

1 **BELLSOUTH TELECOMMUNICATIONS, INC.**  
2 **REBUTTAL TESTIMONY OF ERIC FOGLE**  
3 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**  
4 **DOCKET NO. 020507-TL**  
5 **DECEMBER 23, 2002**  
6  
7

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

10

11 A. My name is Eric Fogle. I am employed by BellSouth Telecommunications, Inc. ("BST").  
12 My business address is 675 West Peachtree Street, Atlanta, Georgia 30375. I am the Director  
13 of Wholesale Broadband Marketing.

14

15 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THE PROCEEDING?

16

17 A. Yes, I filed direct testimony on November 26, 2002.

18

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

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21 A. My rebuttal testimony responds to the direct testimony of Mr. Joseph Gillan filed on behalf  
22 of the Florida Competitive Carriers Association (FCCA); specifically, I respond to Mr.  
23 Gillan's testimony concerning Issues 6a and 6b. Issue 6a relates to changes to the rates,  
24 terms, and conditions of BellSouth's FastAccess service if the Commission orders BellSouth  
25 to continue to provide its FastAccess service to customers that seek to migrate voice service.

DOCUMENT NUMBER DATE  
13985 DEC 23 02  
FPSC-COMMISSION CLERK

1 Issue 6b relates to changes to the rates, terms, and conditions of BellSouth's FastAccess  
2 service if the Commission orders BellSouth to provide FastAccess service to any ALEC end  
3 user that requests it. Notwithstanding that BellSouth has a fundamental disagreement with  
4 the Commission's jurisdiction to entertain the FCCA's requests, my testimony will focus on  
5 changes to rates, terms, and conditions rather than on the bad policy that would be created if  
6 the Commission granted such relief.


7

8 **Issue 6(a): If the Commission orders that BellSouth may not disconnect its FastAccess**  
9 **Internet service, where a customer migrates his voice service to an ALEC and wishes to**  
10 **retain his BellSouth FastAccess service, what changes to the rates, terms, and**  
11 **conditions of his service, if any, may BellSouth make?**

12

13 Q. IS THERE ANY DISAGREEMENT IN THIS PROCEEDING THAT WE ARE DEALING  
14 WITH AN UNREGULATED SERVICE?

15

16 A. I do not believe there is. Despite the fact that Mr. Gillan's testimony presents an overly  
17 simplistic view, this is one area upon which we apparently agree. Specifically, Mr. Gillan's  
18  testimony clearly refers to "FastAccess service." Thus, his testimony and the issues in this  
19 proceeding relate solely to BellSouth's "FastAccess Internet Service;" in other words, this  
20 proceeding is expressly limited to BellSouth's retail unregulated high-speed Internet access  
21 offering known as FastAccess, and Mr. Gillan does not contend otherwise.

22

23 Q. IF THE COMMISSION ORDERED THE RELIEF SOUGHT BY FCCA, MR. GILLAN  
24 SUGGESTS THAT BELL SOUTH SHOULD NOT BE PERMITTED TO MAKE ANY  
25 CHANGES TO AN END USER CUSTOMER'S NETWORK SERVING

1 ARRANGEMENT. IS THIS RESTRICTION REALISTIC?

2

3 A. No. In order to provide FastAccess service when an end user customer changes voice  
4 providers, the most efficient and practical method to continue to provide such service is  
5 through standalone FastAccess service. The end user experiences minimal changes in his or  
6 her FastAccess service, which will be provided on a BellSouth owned and maintained loop.  
7 The end user's voice service will be provided on a separate loop. There must be a "change"  
8 in the end user's network serving arrangement, in the sense that the end user will no longer  
9 receive voice and FastAccess service over the same loop.

10

11 Q. WHY DOES BELLSOUTH INTEND TO PROVIDE FASTACCESS ON A LOOP?

12

13 A. As a preliminary matter, providing both UNE services and FastAccess services on a UNE  
14 loop would be a violation of FCC Tariff #1, since the UNE loop is not an in-service,  
15 Telephone Company [i.e. BellSouth] provided exchange line facility. In addition, there are  
16 operational reasons for not providing both services on the same loop. Significantly,  
17 BellSouth would not be able to provide appropriate service and support to the end user of the  
18 FastAccess service. Our records are maintained by the subscriber's telephone number. If the  
19 customer is an ALEC customer, we do not have the subscriber's telephone number in our  
20 system. If the customer has a problem with his or her FastAccess service and calls BellSouth  
21 for service, we would not be able to find the appropriate customer information if the service  
22 was provided over the line the ALEC owns. While this sounds like an issue that could be  
23 resolved, we have been keeping track of customers by telephone number for a very long  
24 time, and all of our systems are set up that way. To change the system would be a very  
25 difficult, expensive and time-consuming problem. It is simply easier for the customer, and

1 for BellSouth to provide the FastAccess service, if it has to be provided at all, over a separate  
2 facility. Because BellSouth would own the loop over which standalone FastAccess is  
3 provided, it still has the telephone number and related information in its systems. Moreover,  
4 because BellSouth can and does provision UNE loops and UNE-P loops, it does not need to  
5 change existing methods and procedures of provisioning such facilities. In the case of end  
6 users that do not have two lines into their premises, a second line (loop) would be deployed;  
7 however, there would be no change to the FastAccess service. Thus, these operational issues  
8 are best addressed by BellSouth providing a single solution for all types of ALEC serving  
9 arrangements when FastAccess is provided over a standalone loop.

10

11 Q. MR. GILLAN SUGGESTS THAT NO CHANGES – INCLUDING INSTALLING NEW  
12 LOOP FACILITIES – SHOULD BE PERMITTED. HE ALSO SUGGESTS THAT THE  
13 SAME UNE-P LOOP/PORT COMBINATION SHOULD BE USED TO PROVIDE VOICE  
14 SERVICE AND THAT ONLY A NEW BILLING ARRANGEMENT IS NEEDED. DO  
15 YOU AGREE?

16

17 A. I do not. I have explained the problem in my previous answer. Mr. Gillan obviously has no  
18 understanding of how our systems work in this regard. If he would just stop and think about  
19 the confusion that would result when a FastAccess customer called to report a problem, only  
20 to be told that BellSouth had no record of the customer existing based the customer's  
21 telephone number, he ought to appreciate the problem with his position. I guess his answer  
22 would be that BellSouth ought to be required to totally revamp its systems so that it can  
23 provide its wholly unregulated service to his ALEC clients so that his ALEC clients wouldn't  
24 be required to actually spend their money and resources to provide services to their clients.  
25 That doesn't strike me as a "competitive" approach to the provision of local telephone

1 service. Likewise, Mr. Gillan ignores that the ALEC owns all features and functionalities of  
2 the UNE loop or UNE-P and that BellSouth has no authority to maintain its service without  
3 ALEC agreement on the unbundled network elements. What happens if the ALEC customer  
4 wants FastAccess, but the ALEC decides that it won't make the spectrum available to  
5 BellSouth, or, even more likely, that it would like to charge BellSouth the proverbial arm and  
6 a leg for access to the spectrum to provide an unregulated service to the ALEC's subscriber  
7 that BellSouth doesn't want to provide in the first instance.

8

9 Q. WOULD STANDALONE FASTACCESS SERVICE BE "SEAMLESS" AS  
10 CONTEMPLATED BY THIS COMMISSION?

11

12 A. Yes. Mr. Gillan disregards that this Commission recognized that even with a "seamless"  
13 transition a momentary disruption of FastAccess and voice services could occur. BellSouth's  
14 provision of standalone FastAccess would not disrupt the broadband service and would only  
15 momentarily change the voice service at such time as the voice service is switched to the  
16 UNE loop or UNE-P loop. This momentary disruption would occur anyway as anytime a  
17 voice service is switched to a UNE loop or a UNE-P loop there is a temporary disruption of  
18 service. To illustrate the process, I have attached as Exhibit EF-1 a synopsis of the items that  
19 have been agreed upon between BellSouth and FDN to comply with the terms of this  
20 Commission order in Docket No. 010098-TP. There are additional issues the parties have  
21 not agreed upon.

22

23 Q. WILL FASTACCESS CONTINUE TO BE PROVIDED IF THERE ARE NOT  
24 SUFFICIENT FACILITIES AVAILABLE TO SWITCH VOICE SERVICE TO A UNE-  
25 LOOP OR A UNE-P LOOP?

1 A. No, however BellSouth anticipates that facilities will not be available less than five percent  
2 of the time. Moreover, the terms and conditions of BellSouth's FastAccess service clearly  
3 state that BellSouth's ability to provide service is contingent upon available facilities.

4

5 Q. MR. GILLAN ACKNOWLEDGES THAT "A NEW BILLING ARRANGEMENT WITH  
6 THE CUSTOMER FOR ITS FASTACCESS SERVICE" WOULD NEED TO BE  
7 ESTABLISHED (P.14). DO YOU AGREE?

8

9 A. Yes. As I explained in my direct testimony, BellSouth bills most FastAccess customer  
10 through the telephone bill they receive. In order to continue to provide FastAccess,  
11 BellSouth would need to be able to bill FastAccess customers by credit card, which is  
12 consistent with the manner in which BellSouth currently bills FastAccess customers served  
13 over resold voice lines and is consistent with the manner in which other Internet Service  
14 Providers bill customers for broadband services today.

15

16 **Issue 6(b): If the Commission orders BellSouth to provide its FastAccess service to any**  
17 **ALEC end user that requests it, where feasible, then what rates, terms and conditions**  
18 **should apply?**

19

20 Q. MR. GILLAN SUGGESTS THAT BELL SOUTH SHOULD BE REQUIRED TO PROVIDE  
21 FASTACCESS TO ANY ALEC END USER (SERVED BY UNE-P) UNDER THE SAME  
22 TERMS, CONDITIONS, AND PRICES." HOW DO YOU RESPOND?

23

24 A. Mr. Gillan's suggestion would require BellSouth – and BellSouth alone – to provide a service  
25 planned and implemented as an overlay service – to any and all ALEC end user customers

1 without exception. Mr. Gillan's suggestion excuses ALECs from any responsibility to  
2 develop broadband service of their own. This is hardly competition in any sense of the word.  
3 Mr. Gillan's suggestion also would impose on BellSouth an obligation to pass on discounts  
4 that are offered only to customers that elect certain bundles of services. To be required to  
5 pass on such discounts reverses the current trend and business model of bundling – a trend  
6 that MCI for example is aggressively touting through offerings such as the Neighborhood  
7 plan. Mr. Gillan's position would not only impose an additional obligation on BellSouth to  
8 provide an unregulated information service, he also suggests that discounts that apply to  
9 bundled offerings should be extended to ALECs end users in direct contravention of the  
10 terms and conditions of the bundled offerings. This Commission should forcefully reject  
11 such a position.

12

13 Q. HOW DOES MR. GILLAN'S POSITION ADDRESS THE COSTS BELLSOUTH WOULD  
14 INCUR TO COMPLY WITH SUCH AN ORDER?

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16 A. Mr. Gillan completely ignores the costs that BellSouth would incur to comply with such an  
17 order. While BellSouth has only preliminary cost estimates at this time, when BellSouth  
18 estimated the costs that would be involved to provide FastAccess service over a UNE loop or  
19 over a UNE-P loop the range was several million dollars for UNE-P customers and tens of  
20 millions of dollars for UNE loop customers. Attached as Exhibit EF-2 is a chart that reflects  
21 BellSouth's estimates of the costs and time required to provide FastAccess service over a  
22 UNE loop or over a UNE-P loop. In addition to the operational issues and tariff violation I  
23 have previously outlined, the preliminary cost estimates also support BellSouth providing  
24 FastAccess (when required to do so) on a standalone basis. BellSouth incurs costs on a  
25 standalone basis also, which BellSouth estimates to be a minimum of \$150 per standalone

1 loop. BellSouth anticipates that incurring such costs on an individual standalone basis is  
2 more cost effective than spending the millions of dollars that would otherwise be required to  
3 provide FastAccess over existing UNE loops or UNE-P loops.

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5 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

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7 A. Yes.

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**EXHIBIT EF-1**  
**OVERVIEW OF AGREED UPON CONTRACTUAL TERMS**

1. BellSouth may provision the FastAccess or the new UNE voice service on a separate facility.
2. BellSouth may use a SPOC (single point of contact) to be determined to determine if end user has FastAccess, to discuss the terms of maintaining such service, and to shepherd the order.
3. Florida Digital Networks will also assign a SPOC to manage orders on their side.
4. The transfer of service from one facility to another shall be seamless and transparent for the end user such that there shall be no more than a momentary disruption of service.
5. BellSouth may elect to maintain FastAccess service on the same loop such that the FastAccess service is not altered when the end user switches to FDN voice service. The FDN service will then be put on a new, separate facility.
6. In the event BellSouth chooses to provision FastAccess on the same loop as the voice loop, FDN will allow BellSouth to use the high frequency portion of this loop in the above case and will not charge BellSouth for use of this spectrum.
7. FDN will forward end user information as necessary for BellSouth to perform its obligations to continue FastAccess service.
8. In the event BellSouth chooses to provision FastAccess on the same loop as the voice loop, FDN will authorize BellSouth to access the UNE loop for testing purposes.

