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ORIGINAL

November 25, 2002

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

Re: Docket No. 020119-TP  
**Petition of Florida Digital Network, Inc. for Expedited Review and Cancellation of BellSouth Telecommunications, Inc.'s Key Customer Promotional Tariffs and For an Investigation of BellSouth Telecommunications, Inc.'s Promotional Pricing and Marketing Practices**

Docket No.: 020578-TP  
**Petition for Expedited Review and Cancellation of BellSouth Telecommunications, Inc 's Key Customer Promotional Tariffs**

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Rebuttal Testimony for John A. Ruscilli, W. Bernard Shell; Samuel G. Massey, Carlos Garcia, Dr. William Taylor and Professor Robert Pitofsky, which we ask that you file in the captioned docket.

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

Sincerely,  
*Meredith E. Mays*  
Meredith E. Mays (KA)

~~12956-02 thru 12961-02~~

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Enclosure  
cc: All Parties of Record  
Marshall M. Criser III  
R. Douglas Lackey  
Nancy B. White

**CERTIFICATE OF SERVICE  
DOCKET NO. 020119-TP and 020578-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via  
Electronic Mail and FedEx Mail this 25<sup>th</sup> day of November 2002 to the following:

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**(+) Signed Protective Agreement**

1 BELLSOUTH TELECOMMUNICATIONS, INC.  
2 REBUTTAL TESTIMONY OF JOHN A. RUSCILLI  
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION  
4 DOCKET NOS. 020119-TP AND 020578-TP  
5 NOVEMBER 25, 2002  
6

7 Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH  
8 TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS  
9 ADDRESS.

10  
11 A. My name is John A. Ruscilli. I am employed by BellSouth as Senior Director  
12 for Policy Implementation and Regulatory Compliance for the nine-state  
13 BellSouth region. My business address is 675 West Peachtree Street, Atlanta,  
14 Georgia 30375.

15  
16 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

17  
18 A. Yes. I filed direct testimony, including three exhibits, on October 23, 2002.

19  
20 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

21  
22 A. The purpose of my rebuttal testimony is to respond to certain policy aspects of  
23 the direct testimony of Mr. Joseph Gillan and Ms. Danyelle Kennedy filed on  
24 behalf of the Florida Competitive Carriers Association ("FCCA"), and the  
25

1 direct testimony of Mr. Michael Gallagher filed on behalf of Florida Digital  
2 Network, Inc. ("FDN") on October 23, 2002.

3  
4 Q. COULD YOU RESPOND TO MR. GILLAN'S ASSERTION (AT PAGE 7)  
5 THAT SECTION 364.051(5)(a) "CLEARLY CONTEMPLATES THAT THE  
6 COMMISSION WILL APPLY ITS JUDGMENT, BALANCING  
7 BELLSOUTH'S ABILITY TO GENERALLY RESPOND TO COMPETITION  
8 WITH A COUNTER-BALANCING PROHIBITION AGAINST  
9 ANTICOMPETITIVE ACTS, PRACTICES AND OFFERINGS THAT  
10 UNREASONABLY DISCRIMINATE AMONG SIMILARLY SITUATED  
11 CUSTOMERS?"

12  
13 A. Yes. Since 2000, BellSouth has been "generally respond[ing] to competition"  
14 using offerings that are similar to the Key Customer offerings that are the subject  
15 of this proceeding. Since 2000, ALECs in general have made their offerings  
16 available predominately to business customers, and some ALECs (such as Mr.  
17 Gallagher's company) have made their offerings available *exclusively* to  
18 business customers. As a result, ALECs have captured nearly one-third of the  
19 business lines in BellSouth's territory according to the Commission's 2002  
20 Draft Competition Report.

21  
22 ALECs are fond of arguing that BellSouth is an incumbent with over 100 years  
23 in the business. In fact, Ms. Kennedy makes that very argument at pages 8-9 of  
24 her direct testimony. The Commission's 2002 Draft Competition Report,  
25 however, shows that despite the fact that BellSouth has "over 100 years in the

1 business,” ALECs have used a combination of their own facilities, resale, and  
2 UNEs to win nearly one third of the business customers in Florida *in just 6*  
3 *years* (from 1996 to 2002).

4

5 In light of these facts, no objective scale would lean in favor of imposing  
6 regulatory restrictions on BellSouth’s ability to offer Florida consumers lower  
7 prices to compete against the ALECs.

8

9 Q. IN THEIR TESTIMONY, MR. GILLAN (PAGE 2) AND MR. GALLAGHER  
10 (PAGE 4) CONTEND THAT LOCAL EXCHANGE COMPETITION IN  
11 FLORIDA IS IN ITS INFANCY. DO YOU AGREE?

12

13 A. Absolutely not. As I discussed at great length in my direct testimony, local  
14 exchange service competition is thriving in Florida. Exhibit JAR-1 to my direct  
15 testimony (which I adopt as my own), for example, clearly demonstrates that  
16 competition in Florida is anything but in its “infancy,” and more recent  
17 information that BellSouth presented to the FCC on November 1, 2002 (which I  
18 adopt as my own and which is attached as Rebuttal Exhibit JAR-4 to my  
19 testimony) shows that local competition has continued to increase in Florida.  
20 As discussed in Rebuttal Exhibit JAR-4, BellSouth’s most recent data indicates  
21 that total ALEC line share is continuing to increase in BellSouth’s Florida  
22 service areas. BellSouth estimates that ALECs were serving over 31% of the  
23 business lines in Florida as of September 2002. (*See* Rebuttal Exhibit JAR-4 at  
24 ¶6). Among other things, the competitive data contained in Rebuttal Exhibit  
25 JAR-4 establishes that as of September 2002:

1                   \* over 104 ALECs were serving nearly 1,325,00 access lines,  
2                   which is at least 18.4% of the total access lines in BellSouth's  
3                   service area.

4                   \* at least 54 of the ALEC providers in Florida are facilities-  
5                   based providers.

6

7 Q. PLEASE ADDRESS MR. GALLAGHER'S STATEMENTS ON PAGE 5  
8 THAT ALECS CAN ONLY "SERVE ABOUT 60% OF THE STATES'  
9 BUSINESS LINES VIA UNE LOOP FACILITIES" AND THAT BELL SOUTH  
10 IS "LEVERAGING THE GEOGRAPHIC WEAKNESS IN FDN'S AND  
11 OTHER COMPETITORS NETWORK TOPOLOGIES BY LOWERING  
12 PRICES ONLY IN THE 'ISLANDS' OF COMPETITION?"

13

14 A. Mr. Gallagher is simply wrong. ALECs have unencumbered access to UNE  
15 loops in 100% of BellSouth's footprint in Florida. ALECs also have  
16 unencumbered access to collocate their equipment in 100% of the wire centers  
17 in BellSouth's footprint in Florida. In fact, Table 3 contained in Exhibit JAR-1  
18 attached to my direct testimony clearly reflects that ALECs already have access  
19 to **95%** of the business lines in BellSouth's Florida service area through existing  
20 collocation arrangements.

21

22 Additionally, I demonstrated in my direct testimony that BellSouth included wire  
23 centers where ALECs were aggressively winning business lines for inclusion in  
24 the January and June 2002 Key Customer offerings. A review of Exhibit ES-7  
25 included in Exhibit JAR-1 confirms this by showing that ALECs have completed

1 collocation arrangements in all but four of the wire centers included in the June  
2 Key Customer offering. ALECs, therefore, can serve the vast majority of the  
3 business lines that are served out of hot wire centers via UNE loop facilities.

4

5 Q. DESPITE ALL OF THIS, MR. GALLAGHER OF FDN CONTENDS (AT  
6 PAGE 6) THAT “ALECS COULD NOT SURVIVE WERE THEY TO ADJUST  
7 PRICES TO LEVELS LOWER THAN BELLSOUTH’S KEY CUSTOMER  
8 RATES.” HOW DO YOU RESPOND TO MR. GALLAGHER’S  
9 CONTENTION?

10

11 A. BellSouth has been offering Key Customer programs in Florida since 2000.  
12 Despite the existence of these programs, Mr. Gallagher’s own company, FDN,  
13 has done more than just survive – it has thrived.

14

15 Q. WHAT IS YOUR BASIS FOR SAYING THAT?

16

17 A. Data provided by FDN itself. Each year, the Florida Public Service  
18 Commission serves data requests on local service providers in order to prepare  
19 its Local Competition Report for the Legislature. Through discovery, BellSouth  
20 has obtained the responses that FDN provided to these data requests in the  
21 summer of 2001 and in the summer of 2002. I have attached a copy of FDN’s  
22 November 6, 2002 responses for Document Request No. 31 to BellSouth’s First  
23 Set of Requests for Production of Documents (Nos. 1-31) as Rebuttal Exhibit  
24 JAR-5 to my testimony.

25



1 According to FDN's responses, FDN increased the rates it charges for its multi-  
2 line business services between the summer of 2001 and the summer of 2002.  
3 Despite these rate increases, it appears that the vast majority (if not all) of the  
4 access lines that FDN provides within BellSouth's operating territory serve  
5 customers that are located within a BellSouth hot wire center. Moreover,  
6 although BellSouth had Key Customer offerings -- including the January Key  
7 Customer offering that is the subject of this proceeding -- in effect between the  
8 time FDN filed its 2001 responses and the time it filed its 2002 responses, the  
9 number of access lines FDN was providing *increased in each and every*  
10 *service area as reported by FDN*. Rebuttal Exhibit JAR-6 is a table  
11 summarizing this information.

12  
13 Again, FDN's own data shows that the number of access lines FDN was serving  
14 in BellSouth's territory increased significantly between 2001 and 2002, even  
15 though FDN *increased its rates*, and even though Key Customer offerings were  
16 available throughout this period of time. FDN can hardly be heard to complain  
17 that the Key Customer programs have prevented FDN from competing for and  
18 winning customer in Florida.

19  
20 Q. DO YOU HAVE SIMILAR DATA REGARDING OTHER ALECS?

21  
22 A. Not at this time, but that is not for a lack of trying. BellSouth served discovery  
23 requests upon the FCCA and each party of record in this proceeding seeking  
24 copies of those responses. To date, the only responses BellSouth has received  
25 are FDN's responses. BellSouth is in the process of filing a motion to compel

1 the production of this information, but at least three ALECs upon whom this data  
2 request was served have withdrawn from this proceeding as of the time this  
3 testimony was filed.

4

5 Q. COULD YOU ADDRESS MS. KENNEDY'S TESTIMONY (PAGE 5) THAT  
6 COMPARES NTC'S COSTS OF USING THE UNE PLATFORM ("UNE-P")  
7 TO SERVE A 4-LINE PENSACOLA CUSTOMER WITH HUNTING TO THE  
8 RATES AVAILABLE TO SUCH A CUSTOMER UNDER THE JANUARY  
9 KEY CUSTOMER OFFERING?

10

11 A. Yes. Beginning on page 3 of her testimony and in her Exhibit DK-1, Ms.  
12 Kennedy purports to compare Network Telephone Company's ("NTC's")  
13 wholesale cost to BellSouth's retail rates charged to a four-line Pensacola  
14 customer with hunting under the January Key Customer promotion. In doing so,  
15 Ms. Kennedy represents in Exhibit DK-1 that NTC's Wholesale Costs are:  
16 \$72.92 for four UNE-P loops and ports; \$9.04 for four feature packages, and  
17 \$11.72 for usage for four lines. For purposes of this testimony, and without  
18 conceding that it is accurate, I will accept Ms. Kennedy's usage figure.

19

20 I have no idea, however, how Ms. Kennedy came up with the other "wholesale  
21 cost" figures in her Exhibit DK-1. For instance, the \$72.92 for four UNE-P  
22 lines depicted in Exhibit DK-1 comes out to \$18.23 per UNE-P line. NTC's  
23 current interconnection agreement with BellSouth, however, provides a rate of  
24 \$17.15 for a UNE-P line in Pensacola (which is in Zone 2). Four UNE-P lines  
25 in Pensacola, therefore, would cost NTC \$68.60 and not the \$72.92 depicted in

1 Exhibit DK-1. In fact, under the UNE rates recently established by the  
 2 Commission in its September 27, 2002 Order in Docket No. 990649A-TP, NTC  
 3 is able to avail itself of a rate of \$15.05 per Zone 2 UNE-P line, or \$60.20 for  
 4 four Zone 2 UNE-P lines.

5  
 6 Additionally, the \$9.04 for four feature packages depicted in DK-1 comes out to  
 7 \$2.26 per line. NTC's current interconnection agreement with BellSouth  
 8 provides a features rate of \$2.17 per port in Pensacola, although the rate for  
 9 feature established in the Commission's September 27, 2002 UNE Order is  
 10 \$2.26 per port.

11  
 12 Finally, Ms. Kennedy fails to mention that in addition to the \$98.85 that  
 13 BellSouth will collect from its end user under the January Key Customer  
 14 program, BellSouth also will collect the subscriber line charge of \$7.84 per line  
 15 from the end user.

16  
 17 After correcting the UNE-P costs and including the subscriber line charges of  
 18 \$7.84 per line in Ms. Kennedy's Exhibit DK-1, the following table indicates:

19

<b>NTC Wholesale Cost (Zone 2)</b>		<b>BST Retail Rate – Pensacola (RG 6)</b>	
<b>Description</b>	<b>UNE-P (4 Lines)</b>	<b>Description</b>	<b>January Key (4 Lines)</b>
UNE-P Cost	\$68.60	Bus. Line Charges	\$98.85
Feature Package	\$8.68	Hunting Charges	\$0.00
Local Usage	\$11.72	Subscriber Line Charge	\$31.36
<b>NTC Cost</b>	<b>\$89.00</b>	<b>Charge to Customer</b>	<b>\$130.21</b>
<b>NTC Margin = \$41.21 or 46.3%</b>			

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21  
22  
23  
24  
25

1 As can be seen from my corrected table, NTC has a margin of at least \$41.21, or  
2 46.3%. In light of this fact, Ms. Kennedy's contention that NTC, and likely other  
3 ALECs, "would never be able to match the promotional pricing being offered by  
4 BellSouth" is utterly absurd.

5

6 Q. HOW WILL THE ORDER THE COMMISSION ENTERED RECENTLY IN  
7 DOCKET NO. 990649A-TP AFFECT YOUR CORRECTED CHART?

8

9 A. The UNE-P rates listed in the corrected chart decreased over \$2.00 per month.

10

11 Q. PLEASE COMMENT ON MR. GALLAGHER'S FIVE SAMPLE CUSTOMER  
12 LOCATION SCENARIOS DISCUSSED ON PAGE 12 AND SET FORTH IN  
13 HIS EXHIBIT MPG-1.

14

15 A. Mr. Gallagher's assertion that the "ALEC's overall margins would mortally  
16 suffer" if ALECs attempted to meet or beat the Key Customer prices is belied by  
17 the facts. The information included in Rebuttal Exhibit JAR-7, attached to my  
18 testimony, clearly demonstrates that efficient ALECs are able to realize  
19 significant margins, ranging from 53% to nearly 240% when competing with  
20 BellSouth's Key Customer offering when using UNE-P to serve the end users  
21 located in Zone 2 wire centers.

22

23 Q. HOW DO YOU RESPOND TO MR. GALLAGHER'S ARGUMENT (PAGE  
24 11) THAT THE COSTS REFLECTED IN THESE ANALYSES REFLECT  
25 "JUST A PORTION OF THE ALEC'S TOTAL COST?"

1

2 A. That argument is self-serving and disingenuous. Nowhere in their testimony do  
3 Mr. Gallagher, Ms. Kennedy, or Mr. Gillan address the additional revenue  
4 sources that are available to ALECs who use UNE arrangements to provide  
5 services to end users in Florida. Referring to the corrected version of Exhibit  
6 DK-1 set forth above, for instance, NTC would pay \$89.00 for the UNE-P  
7 arrangements necessary to provide four lines with hunting to a Pensacola  
8 customer. Without paying a penny more to BellSouth, NTC could use the exact  
9 same arrangements to provide numerous vertical features to the same customer,  
10 and it could charge the customer for each of those vertical features.  
11 Additionally, ALECs like FDN often provide (and charge for) additional  
12 services such as intraLATA, interLATA, and international toll services, Internet  
13 services, and other innovative and bundled service offerings. All of these  
14 additional revenue sources represent incremental revenue to the ALEC that is  
15 not mentioned in the direct testimony of Mr. Gillan, Mr. Gallagher, or Ms.  
16 Kennedy.



17

18 Further, Mr. Gallagher's, as well as Mr. Gillan's and Ms. Kennedy's contention  
19 that ALECs are unable to compete with BellSouth's Key Customer offering is  
20 clearly refuted by my Rebuttal Exhibit JAR-7 which shows:

21

22

- ALECs can realize positive margins in **all** Florida wire centers when using UNE-P to serve their end user.

23

24

- ALECs can realize significant margins (53% - 130%) in Zone 1 and Zone 2 when using UNE-P to serve their end user.

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The margin available to ALECs when they purchase UNE-P to serve their end users is anything but “thin.” The analysis reflected in Rebuttal Exhibit JAR-7 clearly shows that the revenues available to ALECs, even if they undercut BellSouth’s Key Customer rates by 20%, provides ample room to cover the ALECs’ costs.

Q. PLEASE COMMENT ON MR. GALLAGHER’S STATEMENT (PAGE 12) THAT “ZONE 2 AND ZONE 3 UNES COST SIGNIFICANTLY MORE THAN UNES IN ZONE 1, AND THAT FACT ALONE SERVES AS A DETERRENT TO ALECS CONTEMPLATING GEOGRAPHIC EXPANSIONS INTO ZONES 2 AND 3.”

A. For one thing, Mr. Gallagher is merely repeating arguments that he made (and that the Commission rejected) in Docket No. 990649A. Beyond that, ALECs fully supported (in fact, demanded) deaveraging of rates for UNEs, particularly for the local loop. Deaveraging results in increased profit margins for ALECs in the urban areas where they have chosen to focus their efforts. It is truly disingenuous that the ALECs are now complaining because deaveraged UNE rates in Zones 2 and 3 will produce less margin than the deaveraged UNE rates in Zone 1. As explained by BellSouth and as accepted by the Commission in Docket No. 990649A, deaveraging UNE rates without similarly adjusting BellSouth’s retail rates would result in wholesale rates for unbundled loops in Zones 2 and 3 that would often be higher than BellSouth’s tariffed retail rates in those areas.

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Indeed, if BellSouth's current tariffed 1FB average retail rates were deaveraged by applying the same deaveraging factors resulting from the current deaveraged UNE loop rates in Florida, the resulting 1FB deaveraged retail rates would be:

$$\text{Zone 1} - \$24.22 + \$10.00 \text{ for hunting} = \$34.22$$

$$\text{Zone 2} - \$34.44 + \$10.00 \text{ for hunting} = \$44.44$$

$$\text{Zone 3} - \$61.06 + \$10.00 \text{ for hunting} = \$71.06$$

Of course, there is no proceeding underway to even consider either deaveraging BellSouth's existing averaged retail rates or rebalancing business and residence retail rates so that implicit subsidies are removed. BellSouth's existing averaged residence and business retail rates are not market-based, but are the result of public policy considerations associated with universal service, including implicit subsidies. As a result, residential retail rates are often below cost, and business local exchange rates have been set at levels that provide a subsidy to residential rates. In an inverse relationship to cost, urban rates have been set at levels that provide a subsidy to rural rates. Further, retail rates for vertical services, access and intraLATA toll have also been set at levels to provide a subsidy to residential local exchange rates.

ALECs are competing in a market where one competitor (i.e., BellSouth) has a portfolio of services that are priced artificially high or artificially low depending on the service, and in which that competitor is precluded by regulation from adjusting those retail rates to reflect the underlying costs. Even so, this discussion by Mr. Gallagher on page 12 of his testimony is a red herring, because the business customers that his clients have chosen to serve are

1 typically located in Zone 1 and Zone 2 where the wholesale rates are  
2 significantly less than BellSouth's retail rates.

3

4 The hypocrisy of the ALECs' "have their cake and eat it too" arguments is truly  
5 astounding. While enjoying an improved competitive position in urban markets  
6 by virtue of the deaveraged UNE rates that they demanded, and while willingly  
7 sacrificing their competitive position in rural markets, ALECs now come before  
8 this Commission to argue that BellSouth should not be allowed to respond to the  
9 competition ALECs are bringing to the urban markets (or that if BellSouth is  
10 allowed to respond to competition in the urban markets, it may do so only by  
11 lowering its rates *across the entire state of Florida*). Simply put, the ALECs  
12 wanted (and got) an improved competitive situation in Zone 1 and Zone 2 at the  
13 expense of Zone 3. Now, ALECs want to be protected from competitive  
14 responses in Zone 1 and 2 due to the situation that they asked to be created in  
15 Zones 3.

16

17 Q. PLEASE RESPOND TO THE ALEC WITNESSES' ALLEGATIONS THAT  
18 BELL SOUTH'S KEY CUSTOMER PROMOTION DISCRIMINATES  
19 BETWEEN SIMILARLY SITUATED CUSTOMERS.

20

21 A. The ALEC witnesses are wrong. Mr. Gillan (pages 7-8), Mr. Gallagher (page  
22 13) and Ms. Kennedy (pages 8-9) each avoid discussing the true meaning of the  
23 term *discrimination*. The term *discrimination* merely denotes the offering of  
24 different services to different customers under different rates, terms, and  
25 conditions. Not all such "discrimination" is prohibited. Instead, BellSouth is



1 only prohibited from “unreasonably discriminat[ing] among similarly situated  
2 customers.” See Section 364.051(a). Among other things, competition requires  
3 the ability to make distinctions based on the competitive conditions that exists in  
4 a specific geographic market.

5  
6 The ALEC witnesses completely ignore this concept, thus glossing over a key  
7 and fundamental principle in common carrier regulation. In fact, the Key  
8 Customer offerings at issue in this proceeding do not constitute unreasonable  
9 discrimination, because (1) they are made generally available to all similarly  
10 situated customers, and (2) they are made available, through resale, to  
11 competitive carriers for provision to similarly situated customers.

12  
13 Significantly, the January and June Key Customer offerings do not single out  
14 particular customers to the exclusion of others who are subject to the same  
15 competitive conditions. Nor do they provide offerings that are exclusively  
16 available to a single customer. Instead, the January and June Key Customer  
17 offerings are available to all customers who are served from wire centers in  
18 which ALECs indisputably have focused their efforts.

19  
20 Q. PLEASE RESPOND TO MR. GILLAN’S SUGGESTION ON PAGE 8 “THAT  
21 THE COMMISSION PROHIBIT BELLSOUTH FROM DISCRIMINATING  
22 BETWEEN CUSTOMERS SOLELY BECAUSE SOME CUSTOMERS MAY  
23 HAVE CHOSEN AN ALTERNATIVE PROVIDER.”

24  
25

1 A. If CLECs were not developing innovative service offerings, aggressively  
2 marketing these offerings to the small business customers they are targeting, and  
3 winning a significant number of those small business customers throughout the  
4 State of Florida, there would be little if any need for BellSouth to develop  
5 promotional offerings that are designed to win back customers BellSouth has  
6 lost to competitors. Both the ALECs' promotions and BellSouth's promotions,  
7 however, are examples of healthy competition.

8  
9 As contemplated by Congress, local exchange service competition is taking root,  
10 and incumbents must work to keep and win back valued customers that are being  
11 wooed away by their rivals. To squelch BellSouth's ability to respond to  
12 competition would be an unneeded and unwarranted interruption of the growing  
13 competitive process now under way in the market.

14  
15 Prohibiting win back promotions would signal a refusal to permit the  
16 development of true competition in favor of an artificial segmentation of market  
17 share by reserving certain desirable market shares only for competitors and  
18 preventing the incumbent carrier from properly responding in the same way as  
19 takes place in all types of markets. Prohibiting win back promotions also would  
20 create a static or frozen situation of "umbrella pricing," in which incumbents are  
21 limited in their competitive responses, in order to give an artificial advantage to  
22 less-efficient competitors. Neither competition nor consumers would benefit  
23 from such a prohibition.

24  
25

1 It should come as no surprise, therefore, that the FCC has specifically endorsed  
2 win back offerings as pro-competitive. Originally, in a 1998 order on customer  
3 proprietary network information (“CPNI”), the FCC prohibited carriers from  
4 using or accessing CPNI to regain the business of a customer that had switched  
5 to another provider.<sup>1</sup> The following year, however, the FCC lifted this  
6 restriction on win back activities, expressly finding that “win back campaigns  
7 are consistent with Section 222(c)(1)”<sup>2</sup> of the federal Act.<sup>3</sup> In that order, the  
8 FCC stated that “all carriers should be able to use CPNI to engage in win back  
9 marketing campaigns to target former customers that have switched to other  
10 carriers,” and it added that “we are persuaded that win back campaigns are  
11 consistent with Section 222(c)(1) and in most instances facilitate and foster  
12 competition among carriers, benefiting customers without unduly impinging upon  
13 their privacy rights.”<sup>4</sup>

14

15

16

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18 <sup>1</sup> Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use  
19 of Customer Proprietary Network Information and Other Customer Information and Implementation  
20 of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as  
21 amended, CC Docket Nos. 96-115 and 96-149, Order and Further Notice of Proposed Rulemaking, 13  
FCC Rcd 8061, ¶85 (1998).

22 <sup>2</sup> This section of the Act governs how carriers “use, disclose, or permit access to” CPNI. *See*  
23 47 U.S.C. §222(c)(1).

24 <sup>3</sup> *See Implementation of the Telecommunications Act of 1996; Telecommunications*  
25 *Carriers' Use of Customer Proprietary Network Information; Implementation of the Non-*  
*Accounting safeguards of Sections 271 and 272 of the Communications Act of 1934, As Amended,*  
CC Docket No. 96-115 and 96-149, Order on Reconsideration and Petitions for Forbearance, 14 FCC  
Rcd 14409, ¶67 (1999) (the ‘CPNI Reconsideration Order”).

<sup>4</sup> *Id.* at ¶67.

1 More specifically, the FCC noted that restrictions on win back activities “may  
2 deprive customers of the benefits of a competitive market,” explaining that:

3 *Winback facilitates direct competition on price and other terms*, for  
4 example, by encouraging carriers to “out bid” each other for a  
5 customer’s business, enabling the customer to select the carrier that best  
6 suits the customer’s needs.

7 Some commenters argue that ILECs should be restricted from engaging in  
8 winback campaigns, as a matter of policy, because of the ILEC’s unique  
9 historic position as regulated monopolies. Several commenters are  
10 concerned that the vast stores of CPNI gathered by the ILECs will chill  
11 potential local entrants and thwart competition in the local exchange.  
12 We believe that such action by an ILEC is a significant concern during  
13 the time subsequent to the customer’s placement of an order to change  
14 carriers and prior to the change actually taking place. Therefore, we  
15 have addressed that situation in Part V.C.3, *infra*. *However, once a*  
16 *customer is no longer obtaining service from the ILEC, the ILEC must*  
17 *compete with the new service provider to obtain the customer’s*  
18 *business. We believe that such competition is in the best interest of*  
19 *the customer and see no reason to prohibit ILECs from taking part in*  
20 *this practice.*<sup>5</sup>

21 Additionally, the Public Service Commission of South Carolina ruled in its  
22 Order No. 2001-1036 dated October 29, 2001 that BellSouth’s “Welcome Back!  
23 Win Back!” promotion, which was available only to former customers of  
24 BellSouth who were receiving services from a competitor, was neither  
25 discriminatory nor anticompetitive.<sup>6</sup>

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23 <sup>5</sup> *Id.* at ¶¶69-70 (emphasis supplied).

24 <sup>6</sup> The South Carolina Commission also ruled that in the future, BellSouth must wait 10  
25 business days after a customer has begun receiving services from a competitor before BellSouth  
makes a win back offer to that customer.

1 Q. MS. KENNEDY (PAGES 8-9) CONTENDS THAT IN ORDER FOR  
2 BELLSOUTH'S KEY CUSTOMER OFFERING NOT TO BE  
3 DISCRIMINATORY, THE ADVERTISING MATERIALS AND MARKETING  
4 FOCUS FOR EXISTING BELLSOUTH CUSTOMERS AND POTENTIAL  
5 WIN BACK CUSTOMERS CANNOT DIFFER. PLEASE RESPOND.

6  
7 A. First, it is telling that Ms. Kennedy is reduced to attempting to support her  
8 "discrimination" claims by arguing that the "size," "type," or "number of pages"  
9 of BellSouth's advertising material targeted to existing customers and former  
10 customers are not identical. As explained in the rebuttal testimony of BellSouth  
11 witness Carlos Garcia, many of Ms. Kennedy's arguments are simply inaccurate.  
12 Even if they were not, however, Ms. Kennedy's arguments are contrary to the  
13 spirit and intent of the Florida statutory scheme, which seeks, in part, to  
14 "encourage...providers of telecommunications services to introduce new or  
15 experimental telecommunications services free of unnecessary regulatory  
16 restraints" and which further seeks to "eliminate any rules and/or regulations  
17 which will delay or impair the transition to competition." Fla. Stat.  
18 364.01(4)(d) and (f). Although I am not a lawyer, from a policy perspective, it  
19 seems clear that by asking the Commission to dictate the type, scope and manner  
20 of BellSouth's advertising practices, Ms. Kennedy is asking the Commission to  
21 discourage new and experimental promotions and to preclude segmented  
22 marketing campaigns. Ms. Kennedy's suggestions would frustrate and impede,  
23 rather than promote, new and experimental competitive offerings.

24  
25

1 Q. PLEASE RESPOND TO MS. KENNEDY'S ALLEGATIONS ON PAGE 9  
2 THAT BELLSOUTH'S ADVERTISEMENT FOR ITS KEY CUSTOMER  
3 PROMOTION (INCLUDED AS EXHIBIT DK-4) CONFLICTS WITH  
4 STATEMENTS CONTAINED IN BELLSOUTH'S RESPONSE DATED  
5 MARCH 5, 2002 (INCLUDED AS EXHIBIT DK-5).

6

7 A. These allegations are without merit. Ms. Kennedy bases her allegation on a  
8 reference to one sentence that is contained in one page of BellSouth's response  
9 to FDN's petition. This reference is taken out of context and is irrelevant to the  
10 appropriateness of BellSouth's advertising. In fact, many of these same issues  
11 were addressed in BellSouth's June 19, 2002 response to NTC's May 20, 2002  
12 letter to this Commission. A copy of NTC's letter and BellSouth's response to  
13 that letter is attached as Rebuttal Exhibit JAR-8.

14

15 Q. ON PAGE 9 OF HIS TESTIMONY, MR. GILLAN STATES THAT  
16 BELLSOUTH SHOULD NOT BE ALLOWED TO OFFER PROMOTIONS  
17 INVOLVING CONTRACTS WITH TERMS OF MORE THAN 12 MONTHS.  
18 SIMILARLY, ON PAGE 18 OF HIS TESTIMONY, MR. GALLAGHER  
19 SUGGESTS THAT CONTRACTUAL DISCOUNTS SHOULD BE LIMITED  
20 TO 60 TO 120 DAYS. ARE SUCH LIMITATIONS APPROPRIATE?

21

22 A. No. In a competitive market, which clearly exists in Florida, the duration of  
23 promotions is dictated by market forces and by customers – not by ALECs.  
24 Moreover, neither Mr. Gillan nor Mr. Gallagher provides any facts to justify  
25 their attempt to limit the benefits available to customers that desire the

1 contractual stability of term contracts. This matter is further addressed in the  
2 rebuttal testimony of BellSouth witness Robert Pitofsky.

3

4 Q. ANOTHER COMMON THEME OF THE ALEC WITNESSES TESTIMONY  
5 IS THEIR POSITION THAT THE COMMISSION SHOULD LIMIT  
6 BELLSOUTH'S USE OF THE TERMINATION LIABILITY PROVISIONS.  
7 HOW DO YOU RESPOND?

8

9 A. One again, the ALECs want to have their cake and eat it too. On page 9 of his  
10 testimony, Mr. Gillan states that "[t]here clearly is a distinction between  
11 termination provisions that might arise in a competitive environment (i.e., those  
12 needed to compensate a provider for customer-specific costs) and provisions  
13 adopted by a monopoly to punitively restrict customer choice." Mr. Gillan then  
14 recommends that the Commission "adopt a presumption that any termination  
15 penalty greater than 3 months' discount is unreasonable."

16

17 Q. WHY DO YOU SAY THAT THIS IS AN EXAMPLE OF THE ALECS  
18 WANTING TO HAVE THEIR CAKE AND EAT IT TOO?

19

20 A. As I explained in my direct testimony, most ALECs do not limit their termination  
21 liability charges to 3 months' discount. To the contrary, many ALECs have full  
22 buyout termination charges in their tariffs.

23

24 The ALECs want to have their cake by making it easy for BellSouth's end users  
25 who sign contracts -- and who receive benefits under those contracts -- to leave

1 BellSouth for an ALEC (and for the most part keep the benefits they received).  
2 These same ALECs want to eat the same cake by making it difficult for their end  
3 users who sign contracts and who receive benefits under those contracts to leave  
4 them for BellSouth or for any other ALEC.

5

6 Q. PLEASE COMMENT ON THE MARKETING RESTRICTIONS THAT MR.  
7 GILLAN (PAGE 10), MR. GALLAGHER (PAGE 27), AND MS. KENNEDY  
8 (PAGE 12) ARE REQUESTING THE COMMISSION PLACE ON  
9 BELLSOUTH.

10

11 A. As discussed in my direct testimony, BellSouth has established a region-wide,  
12 10-day waiting period during which BellSouth will not initiate any win back  
13 activities to regain a customer. Further, BellSouth has procedures and  
14 safeguards to limit disclosure and the use of CPNI and wholesale information in  
15 a manner consistent with the requirements of the FCC rules, section 222 of the  
16 Act, and any applicable state or local requirement. The placement of additional  
17 restrictions upon BellSouth is neither appropriate nor necessary.

18

19 Q. HOW DO YOU RESPOND TO MS. KENNEDY'S SUGGESTION THAT THE  
20 COMMISSION SHOULD REQUIRE BELLSOUTH "TO OFFER ANY  
21 PROMOTION THROUGHOUT ITS ENTIRE SERVICE TERRITORY, AT  
22 LEAST UNTIL A STRUCTURAL SEPARATION OF THE COMPANY IS  
23 ESTABLISHED . . .?"

24

25



1 A. BellSouth witness Robert Pitofsky addresses the issue of requiring BellSouth to  
2 offer promotions throughout its entire service territory in his rebuttal testimony.  
3 As for Ms. Kennedy's reference to structural separation, it is simply a red  
4 herring. This Commission already has determined that it does not have  
5 jurisdiction to order a structural separation of BellSouth. (*See* Order No. PSC-  
6 01-2178-FOF-TP, in Docket No. 010345-TP, issued November 6, 2001).

7  
8 Q. PLEASE RESPOND TO MR. GALLAGHER'S ASSERTION (PAGE 24)  
9 THAT THE RESALE OPTION WILL PROMOTE THE EROSION OF  
10 FACILITIES-BASED COMPETITION.

11  
12 A. Mr. Gallagher ignores the fact that ALECs determine the most viable method to  
13 provide their service to their end users. ALECs have the ability to compete with  
14 BellSouth's Key Customer offering through resale, unbundled network elements  
15 or facilities-based services. Mr. Gallagher's statement that "facilities-based  
16 ALECs cannot beat BellSouth's Key Customer discounts and remain viable" is  
17 refuted by the margin analysis I discussed previously and reflected in my  
18 Rebuttal Exhibit JAR-7. As such, an ALEC's decision to compete with  
19 BellSouth's Key Customer promotion via the resale option, via UNEs or UNE-P  
20 or via their own facilities is no different than the decision an ALEC makes to  
21 compete with any of BellSouth's tariff offerings.

22  
23 Q. PLEASE ADDRESS MS. KENNEDY'S REFERENCE (AT PAGE 2) TO THE  
24 BELL SOUTH SIMPLE SOLUTIONS PROMOTION.

25

1 A. The Simple Solutions offering was not filed with the Florida Commission and it  
2 was not available to Florida customers. Unfortunately, the offering erroneously  
3 appeared in the Florida tariff section of BellSouth's web page, and 12 Florida  
4 customers erroneously were enrolled in the promotion before this error was  
5 discovered. BellSouth is in the process of contacting these customers,  
6 explaining that they were mistakenly enrolled in the promotion, and explaining  
7 that they can no longer receive any benefits under the Simple Solutions  
8 promotion.

9  
10 Q. PLEASE ADDRESS MS. KENNEDY'S STATEMENT (AT P. 6) THAT THE  
11 \$100 COMPONENT OF THE TERMINATION LIABILITY CHARGE IN THE  
12 JANUARY KEY CUSTOMER OFFERING "CERTAINLY COULD HAVE  
13 BEEN INCLUDED IN THE TARIFF FILING."

14  
15 A. The tariff filing package references other administrative costs, and this \$100  
16 charge is clearly addressed in the contract that business customers signed when  
17 they enrolled in the January Key Customer offering.

18  
19 Q. PLEASE ADDRESS MS. KENNEDY'S TESTIMONY (AT PAGES 12-13)  
20 REGARDING THE "SELECT POINTS PROGRAM."

21  
22 A. The BellSouth Select Business Platinum program is an example of the  
23 unregulated operations of BellSouth using a legitimate and common practice -- a  
24 customer loyalty program -- and pricing unregulated products and services as it  
25 deems appropriate, just like unregulated companies do, and just like BellSouth's

1 competitors do. Under the current BellSouth Select Business Platinum program  
2 that is available to Florida customers, eligible business customers earn points  
3 for each dollar they spend on BellSouth Telecommunications (“BST”) and  
4 BellSouth Advertising and Publishing Company (“BAPCO”) products and  
5 services. These points can be redeemed for various BellSouth non-regulated  
6 products and services; cash, in the form of a check issued by the BellSouth  
7 Select, Inc. (an unregulated direct subsidiary of BellSouth Corporation that  
8 administers the BellSouth Select Business Platinum program); or non-BellSouth  
9 products and services.

10

11 A customer is required to subscribe to at least one non-regulated BellSouth  
12 service in order to be eligible for the program. In addition, a customer is not  
13 allowed to redeem Select points if the cumulative cash value of its redeemed  
14 points exceeds the customer’s cumulative spending on non-regulated services.  
15 Finally, all costs associated with the program are recorded and accounted for as  
16 non-regulated items for BellSouth.

17



18 The customer is billed the full rate for their services each month, and the  
19 revenue is recorded as regulated or non-regulated, depending on the type of  
20 service purchased. When the customer earns points that are charged to  
21 BellSouth Telecommunications, the total cost of those points (whether earned on  
22 regulated or non-regulated purchases) is charged (debited) to non-regulated  
23 revenues. Thus, BellSouth’s entire cost of the BellSouth Select Business  
24 Platinum program points is borne by the non-regulated lines of business and  
25

1           there is neither a reduction of the regulated revenues nor a discount to tariff  
2           rates.

3

4           Finally, the BellSouth Select Business Platinum program is made available on a  
5           non-discriminatory basis to all BellSouth customers in Florida who meet the  
6           eligibility requirements of the program. Several methods have been used to  
7           inform eligible customers of the program, including direct mailings, contacts by  
8           BAPCO representatives, in-bound calls, out-bound calls, and a web site  
9           (www.bellsouthselectbusiness.com).

10

11 Q.       PLEASE ADDRESS MS. KENNEDY'S ARGUMENT (AT PAGE 14) THAT  
12       "THE FACT THAT [SELECT] POINTS ACCRUE FOR YELLOW PAGES  
13       ADVERTISING IS IN ITSELF A SUSPECT TYING ARRANGEMENT"

14

15 A.       As I explained above, the untariffed Select Program requires that participants  
16       subscribe to a BellSouth unregulated service and limits the value of redemptions  
17       to the cumulative unregulated spending of a participant. Furthermore, the  
18       purchase of regulated services is not conditioned on the purchase of non-  
19       regulated services and, in fact, a customer need not purchase any regulated  
20       BellSouth service to participate in the Select Program; therefore, the Select  
21       Program does not even arguably represent a tying arrangement.

22

23 Q.       PLEASE RESPOND TO MR. GALLAGHER'S STATEMENTS (AT PAGE 7)  
24       CONCERNING THE BILLING OF DISCONNECT CHARGES WHEN THE  
25       ALEC'S END USER DISCONNECTS HIS SERVICE.

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A. The rates, terms and conditions for the application of disconnect charges are set forth in the interconnection agreement negotiated (or arbitrated) between BellSouth and an ALEC and which are approved by this Commission. The rates applicable when the UNEs are disconnected (either as a result of the ALEC directly submitting the disconnect request or due to the ALEC's end user directly contacting BellSouth or another ALEC to switch service providers), are appropriately billed in accordance with the parties interconnection agreement and represent costs that are appropriate for BellSouth to recover. The disconnect rates reflected in the FDN/BellSouth interconnection agreement were accepted by FDN and are appropriately billed to FDN when the UNEs to which they apply are disconnected.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.



(#468848v2)

BellSouth Telecommunications, Inc.  
FPC Docket Nos. 020119/020578-TP  
Rebuttal Exhibit JAR-4  
November 25, 2002

**Rebuttal Exhibit JAR-4**

**Reply Affidavit of Elizabeth A. Stockdale  
Filed November 1, 2002  
In BellSouth FL/TN 271 Application  
WC Docket No. 02-307**

**(18 pages)**

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554**

In the Matter of )  
 )  
Joint Application by BellSouth Corporation, )  
BellSouth Telecommunications, Inc., ) WC Docket No. 02-307  
and BellSouth Long Distance, Inc. for )  
Provision of In-Region, InterLATA )  
Services in Florida and Tennessee )

**REPLY AFFIDAVIT OF ELIZABETH A. STOCKDALE**

I, Elizabeth A. Stockdale, being of lawful age and duly sworn, do hereby depose and state as follows:

**I. INTRODUCTION AND PURPOSE OF AFFIDAVIT**

1. I am employed by BellSouth Telecommunications, Inc. ("BellSouth") as Manager – Regulatory and External Affairs. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.
2. I filed an Affidavit in this proceeding on September 20, 2002.
3. The purpose of this reply affidavit is to respond to the Comments filed by Sprint Communications Company L.P. ("Sprint") on October 10, 2002 in this proceeding.
4. No commenter in this proceeding, including Sprint, disputes BellSouth's showing that it has satisfied the Track A requirements for providing in-region InterLATA services as set forth in Section 271 (c)(1)(a).<sup>1</sup> Moreover, Sprint does not directly challenge BellSouth's Method One or Method Two CLEC line share estimates.

---

<sup>1</sup> See Section 271 (c) (1) (a), The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

Nevertheless Sprint argues that the public interest requires that the Commission deny BellSouth's 271 application because the local markets in Florida and Tennessee have not been fully and irreversibly open to competitive entry. (See Sprint Comments at 1). Sprint points to the current financial state of the CLEC industry, (See id. at 4-7) in addition to what Sprint believes to be inadequate levels of residential competition as a basis for their public interest assessment. (See id. at 9-12).

5. Sprint's arguments are nothing new. Sprint and other commenters have made the very same arguments in numerous prior 271 proceedings, including BellSouth's own Georgia-Louisiana ("GA/LA") 271 proceeding and BellSouth's Five State proceeding.<sup>2</sup> This Commission has, in turn, repeatedly rejected these claims.<sup>3</sup> As demonstrated in my initial Affidavit, competition is viable and irreversible in both the Florida and Tennessee markets. Moreover, increases in CLEC residential line share show that those markets are continuing to mature.

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<sup>2</sup> Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Georgia and Louisiana, Memorandum Opinion and Order, 16 FCC Rcd 9018 (2002) ("GA/LA Order"); Joint Application by BellSouth Corporation, BellSouth Telecommunications, and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina and South Carolina, 17 FCC Rcd 17595 (2002) ("Five State Order").

<sup>3</sup> See Five State Order ¶ 278. See also, GA/LA Order ¶ 14 (citing Sprint v. FCC, 274 F.3d at 553-54 and the Ameritech Michigan Order, 12 FCC Rcd at 20585, ¶ 77); 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, 17 FCC Rcd 12271, ¶ 12 (2002) (rejecting Sprint's argument that the generally low levels of residential facilities-based competition in Vermont must result in a finding that Verizon does not meet Track A); 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 Maine, Memorandum Opinion and Order, 17 FCC Rcd 11659, ¶ 59 (2002) (disagreeing with the assertion "that low levels of facilities-based residential competition in Maine indicate that it would be inconsistent with the public interest to grant [Verizon's] application.").



**II. LOCAL COMPETITION IN FLORIDA AND TENNESSEE**

6. BellSouth's most recent data indicate that total CLEC line share is continuing to increase in BellSouth's Florida and Tennessee service areas. BellSouth estimates that as of September 2002, total CLEC line share in Florida ranges between 18.4% (Method 2) and 18.5% (Method 1). CLECs in BellSouth's service area are now serving at least 29.7% of the business market and between 11.3% (Method 1) and 12.4% (Method 2) of the residential market. See Reply Exhibits ES-1 and ES-2.

**FLORIDA - METHOD ONE**

CLEC PROVIDERS	NUMBER OF CLECS	RESIDENTIAL LINES	BUSINESS LINES	TOTAL LINES
FACILITIES-BASED	63	420,815	802,796	1,223,611
FACILITIES-BASED/RESALE		57,491	5,440	62,931
RESALE-ONLY	51	43,370	808	44,178
CLEC TOTAL	114	521,676	809,044	1,330,720
TOTAL LINES		4,635,026	2,566,171	7,201,197
CLEC % OF TOTAL LINES		11.3%	31.5%	18.5%

**FLORIDA - METHOD TWO**

CLEC PROVIDERS	NUMBER OF CLECS	RESIDENTIAL LINES	BUSINESS LINES	TOTAL LINES
FACILITIES-BASED	53	480,449	737,307	1,217,756
FACILITIES-BASED/RESALE		57,478	5,407	62,885
RESALE-ONLY	51	43,370	808	44,178
CLEC TOTAL	104	581,297	743,522	1,324,819
TOTAL LINES		4,694,647	2,500,649	7,195,296
CLEC % OF TOTAL LINES		12.4%	29.7%	18.4%

7. In Tennessee, BellSouth's most recent estimates show that CLECs serve between 12.6% (Method 2) and 13.1% (Method One) of the lines in BellSouth's service area.

CLECs are serving over 31% of the business lines and between 2.3% (Method 1) and 3.4% (Method 2) of the residential lines. See Reply Exhibits ES-3 and ES-4.

**TENNESSEE- METHOD ONE**

CLEC PROVIDERS	NUMBER OF CLECS	RESIDENTIAL LINES	BUSINESS LINES	TOTAL LINES
FACILITIES-BASED	41	15,037	331,720	346,757
FACILITIES-BASED/RESALE		2,470	4,594	7,064
RESALE-ONLY	39	25,916	298	26,214
CLEC TOTAL	80	43,423	336,612	380,035
TOTAL LINES		1,889,144	1,001,535	2,890,679
CLEC % OF TOTAL LINES		2.3%	33.6%	13.1%

**TENNESSEE - METHOD TWO**

CLEC PROVIDERS	NUMBER OF CLECS	RESIDENTIAL LINES	BUSINESS LINES	TOTAL LINES
FACILITIES-BASED	35	35,862	294,457	330,319
FACILITIES-BASED/RESALE		2,465	4,590	7,055
RESALE-ONLY	39	25,916	298	26,214
CLEC TOTAL	74	64,243	299,345	363,588
TOTAL LINES		1,909,964	964,268	2,874,232
CLEC % OF TOTAL LINES		3.4%	31.0%	12.6%

**III. RESIDENTIAL COMPETITION IS VIABLE, IRREVERSIBLE AND GROWING**

8. As the numbers above indicate, CLEC market share in the residential markets in both the Florida and Tennessee service areas is not as high as in the business markets. As BellSouth has explained on numerous occasions, this is to be expected. CLECs are free to serve whomever they please. Thus, they have chosen to target the most profitable customers – business customers – in the most profitable urban areas. However, the data indicate that residential competition is growing and continuing to mature. Despite Sprint’s assertions to the contrary, as shown above, residential competition in BellSouth’s Florida service area is by no means *de minimis*. (See

Sprint Comments at 10). And in Tennessee, the total number of CLEC residential lines has increased nearly 50% in just the last two months.<sup>4</sup>

9. As evidence that the local markets are not irreversibly open to competition, Sprint cites to its own business decision to abandon its local market entry via resale or UNE-P. (See *id.* at 9). Sprint is, of course, free to make its own decisions. The ever-increasing use of UNE-P, however, particularly for residential services, demonstrates that UNE-P is a profitable mode of competitive entry. In Tennessee, MCI/WorldCom is aggressively marketing a bundled residential offering utilizing UNE-P. In the last two months alone, CLEC residential lines provided over UNE-P have risen from 3,122 to over 30,000. In Florida, over the same time period, CLEC residential lines provided over UNE-P have increased by over 37,000.
10. Sprint also tries once again to convince the Commission that the large number of CLEC bankruptcies coupled with the bleak state of the telecommunications industry threatens the viability of competition in the local market. Factors beyond the RBOCs control, such as the current market conditions or the financial hardships of the CLEC community have no bearing on whether the local market is open to competition. Relevancy aside, although it is true that a number of CLECs have gone out of business and that the total number of CLEC providers has decreased over the last several years, what Sprint fails to mention is that despite the current crises in the telecommunications industry, total CLEC market share continues to grow. Continuing increases in CLEC market share is supported by BellSouth's data and

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<sup>4</sup> Compare Reply Exhibit ES-4 with Table 5 in the Initial Affidavit of Elizabeth A. Stockdale.

data obtained from the CLECs themselves as reported in this Commission's own competition report.<sup>5</sup>

11. My initial affidavit and this reply demonstrate that BellSouth has met the Track A requirements of the Act in its Florida and Tennessee service areas. Additionally, these affidavits demonstrate that this Commission, the Florida Public Service Commission, the Tennessee Regulatory Authority, BellSouth and the CLEC industry have been successful in bringing competitive choices to telecommunications customers. The level of competition demonstrates that BellSouth has provided CLECs access to its network facilities and services so that the CLECs can deliver services over their own network facilities, over their own network facilities in combination with elements of BellSouth's network, and through the resale of BellSouth-provided service offerings. Competition is well established, broadly based and irreversible in BellSouth's service areas in Florida and Tennessee.

12. This concludes my affidavit.

0

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<sup>5</sup> See Ind. Anal. and Tech. Div., WCB, FCC, Local Telephone Competition: Status as of December 31, 2001 (July 2002).

**CLECs with Over 40 Lines  
in BellSouth  
FLORIDA  
METHOD ONE**

Exhibit ES-1  
PUBLIC VERSION

FLORIDA SEPTEMBER 2002	Resold Lines		Estimated Facilities-based Lines			Total Local Lines	911 Listings Res	911 Listings Bus	Unbundled Local Loops	UNE Platforms		IC Trunks
	RES	BUS	RES	BUS	TOTAL					Res	Bus	
<b>FACILITIES-BASED [ 40+ LINES ]</b>												
1	2ND CENTURY COMMUNICATIONS											
2	ACCESS INTEGRATED NETWORKS											
3	ACCESS POINT, INC.											
4	ACI (ARROW)											
5	ADELPHI BUS. SOLUTIONS (HYPERION, LOUISVILLE LIGHTWAVE)											
6	ALEG (TOUGHTONE, OPTILINK, METROLINK)											
7	ALLEGIANCE TELECOM											
8	AMERIMEX COMB.											
9	ANEW BROADBAND, INC. DBA CIMA TELECOM, INC.											
10	AT&T (+NORTHPOINT, +TELEPORT-TOG, +MEDIAONE, +AT&T BROADBAND)											
11	BROADVIEW NETWORKS (NETWORK PLUS)											
12	BUSINESS TELECOM (BTI, +FIBERSOUTH)											
13	CITIZENS (GLOBAL CROSSING, FRONTIER)											
14	COMM SOUTH COS											
15	COVAD COMM (+BLUESTAR)											
16	DAYTONA TELEPHONE											
17	DSL INTERNET CORPORATION											
18	DSLNET COMM											
19	E.SPIRE COMM. (ACSI)											
20	ELANTIC (FLORIDA DIGITAL NETWORK)											
21	ERNEST COMMUNICATIONS											
22	FLORIDA CONSOLIDATED MULTIMEDIA SERVICES											
23	FOCAL COMMUNICATIONS											
24	GLOBAL NAPS											
25	GRU COMMUNICATION											
26	KCG COMMUN. (INTELCOM)											
27	IDS TELECOM											
28	IDT (WINSTAR)											
29	INTERACTIVE SVCS NETWORK, INC. (IBN COMM FL)											
30	ITC/DELTA COM											
31	KMC TELECOM INC.											
32	KNOLLOGY											
33	LECSTAR (EMPIRE TELECOM SVCS)											
34	LEVEL 3											
35	LIGHTYEAR COMMUNICATIONS											
36	MANHATTAN TELECOM (METROPOLITAN TELECOM)											
37	MCI METRO (+WORLDWIDE, +WORLDWIDE, +MFS, +BROOKS, +INTERMEDIA, +RHYTHMS, + NAT. TELECOM FL, +PHONE ONE)											
38	MOMENTUM BUSINESS SOLUTIONS											
39	MPOWER (MOC COMM)											
40	NATIONAL TEL OF FLORIDA											
41	NAVIGATOR TELECOMM, LLC											
42	NETWORK TELEPH. (+LIGHTNETWORKS)											
43	NEW EDGE											
44	NEWSOUTH COMM (+UNIVERSALCOM)											
45	NEXLINK COMM. (XO COMM)											
46	NORTH AMERICAN TELECOM											
47	NOS COMMUNICATIONS											
48	NOW COMMUNICATIONS (+TEL-LINK, +TELSTAR)											
49	ORLANDO TELEPHONE (ORLANDO BUS. TEL. SYSTEMS)											
50	PAETEC COMMUNICATIONS											
51	SBC TELECOM INC.											
52	SPRINT COMMUNICATIONS											
53	SUPRA TELECOM & INFO SYSTEMS											



**CLECs with Over 40 Lines  
in BellSouth  
FLORIDA  
METHOD ONE**

Exhibit ES-1  
PUBLIC VERSION

42	SOURCE ONE COMMUNICATIONS						
43	SOUTHERN RECONNECT INC						
44	SUN-TEL USA						
45	TELEPHONE ONE INC						
46	TELECOM CARRIER SERVICES						
47	THE MOBILE PHONE CO.						
48	UNIVERSAL TELECOM (UNIV. TELEPHONE)						
49	USA TELECOM (INTL DESIGN GRP)						
50	USA TELEPHONE INC						
51	VERIZON AVENUE (ONE POINT)						
<b>Resale-only (40 + LINES) SUBTOTAL</b>		<b>43,370</b>	<b>808</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>44,178</b>

FLORIDA SEPTEMBER 2002	Resold Lines		Estimated			Total Local Lines
	RES	BUS	RES	BUS	TOTAL	
METHOD ONE GRAND TOTAL →	100,861	6,248	420,815	802,796	1,223,611	1,330,720
	— METHOD 1 ESTIMATE —					

Total
Resold → 107,109

CLECs Over 40 Lines - SEPTEMBER, 2001	114
FACILITIES-BASED CLECs →	63
RESALE ONLY CLECs →	51

METHOD 1 ESTIMATE	
BellSouth Area - FLORIDA	1,330,720
CLEC Share of Access Lines =	1,330,720 ÷ 5,870,477
METHOD 1 ESTIMATE =	18.5%
SEPTEMBER 2002	

**CLECs with Over 40 Lines  
in BellSouth  
FLORIDA  
METHOD TWO**

Exhibit ES-2  
PUBLIC VERSION

FLORIDA SEPTEMBER 2002	Resold Lines		Estimated Facilities-based Lines			Total Local Lines	911 Listings Res	911 Listings Bus	UNE Platforms	
	RES	BUS	RES	BUS	TOTAL				Res	Bus
<b>FACILITIES-BASED [ 40+ LINES ]</b>										
1 2ND CENTURY COMMUNICATIONS										
2 ACCESS INTEGRATED NETWORKS										
3 ACCESS POINT, INC.										
4 ACI (ARROW)										
5 ADELPHIA BUS. SOLUTIONS (HYPERION, LOUISVILLE LIGHTWAVE)										
6 ALLEGIANCE TELECOM										
7 AMERIMEX COMM										
8 ANEW BROADBAND, INC. DBA CIMA TELECOM, INC.										
9 AT&T (+NORTHPOINT, +TELEPORT-TCG, +MEDIACONE, +AT&T BROADBAND)										
10 BROADVIEW NETWORKS ( NETWORK PLUS)										
11 BUSINESS TELECOM ( BTI, +FIBERSOUTH)										
12 CITIZENS (GLOBAL CROSSING, FRONTIER )										
13 COMM SOUTH COS										
14 DSLNET COMM										
15 E.SPIRE COMM. ( ACSI )										
16 ELANTIC (FLORIDA DIGITAL NETWORK)										
17 ERNEST COMMUNICATIONS										
18 FOCAL COMMUNICATIONS										
19 GLOBAL NAPS										
20 IDS TELECOM										
21 IDT (WINSTAR)										
22 INTERACTIVE SVCS NETWORK, INC. (ISN COMM-FL)										
23 ITC-DELTA COM										
24 KMC TELECOM INC.										
25 KNOWLOGY										
26 LECSTAR (EMPIRE TELECOM SVCS)										
27 LIGHTYEAR COMMUNICATIONS										
28 MANHATTAN TELECOM (METROPOLITAN TELECOM)										
29 MCI METRO (+WORLD COM, +WORLD MEDIA, +MFS, +BROOKS, +INTERMEDIA, +RHYTHM, +NAT. TELECOM FL, +PHONE ONE)										
30 MOMENTUM BUSINESS SOLUTIONS										
31 MPOWER (MGC COMM.)										
32 NAVIGATOR TELECOMM., LLC										
33 NETWORK TELEPH. (+LIGHT NETWORKS)										
34 NEWSOUTH COMM (+UNIVERSAL.COM)										
35 NEXTLINK COMM. ( XD COMM )										
36 NORTH AMERICAN TELECOM										
37 NOS COMMUNICATIONS										
38 NOW COMMUNICATIONS (+TEL-LINK, +TELSTAR)										
39 ORLANDO TELEPHONE (ORLANDO BUS. TEL. SYSTEMS)										
40 PAETEC COMMUNICATIONS										



**CLECs with Over 40 Lines  
in BellSouth  
FLORIDA  
METHOD TWO**

Exhibit ES-2  
PUBLIC VERSION

41	SBC TELECOM INC												
42	SPRINT COMMUNICATIONS												
43	SUPRA TELECOM & INFO SYSTEMS												
44	TALK UNLIMITED NOW												
45	TELE CONEX												
46	TELEPHONE CO OF CENTRAL FL (TCCF)												
47	TELEGENT SERVICES												
48	THE OTHER PHONE CO (ACCESSIONE,+TALK.COM,+OMNICALL)												
49	TIME WARNER COMMUN												
50	TRIVERGENT (NUVOX, STATE COMM, GABRIEL)												
51	US LEC												
52	VARTEC TELECOM												
53	Z-TEL COMMUN.												
<b>FACILITIES-BASED Sub-Total</b>		<b>57,478</b>	<b>5,407</b>	<b>480,449</b>	<b>737,307</b>	<b>1,217,756</b>	<b>1,280,641</b>	<b>151,083</b>	<b>594,163</b>	<b>329,366</b>	<b>143,144</b>		

	FLORIDA SEPTEMBER 2002	Resold Lines		----- Estimated ----- Facilities-based Lines			Total Local Lines
		RES	BUS	RES	BUS	TOTAL	
1	1-800 RECONEX						
2	AFN CONSULTANTS						
3	ALTERNATIVE ACCESS TEL COMM (AA TELECOM)						
4	ALTERNATIVE PHONE						
5	ALTERNATIVE TELECOMMUNICATIONS SERVICES (SECOND CHANCE PHONE)						
6	AMERICAN DIAL TONE (GANOCO)						
7	APPLIANCE&TV RENTALS (FONES-4-U)						
8	BUDGET PHONE, INC						
9	BUDGETEL SYSTEMS						
10	CAT COMMUN INTL (CCI)						
11	CHOCTAW COMMUN. (SMOKE SIGNAL COM.)						
12	DELAND ACTEL						
13	DELTA PHONES						
14	DIALTONE TELECOM						
15	DIRECT-TEL INC						
16	DPI-TELECONNECT						
17	DSL TELECOM, INC.						
18	EAST FLORIDA COMMUNICATIONS						
19	EASY TELEPHONE SERVICES						
20	EPICUS						
21	EXCELINK COMMUNICATIONS						
22	EXPRESS TELEPHONE SVCS (EXPRESS TITLE)						
23	EZ TALK COMMUNICATIONS						
24	FLORIDA PHONE SERVICE, INC. - FL						
25	FLORIDA TELEPHONE (FLATEL)						
26	FLORIDA TELEPHONE SERVICES						
27	GEORGIA TELEPHONE SERVICES						
28	GULF COAST COMM (+CORAL BAY FINAN.)						
29	HART COMM (HTR&L ENTERPRIS.)						
30	INTEGRA PAGING (BURNO)						
31	LOCAL LINE AMERICA						
32	MET COMMUNICATIONS						

**CLECs with Over 40 Lines  
in BellSouth  
FLORIDA  
METHOD TWO**

Exhibit ES-2  
PUBLIC VERSION

33	MOVIE, TELEVISION, & GRAPHICS (M.T.G.)						
34	MY-TEL INC						
35	NEW PHONE (IMAGE ACCESS)						
36	NUI TELECOM (INTERNAT. TELE GRP)						
37	ONESTAR COMMUNICATIONS						
38	PREFERRED CARRIER SERVICES						
39	QUANTUMSHIFT COMMUNICATIONS, INC.						
40	RE TEL COMMUNICATIONS						
41	SANDHILL TELECOM GROUP						
42	SOURCE ONE COMMUNICATIONS						
43	SOUTHERN RECONNECT INC						
44	SUN-TEL USA						
45	TELEPHONE ONE INC						
46	TELSEON CARRIER SERVICES						
47	THE MOBILE PHONE CO.						
48	UNIVERSAL TELECOM (UNIV. TELEPHONE)						
49	USA TELECOM (INTL DESIGN GRP)						
50	USA TELEPHONE INC						
51	VERIZON AVENUE (ONE POINT)						
	<b>Resale-only (40 + LINES) SUBTOTAL</b>	<b>43,370</b>	<b>808</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>44,178</b>

FLORIDA SEPTEMBER 2002	Resold Lines		Estimated Facilities-based Lines			Total Local Lines
	RES	BUS	RES	BUS	TOTAL	
METHOD TWO GRAND TOTAL →	100,848	8,215	480,449	737,307	1,217,756	1,324,819
	— METHOD 2 ESTIMATE —					

Total
Resold → 107,063

CLECs Over 40 Lines - SEPTEMBER, 2001	104
FACILITIES-BASED CLECs →	53
RESALE ONLY CLECs →	51

METHOD 2 ESTIMATE	
BellSouth Area - FLORIDA	1,324,819
CLEC Share of Access Lines =	1,324,819 + 5,870,477
 METHOD 2 ESTIMATE	 = 18.4%
SEPTEMBER 2002	

**CLECs with Over 10 Lines  
in BellSouth  
TENNESSEE  
METHOD ONE**

Exhibit ES-3  
PUBLIC VERSION

TENNESSEE SEPTEMBER 2002	Resold Lines		--- Estimated --- Facilities-based Lines			Total Local Lines	911 Listings Res	911 Listings Bus	Unbundled Local Loops	UNE Platforms		I C Trunks
	RES	BUS	RES	BUS	TOTAL					Res	Bus	
	FACILITIES-BASED [ 10+ Lines ]											
1 ACCESS INTEGRATED NETWORKS												
2 ADELPHIA BUS. SOLUTIONS (HYPERION, LOUISVILLE LIGHTWAVE)												
3 AENEAS COMMUNICATIONS												
4 ALEG (TOUCHSTONE, OPTILINK, METROLINK)												
5 AT&T (+NORTHPOINT, +TELEPORT-TCG, +MEDIAONE, +AT&T BROADBAND)												
6 BIRCH TELECOM												
7 BUSINESS TELECOM (BTI, +FIBERSOUTH)												
8 CINERGY COMMUNICATIONS (COMMUNITY TEL)												
9 CITIZENS (GLOBAL CROSSING, FRONTIER)												
10 COVAD COMM (+BLUESTAR)												
11 DSLNET COMM												
12 ELECTRIC POWER BOARD OF CHATANOOGA												
13 GLOBAL NAPS												
14 ICG COMMUN. (INTELCOM)												
15 IDS TELECOM												
16 ITC*DELTA COM												
17 KMC TELECOM INC.												
18 KNOWLOGY												
19 LECSTAR (EMPIRE TELECOM SVCS)												
20 LEVEL 3												
21 LIGHTYEAR COMMUNICATIONS												
22 MCI METRO (+WORLD COM, +WORLD MEDIA, +MFS, +BROOKS, +INTERMEDIA, +RHYTHMS, +NAT. TELECOM FL, +PHONE ONE)												
23 MOMENTUM BUSINESS SOLUTIONS												
24 NATIONNET COMMUNICATIONS CORPORATION												
25 NAVIGATOR TELECOM, LLC												
26 NETWORK TELEPH. (+LIGHT NETWORKS)												
27 NEWSOUTH COMM (+UNIVERSAL COM)												
28 NEXTLINK COMM. (XO COMM)												
29 NOS COMMUNICATIONS												
30 NOW COMMUNICATIONS (+TEL LINK, +TEL STAR)												
31 SBC TELECOM INC												
32 SPRINT COMMUNICATIONS												
33 TELE-SYS (ACCESS AMERICA)												
34 TELIGENT SERVICES												
35 THE OTHER PHONE CO (ACCESSONE, +TALK.COM, +OMNICALL)												
36 TIME WARNER COMMUN												
37 TRIVERGENT (NUVOX, STATE COMM, GABRIEL)												
38 US LEC												
39 VARTEC TELECOM												
40 XSPEDUS CORP. (EC UNWIRED)												
41 Z-TEL COMMUN.												
<b>FACILITIES-BASED Sub-Total</b>	<b>2,470</b>	<b>4,594</b>	<b>15,037</b>	<b>331,720</b>	<b>346,757</b>	<b>353,821</b>	<b>5,688</b>	<b>224,024</b>	<b>50,702</b>	<b>30,189</b>	<b>70,455</b>	<b>168,108</b>

CLECs with Over 10 Lines  
in BellSouth  
TENNESSEE  
METHOD ONE

Exhibit ES-3  
PUBLIC VERSION

TENNESSEE SEPTEMBER 2002	Resold Lines		----- Estimated ----- Facilities-based Lines			Total Local Lines
	RES	BUS	RES	BUS	TOTAL	
1 1-800 RECONEX						
2 ALLSOUTH PHONE CONNECT						
3 ALTERNATIVE TELECOMMUNICATIONS SERVICES (SECOND CHANCE PHONE)						
4 ANNOX, INC						
5 APPLIANCE&TV RENTALS (FONES-4-U)						
6 AWARD ENTERPRISES (JERRY LAQUIERE)						
7 BUDGET PHONE, INC						
8 CAT COMMUN INTL (CCI)						
9 COMM SOUTH COS						
10 DELTA PHONES						
11 DPI-TELECONNECT						
12 EXPRESS TELEPHONE SVCS (EXPRESS TITLE)						
13 EZ PHONE, INC.						
14 EZ TALK COMMUNICATIONS						
15 FAIR FINANCIAL (MIDSTATE TELECOM)						
16 GLOBAL CONNECTION INC						
17 GO-TEL, INC.						
18 HART COMM (HTR&L ENTERPRIS.)						
19 HOLT & COMPANY						
20 INTERLINK TELECOMMUNICATIONS						
21 LCI INTERNATIONAL (QWEST)						
22 MAX - TEL COMMUNICATIONS						
23 MONEY TO GO (MTG PHONE SVC.)						
24 NEW PHONE (IMAGE ACCESS)						
25 MUSTAR COMMUN. (TELEVIA)						
26 ONESTAR COMMUNICATIONS						
27 PHONE RECONNECT OF AMERICA						
28 PHONE-LINK						
29 SERVISENSE.COM, INC.						
30 SOUTHERN TELECOMMUNICATIONS						
31 STATE DISCOUNT TELEPHONE						
32 TELE CONEX						
33 TELSEON CARRIER SERVICES						
34 TENNESSEE PHONE SERVICE						
35 TENNESSEE TELEPHONE SERVICE						
36 TEXAS HOMETEL, INC. (877-RING AGAIN)						
37 UNIVERSAL TELECOM (UNIV. TELEPHONE)						
38 USA QUICK PHONE						
39 USA TELECOM (INTL DESIGN GRP)						
<b>Resale-only (10 + Lines) SUBTOTAL</b>	<b>25,916</b>	<b>298</b>	-	-	-	<b>26,214</b>

**CLECs with Over 10 Lines  
in BellSouth  
TENNESSEE  
METHOD ONE**

Exhibit ES-3  
PUBLIC VERSION

TENNESSEE SEPTEMBER 2002	Resold Lines		Estimated Facilities-based Lines			Total Local Lines
	RES	BUS	RES	BUS	TOTAL	
	METHOD ONE GRAND TOTAL -->					
	28,386	4,892	15,037	331,720	346,757	380,035
	--- METHOD 1 ESTIMATE ---					

<b>Total</b>
<b>Resold --&gt;</b> 33,278

<b>CLECs Over 10 Lines - SEPTEMBER, 2001</b>	<b>80</b>
--	-----------

<b>FACILITIES-BASED CLECs --&gt;</b>	<b>41</b>
<b>RESALE ONLY CLECs --&gt;</b>	<b>39</b>

**METHOD 1 ESTIMATE**

BellSouth Area - TENNESSEE	380,035
CLEC Share of Access Lines =	380,035 + 2,510,644
<b>METHOD 1 ESTIMATE</b>	<b>13.1%</b>
<b>SEPTEMBER 2002</b>	

CLECs with Over 10 Lines  
In BellSouth  
TENNESSEE  
METHOD TWO

Exhibit ES-4  
PUBLIC VERSION

TENNESSEE SEPTEMBER 2002	Resold Lines		----- Estimated ----- Facilities-based Lines			Total Local Lines	911 Listings Res	911 Listings Bus	UNE Platforms		
	RES	BUS	RES	BUS	TOTAL				Res	Bus	
											Res
<b>FACILITIES-BASED [ 10+ Lines ]</b>											
1	ACCESS INTEGRATED NETWORKS										
2	ADELPHIA BUS. SOLUTIONS (+HYPERION, LOUISVILLE LIGHTWAVE)										
3	AENEAS COMMUNICATIONS										
4	AT&T (+NORTHPOINT, +TELEPORT-TCG, + MEDIAONE, +AT&T BROADBAND)										
5	BIRCH TELECOM										
6	BUSINESS TELECOM ( BTI, +FIBERSOUTH)										
7	CINERGY COMMUNICATIONS( COMMUNITY TEL)										
8	CITIZENS (GLOBAL CROSSING, FRONTIER )										
9	ELECTRIC POWER BOARD OF CHATANOOGA										
10	GLOBAL NAPS										
11	ICG COMMUN. (INTELCOM)										
12	IOS TELECOM										
13	ITC*DELTACOM										
14	KMC TELECOM INC.										
15	KNOLLOGY										
16	LECSTAR (EMPIRE TELECOM SVCS)										
17	LIGHTYEAR COMMUNICATIONS										
18	MCI METRO (+WORLD.COM, +WORLDMEDIA, +MFS, +BROOKS, +INTERMEDIA, +RHYTHMS, + NAT. TELECOM FL, +PHONE ONE)										
19	MOMENTUM BUSINESS SOLUTIONS										
20	NAVIGATOR TELECOMM. LLC										
21	NETWORK TELEPH. (+LIGHTNETWORKS)										
22	NEWSOUTH COMM (+UNIVERSAL.COM)										
23	NEXLINK COMM. ( XO COMM )										
24	NOS COMMUNICATIONS										
25	NOW COMMUNICATIONS (+TEL-LINK, +TELSTAR)										
26	SBC TELECOM INC										
27	TELE-SYS (ACCESS AMERICA)										
28	TELIGENT SERVICES										
29	THE OTHER PHONE CO (ACCESSONE, +TALK.COM, +OMNICALL)										
30	TIME WARNER COMMUN										
31	TRIVERGENT (NUVOX, STATE COMM, GABRIEL)										
32	US LEC										
33	VARTEC TELECOM										
34	XSPEDIUS CORP (LEC UNWIRED)										
35	Z-TEL COMMUN.										
	<b>FACILITIES-BASED Sub-Total</b>	<b>2,465</b>	<b>4,580</b>	<b>35,862</b>	<b>294,457</b>	<b>330,319</b>	<b>337,374</b>	<b>5,677</b>	<b>224,024</b>	<b>30,185</b>	<b>70,433</b>

**CLECs with Over 10 Lines  
in BellSouth  
TENNESSEE  
METHOD TWO**

Exhibit ES-4  
PUBLIC VERSION

TENNESSEE SEPTEMBER 2002	Resold Lines		----- Estimated ----- Facilities-based Lines			Total Local Lines
	RES	BUS	RES	BUS	TOTAL	
<b>Resale Only (10 + Lines)</b>						
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
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27						
28						
29						
30						
31						
32						
33						
34						
35						
36						
37						
38						
39						
<b>Resale-only (10 + Lines) SUBTOTAL</b>	<b>25,916</b>	<b>298</b>	-	-	-	<b>26,214</b>

**CLECs with Over 10 Lines  
in BellSouth  
TENNESSEE  
METHOD TWO**

Exhibit ES-4  
PUBLIC VERSION

TENNESSEE SEPTEMBER 2002	Resold Lines		Estimated Facilities-based Lines			Total Local Lines	
	RES	BUS	RES	BUS	TOTAL		
	METHOD TWO GRAND TOTAL →		28,381	4,888	35,882		294,457
		--- METHOD 2 ESTIMATE ---					

Total	
Resold →	33,269

CLECs Over 10 Lines - SEPTEMBER, 2001	74
FACILITIES-BASED CLECs →	35
RESALE ONLY CLECs →	39

**METHOD 2 ESTIMATE**

BellSouth Area - TENNESSEE	363,588
CLEC Share of Access Lines =	363,588 + 2,510,844
METHOD 2 ESTIMATE	= 12.6%
SEPTEMBER 2002	



**Margin Analysis**  
**(UNE-P vs 3-Line Business Customer)**

BellSouth Telecommunications, Inc.  
FPSC Docket Nos. 020119/020578-TP  
Rebuttal Exhibit JAR-7  
November 25, 2002

<b>ALEC Purchases UNE-P to Serve its Florida end users</b>									
<b>ALEC's Cost for UNE-P<sup>1</sup>:</b>			<b>Tariffed Rates BellSouth charges to its end users:</b>			<b>Rates BellSouth charges to its June 2002 Key Customer end users:</b>			
UNE-P x 3 lines	Zone 1	\$32.82	(RG 9-12) Business lines x 3	\$110.85	(RG 9-12) Business lines x 3	\$88.68			
Features x 3 lines		\$6.78	Hunting x 3 lines	\$30.00	Hunting x 3 lines	\$0.00			
Usage <sup>2</sup> x 3 lines		\$8.79	Subscriber Line Charge x 3	\$23.52	Subscriber Line Charge x 3	\$23.52			
<b>Total Zone 1 MRC:</b>		<b>\$48.39</b>	<b>Total MRC:</b>	<b>\$164.37</b>	<b>Total MRC:</b>	<b>\$112.20</b>			
UNE-P x 3 lines	Zone 2	\$45.15	(RG 8) Business lines x 3	\$104.85	(RG 8) Business lines x 3	\$83.88			
Features x 3 lines		\$6.78	Hunting x 3 lines	\$30.00	Hunting x 3 lines	\$0.00			
Usage x 3 lines		\$8.79	Subscriber Line Charge x 3	\$23.52	Subscriber Line Charge x 3	\$23.52			
<b>Total Zone 2 MRC:</b>		<b>\$60.72</b>	<b>Total MRC:</b>	<b>\$158.37</b>	<b>Total MRC:</b>	<b>\$107.40</b>			
UNE-P x 3 lines	Zone 3	\$77.40	(RG 7) Business lines x 3	\$101.85	(RG 7) Business lines x 3	\$81.48			
Features x 3 lines		\$6.78	Hunting x 3 lines	\$30.00	Hunting x 3 lines	\$0.00			
Usage x 3 lines		\$8.79	Subscriber Line Charge x 3	\$23.52	Subscriber Line Charge x 3	\$23.52			
<b>Total Zone 3 MRC:</b>		<b>\$92.97</b>	<b>Total MRC:</b>	<b>\$155.37</b>	<b>Total MRC:</b>	<b>\$105.00</b>			
<sup>1</sup> UNE-P and Features rates per FPSC UNE Orders			(RG 6) Business lines x 3	\$98.85	(RG 6) Business lines x 3	\$79.08			
<sup>2</sup> \$2.93 per line usage per Ms. Kennedy's estimate, actual ALEC usage may vary			Hunting x 3 lines	\$30.00	Hunting x 3 lines	\$0.00			
			Subscriber Line Charge x 3	\$23.52	Subscriber Line Charge x 3	\$23.52			
			<b>Total MRC:</b>	<b>\$152.37</b>	<b>Total MRC:</b>	<b>\$102.60</b>			
			(RG 5) Business lines x 3	\$92.85	(RG 5) Business lines x 3	\$74.28			
			Hunting x 3 lines	\$30.00	Hunting x 3 lines	\$0.00			
			Subscriber Line Charge x 3	\$23.52	Subscriber Line Charge x 3	\$23.52			
			<b>Total MRC:</b>	<b>\$146.37</b>	<b>Total MRC:</b>	<b>\$97.80</b>			
			(RG 4) Business lines x 3	\$89.85	(RG 4) Business lines x 3	\$71.88			
			Hunting x 3 lines	\$30.00	Hunting x 3 lines	\$0.00			
			Subscriber Line Charge x 3	\$23.52	Subscriber Line Charge x 3	\$23.52			
			<b>Total MRC:</b>	<b>\$143.37</b>	<b>Total MRC:</b>	<b>\$95.40</b>			
			(RG 3) Business lines x 3	\$86.85	(RG 3) Business lines x 3	\$69.48			
			Hunting x 3 lines	\$30.00	Hunting x 3 lines	\$0.00			
			Subscriber Line Charge x 3	\$23.52	Subscriber Line Charge x 3	\$23.52			
			<b>Total MRC:</b>	<b>\$140.37</b>	<b>Total MRC:</b>	<b>\$93.00</b>			
			(RG 2) Business lines x 3	\$80.85					
			Hunting x 3 lines	\$30.00					
			Subscriber Line Charge x 3	\$23.52					
			<b>Total MRC:</b>	<b>\$134.37</b>					
			(RG 1) Business lines x 3	\$77.85					
			Hunting x 3 lines	\$30.00					
			Subscriber Line Charge x 3	\$23.52					
			<b>Total MRC:</b>	<b>\$131.37</b>					

