BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Amended Petition of AT&T Communications of the Southern States, LLC for Suspension and Cancellation of General Intrastate Access Tariff Filed by BellSouth Telecommunications, Inc.	Docket No. 020738-TP Filed: September 13, 2002

AMENDED PETITION OF AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC REQUESTING SUSPENSION OF AND CANCELLATION OF GENERAL INTRASTATE ACCESS TARIFF FILED BY BELLSOUTH TELECOMMUNICATIONS INC.

COMES NOW, AT&T Communications of the Southern States, LLC ("AT&T") and hereby files this Amended Petition requesting that the Florida Public Service Commission ("Commission") suspend and cancel the General Intrastate Access Tariff Section E27 ("General Tariff") filed by BellSouth Telecommunications, Inc.'s ("BellSouth") with the Commission on August 12, 2002.[1] Suspension and cancellation of General Tariff is appropriate because it violates the Telecommunications Act of 1996 ("1996 Act"), Pub.L.No. 104-110, Stat. 56, amending 47 U.S.C. § 201, Communications Act of 1934 ("Communications Act")[2], rules and regulations of the Federal Communications Commission ("FCC"), as well as numerous provisions of Chapter 364, Florida

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[1] BellSouth originally filed its Switched Access Contract Tariff No. FL 2002-02 with the Commission on June 3, 2002. AT&T filed a Petition seeking suspension and cancellation of this tariff on July 16, 2002. Thereafter, on August 12, 2002, BellSouth filed its Response to AT&T's Petition which included BellSouth's "General Tariff" which is the subject of this Amended Petition. Although it is not clear from BellSouth's Response whether General Tariff is intended to replace and supercede BellSouth's Switched Access Contract Tariff No. FL 2002-02 in its entirety, AT&T's Amended Petition assumes that it does.

[2] When referring to the 1996 Act and the Communications Act in this Amended Petition, AT&T only will use the Section(s) numbers of these Acts without further reference to the U.S. Code.

Statutes. In support of this Amended Petition, AT&T states:

1. The name and address of the Petitioner is:

AT&T Communications of the Southern States, LLC
1200 Peachtree Street
Suite 8100
Atlanta, Georgia 30309

2. All pleadings, documents, correspondence, notices, staff recommendations, and orders filed, served, or issued in this docket should be served on the following on behalf of Petitioner:

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3. This Amended Petition is filed pursuant to Chapters 120 and 364, Florida Statutes, the 1996 Act, the Communications Act, and Rule 28-106.201, Florida Administrative Code.

4. Petitioner is certificated by the Florida Public Service Commission in Florida as an interexchange carrier ("IXC") and an alternative local exchange carrier ("ALEC").

SUMMARY OF RELIEF REQUESTED

5. Two (2) days after receiving Section 271 interLATA authority for Georgia and Louisiana, BellSouth abandoned its long-standing policy of charging all interstate access customers the same access rates, and instead filed with the FCC an interstate access tariff that offers "growth" discounts to those IXCs which provide growing access volumes over specified minimums. Shortly thereafter, BellSouth filed similar intrastate "growth" access tariffs in all nine states in its service territory. In such state filings, BellSouth candidly has acknowledged that its new proposed tariffs are designed to provide "discounts based upon positive ***incremental*** local switching usage."[3] Such "growth" discounts have been prohibited explicitly by the FCC because there is no economic justification for their use. At the state level, the North Carolina Utilities Commission ("North Carolina Commission") recently recognized BellSouth's intrastate access tariff to be a "growth" tariff which it rejected because it was not in the "public interest," and BellSouth recently "voluntarily" withdrew similar "growth" tariffs in Georgia and Tennessee. In states outside

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[3] For example, see letter from C. D. Hathcock, Regulatory & External Affairs Vice President, BellSouth Telecommunications, Inc. to N. Carpenter, Director, Communications Division, Public Staff, N.C. Utilities Comm. (May 23, 2002) ("Hathcock Letter") (attached hereto as Exhibit 1).

of BellSouth's territory, the Texas Public Service Commission ("Texas Commission") also has determined that "growth" tariffs are discriminatory and thus rejected an intrastate "growth" tariff of Southwestern Bell Telephone Company ("SWBT").

6. One of the fundamental problems with BellSouth's new access tariffs is that BellSouth requires carriers to "grow" or increase their minutes of use ("MOUs") in order to qualify for discounts. Furthermore, BellSouth does not recognize or reward those IXCs with the largest, yet declining volumes ("declining growth" IXCs). This can result in IXCs with the exact same MOUs paying different rates for access—an IXC with declining minutes paying BellSouth's "standard" tariff access rate—and another IXC with increasing minutes paying rates discounted up to 40 percent (40%). In addition, IXCs with fewer (but growing) MOUs could receive large discounts at the same time that larger IXCs with significantly higher (but declining) MOUs receive no discount.

7. Moreover, BellSouth's "growth" tariff, introduced by BellSouth at the federal and state levels conveniently at a time when BellSouth is or soon will be entering the interLATA market in all of its states through its long distance affiliated company, BellSouth Long Distance, Inc. ("BSLD"), blatantly discriminates in favor of BSLD with its initially small number of access minutes and against IXCs such as AT&T which are experiencing declining

access MOU volumes due to BellSouth's entry into the interLATA market and growing competition from other ALECs.

8. Accordingly, because BellSouth's General Tariff violates the 1996 Act, the Communications Act, various rules and regulations of the FCC, as well as various provisions of Chapter 364, Florida Statutes, the Commission should suspend and cancel General Tariff.

BACKGROUND

9. After decades of offering interstate access services to all carriers at the same rates, BellSouth submitted its SWA Contract Tariff 2002-01 to the FCC on May 17, 2002, just two (2) days after receiving Section 271 authority to provide interLATA services in Georgia and Louisiana.[4] Under the terms of this federal tariff, for the eight (8) Metropolitan Statistical Areas ("MSAs")[5] in which BellSouth has pricing flexibility pursuant to Part 69, Subpart H, of the FCC's rules, BellSouth stated it was making volume discounts available to carriers which execute multi-year contracts. In its explanation accompanying the filing, BellSouth described its federal SWA Contract Tariff as a "volume and term plan" discount, but the increasing volume requirements make clear that the tariff really is only a "growth" tariff. Discounts are not

[4] Letter from Linda Burrell, Tariff Administrator, BellSouth Interconnection Services, to Secretary, FCC (May 17, 2002), attaching BellSouth Telecommunications, Inc. F.C.C. Tariff No. 1, Section 26, BellSouth SWA Contract Tariff, Original Page 26-1 et seq. (eff. May 18, 2002) (attached hereto Exhibit 2).

[5] These eight (8) MSAs are Montgomery, AL; Jacksonville, Miami/Ft. Lauderdale/Hollywood, Orlando, and Panama City, FL; Atlanta and Columbus, GA; and LaFayette, LA.

available based on volumes alone, but rather over a five (5) year contract period for a carrier's annual ***growth*** in switching usage compared to a specified minimum level. This specified minimum level is the carrier's projected local switching minutes for the first year of the contract based on the trend of the most recent eighteen (18) months local switching usage prior to the beginning of the contract. A carrier must achieve growth each year over the minimum level to receive any discounts, and absolute volumes of business alone do not give rise to discounts. Importantly, discounts do not apply to all of the carrier's volumes, but only as to volumes which exceed the stated minimum volumes. As to these provisions, BellSouth's General Tariff recently filed in Florida and other states is similar to BellSouth's federal tariff.[6]

10. Prior to filing General Tariff in Florida, BellSouth had only one intrastate switched access tariff in effect under which IXCs could purchase intrastate "switched access services" from BellSouth. Under this tariff, BellSouth's rates for intrastate switched access services were the same for all IXCs, regardless of size or volumes of MOUs. "Switched access charges" are charges paid by IXCs to compensate BellSouth for originating and terminating long distance calls.[7] Such charges constitute a significant proportion of the

[6] Section E27.1.B of General Tariff provides that carriers may choose either a three, four, or five year "agreement" which terminates upon completion.

[7] When a customer dials a long distance call, the customer's local telephone company first delivers the call to the customer's long distance carrier. The long distance carrier pays "originating" access charges to the local carrier for delivering the call. Similarly, at the other end of the call, the long distance carrier pays "terminating" access charges to compensate the receiving party's local carrier for delivering the call to its final destination.

total cost of a long distance call and, therefore, have a significant influence on long distance rates.

11. To be eligible to subscribe to BellSouth's new federal and intrastate discount switched access tariffs, (including General Tariff in Florida), a carrier must have been a BellSouth access customer for the prior eighteen (18) months. Additionally, the carrier is required to execute a Letter of Agreement that includes the applicable term, minimum MOUs (against which increases in MOUs will be measured to determine whether discounts have been earned), as well as applicable discounts (if earned by "growing" MOUs). Furthermore, under both the federal and intrastate tariffs (again including General Tariff in Florida), carriers have only a limited opportunity to cancel the Letter of Agreement in response to other offerings by BellSouth. Specifically, a carrier can cancel the Letter of Agreement only once to subscribe to another offering by BellSouth and this cancellation right can be exercised only on the

anniversary date of the Letter of Agreement.[8]

12. In BellSouth's federal tariff, a seven percent (7%) discount is available for usage in excess of the minimum stated MOU minimum, a ten percent (10%) discount is given for growth of 2 percent (2%) to 10 percent (10%) over the stated minimum level, and a fifteen percent (15%) discount is available if growth exceeds ten percent (10%) of the stated minimum. In years two and three, carriers must achieve at least two percent (2%) growth over the stated minimum to receive a discount. For year two, the discount is fifteen percent (15%) for growth of 2 percent (2%) to 10 percent (10%) and twenty percent (20%) if growth exceeds ten percent (10%) of the stated minimum, and those discount percentages increase to twenty percent (20%) and twenty-five percent (25%) for year three. In years four and five, ten percent (10%) growth over the stated minimum is required to receive a discount, and the discounts

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[8] General Tariff is not clear as to what other types of "tariff" arrangements or "offers" an IXC might want to subscribe to in lieu of General Tariff. Specifically, Section E27.1.2I of General Tariff provides: "Cancellation of BellSouth SWA Pricing Flexibility Service. 1. During the term period of SWA Pricing Flexibility Service, a customer may cancel BellSouth Flexibility Service and subsequently subscribe to another BellSouth SWA Pricing Flexibility Service only one time. 2. Cancellation of BellSouth SWA Pricing Flexibility Service and subscription to another BellSouth SWA Pricing Flexibility Service is allowed only on the anniversary date of BellSouth Pricing Flexibility Service and upon meeting one of the following conditions: a. During the first year of BellSouth SWA Pricing Flexibility Service, the local switching usage achieved is 10 percent below the minimum usage; b. During the remaining years of BellSouth Pricing Flexibility Service, the local switching usage is below the minimum usage; c. Local switching usage exceeds the discount usage cap; and d. Customer adds CIC codes that are desired to a become part of the volume discount contract tariff." If the MOU minimum usage, usage bands and "growth" discount percentages contained in Section 27.1.5 of General Tariff apply only to a particular IXC, and different MOU minimum usage, usage bands and "growth" discount percentages can be negotiated by the "next" IXC which elects to enter into a Letter of Agreement with BellSouth, this is a significant concern. BellSouth may "lock" an IXC into a Letter of Agreement which the IXC cannot terminate except once—and then only on the anniversary date of the Letter of Agreement—and only then if several other usage conditions are met. Such would allow an IXC like BSLD to "game" the system by "cutting" a better deal with BellSouth, knowing full well that "earlier" IXCs could not cancel their Letter of Agreement to take advantage of BSLD's better deal except under very limited circumstances. If such "gaming' is not allowed, BellSouth should explain why it has included the "cancellation" provisions of E.27.1I in General Tariff. Clearly, these provisions suggest that BellSouth seeks to keep certain of its IXC customers from taking advantage of some additional access offers made available by BellSouth. If, on the other hand, General Tariff is not negotiable as to minimum usage, volume bands and applicable "growth" discounts, it remains unclear to what other "tariffs" or "offers" these cancellations provisions apply.

increase to a maximum of thirty-five percent (35%) for more than ten percent (10%) growth over the stated minimum in the fifth year of the contract. The discounts in BellSouth's Florida General Tariff are similar to those in its federal tariff, except that BellSouth established three volume bands (.5 billion to 1 billion MOUs; greater than 1 billion MOUs to 3 billion MOUs; and finally greater than 3 billion MOUs) and within each band, the discount percentages increase as the "growth" MOUs increase in each band. Additionally, where the federal tariff has thirty-five percent (35%) as the maximum discount which can be achieved by "growing" MOUs, BellSouth's General Tariff in Florida contains a forty percent (40%) maximum discount.[9]

13. In addition to its federal tariff, BellSouth also has filed comparable intrastate SWA Contract Tariffs in all nine states in its territory (apparently in Florida, BellSouth's SWA Contract Tariff has been replaced by its newly filed "General Tariff").[10] In each of these filings, BellSouth makes discounts available for those carriers which agree to ***increase*** their annual MOUs for at

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[9] See Section E.27.1.5 of General Tariff.

[10] BellSouth Telecommunications, Inc. – Alabama, Access Services Tariff, E26.1 BellSouth SWA Contract Tariff AL2002-01, eff. June 17, 2002 (attached hereto as Exhibit 3); BellSouth Telecommunications, Inc. – Florida, Access Services Tariff, E26.1 BellSouth SWA Contract Tariff FL2002-01, eff. June 17, 2002 (attached hereto as Exhibit 4); BellSouth Telecommunications, Inc. – Georgia, Access Services Tariff, E26.1 BellSouth SWA Contract Tariff GA2002-01, eff. July 5, 2002 (attached hereto as Exhibit 5); BellSouth Telecommunications, Inc. – Kentucky, Access Services Tariff, E26.1 BellSouth SWA Contract Tariff KY2002-01, eff. June 28, 2002 (attached hereto as Exhibit 6); BellSouth Telecommunications, Inc. – Louisiana, Access Services Tariff, E26.1 BellSouth SWA Contract Tariff LA2002-01, eff. June 20, 2002 (attached hereto as Exhibit 7); BellSouth Telecommunications, Inc. – Mississippi, Access Services Tariff, E26.1 BellSouth SWA Contract Tariff MS2002-01, eff. June 14, 2002 (attached hereto as Exhibit 8); BellSouth Telecommunications, Inc. – North Carolina, Access Services Tariff, E26.1 BellSouth SWA Contract Tariff NC2002-01, eff. June 6, 2002 (attached hereto as Exhibit 9); BellSouth Telecommunications, Inc. – South Carolina, Access Services Tariff, E26.1 BellSouth SWA Contract Tariff SC2002-01, eff. June 26, 2002 (attached hereto as Exhibit 10); and BellSouth Telecommunications, Inc. – Tennessee, Access Services Tariff, E26.1 BellSouth SWA Contract Tariff TN2002-01, eff. July 29, 2002 (attached hereto as Exhibit 11).

least three years. Again, the minimum MOU level is a projected first year volume based on a usage trend line that takes into account the prior eighteen (18) months of usage. In North Carolina, BellSouth candidly acknowledged that the purpose of its similar intrastate SWA Contract Tariff was to provide "discounts based upon positive ***incremental*** local switching usage."[11]

14. AT&T has opposed BellSouth's access tariffs in various states. In North Carolina, AT&T filed a complaint against BellSouth claiming that the tariff was discriminatory and anticompetitive.[12] On June 25, 2002, the North Carolina Commission suspended the tariff and ordered a further investigation.[13] After briefing by the parties, on August 13, 2002, the North Carolina Commission issued its Order Disapproving Proposed Tariff.[14] In that Order, the North Carolina Commission rejected the tariff because it was "biased" and "not in the public interest."[15]

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[11] Letter from C. D. Hatchcock, Regulatory & External Affairs Vice President, BellSouth Telecommunications, Inc. to N. Carpenter, Director, Communications Division, Public Staff, N.C. Utilities Comm. (May 23, 2002) (attached hereto as Exhibit 1) (emphasis added).

[12] Complaint for Anticompetitive Activity Pursuant to N.C.G.S. 62-73; 62-133.5(a)(iii) and (iv); 62-133.5(d) and (e); and 62-134; and Commission Rule R1-9 and Motion to find Tariff Noncompliant or Suspend Tariff for Failure to Comply with N.C.G.S. 133.5(a)(iii) and (iv); 62-133.5(a) and (e) and Commission Tariff Rule R9-4, *In the Matter of BellSouth Telecommunications, Inc. Intrastate Access Services Tariff/New Section 26/BellSouth SWA Contract Tariffs*, Docket No. P-100, Sub 30, Docket No. P-55, Sub 1365 (N.C. Util. Comm.) (filed June 20, 2002) (attached hereto as Exhibit 12).

[13] Order Suspending Tariff and Seeking Further Comments, *In the Matter of Tariff Filing by BellSouth Telecommunications, Inc. to Establish Contract Rates for Switched Access Rate Elements,* Docket No. P-55, Sub 1365 (N.C. Util. Comm.) (attached hereto as Exhibit 13).

[14] Order Disapproving Proposed Tariff, *In the Matter of Tariff Filing by BellSouth Telecommunications, Inc. to Establish Contract Rates for Switched Access Rate Elements,* Docket No. P-55, Sub 1365 (N.C. Util. Comm.) ("North Carolina Order") (attached hereto as Exhibit 14).

[15] Id. at Pages 4-5.

15. In Tennessee, AT&T led a group of Competitive Local Exchange Carriers ("CLECs") seeking rejection of the tariff in that state.[16] On August 12, 2002, BellSouth withdrew its SWA Contract Tariff in Tennessee.[17]

16. In Georgia, AT&T also filed its opposition to BellSouth's tariff.[18] On September 5, 2002, BellSouth also withdrew its SWA Contract Tariff in Georgia.[19]

17. In Florida, on July 16, 2002, AT&T petitioned this Commission to suspend and cancel BellSouth's Florida SWA Contract Access Tariff.[20] Thereafter, anticipating that the Commission might reject this tariff, on August 12, 2002, BellSouth filed a "revised" version of its SWA Contract Access Tariff which it renamed "General Tariff."[21]

18. Although BellSouth alleges that its new General Tariff in Florida allows for discounted rates "on the basis of both the volume of services used and increases of the volumes of services used,"[22] the fact remains that the only

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[16] CLEC Coalition Petition to Suspend Tariff and To Convene a Contested Case Proceeding, *In re Petition to Suspend BellSouth Tariff No. TN2002-01 and to Convene a Contested Case Proceeding,* Docket No. 02-00740 (Tenn. Regulatory Auth.) (filed July 22, 2002) (attached hereto as Exhibit 15).

[17] Letter from BellSouth to TRA dated August 12, 2002 withdrawing Tennessee SWA tariff. (attached hereto as Exhibit 16).

[18] AT&T Communication of the Southern States LLC's Application for Leave to Intervene and Notice of Opposition, *In the Matter of BellSouth Telecommunications, Inc.'s Revisions to its Access Services Tariff To Introduce BellSouth SWA Contracts,* Docket No. 15533-U (Ga. Pub. Serv. Commn) (filed July 1, 2002) (attached hereto as Exhibit 17).

[19] Letter from BellSouth to GA PSC dated September 5, 2002 withdrawing Georgia SWA tariff (attached hereto as Exhibit 18).

20 Petition of AT&T Communications of the Southern States, LLC; *In re Petition for Suspension and Cancellation of Switched Access Contract Tariff No. FL2002-02 filed by BellSouth Telecommunications, Inc.* Docket No. 020738-TP (Fl. Pub. Ser. Commn) (filed July 16, 2002).

[21] Answer of BellSouth Telecommunications, Inc. to Petition of AT&T Communications of the Southern States, LLC Requesting Suspension of and Cancellation of Switched Access Contract Tariff No. FL2002-02; *In re Petition for Suspension and Cancellation of Switched Access Contract Tariff No. FL2002-02 filed by BellSouth Telecommunications, Inc.* Docket No. 020738-TP (Fl. Pub. Ser. Commn) (filed August 12, 2002) ("BellSouth Response" at Pages 2-3).

[22] BellSouth Response at Page 3.

way a carrier ever can take advantage of General Tariff's discounts is by "growing" its MOUs. There is the case regardless of the number of times that BellSouth denies that General Tariff is purely a "growth" tariff.

19. Furthermore, BellSouth's allegations that new and additional terms make BellSouth's General Tariff a discount plan "based principally on volumes" is disingenuous at best. Not one single discount is earned by a carrier's existing volumes of MOUs. Rather, the only role which existing volumes serve is to establish a threshold (minimum of .5 billion MOUs per year) as to which carriers are given an opportunity to attempt to qualify for discounts in future years.[23] In other words, regardless of a carrier's "threshold" of existing volumes of MOUs, no carrier can ever obtain discounts under General Tariff unless that carrier increases or "grows" its volumes of MOUs year after year. Put simply, under General Tariff, "flat" or "declining" volumes do not generate discounts—only "growing" volumes do.

20. Moreover, BellSouth's addition of three volume "bands" in General Tariff also do not generate discounts by themselves. This is because the volumes contained in these bands, whether in band one (.5 billion to 1 billion MOUs), band two (greater than 1 billion to 3 billion MOUs), or band three (greater than 3 billion MOUs) do not generate any discounts whatsoever.[24]

[23] Id.

[24] See Section E.27.1.5 of General Tariff for the three bands of volume discounts and the applicable discounts associated therewith for "growing" volumes in these bands.

Rather, regardless of a carrier's banding level, in order to obtain discounts under General Tariff, a carrier must "grow" its MOUs. In this respect, assume a carrier has 4 billion MOUs per year, but 4 billion MOUs represents a slight reduction in MOUs for the carrier from the previous year. Also assume that such carrier has the most MOUs of any carrier obtaining intrastate access services from BellSouth in Florida. Under the terms of General Tariff, this carrier would not qualify for discounts relative to its 4 billion MOUs—even though it is undisputed that this carrier is BellSouth's largest access customer in the state. This is because the 4 billion MOUs represents a reduction (a small reduction) in MOUs in that the carrier did not "grow" its MOUs in the year in question. In this respect, BellSouth's allegation that "the discount is available on a per unit basis, which means that the greater the purchased volume, the greater the discount"[25] is misleading. No discount whatsoever is available—whether on a "pure volume" basis or a "per unit" basis, unless the carrier "grows" its MOUs on a yearly basis. Equally misleading is BellSouth's allegation that "the plan also is based ***in part*** on increased volume."[26] Rather, the discount plan is based ***entirely*** upon increasing or "growing" MOUs per year.

21. Finally, by way of background, the Commission should note that

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[25] BellSouth Response at Page 4.

[26] Id. (emphasis added).

BellSouth's rationale for General Tariff is its "need to keep traffic on its network" based on the current competitive marketplace for switched access services.[27] Moreover, in proposing General Tariff, BellSouth stated it is "attempting to provide a financial incentive to IXCs to not only purchase switched access service from BellSouth, but to increase the amount of these purchases." Thus stripped of all rhetoric, BellSouth's sole justification for General Tariff is its alleged "need to keep traffic on its network," plain and simple. However, if this were really the case, logically BellSouth would be proposing discount arrangements for all IXCs (not just those with at least .5 billion MOUs per year and especially for those IXCs with the largest—although declining—volumes) in order to keep these customers on BellSouth's network. Because General Tariff neither recognizes nor rewards "declining growth" IXCs, BellSouth's justification is counter-intuitive and thus clearly suspect.

GROWTH TARIFFS ARE DISCRIMINATORY AND THUS PROHIBITED

22. Under the legal standards established by the FCC, growth discounts and associated growth tariffs are discriminatory and thus prohibited. "Growth discounts," as defined by the FCC, are "pricing plans under which incumbent LECs offer reduced per-unit access service prices for customers which commit to purchase a certain percentage above their past usage, or

[27] Id.

reduced prices based on growth in traffic placed over an incumbent LEC's network."[28]

23. Section 202(a) of the Communications Act establishes the general rule that carriers such as BellSouth may not discriminate against customers in the provision of service:

> It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage.[29]

This "discrimination in charges" can "come in the form of a lower price for an equivalent service or in the form of an enhanced service for an equivalent price."[30]

24. This nondiscrimination requirement has been specifically applied to prohibit growth discounts and tariffs. In the *Transport Rate Structure and Pricing* proceeding,[31] the FCC reaffirmed a policy allowing incumbent local exchange carriers ("ILECs") to offer volume and term discounts for switched

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[28] *Access Charge Reform*, Notice of Proposed Rulemaking, FCC 96-488, CC Docket No. 96-262, 11 FCC Rcd 21354 (1966) (*"Access Charge Reform NPRM"*) ¶ 192.

[29] 47 U.S.C. § 202(a).

30 *The Competitive Telecommunications Assoc. v. FCC*, 998 F.2d 1058, 1062 (D.C. Cir. 1993), citing *Sea-Land Service, Inc. v. ICC*, 738 F.2d 1311 (D.C. Cir. 1984).

[31] *In the Matter of Transport Rate Structure and Pricing*, Third Memorandum Opinion and Order on Reconsideration and Supplemental Notice of Proposed Rulemaking, FCC 94-325, 7 FCC Rcd 3030) (*"Transport Rate Structure and Pricing Order"*) (1999).

transport services.[32] However, with respect to such offerings, the FCC also determined that "growth" discounts were not permitted:

> We clarify that the rules we adopted in the expanded interconnection proceeding regarding discounted transport offerings contemplate only volume discounts (reduced per-unit prices for a particular number of units of service) and term discounts (reduced per-unit prices for a specified service for a particular period of time). ***These rules do not provide for percentage or growth discounts – reduced per-unit prices for customers that commit to purchase a certain percentage of their past usage from a LEC , or reduced prices based on growth in traffic placed over a LEC's network.***[33]

25. The FCC reaffirmed this finding in the *Access Charge Reform* proceeding. In the Notice of Proposed Rulemaking, the FCC reached a "tentative conclusion that it would not be in the public interest to permit incumbent LECs to offer 'growth discounts' for particular access services ..."[34] The FCC determined that an ILEC would favor its Section 272 affiliate in violation of that section's nondiscrimination requirements:

> We are concerned that because BOC affiliates will begin with existing relationships with end users, name recognition, and no subscribers, they will grow much more quickly than existing IXCs and other new entrants. Thus, incumbent LECs could circumvent the nondiscrimination provisions of section 272 by offering growth discounts for which, as a practical matter, only their affiliates would qualify.[35]

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32 The FCC has determined that volume discounts and term discounts can be a "useful and legitimate means of pricing special access services to recognize the efficiencies associated with larger volumes of traffic and the certainty of longer term deals." *Special Access Expanded Interconnection Order*, 7 FCC Rd. 7369, 7463, ¶ 199 (1999).

33 *Transport Rate Structure and Pricing Order*, 7 FCC Rcd at 3083, ¶ 114 (footnotes omitted; emphasis added).

34 *Access Reform Proceeding NPRM*, 11 FCC Rcd 21354, 21437, ¶ 192 (1996).

35 Id.

The FCC sought comment on this issue and requested that ILECs seeking to offer any form of growth discounts provide evidence that such discounts would be cost-based and aid in the development of competitive access markets.[36]

26. In the *Access Charge Reform Fifth Report and Order,* the FCC confirmed its rejection of growth discounts and tariffs.[37] ILEC supporters of growth tariffs failed to provide any evidence that growth tariffs would assist in the development of a competitive access market, and accordingly the FCC rejected their use:

> The Commission tentatively decided not to permit growth discounts in the *Access Reform NPRM,* because they create an artificial advantage for BOC long distance affiliates with no subscribers, relative to existing IXCs and other new entrants. The Commission also invited parties to comment on whether growth discounts would enhance the development of competitive access markets.
>
> None of the parties supporting growth discounts explains why growth discounts enhance the development of competitive access markets. . . . ***Without any affirmative benefit to growth discounts presented in the record before us, we have no basis for allowing such discounts.***[38]

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36 Id.

37 See *Access Charge Reform,* Fifth Report and Order, FCC 99-206, CC Docket No. 96-262, 14 FCC Rcd 14294, 14221 (1999) *("Access Charge Reform Fifth Report and Order")* ¶¶ 134-35.

38 See *Access Charge Reform Fifth Report and Order, id.* at 14294, ¶¶ 134-35 (citations omitted, emphasis added).

Nothing has happened since the FCC's *Access Charge Reform Fifth Report and Order* to alter this conclusion that growth discounts and tariffs violate Section 202(a) of the Communications Act.

27. Growth tariffs also violate the nondiscrimination requirements of Section 272 of the 1996 Act. As the FCC has recognized:

> ... if a BOC charges other firms prices for inputs that are higher than the prices charged, or effectively charged, to the BOC's section 272 affiliate, then the BOC could create a 'price squeeze' . . . [that] may allow the BOC affiliate to win customers even though a competing carrier may be a more efficient provider in serving the customer.[39]

To prevent such discrimination, section 272(c)(1) "establishes an ***unqualified prohibition*** against discrimination by a BOC in its dealings with its section 272 affiliate and unaffiliated entities."[40] "A BOC must provide to unaffiliated entities the same goods, services, facilities, and information that it provides to its section 272 affiliate at the same rates, terms, and conditions."[41]

28. Moreover, Section 272(e)(3) expressly "require[s] the BOCs to charge nondiscriminatory prices" for telephone exchange service and exchange access.[42] The FCC has ruled that this subsection "requires that a BOC must

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39 *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Telecommunications Act of 1934, as amended,* First Report and Order, FCC 96-489, 11 FCC Rcd 21905 (released Dec. 24, 1996), ¶ 12 ("*Non-Accounting Safeguards Order*").

40 Id. ¶ 197 (emphasis added).

41 Id. ¶ 202.

42 Id. ¶ 258.

make volume and term discounts available on a nondiscriminatory basis to all unaffiliated interexchange carriers."[43] The *Non-Accounting Safeguards Order* recognized that "a BOC may have an incentive to offer tariffs that, while available on a nondiscriminatory basis, are in fact tailored to its affiliate's specific size, expansion plans, or other needs."[44] Accordingly, rates may appear to be facially neutral, but in fact have an unlawful, discriminatory impact.

29. As noted above, in the *Access Charge Reform NPRM,* the FCC found that growth discounts inevitably favor a BOC's section 272 affiliate over established IXCs, thereby violating nondiscrimination obligations of Section 272.[45] Consistent with the FCC's decisions, "growth" discounts, like other facially neutral tariff provisions that have a discriminatory impact in their application, are prohibited by the nondiscrimination requirements of Section 272.[46]

BELLSOUTH'S GROWTH TARIFF DISCRIMINATES AGAINST ESTABLISHED IXCS SUCH AS AT&T AND IN FAVOR OF ITS LONG DISTANCE AFFILIATE BELLSOUTH LONG DISTANCE, INC.

30. Under these legal standards, it is clear that BellSouth's General Tariff discriminates against large, established IXCs such as AT&T, and in favor

[43] Id ¶ 257.

[44] Id.

[45] *Access Reform Proceeding NPRM,* 11 FCC Rcd 21354, 21437, ¶ 192.

[46] See *Non-Accounting Safeguards Order,* 11 FCC Rcd ¶ 206 ("[T]he Section 272(c)(1) nondiscrimination provision is designed to provide the BOC an incentive to provide efficient service to rivals of its section 272 affiliate, by requiring that potential competitors do not receive less favorable prices or terms, or less advantageous services from the BOC than its separate affiliate receives.")

of BSLD in violation of Sections 201 and 202 of the Communications Act and Section 272 of the 1996 Act. BellSouth's General Tariff achieves this discriminatory effect by offering discounts based on percentage growth from a fixed customer base. General Tariff has a discriminatory impact on established IXCs because these IXCs have a large customer base, which is difficult to grow annually on a percentage basis, and that base is likely to shrink as BellSouth obtains Section 271 authority to enter the interLATA market in its territory. Moreover, gradually expanding local competition in the BellSouth service territory will mean that, for some increasingly substantial number of calls, an ALEC—not BellSouth—will be the originating and/or terminating carrier, and access charges will be owed to various ALECs, rather than to BellSouth.

31. Under General Tariff, similarly situated IXC customers could pay dramatically different rates for the same service. An IXC with increasing switched access MOU volumes will be able to take advantage of the growth discount plan and may enjoy discounts up to forty percent (40%) while an IXC with no growth or a declining trend cannot obtain these discounts. As a result, the effective per-minute switched access rate for customers with growth will be lower than the rate for customers with the same amount of traffic that is not growing.

32. General Tariff also is discriminatory because it bases discounts solely on growth, rather than on absolute volumes that give rise to economies

of scale and cost savings. A smaller carrier with at least .5 billion MOUs that is growing volumes can obtain "growth" discounts and lower access charges than a larger carrier with significantly higher access MOU volumes. Under BellSouth's General Tariff and the skewed discounts it provides, "growing" carriers will enjoy lower per minute switched access rates than would be available to AT&T with significantly larger yet declining access MOU volumes on BellSouth's network. Relative volume growth is not a justifiable basis for providing discounts, as a lower base at .5 billion MOUs makes significant growth percentages possible even if the absolute volume growth is insignificant and provides no economies to BellSouth.

33. It also is clear that BellSouth's General Tariff is designed to benefit BellSouth's long distance affiliate BSLD. BellSouth's companion federal tariff was filed two (2) days after BellSouth obtained Section 271 authority to provide interLATA services in Georgia and Louisiana. BSLD will begin with a smaller customer base, and once it enters the interLATA market, it is likely to quickly leverage BellSouth's monopoly customer base into a large share of the long distance market at the expense of the large IXCs. In this respect, even assuming, as BellSouth argues, that BSLD will not have the necessary volumes to meet the .5 billion MOUs threshold during its first eighteen (18) months of operation, it still will be able to take market share from larger IXCs like AT&T. Each MOU that BSLD takes from AT&T will make it doubly harder for AT&T to

achieve discounts under General Tariff. This is because AT&T first must find another customer to take the place of the customer just lost to BSLD (in order to maintain the status quo—in other words not lose volumes), and then second, it must find yet another new customer (or encourage existing customers to make more long distance calls) in order to "grow" its annual MOUs, and thus receive discounts under General Tariff. Accordingly, the favoritism which BSLD obtains from General Tariff relates not only to BSLD receiving its own discounts, but also to BSLD's ability to effectively prohibit IXCs like AT&T from growing their MOUs. Thus, even if BSLD never qualifies for discounts because it never reaches the .5 billion MOU threshold, it still benefits by keeping large volume IXCs' access rates high because such carriers can never qualify for "growth" discounts. In the meantime, AT&T continues to lose market share not only to BSLD, but also to smaller carriers which meet the .5 billion MOU threshold and are growing their volumes and thus obtain discounts from BellSouth—albeit with discounts based on volumes which are much smaller than AT&T's and thus much easier to increase on a percentage basis.[47]

34. In connection with BellSouth's Section 271 application for Alabama, Kentucky, Mississippi, North Carolina, and South Carolina, BellSouth originally claimed that BSLD could not take advantage of BellSouth's federal SWA Contract Tariff because of the tariff's requirement that participating carriers have at least a prior eighteen (18) month history of obtaining switched access services from BellSouth (in order to establish the baseline minimum usage). This was not correct, as was established in a series of ever changing explanations by BellSouth once ALECs challenged BellSouth's statements as to whether BSLD already had been a switched access customer of BellSouth.[48] BellSouth finally admitted that BSLD has been a switched access customer of BellSouth for eighteen (18) months, and thus BellSouth

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[47] In this respect, General Tariff presents larger IXCs like AT&T which are attempting to achieve mass market commercial entry into BellSouth's local territory with a Hobson's choice. BellSouth's proposal means that for every local customer AT&T wins (i.e., for which it becomes the originating and terminating access carrier), AT&T increases the likelihood that it will diminish or lose its discount—that is AT&T will pay more for exchange access provided by BellSouth in exchange for developing local competition.

[48] BellSouth's first explanation, advanced on August 5, 2002, was that BSLD had not been a BellSouth switched access customer for eighteen (18) months: "*Obviously*, BSLD does not have 18 months' local switching usage prior to the beginning of the contract . . . .'" Reply Affidavit of Ruscilli/Cox Rep. ¶ 76 (emphasis added) (attached hereto as Exhibit 19). Seven days later, it turned out that "BSLD has in fact been almost exclusively a terminating switched access customer for eighteen months." Letter from Sean A. Lev to Marlene H. Dortch, Secretary, FCC (August 12, 2002) (emphasis in original) ("Aug. 12 Letter") (attached hereto as Exhibit 20). Then, twenty-four (24) hours later, BSLD became a "BellSouth switched access customer with respect to both interstate and intrastate traffic" and "the nature of the BSLD switched access minutes is predominantly terminating traffic that originated outside the BellSouth region and terminating traffic that originated from wireless providers." Letter from Sean A. Lev to Marlene H. Dortch, Secretary, FCC (August 13, 2002) ("Aug. 13 Letter") (attached hereto as Exhibit 21). Clearly, BSLD's status as a switched access customer for the past eighteen (18) months would qualify BSLD to take advantage of the Contract Tariff, and BellSouth's refusal candidly to admit as much is telling.
BellSouth also argued that BSLD could not take advantage of its federal SWA Contract Tariff because BSLD did not have the minimum number of minutes to qualify. (Aug. 12 Letter at 2.) BellSouth's claims on this point are plainly wrong. BellSouth's federal tariff is based on the individual customer's usage during the eighteen (18) prior months, and that usage becomes the base-line against which future growth (and the size of the discounts) is measured. This tariff also makes clear in Section 26.1.2.A that each carrier signing up for the tariff must agree with BellSouth on the "Minimum Usage Discount Table." The "Minimum Usage Discount" is a negotiated number for each participating carrier based on that carrier's usage for the prior eighteen (18) months. BellSouth's attempt to argue that its federal tariff contained an absolute minimum usage amount that all potential carriers would have to satisfy (and therefore stood as an impediment to BSLD taking service under its federal tariff) was nothing more than after-the-fact spin.

could enter into the same arrangement with BSLD, based on BSLD's MOU volumes. Accordingly, the Commission should be extremely leery of BellSouth's allegations in Florida regarding its inability to meet the .5 billion MOU threshold. If BellSouth really wanted to take BSLD out of the equation, it easily could agree that under no circumstances would BSLD be allowed to obtain discounts under General Tariff rather than create its new .5 billion MOU threshold. BellSouth has not done so. Instead, it continues to seeks ways to camouflage its efforts to develop an access pricing arrangement which improperly favors BSLD. General Tariff's "new" .5 billion MOU threshold is just one more effort in the camouflage process.

<u>GROWTH TARIFFS HAVE BEEN REJECTED IN BOTH NORTH CAROLINA AND TEXAS</u>

35. The North Carolina Commission reviewed BellSouth's intrastate SWA Contract Tariff in response to a complaint filed by AT&T and rejected the tariff on the ground that it was "biased" and "against the public interest."[49] The parties fully briefed the matter and received the North Carolina Commission's ruling on the merits of BellSouth's tariff, which is identical to General Tariff except for General Tariff's .5 billion MOU threshold and three bands of volumes and related discounts. In other words, the "growth" requirement of BellSouth's General Tariff and BellSouth's North Carolina tariff (which the North Carolina

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[49] North Carolina Order at Pages 4-5.

Commission rejected) are the same. In its Order, the North Carolina Commission soundly dismissed BellSouth's claim that the growth tariff would help BellSouth "keep traffic on its network," suggesting instead suggested that BellSouth should offer a discount based on ***volumes***:

> ... if the aim is to stimulate the volume of purchases (and, hence, revenue), it would better serve the public interest if the discounts offered were volume-based, instead of being based upon percentage increases over a baseline. After all, even a relatively modest percentage increase in the volume of purchases from a high-volume IXC could dwarf the increased volume coming from a low-volume IXC or a group of them. This would mean that much more revenue for BellSouth.[50]

Furthermore, as advocated by AT&T, the North Carolina Commission also "encourage[d] BellSouth to experiment with volume-based discounts for access service that are not biased against high-volume IXCs."[51] Accordingly, the same result reached in North Carolina should apply to BellSouth's General Tariff given that BellSouth has used the same "need to keep traffic on its network" justification in Florida which it used in North Carolina.

36. Moreover, with respect to the legitimacy of BellSouth's "need to keep traffic on its network" justification, it is revealing that BellSouth has not proposed similar growth based "volume" discount plans for unbundled network elements or other services for which ALECs such as AT&T might qualify. The

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50 Id. at Page 5 (emphasis in Order).
51 Id.

leasing of unbundled network elements, particularly the UNE-Platform, also keeps traffic on BellSouth's network. Yet ALEC's are offered no discounts by BellSouth for these volumes to "keep traffic on BellSouth's network." Of course, if AT&T's theory is correct that BellSouth is not concerned about losing traffic on its network, but rather is seeking to obtain approval of General Tariff in order to camouflage (near or long term) discrimination in favor of BSLD, then obviously BellSouth would have no interest in discounting network elements.

37. Additionally, if BellSouth really wanted to keep traffic on its network, then logically it should be providing ***greater*** discounts to "declining growth" IXCs (so that the decline can be stopped), rather than to those IXCs with growing volumes. If such reduced volumes are occurring because an IXC is moving traffic from BellSouth's network to its own network or other networks, greater discounts would make it more cost effective for the IXC to leave its traffic on BellSouth's network. On the other hand, if such reduced volumes are resulting because the IXC is losing customers to another IXC (which may have less volumes, but yet is receiving greater discounts from BellSouth and thus is winning the price war), then logically BellSouth should be providing greater discounts to the IXC which is losing market share. Such greater discounts would allow the IXC to engage in more aggressive price competition by "recapturing" prior lost customers, plus also stop further

customer defections. Because BellSouth has not attempted to meet the needs of these high volumes, yet "declining growth" IXCs, its "need to keep traffic on its network" justification clearly is suspect, as the North Carolina Commission aptly concluded.

38. Furthermore, the Commission also must question the credibility of BellSouth's "need to keep traffic on its network" justification given BellSouth's long standing legislative and regulatory efforts in Florida not to reduce switched access charges unless it is held "harmless" for such reductions by receiving corresponding local rate increases. BellSouth's latest assertion that it needs to reduce access charges—without even mentioning corresponding local rate increases—is inconsistent with its many years of advocacy that access charges must remain at their current rates. Given this inconsistency, the Commission should draw the logical conclusion that BellSouth's General Tariff is not about keeping traffic on BellSouth's network, but rather is all about advantaging BSLD in its upcoming interLATA market entry in Florida.

39. Growth discounts similar to those proposed by BellSouth also have been rejected by the Texas Commission. In 1999, SWBT filed a growth tariff for intrastate switched access services that provided a discount for each ten percent (10%) increase in annual MOUs. The Texas Commission revoked the tariff for being "discriminatory and

anticompetitive."[52] The Commission recognized that SWBT would be receiving Section 271 authorization in the future and as a result, "SWBT will likely capture a significant share of interLATA long-distance traffic when it enters the long-distance market in Texas, and existing IXCs will suffer a corresponding decline in market share and SWBT switched-access MOU."[53] In light of these findings, the Texas Commission determined that the "market-share loss and switched-access MOU loss that existing IXCs will encounter as a result of SWBT's entry into the interLATA long distance market will make it impossible for them to achieve the maximum discounts" under the proposed tariffs.[54] Accordingly, the Texas Commission determined that the tariffs were "discriminatory and anticompetitive because [the] highest discount is not functionally available to all IXCs."[55] The Texas Commission's reasoning applies equally to BellSouth's General Tariff in Florida.

COUNT 1

(Unlawful Discrimination In Violation of Section 202(a) of the Communications Act and Section 272 of the 1996 Act and Florida General Statutes)

52 Order, *Complaint by AT&T Communications of the Southwest, Inc. Regarding Tariff Control Number 21302—Switched Access Optional Payment Plan (OPP)*, Docket No. 21392 (SOAH Docket No. 473-99-1963) (Texas PUC March 2, 2000). ("*Texas Growth Tariff Order*") (attached hereto as Exhibit 22).

53 Id. at Page 6.

54 Id.

55 Id. at Page 8.

40. AT&T repeats and realleges each and every allegation contained in paragraphs 1 through 39 of this Amended Petition as if fully set forth herein.

41. AT&T anticipates that disputed issues of material fact will include, but not be limited to, BellSouth's disagreement with some or all of AT&T's contentions set forth in this Amended Petition.

42. Section 202(a) of the Communications Act prohibits "unjust or unreasonable discrimination in charges, . . . classifications, . . . or services for or in connection with like communication service, [or] any undue or unreasonable preference or advantage to any particular person, class of persons . . . ."

43. BellSouth is prohibited by Section 202(a) of the Communications Act from establishing tariffs that include rates that unduly discriminate against similarly situated customers.

44. Under Section 272(c)(1) of the1996 Act, BellSouth in its dealings with its long distance affiliate BSLD may not discriminate between [BSLD] and any other entity in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards.

45. Similarly, under Section 272(e)(2) of the 1996 Act, BellSouth in its dealings with its long distance affiliate BSLD:

> ... shall not provide any facilities, services, or information concerning its provision of exchange access

> to [BSLD] unless such facilities, services, or information are made available to other providers of interLATA services in that market on the same terms and conditions.

46. BellSouth's "growth" requirement in General Tariff is blatantly anticompetitive and unreasonably discriminatory in its design and in its ultimate effect in violation of Sections 364.051(5), 364.08, 364.09, 364.10 and 364.3381, Florida Statutes.

47. BellSouth's General Tariff establishes growth discounts that impermissibly offer customers discounts based on growth in access volumes.

48. BellSouth's General Tariff discriminates against similarly situated IXCs because two carriers with the exact same number of access minutes may pay different rates for access—a carrier with declining minutes paying BellSouth's standard rate and another carrier with increasing minutes paying rates for the same service discounted up to forty percent (40%).

49. BellSouth's General Tariff discriminates against IXCs with declining volumes because the discount is not based on volume, but only growth. There is, however, no correlation between mere growth in traffic and cost savings. Under General Tariff, a carrier which has smaller, but growing MOU volumes, will be eligible for a discount, but a carrier with significantly larger MOU volumes which are declining over time will not qualify for a discount. The efficiencies resulting from increasing traffic from smaller

carriers are dwarfed by the efficiencies made possible increasing traffic from larger carriers with greater, but declining, volumes.

50. Pursuant to Chapters 120 and 364, Florida Statutes, and applicable Commission rules and orders, the Commission should immediately suspend BellSouth's General Tariff, schedule a formal administrative hearing to consider and resolve disputed issues of fact and law concerning the effects and impacts of General Tariff, and enter a final order denying and canceling General Tariff.

51. As a proximate and direct result of BellSouth's actions with respect to General Tariff, AT&T has been (or will be) damaged in an amount to be determined as the difference between the amount AT&T has paid (or will pay) for intrastate access and the amount AT&T should have paid assuming AT&T's absolute volumes (not growth) were greater than the volumes that triggered discounts for other carriers under General Tariff.

PRAYER FOR RELIEF

WHEREFORE, Petitioner AT&T hereby requests the following:

(1) The Commission schedule and conduct a formal administrative hearing to address disputed issues of fact and law regarding General Tariff pursuant to Sections 120.569 and 120.57(1), Florida Statutes;

(2) The Commission find and order that BellSouth's General Tariff is suspended pending final disposition of the AT&T's Amended Petition;

(3) The Commission find and order that BellSouth's General Tariff is a prohibited "growth" tariff;

(4) The Commission find and order that BellSouth's General Tariff is unjust and discriminatory;

(5) The Commission find and order that BellSouth's General Tariff is canceled;

(6) The Commission find and order that BellSouth shall pay damages to AT&T measured as the difference between the amount AT&T paid (or will pay) for intrastate access services and the amount AT&T should have paid, assuming AT&T's absolute volumes (not growth) would exceed the volumes that triggered discounts to the carriers under General Tariff;

(7) The Commission find and order such other relief which it deems equitable and just.

Respectfully submitted this 13th day of September, 2002.

Attorneys for AT&T Communications of
the Southern States, LLC
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AT&T Communications of the Southern
States, LLC
1200 Peachtree Street, N.E., Suite 8100
Atlanta, GA 30309

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Hand Delivery this 13th day of September, 2002.

Lee Fordham, Esq.
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Nancy B. White
c/o Nancy H. Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, FL 32301

Tracy W. Hatch

Florida Public Service Commission
Docket No. 020738-TP

Petition by AT&T Communications of the Southern States, LLC for Suspension and Cancellation of BellSouth Telecommunications, Inc.'s Switched Access Contract Tariff No. FL2002-01 for Alleged Violations of the Telecommunications Act of 1996, Rules of the Federal Communications Commission, and Chapter 364, Florida Statutes

INDEX OF EXHIBITS

1 Letter from C. Don Hathcock, Regulatory & External Affairs Vice President, BellSouth Telecommunications, Inc. to Mr. Nat Carpenter, Director, Communications Division, Public Staff, North Carolina Utilities Commission dated May 23, 2002.

2 Letter and accompanying tariff from Linda B. Burell, Tariff Administrator, BellSouth Interconnection Services, to Secretary, Federal Communications Commission dated May 17, 2002.

3 Alabama SWA Tariff AL2002-049, dated June 3, 2002, effective June 17, 2002.

4 Florida SWA Tariff FL2002-105, dated June 3, 2002, effective date June 17, 2002.

5 Georgia SWA Tariff GA2002-061, dated June 5, 2002, effective date July 5, 2002.

6 Kentucky SWA Tariff KY2002-054, dated May 29, 2002, effective date June 28, 2002.

7 Louisiana SWA Tariff LA2002-063, dated June 6, 2002, effective date June 20, 2002.

8 Mississippi SWA Tariff MS2002-048, dated May 15, 2002, effective date June 14, 2002.

9 North Carolina SWA Tariff NC2002-01, dated May 23, 2002, effective date June 6, 2002.

INDEX OF EXHIBITS

10 South Carolina SWA Tariff SC2002-055, dated June 12, 2002, effective date June 26, 2002.

11 Tennessee SWA Tariff TN2002-01, dated June 28, 2002, effective date July 29, 2002.

12 AT&T Communications of the Southern States, LLC Complaint for Anticompetitive Activity Pursuant to N.C.G.S. 62-73; 62, 133-5(a)(iii) and (iv); 62-133.5(d) and (e); 62-134; and Commission Rule R1-9 and Motion to Find Tariff Noncompliant or Suspend Tariff for Failure to Comply with N.C.G.S. 133.5(a)(iii) and (iv); 62-133.5(a) and (e) and Commission Tariff Rule R9-4 filed June 20, 2002, Docket No. P-55, Sub 1365, P-55, Sub 1366.

13 North Carolina Utilities Commission Order Suspending Tariff and Seeking Further Comments dated June 25, 2002.

14 North Carolina Utilities Commission Order Disapproving Proposed Tariff dated August 13, 2002.

15 CLEC Coalition Petition to Suspend BellSouth Tariff No. TN2002-01 and to Convene A Contested Case Proceeding filed with the Tennessee Regulatory Authority dated July 23, 2002, Docket No. 02-00740.

16 Letter from Paul Stinson, Manager Regulatory, BellSouth Telecommunications, Inc., to Ms. Darlene Stanley, Deputy Director, Tennessee Regulatory Authority, dated August 12, 2002.

17 AT&T Communications of the Southern States, LLC's Application for Leave to Intervene and Notice of Opposition filed with the Georgia Public Service Commission dated July 1, 2002, Docket No. 15533-U.

18 Letter from Lynn R. Holmes, Vice President Regulatory and External Affairs, BellSouth Telecommunications, Inc., to Mr. Reece McAlister, Executive Secretary, Georgia Public Service Commission, dated September 5, 2002.

INDEX OF EXHIBITS

19 Joint Reply Affidavit of John A. Ruscilli and Cynthia K. Cox filed before the Federal Communications Commission, In the Matter of: Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina and South Carolina, dated August 5, 2002.

20 Letter from Sean A. Lev to Marlene H. Dortch, Secretary FCC, dated August 12, 2002.

21 Letter from Sean A. Lev to Marlene H. Dortch, Secretary FCC, dated August 13, 2002.

22 Order, Complaint by AT&T Communications of the Southwest, Inc. Regarding Tariff Control Number 21302- Switched Access Optional Payment Plan (OPP) issued by the Texas Public Service Commission, March 1, 2000.

EXHIBIT 1

BELLSOUTH

BellSouth Telecommunications, Inc.
P.O. Box 30188
Charlotte, NC 28230-0188

C. Don Hathcock
Regulatory & External Affairs
Vice President

704 417-8764

May 23, 2002

RECEIVED

MAY 24 2002

COMMUNICATIONS DIVISION
N.C. PUBLIC STAFF

Mr. Nat Carpenter, Director
Communications Division, Public Staff
North Carolina Utilities Commission
Post Office Box 29520
Raleigh, North Carolina 27626-0520

Dear Mr. Carpenter:

Attached are the original and eight copies of the following tariff sheet, which we are submitting for the Commission's approval in accordance with Rule R-9-4 established in Docket P-100, Sub. 30.

(c) (1) Tariff Pages Effective June 6, 2002

Access Services Tariff

E Tariff	-	Contents – Fifth Revised Page 1
Section E19	-	Original Page 1
Section E20	-	Original Page 1
Section E23	-	Contents - Original Page 1
	-	Original Page 1
Section E24	-	Contents - Original Page 1
	-	Original Page 1
Section E25	-	Contents - Original Page 1
	-	Original Page 1
Section E26	-	Contents - Original Page 1
	-	Original Page 1
	-	Original Page 2
	-	Original Page 3
	-	Original Page 4

(2) Description of Filing:

With this tariff filing, BellSouth Telecommunications, Inc. is revising its Access Services Tariff to introduce a new product, BellSouth SWA Contract Tariffs.

(3) Explanation of Filing:

An explanation of the changes being made with this filing is provided in Attachment A, the Executive Summary.

(4) Impact on Existing Subscribers:

BellSouth SWA Contract Tariffs provide for yearly discounts based upon positive incremental local switching usage. Volume discounts, in the form of an annual credit, are achieved based upon the incremental usage above the minimum local switching usage and the year of the contract term in which the usage is achieved.

(5) Estimated Gross Revenue over a three-year Period:

NA

(d) Cost Study Data:

NA

In compliance with Price Regulation rules, BellSouth SWA Service is in the Toll Basket.

We shall appreciate your returning one copy of the attached tariff sheets to this office.

Yours truly,

Regulatory Vice President

Attachments

Copy to: Telecommunications Advisor
Attorney General Legal Counsel

EXECUTIVE SUMMARY

Introduction

With this filing, the North Carolina Intrastate Access Services Tariff is being revised to add a new tariff section, Section 26 – BellSouth SWA Contract Tariffs. This filing also introduces North Carolina's first contract tariff, BellSouth SWA Contract Tariff No. NC2002-01.

Description of Present Tariff

North Carolina's current intrastate Access Services Tariff does not offer BellSouth SWA Contract Tariffs.

Description of Proposed Tariff

BellSouth SWA Contract Tariffs will enable BellSouth to offer its Interexchange Carrier (IXC) customers intrastate BellSouth SWA contract tariffs that are individually designed, priced and negotiated based on the customer's needs. BellSouth SWA Contract Tariff No. NC2002-01 provides a volume and term discount plan with a 5 year contract term for selected BellSouth SWA services. The regulations and charges for the services included in BellSouth SWA Contract Tariff No. NC2002-01 are set forth in North Carolina's Access Services Tariff.

BellSouth will maintain generally available (tariffed) Access Services. Additionally, the service functionality (not the pricing structure) offered in BellSouth SWA Contract Tariffs will also be generally available in the Access Services Tariff.

Rate Elements

The following BellSouth SWA services will be used in determining the revenues that are eligible to receive the volume discount based on the established minimum local switching usage.

- BellSouth SWA Common Transport Service
  - Facility Termination, per minute of use
  - Per Mile, per minute of use
  - DS3 to DS1 Multiplexer, per minute of use
  - DS1 to VG Multiplexer, per minute of use
- Access Tandem Switching
  - Dedicated Tandem Trunk Port Service
    - Per DSO/VG trunk port required
    - Per DS1 trunk port required
  - DS1 to VG Channelization
- Local Switching
  - Local Switching 1
  - Local Switching 2
  - Local Switching 3
  - Local Switching 4
  - Common Trunk Port Service
    - Per each Common Transport trunk termination, per minute of use
  - Dedicated End Office Trunk Port Service
    - Per DSO/VG trunk port required
    - Per DS1 trunk port required

Demand Development

The minimum local switching usage is defined as the projected year 1 local switching usage based upon the trending of the most recent available 18 months local switching usage prior to the beginning of the term. Each customer's minimum local switching usage will determine which of three discount bands the customer is eligible for. For each year of the term, the volume discount is based upon the minimum local switching usage, the usage for that year, and the year of the term.

Rationale for Change

BellSouth SWA Contracts Tariffs are designed to encourage utilization of BellSouth switched network by providing a volume discount incentive. BellSouth SWA Contract Tariffs offer a win-win opportunity for the customer and the Company. The customer will receive a discount up to 30% on eligible BellSouth SWA revenue for usage over the established minimum. The Company's benefit is retention of the customer's usage on its switched network.

Revenue Impact

The BellSouth SWA Contract Tariff product is designed to retain the existing customer on BellSouth's switched network. The revenue impact of introducing BellSouth SWA Contract Tariff No. NC2002-01 is entirely dependant upon the customer's performance.

Impact on Customers

BellSouth SWA Contract Tariffs provide for yearly discounts based upon positive incremental local switching usage. Volume discounts, in the form of an annual credit, are achieved based upon the incremental usage above the minimum local switching usage and the year of the contract term in which the usage is achieved.

EXHIBIT 2

BELLSOUTH

BellSouth Interconnection Services 205 977-7500
Room 34S91
675 West Peachtree Stree, N.E.
Atlanta, Georgia 30375

Linda B. Burell
Tariff Administrator

May 17, 2002

Transmittal No. 637

Secretary
Federal Communications Commission
Washington, D.C. 20554

Attention: Common Carrier Bureau

The accompanying tariff material, issued by BellSouth Telecommunications, Inc. (hereinafter BellSouth), and bearing Tariff F.C.C. No. 1, is sent to you for publication in compliance with Sections 61.49, 61.55, 61.58 (c) and 69.727 of the Commission's rules and the requirements of the Communications Act of 1934, as amended.

This filing is being submitted on one day's notice, pursuant to BellSouth receiving Phase I Pricing Flexibility for Switched Access Services in the qualifying Metropolitan Statistical Areas (MSAs).

Scheduled to become effective May 18, 2002, this publication consists of tariff pages as indicated on the following Check Sheets:

Tariff F.C.C. No.	Check Sheet No.
1	520th Revised Page 1
	8th Revised Page 9.0.5

The original transmittal letter and credit card payment in the amount of $655.00 were provided to Capital Filing Specialist, LLC, for delivery to Mellon Bank, Pittsburgh, Pennsylvania on May 17, 2002. Acknowledgment of receipt of this transmittal is requested. A duplicate letter is enclosed for this purpose.

All official pleadings and related material concerning this filing may be directed to Mr. Richard Sbaratta, General Attorney, BellSouth Corporation, Suite 4300, 675 West Peachtree Street, Atlanta, Georgia 30375 or faxed to Mr. Richard M. Sbaratta at (404) 614-4054.

All correspondence and inquiries in connection with this publication should be addressed to Whit Jordan at BellSouth D.C., Inc., Suite 900, 1133 21st Street, N.W., Washington, D.C. 20036, (202) 463-4114.

Yours truly,

Linda B. Burell

Linda B. Burell
Tariff Administrator

BELLSOUTH TELECOMMUNICATIONS, INC.
INTRODUCTION OF BELLSOUTH SWA CONTRACT TARIFF NO. 2002-01
DESCRIPTION AND JUSTIFICATION
TRANSMITTAL NO. 637

With this filing, BellSouth Telecommunications, Inc. (hereinafter "BellSouth") is revising its Access Services Tariff, F.C.C. No. 1 to add a new tariff section, Section 26 - BellSouth SWA Contract Tariffs. This filing also introduces BellSouth's first BellSouth SWA Contract Tariff No. 2002-01, included in Section 26, which is being filed on one-day's notice, pursuant to BellSouth receiving Phase I Pricing Flexibility for Switched Access Services in the qualifying Metropolitan Statistical Areas (MSAs). [1]

BellSouth SWA Contract Tariff No. 2002-01 provides a volume and term discount plan with a 60-month contract term for selected BellSouth SWA services. BellSouth SWA Contract Tariff No. 2002-01 sets forth the MSAs in which the volume and term discount plan will be offered and also sets forth the BellSouth SWA services to which the plan applies. The rates and charges for the services included in BellSouth SWA Contract Tariff No. 2002-01 are as set forth in Section 6 of BellSouth's Tariff F.C.C. No. 1.

In order to take advantage of the volume and term discount plan in BellSouth SWA Contract Tariff No. 2002-01, customers must subscribe to the tariff within 30 days of the tariff's effective date. BellSouth SWA Contract Tariff No. 2002-01 will terminate on July 22, 2007.

[1] In the Matter of BellSouth Petition for Phase I Pricing Flexibility for Switched Access Services, CCB/CPD No 00-21, Memorandum Opinion and Order, released February 27, 2001.

ACCESS SERVICE
CHECK SHEET

The Title Page and Pages 1 to 22-27 and Supplement No.107 inclusive of this tariff are effective as of the date shown.

Page	Number of Revision Except as Indicated	Page	Number of Revision Except as Indicated	Page	Number of Revision Except as Indicated
Title	2nd	27.2	6th	69	4th
1	520th*	27.3	3rd	70	5th
2	166th	27.4	4th	70.1	1st
2.1	39th	27.5	Original	71	6th
3	59th	27.6	5th	72	8th
3.1	6th	27.7	Original	72.1	5th
4	150th	28	6th	73	5th
4.1	4th	29	7th	74	7th
5	116th	30	2nd	74.1	5th
5.1	69th	31	8th	75	10th
5.1.1	15th	31.1	6th	75.1	8th
6	87th	32	7th	75.2	12th
6.1	25th	33	6th	75.2.1	1st
6.2	Original	34	6th	76	5th
7	104th	35	3rd	77	3rd
8	48th	36	5th	1-1	4th
8.1	40th	37	5th	2-1	2nd
9	20th	38	8th	2-2	4th
9.0.0.1	Original	39	5th	2-3	Original
9.0.1	8th	40	7th	2-4	Original
9.0.2	4th	41	2nd	2-5	4th
9.0.3	6th	42	6th	2-6	1st
9.0.4	5th	43	9th	2-7	1st
9.0.5	8th*	44	7th	2-8	2nd
9.1	Original	45	7th	2-8.1	Original
10	1st	46	7th	2-9	Original
11	8th	47	2nd	2-10	Original
12	12th	48	3rd	2-11	Original
12.1	4th	49	7th	2-12	13th
13	14th	50	5th	2-12.0.1	7th
14	6th	51	8th	2-12.0.2	3rd
14.1	3rd	52	4th	2-12.1	14th
15	8th	53	4th	2-12.2	9th
16	3rd	54	8th	2-13	10th
17	12th	55	8th	2-13.1	1st
18	12th	56	5th	2-14	11th
18.1	4th	57	4th	2-15	13th
19	5th	58	4th	2-15.1	3rd
20	12th	59	7th	2-16	16th
21	12th	60	9th	2-16.1	Original
21.1	Original	61	3rd	2-17	14th
22	22nd	62	7th	2-17.1	5th
22.1	3rd	63	3rd	2-18	6th
23	7th	63.1	3rd	2-18.1	5th
24	7th	64	4th	2-18.2	5th
25	9th	65	7th	2-18.3	5th
26	Original	66	3rd	2-18.4	2nd
27	4th	67	7th	2-19	2nd
27.0.1	2nd	67.1	2nd		
27.1	3rd	68	4th		

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24-24	Original	25-37	Original		
24-25	Original	25-38	Original		
24-26	1st	25-39	Original		
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24-28	Original	25-41	Original		
24-29	1st	25-42	Original		
24-30	1st	25-43	Original		
24-31	1st	25-44	Original		
24-32	Original*	25-45	Original		
24-33	Original*	25-46	Original		
24-34	Original*	25-47	Original		
24-35	Original*	25-48	Original		
24-36	Original*	25-49	Original		
24-37	Original*	25-50	Original		
24-38	Original*	25-51	Original		
24-39	Original*	25-52	Original		
24-40	Original*	25-53	Original		
25-1	Original	25-54	Original		
25-2	Original	25-55	Original		
25-3	Original	25-56	Original		
25-4	Original	25-57	Original		
25-5	Original	25-58	Original		
25-6	Original	25-59	Original		
25-7	Original	26-1	Original*		
25-8	Original	26-2	Original*		
25-9	Original	26-3	Original*		
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*New or Revised Page

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ACCESS SERVICE (N)

24 – BellSouth Wire Center Information (N)

24.3 BellSouth SWA Metropolitan Statistical Area Wire Centers (N)

This section provides the Metropolitan Statistical Areas (MSAs) and associated wire centers in which the Company has received Phase I BellSouth SWA pricing flexibility pursuant to Subpart H of Part 69 of the Commission's Rules. Section 6 of this Tariff governs the offering of BellSouth SWA services in these MSAs. (N)

24.3.1 BellSouth SWA MSAs (N)

BellSouth SWA MSAs are those MSAs in which the Company has qualified for Phase I switched access pricing flexibility for common line, traffic sensitive switched access services, and the traffic sensitive components of tandem switched transport services. (N)

State	Wire Center CLLI	MSA Name	MSA Code	
AL	HLVIALMA	Montgomery	MTA	(N)
AL	MTGMAL10	Montgomery	MTA	(N)
AL	MTGMAL11	Montgomery	MTA	(N)
AL	MTGMAL12	Montgomery	MTA	(N)
AL	MTGMAL13	Montgomery	MTA	(N)
AL	MTGMALBI	Montgomery	MTA	(N)
AL	MTGMALDA	Montgomery	MTA	(N)
AL	MTGMALGM	Montgomery	MTA	(N)
AL	MTGMALMB	Montgomery	MTA	(N)
AL	MTGMALMT	Montgomery	MTA	(N)
AL	MTGMALNO	Montgomery	MTA	(N)
AL	PRVLALMA	Montgomery	MTA	(N)
AL	WTMPALMA	Montgomery	MTA	(N)

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ACCESS SERVICE (N)

24 – BellSouth Wire Center Information (N)

24.3.1 BellSouth SWA MSAs (Cont'd) (N)

State	Wire Center CLLI	MSA Name	MSA Code	
FL	BLDWFLMA	Jacksonville	JSV	(N)
FL	FRBHFLFP	Jacksonville	JSV	(N)
FL	FTGRFLMA	Jacksonville	JSV	(N)
FL	GCSPFLCN	Jacksonville	JSV	(N)
FL	JCBHFLAB	Jacksonville	JSV	(N)
FL	JCBHFLMA	Jacksonville	JSV	(N)
FL	JCBHFLSP	Jacksonville	JSV	(N)
FL	JCVLFLAR	Jacksonville	JSV	(N)
FL	JCVLFLAV	Jacksonville	JSV	(N)
FL	JCVLFLBW	Jacksonville	JSV	(N)
FL	JCVLFLCL	Jacksonville	JSV	(N)
FL	JCVLFLED	Jacksonville	JSV	(N)
FL	JCVLFLFC	Jacksonville	JSV	(N)
FL	JCVLFLGH	Jacksonville	JSV	(N)
FL	JCVLFLIA	Jacksonville	JSV	(N)
FL	JCVLFLJJ	Jacksonville	JSV	(N)
FL	JCVLFLJT	Jacksonville	JSV	(N)
FL	JCVLFLKJ	Jacksonville	JSV	(N)
FL	JCVLFLLF	Jacksonville	JSV	(N)
FL	JCVLFLMT	Jacksonville	JSV	(N)
FL	JCVLFLNO	Jacksonville	JSV	(N)
FL	JCVLFLOW	Jacksonville	JSV	(N)
FL	JCVLFLRV	Jacksonville	JSV	(N)
FL	JCVLFLSB	Jacksonville	JSV	(N)
FL	JCVLFLSE	Jacksonville	JSV	(N)
FL	JCVLFLSJ	Jacksonville	JSV	(N)
FL	JCVLFLSK	Jacksonville	JSV	(N)
FL	JCVLFLSM	Jacksonville	JSV	(N)
FL	JCVLFLWA	Jacksonville	JSV	(N)
FL	JCVLFLWC	Jacksonville	JSV	(N)
FL	JCVLFLWT	Jacksonville	JSV	(N)
FL	JCVLFLZL	Jacksonville	JSV	(N)
FL	KYHGFLMA	Jacksonville	JSV	(N)
FL	MDBGFLPM	Jacksonville	JSV	(N)
FL	MNDRFLAV	Jacksonville	JSV	(N)
FL	MNDRFLLO	Jacksonville	JSV	(N)
FL	MNDRFLLW	Jacksonville	JSV	(N)
FL	MXVLFLMA	Jacksonville	JSV	(N)
FL	ORPKFLMA	Jacksonville	JSV	(N)
FL	ORPKFLRW	Jacksonville	JSV	(N)
FL	PNVDFLMA	Jacksonville	JSV	(N)
FL	STAGFLBS	Jacksonville	JSV	(N)
FL	STAGFLMA	Jacksonville	JSV	(N)
FL	STAGFLSH	Jacksonville	JSV	(N)
FL	STAGFLWG	Jacksonville	JSV	(N)
FL	YULEFLMA	Jacksonville	JSV	(N)

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ACCESS SERVICE (N)

24 – BellSouth Wire Center Information (N)

24.3.1 BellSouth SWA MSAs (Cont'd) (N)

State	Wire Center CLLI	MSA Name	MSA Code	
FL	DRBHFLMA	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFL17	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLAI	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLAM	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLAP	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLCR	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLCY	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLEB	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLHQ	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLJA	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLMA	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLMR	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLOA	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLOV	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLPL	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLSF	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLSG	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLSU	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLTB	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLTT	Miami-Ft Lauderdale	MFH	(N)
FL	FTLDFLWN	Miami-Ft Lauderdale	MFH	(N)
FL	HLWDFLHA	Miami-Ft Lauderdale	MFH	(N)
FL	HLWDFLMA	Miami-Ft Lauderdale	MFH	(N)
FL	HLWDFLPE	Miami-Ft Lauderdale	MFH	(N)
FL	HLWDFLWH	Miami-Ft Lauderdale	MFH	(N)
FL	HMSTFLEA	Miami-Ft Lauderdale	MFH	(N)
FL	HMSTFLHM	Miami-Ft Lauderdale	MFH	(N)
FL	HMSTFLNA	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFL97	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLAC	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLAE	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLAL	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLAP	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLBA	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLBB	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLBC	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLBR	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLCA	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLDA	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLDB	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLFL	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLGR	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLHL	Miami-Ft Lauderdale	MFH	(N)

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ACCESS SERVICE (N)

24 – BellSouth Wire Center Information (N)

24.3.1 BellSouth SWA MSAs (Cont'd) (N)

State	Wire Center CLLI	MSA Name	MSA Code	
FL	MIAMFLIC	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLKE	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLLD	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLME	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLNM	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLNS	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLOL	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLPB	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLPL	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLQX	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLRR	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLSB	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLSH	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLSO	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLUJ	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLWD	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLWM	Miami-Ft Lauderdale	MFH	(N)
FL	MIAMFLYJ	Miami-Ft Lauderdale	MFH	(N)
FL	MIANFLYI	Miami-Ft Lauderdale	MFH	(N)
FL	MIANFLPV	Miami-Ft Lauderdale	MFH	(N)
FL	MIANFLWK	Miami-Ft Lauderdale	MFH	(N)
FL	MIAPFLYO	Miami-Ft Lauderdale	MFH	(N)
FL	NDADFLAC	Miami-Ft Lauderdale	MFH	(N)
FL	NDADFLBR	Miami-Ft Lauderdale	MFH	(N)
FL	NDADFLGG	Miami-Ft Lauderdale	MFH	(N)
FL	NDADFLOL	Miami-Ft Lauderdale	MFH	(N)
FL	NIANFLPV	Miami-Ft Lauderdale	MFH	(N)
FL	OJUSFLTL	Miami-Ft Lauderdale	MFH	(N)
FL	PMBHFLCS	Miami-Ft Lauderdale	MFH	(N)
FL	PMBHFLDR	Miami-Ft Lauderdale	MFH	(N)
FL	PMBHFLED	Miami-Ft Lauderdale	MFH	(N)
FL	PMBHFLFE	Miami-Ft Lauderdale	MFH	(N)
FL	PMBHFLMA	Miami-Ft Lauderdale	MFH	(N)
FL	PMBHFLNP	Miami-Ft Lauderdale	MFH	(N)
FL	PMBHFLTA	Miami-Ft Lauderdale	MFH	(N)
FL	PRRNFLMA	Miami-Ft Lauderdale	MFH	(N)

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ACCESS SERVICE

24 – BellSouth Wire Center Information

24.3.1 BellSouth SWA MSAs (Cont'd)

State	Wire Center CLLI	MSA Name	MSA Code
FL	EORNFLMA	Orlando	ORL
FL	[illegible]		

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ACCESS SERVICE (N)

24 – BellSouth Wire Center Information (N)

24.3.1 BellSouth SWA MSAs (Cont'd) (N)

State	Wire Center CLLI	MSA Name	MSA Code	
GA	ACWOGAMA	Atlanta	ATL	(N)
GA	ALPRGAHE	Atlanta	ATL	(N)
GA	ALPRGAMA	Atlanta	ATL	(N)
GA	ALTNGACS	Atlanta	ATL	(N)
GA	ASTLGAMA	Atlanta	ATL	(N)
GA	ATLAGADD	Atlanta	ATL	(N)
GA	ATLAGAKH	Atlanta	ATL	(N)
GA	ATLBGABU	Atlanta	ATL	(N)
GA	ATLBGACL	Atlanta	ATL	(N)
GA	ATLNGAAD	Atlanta	ATL	(N)
GA	ATLNGAB7	Atlanta	ATL	(N)
GA	ATLNGABH	Atlanta	ATL	(N)
GA	ATLNGABU	Atlanta	ATL	(N)
GA	ATLNGACA	Atlanta	ATL	(N)
GA	ATLNGACD	Atlanta	ATL	(N)
GA	ATLNGACH	Atlanta	ATL	(N)
GA	ATLNGACS	Atlanta	ATL	(N)
GA	ATLNGADK	Atlanta	ATL	(N)
GA	ATLNGADL	Atlanta	ATL	(N)
GA	ATLNGADZ	Atlanta	ATL	(N)
GA	ATLNGAEB	Atlanta	ATL	(N)
GA	ATLNGAEL	Atlanta	ATL	(N)
GA	ATLNGAEP	Atlanta	ATL	(N)
GA	ATLNGAFP	Atlanta	ATL	(N)
GA	ATLNGAGC	Atlanta	ATL	(N)
GA	ATLNGAGR	Atlanta	ATL	(N)
GA	ATLNGAGX	Atlanta	ATL	(N)
GA	ATLNGAHP	Atlanta	ATL	(N)
GA	ATLNGAHR	Atlanta	ATL	(N)
GA	ATLNGAHY	Atlanta	ATL	(N)
GA	ATLNGAIA	Atlanta	ATL	(N)
GA	ATLNGAIC	Atlanta	ATL	(N)
GA	ATLNGALA	Atlanta	ATL	(N)
GA	ATLNGALH	Atlanta	ATL	(N)
GA	ATLNGAMA	Atlanta	ATL	(N)
GA	ATLNGAMQ	Atlanta	ATL	(N)
GA	ATLNGANW	Atlanta	ATL	(N)
GA	ATLNGAPF	Atlanta	ATL	(N)

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ACCESS SERVICE (N)

24 – BellSouth Wire Center Information (N)

24.3.1 BellSouth SWA MSAs (Cont'd) (N)

State	Wire Center CLLI	MSA Name	MSA Code	
GA	ATLNGAPK	Atlanta	ATL	(N)
GA	ATLNGAPP	Atlanta	ATL	(N)
GA	ATLNGAPX	Atlanta	ATL	(N)
GA	ATLNGAQS	Atlanta	ATL	(N)
GA	ATLNGARM	Atlanta	ATL	(N)
GA	ATLNGASS	Atlanta	ATL	(N)
GA	ATLNGATH	Atlanta	ATL	(N)
GA	ATLNGATL	Atlanta	ATL	(N)
GA	ATLNGAWD	Atlanta	ATL	(N)
GA	ATLNGAWE	Atlanta	ATL	(N)
GA	ATLNGAWO	Atlanta	ATL	(N)
GA	BUFRGABH	Atlanta	ATL	(N)
GA	CHMBGAMA	Atlanta	ATL	(N)
GA	CLTHGAHS	Atlanta	ATL	(N)
GA	CMNGGAMA	Atlanta	ATL	(N)
GA	CNYRGAMA	Atlanta	ATL	(N)
GA	CVTNGAMT	Atlanta	ATL	(N)
GA	DGVLGAIA	Atlanta	ATL	(N)
GA	DGVLGAMA	Atlanta	ATL	(N)
GA	DLLSGAES	Atlanta	ATL	(N)
GA	DLTHGAHS	Atlanta	ATL	(N)
GA	DNWDGAMA	Atlanta	ATL	(N)
GA	DNWDGAMC	Atlanta	ATL	(N)
GA	FRBNGAEB	Atlanta	ATL	(N)
GA	FYVLGASG	Atlanta	ATL	(N)
GA	HMPNGAJW	Atlanta	ATL	(N)
GA	JCSNGAMA	Atlanta	ATL	(N)
GA	JNBOGAMA	Atlanta	ATL	(N)
GA	LGVLGACS	Atlanta	ATL	(N)
GA	LLBNGAMA	Atlanta	ATL	(N)
GA	LRVLGAOS	Atlanta	ATL	(N)
GA	LTHNGAJS	Atlanta	ATL	(N)
GA	MCDNGAGS	Atlanta	ATL	(N)
GA	MNTIGAMA	Atlanta	ATL	(N)
GA	MRRWGAMA	Atlanta	ATL	(N)
GA	MRTTGAEA	Atlanta	ATL	(N)
GA	MRTTGAFS	Atlanta	ATL	(N)
GA	MRTTGAMA	Atlanta	ATL	(N)

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ACCESS SERVICE (N)

24 – BellSouth Wire Center Information (N)

24.2.1 Full Service Relief MSA's (Cont'd) (N)

State	Wire Center CLLI	MSA Name	MSA Code	
GA	NRCRGAHK	Atlanta	ATL	(N)
GA	NRCRGAIS	Atlanta	ATL	(N)
GA	NRCRGAMA	Atlanta	ATL	(N)
GA	NRCRGAQD	Atlanta	ATL	(N)
GA	NRCRGATL	Atlanta	ATL	(N)
GA	PANLGAMA	Atlanta	ATL	(N)
GA	PLMTGAMA	Atlanta	ATL	(N)
GA	PTCYGAMA	Atlanta	ATL	(N)
GA	PWSPGAAS	Atlanta	ATL	(N)
GA	RSWLGADI	Atlanta	ATL	(N)
GA	RSWLGAMA	Atlanta	ATL	(N)
GA	RVDLGAMA	Atlanta	ATL	(N)
GA	SCCRGAMA	Atlanta	ATL	(N)
GA	SMNTGALR	Atlanta	ATL	(N)
GA	SMYRGACS	Atlanta	ATL	(N)
GA	SMYRGADT	Atlanta	ATL	(N)
GA	SMYRGAFE	Atlanta	ATL	(N)
GA	SMYRGAGP	Atlanta	ATL	(N)
GA	SMYRGAHR	Atlanta	ATL	(N)
GA	SMYRGAMA	Atlanta	ATL	(N)
GA	SMYRGAPF	Atlanta	ATL	(N)
GA	SMYRGAPK	Atlanta	ATL	(N)
GA	SNLVGAMA	Atlanta	ATL	(N)
GA	SNMTGALR	Atlanta	ATL	(N)
GA	SNSPGARR	Atlanta	ATL	(N)
GA	STBRGANH	Atlanta	ATL	(N)
GA	STLNGACS	Atlanta	ATL	(N)
GA	SYMRGAPF	Atlanta	ATL	(N)
GA	TUKRGADC	Atlanta	ATL	(N)
GA	TUKRGAMA	Atlanta	ATL	(N)
GA	VLRCGAES	Atlanta	ATL	(N)
GA	WDSTGACR	Atlanta	ATL	(N)
GA	CLMBGAAT	Columbus	COL	(N)
GA	CLMBGABV	Columbus	COL	(N)
GA	CLMBGACZ	Columbus	COL	(N)
GA	CLMBGADH	Columbus	COL	(N)
GA	CLMBGAFN	Columbus	COL	(N)
GA	CLMBGAMT	Columbus	COL	(N)
GA	CLMBGAMW	Columbus	COL	(N)
GA	CSSTGAMA	Columbus	COL	(N)
GA	HRBOALOM	Columbus	COL	(N)
GA	PHCYALFM	Columbus	COL	(N)
GA	PHCYALMA	Columbus	COL	(N)

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ACCESS SERVICE

24 – BellSouth Wire Center Information

24.3.1 BellSouth SWA MSAs (Cont'd) (N)

State	Wire Center CLLI	MSA Name	MSA Code	
LA	BRSSLAMA	Lafayette	LAF	(N)
LA	CRNCLAMA	Lafayette	LAF	(N)
LA	DUSNLAMA	Lafayette	LAF	(N)
LA	LFYTLA17	Lafayette	LAF	(N)
LA	LFYTLAAT	Lafayette	LAF	(N)
LA	LFYTLACL	Lafayette	LAF	(N)
LA	LFYTLAMA	Lafayette	LAF	(N)
LA	LFYTLAVM	Lafayette	LAF	(N)
LA	OPLSLATL	Lafayette	LAF	(N)
LA	SCTTLAAF	Lafayette	LAF	(N)
LA	SMVLLAMA	Lafayette	LAF	(N)
LA	YNVLLAMA	Lafayette	LAF	(N)

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ACCESS SERVICE (N)

26 – BELLSOUTH SWA CONTRACT TARIFFS (N)

26.1 BellSouth SWA Contract Tariff No. 2002-01 (N)

26.1.1 General Regulations (N)

(A) The start date of BellSouth SWA Contract Tariff No. 2002-01 is the first bill period following subscription to this contract tariff. (N)

(B) BellSouth SWA Contract Tariff No. 2002-01 shall terminate on July 22, 2007. (N)

(C) The regulations, terms, conditions and volume discounts provided herein shall apply to the customer's applicable BellSouth SWA usage and revenues achieved in the Metropolitan Statistical Areas (MSAs) defined below: (N)

(1) Montgomery, Alabama (N)
(2) Jacksonville, Florida (N)
(3) Miami/Ft. Lauderdale/Hollywood, Florida (N)
(4) Orlando, Florida (N)
(5) Panama City, Florida (N)
(6) Atlanta, Georgia (N)
(7) Columbus, Georgia (N)
(8) LaFayette, Louisiana (N)

The BellSouth wire centers associated with the above MSAs are as set forth in Section 24 of this Tariff. (N)

(D) A customer that is similarly situated may subscribe within a period of thirty (30) days following the effective date of BellSouth SWA Contract Tariff No. 2002-01. (N)

26.1.2 Subscription Conditions (N)

(A) To subscribe to BellSouth SWA Contract Tariff No. 2002-01, the customer and the Telephone Company must execute a Letter of Agreement. The Telephone Company shall provide a Letter of Agreement for the customer to execute. The Letter of Agreement shall contain: (N)

(1) BellSouth SWA Contract Tariff Number (N)
(2) Start and termination date of BellSouth SWA Contract Tariff (N)
(3) Customer's Name and Billing Address (N)
(4) Billing Account Number the credit will be applied (N)
(5) Access Customer Name Abbreviations (ACNAs) and Customer Identifications Codes (CICs) to be included in the BellSouth SWA Contract Tariff (N)
(6) BellSouth SWA Contract Tariff term (i.e., 36, 48 or 60 months) (N)
(7) MSAs included in the BellSouth SWA Contract Tariff (N)
(8) Minimum Usage Discount Table (N)

****

ACCESS SERVICE (N)

26 – BELLSOUTH SWA CONTRACT TARIFFS (N)

26.1 BellSouth SWA Contract Tariff No. 2002-01 (Cont'd) (N)

26.1.2 Subscription Conditions (Cont'd) (N)

(B) To subscribe to BellSouth SWA Contract Tariff No. 2002-01, the customer must have been a BellSouth SWA customer for the previous 18-months. (N)

(C) When the customer subscribes to BellSouth SWA Contract Tariff No. 2002-01, the customer must identify to the Telephone Company, all Access Customer Name Abbreviations (ACNAs) and Carrier Identification Codes (CICs) to be included in BellSouth SWA Contract Tariff No. 2002-01. (N)

(D) The customer must be the billing responsible party for all BellSouth SWA billing elements associated with the ACNAs and CICs included in BellSouth SWA Contract No. 2002-01. (N)

(E) Any additions after the Letter of Agreement is executed will be handled as a merger or acquisition or transfer of service regulations as set forth in 26.1.3 following. (N)

(F) A customer subscribing to BellSouth SWA Contract Tariff No. 2002-01 may not subscribe to any other BellSouth SWA Contract Tariff that contains services as set forth in (G) following. (N)

(G) The following BellSouth SWA services, provided in the MSAs as described in 26.1.1(C) preceding, will be used in determining the BellSouth SWA revenues that are eligible to receive the volume discount based on the established minimum local switching usage. (N)

- BellSouth SWA Common Transport Service
  - Facility Termination, per minute of use
  - Per Mile, per minute of use
  - DS3 to DS1 Multiplexer, per minute of use
  - DS1 to VG Multiplexer, per minute of use
- Access Tandem Switching
  - Dedicated Tandem Trunk Port Service
    - Per DSO/VG trunk port required
    - Per DS1 trunk port required
  - DS1 to VG Channelization
- Local Switching
  - Local Switching 1
  - Local Switching 2
  - Local Switching 3
  - Local Switching 4
  - Common Trunk Port Service
    - Per each Common Transport trunk termination, per minute of use
  - Dedicated End Office Trunk Port Service
    - Per DSO/VG trunk port required
    - Per DS1 trunk port required

(N)

(H) A customer may not combine its local switching minutes of use with another customer, whether an individual, partnership, association or corporation, for the purpose of meeting the established minimum local switching usage, as set forth in 26.1.5(B) following. (N)

****

ACCESS SERVICE (N)

26 – BELLSOUTH SWA CONTRACT TARIFFS (N)

26.1 BellSouth SWA Contract Tariff No. 2002-01 (Cont'd) (N)

26.1.2 Subscription Conditions (Cont'd) (N)

(I) Cancellation of BellSouth SWA Contract Tariff No. 2002-01 (N)

(1) Except as set forth in (3) following, during the term period of BellSouth SWA Contract Tariff No.2002-01, a customer may cancel this BellSouth SWA Contract Tariff and subsequently subscribe to another BellSouth SWA Contract Tariff only one time. (N)

(2) Cancellation of BellSouth SWA Contract Tariff No. 2002-01 and subscription to another BellSouth SWA Contract Tariff is allowed only on the anniversary date of BellSouth SWA Contract Tariff No. 2002-01 and upon meeting one of the following conditions: (N)

(a) During the first year of BellSouth SWA Contract Tariff No. 2002-01, the local switching usage achieved is 10 percent below the minimum usage; (N)

(b) During the remaining years of BellSouth SWA Contract Tariff No. 2002-01, the local switching usage is below the minimum usage. (N)

(c) Local switching usage exceeds the discount usage cap. (N)

(d) Customer adds CIC codes that are desired to become part of the volume discount contract tariff. (N)

(3) During the term period of BellSouth SWA Contract Tariff No.2002-01, a customer may cancel and subscribe to another Contract Tariff if Switched Access Pricing Flexibility is allowed in additional MSAs and the customer desires to participate. (N)

(a) Cancellation of and subscription to another BellSouth SWA Contract Tariff is allowed only on the anniversary date of BellSouth SWA Contract Tariff No. 2002-01; (N)

(b) The term of the new Contract Tariff will be the remaining years of BellSouth SWA Contract Tariff No. 2002-01. (N)

(J) Rates and charges for the BellSouth SWA services included in BellSouth SWA Contract Tariff No. 2002-01 are as set forth in Section 6 of this Tariff. General regulations and ordering options for the BellSouth SWA services are as set forth in Section 2 and Section 5 of this Tariff. (N)

26.1.3 Mergers and Acquisitions and Transfer of Service (N)

(A) In the event the customer merges with another company or is acquired by another company; the following regulations will apply: (N)

(1) The customer may elect to terminate subscription to BellSouth SWA Contract Tariff No. 2002-01. (N)

(2) The customer may not combine revenues with the merged or acquired company's revenues for the purpose of obtaining volume discounts provided under BellSouth SWA Contract Tariff No. 2002-01. (N)

****

ACCESS SERVICE (N)

26 – BELLSOUTH SWA CONTRACT TARIFFS (N)

26.1 BellSouth SWA Contract Tariff No. 2002-01 (Cont'd) (N)

26.1.3 Mergers and Acquisitions and Transfer of Service (Cont'd) (N)

(A) (Cont'd) (N)

(3) The customer may continue subscribing to BellSouth SWA Contract Tariff No. 2002-01 for the duration of the contract term provided that the customer continues the subscription as if it were the same entity that existed prior to the merger or acquisition. (N)

(B) If customer requests a transfer of service, pursuant to Transfer of Service regulations in Section 2 and Section 6 of this Tariff, the customer's subscription to BellSouth SWA Contract Tariff No. 2002-01 shall be terminated. (N)

26.1.4 BellSouth SWA Revenue Volume Discounts (N)

(A) Each year of BellSouth SWA Contract Tariff No. 2002-01 is defined as twelve (12) consecutive bill periods. For purposes of calculating the BellSouth SWA volume discounts, month 1 is the bill period after the beginning date of BellSouth SWA Contract Tariff No. 2002-01. For example, if the beginning date of BellSouth SWA Contract Tariff No. 2002-01 is June 6, 2002 bill period, then month 1 for purposes of calculating the BellSouth SWA volume discounts will be the July 6, 2002 bill period. (N)

(B) The BellSouth SWA volume discounts provided herein will be determined during the first month after the end of each year of the BellSouth SWA Contract Tariff No. 2002-01. During the second month following the end of each year of the BellSouth SWA Contract Tariff No. 2002-01, the BellSouth SWA volume discounts will be applied via a credit to the customer's bill. (N)

(C) True-up provisions will be made during the first quarter after the termination date of BellSouth SWA Contract No. 2002-01. (N)

(D) The BellSouth SWA volume discounts are applicable to the usage sensitive and recurring revenues of the BellSouth SWA services as set forth in 26.1.2(G) preceding. (N)

(E) The BellSouth SWA volume discounts specified in BellSouth SWA Contract Tariff No. 2002-01 will not be applied to taxes and nonrecurring BellSouth SWA revenues. (N)

(F) The BellSouth SWA services to which the volume discounts provided under BellSouth SWA Contract Tariff No. 2002-01 apply shall only be subject to service assurance warranty regulations specified in 2.4.4(B) of this Tariff. (N)

****

ACCESS SERVICE (N)

26 – BELLSOUTH SWA CONTRACT TARIFFS (N)

26.1 BellSouth SWA Contract Tariff No. 2002-01 (Cont'd) (N)

26.1.5 BellSouth SWA Contract Tariff No. 2002-01 Volume Discount Plan (N)

(A) BellSouth SWA Contract Tariff No. 2002-01 provides for annual volume discounts based upon annual local switching minutes of use (MOU) above a stated minimum usage for the MSAs as set forth in 26.1.1(C) preceding. Annual volume discounts will be determined by the local switching usage volume and the year of the contract in which the local switching usage volume is achieved. (N)

(B) The minimum usage and the achievable volume discounts associated with the BellSouth SWA services, in the qualifying MSAs, are shown in the table below. Volume discounts are not applicable to any usage levels outside of the MOU usage ranges stated in table below: (N)

Minimum Usage (MOU)	Usage Ranges (MOU)	Volume Discount Percentages					
		Year 1	Year 2	Year 3	Year 4	Year 5	(N)
3,385,697,632	3,385,697,632 – 3,453,411,585	7%	-	-	-	-	(N)
	>3,453,411,585 – 3,724,267,396	10%	15%	20%	-	-	(N)
	>3,724,267,396 – 4,401,406,922	15%	20%	25%	30%	35%	(N)

(C) The annual local switching usage included in BellSouth SWA Contract Tariff No. 2002-01 eligible for volume discount is determined by subtracting the minimum usage from the achieved local switching usage for each year. (N)

(D) Dividing the annual local switching usage eligible for volume discount for a given year of BellSouth SWA Contract Tariff No. 2002-01 by the minimum local switching usage will develop the usage factor. (N)

(E) A usage factor (greater than zero) will be applied to the eligible BellSouth SWA revenue generated by the BellSouth SWA services identified in 26.1.2(G) preceding. This calculation produces the annual revenue eligible for discount. (N)

(F) The discount percent achieved, as set forth in (B) preceding, is based upon the minimum usage required, the usage factor achieved and the term year. (N)

(G) The volume discount received for a given year under BellSouth SWA Contract Tariff No. 2002-01 is determined by multiplying the eligible BellSouth SWA revenue times the discount factor achieved. (N)

****

ACCESS SERVICE (N)

26 – BELLSOUTH SWA CONTRACT TARIFFS (N)

26.1 BellSouth SWA Contract Tariff No. 2002-01 (Cont'd) (N)

26.1.5 BellSouth SWA Contract Tariff No. 2002-01 Incentive Plan Cont'd) (N)

(H) Following is an example of how the annual BellSouth SWA volume discount will be determined. (N)

BellSouth SWA Contract Tariff No. 2002-01 Volume Discount Calculation (N)

Customer Information (N)

Customer subscribed to a five year BellSouth SWAContract Tariff No. 2002-01 and is in the 4th year of the contract term. The customer's local switching minimum usage is 5,000,000,000 minutes of use. The annual local switching usage for year 4 is 5,750,000,000 minutes of use and the eligible BellSouth SWA revenues for year 4 is $25,000,000. (N)

Year 4 Usage Eligible for Discount = Year 4 Usage - Minimum Usage (N)

= 5.75B MOU - 5B MOU (N)

= 750M MOU (N)

Year 4 Usage Factor = Year 4 Annual Usage / Minimum Usage (N)

= 750M MOU / 5B MOU (N)

= .15 (N)

Year 4 Revenue Eligible for Discount = Year 4 Usage Factor X Year 4 eligible BellSouth SWA Revenue (N)

= .15 X $25,000,000 (N)

= $3,750,000 (N)

Year 4 Volume Discount = Year 4 Revenue Eligible for Discount X Discount Factor (N)

= $3,750,000 X .30 (N)

= $1,125,000 (N)

****

EXHIBIT 3

TARIFF DISTRIBUTION

FILE CODE: 680.3400 FILE PACKAGE NO.: AL2002-049

DATE: June 17, 2002

STATE: ALABAMA

EFFECTIVE DATE: 06/17/2002

TYPE OF DISTRIBUTION: Approved

PURPOSE: Introduction of BellSouth SWA Contract Tariffs, Section 26

TARIFF SECTION	PAGE NUMBER	PAGE REVISION
E026	1	01
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E26. BELLSOUTH SWA CONTRACT TARIFFS (C)

CONTENTS

E26. BELLSOUTH SWA CONTRACT TARIFFS (C)

E26.1 BellSouth SWA Contract Tariff No. AL2002-01 (N)

E26.1.1 General Regulations (N)

A. The term beginning date of BellSouth SWA Contract Tariff No. AL2002-01 is the first bill period following subscription to this contract tariff. (N)

B. BellSouth SWA Contract Tariff No. AL2002-01 is valid for a period of 60 months and shall terminate on August 17, 2007. (N)

C. The regulations, terms, conditions and volume discounts provided herein shall apply to the customer's applicable BellSouth SWA usage and revenues achieved in the sate of Alabama. (N)

D. A customer that is similarly situated may subscribe within a period of thirty (30) days following the effective date of BellSouth SWA Contract Tariff No. AL2002-01. (N)

E26.1.2 Subscription Conditions (N)

A. To subscribe to BellSouth SWA Contract Tariff No. AL2002-01, the customer and the Company must execute a Letter of Agreement. The Company shall provide a Letter of Agreement for the customer to execute. The Letter of Agreement shall contain: (N)

1. BellSouth SWA Contract Tariff Number (N)
2. Start and termination date of BellSouth SWA Contract Tariff (N)
3. Customer's Name and Billing Address (N)
4. Billing Account Number the credit will be applied (N)
5. Access Customer Name Abbreviations (ACNAs) and Customer Identifications Codes (CICs) to be included in the BellSouth SWA Contract Tariff (N) (N)
6. BellSouth SWA Contract Tariff term (i.e., 36, 48 or 60 months) (N)
7. Minimum Usage Discount Table (N)

B. To subscribe to BellSouth SWA Contract Tariff No. AL2002-01, the customer must have been a BellSouth SWA customer for the previous 18-months. (N)

C. When the customer subscribes to BellSouth SWA Contract Tariff No. AL2002-01, the customer must identify to the Company, all Access Customer Name Abbreviations (ACNAs) and Carrier Identification Codes (CICs) to be included in BellSouth SWA Contract Tariff No. AL2002-01. (N)

D. The customer must be the billing responsible party for all BellSouth SWA billing elements associated with the ACNAs and CICs included in BellSouth SWA Contract No. AL2002-01. (N)

E. Any additions after the Letter of Agreement is executed will be handled as a merger or acquisition or transfer of service regulations as set forth in E26.1.3 following. (N)

F. A customer subscribing to BellSouth SWA Contract Tariff No. AL2002-01 may not subscribe to any other BellSouth SWA Contract Tariff that contains services as set forth in G. following. (N)

G. The following BellSouth SWA services will be used in determining the BellSouth SWA revenues that are eligible to receive the volume discount based on the established minimum local switching usage. (N)

1. BellSouth SWA Common Transport Service (N)
   - Facility Termination, per minute of use (N)
   - Per Mile, per minute of use (N)
   - DS3 to DS1 Multiplexer, per minute of use (N)
   - DS1 to VG Multiplexer, per minute of use (N)
2. Access Tandem Switching (N)
   - Dedicated Tandem Trunk Port Service (N)
     - Per DSO/VG trunk port required (N)
     - Per DS1 trunk port required (N)
   - DS1 to VG Channelization (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. AL2002-01 (Cont'd) (N)

E26.1.2 Subscription Conditions (Cont'd) (N)

G. (Cont'd) (N)

3. Local Switching (N)
   - Local Switching 1 (N)
   - Local Switching 2 (N)
   - Local Switching 3 (N)
   - Local Switching 4 (N)
   - Common Trunk Port Service (N)
     - Per each Common Transport trunk termination, per minute of use (N)
   - Dedicated End Office Trunk Port Service (N)
     - Per DSO/VG trunk port required (N)
     - Per DS1 trunk port required (N)

H. A customer may not combine its local switching minutes of use with another customer, whether an individual, partnership, association or corporation, for the purpose of meeting the established minimum local switching usage, as set forth in E26.1.5.B. following. (N)

I. Cancellation of BellSouth SWA Contract Tariff No. AL2002-01 (N)

1. During the term period of BellSouth SWA Contract Tariff No. AL2002-01, a customer may one time cancel and subsequently subscribe to another Contract Tariff. (N)
2. Cancellation of and subscription to another BellSouth SWA Contract Tariff is allowed only on the anniversary date of BellSouth SWA Contract Tariff No. AL2002-01 and upon meeting one of the following conditions: (N)
   a. During the first year of BellSouth SWA Contract Tariff No. AL2002-01, the local switching usage achieved is 10 percent below the minimum usage; (N)
   b. During the remaining years of BellSouth SWA Contract Tariff No. AL2002-01, the local switching usage is below the minimum usage. (N)
   c. Local switching usage exceeds the discount usage cap. (N)
   d. Customer adds CIC codes that are desired to become part of the volume discount contract tariff. (N)

J. Rates and charges for the BellSouth SWA services included in BellSouth SWA Contract Tariff No. AL2002-01 are as set forth in Section E6 of this Tariff. General regulations and ordering options for the BellSouth SWA services are as set forth in Sections E2 and E5 of this Tariff. (N)

E26.1.3 Mergers and Acquisitions and Transfer of Service (N)

A. In the event the customer merges with another company or is acquired by another company; the following regulations will apply: (N)

1. The customer may elect to terminate subscription to BellSouth SWA Contract Tariff No. AL2002-01. (N)
2. The customer may not combine revenues with the merged or acquired company's revenues for the purpose of obtaining volume discounts provided under BellSouth SWA Contract Tariff No. AL2002-01. (N)
3. The customer may continue subscribing to BellSouth SWA Contract Tariff No. AL2002-01 for the duration of the contract term provided that the customer continues the subscription as if it were the same entity that existed prior to the merger or acquisition. (N)

B. If customer requests a transfer of service, pursuant to Transfer of Service regulations in Sections E2 and E6 of this Tariff, the customer's subscription to BellSouth SWA Contract Tariff No. AL2002-01 shall be terminated. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. AL2002-01 (Cont'd) (N)

E26.1.4 BellSouth SWA Revenue Volume Discounts (N)

A. Each year of BellSouth SWA Contract Tariff No. AL2002-01 is defined as twelve (12) consecutive bill periods. For purposes of calculating the BellSouth SWA volume discounts, month 1 is the bill period after the beginning date of BellSouth SWA Contract Tariff No. AL2002-01. For example, if the beginning date of BellSouth SWA Contract Tariff No. AL2002-01 is June 6, 2002 bill period, then month 1 for purposes of calculating the BellSouth SWA volume discounts will be the July 6, 2002 bill period. (N)

B. The BellSouth SWA volume discounts provided herein will be determined during the first month after the end of each year of the BellSouth SWA Contract Tariff No. AL2002-01. During the second month following the end of each year of the BellSouth SWA Contract Tariff No. AL2002-01, the BellSouth SWA volume discounts will be applied via a credit to the customer's bill. (N)

C. True-up provisions will be made during the first quarter after the termination date of BellSouth SWA Contract No. AL2002-01. (N)

D. The BellSouth SWA volume discounts are applicable to the usage sensitive and recurring revenues of the BellSouth SWA services are as set forth in E26.1.2.G. preceding. (N)

E. The BellSouth SWA volume discounts specified in BellSouth SWA Contract Tariff No. AL2002-01 will not be applied to taxes and nonrecurring BellSouth SWA revenues. (N)

F. The BellSouth SWA services to which the volume discounts provided under BellSouth SWA Contract Tariff No. AL2002-01 apply shall only be subject to service assurance warranty regulations specified in E2.4.4 of this Tariff. (N)

E26.1.5 BellSouth SWA Contract Tariff No. AL2002-01 Volume Discount Plan (N)

A. BellSouth SWA Contract Tariff No. AL2002-01 provides for annual volume discounts based upon annual local switching minutes of use (MOU) above a stated minimum usage. Annual volume discounts will be determined by the local switching usage volume and the year of the contract in which the local switching usage volume is achieved. (N)

B. The minimum usage and the achievable volume discounts associated with the BellSouth SWA services are shown in the table below. Volume discounts are not applicable to any usage levels outside of the MOU usage ranges stated in table below: (N)

Minimum Usage (MOU)	Usage Ranges (MOU)	Volume Discount Percentages					
		Year 1	Year 2	Year 3	Year 4	Year 5	(N)
96,853,721	96,853,721 – 98,790,795	7%	-	-	-	-	(N)
	>98,790,796 – 106,539,093	10%	15%	20%	-	-	(N)
	>106,539,094 – 125,909,837	15%	20%	25%	30%	35%	(N)

C. The annual local switching usage included in BellSouth SWA Contract Tariff No. AL2002-01 eligible for volume discount is determined by subtracting the minimum usage from the achieved local switching usage for each year. (N)

D. Dividing the annual local switching usage eligible for volume discount for a given year of BellSouth SWA Contract Tariff No. AL2002-01 by the minimum local switching usage will develop the usage factor. (N)

E. A usage factor (greater than zero) will be applied to the eligible BellSouth SWA revenue generated by the BellSouth SWA services identified in E26.1.2.G. preceding. This calculation produces the annual revenue eligible for discount. (N)

F. The discount percent achieved, as set forth in B. preceding, is based upon the minimum usage required, the usage factor achieved and the term year. (N)

G. The volume discount received for a given year under BellSouth SWA Contract Tariff No. AL2002-01 is determined by multiplying the eligible BellSouth SWA revenue times the discount factor achieved. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. AL2002-01 (Cont'd) (N)

E26.1.5 BellSouth SWA Contract Tariff No. AL2002-01 Volume Discount Plan (Cont'd) (N)

H. Following is an example of how the annual BellSouth SWA volume discount will be determined. (N)

BellSouth SWA Contract Tariff No. 2002-01 Volume Discount Calculation (N)

Customer Information (N)

Customer subscribed to a five year BellSouth SWA Contract Tariff No. AL2002-01 and is in the 4th year of the contract term. The customer's local switching minimum usage is 5,000,000,000 minutes of use. The annual local switching usage for year 4 is 5,750,000,000 minutes of use and the eligible BellSouth SWA revenues for year 4 is $25,000,000. (N)

Year 4 Usage = Year 4 Usage - Minimum Usage (N)

= 5.75B MOU - 5B MOU (N)

= 750M MOU (N)

Year 4 Usage Factor = $\frac{\text{Year 4 Annual Usage}}{\text{Minimum Usage}}$ (N)

= $\frac{\text{750M MOU}}{\text{5B MOU}}$ (N)

= .15 (N)

Year 4 Revenue Eligible = Year 4 Usage Factor X Year 4 eligible BellSouth SWA Revenue (N)

= .15 X $25,000,000 (N)

= $3,750,000 (N)

Year 4 Volume Discount = Year 4 Revenue Eligible for Discount X Discount Factor (N)

= $3,750,000 X .30 (N)

= $1,125,000 (N)

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SUBJECT INDEX

B.

EXHIBIT 4

TARIFF DISTRIBUTION

FILE CODE: 680.3400	FILE PACKAGE NO.: FL2002-105
DATE:	June 20, 2002
STATE:	FLORIDA
EFFECTIVE DATE:	06/17/2002
TYPE OF DISTRIBUTION:	Approved

PURPOSE: BellSouth SWA Contract Tariff No. FL2002-01

TARIFF SECTION	PAGE NUMBER	PAGE REVISION
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E24. RESERVED FOR FUTURE USE (N)

E25. RESERVED FOR FUTURE USE (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

CONTENTS (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

E26.1 BellSouth SWA Contract Tariff No. FL2002-01 (N)

E26.1.1 General Regulations (N)

A The start date of BellSouth SWA Contract Tariff No. FL2002-01 is the first bill period following subscription to this contract tariff. (N)

B BellSouth SWA Contract Tariff No FL2002-01 shall terminate on August 13, 2007 (N)

C The regulations, terms, conditions and volume discounts provided herein shall apply to the customer's applicable BellSouth SWA usage and revenues achieved in the sate of Florida (N)

D. A customer that is similarly situated may subscribe within a period of thirty (30) days following the effective date of BellSouth SWA Contract Tariff No FL2002-01. (N)

E26.1.2 Subscription Conditions (N)

A To subscribe to BellSouth SWA Contract Tariff No FL2002-01, the customer and the Company must execute a Letter of Agreement. The Company shall provide a Letter of Agreement for the customer to execute. The Letter of Agreement shall contain· (N)

1 BellSouth SWA Contract Tariff Number (N)
2. Start and termination date of BellSouth SWA Contract Tariff (N)
3 Customer's Name and Billing Address (N)
4 Billing Account Number the credit will be applied (N)
5 Access Customer Name Abbreviations (ACNAs) and Customer Identifications Codes (CICs) to be included in the BellSouth SWA Contract Tariff (N) (N)
6. BellSouth SWA Contract Tariff term (i e., 36, 48 or 60 months) (N)
7. Minimum Usage Discount Table (N)

B. To subscribe to BellSouth SWA Contract Tariff No FL2002-01, the customer must have been a BellSouth SWA customer for the previous 18-months. (N)

C. When the customer subscribes to BellSouth SWA Contract Tariff No. FL2002-01, the customer must identify to the Company, all Access Customer Name Abbreviations (ACNAs) and Carrier Identification Codes (CICs) to be included in BellSouth SWA Contract Tariff No. FL2002-01. (N)

D The customer must be the billing responsible party for all BellSouth SWA billing elements associated with the ACNAs and CICs included in BellSouth SWA Contract No. FL2002-01. (N)

E Any additions after the Letter of Agreement is executed will be handled as a merger or acquisition or transfer of service regulations as set forth in E26 1 3 following (N)

F. A customer subscribing to BellSouth SWA Contract Tariff No FL2002-01 may not subscribe to any other BellSouth SWA Contract Tariff that contains services as set forth in G. following (N)

G The following BellSouth SWA services will be used in determining the BellSouth SWA revenues that are eligible to receive the volume discount based on the established minimum local switching usage (N)

1. BellSouth SWA Common Transport Service (N)
   - Facility Termination, per minute of use (N)
   - Per Mile, per minute of use (N)
   - DS3 to DS1 Multiplexer, per minute of use (N)
   - DS1 to VG Multiplexer, per minute of use (N)
2. Access Tandem Switching (N)
   - Dedicated Tandem Trunk Port Service (N)
     - Per DS0/VG trunk port required (N)
     - Per DS1 trunk port required (N)
   - DS1 to VG Channelization (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. FL2002-01 (Cont'd) (N)

E26.1.2 Subscription Conditions (Cont'd) (N)

G. (Cont'd) (N)

3. Local Switching (N)

Local Switching 1 (N)

Local Switching 2 (N)

Local Switching 3 (N)

Local Switching 4 (N)

Common Trunk Port Service (N)

Per each Common Transport trunk termination, per minute of use (N)

Dedicated End Office Trunk Port Service (N)

Per DSO/VG trunk port required (N)

Per DS1 trunk port required (N)

H A customer may not combine its local switching minutes of use with another customer, whether an individual, partnership, association or corporation, for the purpose of meeting the established minimum local switching usage, as set forth in E26.1.5 B. following (N)

I Cancellation of BellSouth SWA Contract Tariff No. FL2002-01 (N)

1 During the term period of BellSouth SWA Contract Tariff No FL2002-01, a customer may cancel BellSouth Contract Tariff No FL2002-01 and subsequently subscribe to another BellSouth SWA Contract Tariff only one time (N)

2 Cancellation of BellSouth SWA Contract Tariff No. FL2002-01 and subscription to another BellSouth SWA Contract Tariff is allowed only on the anniversary date of BellSouth SWA Contract Tariff No. FL2002-01 and upon meeting one of the following conditions: (N)

a During the first year of BellSouth SWA Contract Tariff No. FL2002-01, the local switching usage achieved is 10 percent below the minimum usage, (N)

b During the remaining years of BellSouth SWA Contract Tariff No FL2002-01, the local switching usage is below the minimum usage. (N)

c Local switching usage exceeds the discount usage cap. (N)

d Customer adds CIC codes that are desired to become part of the volume discount contract tariff (N)

J. Rates and charges for the BellSouth SWA services included in BellSouth SWA Contract Tariff No. FL2002-01 are as set forth in Section E6 of this Tariff. General regulations and ordering options for the BellSouth SWA services are as set forth in Sections E2. and E5 of this Tariff. (N)

E26.1.3 Mergers and Acquisitions and Transfer of Service (N)

A In the event the customer merges with another company or is acquired by another company; the following regulations will apply (N)

1 The customer may elect to terminate subscription to BellSouth SWA Contract Tariff No. FL2002-01. (N)

2 The customer may not combine revenues with the merged or acquired company's revenues for the purpose of obtaining volume discounts provided under BellSouth SWA Contract Tariff No. FL2002-01. (N)

3 The customer may continue subscribing to BellSouth SWA Contract Tariff No. FL2002-01 for the duration of the contract term provided that the customer continues the subscription as if it were the same entity that existed prior to the merger or acquisition (N)

B. If customer requests a transfer of service, pursuant to Transfer of Service regulations in Sections E2. and E6. of this Tariff, the customer's subscription to BellSouth SWA Contract Tariff No FL2002-01 shall be terminated (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. FL2002-01 (Cont'd) (N)

E26.1.4 BellSouth SWA Revenue Volume Discounts (N)

A. Each year of BellSouth SWA Contract Tariff No FL2002-01 is defined as twelve (12) consecutive bill periods. For purposes of calculating the BellSouth SWA volume discounts, month 1 is the bill period after the beginning date of BellSouth SWA Contract Tariff No. FL2002-01. For example, if the beginning date of BellSouth SWA Contract Tariff No. FL2002-01 is June 6, 2002 bill period, then month 1 for purposes of calculating the BellSouth SWA volume discounts will be the July 6, 2002 bill period (N)

B The BellSouth SWA volume discounts provided herein will be determined during the first month after the end of each year of the BellSouth SWA Contract Tariff No FL2002-01 During the second month following the end of each year of the BellSouth SWA Contract Tariff No. FL2002-01, the BellSouth SWA volume discounts will be applied via a credit to the customer's bill (N)

C True-up provisions will be made during the first quarter after the termination date of BellSouth SWA Contract No FL2002-01 (N)

D. The BellSouth SWA volume discounts are applicable to the usage sensitive and recurring revenues of the BellSouth SWA services as set forth in E26.1.2.G. preceding (N)

E The BellSouth SWA volume discounts specified in BellSouth SWA Contract Tariff No. FL2002-01 will not be applied to taxes and nonrecurring BellSouth SWA revenues (N)

F The BellSouth SWA services to which the volume discounts provided under BellSouth SWA Contract Tariff No FL2002-01 apply shall only be subject to service assurance warranty regulations specified in E2.4.4 of this Tariff (N)

E26.1.5 BellSouth SWA Contract Tariff No. FL2002-01 Volume Discount Plan (N)

A BellSouth SWA Contract Tariff No. FL2002-01 provides for annual volume discounts based upon annual local switching minutes of use (MOU) above a stated minimum usage Annual volume discounts will be determined by the local switching usage volume and the year of the contract in which the local switching usage volume is achieved. (N)

B. The minimum usage and the achievable volume discounts associated with the BellSouth SWA services are shown in the table below Volume discounts are not applicable to any usage levels outside of the MOU usage ranges stated in table below: (N)

Minimum Usage (MOU)	Usage Ranges (MOU)	Volume Discount Percentages					
		Year 1	Year 2	Year 3	Year 4	Year 5	(N)
1,054,830,619	1,054,830,619 – 1,075,927,232	7%	-	-	-	-	(N)
	>1,075,927,232 – 1,160,313,681	10%	15%	20%	-	-	(N)
	>1,160,313,681 – 1,371,279,805	15%	20%	25%	30%	35%	(N)

C The annual local switching usage included in BellSouth SWA Contract Tariff No FL2002-01 eligible for volume discount is determined by subtracting the minimum usage from the achieved local switching usage for each year (N)

D Dividing the annual local switching usage eligible for volume discount for a given year of BellSouth SWA Contract Tariff No FL2002-01 by the minimum local switching usage will develop the usage factor (N)

E. A usage factor (greater than zero) will be applied to the eligible BellSouth SWA revenue generated by the BellSouth SWA services identified in E26 1.2.G. preceding This calculation produces the annual revenue eligible for discount (N)

F The discount percent achieved, as set forth in B preceding, is based upon the minimum usage required, the usage factor achieved and the term year. (N)

G The volume discount received for a given year under BellSouth SWA Contract Tariff No FL2002-01 is determined by multiplying the eligible BellSouth SWA revenue times the discount factor achieved (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. FL2002-01 (Cont'd) (N)

E26.1.5 BellSouth SWA Contract Tariff No. FL2002-01 Volume Discount Plan (Cont'd) (N)

H Following is an example of how the annual BellSouth SWA volume discount will be determined. (N)

BellSouth SWA Contract Tariff Volume Discount Calculation (N)

Customer Information (N)

Customer subscribed to a five year BellSouth SWA Contract Tariff and is in the 4th year of the contract term. The customer's local switching minimum usage is 5,000,000,000 minutes of use. The annual local switching usage for year 4 is 5,750,000,000 minutes of use and the eligible BellSouth SWA revenues for year 4 is $25,000,000 (N)

Year 4 Usage Eligible for Discount = Year 4 Usage - Minimum Usage (N)

= 5.75B MOU - 5B MOU (N)

=7 50M MOU (N)

Year 4 Usage Factor = $\frac{\text{Year 4 Annual Usage}}{\text{Minimum Usage}}$ (N)

=7 $\frac{\text{50M MOU}}{\text{5B MOU}}$ (N)

=. 15 (N)

Year 4 Revenue Eligible for Discount = Year 4 Usage Factor X Year 4 eligible BellSouth SWA Revenue (N)

= .15 X $25,000,000 (N)

= $3,750,000 (N)

Year 4 Volume Discount = Year 4 Revenue Eligible for Discount X Discount Factor (N)

= $3,750,000 X 30 (N)

= $1,125,000 (N)

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SUBJECT INDEX

B.

EXHIBIT 5

TARIFF DISTRIBUTION

FILE CODE: 680.3400 FILE PACKAGE NO.: GA2002-061

DATE: June 6, 2002

STATE: GEORGIA

EFFECTIVE DATE: 07/05/2002

TYPE OF DISTRIBUTION: Pending

PURPOSE: BellSouth SWA Contract Tariff GA2002-01

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E22. RESERVED FOR FUTURE USE

(N)

E23. RESERVED FOR FUTURE USE

(N)

E24. RESERVED FOR FUTURE USE

(N)

E25. RESERVED FOR FUTURE USE

(N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

CONTENTS (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

E26.1 BellSouth SWA Contract Tariff No. GA2002-01 (N)

E26.1.1 General Regulations (N)

A. The start date of BellSouth SWA Contract Tariff No. GA2002-01 is the first bill period following subscription to this contract tariff. (N)

B. BellSouth SWA Contract Tariff No. GA2002-01 shall terminate on August 28, 2007. (N)

C. The regulations, terms, conditions and volume discounts provided herein shall apply to the customer's applicable BellSouth SWA usage and revenues achieved in the sate of Georgia. (N)

D. A customer that is similarly situated may subscribe within a period of thirty (30) days following the effective date of BellSouth SWA Contract Tariff No. GA2002-01. (N)

E26.1.2 Subscription Conditions (N)

A. To subscribe to BellSouth SWA Contract Tariff No. GA2002-01, the customer and the Company must execute a Letter of Agreement. The Company shall provide a Letter of Agreement for the customer to execute. The Letter of Agreement shall contain: (N)

1. BellSouth SWA Contract Tariff Number (N)
2. Start and termination date of BellSouth SWA Contract Tariff (N)
3. Customer's Name and Billing Address (N)
4. Billing Account Number the credit will be applied (N)
5. Access Customer Name Abbreviations (ACNAs) and Customer Identifications Codes (CICs) to be included in the BellSouth SWA Contract Tariff (N) (N)
6. BellSouth SWA Contract Tariff term (i.e., 36, 48 or 60 months) (N)
7. Minimum Usage Discount Table (N)

B. To subscribe to BellSouth SWA Contract Tariff No. GA2002-01, the customer must have been a BellSouth SWA customer for the previous 18-months. (N)

C. When the customer subscribes to BellSouth SWA Contract Tariff No. GA2002-01, the customer must identify to the Company, all Access Customer Name Abbreviations (ACNAs) and Carrier Identification Codes (CICs) to be included in BellSouth SWA Contract Tariff No. GA2002-01. (N)

D. The customer must be the billing responsible party for all BellSouth SWA billing elements associated with the ACNAs and CICs included in BellSouth SWA Contract No. GA2002-01. (N)

E. Any additions after the Letter of Agreement is executed will be handled as a merger or acquisition or transfer of service regulations as set forth in E26.1.3 following. (N)

F. A customer subscribing to BellSouth SWA Contract Tariff No. GA2002-01 may not subscribe to any other BellSouth SWA Contract Tariff that contains services as set forth in G. following. (N)

G. The following BellSouth SWA services will be used in determining the BellSouth SWA revenues that are eligible to receive the volume discount based on the established minimum local switching usage. (N)

1. BellSouth SWA Common Transport Service (N)
   - Facility Termination, per minute of use (N)
   - Per Mile, per minute of use (N)
   - DS3 to DS1 Multiplexer, per minute of use (N)
   - DS1 to VG Multiplexer, per minute of use (N)
2. Access Tandem Switching (N)
   - Dedicated Tandem Trunk Port Service (N)
     - Per DSO/VG trunk port required (N)
     - Per DS1 trunk port required (N)
   - DS1 to VG Channelization (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. GA2002-01 (Cont'd) (N)

E26.1.2 Subscription Conditions (Cont'd) (N)

G. (Cont'd) (N)

3. Local Switching (N)
   - Local Switching 1 (N)
   - Local Switching 2 (N)
   - Local Switching 3 (N)
   - Local Switching 4 (N)
   - Common Trunk Port Service (N)
     - Per each Common Transport trunk termination, per minute of use (N)
   - Dedicated End Office Trunk Port Service (N)
     - Per DSO/VG trunk port required (N)
     - Per DS1 trunk port required (N)

H. A customer may not combine its local switching minutes of use with another customer, whether an individual, partnership, association or corporation, for the purpose of meeting the established minimum local switching usage, as set forth in E26.1.5.B. following. (N)

I. Cancellation of BellSouth SWA Contract Tariff No. GA2002-01 (N)

1. During the term period of BellSouth SWA Contract Tariff No. GA2002-01, a customer may cancel this BellSouth SWA Contract Tariff and subsequently subscribe to another BellSouth SWA Contract Tariff only one time. (N)
2. Cancellation of BellSouth SWA Contract Tariff No. GA2002-01 and subscription to another BellSouth SWA Contract Tariff is allowed only on the anniversary date of BellSouth SWA Contract Tariff No. GA2002-01 and upon meeting one of the following conditions: (N)
   a. During the first year of BellSouth SWA Contract Tariff No. GA2002-01, the local switching usage achieved is 10 percent below the minimum usage; (N)
   b. During the remaining years of BellSouth SWA Contract Tariff No. GA2002-01, the local switching usage is below the minimum usage. (N)
   c. Local switching usage exceeds the discount usage cap. (N)
   d. Customer adds CIC codes that are desired to become part of the volume discount contract tariff. (N)

J. Rates and charges for the BellSouth SWA services included in BellSouth SWA Contract Tariff No. GA2002-01 are as set forth in Section E6. of this Tariff. General regulations and ordering options for the BellSouth SWA services are as set forth in Sections E2. and E5. of this Tariff. (N)

E26.1.3 Mergers and Acquisitions and Transfer of Service (N)

A. In the event the customer merges with another company or is acquired by another company; the following regulations will apply: (N)

1. The customer may elect to terminate subscription to BellSouth SWA Contract Tariff No. GA2002-01. (N)
2. The customer may not combine revenues with the merged or acquired company's revenues for the purpose of obtaining volume discounts provided under BellSouth SWA Contract Tariff No. GA2002-01. (N)
3. The customer may continue subscribing to BellSouth SWA Contract Tariff No. GA2002-01 for the duration of the contract term provided that the customer continues the subscription as if it were the same entity that existed prior to the merger or acquisition. (N)

B. If customer requests a transfer of service, pursuant to Transfer of Service regulations in Sections E2. and E6. of this Tariff, the customer's subscription to BellSouth SWA Contract Tariff No. GA2002-01 shall be terminated. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. GA2002-01 (Cont'd) (N)

E26.1.4 BellSouth SWA Revenue Volume Discounts (N)

A. Each year of BellSouth SWA Contract Tariff No. GA2002-01 is defined as twelve (12) consecutive bill periods. For purposes of calculating the BellSouth SWA volume discounts, month 1 is the bill period after the beginning date of BellSouth SWA Contract Tariff No. GA2002-01. For example, if the beginning date of BellSouth SWA Contract Tariff No. GA2002-01 is June 6, 2002 bill period, then month 1 for purposes of calculating the BellSouth SWA volume discounts will be the July 6, 2002 bill period. (N)

B. The BellSouth SWA volume discounts provided herein will be determined during the first month after the end of each year of the BellSouth SWA Contract Tariff No. GA2002-01. During the second month following the end of each year of the BellSouth SWA Contract Tariff No. GA2002-01, the BellSouth SWA volume discounts will be applied via a credit to the customer's bill. (N)

C. True-up provisions will be made during the first quarter after the termination date of BellSouth SWA Contract No. GA2002-01. (N)

D. The BellSouth SWA volume discounts are applicable to the usage sensitive and recurring revenues of the BellSouth SWA services are as set forth in E26.1.2.G. preceding. (N)

E. The BellSouth SWA volume discounts specified in BellSouth SWA Contract Tariff No. GA2002-01 will not be applied to taxes and nonrecurring BellSouth SWA revenues. (N)

F. The BellSouth SWA services to which the volume discounts provided under BellSouth SWA Contract Tariff No. GA2002-01 apply shall only be subject to service assurance warranty regulations specified in E2.4.4 of this Tariff. (N)

E26.1.5 BellSouth SWA Contract Tariff No. GA2002-01 Volume Discount Plan (N)

A. BellSouth SWA Contract Tariff No. GA2002-01 provides for annual volume discounts based upon annual local switching minutes of use (MOU) above a stated minimum usage. Annual volume discounts will be determined by the local switching usage volume and the year of the contract in which the local switching usage volume is achieved. (N)

B. The minimum usage and the achievable volume discounts associated with the BellSouth SWA services are shown in the table below. Volume discounts are not applicable to any usage levels outside of the MOU usage ranges stated in table below: (N)

Minimum Usage (MOU)	Usage Ranges (MOU)	Volume Discount Percentages					
		Year 1	Year 2	Year 3	Year 4	Year 5	(N)
315,564,628	315,564,628 – 321,875,921	7%	-	-	-	-	(N)
	>321,875,921 – 347,121,091	10%	15%	20%	-	-	(N)
	>347,121,091 – 410,234,017	15%	20%	25%	30%	35%	(N)

C. The annual local switching usage included in BellSouth SWA Contract Tariff No. GA2002-01 eligible for volume discount is determined by subtracting the minimum usage from the achieved local switching usage for each year. (N)

D. Dividing the annual local switching usage eligible for volume discount for a given year of BellSouth SWA Contract Tariff No. GA2002-01 by the minimum local switching usage will develop the usage factor. (N)

E. A usage factor (greater than zero) will be applied to the eligible BellSouth SWA revenue generated by the BellSouth SWA services identified in E26.1.2.G. preceding. This calculation produces the annual revenue eligible for discount. (N)

F. The discount percent achieved, as set forth in B. preceding, is based upon the minimum usage required, the usage factor achieved and the term year. (N)

G. The volume discount received for a given year under BellSouth SWA Contract Tariff No. GA2002-01 is determined by multiplying the eligible BellSouth SWA revenue times the discount factor achieved. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. GA2002-01 (Cont'd) (N)

E26.1.5 BellSouth SWA Contract Tariff No. GA2002-01 Volume Discount Plan (Cont'd) (N)

H. Following is an example of how the annual BellSouth SWA volume discount will be determined. (N)

BellSouth SWA Contract Tariff Volume Discount Calculation (N)

Customer Information (N)

Customer subscribed to a five year BellSouth SWA Contract Tariff and is in the 4th year of the contract term. The customer's local switching minimum usage is 5,000,000,000 minutes of use. The annual local switching usage for year 4 is 5,750,000,000 minutes of use and the eligible BellSouth SWA revenues for year 4 is $25,000,000. (N)

Year 4 Usage	= Year 4 Usage - Minimum Usage		(N)
	= 5.75B MOU - 5B MOU		(N)
	= 750M MOU		(N)
Year 4 Usage Factor	= Year 4 Annual Usage / Minimum Usage		(N)
	= 750M MOU / 5B MOU		(N)
	= .15		(N)
Year 4 Revenue Eligible	= Year 4 Usage Factor X Year 4 eligible BellSouth SWA Revenue		(N)
	= .15 X $25,000,000		(N)
	= $3,750,000		(N)
Year 4 Volume Discount	= Year 4 Revenue Eligible for Discount X Discount Factor		(N)
	= $3,750,000 X .30		(N)
	= $1,125,000		(N)

E27. RESERVED FOR FUTURE USE

(N)

E28. RESERVED FOR FUTURE USE (N)

E29. RESERVED FOR FUTURE USE (N)

E30. RESERVED FOR FUTURE USE (N)

E31. RESERVED FOR FUTURE USE (N)

E32. RESERVED FOR FUTURE USE (N)

E33. RESERVED FOR FUTURE USE (N)

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EXHIBIT 6

TARIFF DISTRIBUTION

FILE CODE: 680.3400

FILE PACKAGE NO.: KY2002-054

DATE: May 29, 2002

STATE: KENTUCKY

EFFECTIVE DATE: 06/28/2002

TYPE OF DISTRIBUTION: Pending

PURPOSE: BellSouth SWA Contract Tariff No. KY2002-01

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E22. RESERVED FOR FUTURE USE (N)

CONTENTS (N)

E23. RESERVED FOR FUTURE USE (N)

E24. RESERVED FOR FUTURE USE (N)

E25. RESERVED FOR FUTURE USE (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

CONTENTS (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

E26.1 BellSouth SWA Contract Tariff No. KY2002-01 (N)

E26.1.1 General Regulations (N)

A. The start date of BellSouth SWA Contract Tariff No. KY2002-01 is the first bill period following subscription to this contract tariff. (N)

B. BellSouth SWA Contract Tariff No. KY2002-01 shall terminate on August 14, 2007. (N)

C. The regulations, terms, conditions and volume discounts provided herein shall apply to the customer's applicable BellSouth SWA usage and revenues achieved in the sate of Kentucky. (N)

D. A customer that is similarly situated may subscribe within a period of thirty (30) days following the effective date of BellSouth SWA Contract Tariff No. KY2002-01. (N)

E26.1.2 Subscription Conditions (N)

A. To subscribe to BellSouth SWA Contract Tariff No. KY2002-01, the customer and the Company must execute a Letter of Agreement. The Company shall provide a Letter of Agreement for the customer to execute. The Letter of Agreement shall contain: (N)

1. BellSouth SWA Contract Tariff Number (N)
2. Start and termination date of BellSouth SWA Contract Tariff (N)
3. Customer's Name and Billing Address (N)
4. Billing Account Number the credit will be applied (N)
5. Access Customer Name Abbreviations (ACNAs) and Customer Identifications Codes (CICs) to be included in the BellSouth SWA Contract Tariff (N) (N)
6. BellSouth SWA Contract Tariff term (i.e., 36, 48 or 60 months) (N)
7. Minimum Usage Discount Table (N)

B. To subscribe to BellSouth SWA Contract Tariff No. KY2002-01, the customer must have been a BellSouth SWA customer for the previous 18-months. (N)

C. When the customer subscribes to BellSouth SWA Contract Tariff No. KY2002-01, the customer must identify to the Company, all Access Customer Name Abbreviations (ACNAs) and Carrier Identification Codes (CICs) to be included in BellSouth SWA Contract Tariff No. KY2002-01. (N)

D. The customer must be the billing responsible party for all BellSouth SWA billing elements associated with the ACNAs and CICs included in BellSouth SWA Contract No. KY2002-01. (N)

E. Any additions after the Letter of Agreement is executed will be handled as a merger or acquisition or transfer of service regulations as set forth in E26.1.3 following. (N)

F. A customer subscribing to BellSouth SWA Contract Tariff No. KY2002-01 may not subscribe to any other BellSouth SWA Contract Tariff that contains services as set forth in G. following. (N)

G. The following BellSouth SWA services will be used in determining the BellSouth SWA revenues that are eligible to receive the volume discount based on the established minimum local switching usage. (N)

1. BellSouth SWA Common Transport Service (N)
   - Facility Termination, per minute of use (N)
   - Per Mile, per minute of use (N)
   - DS3 to DS1 Multiplexer, per minute of use (N)
   - DS1 to VG Multiplexer, per minute of use (N)
2. Access Tandem Switching (N)
   - Dedicated Tandem Trunk Port Service (N)
     - Per DSO/VG trunk port required (N)
     - Per DS1 trunk port required (N)
   - DS1 to VG Channelization (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. KY2002-01 (Cont'd) (N)

E26.1.2 Subscription Conditions (Cont'd) (N)

G. (Cont'd) (N)

3. Local Switching (N)
   - Local Switching 1 (N)
   - Local Switching 2 (N)
   - Local Switching 3 (N)
   - Local Switching 4 (N)
   - Common Trunk Port Service (N)
     - Per each Common Transport trunk termination, per minute of use (N)
   - Dedicated End Office Trunk Port Service (N)
     - Per DSO/VG trunk port required (N)
     - Per DS1 trunk port required (N)

H. A customer may not combine its local switching minutes of use with another customer, whether an individual, partnership, association or corporation, for the purpose of meeting the established minimum local switching usage, as set forth in E26.1.5.B. following. (N)

I. Cancellation of BellSouth SWA Contract Tariff No. KY2002-01 (N)

1. During the term period of BellSouth SWA Contract Tariff No. KY2002-01, a customer may cancel BellSouth Contract Tariff No. KY2002-01 and subsequently subscribe to another BellSouth SWA Contract Tariff only one time. (N)
2. Cancellation of BellSouth SWA Contract Tariff No. KY2002-01 and subscription to another BellSouth SWA Contract Tariff is allowed only on the anniversary date of BellSouth SWA Contract Tariff No. KY2002-01 and upon meeting one of the following conditions: (N)
   a. During the first year of BellSouth SWA Contract Tariff No. KY2002-01, the local switching usage achieved is 10 percent below the minimum usage; (N)
   b. During the remaining years of BellSouth SWA Contract Tariff No. KY2002-01, the local switching usage is below the minimum usage. (N)
   c. Local switching usage exceeds the discount usage cap. (N)
   d. Customer adds CIC codes that are desired to become part of the volume discount contract tariff. (N)

J. Rates and charges for the BellSouth SWA services included in BellSouth SWA Contract Tariff No. KY2002-01 are as set forth in Section E6. of this Tariff. General regulations and ordering options for the BellSouth SWA services are as set forth in Sections E2. and E5. of this Tariff. (N)

E26.1.3 Mergers and Acquisitions and Transfer of Service (N)

A. In the event the customer merges with another company or is acquired by another company; the following regulations will apply: (N)

1. The customer may elect to terminate subscription to BellSouth SWA Contract Tariff No. KY2002-01. (N)
2. The customer may not combine revenues with the merged or acquired company's revenues for the purpose of obtaining volume discounts provided under BellSouth SWA Contract Tariff No. KY2002-01. (N)
3. The customer may continue subscribing to BellSouth SWA Contract Tariff No. KY2002-01 for the duration of the contract term provided that the customer continues the subscription as if it were the same entity that existed prior to the merger or acquisition. (N)

B. If customer requests a transfer of service, pursuant to Transfer of Service regulations in Sections E2. and E6. of this Tariff, the customer's subscription to BellSouth SWA Contract Tariff No. KY2002-01 shall be terminated. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. KY2002-01 (Cont'd) (N)

E26.1.4 BellSouth SWA Revenue Volume Discounts (N)

A. Each year of BellSouth SWA Contract Tariff No. KY2002-01 is defined as twelve (12) consecutive bill periods. For purposes of calculating the BellSouth SWA volume discounts, month 1 is the bill period after the beginning date of BellSouth SWA Contract Tariff No. KY2002-01. For example, if the beginning date of BellSouth SWA Contract Tariff No. KY2002-01 is June 6, 2002 bill period, then month 1 for purposes of calculating the BellSouth SWA volume discounts will be the July 6, 2002 bill period. (N)

B. The BellSouth SWA volume discounts provided herein will be determined during the first month after the end of each year of the BellSouth SWA Contract Tariff No. KY2002-01. During the second month following the end of each year of the BellSouth SWA Contract Tariff No. KY2002-01, the BellSouth SWA volume discounts will be applied via a credit to the customer's bill. (N)

C. True-up provisions will be made during the first quarter after the termination date of BellSouth SWA Contract No. KY2002-01. (N)

D. The BellSouth SWA volume discounts are applicable to the usage sensitive and recurring revenues of the BellSouth SWA services as set forth in E26.1.2.G. preceding. (N)

E. The BellSouth SWA volume discounts specified in BellSouth SWA Contract Tariff No. KY2002-01 will not be applied to taxes and nonrecurring BellSouth SWA revenues. (N)

F. The BellSouth SWA services to which the volume discounts provided under BellSouth SWA Contract Tariff No. KY2002-01 apply shall only be subject to service assurance warranty regulations specified in E2.4.4 of this Tariff. (N)

E26.1.5 BellSouth SWA Contract Tariff No. KY2002-01 Volume Discount Plan (N)

A. BellSouth SWA Contract Tariff No. KY2002-01 provides for annual volume discounts based upon annual local switching minutes of use (MOU) above a stated minimum usage. Annual volume discounts will be determined by the local switching usage volume and the year of the contract in which the local switching usage volume is achieved. (N)

B. The minimum usage and the achievable volume discounts associated with the BellSouth SWA services are shown in the table below. Volume discounts are not applicable to any usage levels outside of the MOU usage ranges stated in table below: (N)

Minimum Usage (MOU)	Usage Ranges (MOU)	Volume Discount Percentages					
		Year 1	Year 2	Year 3	Year 4	Year 5	(N)
103,254,229	103,254,229 – 105,319,314	7%	-	-	-	-	(N)
	>105,319,314 – 113,579,652	10%	15%	20%	-	-	(N)
	>113,579,652 – 134,230,498	15%	20%	25%	30%	35%	(N)

C. The annual local switching usage included in BellSouth SWA Contract Tariff No. KY2002-01 eligible for volume discount is determined by subtracting the minimum usage from the achieved local switching usage for each year. (N)

D. Dividing the annual local switching usage eligible for volume discount for a given year of BellSouth SWA Contract Tariff No. KY2002-01 by the minimum local switching usage will develop the usage factor. (N)

E. A usage factor (greater than zero) will be applied to the eligible BellSouth SWA revenue generated by the BellSouth SWA services identified in E26.1.2.G. preceding. This calculation produces the annual revenue eligible for discount. (N)

F. The discount percent achieved, as set forth in B. preceding, is based upon the minimum usage required, the usage factor achieved and the term year. (N)

G. The volume discount received for a given year under BellSouth SWA Contract Tariff No. KY2002-01 is determined by multiplying the eligible BellSouth SWA revenue times the discount factor achieved. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. KY2002-01 (Cont'd) (N)

E26.1.5 BellSouth SWA Contract Tariff No. KY2002-01 Volume Discount Plan (Cont'd) (N)

H. Following is an example of how the annual BellSouth SWA volume discount will be determined. (N)

BellSouth SWA Contract Tariff No. KY2002-01 Volume Discount Calculation (N)

Customer Information (N)

Customer subscribed to a five year BellSouth SWA Contract Tariff No. KY2002-01 and is in the 4th year of the contract term. The customer's local switching minimum usage is 5,000,000,000 minutes of use. The annual local switching usage for year 4 is 5,750,000,000 minutes of use and the eligible BellSouth SWA revenues for year 4 is \$25,000,000. (N)

Year 4 Usage Eligible for Discount = Year 4 Usage - Minimum Usage (N)

= 5.75B MOU - 5B MOU (N)

= 750M MOU (N)

Year 4 Usage Factor = $\frac{\text{Year 4 Annual Usage}}{\text{Minimum Usage}}$ (N)

= $\frac{\text{750M MOU}}{\text{5B MOU}}$ (N)

= .15 (N)

Year 4 Revenue Eligible for Discount = Year 4 Usage Factor X Year 4 eligible BellSouth SWA Revenue (N)

= .15 X \$25,000,000 (N)

= \$3,750,000 (N)

Year 4 Volume Discount = Year 4 Revenue Eligible for Discount X Discount Factor (N)

= \$3,750,000 X .30 (N)

= \$1,125,000 (N)

E28. RESERVED FOR FUTURE USE (N)

E29. RESERVED FOR FUTURE USE (N)

E30. RESERVED FOR FUTURE USE (N)

E31. RESERVED FOR FUTURE USE (N)

E32. RESERVED FOR FUTURE USE (N)

E33. RESERVED FOR FUTURE USE (N)

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B.

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EXHIBIT 7

TARIFF DISTRIBUTION

FILE CODE: 680.3400 FILE PACKAGE NO.: LA2002-063

DATE: June 24, 2002

STATE: LOUISIANA

EFFECTIVE DATE: 06/20/2002

TYPE OF DISTRIBUTION: Approved

PURPOSE: BellSouth SWA Contract Tariff LA2002-01

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E16. RESERVED FOR FUTURE USE (N)

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E19. RESERVED FOR FUTURE USE (N)

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E23. RESERVED FOR FUTURE USE (N)

E24. RESERVED FOR FUTURE USE (N)

CONTENTS (N)

E24. RESERVED FOR FUTURE USE

(N)

E25. RESERVED FOR FUTURE USE (N)

CONTENTS (N)

E25. RESERVED FOR FUTURE USE (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

CONTENTS (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

E26.1 BellSouth SWA Contract Tariff No. LA2002-01 (N)

E26.1.1 General Regulations (N)

A. The start date of BellSouth SWA Contract Tariff No. LA2002-01 is the first bill period following subscription to this contract tariff. (N)

B. BellSouth SWA Contract Tariff No. LA2002-01 shall terminate on August 20, 2007. (N)

C. The regulations, terms, conditions and volume discounts provided herein shall apply to the customer's applicable BellSouth SWA usage and revenues achieved in the sate of Louisiana. (N)

D. A customer that is similarly situated may subscribe within a period of thirty (30) days following the effective date of BellSouth SWA Contract Tariff No. LA2002-01. (N)

E26.1.2 Subscription Conditions (N)

A. To subscribe to BellSouth SWA Contract Tariff No. LA2002-01, the customer and the Company must execute a Letter of Agreement. The Company shall provide a Letter of Agreement for the customer to execute. The Letter of Agreement shall contain: (N)

1. BellSouth SWA Contract Tariff Number (N)
2. Start and termination date of BellSouth SWA Contract Tariff (N)
3. Customer's Name and Billing Address (N)
4. Billing Account Number the credit will be applied (N)
5. Access Customer Name Abbreviations (ACNAs) and Customer Identifications Codes (CICs) to be included in the BellSouth SWA Contract Tariff (N) (N)
6. BellSouth SWA Contract Tariff term (i.e., 36, 48 or 60 months) (N)
7. Minimum Usage Discount Table (N)

B. To subscribe to BellSouth SWA Contract Tariff No. LA2002-01, the customer must have been a BellSouth SWA customer for the previous 18-months. (N)

C. When the customer subscribes to BellSouth SWA Contract Tariff No. LA2002-01, the customer must identify to the Company, all Access Customer Name Abbreviations (ACNAs) and Carrier Identification Codes (CICs) to be included in BellSouth SWA Contract Tariff No. LA2002-01. (N)

D. The customer must be the billing responsible party for all BellSouth SWA billing elements associated with the ACNAs and CICs included in BellSouth SWA Contract No. LA2002-01. (N)

E. Any additions after the Letter of Agreement is executed will be handled as a merger or acquisition or transfer of service regulations as set forth in E26.1.3 following. (N)

F. A customer subscribing to BellSouth SWA Contract Tariff No. LA2002-01 may not subscribe to any other BellSouth SWA Contract Tariff that contains services as set forth in G. following. (N)

G. The following BellSouth SWA services will be used in determining the BellSouth SWA revenues that are eligible to receive the volume discount based on the established minimum local switching usage. (N)

1. BellSouth SWA Common Transport Service (N)
   - Facility Termination, per minute of use (N)
   - Per Mile, per minute of use (N)
   - DS3 to DS1 Multiplexer, per minute of use (N)
   - DS1 to VG Multiplexer, per minute of use (N)
2. Access Tandem Switching (N)
   - Dedicated Tandem Trunk Port Service (N)
     - Per DSO/VG trunk port required (N)
     - Per DS1 trunk port required (N)
   - DS1 to VG Channelization (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. LA2002-01 (Cont'd) (N)

E26.1.2 Subscription Conditions (Cont'd) (N)

G. (Cont'd) (N)

3. Local Switching (N)
   - Local Switching 1 (N)
   - Local Switching 2 (N)
   - Local Switching 3 (N)
   - Local Switching 4 (N)
   - Common Trunk Port Service (N)
     - Per each Common Transport trunk termination, per minute of use (N)
   - Dedicated End Office Trunk Port Service (N)
     - Per DSO/VG trunk port required (N)
     - Per DS1 trunk port required (N)

H. A customer may not combine its local switching minutes of use with another customer, whether an individual, partnership, association or corporation, for the purpose of meeting the established minimum local switching usage, as set forth in E26.1.5.B. following. (N)

I. Cancellation of BellSouth SWA Contract Tariff No. LA2002-01 (N)

1. During the term period of BellSouth SWA Contract Tariff No. LA2002-01, a customer may cancel BellSouth Contract Tariff No. LA2002-01 and subsequently subscribe to another BellSouth SWA Contract Tariff only one time. (N)
2. Cancellation of BellSouth SWA Contract Tariff No. LA2002-01 and subscription to another BellSouth SWA Contract Tariff is allowed only on the anniversary date of BellSouth SWA Contract Tariff No. LA2002-01 and upon meeting one of the following conditions: (N)
   a. During the first year of BellSouth SWA Contract Tariff No. LA2002-01, the local switching usage achieved is 10 percent below the minimum usage; (N)
   b. During the remaining years of BellSouth SWA Contract Tariff No. LA2002-01, the local switching usage is below the minimum usage. (N)
   c. Local switching usage exceeds the discount usage cap. (N)
   d. Customer adds CIC codes that are desired to become part of the volume discount contract tariff. (N)

J. Rates and charges for the BellSouth SWA services included in BellSouth SWA Contract Tariff No. LA2002-01 are as set forth in Section E6. of this Tariff. General regulations and ordering options for the BellSouth SWA services are as set forth in Sections E2. and E5. of this Tariff. (N)

E26.1.3 Mergers and Acquisitions and Transfer of Service (N)

A. In the event the customer merges with another company or is acquired by another company; the following regulations will apply: (N)

1. The customer may elect to terminate subscription to BellSouth SWA Contract Tariff No. LA2002-01. (N)
2. The customer may not combine revenues with the merged or acquired company's revenues for the purpose of obtaining volume discounts provided under BellSouth SWA Contract Tariff No. LA2002-01. (N)
3. The customer may continue subscribing to BellSouth SWA Contract Tariff No. LA2002-01 for the duration of the contract term provided that the customer continues the subscription as if it were the same entity that existed prior to the merger or acquisition. (N)

B. If customer requests a transfer of service, pursuant to Transfer of Service regulations in Sections E2. and E6. of this Tariff, the customer's subscription to BellSouth SWA Contract Tariff No. LA2002-01 shall be terminated. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. LA2002-01 (Cont'd) (N)

E26.1.4 BellSouth SWA Revenue Volume Discounts (N)

A. Each year of BellSouth SWA Contract Tariff No. LA2002-01 is defined as twelve (12) consecutive bill periods. For purposes of calculating the BellSouth SWA volume discounts, month 1 is the bill period after the beginning date of BellSouth SWA Contract Tariff No. LA2002-01. For example, if the beginning date of BellSouth SWA Contract Tariff No. LA2002-01 is June 6, 2002 bill period, then month 1 for purposes of calculating the BellSouth SWA volume discounts will be the July 6, 2002 bill period. (N)

B. The BellSouth SWA volume discounts provided herein will be determined during the first month after the end of each year of the BellSouth SWA Contract Tariff No. LA2002-01. During the second month following the end of each year of the BellSouth SWA Contract Tariff No. LA2002-01, the BellSouth SWA volume discounts will be applied via a credit to the customer's bill. (N)

C. True-up provisions will be made during the first quarter after the termination date of BellSouth SWA Contract No. LA2002-01. (N)

D. The BellSouth SWA volume discounts are applicable to the usage sensitive and recurring revenues of the BellSouth SWA services as set forth in E26.1.2.G. preceding. (N)

E. The BellSouth SWA volume discounts specified in BellSouth SWA Contract Tariff No. LA2002-01 will not be applied to taxes and nonrecurring BellSouth SWA revenues. (N)

F. The BellSouth SWA services to which the volume discounts provided under BellSouth SWA Contract Tariff No. LA2002-01 apply shall only be subject to service assurance warranty regulations specified in E2.4.4 of this Tariff. (N)

E26.1.5 BellSouth SWA Contract Tariff No. LA2002-01 Volume Discount Plan (N)

A. BellSouth SWA Contract Tariff No. LA2002-01 provides for annual volume discounts based upon annual local switching minutes of use (MOU) above a stated minimum usage. Annual volume discounts will be determined by the local switching usage volume and the year of the contract in which the local switching usage volume is achieved. (N)

B. The minimum usage and the achievable volume discounts associated with the BellSouth SWA services are shown in the table below. Volume discounts are not applicable to any usage levels outside of the MOU usage ranges stated in table below: (N)

Minimum Usage (MOU)	Usage Ranges (MOU)	Volume Discount Percentages					
		Year 1	Year 2	Year 3	Year 4	Year 5	(N)
204,154,637	204,154,637 -208,237,730	7%	-	-	-	-	(N)
	>208,237,730 - 224,570,101	10%	15%	20%	-	-	(N)
	>224,570,101 - 265,401,028	15%	20%	25%	30%	35%	(N)

C. The annual local switching usage included in BellSouth SWA Contract Tariff No. LA2002-01 eligible for volume discount is determined by subtracting the minimum usage from the achieved local switching usage for each year. (N)

D. Dividing the annual local switching usage eligible for volume discount for a given year of BellSouth SWA Contract Tariff No. LA2002-01 by the minimum local switching usage will develop the usage factor. (N)

E. A usage factor (greater than zero) will be applied to the eligible BellSouth SWA revenue generated by the BellSouth SWA services identified in E26.1.2.G. preceding. This calculation produces the annual revenue eligible for discount. (N)

F. The discount percent achieved, as set forth in B. preceding, is based upon the minimum usage required, the usage factor achieved and the term year. (N)

G. The volume discount received for a given year under BellSouth SWA Contract Tariff No. LA2002-01 is determined by multiplying the eligible BellSouth SWA revenue times the discount factor achieved. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. LA2002-01 (Cont'd) (N)

E26.1.5 BellSouth SWA Contract Tariff No. LA2002-01 Volume Discount Plan (Cont'd) (N)

H. Following is an example of how the annual BellSouth SWA volume discount will be determined. (N)

BellSouth SWA Contract Tariff Volume Discount Calculation (N)

Customer Information (N)

Customer subscribed to a five year BellSouth SWA Contract Tariff and is in the 4th year of the contract term. The customer's local switching minimum usage is 5,000,000,000 minutes of use. The annual local switching usage for year 4 is 5,750,000,000 minutes of use and the eligible BellSouth SWA revenues for year 4 is $25,000,000. (N)

Year 4 Usage Eligible for Discount = Year 4 Usage - Minimum Usage (N)

= 5.75B MOU - 5B MOU (N)

= 750M MOU (N)

Year 4 Usage Factor = $\frac{\text{Year 4 Annual Usage}}{\text{Minimum Usage}}$ (N)

= $\frac{\text{750M MOU}}{\text{5B MOU}}$ (N)

= .15 (N)

Year 4 Revenue Eligible for Discount = Year 4 Usage Factor X Year 4 eligible BellSouth SWA Revenue (N)

= .15 X $25,000,000 (N)

= $3,750,000 (N)

Year 4 Volume Discount = Year 4 Revenue Eligible for Discount X Discount Factor (N)

= $3,750,000 X .30 (N)

= $1,125,000 (N)

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B.

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EXHIBIT 8

TARIFF DISTRIBUTION

FILE CODE: 680.3400	FILE PACKAGE NO.: MS2002-048
DATE:	June 14, 2002
STATE:	MISSISSIPPI
EFFECTIVE DATE:	06/14/2002
TYPE OF DISTRIBUTION:	Approved

PURPOSE: BellSouth SWA Contract Tariff MS2001-01

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E19. RESERVED FOR FUTURE USE (N)

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E19. RESERVED FOR FUTURE USE (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

CONTENTS (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

E26.1 BellSouth SWA Contract Tariff No. MS2002-01 (N)

E26.1.1 General Regulations (N)

A. The term beginning date of BellSouth SWA Contract Tariff No. MS2002-01 is the first bill period following subscription to this contract tariff. (N)

B. BellSouth SWA Contract Tariff No. MS2002-01 is valid for a period of 60 months and shall terminate on August 14, 2007. (N)

C. The regulations, terms, conditions and volume discounts provided herein shall apply to the customer's applicable BellSouth SWA usage and revenues achieved in the sate of Mississippi. (N)

D. A customer that is similarly situated may subscribe within a period of thirty (30) days following the effective date of BellSouth SWA Contract Tariff No. MS2002-01. (N)

E26.1.2 Subscription Conditions (N)

A. To subscribe to BellSouth SWA Contract Tariff No. MS2002-01, the customer and the Company must execute a Letter of Agreement. The Company shall provide a Letter of Agreement for the customer to execute. The Letter of Agreement shall contain: (N)

1. BellSouth SWA Contract Tariff Number (N)
2. Start and termination date of BellSouth SWA Contract Tariff (N)
3. Customer's Name and Billing Address (N)
4. Billing Account Number the credit will be applied (N)
5. Access Customer Name Abbreviations (ACNAs) and Customer Identifications Codes (CICs) to be included in the BellSouth SWA Contract Tariff (N) (N)
6. BellSouth SWA Contract Tariff term (i.e., 36, 48 or 60 months) (N)
7. Minimum Usage Discount Table (N)

B. To subscribe to BellSouth SWA Contract Tariff No. MS2002-01, the customer must have been a BellSouth SWA customer for the previous 18-months. (N)

C. When the customer subscribes to BellSouth SWA Contract Tariff No. MS2002-01, the customer must identify to the Company, all Access Customer Name Abbreviations (ACNAs) and Carrier Identification Codes (CICs) to be included in BellSouth SWA Contract Tariff No. MS2002-01. (N)

D. The customer must be the billing responsible party for all BellSouth SWA billing elements associated with the ACNAs and CICs included in BellSouth SWA Contract No. MS2002-01. (N)

E. Any additions after the Letter of Agreement is executed will be handled as a merger or acquisition or transfer of service regulations as set forth in E26.1.3 following. (N)

F. A customer subscribing to BellSouth SWA Contract Tariff No. MS2002-01 may not subscribe to any other BellSouth SWA Contract Tariff that contains services as set forth in G. following. (N)

G. The following BellSouth SWA services will be used in determining the BellSouth SWA revenues that are eligible to receive the volume discount based on the established minimum local switching usage. (N)

1. BellSouth SWA Common Transport Service (N)
   - Facility Termination, per minute of use (N)
   - Per Mile, per minute of use (N)
   - DS3 to DS1 Multiplexer, per minute of use (N)
   - DS1 to VG Multiplexer, per minute of use (N)
2. Access Tandem Switching (N)
   - Dedicated Tandem Trunk Port Service (N)
     - Per DSO/VG trunk port required (N)
     - Per DS1 trunk port required (N)
   - DS1 to VG Channelization (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. MS2002-01 (Cont'd) (N)

E26.1.2 Subscription Conditions (Cont'd) (N)

G. (Cont'd) (N)

3. Local Switching (N)
   - Local Switching 1 (N)
   - Local Switching 2 (N)
   - Local Switching 3 (N)
   - Local Switching 4 (N)
   - Common Trunk Port Service (N)
     - Per each Common Transport trunk termination, per minute of use (N)
   - Dedicated End Office Trunk Port Service (N)
     - Per DSO/VG trunk port required (N)
     - Per DS1 trunk port required (N)

H. A customer may not combine its local switching minutes of use with another customer, whether an individual, partnership, association or corporation, for the purpose of meeting the established minimum local switching usage, as set forth in E26.1.5.B. following. (N)

I. Cancellation of BellSouth SWA Contract Tariff No. MS2002-01 (N)

1. During the term period of BellSouth SWA Contract Tariff No. MS2002-01, a customer may one time cancel and subsequently subscribe to another Contract Tariff. (N)
2. Cancellation of and subscription to another BellSouth SWA Contract Tariff is allowed only on the anniversary date of BellSouth SWA Contract Tariff No. MS2002-01 and upon meeting one of the following conditions: (N)
   a. During the first year of BellSouth SWA Contract Tariff No. MS2002-01, the local switching usage achieved is 10 percent below the minimum usage; (N)
   b. During the remaining years of BellSouth SWA Contract Tariff No. MS2002-01, the local switching usage is below the minimum usage. (N)
   c. Local switching usage exceeds the discount usage cap. (N)
   d. Customer adds CIC codes that are desired to become part of the volume discount contract tariff. (N)

J. Rates and charges for the BellSouth SWA services included in BellSouth SWA Contract Tariff No. MS2002-01 are as set forth in Section E6. of this Tariff. General regulations and ordering options for the BellSouth SWA services are as set forth in Sections E2. and E5. of this Tariff. (N)

E26.1.3 Mergers and Acquisitions and Transfer of Service (N)

A. In the event the customer merges with another company or is acquired by another company; the following regulations will apply: (N)

1. The customer may elect to terminate subscription to BellSouth SWA Contract Tariff No. MS2002-01. (N)
2. The customer may not combine revenues with the merged or acquired company's revenues for the purpose of obtaining volume discounts provided under BellSouth SWA Contract Tariff No. MS2002-01. (N)
3. The customer may continue subscribing to BellSouth SWA Contract Tariff No. MS2002-01 for the duration of the contract term provided that the customer continues the subscription as if it were the same entity that existed prior to the merger or acquisition. (N)

B. If customer requests a transfer of service, pursuant to Transfer of Service regulations in Sections E2. and E6. of this Tariff, the customer's subscription to BellSouth SWA Contract Tariff No. MS2002-01 shall be terminated. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. MS2002-01 (Cont'd) (N)

E26.1.4 BellSouth SWA Revenue Volume Discounts (N)

A. Each year of BellSouth SWA Contract Tariff No. MS2002-01 is defined as twelve (12) consecutive bill periods. For purposes of calculating the BellSouth SWA volume discounts, month 1 is the bill period after the beginning date of BellSouth SWA Contract Tariff No. MS2002-01. For example, if the beginning date of BellSouth SWA Contract Tariff No. MS2002-01 is June 6, 2002 bill period, then month 1 for purposes of calculating the BellSouth SWA volume discounts will be the July 6, 2002 bill period. (N)

B. The BellSouth SWA volume discounts provided herein will be determined during the first month after the end of each year of the BellSouth SWA Contract Tariff No. MS2002-01. During the second month following the end of each year of the BellSouth SWA Contract Tariff No. MS2002-01, the BellSouth SWA volume discounts will be applied via a credit to the customer's bill. (N)

C. True-up provisions will be made during the first quarter after the termination date of BellSouth SWA Contract No. MS2002-01. (N)

D. The BellSouth SWA volume discounts are applicable to the usage sensitive and recurring revenues of the BellSouth SWA services are as set forth in E26.1.2.G. preceding. (N)

E. The BellSouth SWA volume discounts specified in BellSouth SWA Contract Tariff No. MS2002-01 will not be applied to taxes and nonrecurring BellSouth SWA revenues. (N)

F. The BellSouth SWA services to which the volume discounts provided under BellSouth SWA Contract Tariff No. MS2002-01 apply shall only be subject to service assurance warranty regulations specified in E2.4.4 of this Tariff. (N)

E26.1.5 BellSouth SWA Contract Tariff No. MS2002-01 Volume Discount Plan (N)

A. BellSouth SWA Contract Tariff No. MS2002-01 provides for annual volume discounts based upon annual local switching minutes of use (MOU) above a stated minimum usage. Annual volume discounts will be determined by the local switching usage volume and the year of the contract in which the local switching usage volume is achieved. (N)

B. The minimum usage and the achievable volume discounts associated with the BellSouth SWA services are shown in the table below. Volume discounts are not applicable to any usage levels outside of the MOU usage ranges stated in table below: (N)

Minimum Usage (MOU)	Usage Ranges (MOU)	Volume Discount Percentages					
		Year 1	Year 2	Year 3	Year 4	Year 5	(N)
54,359,940	54,359,940 – 55,447,138	7%	-	-	-	-	(N)
	>55,447,139 – 59,795,934	10%	15%	20%	-	-	(N)
	>59,795,935 – 70,667,922	15%	20%	25%	30%	35%	(N)

C. The annual local switching usage included in BellSouth SWA Contract Tariff No. MS2002-01 eligible for volume discount is determined by subtracting the minimum usage from the achieved local switching usage for each year. (N)

D. Dividing the annual local switching usage eligible for volume discount for a given year of BellSouth SWA Contract Tariff No. MS2002-01 by the minimum local switching usage will develop the usage factor. (N)

E. A usage factor (greater than zero) will be applied to the eligible BellSouth SWA revenue generated by the BellSouth SWA services identified in E26.1.2.G. preceding. This calculation produces the annual revenue eligible for discount. (N)

F. The discount percent achieved, as set forth in B. preceding, is based upon the minimum usage required, the usage factor achieved and the term year. (N)

G. The volume discount received for a given year under BellSouth SWA Contract Tariff No. MS2002-01 is determined by multiplying the eligible BellSouth SWA revenue times the discount factor achieved. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. MS2002-01 (Cont'd) (N)

E26.1.5 BellSouth SWA Contract Tariff No. MS2002-01 Volume Discount Plan (Cont'd) (N)

H. Following is an example of how the annual BellSouth SWA volume discount will be determined. (N)

BellSouth SWA Contract Tariff No. 2002-01 Volume Discount Calculation (N)

Customer Information (N)

Customer subscribed to a five year BellSouth SWA Contract Tariff No. MS2002-01 and is in the 4th year of the contract term. The customer's local switching minimum usage is 5,000,000,000 minutes of use. The annual local switching usage for year 4 is 5,750,000,000 minutes of use and the eligible BellSouth SWA revenues for year 4 is $25,000,000. (N)

Year 4 Usage = Year 4 Usage - Minimum Usage (N)

= 5.75B MOU - 5B MOU (N)

= 750M MOU (N)

Year 4 Usage Factor = $\dfrac{\text{Year 4 Annual Usage}}{\text{Minimum Usage}}$ (N)

= $\dfrac{\text{750M MOU}}{\text{5B MOU}}$ (N)

= .15 (N)

Year 4 Revenue Eligible = Year 4 Usage Factor X Year 4 eligible BellSouth SWA Revenue (N)
= .15 X $25,000,000 (N)

= $3,750,000 (N)

Year 4 Volume Discount = Year 4 Revenue Eligible for Discount X Discount Factor (N)

= $3,750,000 X .30 (N)

= $1,125,000 (N)

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SUBJECT INDEX

B.

SUBJECT **SECTION**

® BellSouth is a registered trademark of BellSouth Intellectual Property Corporation

EXHIBIT 9

BELLSOUTH

BellSouth Telecommunications, Inc.
P.O. Box 30188
Charlotte, NC 28230-0188

C. Dan Hatheock
Regulatory & External Affairs
Vice President

704 417-8764

May 23, 2002

RECEIVED

MAY 24 2002

COMMUNICATIONS DIVISION
N.C. PUBLIC STAFF

Mr. Nat Carpenter, Director
Communications Division, Public Staff
North Carolina Utilities Commission
Post Office Box 29520
Raleigh, North Carolina 27626-0520

Dear Mr. Carpenter:

Attached are the original and eight copies of the following tariff sheet, which we are submitting for the Commission's approval in accordance with Rule R-9-4 established in Docket P-100, Sub. 30.

(c) (1) Tariff Pages Effective June 6, 2002

Access Services Tariff

E Tariff	-	Contents – Fifth Revised Page 1
Section E19	-	Original Page 1
Section E20	-	Original Page 1
Section E23	-	Contents - Original Page 1
	-	Original Page 1
Section E24	-	Contents - Original Page 1
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Section E25	-	Contents - Original Page 1
	-	Original Page 1
Section E26	-	Contents - Original Page 1
	-	Original Page 1
	-	Original Page 2
	-	Original Page 3
	-	Original Page 4

(2) Description of Filing:

With this tariff filing, BellSouth Telecommunications, Inc. is revising its Access Services Tariff to introduce a new product, BellSouth SWA Contract Tariffs.

(3) Explanation of Filing:

An explanation of the changes being made with this filing is provided in Attachment A, the Executive Summary.

(4) Impact on Existing Subscribers:

BellSouth SWA Contract Tariffs provide for yearly discounts based upon positive incremental local switching usage. Volume discounts, in the form of an annual credit, are achieved based upon the incremental usage above the minimum local switching usage and the year of the contract term in which the usage is achieved.

(5) Estimated Gross Revenue over a three-year Period:

NA

(d) Cost Study Data:

NA

In compliance with Price Regulation rules, BellSouth SWA Service is in the Toll Basket.

We shall appreciate your returning one copy of the attached tariff sheets to this office.

Yours truly,

Regulatory Vice President

Attachments

Copy to: Telecommunications Advisor
Attorney General Legal Counsel

EXECUTIVE SUMMARY

Introduction

With this filing, the North Carolina intrastate Access Services Tariff is being revised to add a new tariff section, Section 26 – BellSouth SWA Contract Tariffs. This filing also introduces North Carolina's first contract tariff, *BellSouth SWA Contract Tariff No. NC2002-01.*

Description of Present Tariff

North Carolina's current intrastate Access Services Tariff does not offer BellSouth SWA Contract Tariffs.

Description of Proposed Tariff

BellSouth SWA Contract Tariffs will enable BellSouth to offer its Interexchange Carrier (IXC) customers intrastate BellSouth SWA contract tariffs that are individually designed, priced and negotiated based on the customer's needs. BellSouth SWA Contract Tariff No. NC2002-01 provides a volume and term discount plan with a 5 year contract term for selected BellSouth SWA services. *The regulations and charges for the services included in BellSouth SWA Contract Tariff* No. NC2002-01 are set forth in North Carolina's Access Services Tariff.

BellSouth will maintain generally available (tariffed) Access Services. Additionally, the service functionality (*not the pricing structure) offered in BellSouth SWA Contract Tariffs will also be* generally available in the Access Services Tariff.

Rate Elements

The following BellSouth SWA services will be used in determining the revenues that are eligible to receive the volume discount based on the established minimum local switching usage.

- BellSouth SWA Common Transport Service
  - Facility Termination, per minute of use
  - Per Mile, per minute of use
  - DS3 to DS1 Multiplexer, per minute of use
  - DS1 to VG Multiplexer, per minute of use
- Access Tandem Switching
  - Dedicated Tandem Trunk Port Service
    - Per DSO/VG trunk port required
    - Per DS1 trunk port required
  - DS1 to VG Channelization
- Local Switching
  - Local Switching 1
  - Local Switching 2
  - Local Switching 3
  - Local Switching 4
  - Common Trunk Port Service
    - Per each Common Transport trunk termination, per minute of use
  - *Dedicated End Office Trunk Port Service*
    - Per DSO/VG trunk port required
    - Per DS1 trunk port required

Demand Development

The minimum local switching usage is defined as the projected year 1 local switching usage based upon the trending of the most recent available 18 months local switching usage prior to the beginning of the term. Each customer's minimum local switching usage will determine which of three discount bands the customer is eligible for. For each year of the term, the volume discount is based upon the minimum local switching usage, the usage for that year, and the year of the term.

Rationale for Change

BellSouth SWA Contracts Tariffs are designed to encourage utilization of BellSouth switched network by providing a volume discount incentive. BellSouth SWA Contract Tariffs offer a win-win opportunity for the customer and the Company. The customer will receive a discount up to 30% on eligible BellSouth SWA revenue for usage over the established minimum. The Company's benefit is retention of the customer's usage on its switched network.

Revenue Impact

The BellSouth SWA Contract Tariff product is designed to retain the existing customer on BellSouth's switched network. The revenue impact of introducing BellSouth SWA Contract Tariff No. NC2002-01 is entirely dependant upon the customer's performance.

Impact on Customers

BellSouth SWA Contract Tariffs provide for yearly discounts based upon positive incremental local switching usage. Volume discounts, in the form of an annual credit, are achieved based upon the incremental usage above the minimum local switching usage and the year of the contract term in which the usage is achieved.

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E19. RESERVED FOR FUTURE USE

E20. RESERVED FOR FUTURE USE (N)

E23. RESERVED FOR FUTURE USE (N)

CONTENTS (N)

E23. RESERVED FOR FUTURE USE (N)

E24. RESERVED FOR FUTURE USE (N)

CONTENTS

E24. RESERVED FOR FUTURE USE

(N)

E25. RESERVED FOR FUTURE USE (N)

CONTENTS (N)

E25. RESERVED FOR FUTURE USE

(N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

CONTENTS (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

E26.1 BellSouth SWA Contract Tariff No. NC2002-01 (N)

E26.1.1 General Regulations (N)

A. The start date of BellSouth SWA Contract Tariff No. NC2002-01 is the first bill period following subscription to this contract tariff. (N)

B. BellSouth SWA Contract Tariff No. NC2002-01 shall terminate on August 14, 2007. (N)

C. The regulations, terms, conditions and volume discounts provided herein shall apply to the customer's applicable BellSouth SWA usage and revenues achieved in the sate of North Carolina. (N)

D. A customer that is similarly situated may subscribe within a period of thirty (30) days following the effective date of BellSouth SWA Contract Tariff No. NC2002-01. (N)

E26.1.2 Subscription Conditions (N)

A. To subscribe to BellSouth SWA Contract Tariff No. NC2002-01, the customer and the Company must execute a Letter of Agreement. The Company shall provide a Letter of Agreement for the customer to execute. The Letter of Agreement shall contain: (N)

1. BellSouth SWA Contract Tariff Number (N)
2. Start and termination date of BellSouth SWA Contract Tariff (N)
3. Customer's Name and Billing Address (N)
4. Billing Account Number the credit will be applied (N)
5. Access Customer Name Abbreviations (ACNAs) and Customer Identifications Codes (CICs) to be included in the BellSouth SWA Contract Tariff (N) (N)
6. BellSouth SWA Contract Tariff term (i.e., 36, 48 or 60 months) (N)
7. Minimum Usage Discount Table (N)

B. To subscribe to BellSouth SWA Contract Tariff No. NC2002-01, the customer must have been a BellSouth SWA customer for the previous 18-months. (N)

C. When the customer subscribes to BellSouth SWA Contract Tariff No. NC2002-01, the customer must identify to the Company, all Access Customer Name Abbreviations (ACNAs) and Carrier Identification Codes (CICs) to be included in BellSouth SWA Contract Tariff No. NC2002-01. (N)

D. The customer must be the billing responsible party for all BellSouth SWA billing elements associated with the ACNAs and CICs included in BellSouth SWA Contract No. NC2002-01. (N)

E. Any additions after the Letter of Agreement is executed will be handled as a merger or acquisition or transfer of service regulations as set forth in E26.1.3 following. (N)

F. A customer subscribing to BellSouth SWA Contract Tariff No. NC2002-01 may not subscribe to any other BellSouth SWA Contract Tariff that contains services as set forth in G. following. (N)

G. The following BellSouth SWA services will be used in determining the BellSouth SWA revenues that are eligible to receive the volume discount based on the established minimum local switching usage. (N)

1. BellSouth SWA Common Transport Service (N)
   - Facility Termination, per minute of use (N)
   - Per Mile, per minute of use (N)
   - DS3 to DS1 Multiplexer, per minute of use (N)
   - DS1 to VG Multiplexer, per minute of use (N)
2. Access Tandem Switching (N)
   - Dedicated Tandem Trunk Port Service (N)
     - Per DSO/VG trunk port required (N)
     - Per DS1 trunk port required (N)
   - DS1 to VG Channelization (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. NC2002-01 (Cont'd) (N)

E26.1.2 Subscription Conditions (Cont'd) (N)

G. (Cont'd) (N)

3. Local Switching (N)

Local Switching 1 (N)

Local Switching 2 (N)

Local Switching 3 (N)

Local Switching 4 (N)

Common Trunk Port Service (N)

Per each Common Transport trunk termination, per minute of use (N)

Dedicated End Office Trunk Port Service (N)

Per DSO/VG trunk port required (N)

Per DS1 trunk port required (N)

H. A customer may not combine its local switching minutes of use with another customer, whether an individual, partnership, association or corporation, for the purpose of meeting the established minimum local switching usage, as set forth in E26.1.5.B. following. (N)

I. Cancellation of BellSouth SWA Contract Tariff No. NC2002-01 (N)

1. During the term period of BellSouth SWA Contract Tariff No. NC2002-01, a customer may cancel BellSouth Contract Tariff No. NC2002-01 and subsequently subscribe to another BellSouth SWA Contract Tariff only one time. (N)

2. Cancellation of BellSouth SWA Contract Tariff No. NC2002-01 and subscription to another BellSouth SWA Contract Tariff is allowed only on the anniversary date of BellSouth SWA Contract Tariff No. NC2002-01 and upon meeting one of the following conditions: (N)

a. During the first year of BellSouth SWA Contract Tariff No. NC2002-01, the local switching usage achieved is 10 percent below the minimum usage; (N)

b. During the remaining years of BellSouth SWA Contract Tariff No. NC2002-01, the local switching usage is below the minimum usage. (N)

c. Local switching usage exceeds the discount usage cap. (N)

d. Customer adds CIC codes that are desired to become part of the volume discount contract tariff. (N)

J. Rates and charges for the BellSouth SWA services included in BellSouth SWA Contract Tariff No. NC2002-01 are as set forth in Section E6. of this Tariff. General regulations and ordering options for the BellSouth SWA services are as set forth in Sections E2. and E5. of this Tariff. (N)

E26.1.3 Mergers and Acquisitions and Transfer of Service (N)

A. In the event the customer merges with another company or is acquired by another company; the following regulations will apply: (N)

1. The customer may elect to terminate subscription to BellSouth SWA Contract Tariff No. NC2002-01. (N)

2. The customer may not combine revenues with the merged or acquired company's revenues for the purpose of obtaining volume discounts provided under BellSouth SWA Contract Tariff No. NC2002-01. (N)

3. The customer may continue subscribing to BellSouth SWA Contract Tariff No. NC2002-01 for the duration of the contract term provided that the customer continues the subscription as if it were the same entity that existed prior to the merger or acquisition. (N)

B. If customer requests a transfer of service, pursuant to Transfer of Service regulations in Sections E2. and E6. of this Tariff, the customer's subscription to BellSouth SWA Contract Tariff No. NC2002-01 shall be terminated. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. NC2002-01 (Cont'd) (N)

E26.1.4 BellSouth SWA Revenue Volume Discounts (N)

A. Each year of BellSouth SWA Contract Tariff No. NC2002-01 is defined as twelve (12) consecutive bill periods. For purposes of calculating the BellSouth SWA volume discounts, month 1 is the bill period after the beginning date of BellSouth SWA Contract Tariff No. NC2002-01. For example, if the beginning date of BellSouth SWA Contract Tariff No. NC2002-01 is June 6, 2002 bill period, then month 1 for purposes of calculating the BellSouth SWA volume discounts will be the July 6, 2002 bill period. (N)

B. The BellSouth SWA volume discounts provided herein will be determined during the first month after the end of each year of the BellSouth SWA Contract Tariff No. NC2002-01. During the second month following the end of each year of the BellSouth SWA Contract Tariff No. NC2002-01, the BellSouth SWA volume discounts will be applied via a credit to the customer's bill. (N)

C. True-up provisions will be made during the first quarter after the termination date of BellSouth SWA Contract No. NC2002-01. (N)

D. The BellSouth SWA volume discounts are applicable to the usage sensitive and recurring revenues of the BellSouth SWA services as set forth in E26.1.2.G. preceding. (N)

E. The BellSouth SWA volume discounts specified in BellSouth SWA Contract Tariff No. NC2002-01 will not be applied to taxes and nonrecurring BellSouth SWA revenues. (N)

F. The BellSouth SWA services to which the volume discounts provided under BellSouth SWA Contract Tariff No. NC2002-01 apply shall only be subject to service assurance warranty regulations specified in E2.4.4 of this Tariff. (N)

E26.1.5 BellSouth SWA Contract Tariff No. NC2002-01 Volume Discount Plan (N)

A. BellSouth SWA Contract Tariff No. NC2002-01 provides for annual volume discounts based upon annual local switching minutes of use (MOU) above a stated minimum usage. Annual volume discounts will be determined by the local switching usage volume and the year of the contract in which the local switching usage volume is achieved. (N)

B. The minimum usage and the achievable volume discounts associated with the BellSouth SWA services are shown in the table below. Volume discounts are not applicable to any usage levels outside of the MOU usage ranges stated in table below: (N)

Minimum Usage (MOU)	Usage Ranges (MOU)	Volume Discount Percentages					
		Year 1	Year 2	Year 3	Year 4	Year 5	(N)
414,791,314	414,791,314 – 423,087,141	7%	-	-	-	-	(N)
	>423,087,141 – 456,270,446	10%	15%	20%	-	-	(N)
	>456,270,446 – 539,228,709	15%	20%	25%	30%	35%	(N)

C. The annual local switching usage included in BellSouth SWA Contract Tariff No. NC2002-01 eligible for volume discount is determined by subtracting the minimum usage from the achieved local switching usage for each year. (N)

D. Dividing the annual local switching usage eligible for volume discount for a given year of BellSouth SWA Contract Tariff No. NC2002-01 by the minimum local switching usage will develop the usage factor. (N)

E. A usage factor (greater than zero) will be applied to the eligible BellSouth SWA revenue generated by the BellSouth SWA services identified in E26.1.2.G. preceding. This calculation produces the annual revenue eligible for discount. (N)

F. The discount percent achieved, as set forth in B. preceding, is based upon the minimum usage required, the usage factor achieved and the term year. (N)

G. The volume discount received for a given year under BellSouth SWA Contract Tariff No. NC2002-01 is determined by multiplying the eligible BellSouth SWA revenue times the discount factor achieved. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. NC2002-01 (Cont'd) (N)

E26.1.5 BellSouth SWA Contract Tariff No. NC2002-01 Volume Discount Plan (Cont'd) (N)

H. Following is an example of how the annual BellSouth SWA volume discount will be determined. (N)

BellSouth SWA Contract Tariff Volume Discount Calculation (N)

Customer Information (N)

Customer subscribed to a five year BellSouth SWA Contract Tariff and is in the 4th year of the contract term. The customer's local switching minimum usage is 5,000,000,000 minutes of use. The annual local switching usage for year 4 is 5,750,000,000 minutes of use and the eligible BellSouth SWA revenues for year 4 is $25,000,000. (N)

Year 4 Usage Eligible for Discount = Year 4 Usage - Minimum Usage (N)

= 5.75B MOU - 5B MOU (N)

= 750M MOU (N)

Year 4 Usage Factor = Year 4 Annual Usage / Minimum Usage (N)

= 750M MOU / 5B MOU (N)

= .15 (N)

Year 4 Revenue Eligible for Discount = Year 4 Usage Factor X Year 4 eligible BellSouth SWA Revenue (N)

= .15 X $25,000,000 (N)

= $3,750,000 (N)

Year 4 Volume Discount = Year 4 Revenue Eligible for Discount X Discount Factor (N)

= $3,750,000 X .30 (N)

= $1,125,000 (N)

EXHIBIT 10

TARIFF DISTRIBUTION

FILE CODE: 680.3400 FILE PACKAGE NO.: SC2002-055

DATE: June 26, 2002

STATE: SOUTH CAROLINA

EFFECTIVE DATE: 06/26/2002

TYPE OF DISTRIBUTION: Approved

PURPOSE: BellSouth SWA Contract Tariff No. 2002-01

TARIFF SECTION	PAGE NUMBER	PAGE REVISION
E019	1	00
E022	1	00
E023	1	00
E024	1	00
E025	1	00
E026	1	00
E026	2	00
E026	3	00
E026	4	00
E027	1	00
E028	1	00
E029	1	00
E030	1	00
E031	1	00
E032	1	00
E033	1	00
E026 Contents	1	01
E996 Contents	1	03

E19. RESERVED FOR FUTURE USE (N)

E22. RESERVED FOR FUTURE USE (N)

E23. RESERVED FOR FUTURE USE (N)

E24. RESERVED FOR FUTURE USE (N)

E25. RESERVED FOR FUTURE USE (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

CONTENTS (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

E26.1 BellSouth SWA Contract Tariff No. SC2002-01 (N)

E26.1.1 General Regulations (N)

A. The start date of BellSouth SWA Contract Tariff No. SC2002-01 is the first bill period following subscription to this contract tariff. (N)

B. BellSouth SWA Contract Tariff No. SC2002-01 shall terminate on August 12, 2007. (N)

C. The regulations, terms, conditions and volume discounts provided herein shall apply to the customer's applicable BellSouth SWA usage and revenues achieved in the sate of South Carolina. (N)

D. A customer that is similarly situated may subscribe within a period of thirty (30) days following the effective date of BellSouth SWA Contract Tariff No. SC2002-01. (N)

E26.1.2 Subscription Conditions (N)

A. To subscribe to BellSouth SWA Contract Tariff No. SC2002-01, the customer and the Company must execute a Letter of Agreement. The Company shall provide a Letter of Agreement for the customer to execute. The Letter of Agreement shall contain: (N)

1. BellSouth SWA Contract Tariff Number (N)
2. Start and termination date of BellSouth SWA Contract Tariff (N)
3. Customer's Name and Billing Address (N)
4. Billing Account Number the credit will be applied (N)
5. Access Customer Name Abbreviations (ACNAs) and Customer Identifications Codes (CICs) to be included in the BellSouth SWA Contract Tariff (N) (N)
6. BellSouth SWA Contract Tariff term (i.e., 36, 48 or 60 months) (N)
7. Minimum Usage Discount Table (N)

B. To subscribe to BellSouth SWA Contract Tariff No. SC2002-01, the customer must have been a BellSouth SWA customer for the previous 18-months. (N)

C. When the customer subscribes to BellSouth SWA Contract Tariff No. SC2002-01, the customer must identify to the Company, all Access Customer Name Abbreviations (ACNAs) and Carrier Identification Codes (CICs) to be included in BellSouth SWA Contract Tariff No. SC2002-01. (N)

D. The customer must be the billing responsible party for all BellSouth SWA billing elements associated with the ACNAs and CICs included in BellSouth SWA Contract No. SC2002-01. (N)

E. Any additions after the Letter of Agreement is executed will be handled as a merger or acquisition or transfer of service regulations as set forth in E26.1.3 following. (N)

F. A customer subscribing to BellSouth SWA Contract Tariff No. SC2002-01 may not subscribe to any other BellSouth SWA Contract Tariff that contains services as set forth in G. following. (N)

G. The following BellSouth SWA services will be used in determining the BellSouth SWA revenues that are eligible to receive the volume discount based on the established minimum local switching usage. (N)

1. BellSouth SWA Common Transport Service (N)
   - Facility Termination, per minute of use (N)
   - Per Mile, per minute of use (N)
   - DS3 to DS1 Multiplexer, per minute of use (N)
   - DS1 to VG Multiplexer, per minute of use (N)
2. Access Tandem Switching (N)
   - Dedicated Tandem Trunk Port Service (N)
     - Per DSO/VG trunk port required (N)
     - Per DS1 trunk port required (N)
   - DS1 to VG Channelization (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. SC2002-01 (Cont'd) (N)

E26.1.2 Subscription Conditions (Cont'd) (N)

G. (Cont'd) (N)

3. Local Switching (N)
   - Local Switching 1 (N)
   - Local Switching 2 (N)
   - Local Switching 3 (N)
   - Local Switching 4 (N)
   - Common Trunk Port Service (N)
     - Per each Common Transport trunk termination, per minute of use (N)
   - Dedicated End Office Trunk Port Service (N)
     - Per DSO/VG trunk port required (N)
     - Per DS1 trunk port required (N)

H. A customer may not combine its local switching minutes of use with another customer, whether an individual, partnership, association or corporation, for the purpose of meeting the established minimum local switching usage, as set forth in E26.1.5.B. following. (N)

I. Cancellation of BellSouth SWA Contract Tariff No. SC2002-01 (N)

1. During the term period of BellSouth SWA Contract Tariff No. SC2002-01, a customer may cancel BellSouth Contract Tariff No. SC2002-01 and subsequently subscribe to another BellSouth SWA Contract Tariff only one time. (N)
2. Cancellation of BellSouth SWA Contract Tariff No. SC2002-01 and subscription to another BellSouth SWA Contract Tariff is allowed only on the anniversary date of BellSouth SWA Contract Tariff No. SC2002-01 and upon meeting one of the following conditions: (N)
   a. During the first year of BellSouth SWA Contract Tariff No. SC2002-01, the local switching usage achieved is 10 percent below the minimum usage; (N)
   b. During the remaining years of BellSouth SWA Contract Tariff No. SC2002-01, the local switching usage is below the minimum usage. (N)
   c. Local switching usage exceeds the discount usage cap. (N)
   d. Customer adds CIC codes that are desired to become part of the volume discount contract tariff. (N)

J. Rates and charges for the BellSouth SWA services included in BellSouth SWA Contract Tariff No. SC2002-01 are as set forth in Section E6. of this Tariff. General regulations and ordering options for the BellSouth SWA services are as set forth in Sections E2. and E5. of this Tariff. (N)

E26.1.3 Mergers and Acquisitions and Transfer of Service (N)

A. In the event the customer merges with another company or is acqured by another company; the following regulations will apply: (N)

1. The customer may elect to terminate subscription to BellSouth SWA Contract Tariff No. SC2002-01. (N)
2. The customer may not combine revenues with the merged or acquired company's revenues for the purpose of obtaining volume discounts provided under BellSouth SWA Contract Tariff No. SC2002-01. (N)
3. The customer may continue subscribing to BellSouth SWA Contract Tariff No. SC2002-01 for the duration of the contract term provided that the customer continues the subscription as if it were the same entity that existed prior to the merger or acquisition. (N)

B. If customer requests a transfer of service, pursuant to Transfer of Service regulations in Sections E2. and E6. of this Tariff, the customer's subscription to BellSouth SWA Contract Tariff No. SC2002-01 shall be terminated. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. SC2002-01 (Cont'd) (N)

E26.1.4 BellSouth SWA Revenue Volume Discounts (N)

A. Each year of BellSouth SWA Contract Tariff No. SC2002-01 is defined as twelve (12) consecutive bill periods. For purposes of calculating the BellSouth SWA volume discounts, month 1 is the bill period after the beginning date of BellSouth SWA Contract Tariff No. SC2002-01. For example, if the beginning date of BellSouth SWA Contract Tariff No. SC2002-01 is June 6, 2002 bill period, then month 1 for purposes of calculating the BellSouth SWA volume discounts will be the July 6, 2002 bill period. (N)

B. The BellSouth SWA volume discounts provided herein will be determined during the first month after the end of each year of the BellSouth SWA Contract Tariff No. SC2002-01. During the second month following the end of each year of the BellSouth SWA Contract Tariff No. SC2002-01, the BellSouth SWA volume discounts will be applied via a credit to the customer's bill. (N)

C. True-up provisions will be made during the first quarter after the termination date of BellSouth SWA Contract No. SC2002-01. (N)

D. The BellSouth SWA volume discounts are applicable to the usage sensitive and recurring revenues of the BellSouth SWA services as set forth in E26.1.2.G. preceding. (N)

E. The BellSouth SWA volume discounts specified in BellSouth SWA Contract Tariff No. SC2002-01 will not be applied to taxes and nonrecurring BellSouth SWA revenues. (N)

F. The BellSouth SWA services to which the volume discounts provided under BellSouth SWA Contract Tariff No. SC2002-01 apply shall only be subject to service assurance warranty regulations specified in E2.4.4 of this Tariff. (N)

E26.1.5 BellSouth SWA Contract Tariff No. SC2002-01 Volume Discount Plan (N)

A. BellSouth SWA Contract Tariff No. SC2002-01 provides for annual volume discounts based upon annual local switching minutes of use (MOU) above a stated minimum usage. Annual volume discounts will be determined by the local switching usage volume and the year of the contract in which the local switching usage volume is achieved. (N)

B. The minimum usage and the achievable volume discounts associated with the BellSouth SWA services are shown in the table below. Volume discounts are not applicable to any usage levels outside of the MOU usage ranges stated in table below: (N)

Minimum Usage (MOU)	Usage Ranges (MOU)	Volume Discount Percentages					
		Year 1	Year 2	Year 3	Year 4	Year 5	(N)
200,443,406	200,443,406 – 204,452,275	7%	-	-	-	-	(N)
	>204,452,275 – 220,487,747	10%	15%	20%	-	-	(N)
	>220,487,747 – 260,576,428	15%	20%	25%	30%	35%	(N)

C. The annual local switching usage included in BellSouth SWA Contract Tariff No. SC2002-01 eligible for volume discount is determined by subtracting the minimum usage from the achieved local switching usage for each year. (N)

D. Dividing the annual local switching usage eligible for volume discount for a given year of BellSouth SWA Contract Tariff No. SC2002-01 by the minimum local switching usage will develop the usage factor. (N)

E. A usage factor (greater than zero) will be applied to the eligible BellSouth SWA revenue generated by the BellSouth SWA services identified in E26.1.2.G. preceding. This calculation produces the annual revenue eligible for discount. (N)

F. The discount percent achieved, as set forth in B. preceding, is based upon the minimum usage required, the usage factor achieved and the term year. (N)

G. The volume discount received for a given year under BellSouth SWA Contract Tariff No. SC2002-01 is determined by multiplying the eligible BellSouth SWA revenue times the discount factor achieved. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. SC2002-01 (Cont'd) (N)

E26.1.5 BellSouth SWA Contract Tariff No. SC2002-01 Volume Discount Plan (Cont'd) (N)

H. Following is an example of how the annual BellSouth SWA volume discount will be determined. (N)

BellSouth SWA Contract Tariff Volume Discount Calculation (N)

Customer Information (N)

Customer subscribed to a five year BellSouth SWA Contract Tariff and is in the 4^{th} year of the contract term. The customer's local switching minimum usage is 5,000,000,000 minutes of use. The annual local switching usage for year 4 is 5,750,000,000 minutes of use and the eligible BellSouth SWA revenues for year 4 is $25,000,000. (N)

Year 4 Usage Eligible for Discount = Year 4 Usage - Minimum Usage (N)

= 5.75B MOU - 5B MOU (N)

= 750M MOU (N)

Year 4 Usage Factor = $\frac{\text{Year 4 Annual Usage}}{\text{Minimum Usage}}$ (N)

= $\frac{\text{750M MOU}}{\text{5B MOU}}$ (N)

= .15 (N)

Year 4 Revenue Eligible for Discount = Year 4 Usage Factor X Year 4 eligible BellSouth SWA Revenue (N)

= .15 X $25,000,000 (N)

= $3,750,000 (N)

Year 4 Volume Discount = Year 4 Revenue Eligible for Discount X Discount Factor (N)

= $3,750,000 X .30 (N)

= $1,125,000 (N)

E27. RESERVED FOR FUTURE USE (N)

E28. RESERVED FOR FUTURE USE (N)

E29. RESERVED FOR FUTURE USE (N)

E30. RESERVED FOR FUTURE USE (N)

E31. RESERVED FOR FUTURE USE (N)

E32. RESERVED FOR FUTURE USE (N)

E33. RESERVED FOR FUTURE USE (N)

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EXHIBIT 11

BELLSOUTH®

BellSouth Telecommunications, Inc.
Suite 2104
333 Commerce Street
Nashville, TN 37201-3300

Charles L. Howorth, Jr.
Regulatory Vice President

615 214-6520
Fax 615 214-8858

June 28, 2002

RECEIVED
JUN 0 5 2002
TN REGULATORY AUTHORITY
TELECOMMUNICATIONS DIVISION

Mr. Joe Werner, Chief
Telecommunications Division
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee

0200740

Dear Mr. Werner:

SUBJECT: Tariff to Introduce BellSouth SWA Contracts

Attached is the following tariff filing of BellSouth Telecommunications, Inc., issued June 28, 2002. We request that this tariff be effective July 29, 2002.

Access Services Tariff
Table of Contents – First Revised Page 1
Subject Index – Twelfth Revised Page 2
Section E19 – Contents, Original Page 1
Section E20 – Contents, Original Page 1
Section E22 – Contents, Original Page 1
Section E23 – Contents, Original Page 1
Section E24 – Contents, Original Page 1
Section E25 – Contents, Original Page 1
Section E26 – Contents, Original Page 1
- Original Page 1
- Original Page 2
- Original Page 3
- Original Page 4

This Tariff is being filed to introduce BellSouth SWA Contract Tariff in the Access Services Tariff. Additional details can be found in the Executive Summary that is included in this package.

(2)

We appreciate your returning a receipted copy as evidence of this tariff filing. Please call Paul Stinson at 214-3839 if you have any questions or wish to discuss.

Yours truly,

Charlie Brown

Attachments

Post-it® Fax Note 7671	Date 7-2-02 # of pages ▶ 2
To Carol Wallace	From L. Olson
Co./Dept.	Co.
Phone #	Phone #
Fax #	Fax #

BellSouth Telecommunications, Inc.
Tennessee

EXECUTIVE SUMMARY

Introduction

With this filing, the Tennessee intrastate Access Services Tariff is being revised to add a new tariff section, Section 26 – BellSouth SWA Contract Tariffs. This filing also introduces Tennessee's first contract tariff, BellSouth SWA Contract Tariff No. TN2002-01.

Description of Present Tariff

Tennessee's current intrastate Access Services Tariff does not offer BellSouth SWA Contract Tariffs.

Description of Proposed Tariff

BellSouth SWA Contract Tariffs will enable BellSouth to offer its Interexchange Carrier (IXC) customers intrastate contract tariffs that are individually designed, priced and negotiated based on the customer's needs. BellSouth SWA Contract Tariff No. TN2002-01 provides a volume and term discount plan with a 3, 4 or 5 year contract term for selected BellSouth SWA services. The rates and charges for the services included in BellSouth SWA Contract Tariff No. TN2002-01 are as set forth in E6 of BellSouth's Access Services Tariff. No termination liability charge will apply in the event that the customer terminates a contract under this tariff.

BellSouth will maintain generally available (tariffed) Access Services. Additionally, the service functionality (not the pricing structure) offered in BellSouth SWA Contract Tariffs will also be generally available in the Access Services Tariff.

Additional information is available in the tariff.

Post-it® Fax Note 7671	Date 7-11-02	# of pages ▶ 1
To Carol Wallace	From L. Dixon	
Co./Dept.	Co.	
Phone #	Phone #	
Fax #	Fax #	

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SUBJECT INDEX

B.

® BellSouth is a registered trademark of BellSouth Intellectual Property Corporation

E19. RESERVED FOR FUTURE USE (N)

CONTENTS (N)

E20. RESERVED FOR FUTURE USE (N)

CONTENTS (N)

E22. RESERVED FOR FUTURE USE (N)

CONTENTS (N)

E23. RESERVED FOR FUTURE USE (N)

CONTENTS (N)

E24. RESERVED FOR FUTURE USE (N)

CONTENTS (N)

E25. RESERVED FOR FUTURE USE (N)

CONTENTS (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

CONTENTS (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS (N)

E26.1 BellSouth SWA Contract Tariff No. TN2002-01 (N)

E26.1.1 General Regulations (N)

A. The start date of BellSouth SWA Contract Tariff No. TN2002-01 is the first bill period following subscription to this contract tariff. (N)

B. BellSouth SWA Contract Tariff No. TN2002-01 shall terminate on September 29, 2007. (N)

C The regulations, terms, conditions and volume discounts provided herein shall apply to the customer's applicable BellSouth SWA usage and revenues achieved in the state of Tennessee. (N)

D A customer that is similarly situated may subscribe within a period of thirty (30) days following the effective date of BellSouth SWA Contract Tariff No. TN2002-01. (N)

E A customer with other usage levels may negotiate a separate BellSouth SWA Contract Tariff with the Company. (N)

E26.1.2 Subscription Conditions (N)

A. To subscribe to BellSouth SWA Contract Tariff No. TN2002-01, the customer and the Company must execute a Letter of Agreement. The Company shall provide a Letter of Agreement for the customer to execute. The Letter of Agreement shall contain: (N)

1. BellSouth SWA Contract Tariff Number (N)
2. Start and termination date of BellSouth SWA Contract Tariff (N)
3. Customer's Name and Billing Address (N)
4. Billing Account Number to which the credit will be applied (N)
5. Access Customer Name Abbreviations (ACNAs) and Customer Identifications Codes (CICs) to be included in the BellSouth SWA Contract Tariff (N)
6. BellSouth SWA Contract Tariff term (i.e., 36, 48 or 60 months) (N)
7. Minimum Usage Discount Table (N)

B To subscribe to BellSouth SWA Contract Tariff No. TN2002-01, the customer must have been a BellSouth SWA customer for the previous 18-months. (N)

C. When the customer subscribes to BellSouth SWA Contract Tariff No. TN2002-01, the customer must identify to the Company, all Access Customer Name Abbreviations (ACNAs) and Carrier Identification Codes (CICs) to be included in BellSouth SWA Contract Tariff No. TN2002-01. (N)

D The customer must be the billing responsible party for all BellSouth SWA billing elements associated with the ACNAs and CICs included in BellSouth SWA Contract No. TN2002-01. (N)

E. Any additions after the Letter of Agreement is executed will be handled as a merger or acquisition or transfer of service in accordance with regulations as set forth in E26.1.3 following. (N)

F. A customer subscribing to BellSouth SWA Contract Tariff No. TN2002-01 may not subscribe to any other BellSouth SWA Contract Tariff that contains services as set forth in G. following. (N)

G. The following BellSouth SWA services will be used in determining the BellSouth SWA revenues that are eligible to receive the volume discount based on the established minimum local switching usage. (N)

1. BellSouth SWA Common Transport Service (N)
   - Facility Termination, per minute of use (N)
   - Per Mile, per minute of use (N)
   - DS3 to DS1 Multiplexer, per minute of use (N)
   - DS1 to VG Multiplexer, per minute of use (N)
2. Access Tandem Switching (N)
   - Dedicated Tandem Trunk Port Service (N)
     - Per DSO/VG trunk port required (N)
     - Per DS1 trunk port required (N)
   - DS1 to VG Channelization (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. TN2002-01 (Cont'd) (N)

E26.1.2 Subscription Conditions (Cont'd) (N)

G. (Cont'd) (N)

3. Local Switching (N)

Local Switching 1 (N)

Local Switching 2 (N)

Local Switching 3 (N)

Local Switching 4 (N)

Common Trunk Port Service (N)

Per each Common Transport trunk termination, per minute of use (N)

Dedicated End Office Trunk Port Service (N)

Per DS0/VG trunk port required (N)

Per DS1 trunk port required (N)

H. A customer may not combine its local switching minutes of use with another customer, whether an individual, partnership, association or corporation, for the purpose of meeting the established minimum local switching usage, as set forth in E26.1.5.B. following. (N)

I. Cancellation of BellSouth SWA Contract Tariff No. TN2002-01 (N)

1. During the term period of BellSouth SWA Contract Tariff No. TN2002-01, a customer may cancel BellSouth Contract Tariff No. TN2002-01 and subsequently subscribe to another BellSouth SWA Contract Tariff only one time. (N)

2. Cancellation of BellSouth SWA Contract Tariff No. TN2002-01 and subscription to another BellSouth SWA Contract Tariff is allowed only on the anniversary date of BellSouth SWA Contract Tariff No. TN2002-01 and upon meeting one of the following conditions: (N)

a. During the first year of BellSouth SWA Contract Tariff No. TN2002-01, the local switching usage achieved is 10 percent below the minimum usage; (N)

b. During the remaining years of BellSouth SWA Contract Tariff No. TN2002-01, the local switching usage is below the minimum usage. (N)

c. Local switching usage exceeds the discount usage cap. (N)

d. Customer adds CIC codes that are desired to become part of the volume discount contract tariff. (N)

J. Rates and charges for the BellSouth SWA services included in BellSouth SWA Contract Tariff No. TN2002-01 are as set forth in Section E6. of this Tariff. General regulations and ordering options for the BellSouth SWA services are as set forth in Sections E2. and E5. of this Tariff. (N)

E26.1.3 Mergers and Acquisitions and Transfer of Service (N)

A. In the event the customer merges with another company or is acquired by another company, the following regulations will apply: (N)

1. The customer may elect to terminate subscription to BellSouth SWA Contract Tariff No. TN2002-01. (N)

2. The customer may not combine revenues with the merged or acquired company's revenues for the purpose of obtaining volume discounts provided under BellSouth SWA Contract Tariff No. TN2002-01. (N)

3. The customer may continue subscribing to BellSouth SWA Contract Tariff No. TN2002-01 for the duration of the contract term provided that the customer continues the subscription as if it were the same entity that existed prior to the merger or acquisition. (N)

B. If customer requests a transfer of service, pursuant to Transfer of Service regulations in Sections E2. and E6. of this Tariff, the customer's subscription to BellSouth SWA Contract Tariff No. TN2002-01 shall be terminated. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. TN2002-01 (Cont'd) (N)

E26.1.4 BellSouth SWA Revenue Volume Discounts (N)

A. Each year of BellSouth SWA Contract Tariff No. TN2002-01 is defined as twelve (12) consecutive bill periods. For purposes of calculating the BellSouth SWA volume discounts, month 1 is the bill period after the beginning date of BellSouth SWA Contract Tariff No. TN2002-01. For example, if the beginning date of BellSouth SWA Contract Tariff No. TN2002-01 is June 6, 2002 bill period, then month 1 for purposes of calculating the BellSouth SWA volume discounts will be the July 6, 2002 bill period. (N)

B. The BellSouth SWA volume discounts provided herein will be determined during the first month after the end of each year of the BellSouth SWA Contract Tariff No. TN2002-01. During the second month following the end of each year of the BellSouth SWA Contract Tariff No. TN2002-01, the BellSouth SWA volume discounts will be applied via a credit to the customer's bill. (N)

C. True-up provisions will be made during the first quarter after the termination date of BellSouth SWA Contract No. TN2002-01. (N)

D. The BellSouth SWA volume discounts are applicable to the usage sensitive and recurring revenues of the BellSouth SWA services as set forth in E26.1.2.G. preceding. (N)

E. The BellSouth SWA volume discounts specified in BellSouth SWA Contract Tariff No. TN2002-01 will not be applied to taxes and nonrecurring BellSouth SWA revenues. (N)

F The BellSouth SWA services to which the volume discounts provided under BellSouth SWA Contract Tariff No. TN2002-01 apply shall only be subject to service assurance warranty regulations specified in E2.4.4 of this Tariff. (N)

E26.1.5 BellSouth SWA Contract Tariff No. TN2002-01 Volume Discount Plan (N)

A BellSouth SWA Contract Tariff No. TN2002-01 provides for annual volume discounts based upon annual local switching minutes of use (MOU) above a stated minimum usage. Annual volume discounts will be determined by the local switching usage volume and the year of the contract in which the local switching usage volume is achieved. (N)

B. The minimum usage and the achievable volume discounts associated with the BellSouth SWA services are shown in the table below. Volume discounts are not applicable to any usage levels outside of the MOU usage ranges stated in table below: (N)

Minimum Usage (MOU)	Usage Ranges (MOU)	Volume Discount Percentages					
		Year 1	Year 2	Year 3	Year 4	Year 5	(N)
216,442,537	216,442,537 – 220,771,388	7%	-	-	-	-	(N)
	>220,771,388 – 238,086,791	10%	15%	20%	-	-	(N)
	>238,086,791 – 281,375,299	15%	20%	25%	30%	35%	(N)

C. The annual local switching usage included in BellSouth SWA Contract Tariff No. TN2002-01 eligible for volume discount is determined by subtracting the minimum usage from the achieved local switching usage for each year. (N)

D. Dividing the annual local switching usage eligible for volume discount for a given year of BellSouth SWA Contract Tariff No. TN2002-01 by the minimum local switching usage will develop the usage factor. (N)

E. A usage factor (greater than zero) will be applied to the eligible BellSouth SWA revenue generated by the BellSouth SWA services identified in E26.1.2.G. preceding. This calculation produces the annual revenue eligible for discount. (N)

F. The discount percent achieved, as set forth in B preceding, is based upon the minimum usage required, the usage factor achieved and the term year. (N)

G The volume discount received for a given year under BellSouth SWA Contract Tariff No. TN2002-01 is determined by multiplying the eligible BellSouth SWA revenue times the discount factor achieved. (N)

E26. BELLSOUTH SWA CONTRACT TARIFFS

E26.1 BellSouth SWA Contract Tariff No. TN2002-01 (Cont'd) (N)

E26.1.5 BellSouth SWA Contract Tariff No. TN2002-01 Volume Discount Plan (Cont'd) (N)

H. Following is an example of how the annual BellSouth SWA volume discount will be determined. (N)

BellSouth SWA Contract Tariff Volume Discount Calculation (N)

Customer Information (N)

Customer subscribed to a five year BellSouth SWA Contract Tariff and is in the 3rd year of the contract term. The customer's local switching minimum usage is 216,442,537 minutes of use (MOU). The annual local switching usage for year 3 is 250,000,000 minutes of use and the eligible BellSouth SWA revenues for year 3 is $1,200,000. (N)

Year 3 Usage Eligible for Discount = Year 3 Usage - Minimum Usage (N)

= 250,000,000 MOU - 216,442,537 MOU (N)

= 33,557,463 MOU (N)

Year 3 Usage Factor = Year 3 Annual Usage / Minimum Usage (N)

= 250,000,000 MOU / 216,442,537 MOU (N)

= .16 (N)

Year 3 Revenue Eligible for Discount = Year 3 Usage Factor X Year 3 eligible BellSouth SWA Revenue (N)

= .16 X $1,200,000 (N)

= $186,049 (N)

Year 3 Volume Discount = Year 3 Revenue Eligible for Discount X Discount Factor (N)

= $186,049 X .25 (N)

= $46,512 (N)

EXHIBIT 12

WOMBLE
CARLYLE
SANDRIDGE
& RICE
A PROFESSIONAL LIMITED
LIABILITY COMPANY

150 Fayetteville Street Mall, Suite 2100
Raleigh, NC 27601

Mailing Address:
Post Office Box 831
Raleigh, NC 27602
Telephone: (919) 755 2100
Fax: (919) 755-2150
Web site: www.wcsr.com

RECEIVED FILING FEE $10.00

Loretta A. Cecil
Direct Dial: (404) 888-7437
Direct Fax: (404) 870-4826
E-mail: lcecil@wcsr.com

FILED
JUN 20 2002
Clerk's Office
N.C. Utilities Commission

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June 19, 2002

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3-Comm.

Ms. Geneva Thigpen, Chief Clerk
North Carolina Utilities Commission
430 North Salisbury Street
Raleigh, NC 27601

P-55 Sub 1365

Re: In the Matter of BellSouth Telecommunications, Inc. Intrastate Access Services Tariff/New Section 26/BellSouth SAW Tariffs

Dear Ms. Thigpen:

Please find enclosed for filing in your office the original and thirty-one (31) copies of an AT&T Communications of the Southern States, LLC ("AT&T") Complaint for Anticompetitive Activity and Motion to Find Tariff Noncompliant or Suspend Tariff for Failure to Comply. Please stamp two (2) copies of the Complaint and Motion in the usual manner and return to us via our courier.

If you have any questions, please do not hesitate to contact me at (404) 888-7437.

Sincerely yours

Loretta Cecil
jpm

Loretta A. Cecil

Enclosure(s)

BEFORE THE NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. ~~P-100, SUB 30~~
DOCKET NO. P-55, SUB 1365

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	COMPLAINT FOR ANTICOMPETITIVE
BellSouth Telecommunications,	)	ACTIVITY PURSUANT TO N.C.G.S.
Inc. Intrastate Access Services	)	62-73; 62-133.5(a)(iii) AND (iv);
Tariff/New Section 26/	)	62-133.5(d) AND (e); 62-134; AND
BellSouth SWA Contract	)	COMMISSION RULE R1-9 AND
Tariffs	)	MOTION TO FIND TARIFF
	)	NONCOMPLIANT OR SUSPEND
	)	TARIFF FOR FAILURE TO COMPLY
	)	WITH N.C.G.S. 133.5(a)(iii) AND (iv);
	)	62-133.5(a) AND (e) AND COMMISSION
	)	TARIFF RULE R9-4

COMPLAINT FOR ANTICOMPETITIVE ACTIVITY
PURSUANT TO N.C.G.S. 62-73; 62-133.5(a)(iii) AND (iv);
62-133.5(d) AND (e); AND 62-134; AND COMMISSION RULE R1-9
AND MOTION TO FIND TARIFF NONCOMPLIANT OR SUSPEND
TARIFF FOR FAILURE TO COMPLY WITH N.C.G.S. 133.5(a)(iii)
AND (iv); 62-133.5(a) AND (e) AND COMMISSION TARIFF RULE R9-4

COMES NOW AT&T Communications of the Southern States, LLC ("AT&T") and hereby files this Complaint, pursuant to N.C.G.S. 62-73, 62-133.5(a)(iii) and (iv), 62-133.5(d) and (e); and 62-134; and Commission Rule R1-9 against BellSouth Telecommunications, Inc. ("BellSouth") for anticompetitive activity and Motion to find tariff noncompliant or suspend tariff for failure to comply with N.C.G.S. 133.5(a)(iii) and (iv); 62-133.5(a) and (e) and Commission Tariff Rule R9-4. In support of this Complaint and Motion, AT&T alleges as follows:

1.

FULL NAME AND ADDRESS OF COMPLAINANT

The full name and address of the Complainant is AT&T Communications of the Southern States, LLC whose address is 150 Fayetteville Street Mall, Suite 1340, Raleigh, NC 27601.

2.

FULL NAME AND ADDRESS OF DEFENDANT

The full name and address of the Defendant is BellSouth Telecommunications, Inc. whose address is P. O. Box 30799, Charlotte, NC 28230-0188.

STATEMENT OF FACTS AND ALLEGATIONS

3.

This Complaint and Motion involves BellSouth's revision to BellSouth's Intrastate Access Services Tariff filed with this Commission on May 24, 2002, which introduced BellSouth Switched Contract Tariffs ("Revised Tariff").

4.

Currently, BellSouth's Intrastate Access Services Tariff is the only tariff available to interexchange carriers ("IXCs") under which they may purchase "switched access services" from BellSouth. The Intrastate Access

Services Tariff establishes "usage-sensitive" switched access rates, which are required to apply to all IXCs on a nondiscriminatory basis.

5.

The Revised Tariff seeks to fundamentally change the switched access landscape in North Carolina, conveniently at a time when BellSouth hopes to enter the interLATA long distance market in North Carolina.[1]

6.

Other than the Revised Tariff's ambiguous provisions regarding "Demand Development" (defined as an IXC's projected one (1) year local switching usage based upon the trending of the most recent available eighteen (18) months local switching prior to the beginning of the term), the Revised Tariff does not indicate what other terms and conditions BellSouth may "individually design, price, and negotiate" with IXCs for switched access (See, Revised Tariff, Executive Summary, Description of Proposed Tariff).

7.

The Revised Tariff also fails to state whether BellSouth may negotiate with its affiliated IXC company, BellSouth Long Distance, Inc. ("BSLD") for "individually designed, priced, and negotiated" switched access

[1] This Commission "endorsed" BellSouth's proposed entry into the interLATA long distance market in North Carolina in its Order dated May 23, 2002.

arrangements. Absent such a prohibition, such negotiation would be allowed.[2]

8.

The Commission should determine whether the Revised Tariff establishes "reasonable and just" provisions in accordance with the requirements of N.C.G.S. 62-73.

9.

BellSouth's SWA Contract Tariff No. NC 2002-01 (included in Revised Tariff) is the first "individually designed, priced, and negotiated" switched access arrangement offered to a particular IXC. However, it is not clear whether the minutes of use ("MOU's") minimum usage, usage ranges, and volume discount percentages contained in E.26.1.5.B. apply only to the particular IXC with whom BellSouth apparently already has been negotiating, or whether different MOU minimum usage, usage ranges, and volume discount percentages could be negotiated by the next IXC who elects to negotiate a special deal with BellSouth.[3]

10.

---

[2] BellSouth "locks" an IXC (prior IXC) into a "SWA Contract" and then prohibits prior IXC from moving to a potentially better BellSouth offer given to another IXC (subsequent IXC if similarly situated). BellSouth will allow prior IXC to cancel the "SWA Contract," but only once and only on its anniversary. Accordingly, Revised Tariff allows BellSouth to file a new "SWA Contract" with subsequent IXC the day after entering into a "SWA Contract" with prior IXC. However, prior IXC would be forced to wait nearly 1 year before it can "opt in" into the more recent "SWA Contract" executed with subsequent IXC.

[3] Although, E.26.1.1 states "[a] customer that is similarly situated may subscribe with a period of 30 days following the effective date of BellSouth SWA Contract Tariff No. 2002-01," it remains unclear whether "better deals" could be negotiated by "subsequent" negotiating IXCs.

Because the Revised Tariff provides discounts based only on "positive incremental" local switching MOU's, Revised Tariff only benefits those IXC's, like BSLD, who will experience a growth in MOU volumes. (See, Exhibit 1 attached and incorporated herein by this reference.)

11.

An IXC, like AT&T, whose intrastate volume historically has been declining is discriminated against by the methodology of Revised Tariff. In other words, an IXC experiencing a declining-growth trend can obtain no credit for simply "improving" its rate of decline over the "Demand Development" term. AT&T and other declining growth trend IXC's would benefit from Revised Tariff only by growing (in a positive manner from its baseline usage level) MOU's in future years (e.g., years 2 thru 5 of a contract term). BellSouth's methodology fails to recognize declining growth improvement and requires by Year 2 that the IXC be achieving positive incremental growth (compared to the minimum usage established in the "Demand Development.") (See, Exhibit 2 attached and incorporated herein by this reference.)

12.

As illustrated in the attached Exhibits, Revised Tariff's discount structure only considers percentage growth rather than actual growth (i.e., raw volume) and can competitively disadvantage an IXC even if that IXC produces greater volume growth than a competitor. For example, if IXC "A" produces 1,000,000 incremental MOU's versus IXC "B" which produces just 1,000 incremental MOU's, the incremental volume for IXC "A" does not satisfy Revised Tariff's requirement of 2% growth in order to qualify for a second year discount. Meanwhile, the incremental volume for IXC "B" satisfies the 2% growth requirement and thus qualifies IXC "B" for discounts in the 2nd year of the "Demand Development" term. Although IXC "B" (in this scenario) has produced little "raw volume" improvement, it has positioned itself to obtain a better usage-sensitive unit cost than IXC "A." Ultimately, this equates to IXC "B" (a smaller growing carrier) to produce better market prices and a competitive edge towards gaining market share against IXC "A" and other declining growth trend IXC's.

13.

Based on the foregoing, Revised Tariff is anticompetitive under N.C.G.S. 62-133.5(a)(iii) and (iv) and, pursuant to N.C.G.S. 62-73, should be found by this Commission to be "unjust and "unreasonable," and either found noncompliant by the Commission pursuant to Commission Rule R9-4 or suspended by the Commission pursuant to N.C.G.S. 62-134(b).

14.

Revised Tariff also fails to comply with numerous requirements of Commission Rule R9-4, including:

(a) failure to explain the reasons necessary for the Revised Tariff, including full explanation of all provisions of the Revised Tariff as required by Rule R9-4(c)(3);

(b) failure to give a full explanation of the impact that the Revised Tariff will have on existing IXCs as required by Rule R9-4(c)(4);

(c) failure to give the estimated gross revenue and net revenue that the new offering will produce annually over the term period, including explaining how the estimate was obtained as required by Rule R9-4(c)(5).[4]

15.

Because Revised Tariff fails to comply with Commission Rule R9-4, it should be found noncompliant by the Commission.

COUNT ONE

ANTICOMPETITIVE ACTIVITY

16.

AT&T incorporates herein paragraphs 1 through 15 of the Complaint.

17.

AT&T requests the Commission declare and find that Revised Tariff is anticompetitive in that it allows one or more IXCs to obtain more favorable

[4] On page 2 of BellSouth's cover letter to the Revised Tariff, BellSouth indicated "N/A" for the required gross revenue impact and explanation. Yet on page 2 of the Executive Summary for Revised Tariff, BellSouth states the Revised Tariff "... is designed to retain the existing customers on BellSouth's switched network. The revenue impact of introducing BellSouth SWA Tariff No. NC 2002-01 is entirely dependent upon the customer's performance."

switched access rates than other IXCs without adequate justification, and such as, Revised Tariff unreasonably prejudices IXCs as a class of telephone customers and is inconsistent with the public interest in violation of N.C.G.S. 133.5(a)(iii) and (iv), and thus should not be approved by the Commission.

COUNT TWO

FAILURE TO COMPLY WITH COMMISSION RULE R9-4

18.

AT&T incorporates herein paragraphs 1 through 15 of the Complaint.

19.

AT&T requests that the Commission declare and find that Revised Tariff fails to meet the requirements of Commission Rule R9-4(c)(3)(4) and (5) and thus should be found noncompliant by the Commission.

WHEREFORE, AT&T respectfully requests that the Commission order a hearing on AT&T's Complaint and Motion regarding Revised Tariff pursuant to N.C.G.S. 62-73 and 62.134(b) and grant the relief requested in COUNTS ONE and TWO above and for such other and further relief as the Commission deems proper and just.

This the 19th day of June, 2002.

Respectfully submitted,

Loretta Cecil /jpm

Loretta A. Cecil, Esq.
Timothy G. Barber, Esq.
Attorneys for AT&T Communications
Of the Southern States, LLC
Womble Carlyle Sandridge & Rice LLC
1201 West Peachtree Street
Suite 3500
Atlanta, GA 30309
(404) 88-7437

VERIFICATION BY COMPLAINANT

I, T. John Policastro, Manager, AT&T Communications of the Southern States, LLC due hereby verify that I have read the foregoing Complaint and that the information contained herein is accurate and truthful to the best of my knowledge.

This the 19th day of June, 2002.

T. John Policastro
Manager
AT&T Communications of the
Southern States, LLC

SWORN TO AND SUBSCRIBED BEFORE ME, on this 19th day of June, 2002.

Jay Parks
NOTARY PUBLIC

My Commission Expires:

11/19/2006

CERTIFICATE OF SERVICE

I, Loretta A. Cecil, Attorney for AT&T Communications of the Southern States, LLC ("AT&T"), hereby certify that I have this day served AT&T's COMPLAINT FOR ANTICOMPETITIVE ACTIVITY PURSUANT TO N.C.G.S. 62-73; 62-133.5(a)(iii) AND (iv); 62-133.5(d) AND (e); AND 62-134; AND COMMISSION RULE R1-9 AND MOTION TO FIND TARIFF NONCOMPLIANT OR SUSPEND TARIFF FOR FAILURE TO COMPLY WITH N.C.G.S. 133.5(a)(iii) AND (iv); 62-133.5(a) AND (e) AND COMMISSION TARIFF RULE R9-4.

This the 19th date of June, 2002.

BellSouth Telecommunications, Inc.
P. O. Box 30799
Charlotte, NC 28230-0188

Loretta Cecil /jpm

Loretta A. Cecil, Esq.
Timothy G. Barber, Esq.
Attorneys for AT&T Communications
Of the Southern States, LLC
Womble Carlyle Sandridge & Rice LLC
1201 West Peachtree Street
Suite 3500
Atlanta, GA 30309
(404) 88-7437

Exhibit 1

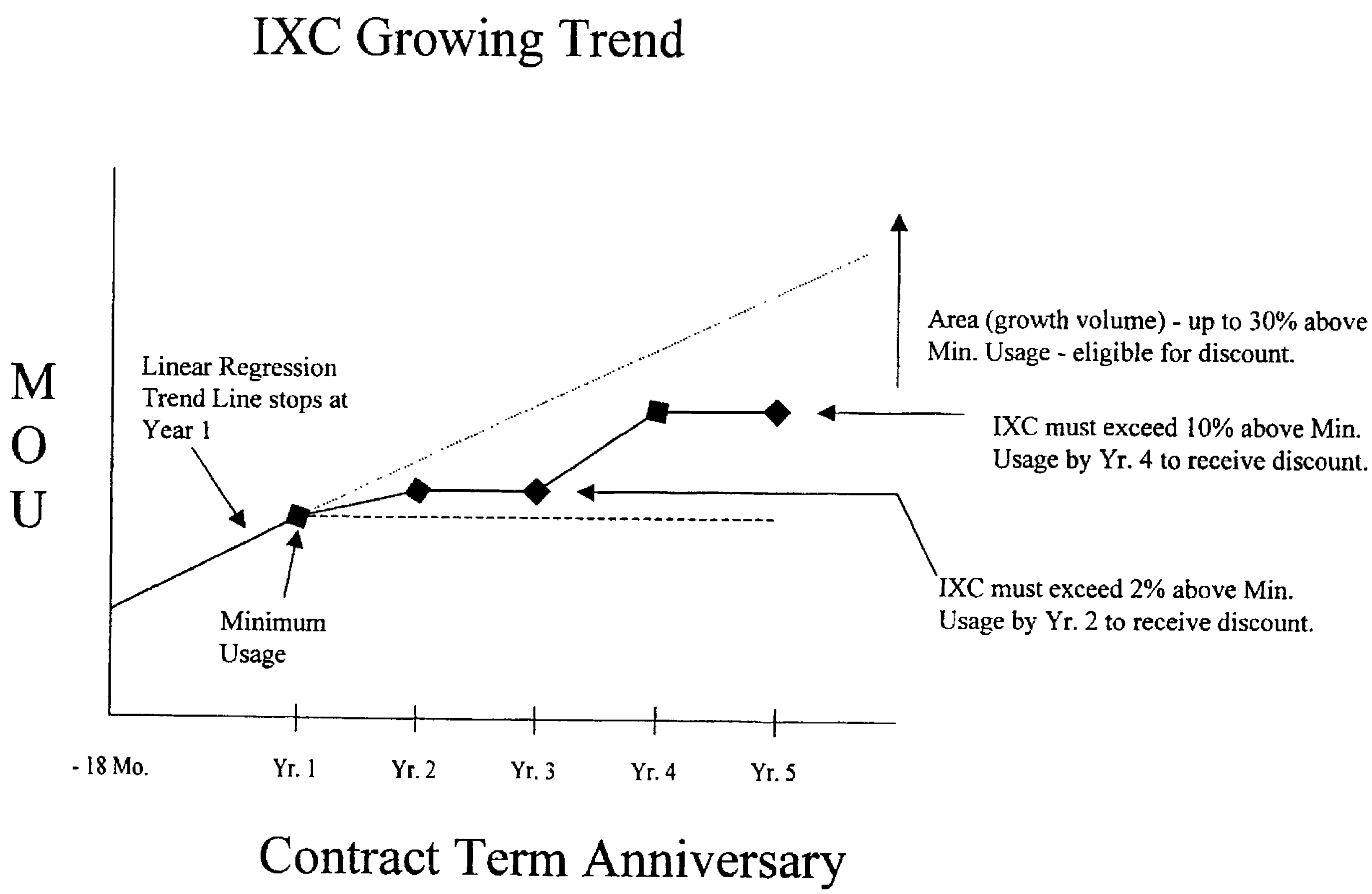
IXC Growing Trend
M
O
U
Linear Regression
Trend Line stops at
Year 1
Minimum
Usage
Area (growth volume) - up to 30% above
Min. Usage - eligible for discount.
IXC must exceed 10% above Min.
Usage by Yr. 4 to receive discount.
IXC must exceed 2% above Min.
Usage by Yr. 2 to receive discount.
- 18 Mo.
Yr. 1
Yr. 2
Yr. 3
Yr. 4
Yr. 5
Contract Term Anniversary

Exhibit 2

IXC Declining Trend

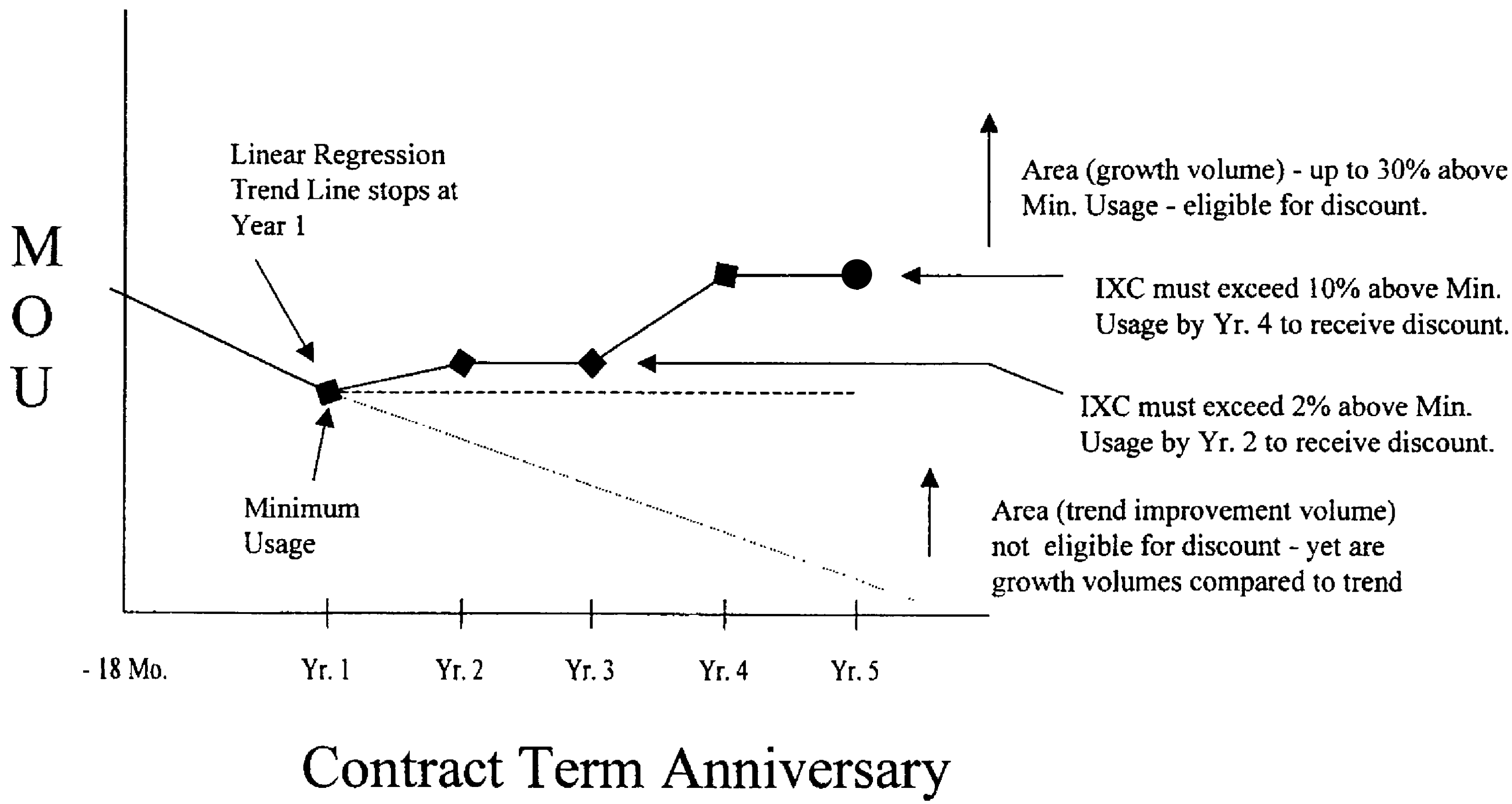

EXHIBIT 13

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. P-55, SUB 1366

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Tariff Filing by BellSouth Telecommunications, Inc. to Establish Contract Rates for Switched Access Rate Elements	)))	ORDER SUSPENDING TARIFF AND SEEKING FURTHER COMMENTS

BY THE COMMISSION: The proposed tariff, which was filed on May 24, 2002, is a special arrangement for a specific interexchange carrier (IXC) to be offered discounts of up to 35% over a five-year period on usage-sensitive and recurring revenue from various local switching and transport rate elements. Although this particular tariff provides contract terms for only one individual customer, BellSouth Telecommunications, Inc. (BellSouth) has committed to make similar contracts available to other IXCs. BellSouth discussed the contract offerings with other IXCs prior to filing the tariff.

AT&T initially raised some concerns over the proposed agreements because of the contract's heavy reliance upon growth in switched access minutes to provide the discounts and the anticipated effect of BellSouth Long Distance's market entry. To provide more time for discussion between BellSouth and AT&T of the Southern States, Inc. (AT&T), BellSouth voluntarily extended the tariff's effective date from June 6, 2002 to June 28, 2002. At the time this was written, the parties had been unable to reach an agreement on terms of a similar contract for AT&T.

The contract which is the subject of this filing requires the IXC to attain and maintain a 10% or greater growth in switched access minutes over a predetermined minimum usage level in order to be eligible for the maximum discount available under the contract. The larger percentage discounts are available only in the later years of the contract. If 110% of the minimum usage level is maintained in years one through five, the discount rises linearly from 15% discount in year 1 to 35% discount in year 5. No discount is provided in any year in which the switched access minutes do not exceed the minimum usage level. Lower percentage discounts are available in years 1 through 3 if the growth in switched access minutes is between 102% and 110% of the minimum usage level, but no discount is available in years 4 and 5 if the usage does not exceed the minimum usage level by 10% or more. At switched access usage levels greater than the minimum usage level but below 102% of the minimum usage level, only a 7% discount is available in year 1, and no discount is available in years 2 through 5. In all cases, the discount applies only to the eligible billing for usage in excess of the minimum usage level.

Although not specified in the tariff, the minimum usage level for this particular customer is based on the switched usage over an 18-month period prior to the agreement. This level is fixed for the life of the agreement.

While the Public Staff stated that it understands BellSouth's attempts to maintain or encourage growth in current levels of switched access usage, it is concerned about any anti-competitive effects the entry of BSLD would have on the other IXCs' ability to maintain or grow their switched access usage, and thus be eligible for discounts under similar contracts. Under the terms that BellSouth intends to apply for establishment of the minimum usage level, BellSouth must be in the market 18 months prior to entering into a similar contract. While its usage would grow strongly during the first portion of that period, the usage would likely flatten during the latter half. The method used by BellSouth to determine the minimum usage level would incorporate all of this usage into a linear regression which would be used to extrapolate the usage expected for the next twelve months. The usage results for those twelve months would become the minimum usage level for the term of the contract.

The Public Staff has concluded that the 18-month period and the linear regression methodology which BellSouth would use for the establishment of the minimum usage level would tend to reduce the advantage or disadvantage that a new entrant, such as BSLD, would have, relative to the other service providers, in meeting the growth requirements of the contract. While other providers would have a disadvantage in attaining any growth in switched usage during the period immediately after BSLD enters the market, that period of negative growth for those carriers could eventually be used as part of the 18-month period used by BellSouth's methodology to establish a negative trend in usage that would translate to a lower than otherwise minimum usage level. Thus the BellSouth entry could be used to establish favorable contract terms for other providers after BellSouth's entry. This presumes that there will be an offering of this kind at that time, which is not guaranteed by the tariff as filed.

This matter came before the Regular Commission Staff Conference on June 24, 2002. The Public Staff stated that it believes that the tariff offers advantages to both BellSouth, in the form of continued or increased demand for switched access services, and the IXCs, in the form of reduced access costs, and that there is some potential for end users to benefit as a secondary result. The Public Staff believes that if the tariff is allowed to become effective under the conditions that we have discussed, no party will be adversely affected.

The Commission's approval of the tariff should therefore be conditioned upon:

1. non-discriminatory offering of similar agreements to all IXCs;

2. continuation of the offerings at least 24 months beyond the date of BSLD's entry into the North Carolina interLATA long distance market;

3. systematic reliance upon the 18-month historical period and linear regression methodology to derive the minimum usage level for the next 12 months; (This means among other things that BSLD would not be eligible for the contract rates for at least 18 months after entry into the North Carolina interLATA market.); and

4. neither the tariff nor the contracts enable BellSouth to violate the provision of its Price Plan which requires that no service be made available at below its long run incremental cost.

These conditions should be either incorporated into a generic portion of the tariff or included as part of the Commission's order addressing the matter.

Other Comments

Mr. Burley Mitchell, representing AT&T, noted that AT&T had filed a complaint in Docket No. P-55, Sub 1365, arguing that the proposal was discriminatory and anti-competitive, especially as applied to AT&T. He argued that there needs to be more clarity ad specificity in the proposed tariff and suggested that the Commission should wait until the complaint is ruled upon.

Mr. Jeff King of AT&T noted adverse effects on a declining switched access IXC the conditions proposed by the Public Staff mainly intend to deal with BSLD.

Mr. Ralph McDonald representing WorldCom, Inc., echoed AT&T's concerns and recommendations.

Mr. Marcus Potter of Carolina Telephone and Telegraph Company supported the Public Staff's recommendations. Many declines in switched access minutes of use are examples of conscious corporate strategies. The proposal may also help to ameliorate some problems involving misstated percentage intrastate use (PIU).

Mr. Robert Kaylor, representing BellSouth, urged action without delay. Mr. Terry Hendrix with Mr. Ed Matajic of BellSouth responded to Commission questions. They argued that toll access was now a competitive market and discounting was a necessary incentive. Ms. Linda Cheatham of BellSouth said that this was a contract service arrangement outside the Price Plan, although it was being handled as a tariff matter.

WHEREUPON, the Commission reaches the following

CONCLUSIONS

After careful consideration, the Commission concludes that good cause exists to suspend the proposed tariff for a period of 45 days from June 28, 2002, to August 12, 2002; that AT&T, BellSouth, and the Public Staff confer together with a view toward arriving at a mutually agreeable solution by no later than July 5, 2002; and that, if such discussions are not fruitful, file further comments and argumentation according to the following schedule:

1. By BellSouth, by no later than July 16, 2002

2. By AT&T, the Public Staff and any other intervenor, by no later than July 25, 2002

The primary reason for the Commission decision is that the Commission believes that this matter is of significance in a changing regulatory and economic environment and ought to be decided on a more deliberate basis than that afforded at Commission Conference. At the same time, the Commission believes the matter can be dealt with more expeditiousness than the time-frame proposed by AT&T.

Lastly, the Commission notes that AT&T has filed a complaint in Docket No. P-55, Sub 1365. Since this complaint is of the same general subject matter as the agenda item, the complaint will be held in abeyance pending resolution of the agenda item.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of June, 2002.

NORTH CAROLINA UTILITIES COMMISSION

Geneva S. Thigpen

Geneva S. Thigpen, Chief Clerk

pb062402 18

EXHIBIT 14

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. P-55, SUB 1365
DOCKET NO. P-55, SUB 1366

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. P-55, SUB 1365 In the Matter of Complaint for Anticompetitive Activity and Motion to Find Tariff Noncompliant or Suspend Tariff DOCKET NO. P-55, SUB 1366 In the Matter of Tariff Filing by BellSouth Telecommunications, Inc. to Establish Contract Rates for Switched Access Rate Elements	)	ORDER DISAPPROVING PROPOSED TARIFF

BY THE COMMISSION: The proposed tariff, which was filed on May 24, 2002, is a special arrangement for a specific interexchange carrier (IXC) to be offered discounts of up to 35% over a five-year period on usage-sensitive and recurring revenue from various local switching and transport rate elements. Although this particular tariff provides contract terms for only one individual customer, BellSouth Telecommunications, Inc. (BellSouth) has committed to make similar contracts available to other IXCs. BellSouth discussed the contract offerings with other IXCs prior to filing the tariff.

AT&T Communications of the Southern States, Inc. (AT&T) initially raised some concerns over the proposed agreements because of the contract's heavy reliance upon growth in switched access minutes to provide the discounts and the anticipated effect of BellSouth Long Distance's (BSLD's) market entry. To provide more time for discussion between BellSouth and AT&T, BellSouth voluntarily extended the tariff's effective date from June 6, 2002 to June 28, 2002, but the parties were unable to reach an agreement on terms of a similar contract for AT&T.

The contract which is the subject of this filing requires the IXC to attain and maintain a 10% or greater growth in switched access minutes over a predetermined minimum usage level in order to be eligible for the maximum discount available under the contract. The larger percentage discounts are available only in the later years of the contract. If 110% of the minimum usage level is maintained in years one through five, the discount rises linearly from 15% discount in year 1 to 35% discount in year 5. No discount is provided in any year in which the switched access minutes do not exceed the minimum usage level. Lower percentage discounts are available in years 1 through 3 if the growth in switched access minutes is between 102% and 110% of the minimum usage level, but no discount is available in years 4 and 5 if the usage does not exceed the minimum usage level by 10% or more. At switched access usage levels greater than the minimum usage level but below 102% of the minimum usage level, only a 7% discount is available in year 1, and no discount is available in years 2 through 5. In all cases, the discount applies only to the eligible billing for usage in excess of the minimum usage level.

Although not specified in the tariff, the minimum usage level for this particular customer is based on the switched usage over an 18-month period prior to the agreement. This level is fixed for the life of the agreement.

This matter came before the Regular Commission Staff Conference on June 24, 2002. In its agenda item, the Public Staff stated that while it understands BellSouth's attempts to maintain or encourage growth in current levels of switched access usage, it is concerned about any anti-competitive effects the entry of BSLD would have on the other IXCs' ability to maintain or grow their switched access usage, and thus be eligible for discounts under similar contracts. Under the terms that BellSouth intends to apply for establishment of the minimum usage level, BSLD must be in the market 18 months prior to entering into a similar contract. While its usage would grow strongly during the first portion of that period, the usage would likely flatten during the latter half. The method used by BellSouth to determine the minimum usage level would incorporate all of this usage into a linear regression which would be used to extrapolate the usage expected for the next twelve months. The usage results for those twelve months would become the minimum usage level for the term of the contract.

The Public Staff stated that it had concluded that the 18-month period and the linear regression methodology which BellSouth would use for the establishment of the minimum usage level would tend to reduce the advantage or disadvantage that a new entrant, such as BSLD, would have, relative to the other service providers, in meeting the growth requirements of the contract. While other providers would have a disadvantage in attaining any growth in switched usage during the period immediately after BSLD enters the market, that period of negative growth for those carriers could eventually be used as part of the 18-month period used by BellSouth's methodology to establish a negative trend in usage that would translate to a lower than otherwise minimum usage level. Thus the BSLD entry could be used to establish favorable contract terms for other providers after BSLD's entry. This presumes that there will be an offering of this kind at that time, which is not guaranteed by the tariff as filed.

The Public Staff further stated that it believes that the tariff offers advantages to both BellSouth, in the form of continued or increased demand for switched access services, and the IXCs, in the form of reduced access costs, and that there is some potential for end users to benefit as a secondary result. The Public Staff asserted that, if the tariff is allowed to become effective under the conditions that it discussed, no party would be adversely affected.

According to the Public Staff, the Commission's approval of the tariff should therefore be conditioned upon:

1. Non-discriminatory offering of similar agreements to all IXCs;

2. Continuation of the offerings at least 24 months beyond the date of BSLD's entry into the North Carolina interLATA long distance market;

3. Systematic reliance upon the 18-month historical period and linear regression methodology to derive the minimum usage level for the next 12 months; (This means among other things that BSLD would not be eligible for the contract rates for at least 18 months after entry into the North Carolina interLATA market.); and

4. Neither the tariff nor the contracts enable BellSouth to violate the provision of its Price Plan which requires that no service be made available at below its long run incremental cost.

The Public Staff recommended that these conditions should be either incorporated into the generic portion of the tariff or included in the Commission's Order addressing this matter.

A number of other parties appeared at the Regular Commission Staff Conference and spoke for or against the proposal. The Commission issued an Order Suspending Tariff and Seeking Further Comments on June 25, 2002. The Commission also held in abeyance a complaint by AT&T on the same general subject matter filed in Docket No. P-55, Sub 1365. BellSouth and AT&T were requested to enter into further negotiations on the subject.

COMMENTS

BellSouth stated that the subject tariff was the product of negotiations between BellSouth and Sprint Communications Company (Sprint) but has filed it as a tariff to allow other IXCs to take advantage of it. It is not discriminatory, being available to all similarly situated IXCs. BellSouth noted that the price for switched access services has declined dramatically in the past two years. At the same time, IXCs have many alternatives to switched access service available to them. In February 2001, the Federal Communications Commission (FCC) granted BellSouth pricing flexibility in offering certain switched access services. The purpose of the tariff is to provide a financial incentive for IXCs to purchase and to increase their purchases of switched access from BellSouth. The tariff is structured in such a way that the greater the percentage of the increase over the baseline usage the greater the discount. Setting the discount based, in part, upon the percentage of increase allows both large and small IXCs to benefit financially. Specifically, the discount is based on the percentage of increase in services purchased multiplied by the volume of services purchased to the extent the purchased usage exceeds the baseline usage. Thus, if two IXCs increase their switched access by the same proportion, the IXC with the greater volume purchased will receive a greater discount. This will not discriminate against AT&T as a large IXC. By the same token, if a given IXC's purchase of switched access from BellSouth has declined over the past 18 months, this would be projected forward to arrive at a baseline usage figure lower than current usage. Therefore, to obtain a discount in the first year, that IXC would simply need to maintain its current usage. Admittedly, AT&T may not be able to avail itself of the discount if its switched access declined perpetually, but this result is within AT&T's control. AT&T's complaint against discrimination is simply that the proposal does not suit it. Even if AT&T chooses not to take advantage of the tariff, it is no worse off because it still benefits from declining switched access rates.

BellSouth stated that its discussions with AT&T were not fruitful. AT&T submitted a plan that in BellSouth's view would abandon the goal of retaining and growing usage. AT&T's proposal would benefit AT&T while carriers with less volume would receive less benefit. If the Commission desires, BellSouth stated that it would withdraw this tariff and negotiate individual contract service arrangements while continuing to negotiate with AT&T.

AT&T stated that the only way an IXC can ever take advantage of the switched access discount is by growing its volumes. The "what if" scenarios suggested by BellSouth which possibly might allow an IXC with declining volumes to obtain greater switched access discounts are remote. If BellSouth were truly and simply concerned with keeping traffic on its network, then logically it should be proposing discount arrangements for all, especially these IXCs with the largest, albeit declining, volumes. Both the FCC and the Texas Public Utility Commission have determined that switched access "growth tariffs", similar to the one at issue here, are unlawful because they improperly discriminate in favor of the BOC's low volume affiliated IXC company. AT&T is protesting another recent attempt of BellSouth to file a "growth tariff" at the FCC. Nor does BellSouth's proposal even qualify for contract service agreement (CSA) treatment, which is reserved for situations in which services are not otherwise available in tariffs or are necessary to meet competition. BellSouth, furthermore, has not demonstrated that the revised tariff benefits North Carolina consumers, nor has its revised tariff specified all the terms and conditions which may be specially negotiated between BellSouth and IXCs. It does not adequately explain its "only once" cancellation provision and it fails to comply with various requirements of Rule R9-4.

Sprint filed comments supporting the proposed tariff with the proposed revisions of the Public Staff. Sprint asked the Commission to approve the special arrangement tariff as modified by the Public Staff and to require BellSouth to file an appropriate general tariff applicable to all IXCs. The filing is not discriminatory because it is available to all IXCs.

WHEREUPON, the Commission reaches the following

CONCLUSIONS

The Commission concludes that BellSouth's proposed tariff in this docket should be disapproved as not being in the public interest at this time. Inasmuch as this decision would render AT&T's complaint in Docket No. P-55, Sub 1365 moot, that complaint should be dismissed as well.

The ostensible reason for BellSouth's proposed tariff was to arrest what it perceives to be a decline in demand for a commodity called access services. If one wants to sell more of a product—or to maintain the sales of product for which substitutions are becoming more common—it makes sense to lower the price for the product. If one wants more revenues, one will attempt to sell more units, that is, to increase volume. BellSouth's approach is one that tends to reward those that increase their percentages of purchases of access services in preference to those who merely are increasing volume but not by such a high percentage. This has the effect of rewarding smaller IXCs with lower volumes but higher percentage increases of purchases (such as, eventually, BSLD) over larger IXCs with high volume who must strive mightily to increase the percentage of purchases at all (such as, for example, AT&T). The Commission does not view BellSouth's proposal—especially with the improvements suggested by the Public Staff—to be irrational or even necessarily unreasonably discriminatory in a legal sense. As has been noted many times, it would be available to any IXC which qualifies without distinction, and there is some logic in targeting IXCs who may seem to be most enthusiastic about purchasing one's product.

Nevertheless, it appears to the Commission that if the aim is to stimulate the volume of purchases (and, hence, revenue), it would better serve the public interest if the discounts offered were volume-based, instead of being based upon percentage increases over a baseline. After all, even a relatively modest percentage increase in the volume of purchases from a high-volume IXC could dwarf the increased volume coming from a low-volume IXC or a group of them. This would mean that much more revenue for BellSouth.

The Commission would therefore encourage BellSouth to experiment with volume-based discounts for access services that are not biased against high-volume IXCs. If two years from now, for example, BellSouth finds this to be unsatisfactory and if it has proof of this and that its percentage-based approach, or variation of it, is better, then the Commission will be willing to revisit the issue.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of August, 2002.

NORTH CAROLINA UTILITIES COMMISSION

Geneva S. Thigpen

Geneva S. Thigpen, Chief Clerk

pb081202.04

Chairman Jo Anne Sanford did not participate.

EXHIBIT 15

BOULT ▪ CUMMINGS
CONNERS ▪ BERRY PLC

Henry Walker
(615) 252-2363
Fax: (615) 252-6363
email: hwalker@boultcummings.com

'02 JUL 23 AM 7 50

July 22, 2002

EXECUTIVE SECRETARY

Honorable Sara Kyle, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243

Re: Petition to Suspend BellSouth Tariff No. TN2002-01 and to Convene a Contested Case Proceeding.

Docket No: 02-00740

Dear Chairman Kyle:

Enclosed please find the original and fourteen copies of a Petition to Suspend Tariff and to Convene a Contested Case on behalf of CLEC Coalition in the above-captioned proceeding. A $25.00 is enclosed for the filing fee. Please contact me with any questions.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: [signature]
Henry Walker

HW/CW

759272 v1
103062-001
7/22/2002

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

In Re: PETITION TO SUSPEND	)	
BELLSOUTH TARIFF NO. TN2002-01 AND	)	DOCKET NO. ____________
TO CONVENE A CONTESTED CASE	)	
PROCEEDING	)	

CLEC COALITION PETITION TO SUSPEND TARIFF AND TO CONVENE A CONTESTED CASE PROCEEDING

BACKGROUND

The CLEC Coalition[1] submits the following petition requesting that the Tennessee Regulatory Authority ("TRA") suspend the above-captioned tariff and open a contested case proceeding to investigate whether the tariff is just and reasonable and consistent with state and federal law.

BellSouth Telecommunications, Inc. ("BellSouth") has filed a proposed "SWA [switched access] Contract Tariff" which is scheduled to become effective on July 29, 2002. It is unlike any tariff ever filed in Tennessee. The tariff addresses BellSouth's "access charges," which are the charges paid by long distance carriers to compensate BellSouth for originating and terminating long distance calls.[2] Such charges constitute a significant proportion of the total cost of a long distance call and, therefore, have a significant influence on long distance rates.

[1] At this time, the Coalition members are Birch Telecom, Inc and AT&T Communications of the South Central States, Inc.

[2] When a customer dials a long distance call, the customer's local telephone company first delivers the call to the customer's long distance carrier. The long distance carrier pays "originating" access charges to the local carrier for delivering the call. Similarly, at the other end of the call, the long distance carrier pays "terminating" access charges to compensate the receiving party's local carrier for delivering the call to its final destination.

Until the filing of this proposed tariff, BellSouth has always charged all long distance carriers the same access charges. Now, BellSouth has proposed -- for the first time -- to charge some long distance carriers more than others for originating and terminating calls. Specifically, the proposed tariff will allow BellSouth to enter into a special contract with an as yet unnamed long distance carrier with whom BellSouth has apparently been in negotiations. Under that contract, BellSouth will reduce access rates for that unnamed carrier by up to 35% while, at the same time, continuing to charge the regular tariffed rates to all other long distance carriers, including those which have the same amount of usage as the unnamed contract carrier.

APPLICABLE LAW

BellSouth is required by state law to provide "non-discriminatory interconnection" to its network "under reasonable terms and conditions." T.C.A. § 65-4-124. Furthermore, when BellSouth proposes to "change or alter any existing classification" of customers, BellSouth has the burden of proving that such changes are "just and reasonable." T.C.A. § 65-5-203(a).

BellSouth's proposed tariff is discriminatory on its face. It applies, for example, to a long distance carrier which has, during the first year of the contract, total local switching minutes of not less than "216,442,537" and not more than "281,375,299" minutes.[3] For reasons not explained, the discounts "are not applicable to any usage levels outside" of that range. See Section E26.1.5 of the proposed tariff. Furthermore, the contract is written so that the discounts apply only if the carrier's minutes of use are steadily increasing. A carrier which has the same

[3] The specificity of these numbers clearly indicates that the tariff is designed for one, particular long distance carrier and is not intended for use by other carriers.

total number of minutes as the "contract" carrier but does not have annual growth could not take advantage of these discounts. *Id.* [4]

The Tennessee Attorney General has recently advised the Tennessee Regulatory Authority that the agency has "the statutory duty to ensure that special contracts are allowed only when special circumstances justify a departure from the general tariffs." Furthermore, the agency "must also ensure that any special rates is realistically and in practice made available to all customers who are similarly situated. Letter from Paul Summers to David Waddell, May 31, 2002, at p. 4. Nothing in BellSouth's filing purports even to describe, much less "establish," what "special circumstances" are present in this case to justify a departure from the general access tariffs.[5] The mere fact that one carrier has apparently negotiated a special access rate does not constitute sufficient reason for approval of that special contract. As the Attorney General noted, "Tennessee law does not allow a regime of special rates or discriminatory discounts negotiated by each customer having sufficient bargaining power to command special treatment." *Id.* Tennessee law, in other words, "does not allow" the type of special contract BellSouth has proposed in this tariff.

REQUESTED RELIEF

[4] In other words, the proposed tariff is not a "volume discount," as it is described in BellSouth's "Executive Summary," but a "growth" discount. Such growth discounts have been explicitly rejected by the FCC. *LEC Pricing Flexibility Order* (FCC 99-206, 14 FCC Rcd 14,221, ¶¶ 134-135 (1999).

[5] The Attorney General's letter addresses the legality of special contracts between BellSouth and end users and recognizes that, under limited circumstances, "the existence of competition . . . . may be a factor in determining whether a special rate is permissible." *Id.*, at 4.

But even that limited exception appears inapposite to BellSouth's proposed tariff. If BellSouth is a customer's local service provider and that customer makes (or receives) a long distance call, the long distance carrier has no choice but to use the facilities of BellSouth to reach that customer and no option but to pay BellSouth originating (or terminating) access charges.

Unless the Authority acts, BellSouth's proposed tariff will automatically become effective on July 29, 2002. Given the unusual nature of this tariff and the serious legal and policy questions the tariff raises, the Petitioners strongly urge the Authority to exercise its statutory power under T.C.A. § 65-5-203(a) to suspend the tariff pending further investigation and to require BellSouth to prove – in an evidentiary hearing -- that "special circumstances" justify departure from the general access tariffs and the non-discriminatory regulatory principles that have governed the application of access charges for nearly two decades.

Therefore, pursuant to T.C.A. § 65-5-203(a) and the rules of the TRA, the Petitioners submit the following:

1. Petitioner AT&T Communications of the Southern States, LLC ("AT&T") is located at 1200 Peachtree Street, NE, Suite 8100, Atlanta, Georgia 30309.

Petitioner Birch Telecom of the South, Inc.("Birch") is located at 2020 Baltimore Avenue, Kansas City, Missouri 64108.

2. Each Petitioner is authorized to provide, and does provide, intrastate long distance telephone service in Tennessee and purchases switched access services from BellSouth.

3. BellSouth is located at 333 Commerce Street, Suite 2101, Nashville, Tennessee, 37201-3300.

4. BellSouth is authorized to provide, and does provide, local telephone service in Tennessee, including switched access services.

5. BellSouth's proposed "SWA Contract Tariff No. TN 2002-01" is unjust, unreasonable, discriminatory, and anti-competitive in violation of state law.

6. The TRA has jurisdiction over this matter pursuant to T.C.A. §§ 65-5-203(a), 65-5-210(a), 65-4-117(l), 65-4-124, and 65-5-208(c).

7. Petitioners request that the TRA, pursuant to its statutory authority, suspend BellSouth's proposed SWA Contract Tariff No. TN2002-01 and open a contested case proceeding to address the issues raised in this Petition and to take whatever additional action is warranted by the evidentiary record and applicable law.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: ______________________

Henry Walker
414 Union Street, Suite 1600
P.O. Box 198062
Nashville, Tennessee 37219
(615) 252-2363

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via fax or hand delivery and U.S. mail to the following on this the 2 day of July, 2002.

Guy Hicks, Esq.
BellSouth Telecommunications, Inc.
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Henry Walker

EXHIBIT 16

BELLSOUTH

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Suite 2106
333 Commerce Street
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Tel 615 214-3839
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Paul Stinson, P.E.
Manager
Regulatory

August 12, 2002

RECEIVED

AUG 12 2002

Ms. Darlene Standley, Deputy Director
Telecommunications Division
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee

0200740

SUBJECT: Tariff Filing to Introduce BellSouth SWA Contracts
TRA No. 02-00740

Dear Darlene:

This is to notify the Tennessee Regulatory Authority that BellSouth wishes to withdraw the tariff filing made June 28, 2002 to introduce BellSouth SWA Contracts, TRA No. 02-00740.

We appreciate your returning a receipted copy as evidence of this substitution. Please call me at 214-3839 if you have questions or wish to discuss.

Yours truly,

Paul Stinson

EXHIBIT 17

BEFORE THE

GEORGIA PUBLIC SERVICE COMMISSION

In the Matter of:

BellSouth Telecommunications, Inc.'s	)	
Revisions to its Access Services Tariff	)	Docket No. 15533-U
To Introduce BellSouth SWA Contracts	)	

AT&T COMMUNICATIONS OF THE SOUTHERN STATES, L.L.C.'s APPLICATION FOR LEAVE TO INTERVENE AND NOTICE OF OPPOSITION

AT&T Communications of the Southern States, L.L.C., ("AT&T"), pursuant to O.C.G.A. §§46-2-59 and 50-13-14 and Section 515-2-1-.06 of the rules of the Georgia Public Service Commission ("Commission"), hereby files its Application for leave to intervene in the above-styled matter and Notice of Opposition to the tariff revisions filed in the above-referenced docket. AT&T further moves that the Commission, in accordance with its authority pursuant to O.C.G.A. §46-5-168(b)(7), suspend the July 5, 2002 effective date of BellSouth Telecommunications, Inc. ("BellSouth") tariff filing in this Docket in order for this Commission, AT&T and any other parties to have the opportunity to further investigate and consider the impact of the proposed tariff. In support of this application, AT&T respectfully shows as follows:

1.

On June 6, 2002, BellSouth submitted to the Commission the above-referenced tariff revisions, which were assigned Docket No. 15533-U. The proposed tariff revisions list an effective date of July 5, 2002. AT&T understands these proposed tariff provisions provide for the reduction of switched access (SWA) charges based upon volume discount percentages applied to annual local switching minutes of use (MOU).

2.

The tariff revisions, which are ambiguous, indicate that in order to receive the discounts, a customer has to be "similarly situated" to another customer to subscribe to the tariff. However, the tariff does not indicate to whom the customer must be "similarly situated."

3.

Based upon the provisions of the tariff, it appears that BellSouth Long Distance may be the only "customer" that would benefit from the tariff. In order to obtain the volume discounts, a customer must have sustained growth in local switching MOU's during the term of the contract. (Tariff, E.26.1.5). An interexchange carrier (IXC) that has an improvement over its historical trend of switching MOU, yet fails to exceed the minimum qualifying MOU, would not receive the discount. That is because the tariff only recognizes percentage growth, not actual growth, to determine the applicable discount.

4.

Based upon the foregoing, the revised tariff is anticompetitive pursuant to O.C.G.A. §46-5-169(3), (4), and (6) because it can allow one or more IXCs an advantage in obtaining favorable switched access rates compared to other IXCs without a reasonable justification for such preference. In addition, the revised tariff could provide a preference to an affiliated company of BellSouth Telecommunications, Inc. – BellSouth Long Distance – as well as result in price discrimination in favor of one IXC over another IXC.

5.

AT&T provides local and interexchange telecommunication services within the State of Georgia pursuant to Certificates of Public Convenience and Necessity issued by the Georgia Public Service Commission.

6.

The BellSouth tariff filing in question may have a direct and material effect upon the legal rights, duties, privileges, immunities or other legal interests of AT&T. AT&T has a substantial and special interest in a Commission determination with respect to the issues raised herein that are not otherwise adequately represented.

7.

AT&T's rights and interests cannot be adequately represented by any other party in this docket, and its participation in this docket will not unduly delay any proceedings that may be initiated.

8.

AT&T respectfully requests that it be granted leave to intervene and participate fully as a party in this proceeding, including the right to present testimony and exhibits, cross-examine witnesses, present arguments and file briefs.

9.

AT&T requests that the following person be included on the service list in this docket and that all communications regarding this docket be directed to:

Suzanne W. Ockleberry, Esq.
AT&T
1200 Peachtree Street, Room 8077
Atlanta, Georgia 30309
(404) 810-7175

WHEREFORE, AT&T respectfully requests that the Commission enter an Order allowing AT&T to become a full party of record in this docket and suspending the July 5, 2002 effective date of BellSouth's tariff filing in this Docket in order for this Commission, AT&T and any other parties to have the opportunity to further investigate and consider the impact of the proposed tariff.

Respectfully submitted,

Suzanne W. Ockleberry
AT&T Communications of the
Southern States, L.L.C.
1200 Peachtree Street, NE
Room 8077
Atlanta, GA 30309
(404) 810-7175

EXHIBIT 18

BellSouth Telecommunications, Inc.
1025 Lenox Park Boulevard
Suite 6C869
Atlanta, GA 30319

lynn.holmes@bellsouth.com

Lynn R. Holmes
Vice President
Regulatory and External Affairs

404 986 1760
Fax 404 986 1803

September 5, 2002

15533

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RECEIVED
SEP 0 5 2002
EXECUTIVE SECRETARY
G.P.S.C.

Mr. Reece McAlister
Executive Secretary
Georgia Public Service Commission
244 Washington Street, Room 127
Atlanta, Georgia 30334

Dear Mr. McAlister:

The Company filed a tariff on June 5, 2002 to introduce Bellsouth SWA Contracts Based on concerns expressed about this filing; BellSouth has decided to withdraw the tariff at this time. The following tariff pages were included in the filing:

Access Services Tariff

Attachment A

Please acknowledge receipt of this letter by signing and returning the second copy of this letter.

Sincerely,

Lynn R. Holmes

Attachment

Copy to: Ms. Kristy R. Holley, Director
Consumers' Utility Counsel Division

Attachment A

Access Services Tariff

EXHIBIT 19

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of	)	
	)	
Joint Application by BellSouth Corporation,	)	
BellSouth Telecommunications, Inc.,	)	WC Docket No. 02-150
and BellSouth Long Distance, Inc. for	)	
Provision of In-Region, InterLATA	)	
Services in Alabama, Kentucky, Mississippi,	)	
North Carolina, and South Carolina	)	

JOINT REPLY AFFIDAVIT OF JOHN A. RUSCILLI AND CYNTHIA K. COX

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JOINT REPLY EXHIBITS

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of	)	
	)	
Joint Application by BellSouth Corporation,	)	
BellSouth Telecommunications, Inc.,	)	WC Docket No. 02-150
and BellSouth Long Distance, Inc. for	)	
Provision of In-Region, InterLATA	)	
Services in Alabama, Kentucky, Mississippi,	)	
North Carolina, and South Carolina	)	

JOINT REPLY AFFIDAVIT OF JOHN A. RUSCILLI AND CYNTHIA K. COX

We, John A. Ruscilli and Cynthia K. Cox, being of lawful age and duly sworn upon our oaths, hereby depose and state:

1. My name is John A. Ruscilli. I am employed by BellSouth Telecommunications, Inc. ("BellSouth") as a Senior Director for State Regulatory for the nine-state BellSouth region.
2. My name is Cynthia K. Cox. I am employed by BellSouth as a Senior Director for State Regulatory for the nine-state BellSouth region.
3. As part of BellSouth's filing in WC Docket No. 02-150, we filed a Joint Affidavit with the Federal Communications Commission (the "FCC" or the "Commission") on June 20, 2002.

I. <u>PURPOSE OF THE AFFIDAVIT</u>

4. The purpose of this Joint Reply Affidavit, to which we both attest in its entirety, is to respond to portions of the Comments filed on behalf of several parties in this

proceeding on July 11, 2002. Specifically, we respond to portions of the comments made by AT&T Corp. ("AT&T"), KMC Telecom, Inc. ("KMC"), NuVox, SouthEast Telephone ("SouthEast"), US LEC, and WorldCom, Inc. ("WorldCom").

II. GENERAL COMMENTS

5. Many of the issues raised in the Comments filed on July 11, 2002 by the opponents of BellSouth's Five State 271 Application are not appropriately included in a 271 application. These types of issues do not involve *per se* violations of self-executing requirements of the Act, but instead may be due to differences in interpretation or new issues that arise in the normal course of doing business. While BellSouth's position is that these issues are not relevant to this Application, because they have been raised, we address them here.

III. CHECKLIST ITEM 1 - INTERCONNECTION

A. Contract Disputes

6. In their Comments, KMC and NuVox complain that they have inappropriately been charged tariff access rates for interconnection trunks and facilities rather than the TELRIC rates, or bill-and-keep, as provided for in their interconnection agreements. KMC and NuVox contend that BellSouth inappropriately assesses tariffed access rates because BellSouth is unable to distinguish interconnection trunks and facilities utilized for local interconnection traffic from special access. KMC/NuVox Comments at 4-6. Even taken as true, which they are not, KMC and NuVox's arguments do not raise an issue relevant to BellSouth's compliance

with section 271. Again, this Commission has made clear that, at any point in time, there will be new and unresolved interpretive disputes between carriers, and that such disputes are not required to be resolved in order for an ILEC to prove that it is in compliance with the Act. The arguments set forth in KMC and NuVox's Comments boil down to a billing dispute and debate over the interpretation of the provisions contained in their interconnection agreements with BellSouth and, as such, are not relevant to the Commission's determination of compliance with Checklist Item 1.

7. Throughout their Comments, KMC/NuVox reference special access. BellSouth believes, however, that KMC/NuVox intended to reference switched dedicated access, and we reply as such. As BellSouth understands KMC/NuVox's actual concerns, there appear to be three separate, but related, issues: (1) KMC/NuVox should not have to provide BellSouth with a Percent Local Facility ("PLF") factor; (2) BellSouth has historically charged KMC/NuVox tariffed access rates for interconnection trunks and facilities; and (3) BellSouth should provide all interconnection facilities at TELRIC rates.

8. There can be no question that issues 1 and 2, which are integrally related, relate to a billing dispute and, in fact, are being handled between the parties as exactly that. The KMC and NuVox Interconnection Agreements include a provision for bill and keep on non-transit trunks and facilities. The contract provisions point to rates in Exhibit A to Attachment 3 of the Interconnection Agreement, and go on to state that if there are no rates in Exhibit A (and thus subject to bill and keep for

non-transit use), then the rates from the appropriate tariff will apply. Bill and keep, therefore, applies only to the local portion of the rates.

9. Factors are utilized to apportion the different jurisdictions of usage and services to ensure that each portion is billed from the appropriate source (e.g., interstate access tariff, intrastate access tariff, or interconnection agreement). Detailed descriptions of all factors can be found at:

   http://www.interconnection.bellsouth.com/guides/ixc/pdf/factgu.pdf.

   Specific to the issues raised by KMC and NuVox is the use of the Percent Interstate Usage – E ("PIUE")[1] factor and the Percent Local Facility ("PLF") factor. The PIUE factor tells BellSouth what percent of the CLEC's switched dedicated transport and trunk ports are interstate. These facilities will be billed at the rates set forth in BellSouth's interstate access tariff. The remaining facilities would be considered intrastate. The CLEC (*e.g.*, KMC and NuVox) must then report a PLF factor to tell BellSouth what percent of those intrastate facilities and trunks are local. The local facilities and trunks will be billed per the interconnection agreement, and the remaining facilities and trunks will be billed at the rates in BellSouth's intrastate access tariff. The application of the specific rates for interconnection facilities and trunks is determined by the factors KMC and NuVox report to BellSouth.

10. CLECs were notified of the use of the PLF factor by Carrier Notification SN91081790, dated June 1, 2000. (*See* Reply Exhibit JAR/CKC-1.) Two additional follow-up Carrier Notifications (SN91082013 and SN91082918) were

[1] PIU-E refers to a specific portion of the PIU factor defined in BellSouth's Tariff F.C.C. No. 1, Section 2.3.10(A)(1)(c), (9th Revised Page 2-12.2).

sent on October 27, 2000 and March 13, 2002, respectively. (*See* Reply Exhibits JAR/CKC-2 and JAR/CKC-3.)

11. The billing dispute between BellSouth and KMC/NuVox has transpired for several reasons. First, BellSouth did not receive PLF factors, in a timely manner, from KMC and NuVox. The absence of the PLF factor indicates to BellSouth's billing system that KMC and NuVox have no switched facilities used for local service, and thus the billing system defaults to zero for the PLF factor. KMC and NuVox, therefore, were charged (appropriately for the information available) tariffed access rates for interconnection trunks and facilities. BellSouth has received a PLF factor from KMC and NuVox and billing now reflects bill and keep for the rates found in Exhibit A of Attachment 3 of the Parties' Interconnection Agreements, for the facilities determined to be local.

12. Second, KMC/NuVox have requested that BellSouth rerate amounts that were billed prior to provision of the correct factors. BellSouth has been actively working to resolve this issue directly with KMC and NuVox through negotiations. If a mutually agreeable resolution cannot be reached, the dispute resolution provisions in the interconnection agreement should be followed.

13. With regard to the third issue - TELRIC rates for all interconnection - ¶ 38 of the Commission's *ISP Order on Remand* states:

> At least one court has already affirmed the principle that the standards and obligations set forth in section 251 are not intended automatically to supersede the Commission's authority over the services enumerated under section 251(g). This question arose in the Eighth Circuit Court of Appeals with respect to the access that LECs provide to IXCs to originate and terminate interstate long-distance calls. Citing section 251(g), the court concluded that the Act contemplates that "LECs will continue to provide exchange access to IXCs for long-distance service, and continue to receive payment, under the *pre-Act* regulations and rates." In *CompTel*, the **IXCs had argued that the interstate access services that LECs provide**

> **properly fell within the scope of "interconnection" under section 251(c)(2),** and that, notwithstanding the carve-out of section 251(g), access charges therefore should be governed by the cost-based standard of section 252(d)(1), rather than determined under the Commission's section 201 authority. **The Eighth Circuit rejected that argument,** holding that access service does not fall within the scope of section 251(c)(2), and observing that "it is clear from the Act that Congress did *not* intend all access charges to move to cost-based pricing, at least not immediately." Neither the court nor the parties in *CompTel* distinguished between the situation in which *one LEC* provides access service (directly linking the end-user to the IXC) and the situation here in which *two LECs* collaborate to provide access to either an information service provider or IXC. In both circumstances, by its underlying rationale, *CompTel* serves as precedent for establishing that pre-existing regulatory treatment of the services enumerated under section 251(g) are carved out from the purview of section 251(b).

(Emphasis added.). *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, Order on Remand and Report and Order ¶ 38, 16 FCC Rcd 9151 (2001) (*"ISP Order on Remand"*), *petitions for review pending*, Nos. 01-1218 *et al.* (D.C. Cir. argued Feb. 12, 2002).

14. BellSouth's policy and procedure with regard to use of factors to apportion usage and service does not violate this Commission's or any of the Five State Commissions' rules. Again, these issues raised by KMC/NuVox are simply contract disputes and are not relevant to the FCC's determination of BellSouth's compliance with Checklist Item 1.

15. AT&T contends in its comments and in the declaration of Denise Berger that BellSouth fails to provide non-discriminatory access to interconnection because BellSouth does not provide AT&T and other CLECs the ability to define the scope of their local calling area and to exchange local traffic with BellSouth based on the CLEC's definition, rather than BellSouth's definition, of the local calling area. AT&T Comments at 26; Berger Declaration at ¶ 5-6. First, as with the KMC/NuVox claim, let us be clear that the issue raised by Ms. Berger is a contract dispute regarding the interconnection and billing obligations in the BellSouth/AT&T Interconnection Agreement.

16. The dispute centers around specific negotiated language that BellSouth and AT&T mutually agreed to include in their interconnection agreement in the Five States, as well as in various other states, to address what traffic would be considered local for intercarrier (*i.e.*, reciprocal) compensation purposes. The following BellSouth/AT&T Interconnection Agreement language addresses this issue:

> 5.3.1.1 The Parties agree to apply a "LATAwide" local concept to this Attachment 3, meaning that traffic that has traditionally been treated as intraLATA toll traffic will now be treated as local for intercarrier compensation purposes, **except for those calls that are originated or terminated through switched access arrangements as established by the State Commission or FCC.** Nothing in this Agreement shall be construed in any way to constrain either Party's choices regarding the size of the local calling areas that it may establish for its end users.

(Emphasis added).

Obviously, a plain reading of this contract language makes clear that, contrary to Ms. Berger's allegation, BellSouth and AT&T did <u>not</u> agree to "treat [all] calls that originate and terminate within a single LATA as local calls." (*See* Berger Declaration at ¶ 9.) Indeed, according to the mutually agreed upon language in the Agreement, traffic that is originated or terminated over switched access arrangements is specifically exempted from being considered as local traffic for purposes of intercarrier compensation.

17. Switched access arrangements are established by state commissions and this Commission via the switched access E6 tariffs. Thus, if AT&T purchases a switched access arrangement from either the interstate or intrastate tariff and originates or terminates traffic over that arrangement, such traffic is not considered to be local for purposes of intercarrier compensation.

18. Ms. Berger is not correct when she states "[W]hen BellSouth refuses to perform *according to the terms in its interconnection agreements*, it makes it impossible for CLECs to project expenses and thus to make business plans for market entry." Berger Declaration at ¶15. (Emphasis added.) Again, it is critical to remember that BellSouth and AT&T mutually agreed to the language in the agreement. BellSouth has varying provisions that address intercarrier compensation in different interconnection agreements, all of which were available to AT&T, and the language cited above in section 5.3.1.1 is the language that AT&T chose to include in its agreement. In any event, Ms. Berger's language makes clear that the question here is simply one of performance under the terms of an interconnection agreement.

19. The bottom line here is that AT&T and BellSouth have a dispute over interpretation of the language in section 5.3.1.1 of the interconnection agreement, and the two companies are currently engaged in settlement discussions. The agreement contains provisions for dispute resolution if the parties cannot reach a settlement. AT&T inappropriately seeks to use this section 271 proceeding to litigate an issue that is not relevant to a determination of BellSouth's having met the requirements of the Act.

20. BellSouth has entered into interconnection agreements that expand what is considered local traffic for intercarrier (*i.e.,* reciprocal) compensation purposes; however, in those agreements (as is the case with BellSouth's interconnection agreement with AT&T), traffic that is originated or terminated over switched access arrangements is specifically exempted from being considered local traffic subject to reciprocal compensation. The BellSouth/AT&T Interconnection Agreement does not, as AT&T contends, make all calls that originate and

terminate in the LATA local for reciprocal compensation purposes. The interconnection agreement clearly excludes, from the local traffic definition, all traffic that is originated and terminated over switched access arrangements. The language at issue was negotiated and agreed to by the parties in the Five States in this application. BellSouth and AT&T disagree on the interpretation of language in the interconnection agreement as it pertains to what traffic is local for purposes of inter-carrier compensation.

21. The same issue related to contract language was recently before the Wireline Competition Bureau.[2] The Bureau concluded:

> As discussed in Issue I-6 above, calls between carriers that originate and terminate with a single LATA are subject to either reciprocal compensation or access charges. AT&T proposes contract language that would treat all traffic it exchanges with Verizon that originates and terminates within a single LATA as subject to reciprocal compensation, not access charges. Verizon opposes AT&T's proposal. For the reasons provided below, we reject AT&T's proposal. *Id.* ¶ 546. [Footnotes 1812 and 1813 omitted.]
>
> We reject AT&T's proposed language. Telecommunications traffic subject to reciprocal compensation under section 251(b)(5) excludes, *inter alia*, "traffic that is interstate or intrastate exchange access." The Commission has previously held that state commissions have authority to determine whether calls passing between LECs should be subject to access charges or reciprocal compensation for those areas where the LECs' service areas do not overlap. Accordingly, we decline to disturb the existing distinction in Virginia between those calls subject to access charges and those subject to reciprocal compensation. To the extent that AT&T believes that the existing regime creates artificial discrepancies in compensation, is economically inefficient and adversely affects competition, it may advocate alternative payment regimes before the Commission in the pending *Intercarrier Compensation Rulemaking* docket. *Id.* ¶ 549. (Footnotes omitted.)

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[2] In the Matter of *Petition of WorldCom, Inc., Cox Virginia Telecom, Inc. and AT&T Communications of Virginia, Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc.*, CC Docket Nos. 00-218, 00-249, and 00-251, Memorandum Opinion and Order, Order No. DA 02-1731 (rel. July 17, 2002).

The Bureau has made clear that all calls that originate and terminate within the same LATA are not necessarily considered local for purposes of intercarrier compensation.

22. It should be noted that AT&T has not filed a complaint on this issue in any BellSouth state. BellSouth has been actively working to resolve these issues directly with AT&T through negotiations. As is the case with the KMC/NuVox issue discussed above, disputes such as the one raised by AT&T in its Comments are not required to be resolved in order for an ILEC to prove that it is in compliance with the Act. As such, the issues put forth by AT&T are not relevant to the FCC's determination of compliance with Checklist Item 1.

IV. CHECKLIST ITEM 2 - UNBUNDLED NETWORK ELEMENTS

A. Regionality

23. The allegation of both AT&T (Bradbury/Norris Decl. ¶¶ 118-122) and WorldCom (Lichtenberg Decl. ¶¶ 27-30), that BellSouth has not proven the regionality of its OSS, is inconsistent with the decision of the FCC in the *GA/LA Order*[3], and with the decisions of the State Commissions in each of the Five States. The Affidavits of Alfred A. Heartley, William Stacy, Ken Ainsworth and David Scollard, filed with this Commission on June 20, 2002, on behalf of BellSouth in this proceeding, discussed in detail the regionality of BellSouth's OSS.

24. WorldCom (and AT&T, in part) relies on the Tennessee Regulatory Authority's ("TRA") June 21, 2002 Order[4] in Docket No. 01-00362 for support of its

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[3] *Joint Application Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Georgia and Louisiana*, Memorandum Opinion and Order, 15 FCC Rcd 9018 (2002) ("BellSouth's *GA/LA Order").*

[4] In Re: *Docket to Determine the Compliance of BellSouth Telecommunications, Inc.'s Operations Support Systems with State and Federal Regulations*, Docket No. 01-00362, TRA *Order Resolving Phase I Issues of Regionality,* Dated June 21, 2002 ("*TRA Regionality Order*").

argument. On July 8, 2002, BellSouth filed a Motion for Reconsideration ("MFR") of the TRA's Order. Very simply, the MFR explains that the TRA's finding is fundamentally flawed. The TRA's decision ignored authoritative precedent set by this Commission, and disregarded the Commission's roadmap for demonstrating regionality. In addition, the TRA's decision either lacked an appropriate analysis of the legal standard applied, or it depended on an incorrect legal standard. And most importantly, the TRA misinterpreted the evidence provided. In its Directors' Conference on July 23, 2002, the TRA granted BellSouth's Motion for Reconsideration and reversed its previous ruling, adopting instead the previous minority position, thus negating this particular support upon which WorldCom and AT&T rely. The Reply Affidavit of William Stacy addresses the TRA's decisions in more detail.

B. UNE Rates

25. Numerous allegations have been made with regard to BellSouth's UNE rates and BellSouth's pricing policies and methodology. The Reply Affidavit of Daonne Caldwell addresses and rebuts the specific arguments regarding the cost methodology BellSouth used to develop such rates. In our Reply Affidavit, we address the general policy issues raised by the commenters.

a. South Carolina Deaveraging Methodology

26. In its Comments and the declaration of Chris Frentrup, WorldCom contends that South Carolina's deaveraged rates, unlike every other state in the region, are based on BellSouth's retail rate zones and are not based on costs. WorldCom Comments at 13; Frentrup Declaration at ¶¶ 7, 30-31. WorldCom is incorrect.

The methodology used to deaverage rates in South Carolina is the exact same methodology that was used to deaverage the rates currently in place in Georgia. The Commission determined in its *GA/LA Order* that the Georgia UNE rates, deaveraged using the same methodology used to establish South Carolina's deaveraged UNE rates, were TELRIC compliant and satisfy the requirements of checklist item two. This approach was approved by both the Georgia Public Service Commission ("GPSC") and the Public Service Commission of South Carolina ("SCPSC") as consistent with FCC Rules and, importantly, in both states began as the result of a negotiated approach to deaveraging that was agreed to by both AT&T and WorldCom, among others, as an appropriate methodology, in order to meet the deadline for implementing the Commission's deaveraging rule.

27. FCC Rule 51.507(f) requires state commissions to:

> establish different rates for elements in at least three defined geographic areas within the state to reflect geographic cost differences.
> (1) To establish geographically-deaveraged rates, state commissions may use existing density-related zone pricing described in § 69.123 of this chapter, or other such cost-related zone plans established pursuant to law.
> (2) In states not using such existing plans, state commissions must create a minimum of three cost-related rate zones.

The SCPSC has done just that. The Commission's rules clearly leave some latitude with the state commissions, so long as the deaveraging methodology results in three geographic zones that are "cost-related." BellSouth's existing retail rate groups are cost-related zone plans, established pursuant to state law, which have been grouped into 3 UNE zones, as shown below:

Table 1

	Average Loop Cost	UNE Zone
Rate Group 7	$14.75	1
Rate Group 6	$15.98	1
Rate Group 5	$21.45	2
Rate Group 4	$21.25	2
Rate Group 3	$24.97	3
Rate Group 2	$27.40	3
Rate Group 1	$33.80	3

28. Assigning the wire centers to a particular zone, based on their existing retail rate groups, does not mean that the resulting deaveraged UNE rates are not cost-based. Consistent with FCC Rules, the South Carolina deaveraging method relied upon existing "cost related zone plans." That these zones reasonably reflect costs is demonstrated in the above chart showing average loop cost in each zone. Just as in every state, the deaveraging methodology applied in South Carolina utilized the wire center level costs for the wire centers that were included in each zone to calculate the average monthly rate for the zone. Consistent with FCC Rule 51.505, neither retail costs nor revenues were considered in the calculation of the TELRIC costs in South Carolina.

29. The current deaveraged rates in South Carolina are based on the methodology included in a stipulated agreement to which WorldCom and AT&T were parties.

On April 24, 2000, the SCPSC issued Order No. 2000-0373 approving a stipulation by BellSouth, AT&T and MCI to establish interim geographically deaveraged UNE rates. (See Reply Exhibit JAR/CKC-4, Order and Stipulation.) The parties adopted this stipulation to avoid the necessity for the SCPSC to seek a waiver of the FCC's deaveraging rule because all parties recognized there was insufficient time to conduct a proceeding before the Commission's rules became effective. Parties to the proceeding "filed documents with [SCPSC] that either agree with the terms of the Stipulation, or do not object to the terms of the Stipulation." (See Reply Exhibit JAR/CKC-4 at 2, Order and Stipulation) The deaveraging methodology utilized in the stipulation, and at issue here, is the same deaveraging methodology approved by the SCPSC in the most recent UNE cost docket. While parties did propose numerous adjustments to cost methodology inputs during the recent SC UNE docket, no party other than BellSouth filed a deaveraging proposal, nor presented evidence challenging BellSouth's proposal during the hearing.

30. To further demonstrate that the deaveraging method used in South Carolina is "cost-related," we have included a comparison of South Carolina's SL1 loop rate, deaveraged via the current South Carolina methodology, and the methodology used in North Carolina (Table 2); as well as a comparison of the South Carolina SL1 loop rates deaveraged by rank ordering the SC wire centers and selecting zone break points in a manner that results in the same percent access lines by zone as the current deaveraging methodology (Table 3). These charts demonstrate that the deaveraging methodology in effect is reasonably "cost-related" as set forth in the Commission's rules.

Table 2
SL1 Loop Rate Comparison

	SC Rates Using North Carolina Method	South Carolina Rates As Ordered	
	Rate	Zone Break Points	Rate
Zone 1	$14.76	RG 6 –7	$14.94
Zone 2	$23.13	RG 4-5	$21.39
Zone 3	$32.21	RG 1-3	$26.72

Table 3
SL1 Loop Rate Comparison

	South Carolina Rates As Ordered			SC Rates Using Wire Center Costs	
	Zone Break Points	Rate	% of Lines	Rate	% of Lines
Zone 1	RG 6-7	$14.94	68.84%	$14.47	69.6%
Zone 2	RG 4-5	$21.38	19.00%	$21.66	18.95%
Zone 3	RG 1-3	$26.72	12.17%	$29.95	11.45%

31. Although disagreeing with some aspects of BellSouth's proposal, as stated previously, no other party, besides BellSouth, proposed a specific deaveraging methodology during the South Carolina UNE cost proceeding. South Carolina UNE Order at pgs. 6-7 (App. D – SC, Tab 19). Additionally, no party requested reconsideration of the deaveraged rates established by the SCPSC's UNE Order. The methodology used is clearly compliant with FCC Rule 51.507(f). As was initially adopted in the stipulation to comply with this Rule, to which MCI and AT&T were parties, South Carolina UNE rates have been deaveraged into 3 cost-related zones. The SCPSC specifically concluded that the methodology proposed by BellSouth was "consistent with the FCC rules." (SC UNE Order at 7-8.) If WorldCom truly has serious concerns with the South Carolina deaveraging

method, WorldCom should bring its concerns to the SCPSC as specifically advocated in the SCPSC UNE Order.

32. It should also be noted that, on February 21, 2000, AT&T, BellSouth, WorldCom, and Sprint filed a Joint Stipulation that established deaveraged UNE rates in Georgia, developed using the same methodology as used in South Carolina. As agreed to by the parties to the Stipulation, this deaveraging methodology will be in place in Georgia until resolution of the pending Georgia UNE docket. In its *Order Adopting Joint Stipulation for Deaveraged UNE Rates* at 2, Docket No. 10692-U (April 4, 2000), the GPSC found these stipulated rates consistent with the 1996 Act. The GPSC concluded that, "the rates, terms, and conditions set forth in the Joint Stipulation are reasonable and should be adopted for unbundling of BellSouth's telecommunications services in Georgia, pursuant to sections 251 and 252 of the Telecommunications Act of 1996 and Georgia's Telecommunications and Competition Development Act of 1995." In addition, in its review of BellSouth's pricing in the *GA/LA Order*, the Commission concluded, in ¶ 100, "BellSouth has demonstrated that its Georgia and Louisiana UNE rates satisfy the requirements of checklist 2."

b. <u>Vertical Features</u>

33. AT&T, through its comments and the declaration of Catherine Pitts, contests the inclusion of a portion (55%) of the feature costs in the port rate. AT&T Comments at 34-39; Pitts Declaration at ¶ 23-25. The 55% take rate represents the percentage of BellSouth's total retail lines (residential and business) and UNE ports (standalone and combinations) that subscribe to at least one vertical feature. In other words, throughout BellSouth, 55% of the lines (including UNE ports)

subscribe to at least one vertical feature. BellSouth obtained data from its billing systems that identified the number of retail lines and UNE ports that contained at least one feature. The specific data that BellSouth relied upon to calculate the 55% take rate is reflected in Proprietary Reply Exhibit JAR/CKC-5. The 55% take rate was applied to the previously existing stand-alone vertical features charge when BellSouth modified its recovery method to recover these charges as part of the port charge, consistent with recent decisions of the Commission.[5] Thus, the take rate does nothing more than account for the fact that these costs were previously recovered only from end users ordering features, but are now recovered from all switching customers. This change made by BellSouth is revenue-neutral.

C. Vintage of NC UNE rates

34. AT&T alleges that because BellSouth's rates in North Carolina are higher than they are in Georgia, they are excessive and cannot comply with the Commission's pricing rules. *See* AT&T Comments at 40-41. The Commission has already addressed this issue and rejected the CLECs' claims. In its *GA/LA Order*, finding concerns regarding the pending UNE cost proceeding before the GPSC unwarranted, the Commission stated,

> "In this case, we do not believe that the existence of a new Georgia cost docket ... should affect our review of the currently effective rates submitted with BellSouth's section 271 application. States review their rates periodically to reflect changes in costs and technology. As a legal matter, we see nothing in the Act that requires us to consider only section 271 applications containing

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[5] *See Verizon New Jersey Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in New Jersey*, Memorandum Opinion and Order ¶ 41, WC Docket No. 02-67, FCC 02-189 (rel. June 24, 2002).

rates approved within a specific period of time before the filing of the application itself." (*GA/LA Order* ¶ 96)

35. Specifically, AT&T alleges that rate differentials between North Carolina and Georgia are not justified by cost differences between the states, and concludes that these differentials reflect methodological failings. These allegations are nothing more than recycled claims that the Commission has explicitly rejected. The threshold question here (and the only one the Commission needs to answer) is not how do the UNE rates in North Carolina compare to those in Georgia (or Louisiana), but have the rates been developed in compliance with the Act and the FCC's rules; that is, are the rates cost-based? The answer is yes. The Reply Affidavit of Ms. Caldwell demonstrates this.

36. Further, in the *Massachusetts Order*, the Commission affirmed that it "has previously held that it will not conduct a *de novo* review of a state's pricing determinations and will reject an application only if 'basic TELRIC principles are violated or the state commission makes clear errors in factual findings on matters so substantial that the end result falls outside the range that the reasonable application of TELRIC principles would produce.'"[6] All of the Five State Commissions have reviewed extensively BellSouth's UNE costs, made certain adjustments, and established a set of rates that are TELRIC-based and in compliance with the Act and the Commission's rules. In its *Vermont 271 Order*, the Commission recognized "as both the United States Court of Appeals for the District of Columbia Circuit and the Commission have recognized, 'application of TELRIC principles can result in different rates in different states.'"

[6] *Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions, And Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts*, Memorandum Opinion and Order, 16 FCC Rcd 8988 ¶ 20 (2001) ("*Massachusetts Order*").

(Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Vermont, Memorandum Opinion and Order ¶ 26, 17 FCC Rcd 7625 (2002) ("*Vermont 271 Order*")).

37. Although various CLECs complain about BellSouth's pricing, the DOJ, in its July 30, 2002 Evaluation of BellSouth's current Five State 271 application, did not identify any concerns with regard to BellSouth's UNE rates in Alabama, Kentucky, Mississippi, South Carolina or North Carolina. The DOJ has not hesitated to identify pricing concerns when they have appeared in previous 271 applications.[7]

38. AT&T's argument is simply that North Carolina rates are too old. As previously cited, the Commission rejected this argument under identical facts with respect to Georgia, as well as in other 271 orders. The fact that the North Carolina Utilities Commission ("NCUC") has not recently reviewed certain of BellSouth's rates, does not mean that those rates are not cost-based or do not comply with this Commission's pricing rules. The NCUC has taken this fact into consideration in its recommendation stating, "we find that the UNE rates contained in BellSouth's SGAT are just and reasonable and comply with the FCC's pricing rules. As in previous dockets, the Commission [NCUC] rejects WorldCom's contention that the rates established by the Commission in Docket No. P-100, Sub 133d are not cost-based or TELRIC compliant. The argument that the current UNE rates do not allow CLPs to be competitive has been disavowed by the FCC, which

[7] *See,* for example, DOJ recent recommendation in Verizon's Delaware/New Hampshire 271 Application (issued August 1, 2002).

determined that the pertinent issue was whether the rates were cost-based, not whether the CLPs could be profitable." NCUC Comments at 164.

D. DUF Rates

39. AT&T complains that the current North Carolina rates for BellSouth's daily usage file ("DUF") offerings are not based on the DUF cost study used in the other four states. AT&T Comments at 31-32. In conjunction with its compliance filing on April 1, 2002 BellSouth attempted to update the North Carolina DUF rates to reflect cost study results based on updated demand data. However, as a result of Public Staff's procedural concerns, BellSouth withdrew the DUF rate revision. In light of the fact that BellSouth has filed the updated DUF cost study in the new UNE cost proceeding underway in North Carolina, BellSouth voluntarily lowered the North Carolina DUF rates in its SGAT to the rates reflected in the Louisiana SGAT in all cases where the specific Louisiana DUF rate element was lower than the current North Carolina DUF rate. BellSouth filed a revised SGAT price list reflecting the lowered DUF rates on July 22, 2002 with the NCUC.[8]

40. AT&T also contends that BellSouth's current North Carolina SGAT does not include any rates for BellSouth Optional Daily Usage File ("ODUF") offering. Turner Declaration at ¶ 18. AT&T is wrong. ODUF rates are reflected on page 9 of Attachment A to the North Carolina SGAT. Modifications to the cost reference numbering scheme and the nomenclature for this element have occurred since the original North Carolina rate sheet was developed. Regardless of the assigned cost reference number or the terminology used to describe the element

[8] A corrected version of this filing was made on August 1, 2002 to address an inadvertent change to the DUF rate element F.1.5-OSS CLP daily usage file (billing); data transmission. This correction reinstated the existing rate of $.00004 per message.

on the rate sheet, the ODUF offering in North Carolina is identical to the ODUF offering in BellSouth's other states.

41. WorldCom contends that the DUF rates in Alabama and South Carolina are approximately double the charges in the other BellSouth states. WorldCom's assertion is perplexing. The Alabama and South Carolina SGATs attached as Exhibits JAR/CKC-1 and JAR/CKC-5, respectively, to our Joint Affidavit, reflect DUF rates that are comparable to the rates contained in the Georgia and Louisiana, as well as rates contained in the Mississippi, Kentucky and updated North Carolina SGATs. As such, the DUF rates in the Five States fall within a reasonable TELRIC range.

E. <u>LNP Coordination – After Hours Cuts</u>

42. US LEC complains that BellSouth's charges for after hours "coordinated LNP cuts" (US LEC Comments at 21-22) are unlawful and do not appear in either a BellSouth tariff or in the parties' interconnection agreements. The charges to which US LEC refers are for Project Management Coordination services for "After Hours Cut," or provisioning of LNP cuts outside the normal 8:00 AM to 5:00 PM workday. The charges are appropriately assessed to cover the labor costs that BellSouth incurs in holding employees (or calling out employees) beyond normal business hours in order to provide dedicated Project Management to the CLEC during the term of the cut. Although US LEC claims that these charges are not covered in US LEC's interconnection agreements, it is mistaken. For example, Attachment 6, Section 1.2 of a US LEC interconnection agreement states, "All other US LEC requests for provisioning and installation services are considered outside of the normal hours of operation and may be performed

subject to the application of <u>extra-ordinary billing</u> charges." BellSouth described its intent to begin recovery of these costs in a "trial" in a BellSouth Carrier Notification Letter dated January 16, 2002. On June 17, 2002, BellSouth issued an additional Carrier Notification, informing CLECs that it would begin to provide "after hours coordinated cuts" beginning July 17, 2002. The Project Management Coordination services referred to by US LEC were not a mandatory condition for BellSouth to provision an LNP cut. Customers have the option of requesting that their projects be worked during normal business hours and avoiding the charge.

43. That being said, because of the apparent confusing nature of the original Carrier Notification, on February 25, 2002, BellSouth decided that it would delay its efforts to begin recovering these costs, and even with the issuance of the June 17, 2002, BellSouth is currently waiving the Project Management charges. As to the specific allegations made by US LEC, BellSouth has not charged any carrier, and will not charge for any after hours coordination performed thus far. Since the Carrier Notifications were issued, and in light of the subsequent confusion that continues to ensue, BellSouth is reevaluating its proposal and will post an amended Carrier Notification to the website at the appropriate time. Until such time, BellSouth will continue to waive its right to recover these extraordinary costs and will continue to perform after hours coordinated LNP conversions. Of course, if BellSouth chooses to impose the additional charges in the future in order to recover its costs, mechanisms provided by the Act and the state commissions are available to US LEC should they deem that BellSouth's actions are inconsistent with the parties' interconnection agreement.

F. OSS Charges

44. Certain CLECs complain regarding the different OSS charges among the states. *See* Frentrup Decl. ¶ 26. While it is true that BellSouth's OSS charges differ among the states, for reasons discussed fully in the Reply Affidavit of Daonne Caldwell, it is also true that BellSouth offers CLECs a regionwide OSS rate of $3.50 per LSR in its Standard Interconnection Agreement. Numerous CLECs have availed themselves of this option (*e.g.*, ITC^DeltaCom and Talk America).

V. CHECKLIST ITEM 10 – DATABASES AND SIGNALING

A. Access Charges for CCS7

45. The issues raised by US LEC pertain to an intrastate access tariff filing. US LEC Comments at 4-6. The filing and implementation of BellSouth CCS7 Intrastate Access Tariffs have no relevance to BellSouth's obligation to provide non-discriminatory access to databases and signaling under checklist item 10. The tariff filing that US LEC is challenging as "inequitable and anti-competitive" has no application to BellSouth's CCS7 signaling obligations associated with local interconnection. US LEC Comments at 4. Rates, terms and conditions for a CLEC's use of BellSouth's CCS7 service in relation to local calls is governed by the CLEC's (e.g., US LEC) approved interconnection agreement with BellSouth. There is nothing anti-competitive or discriminatory about BellSouth's CCS7 access tariffs or interconnection agreements.

46. BellSouth's current interstate access tariff (BellSouth's FCC Tariff No. 1, Section 6.1.3(C), effective May 15, 2001) governs the rates, terms and conditions associated with the use of BellSouth's CCS7 service in relation to interstate calls. BellSouth currently has effective corresponding CCS7 intrastate access tariffs in

Georgia, Louisiana, Kentucky, Mississippi and South Carolina. The tariff filings in North Carolina and Alabama have been suspended pending review by the State Commissions. US LEC and other CLECs have intervened in these tariff filings. The Reply Affidavit of Mr. Milner addresses this issue in more detail.

VI. PUBLIC INTEREST

A. Win Back

47. The issue of win back was thoroughly debated in BellSouth's GA/LA Application. Commenters here have brought nothing new, and nothing has changed since BellSouth's previous filing. The Commission addressed this issue in ¶¶ 301-303 of its *GA/LA Order*. The Commission found, "in the absence of a formal complaint to us that BellSouth has failed to comply with section 222(b), the winback issue in this case has been appropriately handled at the state level, and that the actions undertaken by the state commissions and BellSouth should be sufficient to ensure it does not recur."

48. Although US LEC raises the general issue of win back in its Comments, just as in BellSouth's GA/LA Application, it provides no specific evidence of any anticompetitive behavior on the part of BellSouth. US LEC also provides no specific examples of anticompetitive behavior in any of the Five States. US LEC has provided no evidence that would warrant a finding of noncompliance in BellSouth's Five State Application.

49. In footnote 11 of our Joint Affidavit in this proceeding, we addressed the decision made by the TRA in the proceeding[9] referred to on page 36 of US LEC's

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[9] *Complaint of XO Tennessee, Inc. against BellSouth Telecommunications, Inc. and Complaint of Access Integrated Networks, Inc. against BellSouth Telecommunications, Inc.*, Docket No. 01-00868, Final Order Affirming in Part and Vacating in Part the Initial Order of Hearing Examiner (Tenn. R.A. June 28, 2002) ("*TRA Order Affirming in Part and Vacating in Part*").

Comments. In response to BellSouth's *Petition for Appeal from Initial Order of Hearing Officer* in the above-mentioned docket, filed on May 29, 2002, the TRA did find that BellSouth had committed a tariff violation (thus the reason for the fine referred to by US LEC). The TRA stated, however, "The fact that BellSouth did not tariff the Select Programs does not automatically constitute an act of unjust discrimination." [10] In fact, the TRA concluded that there was not sufficient evidence to support a finding of unjust discrimination by BellSouth.

50. US LEC's reference to the marketing restrictions imposed on BellSouth by the NCUC is also misplaced. In its 271 Order, the NCUC stated in the second ordering paragraph:

> "That, with regard to *potential* anticompetitive marketing practices, BellSouth shall abstain from any marketing activities directed to a customer for seven days after the customer switches to another local telephone company; that BellSouth's wholesale divisions are prohibited from sharing information concerning customer switches with its retail division; and that BellSouth shall not include marketing information in the final bill sent to a customer that has switched providers." (Emphasis added.)

The NCUC found no anticompetitive behavior. As discussed in our Joint Affidavit, commissions in other states within BellSouth's region have reviewed, or are in the process of reviewing, BellSouth's policies and behavior with regard to win back and have made similar findings. BellSouth is in compliance with these state commission rulings.

B. Price Squeeze

51. Before addressing the specific price squeeze arguments presented by AT&T and WorldCom, we would emphasize several points made in our Joint Affidavit.

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[10] *TRA Order Affirming in Part and Vacating in Part* at 5.

First, and most important, a price squeeze analysis is not relevant in this proceeding. There is competition, in both the business and residential markets, in the Five States. *See* Stockdale Reply Affidavit. Second, as is discussed in the Affidavit and Reply Affidavit of Daonne Caldwell, BellSouth's UNE rates in the Five States are TELRIC-based, in compliance with this Commission's orders and rules, and the orders and rules of the Five State Commissions. Third, certain residential local exchange rates have been kept artificially low due to universal service objectives. And finally, CLECs have choices, other than UNEs, for providing service.

52. As demonstrated in detail in our original Joint Affidavit, significant margins are, in fact, available in each of the Five States at issue. To estimate revenues, AT&T and WorldCom each attempt to represent the average residential revenue by using some combination of what they consider to be the rate for BellSouth's 1FR and one or two individual features and the subscriber line charge ("SLC"). BellSouth's use of the revenues associated with its Complete Choice offering is more appropriate, for at least two reasons, neither of which is "self-serving" as AT&T contends. First, ¶ 23 of the Commission's Verizon Rhode Island 271 Order, referenced a ruling made by the Rhode Island Commission with regard to switching rates, where they relied on a showing made by AT&T that Verizon's new rates would result in a wholesale cost of $25.45 for the UNE-P, which is lower than the $28.95 price of Verizon's Unlimited Local Calling Offer. Based on review of Verizon's retail tariff, BellSouth's use of its Complete Choice offering is comparable to Verizon's Unlimited Local Calling Offer. Moreover, the Complete Choice offering is what was used in the margin analysis presented in BellSouth's GA/LA Application. *Application of Verizon New England Inc.,*

Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization To Provide In-Region, InterLATA Services in Rhode Island, Memorandum Opinion and Order ¶ 23, 17 FCC Rcd 3300 (2002) ("*Rhode Island Order*").

53. Further, CLECs do not generally pursue average customers, which the revenue used by AT&T and WorldCom would suggest. Typically, CLECs pursue those customers that provide higher contribution, a practice sometimes referred to as "cherry-picking." In ¶ 68 of the *Vermont 271 Order*, the Commission appeared to recognize this fact, "If UNE-Platform rates are priced at cost, we believe competitors will have the opportunity to make competitive entry. The existence of local rate subsidies might mean that, initially, the competition would be most prevalent in business markets and for higher-margin residential customers." It must also be kept in mind that, pursuant to the Commission's own rulings, CLECs get access to all features when they purchase the switching UNE. Thus, there is no additional cost to provide a feature-rich offering to end-users. It simply turns the Commission's rules inside out for CLECs to do a price squeeze analysis that takes into account the costs for purchasing a service with all features, but does not include the revenues obtained from selling the same level of service.

54. Moreover, this assumption would appear to be supported by the offerings that both AT&T and WorldCom are currently marketing. On its Georgia website (AT&T is not providing residential service in North Carolina), AT&T advertises local calling plans that range from $32.90 to $35.90. BellSouth's Complete Choice offering in Georgia is $34.00. In further support, an AT&T promotional mailing was received in homes in Atlanta, offering "Last Chance to save up to

15% on your local and long distance phone bill with AT&T Broadband!" (*See* Joint Reply Exhibit JAR/CKC-6.) AT&T's offering included the following comparison:

AT&T Promotion Offering Comparison

	AT&T Broadband Local Phone Service with By-the-Minute Plan	BellSouth Local Service Complete Choice Plan and AT&T One Rate TM 7¢ Plus Plan
1-Line Unlimited Local	$16.00	$34.00
Multiple Features*	$13.00	Included
Long Distance**	$ 2.95	$ 3.95
TOTAL COST	$31.95	$37.95
Your AT&T Broadband Savings	($6.00)	
% Savings with AT&T Broadband	15.8%	

*Various number of features included under different plans. **Long Distance refers to recurring monthly fee and does not include charges for actual usage.

55. Two telling conclusions can be drawn from AT&T's offering. First, and most obvious, by AT&T's own admission, BellSouth's Complete Choice offering is appropriate for comparison and analysis purposes. Second, but more telling, using the above data, and reworking the connectivity margin analysis for the North Carolina statewide average, not including the amortization of the NRC fee or incremental long distance usage revenue presents a different result than that depicted by AT&T:

North Carolina
Estimated Connectivity Margin
Revised to include AT&T's Promotional Offering

Costs	**Zone 1**	**Zone 2**	**Statewide Avg**	
UNE-P (loop/port combo)	$13.03	$21.33	$16.46	Note 1
Usage (including features)	$ 5.90	$ 5.90	$ 5.90	
DUF	$ 1.78	$ 1.78	$ 1.78	
Platform-Recurring Cost	**$20.71**	**$29.01**	**$24.14**	
Estimated Revenues				
BST's Complete Choice Rate –NC	$24.65	$24.65	$24.65	Note 2
Subscriber Line Charge	$ 6.00	$ 6.00	$ 6.00	Note 3
Access	$ 0.90	$ 0.90	$ 0.90	
Long Distance Monthly Fee	$ 2.95	$ 2.95	$ 2.95	Note 4
Total	**$34.50**	**$34.50**	**$34.50**	
Margin-Complete Choice Residence	**$13.79**	**$ 5.49**	**$10.36**	
% (Margin divided by Total Revenue)	**40%**	**16%**	**30%**	
% of BellSouth access lines	**72%**	**19%**	**100%**	

Note 1: BellSouth's statewide average.
Note 2: BellSouth's NC Complete Choice Offering reduced by 15%. AT&T's promotion 14.7% less than GA Complete Choice Offering.
Note 3: Increased SLC to $6.00, effective July 2002.
Note 4: From AT&T's offering.

56. On its website, MCI advertises "Neighborhood Choice" (a strictly local plan) for $31.99 in Alabama. Using BellSouth's Complete Choice offering is certainly more comparable to "the level of revenues that are available to potential new entrants" (Lieberman Decl. ¶ 15) than what is suggested by AT&T and WorldCom.

57. In addition to the difference in basic revenues used, a couple of other observations should be made. First, AT&T suggests including amortization of the non-recurring costs in the cost portion of the analysis, however, it neglects also to include the amortization of non-recurring revenues. Second, WorldCom's

analyses do not include any toll revenues, although the Commission has previously suggested this would be appropriate. *See, e.g.,* Vermont 271 Order. Omitting these items further understates estimated revenues. Additionally, based on WorldCom's comments regarding DUF rates, it appears that WorldCom is not using the most recent DUF rates for Alabama, North Carolina and South Carolina. Therefore, it would seem that the costs WorldCom estimates for DUF are overstated. Similarly, AT&T's (and perhaps WorldCom's, although its DUF analysis is confusing at best) analysis clearly does not account for the recently reduced DUF rates in North Carolina. Without conceding to their analyses, AT&T's and WorldCom's own analysis, using the appropriate monthly DUF charges, means that the margins in these states are significantly higher than calculated by both AT&T and WorldCom. Finally, as recognized by AT&T (Comments at 41), state and federal universal service revenues are "possible potential revenues that may be available to new entrants." CLECs, including AT&T and WorldCom, can apply for and receive eligible telecommunications carrier ("ETC") status from the state commissions, as demonstrated by the fact that several CLECs have done so in BellSouth's region (including in the Five States).

58. As demonstrated in our Joint Affidavit, BellSouth's margin analyses demonstrate a positive profit margin in 13 of the 16 zones, and for the statewide average in each of the Five States. These zones represent over 80% of BellSouth's access lines in each of the Five States (significantly higher than the 67% the Commission found acceptable in Louisiana). As Table 4 shows, even WorldCom's analyses, which BellSouth is not endorsing, demonstrate that a significant percent of

BellSouth's access lines (over 50% in each of the Five States, with most states being well over that mark) are available at a positive margin.

TABLE 4
% BELLSOUTH ACCESS LINES IN ZONES WITH POSITIVE MARGINS

	BELLSOUTH	WORLDCOM
ALABAMA	88%	89%
KENTUCKY	100%	65%
MISSISSIPPI	82%	52%
NORTH CAROLINA	91%	72%
SOUTH CAROLINA	100%	69%

It is interesting that WorldCom's analysis depicts Mississippi, the state with the most residential competition, as the state with the least access lines available to create a positive margin.

59. The zones showing a negative margin, and even those showing a lower positive margin, can be explained, as recognized by the Commission in ¶ 286 of the *GA/LA Order,* "the negative margins in rural areas are not the result of a mistake or oversight" by the state commissions. "Rather, as is common in states with significantly rural areas, there appears to be an intentional state policy to keep retail rates affordable. Accordingly, as we found in Vermont, we believe it is appropriate here to look beyond a negative margin for the provision of residential service in high-cost areas using the UNE-platform when examining allegations of price squeeze."

60. On page 42 of the Comments, and in the Declaration of Stephen Bickley, AT&T discusses what it alleges are an efficient new entrant's forward-looking internal costs. Even if these alleged costs were relevant to this analysis, BellSouth cannot

comment on AT&T's alleged internal costs. AT&T has done little more than breakdown its previous $10 claim into smaller pieces, still with no support or justification. AT&T has provided no cost data that would allow the Commission to determine if the breakdown of expenses is reasonable; and despite AT&T's claim that it is providing "a target 'benchmark' of the best that a competitive carrier like AT&T could hope for in a competitive environment", AT&T certainly has provided no factual information that can lead to a determination of whether AT&T is an efficient provider. Neither does AT&T answer the Commission's concern, as expressed in ¶ 288 of the *GA/LA Order,* "Although AT&T alleges that it needs to make at least $10.00 per line, the pertinent question here is what is a sufficient profit for an efficient competitor." While BellSouth does not endorse the WorldCom margin analysis, even this refutes AT&T's arguments here. Specifically, WorldCom states that it is competing for residential customers in zone 1 in each of the Five States, and in zone 2 in Kentucky and Mississippi. Based on WorldCom's own admission, its margin analysis suggests that it is competing in zones that it portrays as having margins of less than $10.00. Simply stated, neither WorldCom nor AT&T provides anything other than unsupported and unsubstantiated assertions of internal costs. There is nothing upon which the Commission can rely.

61. AT&T and WorldCom have alleged that residential competition is somehow precluded in the more rural areas due to UNE pricing. It is telling, however, when evaluating the residential vs. business UNE-P distribution by zone, that there are no significant differences. Shown below are the percentages of residential UNE-P and business UNE-P by zone for the Five States.

Table 5
UNE-P % In-Service Units by Zone
June 2002

	Zone 1	Zone 2	Zone 3	Zone 4
AL-Res	82%	15%	3%	na
AL-Bus	74%	24%	2%	na
KY-Res	75%	22%	3%	na
KY-Bus	71%	26%	2%	na
MS-Res	49%	25%	19%	7%
MS-Bus	56%	24%	16%	4%
NC-Res	61%	21%	18%	na
NC-Bus	73%	21%	6%	na
SC-Res	77%	13%	10%	na
SC-Bus	77%	15%	8%	na

62. As shown above, the arguments made by AT&T and WorldCom on this point are not supported by the facts. Specifically, whether the customer is a residence or a business, CLECs are predominantly providing service in zone 1. Ironically, when focusing on zone 3 (and zone 4 in Mississippi), a larger percentage of the total UNE-P is being used to serve residence customers in these zones than the percentage being used to serve business customers (*e.g.*, in North Carolina, for residence, 18% of those UNE-Ps are actually serving customers in zone 3, compared to only 6% of the UNE-Ps serving business customers are in zone 3).

63. AT&T's conclusion, on page 51 of its Comments, that the record precludes a finding that granting BellSouth's application is in the public interest, is wrong. To the contrary, the record demonstrates that granting BellSouth's entry into the long distance is in the public interest. AT&T's conclusion is based on its allegation that "CLECs cannot profitably offer local residential service to

customers." (AT&T at 52). The following table, developed from data contained in the Exhibits to the Affidavit of Elizabeth Stockdale filed on behalf of BellSouth in this proceeding, depicts the level of residential competition in the Five States:

TABLE 6
RESIDENTIAL COMPETITION
AS OF MARCH 2002

	ALABAMA	KENTUCKY	MISSISSIPPI	NORTH CAROLINA	SOUTH CAROLINA
No. of CLECs w/10 or more lines that provide residential svc	**64**	**51**	**49**	**59**	**54**
No. of CLECs w/10 or more lines that provide res - Resale only	**41**	**34**	**29**	**30**	**34**
Residence lines provided via Resale	**36,169**	**22,422**	**33,991**	**33,486**	**40,309**
Residence lines provided via UNE-P	**4,340**	**4,899**	**22,768**	**9,109**	**2,263**
Residence lines provided via all other facilities-based	**14,517**	**9,087**	**250**	**18,320**	**5,823**
Residence lines-CLEC Total	**55,026**	**36,408**	**57,009**	**60,915**	**48,395**
%CLEC Res/Total Lines	**3.9%**	**4.1%**	**6.0%**	**3.6%**	**4.5%**

64. Table 6 demonstrates several things. Most importantly, *there is residential competition in each of the Five States*. Table 6 also shows that CLECs are using all three of the entry strategies to serve residential customers, as contemplated by the Act - construction of new networks, the use of unbundled elements of the incumbent's network, and resale. With regard to facilities-based providers, it is apparent that different providers have made decisions to enter the market using

different strategies. For example, in Mississippi, the state with the most residential competition, it appears that facilities-based CLECs currently are using UNE-P almost exclusively to provide residential service. This fact alone would appear also to undercut WorldCom's margin analysis as they estimate Mississippi as the only state with a negative statewide margin, and the state with the least number of households (both in number and as a percentage) with a positive margin. In the other four states, it appears that CLECs are using their own facilities, including what AT&T refers to as UNE-L, to provide more than half of their residential lines. Table 6 also demonstrates that, despite AT&T's arguments regarding the limitations of resale, there are Resale-only providers that apparently are able to compete for residential customers in these states.

65. As stated above, Table 6 demonstrates that AT&T's assertion - that the UNE-L strategy of leasing unbundled loops from BellSouth and combining them with CLECs' switches to provide service is wholly uneconomic (AT&T at 65) - is incorrect. Table 6 demonstrates that CLECs are serving residential customers without using UNE-P. Second, AT&T's argument is irrelevant. As a practical matter, the Commission's local switching exemption is limited to Density Zone 1 wire centers in the Top 50 MSAs, and to customers with 4 or more lines. Unbundled switching, therefore, is currently available, at cost-based rates, to serve the vast majority of residential customers. Further, AT&T's allegation that this entry strategy is uneconomical because the change requires expensive and unreliable manual hot cuts is also wrong. BellSouth's performance on "hot-cuts" has consistently been excellent. The Affidavit of Alphonso Varner, filed on behalf of BellSouth in this proceeding, discusses BellSouth's performance with regard to hot cuts in more detail.

66. Finally, in the *GA/LA Order,* the Commission found, in ¶ 287:

> We find that the Act contemplates the existence of subsidized local rates in high-cost areas and addresses such potential price squeezes through the availability of resale. AT&T contends that it is inappropriate to consider the availability of resale as a competitive option because the margin is insufficient. Under the circumstances before us in Louisiana, however, we disagree. As was true in Vermont, the distinction between how UNEs and resale are priced is significant here. UNEs are priced from the "bottom up," that is beginning with a BOC's costs plus a reasonable profit, whereas resale is priced from the "top down," that is, beginning with a BOC's retail rate and deducting avoided costs. Such a distinction ensures that resale provides a profit margin where, as is the case here, the costs of individual elements exceed the retail rate. Accordingly, we conclude that it is appropriate to consider the effect of resale on whether a price squeeze exists such that competitors are doomed to failure.

The data above supports the validity of this conclusion.

C. South Carolina Items

67. WorldCom states, "BellSouth may lack an enforceable performance plan in South Carolina. If BellSouth violates its performance plan, it is not clear that BellSouth will be penalized for such violations." WorldCom Comments at 20. WorldCom is absolutely wrong. First, the SCPSC has ordered that BellSouth's penalty plan, which was renamed the Incentive Payment Plan (IPP), be included within its SGAT. The SCPSC clearly explained its rationale in its Order[11] as follows:

> IPP is a voluntary, self-effectuating penalty plan similar to that used in other states where the FCC has granted Section 271 approval. The purpose of IPP is to prevent any "backsliding" by BellSouth in the level of service it offers to its competitors after it enters the long-distance market. IPP is a multi-tiered plan with escalating penalties for continued violations by BellSouth of a targeted subset of customer-affecting SQMs. The Commission reserves the right to review and make changes to this plan, after

[11] In RE: *application of BellSouth Telecommunications, Inc. to Provide In-Region InterLATA Services Pursuant To Section 271 of the Telecommunications Act of 1996*, Docket No. 2001-209-C, Order No. 2002-77 (Issued Feb. 14, 2002).

> consultation with CLECs and BellSouth, starting six months after BellSouth begins to provide interLATA service in South Carolina. (Pg 28)
>
> The Commission believes that IPP will fulfill the FCC's penalty plan standards, including that the penalties be meaningful and significant and will serve as a deterrent to backsliding once section 271 approval is granted, as intended by the FCC. As Dr. Spearman of the Commission staff noted, "BellSouth's proposed SEEM is very similar to the SWBT enforcement plan in Texas which has received FCC approval . . .. My analysis leads me to conclude that BellSouth's SEEM is as good as any approved by the FCC to date." *Tr. Vol. XII, pp. 4903-04 (Spearman).* (Pg 30)
>
> Nothing in the federal Communications Act of 1934, as amended, or the FCC's rules grant the Commission authority to adopt and enforce such a penalty plan without its consent. *Tr. Vol. VIII, p. 2920 (Varner).* The Commission finds that BellSouth's compliance with this plan is voluntary. <u>However, by requiring BellSouth to include the IPP in its SGAT, the Commission ensures that BellSouth will have a legally binding obligation to pay penalties</u>. (Pg 31)

(Emphasis added.)

68. The issue of a state commission's authority to enforce a performance remedy plan was addressed by this Commission in its Arkansas/Missouri Order[12] at ¶ 131 as follows:

> "We disagree with the commenters that submit that the Arkansas Commission may have insufficient legal authority to effectively enforce the plan and ensure that SWBT will continue to provide nondiscriminatory service to competing carriers. Based on the Arkansas Commission's precedent, we conclude that the Arkansas Commission has demonstrated sufficient authority to implement and enforce the plan in Arkansas, assuring that local markets will remain open after SWBT receives section 271 authorization. We note that the Arkansas Commission has repeatedly held that it has jurisdiction to adjudicate complaints against SWBT for alleged violations of interconnection agreements. Furthermore, we note that if the Arkansas Commission were to decline to exercise jurisdiction, this Commission may have the authority to act in its

---

[12] *Joint Application of SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Arkansan and Missouri,* Memorandum Opinion and Order, 16 FCC Rcd 20719 (2001) ("*Arkansas/Missouri Order*").

> place pursuant to section 252(e). The Commission has previously held that failure of a state commission to carry out its responsibilities, including the resolution of disputes arising from the interpretation and enforcement of interconnection agreements, may result in this Commission's preemption of state commission jurisdiction under section 252(e)(5). We also make clear that the performance remedy plan is not the only means of ensuring that SWBT continues to provide nondiscriminatory service to competing carriers. For example, this Commission may address any future failure to comply with the conditions of section 271, pursuant to section 271(d)(6)."

The same reasoning applies to refute WorldCom's concerns in the current proceeding, and the Commission's conclusion should be the same as in its *Arkansas/Missouri Order.*

69. WorldCom's statement that members of the SCPSC entered into illegal ex parte communications is absolutely wrong. It is true that numerous questions were raised during legislative screening for the election of commissioners, including allegations of improper ex parte contacts. WorldCom misrepresents to the FCC that illegal contacts in violation of state law were made.

70. WorldCom states, "The South Carolina PSC seems more concerned with helping BellSouth than with ensuring that competition comes to South Carolina." WorldCom Comments at 22. The record does not support WorldCom's claims regarding the SCPSC's support of competition in South Carolina. Companies that want to compete with BellSouth in South Carolina can and are doing so. There are multiple indications that competitors can do business in South Carolina. BellSouth has negotiated over 250 interconnection, collocation, and resale agreements with CLECs in South Carolina. SCPSC *271 Compliance Order* at 11 (App. C – SC, Tab 33). The South Carolina Commission approved all these agreements. *Id.* When BellSouth initiated its section 271 proceeding, the evidence showed that, as of March 2001, more than 55 CLECs were serving approximately 149,000 access lines in South Carolina, or 8.8% of the total market and nearly one-fifth of the business market. *Id.* Twenty-four of these CLECs

were providing service to customers over their own facilities; more than 91,000 of the 149,000 CLEC lines were served on a facilities basis. *Id.* at 11-12, 15. And BellSouth has completed nearly 350 collocation requests in 43 wire centers, giving these CLECs access to approximately 73% of BellSouth's total access lines. *Id.* at 15. Further, the SCPSC has supervised arbitrations between BellSouth and a number of CLECs, including AT&T (twice), ITC^DeltaCom, Adelphia Business Solutions, IDS Telecom, and ALLTEL Communications. Through these arbitrations, the SCPSC has resolved a long list of discrete issues. For instance, the ITC^DeltaCom arbitration (Docket No. 1999-259-C) by itself involved 33 separate issues for the SCPSC to decide. The SCPSC has also established separate dockets to address, among other things, the appropriate resale discount for contract service arrangements (Docket No. 98-378-C), deaveraged rates for UNEs (Docket No. 2000-122-C), collocation (Docket No. 2000-498-C), and UNE pricing (Docket No. 2001-65-C). In sum, the SCPSC has actively supervised the transition to local competition.

71. AT&T complains that BellSouth's recent price increases in South Carolina are evidence that BellSouth retains monopoly control. AT&T Comments at 54. AT&T quotes from a recent South Carolina Consumer Advocate complaint regarding price increases that BellSouth has implemented for various optional services. The price increases filed in South Carolina are for various optional services that BellSouth believes are fairly priced at a market price that is at or below its competition. BellSouth understands that, if customers do not perceive that the new price matches the value for these optional services, then they will move to another alternative. BellSouth will respond as necessary to these customer decisions and other market place conditions. This is the normal process in a competitive marketplace.

72. AT&T's comments seem to suggest that prices would only decline in a competitive market and never increase. AT&T would certainly argue that it operates in a highly competitive long distance market. It can also be said that AT&T has operated in an environment of declining costs since there have been dramatic declines in access fees paid by AT&T and other interexchange carriers. Yet in spite of these declining costs, AT&T has in fact increased rates on its basic prices on numerous occasions. AT&T is merely throwing up any argument it can find to prevent BellSouth from entering the long distance marketplace and providing additional long distance competition.

D. SouthEast Telephone

73. SouthEast Telephone cites as "one example of BellSouth's questionable commitment to competition" the fact that BellSouth has intervened in the proceeding in Kentucky concerning SouthEast's application to be designated as an eligible telecommunications carrier (ETC). (SouthEast Comments at 2) SouthEast explains that designation as an ETC is necessary in order to be eligible to receive USF funding. Further at 2, SouthEast states, "We are not sure of BellSouth's intentions, but we assume that BellSouth will seek to prevent the designation." To the contrary, BellSouth is not seeking to prevent SouthEast's designation as an ETC. As explained in BellSouth's Motion For Full Intervention, SouthEast's petition covers all or some portion of service areas currently served by BellSouth and for which BellSouth currently has carrier of last resort obligations. If SouthEast is approved as an ETC, it is possible that it may assume, or share in, some of BellSouth's carrier of resort obligations in those areas. Therefore, BellSouth has a legitimate interest in the outcome of this docket.

74. In addition, SouthEast cites on at 2 that "another legal tactic employed by BellSouth in an effort to delay competition was its unwillingness to reach an

interconnection agreement for UNE-P services with SouthEast Telephone." SouthEast Comments at 2. The inability of SouthEast and BellSouth to reach an agreement as to certain terms of their interconnection agreement resulted in an arbitration case before the KPSC. SouthEast claims that the one-year delay cost it significant sums of money and delayed the onset of competition for rural customers in Kentucky. BellSouth was exercising its rights to contest certain issues that it believes are not requirements under the Act. The issues which were contested include (1) requiring BellSouth to extend the terms of its interim number portability offering in central offices which had been converted to permanent number portability for some time, (2) requiring BellSouth to offer its DSL service for resale at a wholesale discount, and (3) requiring BellSouth to offer DSL service pursuant to an intrastate tariff. BellSouth's position is that the FCC has clearly ruled that an ILEC is not required to provide any of the above services as requested by SouthEast Telephone. Therefore, it is perfectly reasonable for BellSouth to assert its legal rights in not volunteering to agree to terms of an agreement with SouthEast that are not required in BellSouth's agreements with other CLECs. Upon Order by the KPSC in this arbitration, the Parties executed an Interconnection Agreement.

VII. SECTION 272 – SEPARATE AFFILIATE

A. Growth Discount Contract Tariff

75. AT&T alleges that BellSouth's F.C.C. Tariff No. 1, Section 26 (attached as Reply Exhibit JAR/CKC-7), BellSouth's Switched Access ("SWA") Contract Tariff, violates Sections 272(C)(1) and 272(E)(3) by discriminating in favor of BSLD and against IXCs. AT&T Comments at 47-50. BSLD is unable to subscribe to

the tariff referenced by AT&T. Since BSLD is not eligible to subscribe to these tariffs, AT&T's allegations have no bearing on BellSouth's Section 272 obligations and, therefore, are not relevant to the Commission's determination of compliance with Section 272.

76. The BellSouth SWA Contract Tariff is designed to retain the existing customer on, and encourage utilization of, BellSouth's switched network. Under BellSouth's SWA Contract Tariff, volume discounts are available over a five-year contract period for annual growth in switching usage compared to a specific minimum level. This specified minimum level is the carrier's projected local switching minutes (with regard to interstate interLATA traffic) for the first year of the contract based on the trend of the most recent 18 months' local switching usage prior to the beginning of the contract. Obviously, BSLD does not have "18 months' local switching usage prior to the beginning of the contract", and contrary to AT&T's assertions, BellSouth's SWA Contract Tariff does not discriminate in favor of BSLD. BSLD cannot "obtain a larger volume discount and lower access charges than AT&T or other IXCs." AT&T King Declaration ¶ 6.

77. AT&T's complaint of being limited to one contract cancellation during the term of the original contract is baffling. AT&T Comments at 50. There are no termination liability clauses within BellSouth's contract tariff, therefore a lack of performance on AT&T's part by not achieving the minimum usage target does not carry a tariff imposed penalty. An IXC can effectively choose to opt out of the contract tariff with no financial repercussions.

VIII. OTHER

A. Special Access Issues

78. In the initial filings in BellSouth's GA/LA 271 case (Docket 01-277), Mpower joint comments[13], US LEC joint comments[14] and Cbeyond raised issues related to the conversion of special access to UNEs. BellSouth responded to those issues in its November 13, 2001 Reply Affidavit of Ruscilli/Cox. At that time, the issue was before this Commission in the form of a complaint filed by Adelphia Business Solutions, Inc., Madison River Communications, LLC, Mpower Communications Corp. and Network Plus, Inc. BellSouth subsequently reached a settlement with the parties to that complaint.

79. Intervenors in BellSouth's GA/LA 271 proceeding filed further arguments regarding problems with special access provisioning and conversion to EELs in their comments filed on March 4, 2002. The Commission concluded in its *GA/LA Order* that "It is not clear that the practices described by US LEC/XO violate the Commission's rules."[15] In spite of that conclusion, US LEC again asserts in this Five State proceeding, "The Commission should reevaluate its blanket exclusion of special access services from Section 271 Competitive Checklist considerations." US LEC Comments at 14. Thus, US LEC admits that special access services are <u>not</u> included in the Section 271 Checklist requirements, and any comments related to provision of special access services by BellSouth in this proceeding are not relevant. As the Commission stated in its *Bell Atlantic New*

---

[13] In Docket 01-277, Mpower filed jointly with Network Plus, Inc. and Madison River Communications, LLC, referred to as "Mpower joint comments."
[14] In Docket 01-277, US LEC filed jointly with El Paso Networks, LLC and PacWest Telecomm, Inc., referred to as "US LEC joint comments."
[15] *GA/LA 271 Order* ¶ 200.

York Order[16], "to the extent that parties are experiencing delays in the provisioning of special access services ordered from Bell Atlantic's federal tariffs, we note that these issues are appropriately addressed in the Commission's section 208 complaint process." *Bell Atlantic New York Order* ¶ 341. The Commission's position that special access issues have no relevance in 271 proceedings was reiterated in the Commission's *SWBT Order-TX. See SWBT Order-TX* ¶ 335 ("As we found in the *Bell Atlantic New York Order,* we do not consider the provision of special access services pursuant to a tariff for purposes of determining checklist compliance.") The Commission should reach the same conclusion here.

80. The US LEC Comments state that BellSouth is in violation of Checklist Items 2, 4, and 5 because of BellSouth's failure to provide loops, multiplexing and transport, individually or in combination, at TELRIC prices. US LEC Comments at 7,8. US LEC refers to its Georgia/Louisiana 271 Comments, stating that, "US LEC's problems with obtaining special access circuits from BellSouth are well-documented." US LEC Comments at 9. However, US LEC offers no new documentation. As mentioned above, the Commission concluded in its *GA/LA Order* that the practices cited by US LEC did not demonstrate a violation of the Commission's rules.

81. Further, US LEC states that "BellSouth's ability to raise prices for special access is prima facie evidence of a lack of local competition." US LEC Comments at 29. There is no merit to US LEC's complaint that BellSouth has acted in an anticompetitive manner by raising prices for special access in areas where it has been granted pricing flexibility. BellSouth has been granted pricing flexibility in those areas because it has demonstrated, per the Commission's orders, that

[16] *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,* Memorandum Opinion and Order, 15 FCC Rcd 3953 (1999) ("*Bell Atlantic New York Order*").

competition for special access services is at or beyond a level sufficient to govern the marketplace. The bottom line is that provisioning of special access is a tariffed service, has not been considered within the scope of previous section 271 proceedings, and should not be considered in this application.

B. Misrouting of IntraLATA Toll Calls (DUF Billing Records Accuracy)

82. WorldCom witness Ms. Lichtenberg states that BellSouth must eliminate misrouting of intraLATA calls, which were due partly to a switch translation problem. As we have previously described, the calling scope situation that Ms. Lichtenberg addresses only occurs in Georgia due to the fact that the scope of the local calling area for Georgia's BellSouth retail customers taking flat-rate local service is smaller than the local calling area for those taking measured-rate local service. Because BellSouth used the measured rate local calling area as the basis for providing local switching as a part of UNE-P in Georgia, UNE-P end users in Georgia were provided a local calling area consistent with that of measured rate service. This meant that unless a CLEC ordering UNE-P had selected LATA-wide termination of its traffic over BellSouth facilities, BellSouth would treat as local all calls originating with the CLEC's end users and terminating within the measured rate local calling area for that customer's location. For UNE-P customers that formerly had BellSouth's flat-rate service, there would thus be a very small number of calls that would have been treated as intraLATA toll calls when the end user obtained local service from BellSouth but that would now be treated as local calls under UNE-P.

83. This issue was addressed in the *GA/LA Order* in the context of checklist item 12 – local dialing parity. The FCC noted that this issue "does not in any way impair

WorldCom's customers, who are still able to choose WorldCom for their intraLATA toll carrier and have benefited from an expanded local calling area." The FCC goes on to conclude, "[b]ecause this dispute has limited commercial impact and no other competitive LEC raises this issue, we do not find that this problem warrants a finding of noncompliance." (BellSouth *GA/LA Order* at ¶ 269) The UNE-P calling scope issue, which is limited to Georgia, is being resolved, in BellSouth Release 10.6 in August 2002, and should have no bearing on the Commission's determination of BellSouth's compliance with section 271.

84. As to the rest of Ms. Lichtenberg's statements on misrouting of IntraLATA calls, BellSouth found that for the call records provided by MCIWorldCom that it asked BellSouth to research, 12 records were determined to be errors in setting up the routing on those specific lines. Trouble tickets were issued to remedy this situation and the correct instructions were given to the switches to set up the routing as originally ordered by MCIWorldCom. As to the other 33 call records, BellSouth provided to MCIWorldCom an explanation of why those calls were correctly routed, given the services purchased by either MCIWorldCom or a CMRS provider. Attached to this Joint Reply Affidavit as Reply Exhibit JAR/CKC-8 is an email dated May 7, 2002, with attachment, that provided a detailed explanation of why BellSouth believes it correctly routed the calls.

C. Security Deposit Requirements

85. On page 33 of its Comments, US LEC begins a discussion of what it alleges as BellSouth's proposed deposit requirements, citing BellSouth's Transmittal 635. As the Commission is aware, BellSouth filed to restore currently effective provisions of Section 2.4.1 of Tariff F.C.C. No. 1, withdrawing the material filed

under Transmittal No. 635. On July 19, 2002, BellSouth filed Transmittal No. 657, revising Tariff F.C.C. No. 1, Section 2 to modify general regulations governing customer security deposits. (*See* Exhibit JAR/CKC-9 for modified tariff.) This filing attempts to make clear any ambiguities that were present in BellSouth's previous filing. On August 2, 2002, the Pricing Policy Division issued on order suspending this tariff for 5 months. Thus, it is not in effect and will not be during the pendency of this application.

86. The tariff modifications proposed by BellSouth in Transmittal 657, however, are necessary to ensure that adequate security is held in order to safeguard BellSouth's interests. Given the current financial environment, BellSouth is experiencing greater loss related to uncollectables. BellSouth's uncollectables due to bad debt increased by more than 200% from year 2000 through year 2001, and are continuing on this upward trend. Without the modifications proposed, BellSouth will continue to suffer financial harm.

87. It is commercially reasonable for BellSouth to extend its security deposit requirements to existing customers, in addition to new customers. The potential for uncollectables and bad debt are most dependent upon a customer's credit worthiness at any given point in time; not on whether a customer has or does not have an existing business relationship with BellSouth. The revisions made to BellSouth's tariff have no impact on customers that are credit worthy.

88. Under the modified tariff, BellSouth will utilize a commercially acceptable credit scoring tool applied in a commercially reasonable manner, as well as other data made available to BellSouth by the customer, to determine the customer's (new or existing) credit worthiness and whether a deposit is required. The modifications also, among other things, detail how credit worthiness is determined and what

forms of security are acceptable (cash, surety bond, or irrevocable letter of credit), and defines deposit due dates. BellSouth's modified tariff should assuage the concerns US LEC discussed in its Comments. This issue is being addressed through the tariffing process and is not an issue that is related to, or that should be considered in conjunction with, BellSouth's 271 compliance.

89. Further affiants saith not.

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

Executed on _____________, 2002.

John A. Ruscilli

STATE OF
COUNTY OF

Subscribed and sworn to before me
this ______ day of ______________, 2002.

____
Notary Public

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

Executed on _____________, 2002.

Cynthia K. Cox

STATE OF
COUNTY OF

Subscribed and sworn to before me
this ______ day of ______________, 2002.

____
Notary Public

EXHIBIT 20

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August 12, 2002

RECEIVED

AUG 1 2 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Joint Application by BellSouth Corporation, et al. for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina, WC Docket No. 02-150

Dear Ms. Dortch:

I write to clarify a point that was discussed in BellSouth's reply comments (at page 56) and in the Reply Affidavit of John Ruscilli/Cynthia Cox (at paragraphs 75 and 76). In those places, BellSouth responded to AT&T's claim that BellSouth's SWA Contract Tariff improperly benefited BellSouth Long Distance, Inc. ("BSLD") by establishing that BSLD is not even eligible to take service under that tariff.

That statement remains correct: BSLD is not eligible to take service under that tariff or under analogous state tariffs, which should be the full and complete response to any claimed section 272 violation. However, to avoid any misunderstanding, further clarification may be helpful.

There are three relevant points here. First, the opt-in period for the interstate tariff expired 30 days from the effective date of the tariff and thus has already expired. BSLD did not opt into the tariff, nor could it, and has no legal option to do so today. Second, in order to take advantage of the contract tariff during the opt-in period, a carrier must have been a switched access customer of BST for 18 months with minimum usage levels that enable that carrier to qualify for the discount schedule. Although BSLD has in fact been

REDACTED – For Public Inspection

almost exclusively a terminating switched access customer for 18 months, its level of usage did not reach the minimum levels necessary to qualify for the contract tariff. Last, AT&T's claim that the tariff is specifically designed to benefit BSLD and other small growing carriers is belied by the fact that the carrier subscribing to this contract tariff, and for whom the tariff was designed, is *** ***. Although AT&T is larger than *** ***, AT&T cannot claim that *** *** is a small growing carrier as is BSLD.

With respect to the switched access tariffs BST filed in each of its states, the responses mentioned above are equally relevant. BSLD has not and cannot opt into those tariffs because the opt-in period has expired, nor did it have the minimum usage required. Although several states have suspended the state switched access tariff, at the time those tariffs were filed, BSLD would not have been able to avail itself of the benefits of those tariffs for failure to have the minimum levels of usage.

I hope that these clarifications are helpful to the Commission. Pursuant to Commission rules, one original of the confidential version of this letter is being submitted. Further, one original and two copies of the redacted version are being submitted under separate cover. All inquiries relating to access (subject to the terms of the protective order) to this confidential information submitted by BellSouth in support of the Joint Application should be addressed to:

Kevin Walker
Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, DC 20036
kwalker@khhte.com
(202) 367-78200 (direct)
(202) 326-7999 (fax)

Respectfully submitted,

Sean A. Lev

REDACTED – For Public Inspection

Attachment

cc: Aaron Goldberger
Monica Desai
Josh Swift
Susan Pie
Cynthia Lewis
James Davis-Smith
Hon. John Garner
Deborah Eversol
Brian Ray
Robert H. Bennick, Jr.
Gary E. Walsh
Qualex

EXHIBIT 21

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August 13, 2002

RECEIVED

AUG 13 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Joint Application by BellSouth Corporation, et al. for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina, WC Docket No. 02-150

Dear Ms. Dortch:

In response to a staff request, please find attached to the proprietary version of this letter information on BellSouth Long Distance ("BSLD") switched access usage levels in each of BellSouth's nine states and for interstate usage. Additionally, in response to staff requests, BellSouth states that BSLD has been a BellSouth switched access customer with respect to both interstate and intrastate traffic and that the nature of the BSLD switched access minutes is predominately terminating traffic that originated outside the BellSouth region and terminating traffic that originated from wireless providers.

Pursuant to Commission rules, the attachment is being submitted only with the proprietary version of this letter. Accordingly, the public version of the letter is being submitted without the attachment. All inquiries relating to access (subject to the terms of the protective order) to this confidential information submitted by BellSouth in support of the Joint Application should be addressed to:

REDACTED – For Public Inspection

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Please date-stamp the extra copy of this letter and return it to the individual delivering this package. If you have any questions, please contact me at (202) 326-7975. Thank you for your assistance in this matter.

Respectfully submitted,

Sean A. Lev

Attachment

cc: Aaron Goldberger
Monica Desai
Josh Swift
Susan Pie
Cynthia Lewis
James Davis-Smith
Hon. John Garner
Deborah Eversol
Brian Ray
Robert H. Bennick, Jr.
Gary E. Walsh
Qualex

EXHIBIT 22

SOAH DOCKET NO. 473-99-1963
P.U.C. DOCKET NO. 21392

COMPLAINT BY AT&T COMMUNICATIONS OF THE SOUTHWEST, INC. REGARDING TARIFF CONTROL NUMBER 21302 - SWITCHED ACCESS OPTIONAL PAYMENT PLAN (OPP)	§ § § § § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

ORDER

This Order addresses AT&T Communications of the Southwest, Inc.'s (AT&T's) complaint of an informational notice filing by Southwestern Bell Telephone Company (SWBT) regarding switched access optional payment plans. The Public Utility Commission of Texas (Commission or P.U.C.) adopts the State Office of Administrative Hearings (SOAH) Proposal for Decision (PFD) filed on December 2, 1999, as modified by corrected pages to the PFD filed on January 26, 2000.

The Commission issued an order on January 27, 2000, admitting evidence and requiring SWBT to withdraw Switched Access Optional Payment Plan 2. On February 10, 2000, the Commission considered and denied AT&T's motion to strike two letters filed into the administrative record by VarTec Telecommunications, Inc. Accordingly, the Commission adopts the following findings of fact and conclusions of law, and adds Findings of Fact Nos. 6a through 6d reflecting events that occurred subsequent to the issuance of the SOAH PFD.

I. Findings of Fact

Procedural History and Notice

1. On September 1, 1999, Southwestern Bell Telephone Company (SWBT) filed an Informational Notice with the Public Utility Commission of Texas (Commission) to introduce two Switched Access Optional Payment Plans (OPPs). The filing was assigned Tariff Control

No. 21302.

2. On September 1, 1999, SWBT sent copies of the notice to all persons having an effective interconnection agreement with SWBT or holding a certificate of operating authority within SWBT's certificated areas.

3. On September 10, 1999, AT&T Communications of the Southwest, Inc. (AT&T) filed a complaint with the Commission concerning the proposed OPPs, alleging that they are discriminatory and anticompetitive.

4. On September 14, 1999, the Commission's Office of Policy Development (OPD) issued a preliminary order and referred this matter to the State Office of Administrative Hearings (SOAH) for an expedited hearing and proposal for decision. In its preliminary order, OPD stated the issue to be decided as follows: "Does the proposed tariff comply with the requirements of the Act of May 27, 1999, 76th Leg., R.S., S.B. 560 (to be codified in the Tex. Util Code Ann.)?"

5. On October 13, 1999, SWBT filed an Informational Notice to make certain revisions to the OPPs to address some of the concerns raised by AT&T's complaint. This filing was assigned Tariff Control No. 21529.

6. On November 13, 1999, SOAH Administrative Law Judge (ALJ) Thomas H. Walston conducted a hearing on the merits at the SOAH Hearing Facilities in Austin, Texas. The parties filed post-hearing briefs and reply briefs on November 12 and 17, 1999, at which time the record closed.

6a. In its Order Admitting Evidence; Interim Order Requiring SWBT to Withdraw Switched Access Optional Payment Plan 2 (OPP2) (January 27, 2000), the Commission upheld the ALJ's decision regarding OPP2 and ordered SWBT to withdraw OPP2 from its service offerings. The revised tariffs filed by SWBT on October 13, 1999, in Tariff Control No. 21529[1], were admitted into evidence as SWBT Exhibit No. 4.

[1] Tariff Control No. 21529, *(Filed October 13, 1999 in Tariff Control No. 21302) Informational Notice of Southwestern Bell Telephone Company for Switched Access Optional Payment Plan (OPP), Pursuant to PURA § 58.152* (Oct. 13, 1999).

6b. On February 7, 2000, SWBT made its compliance filing consistent with the Commission's Order Admitting Evidence; Interim Order Requiring SWBT to Withdraw Switched Access Optional Payment Plan 2.

6c. On February 8, 2000, AT&T filed a motion to strike, asking that two letters filed into the administrative record by VarTec Telecommunications, Inc. be stricken from the record.

6d. On February 10, 2000, the Commission considered and denied AT&T's motion to strike.

SWBT's Optional Payment Plans

7. SWBT's OPP1 provides switched-access tariff discounts for intrastate inter-exchange carriers (IXCs) who commit to purchase either 80, 90, or 100 percent of the switched-access minutes of use (MOU) that they purchased from SWBT during the most recent twelve-month period, for a term of one to five years. The commitment is recalculated each year based on the amount of switched-access MOU purchased during the preceding twelve months.

8. To receive the maximum 10% discount under OPP1, an IXC cannot experience any year-to-year decrease in its SWBT MOU for five years.

9. OPP1 provides volume and term discounts as follows:

Commitment			Years		
Level	1	2	3	4	5
80%	0.0%	0.5%	1.0%	1.5%	2.0%
90%	0.5%	1.0%	3.0%	4.0%	5.0%
100%	1.0%	3.0%	5.0%	7.0%	10.0%

10. OPP1 imposes a "reassessment charge" when an IXC does not meet its agreed commitment level but does achieve at least the 80% minimum level allowed by the plan. The reassessment charge equals the difference between all access charges calculated under the discount rate agreed to at the beginning of the agreement and the access charges recalculated using the discount rate for the level actually achieved.

11. The OPP1 reassessment charge applies to all MOU purchased from SWBT under OPP1 during all of the years preceding the reassessment charge, not just the MOU for the current year.

12. As an alternative reassessment charge, OPP1 allows the IXC to pay a fee equal to the cost of buying the MOU needed to make up its shortfall for the then current year.

13. When an IXC under OPP1 fails to achieve the minimum 80% level, or it otherwise prematurely terminates the agreement, OPP1 imposes a "termination charge" equal to all prior discounts allowed, plus interest. In effect, the termination charge requires the IXC to pay full tariff rates as if it had never entered into an OPP1 contract. The agreement also terminates at that time.

14. SWBT's OPP2 provides switched-access tariff discounts for IXCs that commit to purchase either 90 or 100 percent of the switched-access MOU that they purchased during the 12 months immediately before the agreement commences, for a period of three to five years. An IXC's commitment under OPP2 remains fixed for the duration of the agreement.

15. An exception to OPP2's fixed commitment applies to new IXCs with no MOU history. When a new IXC applies for OPP2, SWBT and the IXC will agree on an estimated MOU commitment for the first year. After the first year, the commitment is reset based on the actual MOU, and it will remain fixed thereafter.

16. OPP2 provides volume and term discounts as follows:

Commitment		Years	
Level	3	4	5
90%	2.0%	3.0%	4.0%
100%	3.0%	4.0%	6.0%

17. OPP2 also provides additional "growth discounts" when an IXC exceeds its commitment level. For every 10% increase in MOU (calculated annually) the IXC receives an additional one percent discount for the following year. These growth discounts may not exceed four percent,

making 10% the maximum discount available under OPP2.

18. To receive the maximum 10% discount under OPP2, an IXC must grow its SWBT switched-access MOU by at least 40% over its original commitment level.

19. OPP2 charges a reassessment fee when an IXC does not meet its commitment but does satisfy the 90% minimum level allowed by the plan. Like OPP1, the reassessment charge under OPP2 equals the difference between all charges under the discount rate agreed to at the beginning of the agreement and all charges recalculated under the discount rate allowed at the 90% minimum commitment level.

20. OPP2 also allows an IXC to pay an alternative reassessment fee equal to the discounted cost of the MOU-commitment shortfall for the then current year.

21. OPP2 imposes a termination charge when an IXC fails to meet the minimum 90% level or otherwise prematurely terminates the agreement. As with OPP1, the termination charge requires the IXC to pay SWBT an amount equal to all prior discounts allowed plus interest, and the agreement terminates at that time. In effect, the termination charge requires the IXC to pay full tariff rates as if it had never entered into an OPP1 contract.

Functional Availability of Maximum Discounts Under OPP1 and OPP2

22. Although the exact date is unknown, an affiliate of SWBT is likely to enter the inter-LATA long-distance market in the near future.

23. SWBT is not a typical new entrant into the long-distance market. It will have a powerful marketing tool with its high brand-name recognition and its existing relationships with millions of local-exchange customers. And the concept of a single entity providing both long-distance and local telephone service will also have a strong appeal for many consumers.

24. Therefore, SWBT will likely capture a significant market share of interLATA long-distance traffic when it enters the long-distance market in Texas, and existing IXCs will suffer a corresponding decline in market share and SWBT switched-access MOU.

25. It is not possible to quantify with certainty the percentage of interLATA market share that SWBT will obtain. But the record established that SNET, the ILEC in Connecticut, achieved a 37% market share within two years after it began interLATA service in Connecticut in 1994, while AT&T suffered a 41% decline during the same period.

26. This market-share loss and switched-access MOU loss that existing IXCs will encounter as a result of SWBT's entry into the interLATA long distance market will make it impossible for them to achieve the maximum discounts under OPP1 or OPP2.

27. The intraLATA switched-access MOU gain that existing IXCs may realize from intraLATA dialing parity will not enable them to achieve the maximum discounts under OPP1 or OPP2.

28. The maximum discounts under OPP1 and OPP2 will not be functionally available to many existing IXCs when SWBT enters the interLATA long-distance market.

The Reasonable Business Purpose of OPP1 and OPP2

29. SWBT states that the business purpose of OPP1 and OPP2 is to discourage IXCs from bypassing SWBT switched-access for long-distance calls.

30. Large IXCs such as AT&T have the capacity to bypass SWBT's switched access for some large customers. Many small IXCs lack the capacity to bypass SWBT's switched access.

31. Under OPP1, an IXC may be motivated to keep an existing customer on SWBT's switched access in order to satisfy its MOU commitment and to avoid a reassessment charge.

32. Under OPP1, an IXC may be motivated to keep a new large customer off SWBT's switched access because OPP1 recalculates an IXC's commitment each year, and the addition of a new customer to SWBT's switched access would increase the IXC's MOU commitment for all remaining years under the OPP1 contract.

33. Based on Findings of Fact Nos. 31 and 32, OPP1 does not satisfy its underlying business purpose of encouraging IXCs not to bypass SWBT's switched access.

34. SWBT's OPP2 is designed to gain or retain switched-access MOU from new IXCs that expect a large growth in inter-LATA traffic and a large increase in switched-access MOU.

35. Most new IXCs do not have the capacity to bypass SWBT's switched-access.

36. Based on Findings of Fact Nos. 34 and 35, OPP2 does not satisfy its underlying business purpose of encouraging IXCs not to bypass SWBT's switched access.

II. Conclusions of Law

1. SWBT is a public utility as defined by Tex. Util. Code § 51.002(8) (Vernon 1998).

2. The Commission has jurisdiction over this docket pursuant to Tex. Util. Code § 52.002. The State Office of Administrative Hearings (SOAH) has jurisdiction over all matters relating to the conduct of the hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to Tex. Util. Code § 14.053 and Tex. Gov't Code Ann. § 2003.049 (Vernon 2000).

3. SWBT provided sufficient notice of its proposed Switched Access Optional Payment Plan.

4. In accordance with Tex. Util. Code §§ 58.152, 51.002, and 51.004, SWBT may offer volume discounts based on a reasonable business purpose so long as the discount is not preferential, prejudicial, discriminatory, predatory or anticompetitive.

5. Pursuant to Findings of Fact Nos. 26-28, SWBT's OPP1 is discriminatory and anticompetitive because its highest discount is not functionally available to all IXCs. Therefore, SWBT's OPP1 is invalid under Tex. Util. Code §§ 58.152, 51.002, and 51.004.

6. Pursuant to Findings of Fact Nos. 26-28, SWBT's OPP2 is discriminatory and anticompetitive because its highest discount is not functionally available to all IXCs. Therefore,

SWBT's OPP2 is invalid under Tex. Util. Code §§ 58.152, 51.002, and 51.004.

7. Pursuant to Findings of Fact Nos. 31-33, SWBT's OPP1 is not based on a reasonable business purpose. Therefore, SWBT's OPP1 is invalid under Tex. Util. Code §§ 58.152, 51.002, and 51.004.

8. Pursuant to Findings of Fact Nos. 34-36, SWBT's OPP2 is not based on a reasonable business purpose. Therefore, SWBT's OPP2 is invalid under Tex. Util. Code §§ 58.152, 51.002, and 51.004.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission further issues the following Order:

1. The Optional Payment Plans contained in SWBT's "Informational Notice - Switched Access Optional Payment Plan (OPP)," assigned Tariff Control Nos. 21302 and 21529 and assigned as P.U.C. Docket No. 21392, are found to be discriminatory and anticompetitive and are hereby revoked and set aside.

2. If SWBT has entered into any contracts pursuant to its OPP, such contracts are declared void and unenforceable and are hereby set aside and held for naught.

3. SWBT shall immediately withdraw OPP1 and OPP2 from its service offerings.

4. SWBT shall file tariff sheets consistent with this order's conclusion with respect to OPP1 no later than five days after the entry of this order. The compliance tariff, and all filings related to it, shall be filed in Tariff Control No. 22113 and shall be styled: COMPLIANCE TARIFF FILING IN ACCORDANCE WITH THE FINAL ORDER IN DOCKET NO. 21392. The filing shall include a transmittal letter stating that the attached tariffs are in compliance with the order, giving the docket number, date of the order, a list of tariff sheets filed, and any other necessary

information. The timetable for review of the tariff shall be as follows: The Commission's Office of Regulatory Affairs (ORA) shall review this filing and SWBT's tariff revision filing on February 7, 2000, and issue a recommendation to the Commission's ALJ within three working days. The ALJ shall issue an order within three working days of receipt of ORA's recommendation. In the event the sheets are modified or rejected, the process set forth above shall be repeated until the tariffs filed comply with this order. All subsequent filings in connection with the compliance tariff (*i.e.,* requests for extensions, textual corrections, revisions) shall be filed in the same Tariff Control No. 22113 provided above, and styled as set forth above. After issuance of the final order, no further filings other than those pertaining to a motion for rehearing shall be made in this docket.

5. Any other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied for want of merit.

SIGNED AT AUSTIN, TEXAS the _____ day of February, 2000.

PUBLIC UTILITY COMMISSION OF TEXAS

PAT WOOD, III, CHAIRMAN

JUDY WALSH, COMMISSIONER

BRETT A. PERLMAN, COMMISSIONER

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