

ORIGINAL

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August 26, 2002

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Mrs. Blanca S. Bayó
Director, Division of the Commission
Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 990649A-TP (UNE Docket)

Dear Mrs. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Response to AT&T's Petition for Interim Rates which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Andrew D. Shore

Andrew D. Shore
(al)

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Enclosures

cc: All Parties of Record
Marshall M. Criser III
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CERTIFICATE OF SERVICE
Docket No. 990649A-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via
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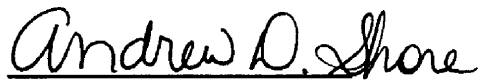
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(+) Signed Protective Agreement

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into Pricing of Unbundled Network Element) Docket No.: 990649A-TP
) Filed: August 26, 2002

BELLSOUTH'S RESPONSE TO AT&T'S PETITION FOR INTERIM RATES

INTRODUCTION

BellSouth Telecommunications, Inc. ("BellSouth"), hereby responds to the pleading AT&T calls a "Petition for Interim Rates," but which is really at best an unauthorized supplemental brief on the underlying merits of this proceeding and, more accurately, a last-ditch illicit effort to improperly persuade the Commission into establishing ludicrously and illegally low UNE rates that would be tantamount to giving AT&T a mint with the Commission's seal of approval emblazoned on the cover. As an initial matter, the Commission should strike AT&T's brief, because it would be unjust to allow AT&T to unilaterally establish a briefing schedule that unfairly allows it to get the last word in arguing the merits of a matter on the eve of the Commission's vote, especially in a case such as this one where AT&T has had ample opportunity to present evidence and to plead its case.

If the Commission refuses to strike AT&T's unauthorized brief, then the Commission should deny the "interim" relief AT&T purports to seek for two simple reasons. First and foremost, AT&T's brief is filled with misinformation and is premised upon the erroneous contention that there is "virtually no" local competition in BellSouth's Florida service area. While it is true that AT&T has chosen not to compete for residential customers in Florida, AT&T's allegation that ALECs cannot effectively compete in the local exchange market with current UNE pricing is belied by the facts. Numerous ALECs *are* competing and winning

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residential as well as business customers away from BellSouth. ALECs currently serve approximately 1.3 million access lines in BellSouth's Florida territory, including 30% of the business lines and 10% of the residential lines. Moreover, UNE-based competition has continued to flourish with the current UNE prices, notwithstanding AT&T's claim that those cost-based rates preclude competition. In fact, ALEC market share in BellSouth's Florida territory has increased approximately 1.5% in just the last three months to a cumulative 18.2%.

AT&T's allegation that ALECs cannot make a profit serving residential customers is both legally irrelevant and false. UNE prices are required to be based on cost. Thus, the amount of profit an ALEC can make using UNEs to provide service is not an appropriate consideration in setting UNE rates. The fact is, however, that ALECs can make a substantial profit at the current rates. In addition to the large and growing number of residence lines ALECs serve today providing ample evidence that ALECs can compete for local residential business at current UNE prices, the business case for providing service using UNE-P reveals that ALECs can make a profit in excess of 50% serving customers in almost all of BellSouth's service area. The rates AT&T is asking this Commission to impose would increase its already attractive margins to 80%! Adopting AT&T's proposed rates is unnecessary to allow ALECs to compete, to say the least. The Commission need not lower UNE rates at all, no less to the levels AT&T proposes, for ALECs to be able to profitably serve residential customers.

Second, this Commission and its Staff have expended substantial resources over the past three years in conducting proceedings and performing analyses in order to determine the appropriate assumptions and inputs to use in order to calculate UNE rates that are cost-based and comply with the FCC's TELRIC methodology. AT&T now asks the Commission to ignore the requisite legal standard and to disregard the hard work performed by this agency and the parties

to this proceeding, and to give AT&T the rates it proposed so that AT&T is guaranteed an exorbitant profit. No State Commission in BellSouth's region has adopted UNE rates anywhere near the ridiculously low levels AT&T has consistently proposed, and there is no justifiable reason for this Commission to do so now.

AT&T's latest ploy is a blatant desperate attempt on the eve of this Commission's votes in this docket and on BellSouth's 271 application to scare the Commission into further subsidizing AT&T's belated entry into the local market and/or further delaying BellSouth's entry into the long-distance market. Other companies, and none with the vast resources of AT&T, have found ways to compete effectively in the local market in Florida with current UNE prices. The UNE rate reductions the Commission implemented just last year do not even purport to compensate BellSouth for its actual costs of providing UNEs. BellSouth has done its part to open its network to competition and, notwithstanding AT&T's protestations to the contrary, competition in BellSouth's Florida territory is flourishing with current UNE prices. State Commissions in all of the other BellSouth states, including Tennessee just today, have already concluded that BellSouth has met the requirements set forth in section 271 of the Telecommunications Act of 1996 to provide interLATA service. AT&T, nevertheless, continues its campaign of arguing that BellSouth should not be permitted to compete against it in the long-distance market in Florida. It is due time for AT&T to do its part by starting to compete and stopping the whining and gamesmanship intended solely to benefit AT&T, and not Florida consumers.

BACKGROUND

The Commission initiated this generic UNE pricing docket more than three years ago, on May 26, 1999. *See* Order No. PSC-99-1078-PCO-TP. It subsequently divided the docket into

sub-dockets such that BellSouth proceeded on a separate track than the two other ILECs. Following an evidentiary hearing and briefing by the parties, on May 25, 2001, the Commission issued its Final Order on Rates for Unbundled Network Elements Provided by BellSouth (“Final UNE Order”). In its Final UNE Order, the Commission determined that it was appropriate to set UNE rates based on the FCC’s TELRIC methodology, and it established UNE prices for BellSouth. On October 18, 2001, the Commission issued its Order on Motions for Reconsideration, Order No. PSC-01-2051-FOF-TP (“Reconsideration Order”), granting in part, and denying in part, BellSouth’s motion, and denying the ALECs’ motion for reconsideration. On its own motion, the Commission conformed the Staff’s analysis and cost model runs to its decision in this matter. The final UNE rates adopted for BellSouth are set forth in Appendix A to the Reconsideration Order.¹

The Commission used BellSouth’s loop model, the BSTLM©, to design and to determine the material and other capital-related costs of loops and loop-related UNEs. It also adopted the in-plant loading factors BellSouth used to convert material price to an installed investment in the BellSouth Cost Calculator, thereby rejecting AT&T’s argument that the use of in-plant factors is not TELRIC-compliant.² In-plant loadings are account-specific factors that add engineering and

¹ AT&T claims in its unauthorized supplemental brief filed August 22, 2002, that as part of its Reconsideration Order, “the Commission ultimately decided in favor of BellSouth on inflation factors which resulted in a substantial increase over the rates set forth in the May 25th Order.” First, AT&T characterization of the impact of the Reconsideration Order is hyperbole. The Commission’s correct application of inflation factors resulted in an increase in the loop portion of the UNE-P, for example, of 6.4% in zone 2, where more than two-thirds of the loops are located, and of just over 8.5% in zones 1 and 3. More importantly, however, is the fact that the Commission properly accounted for the effects of inflation in calculating UNE costs and rejected AT&T’s bogus argument that BellSouth methodology was incorrect. Indeed, every other State Commission that has addressed this issue has ruled that BellSouth correctly accounts for inflation and has rejected AT&T’s argument to the contrary. The FCC in its Order approving BellSouth’s 271 application for Georgia and Louisiana similarly rejected AT&T’s allegation that BellSouth’s cost study double counts inflation and upheld the methodology BellSouth employed in Louisiana, which is the same methodology it employed in Florida.

² AT&T has argued in cost proceeding throughout the BellSouth region that the use of in-plant factors violates the TELRIC methodology, but no State has Commission has accepted AT&T’s contention. Moreover, the FCC approved as TELRIC compliant UNE rates the Louisiana and Georgia Commissions calculated using BellSouth’s in-plant factors.

installation labor and miscellaneous equipment to the inflation-adjusted material price. These costs are sometimes referred to as “EF&I,” or engineered, furnished and installed costs. The Commission recognized that the BSTLM was capable of calculating EF&I costs. Therefore, “in order to determine the magnitude of discrepancies between using a loading factor approach as opposed to a ‘bottoms-up’ approach for placements of plant directly related to loops and loop type items, [it] required BellSouth to refile the BSTLM within 120 days . . . explicitly modeling all cable and associated supporting structure engineering and installation placements. Final UNE Order, at 239.

BellSouth filed a “bottoms-up” cost study as required by the Commission in its Final UNE Order. The Commission held further evidentiary hearings and the parties submitted post-hearing briefs pursuant to the procedure established by the Commission. In its Recommendation issued June 3, 2002, the Commission Staff noted that the bottoms-up study resulted in both increases and decreases in UNE rates, and recommended that the Commission not alter the rates it adopted last year.

The Commission held a special agenda conference on June 13, 2002, for the purpose of issuing a final decision in this matter. At that conference, the Commission determined to hold its final decision in abeyance for a period of 60 days, and ordered the parties to negotiate in an attempt “to reach a business resolution of UNE rates during that 60-day period.” *See* Order No. PSC-02-1045-PCO-TP (Aug. 1, 2002). By Order dated August 1, 2002, the Commission scheduled a special agenda conference for September 6, 2002, in order to issue its final determination in this matter, if necessary. The parties did not reach agreement on UNE rates.

ARGUMENT

I. THE COMMISSION SHOULD STRIKE AT&T'S UNAUTHORIZED SUPPLEMENTAL BRIEF.

AT&T's latest filing is styled as a "Petition for Interim Rates." The Commission should, however, recognize AT&T's "Petition" for what it really is – an unauthorized supplemental brief intended to persuade the Commission to adopt AT&T's proposed UNE rates. First, there is no provision under the long-established procedural schedule for the Commission to set "interim rates." Moreover, there is no legitimate reason for the Commission to do so at its special agenda session on September 6, 2002, as AT&T requests. The Commission just last year set *permanent, final* UNE rates for BellSouth. The primary issue the Commission must decide in this final phase of this docket is whether to alter its methodology so as to set UNE rates based on a "bottoms-up" cost study. The Commission has provided notice that it will issue its *final* determination in this matter at its special agenda conference on September 6th. Interim rates are unnecessary and unwarranted.

Not surprisingly, AT&T's "Petition" focuses almost exclusively on arguing why the Commission should adopt the UNE rates AT&T proposed, and does not explain the sudden need for interim rates. The reason is because there is no crisis. The circumstances that AT&T contends support its request for interim rates have been in place for more than a year, at least. There has been no recent occurrence, and AT&T does not cite any, to warrant the "immediate" action it asks the Commission to take. The only change to the landscape is that BellSouth has passed the extensive third-party test of BellSouth's OSS and AT&T has run out of roadblocks to place in the path of BellSouth's application to provide interLATA service in Florida, and the Commission is poised to vote on that application, as well as on whether to modify BellSouth's UNE rates.

If AT&T's true motive was to seek the Commission's permission to set interim rates, why did AT&T wait until the eve of the Commission's votes in the UNE and 271 dockets to file its "Petition?" Why did it not merely assert that it does not believe that BellSouth's 120-day filing complies with the Commission's directive to file a bottoms-up study and seek an order compelling BellSouth to do so? After all, there are permanent rates in place that the Commission established just last year. Why did it not confer with BellSouth with respect to its motion, as is required by Rule 28-106.204 of the Florida Administrative Code? AT&T's brief walks like a duck, and it quacks like a duck, even if AT&T calls it a swan. The Commission should, accordingly, recognize that it is in fact an inappropriate and unauthorized supplemental brief on the merits of the primary issue the Commission is scheduled to decide at its special agenda on September 6th.

The Commission's Procedural and Scheduling Order does not call for the filing of supplemental briefs on the merits. Indeed, to allow one party to file a brief on the eve of a Commission vote is patently unfair. If the Commission allows such gamesmanship here, it will be inviting similar inappropriate filings in the future. The Commission should, therefore, strike AT&T's unauthorized supplemental brief from the record and refuse to consider it.

II. IN THE ALTERNATIVE, THE COMMISSION SHOULD DENY AT&T'S "PETITION."

AT&T alleges in its "Petition" that there is "virtually no" local competition in Florida because UNE rates are "too high" and do not allow ALECs a profit margin sufficient to provide local service to Floridians. Based on these assertions, AT&T asks this Commission to adopt the UNE rates AT&T and WorldCom proposed in this proceeding.

As the *facts* set forth below demonstrate, AT&T's argument is a "straw man." There is *in fact* substantial competition in BellSouth's Florida territory. The level of competition is *in*

fact growing. And ALECs *in fact* are able to (and several are) make a tidy profit providing local service over UNEs leased from BellSouth at the current UNE prices. And, although AT&T has chosen to devote its substantial resources to attempting to delay BellSouth's entry into AT&T's long-distance market, including now arguing that the Commission must adopt UNE rates far below those in place in any other state in BellSouth's region before BellSouth enters the interLATA market, rather than to competing against BellSouth in the market for local exchange service, the *facts* show that AT&T can make a sizeable profit providing local service to *residential* customers in Florida at the current Commission-approved UNE prices.

AT&T's accusation that this Commission has "failed miserably" in fostering local exchange competition in Florida is just the latest proof that AT&T will say anything to attempt to keep BellSouth out of its long-distance market. The *fact* is that the level of competition in BellSouth's service area in Florida *today* is higher than it is in BellSouth territory in any BellSouth state, with the possible exception of Georgia, where the level of competition is about the same as in Florida, and where BellSouth is competing in the long-distance market, and the current ALEC market share in BellSouth's Florida territory is above the levels of competition that existed when Commissions in other states endorsed BellSouth's requests for 271 relief. There is no need for this Commission to grant the draconian relief requested by AT&T in order to "initiate some competition." Competition is alive and well today, and AT&T can start competing and earning a significant profit doing so just as soon as it determines that it is in AT&T's best interest to do so.

A. **There is Substantial and Growing Competition in BellSouth's Service Area in Florida Today.**

1. **ALECs serve over 18% of the access lines in BellSouth's service area in Florida.**

As of July of this year, ALECs controlled approximately 1.3 million access lines in BellSouth's

service area. Approximately 120 ALECs are serving 30% of the business lines and 10% of the residential lines.³

The market share numbers AT&T cites in its “Petition” are not specific to the area in Florida in which BellSouth is the incumbent local exchange provider. The FCC’s latest competition report, which is based on data from 2001, states that ALECs had 7% of the market. In addition to being based on data that is not current, that figure included the entire State, and not just BellSouth’s service area. It is not surprising that that ALECs have achieved a larger market share in BellSouth territory than in other areas of the State, because ALECs have targeted the larger markets, such as Miami-Fort Lauderdale-West Palm Beach and Jacksonville, where BellSouth is the ILEC, because UNEs are the least expensive in urban areas where ALECs also get the most bang for their marketing dollars.

2. ALEC market share in BellSouth territory is growing. AT&T claims that “the percentage of ALEC market share in Florida has flattened.” Even if that was true, it is irrelevant in assessing whether the UNE rates BellSouth can charge ALECs are “anticompetitive,” as AT&T claims in its “Petition.” More importantly, the *fact* is that ALEC market share in BellSouth’s service area is increasing. ALEC market share in BellSouth’s Florida territory increased by about 1.5% in the last three months alone to 18.2%. In that same time period (April – July 2002), the number of *residential* access lines served by ALECs increased substantially, so that ALECs now serve 10% of the residential customers in BellSouth’s territory. Moreover, ALECs serve approximately three-quarters of these residential customers via a UNE-Platform purchased from BellSouth.

³ The methodology used to compute the market share figures cited herein is the same as that used and described in the affidavit of Mr. Wakeling filed as an exhibit to the rebuttal testimony of Ms. Cox in BellSouth’s 271 case, Docket No. 960786-TL, and in similar affidavits filed with the FCC.

3. The percentage of ALEC customers served by a UNE-P purchased from BellSouth is growing by an even larger rate than the level of ALEC market share as a whole. It is well established that the primary means by which ALECs provide competitive service, especially to residential and small business customers, is the UNE-Platform, or UNE-P. By purchasing a UNE-P from BellSouth, an ALEC can serve a customer entirely by using elements of BellSouth's network, and need not invest in any facilities of its own.⁴ The number of UNE-P's ALECs are buying from BellSouth in Florida is growing at a considerable rate. In the last three months (April – July 2002), the number of UNE-P's ALECs purchased from BellSouth in Florida increased by over 142,000. A large majority of the increase in UNE-P purchases is attributable to the rapid increase in residential competition. As discussed in detail below, utilizing the UNE-P to provide local service allows ALECs to earn a substantial profit.

B. An ALEC's Profit Margin is Irrelevant to Setting UNE Rates That Are Legally Required to be Cost-Based.

AT&T claims that the UNE rates that the Commission set last year do not permit ALECs to earn a "margin that allows ALECs to provide local exchange service to Florida consumers, particularly residential consumers," and, on that basis, urges the Commission to adopt *much* lower rates. As demonstrated below (and further evidenced by the increasingly large level of UNE-based competition in Florida), AT&T's contention that there is not a sufficient margin at current UNE prices to allow it to profitably serve residential customers simply is not true. As an initial matter, however, the legal standard the Commission must apply in establishing UNE rates

⁴ The ALEC-friendly TELRIC pricing methodology, pursuant to which UNE rates are based on the costs of a hypothetical network utilizing the most efficient technology and built all at once, rather than on the costs BellSouth actually incurred to build the network the ALECs are using, makes the UNE-P even more attractive. Using the UNE-P, an ALEC can serve every customer in BellSouth territory without investing in any facilities or hiring a single employee in the State of Florida. For example, AT&T can direct market local service to all of its customers in Florida simply by sending an insert along with their long-distance bills and if the customer decides it wants local service from AT&T, AT&T need simply order a UNE-P from BellSouth which amounts to the customer getting

is not the amount of profit an ALEC can earn by using UNEs to provide local service. UNE prices *must* be cost-based. 47 U.S.C. § 252(d)(1).

The Commission has recognized in its prior Orders in this docket that UNE rates are required to be based on cost. The Commission, for example, concluded in its Final UNE Order that the UNE rates it established for BellSouth in that Order were cost-based and complied with the FCC's TELRIC rules.⁵ Commissioner Deason and Chairman Jaber also acknowledged at the Special Agenda Conference on June, 13, 2002, that the Commission is constrained in setting UNE rates by the requirement that rates be based on cost:

COMMISSIONER DEASON: . . . We don't have authority to say what UNE Rates are necessary to foster competition. That is not within our authority. That has not been given to us. We have to set rates based upon a very narrow interpretation of what TELRIC is, and it has to be base upon those costs, and that is something we can't deviate from. Not matter what our personal preference is, we can't do that.

CHAIRMAN JABER: Yes. . . . Absolutely we are bound by TELRIC. . . .

Tr. at 10. The Commission Staff similarly concluded in its June 3, 2002 Recommendation in this proceeding that the arguments AT&T and other ALEC witnesses made at the hearing that profitability should be considered in setting UNE rates were misguided and inconsistent with the cost-based standard set forth in the Telecommunication Act of 1996. *See* Staff Recommendation, at 75-77.

Second, the amount of profit an ALEC can earn by providing local service depends *in part* on the regulated retail rate the incumbent is permitted to charge for its basic local service.

service over the exact facilities BellSouth was using to provide service to the customer and which BellSouth continues to be responsible to maintain.

⁵ AT&T asserts again in its latest "Petition" that it disagrees that the Commission-approved rates are TELRIC compliant. It is asking the Commission to adopt rates that are drastically lower than the Commission-approved final rates that have, notwithstanding AT&T's protestations to the contrary, allowed competition against BellSouth to continue to flourish, on the grounds that AT&T's proposed rates are within the same "range" as the Commission-approved rates. They most certainly are not. For example, AT&T is asking this Commission (again)

The State of Florida has historically had a policy of pricing basic residential telephone service below cost so as to promote universal service. The fact that BellSouth is required by law to price its basic residential service artificially low does not, however, alter the requirement that UNE prices be cost-based. AT&T made a similar price squeeze argument to the FCC in connection with BellSouth's 271 application for Georgia and Louisiana, asserting that the "UNE pricing [adopted by the Louisiana Commission] doom[s] competitors to fail." Memorandum Opinion and Order, CC Docket No. 02-35 (May 15, 2002), at ¶ 284. The FCC rejected AT&T's argument, and stated that state policy to keep retail rates affordable did not obviate the requirement that prices for UNEs be based on the costs of providing them. It concluded that the requirement under the 1996 Act that incumbent provider's make their retail service available for resale at a discount set by the State Commission so as to eliminate avoided costs ensures that resale provides a profit margin where the costs of elements exceeds the retail rate. *Id.* at ¶¶ 286-87. ALECs can make a profit using UNEs to provide residential local service, even in higher cost rural areas (e.g., zone 3) at the current Florida UNE rates, so it is a non-issue here in any event.

AT&T failed to mention the *advantage* the social retail pricing structure provides to AT&T and other ALECs in winning business customers away from BellSouth. The State of Florida has achieved its goal of pricing BellSouth's residential basic retail service below cost by pricing other services, including business service, above cost so as to subsidize residential service. The consequence of that policy in the new age of competition is that ALECs are able to buy UNEs, which are priced the same regardless of whether they are used to provide residential or business service, and use them to provide service to business customers at prices well below

to set the rate for a 2-wire voice grade loop at \$6.02 in zone 1, which is less than one-half of the current TELRIC rate of \$12.79.

the price ceiling the State established for BellSouth, but far in excess of the prices ALECs are required to pay for the UNEs needed to provide service. The enormous profit available is the reason ALECs have focused primarily on serving business customers, and why ALECs serve almost one-third of the business lines in BellSouth's Florida service area today. BellSouth is in favor of rebalancing retail rates to remove the implicit subsidies that are a relic of an era of a regulated monopoly that operated under rate-of-return regulation. That, however, is an issue for another day and, perhaps, another forum. The relevant point now is that the historical social pricing structure mandated by the State does not change the legal requirement that UNE prices be cost-based.

AT&T's profitability argument is irrelevant in establishing cost-based rates. Consequently, even if AT&T's contention that it is unable to earn a profit using UNE-P to serve residential customers was true, which as shown below it certainly is not, it would not be a justifiable reason for this Commission to throw out UNE rates its determined recently were cost-based and replace them with radically lower rates that have not been shown to be cost-based and are nowhere in the range of the Commission-approved cost-based rates.

C. ALECs Can Make a Profit at the Current UNE Rates.

Even if an ALEC's profit margin was relevant in determining appropriate UNE rates, which it is not, the fact is that AT&T and other ALECs can earn a sizeable profit by providing *residential service*⁶ at the lowered UNE rates the Commission set just last year. In its "Petition," AT&T compares the cost of purchasing a UNE loop and port with no features from BellSouth with BellSouth's retail rate for *basic* residential service in zone 2, and concludes that

⁶ Even AT&T does not contend ALECs cannot make large profits serving business customers. The costs to serve them are the same as those for serving residential customers set forth below and the revenues are significantly higher due to the historical State-mandated retail pricing structure of subsidizing residential service with retail revenue.

“[o]bviously, an ALEC cannot compete with BellSouth to provide local service.” First, as set forth above, many ALECs are providing competitive local service in Florida today using UNE-P’s purchased from BellSouth. Moreover, it is misleading to compare the cost of UNE-P based service offerings with only *basic* residential service. The *fact* is that most customers purchase some vertical features in addition to just plain dial tone, and ALECs make a substantial profit on vertical features, not to mention the other revenue components absent from AT&T’s unrealistic “analysis.” The following table illustrates the profit AT&T could generate **today** if it chose to offer local service in Florida. It compares the cost to AT&T (and other ALECs) with the revenues it can expect to receive from providing such service. The estimated local service revenues are based on the AT&T Call Plan Deluxe plan AT&T offers to residential customers in Georgia (where BellSouth is competing with AT&T in the long-distance market) and advertises on its website, www.local.att.com, among other places. AT&T’s local service plan includes unlimited local calling and up to 16 vertical features. In Georgia, AT&T does not market any residential local calling plan that does not include vertical features. It is, therefore, disingenuous for AT&T to claim that it is appropriate to use the retail price for *basic* service as an appropriate point of comparison.

<u>Costs - Based on current rates</u>	<u>Zone 1</u>	<u>Zone 2</u>	<u>Zone 3</u>
UNE-P (loop/port combination)	\$12.94	\$17.06	\$31.87
Usage ⁷	\$2.00	\$2.00	\$2.00
Features ⁸	\$1.24	\$1.24	\$1.24
DUF ⁹	\$1.04	\$1.04	\$1.04
Total Cost of UNE-P	\$17.22	\$21.34	\$36.15

⁷ Average usage cost for Florida calculated using state specific usage characteristics.

⁸ 55% take rate applied to vertical features rate of \$2.26, for which ALEC receives all features.

⁹ DUF costs and estimated access revenue are based on calculations set forth in Exs. 6 and 7 to the Affidavit of AT&T witness Lieberman filed with the FCC on March 4, 2002, in BellSouth’s GA/LA 271 proceeding.

Estimated Revenues - Based on AT&T's Residential Offer

AT&T's Call Plan Deluxe (Ga. Residential Offer)	\$35.90	\$35.90	\$35.90
Subscriber Line Charge	\$6.00	\$6.00	\$6.00
Access	\$0.90	\$0.90	\$0.90
Total Revenue	\$42.80	\$42.80	\$42.80
Margins - \$	\$25.58	\$21.46	\$6.65
% (Margin divided by Total Revenue)	59.8%	50.1%	15.5%
Percent of access lines in each zone	29.0%	68.0%	3.0%

This table illustrates that **in zones 1 and 2, which encompass 97% of the access lines in BellSouth's Florida service territory, there is a significant positive margin of about 60% and 50%, respectively.** AT&T's claim that current UNE prices do not allow it to make a profit serving residential customers is a deep-dyed falsehood, and its request that the Commission adopt the rates AT&T proposed in this proceeding is nothing more than a request that the Commission allow AT&T to make even greater, exorbitant profits at the expense of BellSouth and its shareholders. The following table shows that **AT&T would be able to generate profits of 83% and 77% in zones 1 and 2, and of 52% in zone 3 if the Commission adopted AT&T's proposed rates.**

<u>Costs - Based on AT&T's Proposed Rates</u>	<u>Zone 1</u>	<u>Zone 2</u>	<u>Zone 3</u>
UNE-P (loop/port combination)	\$5.37	\$8.02	\$18.54
Usage	\$2.00	\$2.00	\$2.00
Features	\$0.00	\$0.00	\$0.00
DUF	\$0.00	\$0.00	\$0.00
Total Cost of UNE-P	\$7.37	\$10.02	\$20.54

Estimated Revenues - Based on AT&T Residential Offer

AT&T's Call Plan Deluxe (Ga. Residential Offer)	\$35.90	\$35.90	\$35.90	
Subscriber Line Charge	\$6.00	\$6.00	\$6.00	
Access	\$0.90	\$0.90	\$0.90	
Total	\$42.80	\$42.80	\$42.80	
Margins - AT&T's Call Plan Deluxe	\$35.43	\$32.78	\$22.26	\$33.23
% (Margin divided by Total Revenue)	82.8%	76.6%	52.0%	77.6%
Percent of access lines in each zone	29.0%	68.0%	3.0%	100.0%

AT&T alleged in BellSouth's Ga/La 271 proceeding before the FCC that it needed to make a profit of \$10 per line per month in order to enter the residential market though, as the FCC noted, AT&T failed to provide any cost or other data to support that assertion. *See* 271 Order, at ¶ 288. AT&T can make more than twice that amount at the *current* UNE rates. It requests, nevertheless, that the Commission set much lower UNE rates that would allow AT&T to earn well over \$30 per line per month. Moreover, AT&T has the chutzpah to claim that "[i]f the Commission fails to do so, Florida consumers will suffer." The Commission should deny AT&T's brazen request for bargain basement rates that bear no relation to BellSouth's costs. To do otherwise would be to give its seal of approval to the campaign of rhetoric and misinformation with which AT&T has littered the record.

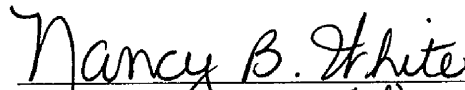
CONCLUSION

AT&T's "Petition" is nothing more than a supplemental brief intended to advocate its self-interest on the eve of two important Commission votes. The Commission should refuse to allow AT&T to elevate form over substance and it should strike the "Petition" as an unauthorized supplemental brief. If the Commission does not do so, it should deny the "Petition" summarily. It is based on false allegations that competition is lacking in BellSouth's service area, and that the UNE rates are too high to allow for residential competition. The evidence pertinent to those

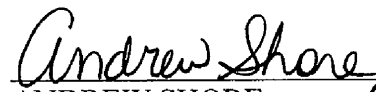
issues demonstrates convincingly not only that ALECs can make a profit serving residential customers at the current UNE prices, but also that they are doing so and that they are continuing to increase their market share. Consequently, the Commission should deny AT&T's request for interim rates and it should leave the cost-based UNE rates set last year at their current levels.

Respectfully submitted this 26th day of August, 2002.

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