

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Complaint of the Florida Competitive  
Carriers Association Against BellSouth  
Telecommunications, Inc. Regarding BellSouth's  
Practice of Refusing to Provide FastAccess  
Internet Service to Customers who Receive  
Voice Service from a Competitive Voice  
Provider, and Request for Expedited Relief

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Docket No. 020507-TP

Filed: December 23, 2002

**REBUTTAL TESTIMONY**

**OF**

**SHERRY LICHTENBERG**

**ON BEHALF OF**

**THE FLORIDA COMPETITIVE CARRIERS ASSOCIATION**

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4                                   **FLORIDA COMPETITIVE CARRIERS ASSOCIATION**  
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7  
8                                   **December 23, 2002**  
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13   **Q.    PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION.**

14   A.    My name is Sherry Lichtenberg. My business address is 1133 19<sup>th</sup> St., N.W.,  
15           Washington, DC 20036. I am employed by WorldCom, Inc. in the Mass Markets  
16           local services team as Senior Manager, Operational Support Systems and  
17           Facilities Development. I will refer to the division of the company that provides  
18           local service as "MCI."

19  
20   **Q.    ON WHOSE BEHALF ARE YOU TESTIFYING?**

21   A.    I am testifying on behalf of the Florida Competitive Carriers Association.  
22

23   **Q.    PLEASE DESCRIBE YOUR EMPLOYMENT BACKGROUND.**

24   A.    My job involves getting MCI into the local residential and small business markets  
25           across the United States. My duties include designing, managing, and  
26           implementing MCI's local telecommunications services to residential customers  
27           on a mass-market basis nationwide, including Operations Support Systems  
28           ("OSS") testing in BellSouth's region and elsewhere. I have been involved in  
29           OSS proceedings and testified as an expert witness throughout the country.

1 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

2 A. The purpose of my testimony is to describe the anticompetitive impact of  
3 BellSouth's policy of refusing to permit its DSL customers to obtain UNE-P voice  
4 service over the same line as their DSL service and to address certain operational  
5 issues raised in BellSouth's testimony as they relate to Issues 2, 4, 5 and 6 in this  
6 docket. Because my experience has involved MCI's UNE-P voice service, my  
7 testimony will focus on these issues as they relate to UNE-P.

8

9 **Q. WHAT IS THE COMPETITIVE IMPACT OF BELLSOUTH'S DSL**  
10 **POLICY?**

11 A. Speaking from MCI's perspective, as MCI's residential service launch in Florida  
12 has progressed, it has encountered a large number of BellSouth customers who  
13 receive voice and FastAccess service over the same line. While many of these  
14 customers want to migrate to MCI in order to take advantage of The  
15 Neighborhood "all distance" voice package, BellSouth's policy of forcing  
16 customers to stay with BellSouth for voice service in order to keep their DSL  
17 service effectively precludes these consumers from selecting alternative local  
18 voice providers. When customers have the option of migrating to a competitive  
19 provider for voice service and losing FastAccess, or staying with BellSouth for  
20 voice service and keeping their DSL service, customers decide to retain  
21 FastAccess.

22

1 **Q. WHAT INCENTIVES DO FASTACCESS CUSTOMERS HAVE TO KEEP**  
2 **THEIR FASTACCESS SERVICE?**

3 A. Obviously, FastAccess customers signed up for service because they wanted a  
4 high speed data service, and presumably those customers wish to continue  
5 receiving this service even when they decide that they want to switch their voice  
6 traffic to a competitive provider. Even if these customers had another broadband  
7 provider to choose from, changing broadband providers would involve  
8 disconnecting the FastAccess service, obtaining a different DSL modem, and  
9 possibly having to pay early termination fees to BellSouth. The customer also  
10 would have to arrange to hook up the new broadband service and pay any  
11 connection fees the new provider requires. In addition, the customer would need  
12 to change his or her e-mail address and notify his or her contacts of that change.  
13 Given these hurdles, it is hardly surprising that FastAccess customers stay with  
14 BellSouth for voice service rather than migrating their voice service to an ALEC.

15  
16 **Q. CAN YOU QUANTIFY THE COMPETITIVE IMPACT OF**  
17 **BELLSOUTH'S DSL POLICY?**

18 A. I can to some extent. From the beginning of this year to December 13, 2002, in  
19 Florida, MCI alone received 5,233 rejects because the customer had FastAccess  
20 service. This figure understates the actual number of customers who were not  
21 able to (or chose not to) migrate to MCI as a result of BellSouth's DSL policy.  
22 MCI customer representatives are trained to ask prospective customers whether  
23 they have FastAccess service, and, when customers respond that they have

1 FastAccess service, to inform the customers that they must disconnect their  
2 FastAccess service if they wish to sign up for the Neighborhood. The 5,233  
3 rejects MCI has received for customers that had FastAccess service, and that  
4 BellSouth therefore refused to provision, only reflects those instances in which  
5 the MCI representative presumably was not informed by the customer that the  
6 customer had FastAccess, not the instances in which the MCI representative did  
7 not submit a local service request at all because the customer decided not to  
8 migrate because he or she had FastAccess.

9  
10 **Q. BELLSOUTH WITNESS RUSCILLI STATES THAT BELLSOUTH IS**  
11 **WILLING TO PERMIT ALECS TO PROVIDE VOICE SERVICE TO**  
12 **FASTACCESS CUSTOMERS VIA RESALE. IS THIS AN ACCEPTABLE**  
13 **ALTERNATIVE?**

14 **A.** No. BellSouth should not be allowed to dictate ALECs' business plans by  
15 preventing them from using the UNE-P service delivery method (or the delivery  
16 method of their choice) authorized by this Commission for a given segment of  
17 BellSouth's retail customer base. Moreover, resale undermines UNE-P providers'  
18 ability to design and price their own packages of services because ALECs are  
19 limited by whatever retail packages and prices BellSouth chooses to offer.  
20 Additionally, as Mr. Gillan explains in his testimony, resale is not an  
21 economically viable strategy for selling voice service to consumers on a mass-  
22 market basis.

1 **Q. BELLSOUTH WITNESSES RAISE A NUMBER OF “OPERATIONAL”**  
2 **ISSUES THAT THEY SAY ARE BARRIERS TO THE RELIEF THE**  
3 **FCCA SEEKS. HOW DO YOU RESPOND?**

4 **A.** I will specifically address some of the BellSouth “operational” issues below, and  
5 they are also discussed in Mr. Bradbury’s testimony. However, in general, these  
6 “barriers” are nothing more than excuses BellSouth uses to continue its  
7 anticompetitive behavior.

8

9 **Q. AT PAGES 5 AND 6 OF HIS DIRECT TESTIMONY, MR. FOGLE**  
10 **STATES THAT IF BELLSOUTH WERE REQUIRED TO PROVIDE**  
11 **FASTACCESS OVER AN ALEC LINE, IT WOULD HAVE TO DEVELOP**  
12 **AN ALTERNATIVE METHOD OF BILLING. IS THIS A VALID**  
13 **CONCERN?**

14 **A.** No. BellSouth states that it will provide FastAccess over a resold line, which  
15 involves *precisely* the same billing issue. In the situation where the ALEC  
16 provides resale service, BellSouth either must arrange to bill the customer directly  
17 for FastAccess (such as by credit card) or make arrangements for the ALEC to bill  
18 the customer on behalf of BellSouth. BellSouth can make the same arrangements  
19 when FastAccess is carried over a UNE-P line.

20

21 **Q. MR. MILNER STATES AT PAGE 6 OF HIS DIRECT TESTIMONY THAT**  
22 **BELLSOUTH HAS NO AUTHORITY TO USE THE HIGH FREQUENCY**  
23 **PORTION OF A UNE-P LOOP. MR. RUSCILLI MAKES A SIMILAR**

1           **STATEMENT AT PAGE 12 OF HIS DIRECT TESTIMONY. IS THIS A**  
2           **VALID CONCERN?**

3    A.    No. ALECs are willing grant BellSouth authority to use the High Frequency  
4           Portion of the loops for the purpose of providing DSL service to their voice  
5           customers, so lack of authority is no excuse for refusing to provide service the  
6           FastAccess service.

7  
8    **Q.    AT PAGE 7 OF HIS DIRECT TESTIMONY, MR. MILNER ALSO RAISES**  
9           **CONCERNS ABOUT NEGOTIATING PRICING FOR PROVIDING**  
10          **BELLSOUTH'S DSL SERVICE OVER A UNE-P LINE. IS THIS**  
11          **CONCERN JUSTIFIED?**

12   A.    No. ALECs are willing to permit BellSouth to provide its DSL service over UNE  
13          loops at no cost to BellSouth.

14  
15   **Q.    HOW DO YOU RESPOND TO MR. MILNER'S STATEMENT AT PAGE 7**  
16          **OF HIS DIRECT TESTIMONY THAT BELLSOUTH HAS NO WAY TO**  
17          **DETERMINE IF A PARTICULAR ALEC HAS AUTHORIZED**  
18          **BELLSOUTH TO USE THE HIGH FREQUENCY PORTION OF THE**  
19          **ALEC'S LOOP?**

20   A.    Mr. Milner attempts to make this issue much bigger than it really is. I already  
21          have stated that ALEC voice providers will authorize BellSouth to provide DSL  
22          service over their UNE loops. In most cases, they will be placing an order to  
23          migrate a BellSouth voice customer who also has DSL service. To handle these

1 migrations, BellSouth simply can add an edit to its tables to check the status of the  
2 ALEC's agreement based on the OCN submitted on the order. BellSouth already  
3 does this when it announces new UNE-P products or services, such as the change  
4 in calling areas in Florida implemented in BellSouth OSS release 10.5. Even with  
5 respect to the much smaller number of cases in which BellSouth adds its DSL  
6 service to an ALEC voice customer's UNE-P loop, it is difficult to see why  
7 performing a check (presumably by looking at the customer's service record in  
8 BellSouth's CSR data base) to determine the ALEC involved would require the  
9 "massive undertaking" that Mr. Milner suggests.

10  
11 **Q. AT PAGES 7 AND 8 OF HIS DIRECT TESTIMONY, MR. MILNER**  
12 **TESTIFIES THAT BECAUSE BELL SOUTH HAS CHOSEN TO USE THE**  
13 **CUSTOMER'S TELEPHONE NUMBER TO DRIVE ITS DSL**  
14 **PROVISIONING, MAINTENANCE, BILLING AND RECORD-KEEPING,**  
15 **OPERATIONAL PROBLEMS WILL ARISE IF DSL SERVICE IS**  
16 **PROVIDED TO ALEC END-USER CUSTOMERS. MR. FOGLE OFFERS**  
17 **SIMILAR TESTIMONY AT PAGES 2-5 OF HIS DIRECT TESTIMONY.**  
18 **DO YOU AGREE?**

19 **A.** No. If the customer already has BellSouth's DSL service, and is being migrated  
20 to a UNE-P voice provider, the splitter already is in place, and there is no need for  
21 BellSouth to disconnect or change anything for the DSL service to continue  
22 working. Because BellSouth has implemented the single C order process for  
23 UNE-P migrations (and because BellSouth is doing nothing to change the



1 physical configuration of the circuit), there is no D order generated, no loop to be  
2 disconnected at the frame, and only translations required to change features, long  
3 distance carriers and possibly blocking options, as with any other UNE-P order.  
4 Indeed, BellSouth has acknowledged that in early 2001 it provisioned DSL  
5 service to 718 UNE-P customers – presumably in most cases involving a DSL  
6 customer being migrated to an ALEC’s voice service. This experience  
7 demonstrates that DSL customers may be migrated to an ALEC UNE-P voice  
8 service with no difficulty.

9 Although Mr. Milner states that when an ALEC acquires a customer it  
10 serves via UNE-P, “there no longer is a working BellSouth telephone number in  
11 some of BellSouth’s systems,” he does not specify what systems those would be  
12 for a UNE-P customer. This statement is quite surprising, since, for example,  
13 ALECs order UNE-P by name, house number and telephone number. While  
14 telephone number is often used as an identifier (and is present in all BellSouth  
15 systems for UNE-P users), service address and the circuit identification number  
16 can also be used as identifiers.

17 In the case where a competitive provider’s voice customer is requesting to  
18 add BellSouth DSL service, there is no reason for BellSouth to treat the customer  
19 any differently than if he or she were a BellSouth voice customer when the DSL  
20 service is being provisioned. After DSL provisioning is complete, the customer is  
21 in the same position with respect to maintenance, billing and record keeping as  
22 the customer who has DSL service first and then migrates his or her voice service  
23 to a competitive provider.

1 **Q. MR. MILNER RAISES CONCERNS ABOUT LOOP QUALIFICATION**  
2 **AT PAGES 8 AND 9 OF HIS DIRECT TESTIMONY. DO THOSE**  
3 **CONCERNS APPLY TO AN ALEC PROVIDING SERVICE VIA UNE-P?**

4 A. No. If the customer already has DSL service, and is being migrated to an ALEC  
5 for voice service, the loop already has been qualified for DSL. In cases where an  
6 ALEC UNE-P voice customer is ordering BellSouth DSL, BellSouth's loop  
7 qualification process should be no different than if the loop qualification were  
8 being done for a BellSouth voice customer.

9

10 **Q. DO YOU HAVE ANY CONCLUDING REMARKS REGARDING**  
11 **BELLSOUTH'S OPERATIONAL CONCERNS?**

12 A. Yes. It appears that BellSouth has created "operational" issues where none exist  
13 so as to enable it to continue to hold voice customers who want BellSouth DSL  
14 service hostage. BellSouth's claims that granting the relief the FCCA seeks is  
15 not "feasible" does not bear up under scrutiny.

16

17 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

18 A. Yes, it does.

**CERTIFICATE OF SERVICE**

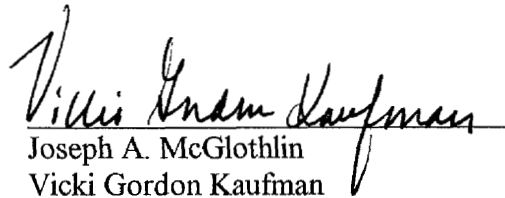
I **HEREBY CERTIFY** that a true and correct copy of the foregoing Rebuttal Testimony of Sherry Lichtenberg on behalf of the Florida Competitive Carriers Association has been furnished by (\*) hand delivery, (\*\*) electronic mail or by U. S. Mail this 23rd day of December, 2002, to the following:

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