and BellSouth shall submit such compliance filings as are necessary to reflect and implement the standards and mechanism established by this Order.

ORDERED FURTHER, that a motion for reconsideration, rehearing, or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

ORDERED FURTHER, that jurisdiction over these matters is expressly retained for the purpose of entering such further Order or Orders as this Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 3rd day of October, 2000.

Helen O'Leary
Executive Secretary

Bob Durden
Chairman

Date

Date

h:\data\jjw\alltel.com\010302\order.pm.doc

DOCKET NO. 7892-U

ORDER ON MOTIONS FOR RECONSIDERATION AND CLARIFICATION

**IN RE: PERFORMANCE MEASURES FOR TELECOMMUNICATIONS
INTERCONNECTION, UNBUNDLING AND RESALE**

On January 16, 2001, the Georgia Public Service Commission ("Commission") issued its Order in this docket. On January 29, 2001, BellSouth and the CLEC Coalition ("Coalition") filed motions for Clarification and Reconsideration in the above-referenced docket. On February 23, 2001 AT&T filed a response to BellSouth's Motion for Clarification and Reconsideration.

The CLEC Coalition requested Clarification on five (5) issues. The Coalition's first and second requests were to clarify that the Commission's Order required BellSouth to report performance data for its affiliates and to report its CLEC and affiliate data for purposes of Industry-level remedies. The Commission ordered that BellSouth did not have to report Performance Data for its affiliates providing local service and should not include its affiliate data in remedy calculations as it applies to industry level remedies.

The third request was to affirm that CLECs were entitled to all of the raw data underlying all performance reports, and the reasonable audits of CLEC-specific results and data, and the systems and processes that produce them. The Commission ordered that BellSouth shall provide access to all the available data (e.g., PMAP, Data Warehouse, raw data) and information necessary for a carrier receiving Performance Reports to verify the accuracy of such reports and that CLEC specific audit rights included in individual Interconnection Agreements shall remain in effect.

The Coalition's fourth request was to clarify whether BellSouth was required to report Local Number Portability ("LNP") Firm Order Confirmation ("FOC") and LNP rejection Performance Data in a discrete manner in the Tier I and Tier II sub-metrics of the Enforcement Plan, and whether BellSouth should report partially and non-mechanized rejection data for all product types included in Tier I and Tier II sub-metrics of the Enforcement Plan. The Commission ordered that BellSouth did not have to discretely report LNP FOC and Reject data in the Enforcement Plan. BellSouth shall report partially and non-mechanized data for products as specified in the Commission's Order.

The last request was for clarification of whether the Commission's 6-month review of the Performance Data would also include a review of the Enforcement Plan. The Commission agrees with the Coalition that the Enforcement Plan should be included in the Staff review. The performance measurements and the enforcement plan provide the Commission with the tools necessary to ensure ongoing compliance.

BellSouth requested that the Commission reconsider aspects of its Order. First, BellSouth sought reconsideration on findings regarding performance measures and analogs/benchmarks. Second, BellSouth sought clarification on the date the Order's requirements took affect and reconsideration of the implementation dates for changes and modification required. Third, BellSouth sought reconsideration on two issues relating to the adoption of the Enforcement Plan. Fourth, BellSouth sought clarification on the scope of the "Force Majeure" provision of the Order to explicitly state the provision includes situations in which the CLECs attempt to game the enforcement plan by causing BellSouth to miss its targets so as to trigger remedy payments. Finally, BellSouth requested the Commission reconsider its decision regarding the value for delta to be used in conjunction with the statistical methodology.

BellSouth's first request is that the Commission adopt the retail analog for OSS (Percent Response Received in X Seconds) of Parity + 4 seconds instead of the Commission adopted Parity retail analog. The Order provides that "the response interval starts when the client application (LENS or TAG for CLECs and RNS for BST) submits a request to the legacy system and ends when the appropriate response is returned to the client application." See Order, at 4. In conjunction with this Order, the data measurement points will include the time that the preordering inquiry travels through the client application, either TAG or LENS, as well as the time necessary for retail inquiries to pass through BellSouth's retail servers. This requires additional time for the CLEC inquiry to clear the security firewall, and to translate the inquiry into a format that can be read by the legacy system.

On the retail side, the orders are input into the legacy system in navigator contract format and thus there is no translation time incurred. In addition, BellSouth's retail systems (RNS and ROS) pass the security screen by signing on to the terminal that is hard wired into the system and requires a password. This process prevents the BellSouth service representative from accessing unauthorized records. The Commission Staff has reviewed the Pre-Ordering data from the Third-Party Test and a January 16th filing by KPMG on this issue and agrees that additional time for security measures and computer translations needed to process pre-order inquiries from CLECs are appropriate. Therefore the Commission orders Parity + 2 Seconds as the Retail Analog for Pre-Order responses.

Additionally, BellSouth requested that the Commission adopted measures D-1 (Average Database Update Interval) and D-2 (Percent Database Update Interval) to assess the timeliness and accuracy of BellSouth's updates for databases such as LIDB and Directory Assistance should not require actual data on each update because the systems are designed to function as parity by design and this data should be collected using a statistically valid sample of retail and wholesale queries drawn on a monthly basis as opposed to measuring each update to the databases individually. The Commission agrees that the databases to which these measures apply are parity by design and the process for updating the databases is the same for both retail and wholesale orders. Therefore, the Commission orders that BellSouth shall collect data for database interval and accuracy using a statistically valid sample of retail and wholesale queries.

Finally, as part of its first request, BellSouth states that the Commission Order requiring BellSouth to disaggregate PO-1 (Average Response Time for Loop Make Up ("LMU")-Non Mechanized) and PO-2 (Average Response Time for LMU-Electronic) on a product-specific basis into ADSL, HDSL, Other DSL, and Line Sharing is unnecessary. From a measurement perspective, the only relevant inquiry is whether BellSouth provides LMU information in a timely manner. The Commission orders that the disaggregation levels for PO-1 and PO-2 be amended as requested by BellSouth because LMU does not distinguish between loop types.

BellSouth requested the Commission clarify that the Order's reporting and enforcement provisions take effect March 1, 2001, and asked for additional time until June 30, 2001, for implementation of certain measures ordered by this Commission. The Commission ordered the measures effective 45 days after issuance of the Commission Order of January 16, 2001. To coincide with the first day of the month, the Commission orders that all reporting and enforcement requirements shall take effect on March 1, 2001. The Commission is aware that it takes an enormous programming effort to implement the new measures and additional disaggregation in its Order. Therefore, the Commission grants an extension until May 1, 2001, for BellSouth to provide CLEC-specific data for SQM reporting purposes, to provide CLEC-specific data for purposes of the Enforcement Plan and to provide product specific data for purposes of the Enforcement Plan for the measures identified in BellSouth's motion. This extension does not relieve BellSouth of the obligation to pay Tier 1 penalties. BellSouth shall implement the interim methodology in accordance with the proposal included in its motion.

Third, BellSouth sought reconsideration on the appropriateness of including OSS-1 (Percent Response Received in X Seconds), CM-1 (Timeliness of Change Management Notices) and CM-3 (Timeliness of Documents Associated with Change) in Tier 1 of the Enforcement Plan and the appropriateness of Tier 3 penalties in light of substantial penalties adopted in Tier 1 and 2. The Commission concludes that OSS-1, CM-1 and CM-3 are industry wide rather than CLEC-specific and should be excluded from Tier 1 of the Enforcement Plan. The Commission denies BellSouth's request to exclude Tier 3 penalties from the Enforcement Plan.

Last, BellSouth requested the Commission reconsider the amount of penalties for late and incomplete Performance Reports, to modify the Commission's Force Majeure provision to include situations in which CLECs attempt to "game" the Enforcement Plan and to reconsider its Order and adopt 1.0 as the delta value for individual CLEC calculations and .50 for aggregated calculations. In response to penalties for late and incomplete reports, the Commission orders penalties, in the aggregate, be paid to the state on a progressive scale as follows:

1-7 days	\$5,000
8-15 days	\$10,000
16-30 days	\$40,000
31 + days	\$5,000 per day

The Commission denies BellSouth's recommendation to modify the Commission's Force Majeure provision and the Delta Values.

WHEREFORE IT IS ORDERED, that, except as set forth in this order, BellSouth's and the CLEC Coalition's Motion for Clarification and Reconsideration is otherwise denied. All findings, conclusions, and decisions set forth above are hereby made findings of fact, conclusions of law, and orders of the Commission.

ORDERED FURTHER, that all findings, conclusions and decisions contained within the Commission's January 16, 2001, order remain in full force and effect except as otherwise expressly ordered herein.

ORDERED FURTHER, that a motion for reconsideration, rehearing, or oral argument or any other motion shall not stay the effective date of the order unless otherwise ordered by this Commission.

ORDERED FURTHER, that jurisdiction over these matters is expressly retained for the purpose of entering such further orders or orders as this Commission may deem just and proper.

The above action of the Commission in Administrative Session on the 6th day of March 2001.

Reece McAlister
Executive Secretary

Lauren McDonald, Jr.
Chairman

Date

Date

\\ausfey_law_2\vol1\data\jjw\atl tel.com\010302\order.mfrc.doc

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U. S. Mail or hand delivery (*) this 18th day of June, 2001, to the following:

Jason Fudge *
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

BellSouth Telecommunications, Inc. *
Ms. Nancy B. White
c/o James Meza III
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1556

R. Douglas Lackey
Andrew D. Shore
BellSouth Telecommunications, Inc.
Suite 4300, BellSouth Center
Atlanta, GA 30375

Attorney 