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November 15, 2002

BY HAND DELIVERY
Ms. Blanca Bayó, Director
Division of Records and Reporting
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

RE: Docket No. 020738-TP
AT&T's Claim for Confidential Treatment of Response to FPSC Staff's Data Request

Dear Ms. Bayó:

AT&T Communications of the Southern States, Inc. pursuant to Section 364.183(1), Florida Statutes, hereby claims that certain information provided to Staff in the Response to Staff's Data Request, contain confidential and proprietary business information that should be held exempt from public disclosure. Pursuant to Rule 25-22.0006(5), Florida Administrative Code, in the attached envelope is one copy of AT&T's Response to Staff's Data Request with the confidential information highlighted. A redacted copy has been served on the Staff.

Please acknowledge receipt of this letter by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

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Sincerely yours,

Tracy W. Hatch

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Enclosures

This claim of confidentiality was filed by or on behalf of a "telco" for Confidential DN 12570-02. The document is in locked storage pending advice on handling. To access the material, your name must be on the CASR. If undocketed, your division director must obtain written EXD/Tech permission before you can access it.

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AT&T's Responses to Staff Inquiry

in

Docket No. 020738-TP

For the purposes of questions 1-5, please refer to ¶13 of the Amended Petition of AT&T Communications of the Southern States, LLC (AT&T).

1. The Amended Petition states at ¶13 that "[i]n addition to its federal tariff, BellSouth has filed comparable intrastate SWA Contract Tariffs in all nine states in its territory." Please identify the states where AT&T has contested the respective BellSouth SWA intrastate tariff filings.

   RESPONSE: To date, AT&T has contested the intrastate BellSouth SWA Contract Tariffs in North Carolina, Georgia, Tennessee and Florida.

2. Please identify the specific aspect (or aspects), if any, of the Florida filings that differ from the "comparable intrastate SWA Contract Tariffs" filed in the other states in BellSouth's territory.

   RESPONSE: From a methodology perspective (e.g., development of Minimum Usage Commitment and % growth requirements) the Florida filing does not differ from what BellSouth has filed in other jurisdictions. In Florida, and likewise in Tennessee, BellSouth has proposed a generic tariff (containing three usage bands/ranges to determine where a specific customer's usage falls within and determines the size of the potential discount) versus its originally proposed customer-specific Contract Tariff. As proposed by BST, however, the Sprint Contract would not be affected (i.e., no change in discount matrix). These new generally available tariffs do differ from the Contract Tariffs by creating a minimum threshold of volume necessary to qualify an IXC to participate in the SWA discount offer. In Florida, for instance, BST would now exclude any IXC from obtaining discounts on growth SWA volume that did not meet the minimum 500,000,000 annual local switching minutes of use (MOU) criteria. In Tennessee the qualifying threshold is 100,000,000 annual local switching MOU. Notwithstanding these minor differences, the essential structure of the tariffs in each state remains the same; an IXC subscribing to the tariff, must meet a minimum threshold and commit to growing its SWA usage over a period of time to receive the discount.

3. For each of the states, if any, in BellSouth's nine-state territory not identified in response

to No. 1, please identify the state and briefly explain why AT&T has not contested the respective BellSouth SWA intrastate tariff filings.

RESPONSE: To date, AT&T has not formally contested the BellSouth SWA intrastate tariff filings in South Carolina, Alabama, Louisiana, Mississippi and Kentucky. AT&T is limited in resources and is currently focusing on its higher volume states. AT&T plans to contest in every state as resources allow.

4. Has AT&T filed a petition to initiate a proceeding with the Federal Communications Commission (FCC) in regard to BellSouth's interstate filing? If the answer is affirmative, please provide a copy of this filing.

RESPONSE: As required by Section 1.721(a)(8) of the FCC's rules, 47 C.F.R. § 1.721(a)(8), on October 2, 2002, AT&T formally notified BellSouth (see Attachment 1) that, unless BellSouth agrees to withdraw the Tariff or reach a satisfactory negotiated settlement with AT&T, AT&T intends to file a "formal" complaint before the FCC seeking cancellation of the Interstate SWA Contract Tariff and damages. BellSouth responded to AT&T's demand letter on October 11, 1002, declining to withdraw the Tariff but stating that it would agree to meet with AT&T to attempt to resolve AT&T's complaints in a mutually agreeable fashion. (See Attachment 2) The meetings with BellSouth have not resulted in any settlement.

5. If the answer to No. 4 is negative, please explain why not.

RESPONSE: A "formal" FCC complaint has not yet been filed due to AT&T's offer to negotiate to try to resolve this matter short of litigation before the FCC. BellSouth indicated that it was willing to discuss this matter in its October 11, 2002, Response. AT&T met with BellSouth on October 24, 2002, and November 12, 2002. Another meeting has been scheduled for November 21, 2002. If these negotiations do not produce a successful resolution of this matter that addresses AT&T's concerns, then AT&T will file its complaint before the FCC. If such a complaint is filed, AT&T will notify the Florida Commission at the time of filing.

6. References throughout AT&T's Petition and Amended Petition claim that BellSouth's intrastate tariffs are "growth tariffs." Please define "growth tariff," including in your response the source(s) relied upon to develop your definition.

RESPONSE: As defined by the FCC, a "growth tariff" is a tariff in which a seller provides a discount only to buyers that meet pre-determined increases in the amount of goods or services purchased from the seller. This concept of a growth tariff is based on standard economic principles and is embodied in the definition of "growth tariff" as defined by the FCC and cited below. Even a plain meaning definition of growth tariff makes clear that BellSouth's SWA discount tariff is a growth tariff. Webster's dictionary defines 'growth' as "The act or process of growing; a gradual increase in size and amount." BellSouth acknowledges that only that volume above a stated minimum is subject to a discount. As noted by BellSouth in its 10/11/2002 Letter (Attachment #2), "[I]f a carrier does qualify, then it may receive the discount by **increasing the volume of its switched access purchases** as set forth in the tariff." (Emphasis added)

7. FCC 99-206[1] at ¶134 states "Growth discounts refer to pricing plans under which incumbent LECs offer reduced per-unit access service prices to customers that commit to purchase a certain percentage above their past usage, or plans that offer reduced prices based on growth in traffic placed over the incumbent LEC's network." (Footnote omitted)

Is the above-referenced definition of a "growth discount" the applicable standard to evaluate whether a BellSouth intrastate tariff is a "growth tariff?" Please explain your answer.

RESPONSE: The above referenced definition does support AT&T's position that the BellSouth SWA tariff fits under "plans that offer reduced prices based on growth in traffic placed over the incumbent LEC's network." It should be noted that whether BellSouth's SWA discount Tariff is a "growth tariff" pursuant to the FCC's definition of a growth tariff is not the sole criteria by which the tariff must judged to determine whether it is anticompetitive and unreasonably discriminatory under Florida law. The label of 'growth tariff' simply indicates its essential structure, which causes its pernicious effects. Regardless of whether the Tariff is a growth tariff, it is clearly, anticompetitive and unreasonably discriminatory among purchasers of SWA service.

8. Is the above-referenced definition of a "growth discount" the applicable standard to evaluate whether a BellSouth interstate tariff is a "growth tariff?" Please explain your answer.

RESPONSE: Yes. See response to Question No. 7.

9. Aside from the allegations in the instant proceeding, please identify any intrastate tariff filings made in Florida which AT&T believes constitute "growth tariffs." Include in your

[1] In the Matter of Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers; Petition of US West Communications Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA, CC Docket Nos. 96-262, 94-1, and 98-157 and CCB/CDD File No. 98-63, Fifth Report and Order and Further Notice of Proposed Rulemaking (1999).

response the tariff number, the date filed, docket number, and any other pertinent reference data.

RESPONSE: Other than BellSouth's two tariff filings, to establish Sections E26 and E27 in its Switched Access Services Tariff, AT&T is unaware of another Florida intrastate tariff that constitutes a "growth tariff".

10. Please identify any interstate tariffs that have been filed with the FCC by any Florida-certificated telephone companies which AT&T believes constitute "growth tariffs." Include in your response the tariff number, the date filed, docket number, and any other pertinent reference data.

RESPONSE: Other than BellSouth's interstate SWA discount contract tariff, AT&T is unaware of another FCC tariff filed by a Florida certificated telephone company that constitutes a "growth tariff".

11. How many intrastate local switching minutes did AT&T have in BellSouth's Florida territory for 1998, 1999, 2000, 2001, and the first half of 2002 (1/1/02 - 6/30/02)?

RESPONSE: The following information is considered Proprietary & Confidential.

[redacted]

* 1998 vintage data is unavailable to AT&T, but may be obtainable via a special request to BellSouth.

12. AT&T's amended petition at ¶37 states

> [I]f such reduced volumes [for "declining growth" IXCs] 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 . . . .

Has AT&T been moving intrastate traffic from BellSouth's network to its own network or other carriers' networks? If the answer is affirmative, please explain your answer. If the answer is negative, is AT&T planning to move intrastate traffic from BellSouth's network to its own network or other carriers' networks? Please explain your answer.

RESPONSE: Historically, for a typical residential end-user AT&T could not "move" switched access traffic from BellSouth's network unless it is also providing the local service for that customer through its own facilities (either wholly owned and provided by AT&T or by leasing the facilities of another carrier). The switched access traffic of an IXC is dependent solely on the ILEC or CLEC that provides the local access facilities and switching (i.e., dial tone) to the end-user customer. If a CLEC obtains a local customer from BellSouth, the switched access associated with that customer will move from BellSouth but not because of any action of an IXC.

If an end-user customer gets local service from BellSouth, an IXC cannot "move" its switched access traffic from BellSouth's network unless the IXC can provide access facilities directly to the customer and bypass BellSouth. For certain high volume business end-users AT&T may purchase from BellSouth (or an alternative dedicated transport provider) special access dedicated facilities to the customer and utilize its own switch to route the customer's intrastate traffic. The decision to serve a customer either through switched access (i.e., using BellSouth's local switch) or through special access is a matter of simple economics – if a customer has a high enough volume of switched access traffic then it becomes less expensive for the access to be provided through a special access arrangement.

13. If the answer to No. 12 is affirmative, please answer the following:

A) Why has AT&T been moving intrastate traffic from BellSouth's network to its own or other carriers' networks? Please explain your answer.

RESPONSE: AT&T is moving traffic from BellSouth's network to the extent that it can win local customers and become a full service provider. If AT&T is successful in winning a local customer, AT&T provides the local service through its own or leased facilities. As the local provider, AT&T self provides the switched access service associated with the transport of the customers toll traffic. Also see the response to Question No. 12.

B) Please specify the rate elements (e.g., local switching, transport, etc.) for which AT&T is purchasing fewer intrastate, switched access minutes of use due to moving traffic from BellSouth's network to its own or other carriers' networks.

RESPONSE: As noted in the response to Nos. 12 and 13A, if AT&T provides the local service to an end-user customer BellSouth typically will no longer receive any switched access usage payments for the services provided the end-user customer. This would include local switching, common transport and tandem switching. This does not mean that traffic has moved from BellSouth's network, however, if the AT&T-provided local service is based on leasing BellSouth's unbundled network element platform (UNE-P).

It should also be noted that terminating switched access usage can also decline simply because customers of AT&T are calling customers of another local service provider in BellSouth's territory, not BellSouth's local customer.

The uses of BellSouth's common transport and tandem switching also have dependencies on the network interconnection of IXCs. For instance, AT&T generally purchases dedicated transport directly to BellSouth's local serving offices and therefore does not incur these rate elements when dedicated direct trunking exists to the end office serving the end-user customer.

C) Has the intrastate traffic been moved from BellSouth's network to AT&T's network, or to other carriers' networks? If other carriers' networks, please specify whose networks.

RESPONSE: AT&T, as an IXC, does not move switched access traffic to other carriers' networks. Even under the scenario of serving a high volume end-user customer with dedicated transport facilities (e.g., special access), such a scenario is considered a new service arrangement, not a "move" away from switched access. Please also reference responses to Question Nos. 13A and 13B.

D) If AT&T moved its intrastate traffic back to BellSouth's network, would AT&T then qualify for BellSouth's discount plan for switched access? If not, please explain why.

RESPONSE: No. AT&T cannot move its traffic back to a BellSouth Switched Access arrangement unless it gives up its local customers or eliminates any special access service arrangement. The latter special access arrangement is likely also subject to a costly termination liability by BellSouth.

14. Is AT&T purchasing fewer intrastate, switched access minutes of use from BellSouth over time? If so, is this the result of AT&T losing customers to other IXCs? Please explain your answer.

RESPONSE: As shown by the data provided in response to Question 11, AT&T's total switched access minutes have declined over time. The customer base to provide service is relatively finite. As more interexchange carriers enter the competitive long distance market, including BellSouth Long Distance, customers will be swayed to change their long distance provider (i.e., customer churn). More important, however, are the effects of technology substitution. For example, customers now rely on their cellular service (with flat-rate plans and no long distance charges) to make long distance calls in lieu of the wireline network, or may use IP telephony or enhanced service technologies, which under current rules, may rely on local interconnection rather than switched access. In the context of BellSouth's SWA discount tariff, the only way to achieve significant SWA usage growth by an IXC is for the IXC to substantially increase its number of customers or to increase the calling volume of its customer base. Based on AT&T's experience with other RBOCs in states in which the RBOC has received authority to provide interLATA and interstate long distance service, it appears that the only IXC that will have sufficient customer growth in time periods provided by BellSouth's SWA discount tariff is BellSouth's affiliate long distance provider.