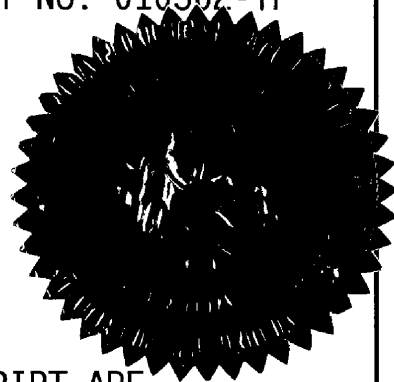


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 010302-TP

In the Matter of

PETITION BY ALLTEL COMMUNICATIONS,
INC. FOR ARBITRATION OF CERTAIN
OPEN ISSUES IN EXISTING
INTERCONNECTION AGREEMENT WITH
BELLSOUTH TELECOMMUNICATIONS, INC.



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PROCEEDINGS: HEARING

BEFORE: COMMISSIONER J. TERRY DEASON
COMMISSIONER LILA A. JABER
COMMISSIONER MICHAEL A. PALECKI

DATE: Monday, September 24, 2001

TIME: Commenced at 9:35 a.m.
Concluded at 9:45 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: KORETTA E. FLEMING, RPR
Official FPSC Reporter

DOCUMENT NUMBER - DATE
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1 APPEARANCES:

2 JAMES MEZA, III, BellSouth Telecommunications, Inc.,
3 c/o Nancy Sims, 150 South Monroe Street, Suite 400,
4 Tallahassee, Florida 32301, appearing on behalf of BellSouth
5 Telecommunications, Inc.

6 JEFFREY WAHLEN, Ausley & McMullen, P.O. Box 391,
7 Tallahassee, Florida 32302, appearing on behalf of ALLTEL
8 Communications, Inc.

9 JASON FUDGE, FPSC Division of Legal Services, 2540
10 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,
11 appearing on behalf of the Commission Staff.

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I N D E X

WITNESSES

NAME:	PAGE NO.
JAYNE EVE	
Direct Testimony Inserted	6
CYNTHIA COX	
Direct Testimony Inserted	21
Rebuttal Testimony Inserted	34

EXHIBITS

NUMBER:	ID.	ADMTD.
1 JE-1 through JE-5	20	20
2 CKC-1 and CKC-1 Revised	43	43
3 Deposition Transcript of Jayne Eve	43	44
4 Deposition Transcript of Cynthia Cox	44	44
Certificate of Reporter		46

P R O C E E D I N G S

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COMMISSIONER DEASON: Call the hearing to order.

Could I have the Notice read, please?

MR. FUDGE: Pursuant to Notice issued August 17th, 2001, this time and place was set for a formal hearing in Docket Number 010302-TP.

COMMISSIONER DEASON: Thank you. Take appearances.

MR. MEZA: Jim Meza on behalf of BellSouth.

MR. WAHLEN: Jeff Wahlen of the Ausley & McMullen law firm on behalf of ALLTEL Communications, Inc.

MR. FUDGE: Jason Fudge on behalf of the Commission Staff.

COMMISSIONER DEASON: Mr. Meza, did you spend the entire weekend in Tallahassee?

MR. MEZA: No. Fortunately, they allowed me to go home.

COMMISSIONER DEASON: Oh, okay. It was a short weekend though, wasn't it?

MR. MEZA: Yes.

COMMISSIONER DEASON: Okay. Staff, preliminary matters?

MR. FUDGE: Commissioners, the parties have agreed that the testimony and exhibits of all witnesses may be entered into the record by stipulation without cross examination. Staff believes that the following witnesses and exhibits may be

1 stipulated: For ALLTEL, Jayne Eve with Direct Testimony, with
2 Exhibits JE-1 through JE-5; and for BellSouth, the Direct and
3 Rebuttal Testimony of Cynthia Cox, with the Exhibit CKC-1 and
4 Revised Exhibit CKC-1.

5 COMMISSIONER DEASON: Obviously, the parties are in
6 agreement.

7 MR. WAHLEN: Yes, we are.

8 MR. MEZA: Yes, sir.

9 COMMISSIONER DEASON: Well, if now is appropriate,
10 we'll just go through that exercise of getting that testimony
11 into the record. Staff, you're agreeable with that?

12 MR. FUDGE: Yes, Commissioners.

13 COMMISSIONER DEASON: Very well. We will begin with
14 ALLTEL, your witness.

15 MR. WAHLEN: ALLTEL moves the Direct Testimony of
16 Jayne Eve into the record as though read.

17 COMMISSIONER DEASON: Without objection, it shall be
18 inserted into the record.

19

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25

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~~ ^{5/6/1}
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.**

1 COMMISSIONER DEASON: And the exhibits accompanying
2 the Direct Testimony, JE-1 through JE-5, will be identified as
3 Exhibit Number 1.

4 MR. WAHLEN: And ALLTEL moves those exhibits into the
5 record.

6 COMMISSIONER DEASON: And without objection, show
7 that exhibit is admitted into the record, Exhibit Number 1.

8 (Exhibit 1 identified and admitted into the record.)

9 COMMISSIONER DEASON: Mr. Meza.

10 MR. MEZA: Yes. BellSouth moves the Direct and
11 Rebuttal Testimony of Cynthia Cox into the record as if read.

12 COMMISSIONER DEASON: Without objection, show the
13 Direct and Rebuttal Testimony of Witness Cox inserted into the
14 record.

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BELLSOUTH TELECOMMUNICATIONS, INC.
DIRECT TESTIMONY OF CYNTHIA K. COX
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 010302-TP
JUNE 18, 2001

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

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

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY.

A. I graduated from the University of Cincinnati in 1981, with a Bachelor of Business Administration degree in Finance. I obtained a Master of Science degree in Quantitative Economics from the Georgia Institute of Technology in 1984. I then joined Southern Bell in the Rates and Tariffs organization with the responsibility for demand analysis. In 1985, my responsibilities expanded to include administration of selected rates and tariffs, including preparation of tariff filings. In 1989, I accepted an assignment in the North Carolina

1 regulatory office where I was BellSouth's primary liaison with the North
2 Carolina Utilities Commission Staff and the Public Staff. In 1993, I moved to
3 BellSouth's Governmental Affairs department in Washington D.C. While in
4 this office, I worked with national organizations of state and local legislators,
5 NARUC, the Federal Communications Commission ("FCC") and selected
6 House delegations from the BellSouth region. In February 2000, I was
7 appointed Senior Director for State Regulatory.

8

9 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

10

11 A. The purpose of my testimony is to present BellSouth's position on the
12 remaining issues that ALLTEL Communications, Inc. ("ALLTEL") is
13 requesting the Florida Public Service Commission ("Commission") to
14 arbitrate.

15

16 Q. WHAT IS THE STATUS OF THE NEGOTIATIONS BETWEEN THE
17 PARTIES?

18

19 A. BellSouth has negotiated in good faith with ALLTEL both before and after
20 ALLTEL filed its Petition for Arbitration with this Commission on March 8,
21 2001. ALLTEL's Petition included an Exhibit B that listed eighteen
22 unresolved issues. The parties have resolved numerous issues since then, and
23 Attachment A to this Commission's Procedural Order No. PSC-01-1127-PCO-
24 TP issued May 16, 2001, listed six unresolved issues. The parties recently
25 resolved Issue 1, which addressed waiving of nonrecurring charges in specific

1 situations. Therefore, only five issues remain to be arbitrated by this
2 Commission. Attached to my testimony as Exhibit CKC-1 is an updated
3 matrix that shows the remaining unresolved issues and summarizes
4 BellSouth's position with respect to each issue. I have renumbered the issues
5 to correspond to the aforementioned Attachment A.

6

7 Q. BEFORE YOU ADDRESS THE UNRESOLVED ISSUES, PLEASE
8 EXPLAIN THE STATUS OF BELLSOUTH'S INTERCONNECTION
9 AGREEMENT WITH ALLTEL IN FLORIDA.

10

11 A. The Florida agreement was executed in 1997, and expired over a year ago.
12 ALLTEL has continued to operate under the terms of the expired agreement
13 during negotiation of the new interconnection agreement. In addition,
14 ALLTEL and BellSouth executed a stand-alone agreement that only dealt with
15 the situation addressed by Issue 1 in this proceeding (originally shown as Issue
16 17 on ALLTEL's Exhibit B). That agreement remains effective until the new
17 interconnection agreement is finalized.

18

19 *Issue 2: What terms and conditions should govern BellSouth's provisioning of*
20 *enhanced extended loops ("EELs") and other combinations of network elements to*
21 *ALLTEL?*

22

23 Q. WHAT IS AN ENHANCED EXTENDED LOOP ("EEL")?

24

25 A. An EEL is a specific combination of network elements - a loop combined with

1 dedicated interoffice transport. The FCC requires ILECs to allow ALECs to
2 convert existing tariffed special access service to the combination commonly
3 referred to as the EEL only if the ALEC certifies that it is providing a
4 significant amount of local exchange service over the facilities it wishes to
5 convert. In its Third Report and Order and Fourth Further Notice of Proposed
6 Rulemaking, FCC 99-238, released November 5, 1999 (“UNE Remand
7 Order”), the FCC specifically declined to identify the EEL as a UNE.
8

9 Q. WHAT IS BELL SOUTH’S POSITION ON THIS ISSUE?

10

11 A. This issue is whether BellSouth is obligated to combine unbundled network
12 elements (“UNEs”) (including, but not limited to, the UNEs that comprise the
13 EEL) for ALECs when the elements are not already combined in BellSouth’s
14 network. BellSouth makes combinations of UNEs available to ALECs
15 consistent with BellSouth’s obligations under the 1996 Act and applicable FCC
16 rules. As the Eighth Circuit Court of Appeals confirmed in its July 18, 2000
17 decision, BellSouth has no obligation to combine network elements for ALECs
18 when those elements are not currently combined in BellSouth’s network.
19 Therefore, BellSouth provides combinations to ALECs at cost-based prices if
20 the elements are in fact physically combined in BellSouth’s network to the
21 location the ALEC wishes to serve. ALLTEL contends that if BellSouth
22 combines the requested UNEs anywhere in its network, BellSouth must
23 produce the same combination of UNEs whenever and wherever ALLTEL
24 demands, even if the elements are not physically combined in BellSouth’s
25 network at the location where ALLTEL requests the combination.

1 Q. WHAT IS THE BASIS FOR BELLSOUTH'S POSITION?

2

3 A. In its UNE Remand Order, the FCC confirmed that ILECs have no obligation
4 to combine network elements for ALECs when those elements are not
5 currently combined in BellSouth's network. The FCC rules that purported to
6 require incumbent LECs to combine unbundled network elements (51.315(c)-
7 (f)) were vacated by the Eighth Circuit, and that decision was neither appealed
8 to nor reinstated by the Supreme Court.

9

10 On July 18, 2000, the Eighth Circuit Court held that ILECs are not obligated to
11 combine UNEs, and it reaffirmed that the FCC's Rules 51.315(c)-(f) remain
12 vacated. Specifically, the court cited Section 251(c)(3) of the Act which states
13 that "[a]n incumbent local exchange carrier shall provide such unbundled
14 network elements in a manner that allows requesting carriers to combine such
15 elements in order to provide such telecommunication service." The court then
16 stated: "[h]ere, Congress has directly spoken on the issue of who shall combine
17 previously uncombined network elements. It is the requesting carriers who
18 shall 'combine such elements.'"

19

20 Q. HOW DID THE FCC ADDRESS THIS ISSUE IN ITS UNE REMAND
21 ORDER?

22

23 A. The FCC concluded that ILECs have no obligation to combine UNEs. The
24 FCC ruled that 51.315(b) applies to elements that are "in fact" combined,
25 stating that "[t]o the extent an unbundled loop is in fact connected to

1 unbundled dedicated transport, the statute and our rule 51.315(b) require the
2 incumbent to provide such elements to requesting carriers in combined form.”
3 (§ 480, emphasis added). It is disingenuous to suggest that the FCC meant for
4 its Rule 51.315(b) to cover anything other than specific pre-existing
5 combinations of elements for a customer when the FCC’s orders specifically
6 state that ILECs are not required to combine elements.

7

8 Q. HAS THIS COMMISSION PREVIOUSLY ADDRESSED THIS SAME
9 ISSUE?

10

11 A. Yes, this Commission has addressed this issue in several recent arbitrations.
12 In the BellSouth/AT&T arbitration (Docket No. 000731-TP), this Commission
13 voted on May 29, 2001, to accept its Staff’s Recommendation, dated May 3,
14 2001, on the exact issue that ALLTEL raises in this arbitration. The Staff
15 concluded that:

16

17 Based on the foregoing, staff does not believe it is the duty of
18 BellSouth to “perform the functions necessary to combine
19 unbundled network elements in any manner.” Rule 51.315(b)
20 only requires BellSouth to make available at TELRIC rates
21 those combinations requested by an ALEC that are, in fact,
22 already combined and physically connected in its network at the
23 time a requesting carrier places an order. Accordingly, staff
24 believes that the phrase “currently combines” pursuant to FCC
25 Rule 51.315(b) is limited to combinations of unbundled network
26 elements that are, in fact, already combined and physically
27 connected in BellSouth’s network to serve a specific customer
28 or location at the time a requesting carrier places an order. In
29 other words, there is no physical work that BellSouth must
30 complete in order to effect the combination that the requesting
31 telecommunications carrier requests.

32 (Recommendation at page 26.)

1 Earlier, in Order No. PSC-01-0824-FOF-TP, dated March 30, 2001, in the
2 BellSouth/WorldCom arbitration, this Commission found that “BellSouth is
3 not required to combine unbundled network elements that are ordinarily
4 combined in its network for ALECs at TELRIC rates.” (Order at page 35). In
5 support of its decision, this Commission cited the Eighth Circuit Court’s July
6 18, 2000 ruling, wherein the Court reaffirmed its decision to vacate FCC Rules
7 51.315(c)-(f), stating that “[i]t is not the duty of the ILECs to ‘perform the
8 functions necessary to combine unbundled network elements in any
9 manner’” (*Id.* at page 35).

10

11 This Commission reached this same conclusion in other arbitrations, such as
12 BellSouth/ITC^DeltaCom and BellSouth/Intermedia. BellSouth requests that
13 this Commission apply its decision in these previous arbitrations to this case.

14

15 ***Issue 3: Can ALLTEL petition this Commission for a waiver when it seeks to***
16 ***convert tariffed special access services to UNEs or UNE combinations that do not***
17 ***qualify under any of the three safe harbor options set forth in the agreement?***

18

19 Q. WHAT IS BELLSOUTH’S POSITION ON THIS ISSUE?

20

21 A. The FCC has made clear that these waiver petitions are to be filed with the
22 FCC. In its Supplemental Order Clarification to its Third Report and Order in
23 CC Docket No. 96-98 (June 2, 2000), the FCC clarified that a ALEC may
24 convert special access services to combinations of loop and transport elements
25 only if it is providing a “significant amount of local amount exchange service”

1 to a particular customer, and that threshold was met if it meets one of three
2 local usage options. (Supplemental Order Clarification at ¶ 22). The FCC also
3 stated that requesting carriers must self-certify that they are providing a
4 significant amount of local exchange service over such combinations. *Id.* at
5 ¶29. The FCC recognized that there might be extraordinary circumstances
6 under which a requesting carrier is providing a significant amount of local
7 exchange service but does not qualify under any of the three safe harbor
8 options the FCC established in that order. Addressing this possibility, the FCC
9 stated: “In such a case, the requesting carrier may always petition the
10 Commission [FCC] for a waiver of the safe harbor requirements under our
11 existing rules.” (Order at ¶23).

12

13 In its decision on the “currently combines” issue in the BellSouth/MCI
14 arbitration, this Commission cited these exact provisions, pointing out that the
15 FCC established safe harbor requirements and directed ALECs to petition the
16 FCC for a waiver of such requirements if the ALEC contends that it is
17 providing a significant amount of local exchange service over combinations of
18 unbundled network elements without meeting any of the FCC’s three stated
19 requirements. (Order No. PSC-01-0824-FOF-TP at page 35, emphasis added).

20

21 Q. WHY IS BELLSOUTH OPPOSED TO ALLTEL FILING SUCH WAIVERS
22 WITH THIS STATE COMMISSION?

23

24 A. The issue of converting existing tariffed special access services to UNE
25 combinations has been addressed extensively by the FCC and is currently the

1 subject of further review by the FCC. Due to the uncertainty surrounding this
2 issue, it is possible that a state Commission's granting of a waiver to a ALEC
3 on this issue would conflict with the FCC's intentions. Indeed, BellSouth is
4 unaware of any such waivers filed with the FCC by any ALECs. BellSouth
5 requests this Commission determine that such waivers are appropriately filed
6 with the FCC.

7

8 ***Issue 4: Should BellSouth's Products and Services Interval Guide be incorporated***
9 ***into the interconnection agreement?***

10

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

12

13 A. It is neither necessary nor appropriate to incorporate (i.e., attach) the Products
14 and Services Interval Guide ("Guide") to the Interconnection Agreement. This
15 Guide contains target provisioning intervals for various products and services.
16 BellSouth establishes these target intervals to provide ALECs with a
17 reasonable expectation as to when a product or service can be provided,
18 assuming normal conditions. Again, these are target provisioning intervals
19 established by BellSouth. The Guide is posted to BellSouth's Interconnection
20 Services website for access by all ALECs.

21

22 Q. ARE THE TARGET INTERVALS IN THE GUIDE THE SAME
23 INTERVALS THAT ARE PART OF A PERFORMANCE
24 MEASUREMENTS PLAN?

25

1 A. No. The primary intent of a performance measurements plan is to assist in
2 determining that BellSouth is providing nondiscriminatory access to ALECs as
3 required by the Act and FCC rules. Again, the Guide only provides target
4 provisioning intervals which would not enable such a determination.

5
6 Q. WHAT DOES BELLSOUTH REQUEST OF THIS COMMISSION ON THIS
7 ISSUE?

8
9 A. BellSouth requests this Commission determine that it is neither necessary nor
10 appropriate to incorporate the Product and Services Interval Guide into the
11 Interconnection Agreement.

12
13 ***Issue 5: When should enforcement mechanisms for service quality measurements***
14 ***become effective?***

15
16 Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

17
18 A. Because this issue affects all ALECs operating in Florida, BellSouth
19 recommends that this Commission not rule on this issue in a two-party
20 arbitration. Indeed, the Commission has recently completed the hearing in its
21 Generic Performance Measurements Docket No. 000121-TP, and this issue
22 was appropriately addressed in that proceeding.

23
24 BellSouth's position is that there are at least two reasons why it would be
25 inappropriate for enforcement mechanisms to become effective for ALECs

1 operating in Florida any time prior to BellSouth obtaining permission to enter
2 the interLATA market in Florida. First, enforcement mechanisms are neither
3 necessary nor required to ensure that BellSouth meets its obligations under
4 Section 251 of the 1996 Act. Second, the FCC has identified the
5 implementation of enforcement mechanisms to be a condition of 271 relief. In
6 recent orders, the FCC has indicated that enforcement mechanisms are an
7 additional incentive to ensure that BellSouth continues to comply with the
8 competitive checklist after interLATA relief is granted. (See Bell Atlantic New
9 York, ¶ 429-430; Southwestern Bell Texas Order, ¶ 420-421; Southwestern
10 Bell Kansas/Oklahoma Order, ¶ 269). Enforcement mechanisms and penalties,
11 however, are neither necessary nor required to ensure that BellSouth meets its
12 obligations under Section 251 of the Act, and the FCC has never indicated
13 otherwise.

14
15 The desire for long distance relief, which is an immediate goal of BellSouth's,
16 is itself a powerful incentive for a Bell Operating Company to meet its
17 obligations under Section 251 of the Act. Enforcement mechanisms, on the
18 other hand, serve as an incentive for continued compliance after long distance
19 authority is granted. Therefore, it is appropriate that enforcement mechanisms
20 not take effect until such a mechanism is necessary to serve its purpose – i.e.,
21 until after BellSouth receives interLATA authority.

22
23 Q. IN THE INTERIM UNTIL THIS COMMISSION ESTABLISHES
24 PERMANENT PERFORMANCE MEASUREMENTS FOR ALL ALECS IN
25 FLORIDA, WHAT HAS BELL SOUTH PROPOSED TO ALLTEL?

1 A. On an interim basis, the parties have agreed to include Service Quality
2 Measurements in the interconnection agreement until this Commission
3 establishes permanent performance measurements. For the reasons discussed
4 above, BellSouth's proposal does not include enforcement mechanisms. Any
5 ALEC that has incorporated these measurements into its interconnection
6 agreement will become eligible for penalty payments (pursuant to the plan
7 established by this Commission in its generic proceeding) at such time as
8 BellSouth obtains interLATA relief in Florida.

9

10 ***Issue 6: What is the relevant period for determining whether penalties for failure to***
11 ***meet service quality measurements should be assessed?***

12

13 Q. WHAT IS BELL SOUTH'S UNDERSTANDING OF ALLTEL'S CONCERN?

14

15 A. Looking at Page 9 of Exhibit C to ALLTEL's Petition for Arbitration, it
16 appears that the only disagreement between the parties on this issue is the
17 phrase "in a given calendar quarter" within the language for Section 4.5.3. At
18 one point in time, it was BellSouth's position that, once BellSouth receives
19 interLATA authority in a state, and enforcement mechanisms became effective,
20 penalties would be determined based on BellSouth's performance for a
21 particular calendar quarter. That, however, is no longer BellSouth's position.
22 BellSouth recently advised ALLTEL that BellSouth agrees that, when
23 enforcement mechanisms become effective, penalties would be assessed on the
24 basis of three consecutive months. ALLTEL, however, has not advised
25 BellSouth that this issue is resolved. BellSouth, therefore, assumes that

1 ALLTEL sees this issue as a part of the larger disagreement addressed in Issue

2 5.

3

4 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

5

6 A. Yes.

7 #394474

1 BELLSOUTH TELECOMMUNICATIONS, INC.
2 REBUTTAL TESTIMONY OF CYNTHIA K. COX
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
4 DOCKET NO. 010302-TP
5 JULY 18, 2001
6
7 Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH
8 TELECOMMUNICATIONS, INC. (“BELLSOUTH”) AND YOUR
9 BUSINESS ADDRESS.
10
11 A. My name is Cynthia K. Cox. I am employed by BellSouth as Senior Director
12 for State Regulatory for the nine-state BellSouth region. My business address
13 is 675 West Peachtree Street, Atlanta, Georgia 30375.
14
15 Q. ARE YOU THE SAME CINDY COX WHO FILED TESTIMONY IN THIS
16 CASE ON JUNE 18, 2001?
17
18 A. Yes. I filed direct testimony, including one exhibit.
19
20 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?
21
22 A. The purpose of my rebuttal testimony is to respond to Jayne Eve’s direct
23 testimony filed on behalf of ALLTEL Communications, Inc. (“ALLTEL”) on
24 June 18, 2001.
25

1 Q. PLEASE ADDRESS MS. EVE'S STATEMENT IN HER TESTIMONY
2 THAT ONLY THREE UNRESOLVED ISSUES REMAIN FOR THIS
3 COMMISSION TO ADDRESS.

4
5 A. In my direct testimony, I indicated that five unresolved issues remained for this
6 Commission to address (Issues 2-6). Ms. Eve's direct testimony indicates that
7 Issues 2 and 6 have been resolved, and that only Issues 3, 4 and 5 are
8 unresolved. Earlier this week, ALLTEL notified BellSouth that it agrees with
9 BellSouth's position and proposed contract language with respect to Issues 2
10 and 6, and I have revised my Exhibit CKC-1 to reflect that Issues 2 and 6 are
11 resolved. Accordingly, the remainder of my rebuttal testimony addresses only
12 the three remaining unresolved issues -- 3, 4 and 5.

13
14 ***Issue 3: Can ALLTEL petition this Commission for a waiver when it seeks to***
15 ***convert tariffed special access services to UNEs or UNE combinations that do not***
16 ***qualify under any of the three safe harbor options set forth in the agreement?***

17
18 Q. HAS MS. EVE PROVIDED ANY VALID RATIONALE FOR ALLTEL'S
19 POSITION THAT IT SHOULD BE ALLOWED TO PETITION THIS
20 COMMISSION FOR A WAIVER OF THE FCC'S "SAFE HARBOR"
21 OPTIONS?

22
23 A. No. Ms. Eve's sole argument in support of ALLTEL's position is that the
24 traffic at issue is local exchange traffic and that this Commission has
25 jurisdiction over local exchange traffic. That argument misses the point.

1 There is no dispute that local exchange traffic generally falls within this
2 Commission's jurisdiction. The issue, however, is whether facilities that have
3 historically transported exchange access traffic now qualify to be obtained by
4 an ALEC as UNEs at cost-based rates.

5
6 As I explained in my direct testimony, the FCC established three safe harbor
7 options under which an ALEC can qualify to convert a tariffed special access
8 service to UNEs. Further, the FCC indicated that, if there were extraordinary
9 circumstances under which a requesting carrier is providing a significant
10 amount of local exchange service but does not qualify under any of the three
11 safe harbor options, the ALEC can petition the FCC for a waiver of the safe
12 harbor requirements.

13
14 I agree with Ms. Eve that nothing in the FCC's orders expressly prohibit this
15 Commission from considering and granting such a waiver. The FCC, however,
16 was clear in its Supplemental Order Clarification issued June 2, 2000, that
17 waivers to convert tariffed special access services to UNEs when those services
18 do not qualify under the FCC's three safe harbor options would be filed with
19 the FCC.

20
21 Indeed, as I stated in my direct testimony, the issue of converting tariffed
22 special access services to UNE combinations is currently the subject of further
23 review by the FCC. ALLTEL has not presented this Commission with any
24 reason why it is necessary to include language in the interconnection agreement
25 that would allow ALLTEL to petition this Commission for a waiver on this

1 issue.

2

3 ***Issue 4: Should BellSouth's Products and Services Interval Guide be incorporated***
4 ***into the interconnection agreement?***

5

6 Q. PLEASE RESPOND TO MS. EVE'S CONTENTION THAT LANGUAGE
7 MEMORIALIZING PROVISIONING INTERVALS SHOULD BE
8 INCORPORATED INTO THE INTERCONNECTION AGREEMENT.

9

10 A. As I explained in my direct testimony, BellSouth's Products and Services
11 Interval Guide ("Guide"), which is available to ALECs via BellSouth's
12 Interconnection Services website, contains target provisioning intervals for
13 various products and services. BellSouth establishes these target intervals to
14 provide ALECs with a reasonable expectation as to when a product or service
15 can be provided, assuming normal conditions of workload and the availability
16 of facilities.

17

18 BellSouth is required to provision UNEs and interconnection to ALLTEL in a
19 nondiscriminatory manner. These target intervals are not the standard of
20 comparison for determining whether BellSouth is providing nondiscriminatory
21 service to the ALECs. The definition of parity requires that service to the
22 ALECs should be provided in substantially the same time and manner as is
23 provided to BellSouth's retail customers. This means that provisioning
24 intervals for BellSouth's retail customers and for all ALECs should be
25 comparable.

1 A determination of parity is made by comparing BellSouth's performance for
2 all ALECs to BellSouth's performance to its retail customers or to a
3 benchmark, depending on the particular item or process being measured.
4 Again, target intervals do not play a role in such a determination. Indeed, such
5 a determination can only be made after the fact. That is, a determination of
6 parity is made by comparing BellSouth's service provisioning results for its
7 retail end users to BellSouth's service provisioning results to the ALECs after
8 the work is performed. While BellSouth makes every attempt to provide
9 service to ALECs within the published target intervals, parity can be achieved
10 even if these target intervals are not always met.

11
12 BellSouth should not be prohibited from revising these target provisioning
13 intervals as may be necessary to manage provisioning of all products and
14 services to all of its customers. As Ms. Eve points out, ALLTEL is not
15 opposed to BellSouth's shortening any intervals. ALLTEL is, however,
16 opposed to BellSouth lengthening any intervals without ALLTEL's
17 concurrence. BellSouth does not revise these target intervals on a whim. An
18 interval would be lengthened only if BellSouth determined that the target was
19 generally not attainable.

20
21 Ms. Eve erroneously contends that BellSouth might change these target
22 intervals with no prior notice to ALLTEL. To the contrary, if BellSouth plans
23 to make a change to the Guide, BellSouth posts a Carrier Notification letter to
24 the Interconnection website explaining the change 30 days prior to posting the
25 new Guide. In fact, Section 36.3 of the General Terms and Conditions (which

1 has been agreed to by the parties) in the proposed Interconnection Agreement
 2 includes the following language:

3
 4 BellSouth will post changes to business processes and policies,
 5 and any other information of general applicability to CLECs 30
 6 calendar days prior to the effective date thereof. When an
 7 internet posting is made pursuant to this section or as described
 8 elsewhere in this Agreement, BellSouth shall send ALLTEL
 9 notification of such posting to any electronic mail address
 10 provided by ALLTEL for this purpose.

11
 12 Again, these target intervals are intended to enable an ALEC to establish a due
 13 date for its customer that BellSouth expects to be able to meet. For these
 14 reasons, BellSouth requests this Commission determine that it is neither
 15 necessary nor appropriate to incorporate the Product and Services Interval
 16 Guide into the Interconnection Agreement.

17
 18 ***Issue 5: When should enforcement mechanisms for service quality measurements***
 19 ***become effective?***

20
 21 Q. PLEASE ADDRESS MS. EVE'S SUGGESTION THAT THIS
 22 COMMISSION SHOULD ADOPT, AS AN INTERIM MEASURE, THE
 23 PERFORMANCE MEASUREMENTS AND PENALTY PLAN ADOPTED
 24 BY THE GEORGIA COMMISSION IN ITS DOCKET NO. 7892-U.

25
 26 A. This Commission should reject ALLTEL's request to adopt in this proceeding
 27 the enforcement mechanisms ordered by the Georgia Commission. First, as
 28 Ms. Eve notes, the Georgia Commission's decision regarding performance
 29 measurements and enforcement mechanisms came at the conclusion of its

1 generic proceeding, not as an interim measure pending resolution of the docket.
2 Second, this Commission has its own generic proceeding underway in which
3 this Commission will address the very issue that ALLTEL raises in this
4 arbitration – the effective date of enforcement mechanisms. Third, this
5 Commission is scheduled to release its order in Docket No. 000121-TP on
6 September 4, 2001, which is prior to the date of the hearing in the ALLTEL
7 arbitration.

8
9 As Ms. Eve testified, BellSouth has agreed to incorporate performance
10 measurements into the parties' interconnection agreement. It is not appropriate
11 to implement enforcement mechanisms prior to BellSouth receiving permission
12 to provide interLATA long distance service in Florida. As I explained in my
13 direct testimony, the FCC has made clear that the primary - if not the sole -
14 purpose of a self-effectuating enforcement mechanism is to guard against a
15 Bell Operating Company ("BOC") backsliding after the BOC begins to provide
16 interLATA services. In its Bell Atlantic New York Order¹, the FCC stated:

17
18 Although the Commission strongly encourages state
19 performance monitoring and post-entry enforcement, we
20 have never required BOC applicants to demonstrate that
21 they are subject to such mechanisms as a condition of
22 section 271 approval. The Commission has, however,
23 stated that the fact that a BOC will be subject to
24 performance monitoring and enforcement mechanisms
25 would constitute probative evidence that the BOC will
26 continue to meet its section 271 obligations and that its
27 entry would be consistent with the public interest.

28

¹ *Application of Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region InterLATA Service in the State of New York*, CC Docket No. 99-295, *Memorandum Opinion and Order* (Released December 22, 1999) ("Bell Atlantic New York Order").

1 (Bell Atlantic New York Order, ¶ 429, emphasis added). Indeed, the FCC
2 further noted that “[t]he New York Commission also has required Bell Atlantic
3 to submit to a comprehensive performance enforcement mechanism upon
4 receiving authorization to provide interLATA services under section 271.”
5 (Bell Atlantic New York Order at ¶ 432, emphasis added). Most recently, in its
6 Verizon Massachusetts Order, the FCC stated that “in all the applications that
7 have been granted to date, each contained an enforcement plan to protect
8 against backsliding after entry into the long-distance market.” (¶ 236,
9 emphasis added).

10

11 The FCC appears to consider the fact that a BOC will be subject to an
12 enforcement mechanism as an important factor when granting 271 relief.
13 Clearly, however, the FCC’s opinion is that such a mechanism is not required
14 prior to 271 relief.

15

16 Q. PLEASE COMMENT ON MS. EVE’S SUGGESTION THAT, IN THE
17 ABSENCE OF ENFORCEMENT MECHANISMS, BELLSOUTH HAS NO
18 INCENTIVE TO PROVIDE ALECs WITH NONDISCRIMINATORY
19 ACCESS PRIOR TO BELLSOUTH’S GAINING INTERLATA RELIEF IN
20 FLORIDA.

21

22 A. Ms. Eve is incorrect. First, BellSouth has numerous obligations under the Act
23 with which it must comply. Second, BellSouth’s compliance is not contingent
24 upon enforcement mechanisms, but rather, is required by law. Third, ALECs
25 have many options to pursue should they believe that BellSouth is not in

1 compliance with its obligations (i.e., FCC complaint process, Commission
2 complaint process, or other legal action). Finally, as I am sure ALLTEL is
3 aware, BellSouth cannot gain the authority to provide long distance service in
4 Florida unless it is determined by the FCC – with input from this Commission
5 – that BellSouth is providing nondiscriminatory access to ALECs in Florida.
6 These are powerful incentives for BellSouth to comply with its obligations
7 under the Act, and these incentives are certainly not diminished by the lack of
8 enforcement mechanisms.

9

10 Q. MS. EVE APPEARS TO SUGGEST THAT, ABSENT INTERIM
11 PERFORMANCE PENALTIES, ALECS CANNOT COMPETE IN
12 FLORIDA. PLEASE RESPOND.

13

14 A. Contrary to Ms. Eve's suggestion, the level of local competition in Florida
15 exceeds many other states in the nation and is equal to the national average.²
16 According to the Common Carrier Bureau, as of December 2000, ALECs in
17 Florida were serving 8% of the total end user lines. Obviously, many ALECs
18 have been successful in entering the local exchange market in Florida.

19

20 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

21

22 A. Yes.

23 #399136

² Local Telephone Competition: Status as of December 31, 2000, Industry Analysis Division of the Common Carrier Bureau, May 2001, Table 6.

1 MR. MEZA: BellSouth also asks for Ms. Cox's revised
2 exhibit and her original exhibit to be marked, please.

3 COMMISSIONER DEASON: Do you wish that to be a
4 composite?

5 MR. MEZA: Yes, sir.

6 COMMISSIONER DEASON: That will be fine. That will
7 be identified as Exhibit Number 2.

8 MR. MEZA: BellSouth moves those exhibits into the
9 record.

10 COMMISSIONER DEASON: Without objection, show Exhibit
11 Number 2 is admitted.

12 (Exhibit 2 identified and admitted into the record.)

13 COMMISSIONER DEASON: Staff, you have some exhibits
14 also; is that correct?

15 MR. FUDGE: Yes, Commissioner. Stipulated Exhibit 1
16 is a deposition transcript of Jayne Eve. I'd like to have that
17 marked as Exhibit 3.

18 COMMISSIONER DEASON: It will be identified as
19 Exhibit 3.

20 (Exhibit 3 marked for identification.)

21 MR. FUDGE: And we have stipulated Exhibit 2, the
22 deposition transcript of Cynthia Cox, we'd like that marked as
23 Exhibit 4.

24 COMMISSIONER DEASON: It will be identified as
25 Exhibit 4.

1 (Exhibit 4 marked for identification.)

2 MR. FUDGE: Staff moves Exhibit 3 and 4 into the
3 record.

4 COMMISSIONER DEASON: Without objection, hearing no
5 objection, show that Exhibits 3 and 4 are admitted.

6 (Exhibits 3 and 4 admitted into the record.)

7 MR. WAHLEN: Commissioner, we were discussing before
8 the hearing that the parties have not filed errata sheets for
9 those depositions, and we have agreed to have those filed, if
10 necessary, by the 1st of October and that they will be included
11 as part of Exhibits 3 and 4.

12 COMMISSIONER DEASON: Staff agreeable?

13 MR. FUDGE: Yes, Commissioner.

14 COMMISSIONER DEASON: Okay. If needed, those errata
15 sheets will be filed by the 1st of October, and they will be
16 incorporated into Exhibits 3 and 4, respectively.

17 Do the parties have any preliminary or further
18 matters at this point?

19 MR. MEZA: Yes, sir. BellSouth has approached both
20 counsel for ALLTEL and Staff and has asked for an extension of
21 time to file briefs from the 15th to the 18th. It appears that
22 all parties would be in agreement with that.

23 COMMISSIONER DEASON: Let me ask, is that going to
24 change the recommendation and Agenda Conference dates?

25 MR. FUDGE: No, Commissioner.

1 COMMISSIONER DEASON: Very well. So then, the
2 briefing schedule would be changed from the 15th of October to
3 the 18th. Show then, that that change is made. And just for
4 review, the recommendation is due November the 7th with an
5 Agenda Conference on November the 19th, correct?

6 MR. FUDGE: Yes, Commissioner.

7 COMMISSIONER DEASON: Okay. Commissioners, is there
8 anything you wish to explore with the parties at this point?

9 COMMISSIONER PALECKI: No.

10 COMMISSIONER DEASON: I was hoping you'd say that.
11 We may have set a record here today. Is there anything further
12 to come before the Commission at this time?

13 MR. FUDGE: No, Commissioner.

14 COMMISSIONER DEASON: Very well. I want to
15 congratulate the parties on being able to get this evidence
16 into the record in a concise and expeditious manner and we will
17 be looking forward to your briefs.

18 MR. MEZA: Thank you, sir.

19 MR. WAHLEN: Thank you very much.

20 COMMISSIONER DEASON: Okay. This hearing is
21 adjourned.

22 (Hearing concluded at 9:45 a.m.)

23 - - - - -

24

25

1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

4

5 I, KORETTA E. FLEMING, RPR, Official Commission
6 Reporter, do hereby certify that a hearing was heard at the
time and place herein stated in Docket Number 010302-TP.

7

8 IT IS FURTHER CERTIFIED that I stenographically
reported the said proceedings; that the same has been
9 transcribed under my direct supervision; and that this
transcript constitutes a true transcription of my notes of said
proceedings.

10

11 I FURTHER CERTIFY that I am not a relative, employee,
attorney or counsel of any of the parties, nor am I a relative
12 or employee of any of the parties' attorneys or counsel
connected with the action, nor am I financially interested in
the action.

13

DATED this Wednesday, September 26, 2001.

14

15

Koretta E. Fleming

KORETTA E. FLEMING, RPR
FPSC Official Commissioner Reporter
(850) 413-6734

16

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25

AGREEMENT

between

BellSouth Telecommunications, Inc.

and

ALLTEL Long Distance, Inc.

Effective Date: July 23, 1997

FLORIDA

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 010301-TP EXHIBIT NO. 1
COMPANY/ Enl
BUSINESS: 9-34-01
DATE: _____

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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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 NPA/NXX
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

Version 1Q00:3/6/00 Amendment: Order Coordination - Time Specific

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 true-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) 927-7511
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,


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 BELLSOUTH 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(l).	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.

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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.]

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BELLSOUTH'S ISSUES MATRIX
ALLTEL-BELLSOUTH ARBITRATION
Docket No. 010302-TP

ISSUE	BELLSOUTH POSITION	ALLTEL POSITION (as stated in Exhibit B to ALLTEL's Petition for Arbitration filed with this Commission on 3/8/01)
Issue 1: Settled on June 8, 2001.		
Issue 2 [Att. 2 §§ 5.3.3, 5.3.8.1, 5.3.8.2, 5.3.8.3 and 5.4]: What terms and conditions should govern BellSouth's provisioning of enhanced extended loops (EELs) and other combinations of network elements to ALLTEL?	BellSouth makes available to ALLTEL EELs and other combinations of network elements that are currently combined in BellSouth's network. BellSouth is not, however, required to combine network elements for ALECs when those elements are not, in fact, combined in BellSouth's network to the location the ALEC wishes to serve.	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.
Issue 3 [Att. 2 § 5.3.7.2]: Can ALLTEL petition this Commission for a waiver when it seeks to convert tariffed special access services to UNEs or UNE combinations that do not qualify under any of the three safe harbor options set forth in the agreement?	No. ALLTEL must petition the FCC for such a waiver. The FCC has expressly acknowledged that there may be extraordinary circumstances under which a requesting carrier is providing a significant amount of local exchange service but does not qualify under any of the three safe harbor options established by the FCC and which are set forth in the agreement. It stated: "In such a case, the requesting carrier may always petition the Commission for a waiver of the safe harbor requirements under our existing rules." The FCC thus made clear that waiver petitions are to be filed with the FCC.	Proposes that ALLTEL may petition either the FCC or the state commission for a waiver of the designated options.
Issue 4 [Att. 6 § 3.9]: Should BellSouth's Products and Services Interval Guide be incorporated into the interconnection agreement?	No. It is neither necessary nor appropriate to attach BellSouth's Products and Services Interval Guide to the Agreement. The Guide provides ALECs with BellSouth's <u>target</u> intervals for provisioning. These target intervals may change, and do change over time, for several reasons, including process improvements and customer (ALEC)	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 Guide, Issue 3, July 2000.

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 010302-TP EXHIBIT NO. 2
COMPANY: Bell
WITNESS: 9-29-01
DATE:

BELLSOUTH'S ISSUES MATRIX
ALLTEL-BELLSOUTH ARBITRATION
Docket No. 010302-TP

	input. These target provisioning intervals do not assist in determining whether BellSouth provides nondiscriminatory access to ALECs.	
Issue 5 [Att. 9 § 4.2]: When should enforcement mechanisms for service quality measurements become effective?	<p>Because this issue affects all ALECs operating in Florida, BellSouth recommends that this Commission not rule on this issue in a two-party arbitration. This issue has appropriately been addressed in Generic Performance Measurements Docket No. 000121-TP.</p> <p>It would be inappropriate for enforcement mechanisms to become effective any time prior to BellSouth obtaining permission to enter the interLATA market in Florida. The FCC has identified the implementation of enforcement mechanisms and penalties to be a condition of 271 relief. The FCC's view of enforcement mechanisms and penalties is that they are an appropriate incentive to ensure that an ILEC continues to comply with the competitive checklist set forth in Section 271 of the 1996 Act after it obtains interLATA relief. The FCC has never indicated that enforcement mechanisms and penalties are either necessary or required to ensure that BellSouth meets its obligations under Section 251 of the 1996 Act.</p>	Proposes that the Effective Date of Att. 9 Performance Measures and Enforcement Mechanism should become effective concurrently with the Interconnection Agreement.
Issue 6 [Att. 9, § 4.5.3]: What is the relevant period for determining whether penalties for failure to meet service quality measurements should be assessed?	BellSouth agrees that consecutive months of noncompliance will not be required to be within a given quarter. BellSouth, however, incorporates herein its response to Issue 5 regarding when enforcement mechanisms should become effective.	All references to the term "quarter" should be deleted. Consecutive months of noncompliance are not required to be within a given quarter.

BELLSOUTH'S ISSUES MATRIX
ALLTEL-BELLSOUTH ARBITRATION
Docket No. 010302-TP

ISSUE	BELLSOUTH POSITION	ALLTEL POSITION (as stated in Exhibit B to ALLTEL's Petition for Arbitration filed with this Commission on 3/8/01)
Issue 1: Settled on June 8, 2001.		
Issue 2: Settled on July 17, 2001.		
Issue 3 [Att. 2 § 5.3.7.2]: Can ALLTEL petition this Commission for a waiver when it seeks to convert tariffed special access services to UNEs or UNE combinations that do not qualify under any of the three safe harbor options set forth in the agreement?	No. ALLTEL must petition the FCC for such a waiver. The FCC has expressly acknowledged that there may be extraordinary circumstances under which a requesting carrier is providing a significant amount of local exchange service but does not qualify under any of the three safe harbor options established by the FCC and which are set forth in the agreement. It stated: "In such a case, the requesting carrier may always petition the Commission for a waiver of the safe harbor requirements under our existing rules." The FCC thus made clear that waiver petitions are to be filed with the FCC.	Proposes that ALLTEL may petition either the FCC or the state commission for a waiver of the designated options.
Issue 4 [Att. 6 § 3.9]: Should BellSouth's Products and Services Interval Guide be incorporated into the interconnection agreement?	No. It is neither necessary nor appropriate to attach BellSouth's Products and Services Interval Guide to the Agreement. The Guide provides ALECs with BellSouth's target intervals for provisioning. These target intervals may change, and do change over time, for several reasons, including process improvements and customer (ALEC) input. These target provisioning intervals do not assist in determining whether BellSouth provides nondiscriminatory access to ALECs.	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 Guide, Issue 3, July 2000.

BELLSOUTH'S ISSUES MATRIX
ALLTEL-BELLSOUTH ARBITRATION
Docket No. 010302-TP

<p>Issue 5 [Att. 9 § 4.2]: When should enforcement mechanisms for service quality measurements become effective?</p>	<p>Because this issue affects all ALECs operating in Florida, BellSouth recommends that this Commission not rule on this issue in a two-party arbitration. This issue has appropriately been addressed in Generic Performance Measurements Docket No. 000121-TP.</p> <p>It would be inappropriate for enforcement mechanisms to become effective any time prior to BellSouth obtaining permission to enter the interLATA market in Florida. The FCC has identified the implementation of enforcement mechanisms and penalties to be a condition of 271 relief. The FCC's view of enforcement mechanisms and penalties is that they are an appropriate incentive to ensure that an ILEC continues to comply with the competitive checklist set forth in Section 271 of the 1996 Act after it obtains interLATA relief. The FCC has never indicated that enforcement mechanisms and penalties are either necessary or required to ensure that BellSouth meets its obligations under Section 251 of the 1996 Act.</p>	<p>Proposes that the Effective Date of Att. 9 Performance Measures and Enforcement Mechanism should become effective concurrently with the Interconnection Agreement.</p>
<p>Issue 6: Settled on July 17, 2001.</p>		

EXHIBIT No. _____

DOCKET NUMBER: 010302-TP

WITNESS: Stip-1, Eve

PARTY: Staff

DESCRIPTION:

- 1: Deposition transcript of Jayne Eve

PROFFERING PARTY: Staff

I.D. # Stip-1

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 010302-TP EXHIBIT NO. 3
COMPANY/
WITNESS: Eve
DATE: 7-24-01

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 010302-TP

In the Matter of

PETITION BY ALLTEL COMMUNICATIONS,
INC. FOR ARBITRATION OF CERTAIN
OPEN ISSUES IN EXISTING
INTERCONNECTION AGREEMENT WITH
BELL SOUTH TELECOMMUNICATIONS,
INC.



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A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING,
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

TELEPHONIC
DEPOSITION OF:

JAYNE EVE
Located in Mooresville, North Carolina

TAKEN AT THE
INSTANCE OF:

The Staff of the Florida
Public Service Commission

CONDUCTED FROM:

Gerald L. Gunter Building
Room 362
4075 Shumard Oak Boulevard
Tallahassee, Florida

TIME:

Commenced at 1:45 p.m.
Concluded at 1:53 p.m.

DATE:

Wednesday, September 5, 2001

REPORTED BY:

KORETTA E. FLEMING, RPR
Official FPSC Reporter

1 APPEARANCES:

2 ANDREW D. SHORE, BellSouth Telecommunications, Inc.,
3 c/o Nancy Sims, 150 South Monroe Street, Suite 400,
4 Tallahassee, Florida 32301, appearing on behalf of BellSouth
5 Telecommunications, Inc., Participating telephonically.

6 JEFFREY WAHLEN, Ausley & McMullen. P. O. Box 391,
7 Tallahassee, Florida 32302, appearing on behalf of ALLTEL
8 Communications, Inc., participating telephonically.

9 STEPHEN T. REFSELL, Vice Presient-Law, ALLTEL
10 Corporate Services, Inc., One Allied Drive, Little Rock, AR
11 72202, appearing on behalf of ALLTEL Communications,
12 participating telephonically.

13 JASON FUDGE, Florida Public Service Commission,
14 Division of Legal Services, 2540 Shumard Oak Boulevard,
15 Tallahassee, Florida 32399-0870, appearing on behalf of the
16 Commission Staff.

17 ALSO PRESENT: CYNTHIA COX, BellSouth
18 Telecommunications, Inc., participating telephonically;

19 CHERYL BULECZA-BANKS, BOB CASEY, STEPHANIE CATER,
20 LEVENT ILERI, and RICK WRIGHT, Division of Competitive
21 Services, appearing on behalf of the Commission Staff.

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WITNESS

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NAME:

PAGE NO.

JAYNE EVE

Direct Examination by Mr. Fudge

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MISCELLANEOUS

Stipulation

4

Errata Sheet

11

Certificate of Reporter

12

S T I P U L A T I O N

1
2 IT IS STIPULATED that this deposition was
3 taken pursuant to notice in accordance with the applicable
4 Florida Rules of Civil Procedure; that counsel present
5 stipulate that the witness is the person she identified herself
6 as; that objections, except as to the form of the question, are
7 reserved until hearing in this cause; and that reading and
8 signing was not waived.

9 IT IS ALSO STIPULATED that any off-the-record
10 conversations are with the consent of the deponent.

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P R O C E E D I N G S

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MR. FUDGE: Okay. Are we ready to go to Jayne Eve now?

MR. SHORE: I think so. Jayne, you ready?

THE WITNESS: I'm ready.

MR. SHORE: Okay.

MR. FUDGE: Okay. We have the same appearances.

JAYNE EVE

was called as a witness telephonically and, having been duly sworn to tell the truth, testified as follows:

DIRECT EXAMINATION

BY MR. FUDGE:

Q Please state your name for the record.

A My name is Jayne Eve.

Q And did you file testimony in this case?

A Yes, I did.

Q Okay. Do you believe that language in the interconnection agreement stating that BellSouth would adhere to the performance intervals in its products and services guide would be sufficient to cover ALLTEL's concerns over performance measures?

A Yes, it would. The reason being is because the interval guide is used by BellSouth as a minimum interval for us to submit orders. And right now they're posting those intervals to the Internet, which we don't have a problem with.

1 It's only when they change those intervals to our detriment
2 that it causes problems in our order processing and delays
3 customer service.

4 Q But with the 30-day notice, would that help alleviate
5 some of those concerns?

6 A Well, with the 30-day notice, all that does is just
7 allow us to slow the process down for implementing services,
8 and it does not provide us with an opportunity to negotiate, if
9 they're changing an interval to an unreasonably long length of
10 time, we have no say so in it; and, therefore, the customers
11 that you may have already committed to service may be impacted
12 where if it had been a 7-day interval and goes to a 20-day
13 interval, we've got to go back and tell those customers it's
14 going to be another 20 days in that kind of circumstance.

15 Q So, whenever changes to the interval guide are made,
16 it affects all existing customers, not just the new customers
17 that come on-line?

18 A No, it would effect any pending orders that are out
19 there, if they're in that 30-day time frame. Say, for
20 instance, we had a customer as of September 1 that didn't have
21 a cut date until the end of October and the interval guide
22 changes, we would have to go back to that customer and change
23 what we said to that customer. Also, the fact that they're
24 changing an interval to a longer length of time without us even
25 providing any chance to negotiate really hinders us, as far as

1 changing our processes and procedures that we have on our end
2 as well.

3 Q Does ALLTEL have performance interval guides
4 incorporated into interconnection agreements it has with
5 BellSouth or other ILECs?

6 A Provisioning intervals? No, BellSouth is the only
7 one that we've got an interconnection agreement with.

8 Q Do you have any other interconnection agreements with
9 any other ILEC?

10 A Yes, we do.

11 Q But none of those interconnection agreements
12 incorporate a performance interval guide?

13 A Well, the performance interval -- provisioning
14 intervals are what we're speaking about. Provisioning
15 intervals would be -- don't have any to my knowledge. I don't
16 know. The answer is I don't know whether those other
17 agreements encompass a provisioning interval guide.

18 Q How do you envision the negotiation of new
19 performance intervals to take place?

20 A I'm sorry, could you repeat the question?

21 Q How do you envision the negotiation of new
22 performance intervals to take place?

23 A Well, BellSouth would notify us that they've got a
24 particular provisioning interval that needs to change from, you
25 know, from what it currently is to whatever the increased

1 interval is, and we would have an opportunity to concur or if
2 there's a problem with it or if it's certainly significantly
3 longer, negotiating with BellSouth is just some sort of
4 compromise, if that's possible.

5 Q Does ALLTEL plan on agreeing to new performance
6 intervals proposed by BellSouth if ample notice is given and
7 there are legitimate business reasons for these changes?

8 A Yes, we would negotiate and concur with those, if
9 they were necessary due to business reasons.

10 Q If BellSouth decided it needed to change performance
11 intervals, how much notice would ALLTEL need before BellSouth
12 could make these changes?

13 A Well, that's a good question. I mean, that's --
14 you're taking an interval from a 7-day to a 25-day; I mean,
15 that's -- well, I guess, 30 to 60 days would be appropriate.

16 Q Would you consider it parity if BellSouth did not
17 meet the requirements of its interval guide for both itself and
18 the ALECs?

19 A I'm sorry, could you repeat the question?

20 Q Sure. Would you consider --

21 A Is there parity?

22 Q Yeah, would you consider it parity if BellSouth did
23 not meet the requirements of its interval guide for both itself
24 and ALECs?

25 A Well, the only intervals, provisioning UNEs and for

1 resale, and it doesn't really -- unlike the performance
2 measure, it doesn't really indicate a retail analog benchmark
3 in a provisioning interval guide. It just states the number of
4 days in which they'll accept orders and process orders.

5 Q Do you know if ALLTEL has ever received from
6 BellSouth any notice of changes to its performance interval
7 guide?

8 A We have had cases where there's actually been failure
9 on the BellSouth part to provide us with notice. However,
10 BellSouth has agreed to provide us a 30-day notification before
11 changes to the interval guide is posted to the Internet is
12 effective, but there has been cases where we don't get that
13 notice. And what happens there is when we don't get the
14 notice, we send in orders, and then they reject those orders
15 back to us, because we have not complied with the provisioning
16 interval guide.

17 Q So, are you only concerned when the interval guide
18 increases the time frames and not necessarily determine when
19 the time frames decrease?

20 A That's correct.

21 Q On Pages 6 through 8 of your Direct Testimony, you
22 discuss Issue number 3 allowing ALLTEL the option of seeking a
23 waiver from either the FCC or this Commission permitting
24 conversion of special access service combinations. Has ALLTEL
25 tried to include the same language in any other interconnection

1 agreements in Florida?

2 A Not in Florida.

3 Q How about any other states?

4 A Not to my knowledge.

5 Q Has ALLTEL ever sought a waiver from the FCC to
6 convert special access?

7 A No.

8 MR. FUDGE: That's all our questions.

9 MR. SHORE: Andrew Shore. We had agreed that the
10 parties would not ask questions as a part of this. I don't
11 have any.

12 MR. WAHLEN: And I don't have any questions either.

13 MR. FUDGE: Okay.

14 MR. SHORE: Thank you, everybody.

15 MR. WAHLEN: Thank ya'll.

16 (Deposition concluded at 1:53 p.m.)

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ERRATA SHEET

DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

IN RE: DOCKET NO. 010302-TP
NAME: JAYNE EVE
DATE: September 5, 2001

Page	Line	Change

Under penalties of perjury, I declare that I have read my deposition and that it is true and correct subject to any changes in form or substance entered here.

DATE: _____
 JAYNE EVE

1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3
4 I, Koretta E. Fleming, FPSC Official Commission Reporter
5 do hereby certify that I was authorized to and did
6 stenographically report the foregoing telephonic deposition of
7 Jayne Eve.

8 I FURTHER CERTIFY that this transcript, consisting of 10
9 pages, constitutes a true record of the testimony given by the
10 witness over the telephone.

11 I FURTHER CERTIFY that I am not a relative, employee,
12 attorney or counsel of any of the parties, nor am I a relative
13 or employee of any of the parties' attorney or counsel
14 connected with the action, nor am I financially interested in
15 the action.

16 DATED THIS 10th day of September, 2001.

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25
Koretta E. Fleming
Koretta E. Fleming, RPR
Official Commission Reporter
(850) 413-6734

1 | F L O R I D A)

CERTIFICATE OF OATH

2 | COUNTY OF LEON)

3 | I, the undersigned authority, certify that
4 | Jayne Eve personally appeared before me at
5 | Mooreville, NC and was duly sworn by me to tell the
6 | truth.

7 | WITNESS my hand and official seal in the City of
8 | Mooreville, County of Iredell, State of
9 | NC, this 5th day of Sept., 2001.

10 |
11 | Laura B. Barringer
12 | Notary Public
13 | State of NC

13 | Personally know OR produced identification
14 | Type of identification produced NC Drivers License # 4157747

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16 | My Commission expires 2-28-03.

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FLORIDA PUBLIC SERVICE COMMISSION 800 - 6 000

EXHIBIT No. _____

DOCKET NUMBERS: 010302-TP

WITNESS: Stip-2, Cox

PARTY: Staff

DESCRIPTION:

1: Deposition transcript of Cynthia Cox

PROFFERING PARTY: Staff

I.D. # Stip-2

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET

NO. 010302-TP EXHIBIT NO. 4

COMPANY/

WITNESS. Cox

DATE: 9-24-01

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 010302-TP

In the Matter of

PETITION BY ALLTEL COMMUNICATIONS,
INC. FOR ARBITRATION OF CERTAIN
OPEN ISSUES IN EXISTING
INTERCONNECTION AGREEMENT WITH
BELL SOUTH TELECOMMUNICATIONS,
INC.



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TELEPHONIC
DEPOSITION OF:

CYNTHIA COX
Located in Atlanta, Georgia

TAKEN AT THE
INSTANCE OF:

The Staff of the Florida
Public Service Commission

CONDUCTED FROM:

Gerald L. Gunter Building
Room 362
4075 Shumard Oak Boulevard
Tallahassee, Florida

TIME:

Commenced at 1:30 p.m.
Concluded at 1:44 p.m.

DATE:

Wednesday, September 5, 2001

REPORTED BY:

KORETTA E. FLEMING, RPR
Official FPSC Reporter

1 APPEARANCES:

2 ANDREW D. SHORE, BellSouth Telecommunications, Inc.,
3 c/o Nancy Sims, 150 South Monroe Street, Suite 400,
4 Tallahassee, Florida 32301, appearing on behalf of BellSouth
5 Telecommunications, Inc., participating telephonically.

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7 Tallahassee, Florida 32302, appearing on behalf of ALLTEL
8 Communications, Inc, participating telephonically.

9 STEPHEN T. REFSELL, Vice President-Law, ALLTEL
10 Corporate Services, Inc., One Allied Drive, Little Rock, AR
11 72202, appearing on behalf of ALLTEL Communications,
12 participating telephonically.

13 JASON FUDGE, Florida Public Service Commission,
14 Division of Legal Services, 2540 Shumard Oak Boulevard,
15 Tallahassee, Florida 32399-0870, appearing on behalf of the
16 Commission Staff.

17 ALSO PRESENT: JAYNE EVE, ALLTEL Communications,
18 participating telephonically;

19 CHERYL BULECZA-BANKS, BOB CASEY, STEPHANIE CATER,
20 LEVENT ILERI, and RICK WRIGHT, Division of Competitive
21 Services, appearing on behalf of the Commission Staff.

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WITNESS

NAME:

PAGE NO.

CYNTHIA COX

Direct Examination by Mr. Fudge

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MISCELLANEOUS

Stipulation

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Errata Sheet

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Certificate of Reporter

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S T I P U L A T I O N

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P R O C E E D I N G S

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2 MR. FUDGE: All right. I guess, we'll start with
3 Cynthia first. Are you there, Ms. Cox?

4 THE WITNESS: I am. Can you hear me okay?

5 MR. FUDGE: Yes.

6 THE WITNESS: Okay.

7 MR. FUDGE: Can we take appearances?

8 MR. SHORE: This is Andrew Shore on behalf of
9 BellSouth.

10 MR. WAHLEN: Jeff Wahlen on behalf of ALLTEL
11 Communications.

12 This is Steve Refsell also with ALLTEL, but Jeff is
13 going to be handling any representation on this call.

14 MR. FUDGE: This is Jason Fudge with the Commission
15 Staff.

CYNTHIA COX

16
17 was called as a witness telephonically and, having been duly
18 sworn, testified as follows:

D I R E C T E X A M I N A T I O N

19
20 BY MR. FUDGE:

21 Q Ms. Cox, will you please state your name for the
22 record?

23 A My name is Cynthia Cox.

24 Q Did you file testimony in this case?

25 A Yes, I did.

1 Q Okay. Are any of BellSouth interval guides
2 incorporated in any interconnection agreements with competitive
3 carriers?

4 A No, they're not.

5 Q Have target intervals ever been established in
6 interconnection agreements?

7 A Not to my knowledge. To my knowledge, all
8 interconnection agreements refer to the interval guide.

9 Q Why do you believe that it is neither necessary nor
10 appropriate for the product and services interval guide to be
11 incorporated into the interconnection agreement?

12 A Well, I think that the purpose of the interval guide
13 is really a service that we provide to CLECs, and that is to
14 give them an indication of the target intervals that we believe
15 we'll need so that they can provide that information for their
16 end users. From time to time, those intervals will change, and
17 we want the ability to keep that interval guide current and
18 realistic and so, therefore, our preference and what we believe
19 is appropriate is to refer to that interval guide; we provide
20 notice to CLECs when interval guide changes so they'll know
21 that, and we just believe that's a more appropriate way to
22 handle it.

23 Q You stated that you give notice to the ALECs whenever
24 the interval guide changes. What type of notice do you give
25 them?

1 A We have what we call carrier notification letters,
2 and they're sent out for a variety of reasons, but one of them
3 could be to provide notice that the interval guide is changing
4 and when the changes will be posted to the web site and when
5 they'll be effective.

6 Q So, the letter goes out before the 30-day notice
7 before the change takes place?

8 A The letter could be the 30-day notice.

9 Q Okay. Do ALECs have any input into changes being
10 made to the interval guide?

11 A I'm not sure. We have a collaborative process on a
12 number of items, and I could imagine this would be one that
13 would be discussed, but I don't know for sure.

14 Q Are there any remedies available to the ALECs if they
15 do not agree with the standards set forth in the interval
16 guide?

17 A I'm thinking. I don't know. I don't know of a
18 remedy, per se, about our interval guide. Obviously, to the
19 extent that the Commission in their performance measures and
20 enforcement mechanisms addresses the issue of intervals, there
21 would be remedies there.

22 Q So, the only mechanisms that are in place to
23 compensate either the ILEC or end user if the service interval
24 stated in the interval guide is not met are the performance
25 measures established by state commissions?

1 A Well, just so I can make sure I'm clear, the interval
2 guide are target intervals, and they would be in there for a
3 variety of services and a variety of loop types. In the
4 performance measurement area, as I'm sure you know, the
5 Commission may have established a measurement based on a retail
6 analog; in which case, our commitment and obligation to the
7 ALEC and to ALLTEL would be comparable to our performance with
8 regard to providing that same type service to our retail end
9 users.

10 And so, that is how the performance measures would
11 work in that instance, and so the interval guide doesn't really
12 play a part in that. Even in the case of a benchmark, to the
13 extent that the Commission has set up a benchmark then,
14 obviously, we are obligated to meet that benchmark. And
15 generally, once benchmarks are established, those are what
16 traditionally get put in the interval guide, then.

17 Q Under pick-and-choose clauses in interconnection
18 agreements, if ALLTEL has incorporated an interval guide into
19 its agreement with BellSouth, could other companies come in and
20 choose to have the same clause in their agreements?

21 A Yes.

22 Q How often is the performance interval guide revised?

23 A I don't know specifically how often it's -- however
24 often, you know, it needs to be. A new service might come out
25 or a new loop offering might come out and that could cause it

1 to be updated. I know we just came out with the unbundled
2 copper loop nondesign, for example, but I don't know exactly
3 how often it's updated.

4 Q What is BellSouth's success rate in meeting the
5 performance intervals set forth in its performance interval
6 guide?

7 A I don't know.

8 Q On the bottom of Page 8 and the top of Page 9 of your
9 Direct Testimony, you state that the issue of converting
10 existing tariff special access to UNE combinations is currently
11 the subject of further review by the FCC. What FCC docket is
12 that being considered in?

13 A The docket number -- hold on just a second, I've got
14 it here. It's in the local competition docket, the '96 --
15 docket 9698 and, specifically, the FCC has out a fourth further
16 notice of proposed rulemaking and also a public notice that
17 they sent out in January of this year to look at the issue of
18 use of unbundled network elements for providing exchange
19 access. And then, even more recently since I filed my
20 testimony, Deltacom has actually filed a request for a waiver
21 of these safe harbor requirements and the FCC has issued a
22 public notice seeking comment on that waiver.

23 Q So, the FCC is still reviewing this issue?

24 A Yes, they are.

25 MR. FUDGE: That's all the questions we have.

1 THE WITNESS: Thank you.

2 MR. WAHLEN: ALLTEL has no questions.

3 THE WITNESS: Thank you.

4 MR. FUDGE: Andrew, did you have any questions?

5 MR. SHORE: I don't have any.

6 (Deposition concluded at 1:44 p.m.)

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ERRATA SHEET

DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

IN RE: DOCKET NO. 010302-TP

NAME: CYNTHIA COX

DATE: September 5, 2001

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Under penalties of perjury, I declare that I have read my deposition and that it is true and correct subject to any changes in form or substance entered here.

DATE: _____
CYNTHIA COX

1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3
4 I, Koretta E. Fleming, FPSC Official Commission Reporter
5 do hereby certify that I was authorized to and did
6 stenographically report the foregoing telephonic deposition of
7 Cynthia Cox.

8 I FURTHER CERTIFY that this transcript, consisting of 10
9 pages, constitutes a true record of the testimony given by the
10 witness over the telephone.

11 I FURTHER CERTIFY that I am not a relative, employee,
12 attorney, or counsel of any of the parties, nor am I a relative
13 or employee of any of the parties' attorney or counsel
14 connected with the action, nor am I financially interested in
15 the action.

16 DATED THIS 10th day of September, 2001.

17
18 *Koretta E. Fleming*
19 Koretta E. Fleming, RPR
20 Official Commission Reporter
21 (850) 413-6734
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Georgia

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~~FLORIDA~~)
COUNTY OF ~~LEON~~) FULTON CERTIFICATE OF OATH

I, the undersigned authority, certify that
Cynthia Cox personally appeared before me at
Atlanta, GA. and was duly sworn by me to tell the
truth.

WITNESS my hand and official seal in the City of
ATLANTA, County of Fulton, State of
Georgia, this 5 day of September, 2001.

Jeanne E Padgett
Notary Public
State of Georgia

Personally know OR produced identification _____
Type of identification produced _____

Notary Public, Gwinnett County, Georgia
My Commission Expires Feb. 18, 2004

FLORIDA PUBLIC SERVICE COMMISSION

SEP - 6 2001