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BELLSOUTH TELECOMMUNICATIONS, INC.
REBUTTAL TESTIMONY OF JOHN A. RUSCILLI
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 030137-TP
JUNE 25, 2003

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

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

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

A. Yes, I filed direct testimony in this proceeding on May 19, 2003.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to rebut portions of the direct testimony of ITC^DeltaCom ("DeltaCom") witnesses Mary Conquest, Steve Brownworth, Jerry Watts and Don Wood filed in this proceeding on May 19, 2003. Due to continued negotiations between the parties, DeltaCom and BellSouth have

1 reached agreement on several additional issues. Issues resolved since my
2 direct testimony was filed on May 19, 2003 are Issue Nos. 24, 27, 39-42, 51,
3 53(b), 54-55 and 65(b). Should these issues not be resolved, BellSouth
4 reserves its right to file supplemental testimony.

5

6 ***Issue 1: Term of the Agreement (GTC – Section 2.1; 2.3-2.6)***

7 ***(a) Should the new interconnection agreement provide that the parties***
8 ***continue to operate under that Agreement or under BellSouth’s Standard***
9 ***Interconnection Agreement pending the determination of the***
10 ***Commission’s ruling in any future arbitration?***

11 ***(b) What should be the length of the term of the agreement resulting from***
12 ***this arbitration?***

13

14 Q. DOES THE FACT THAT THE NEW AGREEMENT BECOMES
15 EFFECTIVE ON THE DATE THAT IT IS SIGNED BY THE PARTIES
16 ALLEVIATE MR. WATTS’ CLAIMS (PAGES 9-11) THAT A THREE-
17 YEAR CONTRACT IS INEFFICIENT?

18

19 A. Yes. Mr. Watts’ concern that “the timing of regulatory orders and on-going
20 disputes between the parties” (page 10) would cause the term of the agreement
21 to be shorted is without merit. As discussed above, under BellSouth’s
22 proposed language, the three-year term would not begin until *after* the new
23 agreement is executed by the parties, which would be after the issuance of the
24 Commission’s ruling in this proceeding. Any delays in the issuance of the
25 final ruling would not impact the term of the agreement.

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Issue 25: Provision of ADSL where DeltaCom is the UNE-P Local Provider (Attachment 2 – Section 8.4): Should BellSouth continue providing the end-user ADSL service where DeltaCom provides UNE-P local service to that same end-user on the same line?

Q. DELTACOM’S WITNESS MARY CONQUEST ALLEGES THAT BELLSOUTH’S DSL POLICY CONSTITUTES AN ANTI-COMPETITIVE TYING ARRANGEMENT (PAGES 6-8). PLEASE RESPOND.

A. First, as I explained in my direct testimony, the FCC has rejected arguments that BellSouth’s DSL policy is anticompetitive, including the argument that BellSouth’s DSL policy constitutes an unlawful tying arrangement. Beyond that, DeltaCom’s claim that BellSouth’s policy of discontinuing its ADSL service to customers who migrate to CLECs for voice service constitutes a tying arrangement makes no sense. As I understand it, tying is a form of monopoly leveraging in which market power in one market (A) is leveraged to give competitive advantage in a more competitive market (B). Generally, a tying arrangement is an agreement by a party to sell one product but only on the condition that the buyer also purchases a different (or tied) product, or at least agrees that he will not purchase that product from any other supplier. The mechanics are simple: a monopoly supplier of a less competitive service, service A, refuses to supply that service by itself and requires customers to also purchase service B, for which it faces more competition.

1 What DeltaCom is arguing is just the opposite: it is arguing that BellSouth is
2 requiring customers of its more competitive service (DSL) to also purchase its
3 less competitive service (basic exchange voice service). This is the opposite of
4 an anti-competitive tying arrangement. Given the definition of tying and the
5 realities of the broadband market (that customers have multiple choices for
6 broadband service providers), a tying argument makes no sense in this
7 instance.

8

9 Q. YOU MENTIONED THAT CUSTOMERS HAVE MULTIPLE CHOICES
10 FOR BROADBAND SERVICE PROVIDERS. CAN YOU PROVIDE ANY
11 SUPPORT FOR THAT STATEMENT?

12

13 A. Yes. In addition to BellSouth, customers have a choice among DSL providers.
14 For example, MCI recently began offering DSL service to its UNE-P
15 customers. As reflected on its website (mci.com), MCI offers customers
16 “Neighborhood HiSpeed,” which utilizes DSL technology and is designed for
17 customers “who want unlimited local, long distance calling and high speed
18 Internet access, plus 5 features – for one low monthly price on one bill.”

19

20 Furthermore, DSL technology is *not* the only technology that supports the
21 provision of broadband data services to consumers. Instead, it is merely one
22 such technology. Other technologies that support the provision of broadband

1 data services to end users include wireless, cable modem, and satellite.¹
2 Moreover, DSL is not even the leading technology that supports the provision
3 of broadband data services to consumers. As the FCC has noted, cable modem
4 technology -- not DSL -- is leading the way in the provision of broadband
5 service to consumers. In February 2002, for instance, the FCC stated that "[i]n
6 the broadband arena, the competition between cable and telephone companies
7 is particularly pronounced, *with cable modem platforms enjoying an early lead*
8 *in deployment.*"² An end user who wants broadband services, therefore, can
9 choose among many different technologies and many different service
10 providers.

11

12 Q. MS. CONQUEST ALLEGES ON PAGE 6 THAT BELL SOUTH'S DSL
13 POLICY FORCES A COMPETITOR TO ENTER TWO MARKETS. IS
14 THAT A VALID COMPLAINT?

15

16 A. No. BellSouth is not forcing DeltaCom to provide its own service for DSL and
17 voice service. If DeltaCom wants to serve voice customers who desire DSL
18 service, it can resell BellSouth's voice service with BellSouth FastAccess
19 service, it can purchase DSL from another data provider, or it can provide DSL

¹ See *In the Matter of Inquiry concerning High-Speed access to the Internet over Cable and Other Facilities*, FCC Order No. 0-355 at ¶43 (September 28, 2000) ("High-speed services are provided using a variety of public and private networks that rely on different network architectures and transmission paths including wireline, wireless, satellite, broadcast, and unlicensed spectrum technologies.").

² Third Report, *In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, FCC Order No. 02-33 at ¶37 (February 6, 2002)(emphasis added).

1 service itself. Thus, DeltaCom has several options available from which to
2 choose.

3

4 Q. MS. CONQUEST STATES AT P. 7 THAT "TYING ARRANGEMENTS
5 ALLOW A MONOPOLY TO "CHERRY PICK" THE MOST ATTRACTIVE
6 CUSTOMERS FROM THE MASS MARKET." IS THAT TRUE?

7

8 A. No. First, as explained above, BellSouth's DSL policy is not an anti-
9 competitive tying arrangement. Second, as of April 2003, BellSouth makes its
10 DSL service available in 191 central offices out of a total of 197 central offices
11 in Florida, or available in 97 percent of BellSouth's Florida central offices.
12 However, to date, approximately 6 percent of BellSouth Florida residential and
13 business customers subscribe to BellSouth FastAccess service. If anyone is to
14 be accused of "cherry picking", it should be DeltaCom. There are 94 percent
15 of BellSouth's Florida customers who do not currently subscribe to
16 BellSouth's FastAccess service; however, DeltaCom insists that it is
17 disadvantaged if it cannot target the small percent of BellSouth's customers
18 who are current DSL subscribers.

19

20 Q. ON PAGE 7, MS. CONQUEST STATES THAT BELLSOUTH'S DSL
21 POLICY "PREVENTS CONSUMERS FROM OBTAINING THE VOICE
22 PROVIDER OF THEIR OWN CHOOSING." DO YOU AGREE?

23

24 A. Certainly not. There are nearly 150 CLECs providing service to approximately
25 1,433,000 lines, or 20 percent of the total lines in Florida (nearly 13 percent

1 residential and 33 percent business). As this Commission and the FCC found
2 in BellSouth's 271 proceedings, there is undisputed evidence of local service
3 competition in Florida. Further, if DeltaCom chooses not to provide DSL
4 service itself, by reselling BellSouth's DSL service, or by purchasing DSL
5 service from a data provider, the customer can purchase DSL service from a
6 number of cable providers. To state that BellSouth's policy prevents a
7 customer's choice of local service provider is definitely not true.

8

9 Q. ON PAGE 8, MS. CONQUEST CITES TWO COMMISSIONS (LOUISIANA
10 AND KENTUCKY) THAT HAVE RULED AGAINST BELLSOUTH ON
11 THIS ISSUE. PLEASE RESPOND.

12

13 A. In Docket No. R-26173, the Louisiana Public Service Commission ("LPSC")
14 issued its order on April 4, 2003, clarifying its January 24, 2003 Order. The
15 LPSC orders require BellSouth to continue to provide wholesale and retail
16 DSL service to customers who migrate to a CLEC for voice service over UNE-
17 P. Where a customer of a CLEC subsequently chooses to receive BellSouth's
18 wholesale or retail DSL service, BellSouth must provide the service.
19 However, pursuant to the order, BellSouth filed a proposal on May 1, 2003 to
20 offer BellSouth's DSL service in such an instance over a separate line. On
21 May 16, 2003, BellSouth filed an appeal of the LPSC's order in the U.S.
22 District Court.

23

24 The Kentucky Public Service Commission ("KPSC") issued orders in the
25 Cinergy Arbitration Case No. 2001-432 as follows: July 12, 2002 (Arbitration

1 Decision) and April 28, 2003 (Order Approving Agreement Language).
2 BellSouth is required to provide wholesale DSL transport service (*not retail*
3 *FastAccess*) to a Network Service Provider (“NSP”) who serves, or desires to
4 serve, an end-user that receives UNE-P based voice services from Cinergy.
5 This requirement is not limited to migrating customers. On May 9, 2003,
6 BellSouth filed an appeal of the KPSC’s Cinergy orders in the U.S. District
7 Court.

8
9 Further, this Commission has issued two orders, both different from the
10 Kentucky and Louisiana orders discussed above. In the Florida FDN
11 Arbitration (Docket No. 010098-TP) the FPSC required BellSouth to continue
12 providing its retail BellSouth FastAccess® Service (“Fast Access”) for
13 customers who migrate to CLECs for voice service over UNE loops.
14 BellSouth’s Agreement Language, accepted by FDN, allows BellSouth to
15 provide FastAccess over a separate stand-alone loop, installed on the
16 customer’s premises. In the Supra Arbitration (Docket No. 001305-TP), the
17 FPSC ordered BellSouth to continue to provide its FastAccess service to a
18 customer migrating to Supra’s voice service over UNE-P. BellSouth has
19 appealed that order to the United States District Court. In addition, Supra has
20 filed a Complaint with the FPSC regarding BellSouth’s compliance with the
21 FPSC orders using a separate stand-alone loop (as in FDN); that complaint is
22 pending before the FPSC.

23
24 Q. HAVE ANY COMMISSIONS IN BELLSOUTH’S REGION FOUND IN
25 FAVOR OF BELLSOUTH ON THIS ISSUE?

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A. Yes. There are two states that have addressed this issue and have ruled that BellSouth is not required to provide DSL service to an end user receiving voice service from a CLEC: (1) The North Carolina Utilities Commission (“NCUC”) considered this issue in BellSouth’s 271 case. In the NCUC’s Consultative Opinion to the FCC in BellSouth’s 271 Application for Alabama, Kentucky, Mississippi, North Carolina and South Carolina, WC Docket No. 01-150, filed July 9, 2002, at p. 204, it found: “[T]he incumbent LEC has no obligation to provide DSL service over the competitive LEC’s leased facilities.” (2) The South Carolina Public Service Commission (“SCPSC”) issued an Order in Docket No. 2001-19-C on April 3, 2001 in the IDS Arbitration case, which stated (at page 29):

Clearly, the FCC has not required an incumbent LEC to provide xDSL service to a particular end user when the incumbent LEC is no longer providing voice service to that end user. IDS’s contention that this practice is anticompetitive is therefore not persuasive when BellSouth is acting in accordance with the express language of the FCC’s most recent Order on the subject.

Q. ON PAGE 9, MS. CONQUEST STATES THAT BELLSOUTH’S POLICY HAS IMPACTED DELTACOM’S CUSTOMERS. PLEASE RESPOND.

A. First, the evidence that Ms. Conquest provides is a letter sent from BellSouth to DeltaCom in June 2001, regarding the accidental provisioning of DSL on DeltaCom’s UNE-P lines. It is interesting to note that there were only 14 DeltaCom customers throughout BellSouth’s region in 2001 who were

1 impacted by BellSouth's notice to disconnect DSL service, and none of those
2 DeltaCom customers were in Florida.

3
4 Secondly, it is not solely BellSouth's policy that results in customer impact.
5 Indeed, it is DeltaCom's policy of not providing DSL service (either its own or
6 from another DSL provider), in spite of the variety of choices available that
7 results in this type of customer impact.

8
9 BellSouth's approach is simply to offer a customer an overlay DSL service to
10 meet that customer's voice and broadband needs. Customers choose products
11 and providers based on the best fit for their needs. It seems that Ms. Conquest
12 feels that any competitor that offers a better product is trying to keep the
13 market for itself. A more appropriate view is that providers of products in a
14 free marketplace should be able to differentiate their offerings to encourage
15 customers to buy them.

16
17 As an example, Cadillac is known for its luxury. Mercedes-Benz is known for
18 its reliability and durability. Volkswagen is known for its lower price and fuel
19 efficiency. Customers would probably prefer to have a car built with the
20 durability of a Benz, the luxurious appointments of a Cadillac, at a
21 Volkswagen price and fuel economy. However, to my knowledge, such a
22 vehicle does not exist; so customers must make choices that best fit their
23 needs. The same is true in the telecommunications market in Florida.
24 DeltaCom offers its own variety of local, long distance, and enhanced services.
25 DeltaCom's service area includes service in at least three states beyond

1 BellSouth's territory. BellSouth and DeltaCom both differentiate their service
2 offerings to appeal to the customer markets in their targeted territories.
3 BellSouth currently offers its customers the opportunity to purchase
4 FastAccess as an overlay to voice service (regardless of whether the voice
5 provider is BellSouth or a CLEC reselling BellSouth's local exchange service).

6
7 Consumers can choose which arrangement best suits their needs. For some
8 consumers, it appears that DeltaCom's packages of services are more
9 attractive. For other customers, BellSouth's FastAccess may be more
10 important. This is consistent with free market choice, and there is nothing evil
11 in allowing customers to have different choices. In DeltaCom's world of
12 competition, if BellSouth develops a better product or service for consumers,
13 BellSouth must make that choice available for all consumers, including those
14 served by BellSouth's competitors. In a sense, DeltaCom is recommending
15 that all telecommunications services are commodity products provided by and
16 subsidized by BellSouth that should be available to all players, except that
17 DeltaCom gets to provide the product only to the customers it chooses to serve
18 at the most profitable levels.

19
20 *Issue 47: Should BellSouth be required to Compensate ITC^DeltaCom when*
21 *BellSouth collocates in ITC^DeltaCom collocation space? If so, should the*
22 *same rates, terms and conditions apply to BellSouth that BellSouth applies to*
23 *DeltaCom?*

24
25 Q. ON PAGES 40-41 OF DELTACOM WITNESS BROWNORTH'S

1 PREFILED TESTIMONY, MR. BROWNORTH STATES THAT THIS
2 WAS AN ISSUE IN DELTACOM’S LAST ARBITRATION WITH
3 BELLSOUTH AND THAT “BELLSOUTH AGREED TO OPERATE
4 UNDER THE SAME RATES, TERMS AND CONDITIONS WHEN
5 BELLSOUTH USED ITC^DELTACOM SPACE.” IS THIS STATEMENT
6 CORRECT?

7
8 A. Yes. In Florida Docket No. 990750-TP, which was the last arbitration between
9 BellSouth and DeltaCom, BellSouth did sign a collocation agreement with
10 DeltaCom to settle this issue. BellSouth did so because it believed there to be
11 no harm in signing an agreement, since BellSouth had no intention of electing
12 to collocate its equipment, as this term is defined by the Act, in a DeltaCom
13 central office for the purposes of interconnection or access to UNEs.³
14 Therefore, BellSouth believed that it would suffer no harm in its signing of this
15 agreement.

16
17 BellSouth has not collocated its equipment at a DeltaCom Point of Presence
18 (“POP”) location or any other location for the sole purpose of interconnecting
19 with DeltaCom’s network or accessing Unbundled Network Elements
20 (“UNEs”) in the provision of a telecommunications service to the end users
21 located in DeltaCom’s franchised serving area; nor does BellSouth intend to do

³ The Telecommunications Act of 1996 defines the term “collocation” in Section 251, Interconnection, Section (c) (6) as: “The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State Commission that physical collocation is not practical for technical reasons or because of space limitations.”

1 so.

2

3 What BellSouth has actually installed at various POPs in Florida is equipment
4 that is being used to provision Special and Switched Access Services ordered
5 by DeltaCom and/or DeltaCom's end user customers at various POP locations.

6 This equipment provides DeltaCom with dedicated LightGate® services and
7 base-line services at these POP locations, which are then used by DeltaCom to
8 provide its end users with particular services. This equipment is not being
9 used for collocation purposes. In addition to this equipment, BellSouth has
10 installed additional equipment in certain locations which utilize excess
11 capacity on existing BellSouth terminals to exchange local traffic with
12 DeltaCom.

13

14 Q. WHAT IS BELLSOUTH'S PROPOSAL TO DELTACOM ON THIS ISSUE?

15

16 A. For any POPs or other DeltaCom locations that are established after the
17 effective date of the new interconnection agreement ("future sites"), BellSouth
18 will agree to pay mutually negotiated collocation charges for BellSouth
19 equipment located and used solely for the purposes of delivery of BellSouth's
20 originated local interconnection traffic if BellSouth voluntarily requests to
21 place a POI for BellSouth's originated local interconnection traffic (reciprocal
22 traffic) in a particular POP or other DeltaCom location. However, currently
23 existing POPs and any other locations in which BellSouth has placed
24 equipment, including any augments to the equipment already placed at these
25 sites, would continue to be grandfathered and exempt from any present and

1 future collocation charges and other requirements.

2

3 If DeltaCom requests that the DeltaCom POP or another location be designated
4 as the POI for DeltaCom's originating traffic and where BellSouth must place
5 equipment in order to receive this traffic, the POP or other location will NOT
6 be deemed to be a location at which BellSouth has voluntarily chosen to place
7 a POI for BellSouth's originated local interconnection traffic and BellSouth
8 will not agree to compensate DeltaCom for such collocation. Further, if
9 DeltaCom chooses the POI for both Parties' originated traffic and DeltaCom
10 chooses to have the POI for BellSouth's originated traffic at a DeltaCom POP
11 or other location, then such POP or other location will NOT be deemed as a
12 location at which BellSouth has voluntarily chosen to place a POI for
13 BellSouth's originated local interconnection traffic and BellSouth will not
14 agree to compensate DeltaCom for such collocation.

15

16 ***Issue 60: Deposits (Attachment 7 - Section 1.11):***

17 ***(a) Should the deposit language be reciprocal?***

18 ***(b) Must a party return a deposit after generating a good payment history?***

19

20 Q. MR. WATTS, ON PAGES 32-36, ARGUES THAT BELLSOUTH IS
21 UNJUSTIFIED IN MAINTAINING DELTACOM'S DEPOSIT IN THE
22 EVENT OF GOOD PAYMENT HISTORY BECAUSE "BELLSOUTH
23 FACES VERY LOW AGGREGATE FINANCIAL RISK FROM ITS
24 OBLIGATION TO PROVIDE WHOLESAL SERVICE – ESPECIALLY
25 WHEN COMPARED WITH TELECOMMUNICATIONS SERVICE

1 PROVIDERS WITH LESS MARKET POWER.” WHAT IS YOUR
2 RESPONSE?

3

4 A. Over the last 2 years BellSouth has had a number of very large customers that
5 were paying current up until the day they filed bankruptcy. Payment history is
6 an indication of how a customer performed in the past and not how it will
7 perform in the future. A compilation of data including how the debtor pays
8 other suppliers, management history, company history, financial information,
9 bond rating, (indicates the companies ability to obtain financing), all help paint
10 a picture of how a company will perform in the future. In the event a CLEC
11 fails to pay (after maintaining a good payment history or otherwise) BellSouth
12 is faced with a lengthy process prior to disconnection of the service. In
13 addition to the month for which the CLEC did not pay, BellSouth may be
14 required to provide an additional month (or more) of service while notices are
15 being given and the disconnection process is taking place, resulting in more
16 than two months of outstanding debt, even if the CLEC has paid timely prior to
17 that point.

18

19 Q. ON PAGE 33, MR. WATTS DESCRIBES BELLSOUTH’S
20 UNCOLLECTIBLE PERCENTS FOR 2000 AND 2001 AS “EXTREMELY
21 LOW.” PLEASE COMMENT.

22

23 A. Mr. Watts uses the year 2000 and 2001 ARMIS data from BellSouth
24 Telecommunications’ (BST’s) 43-04 Report to argue that BellSouth has
25 “exaggerated its exposure from its obligation to wholesale services as a

1 common carrier.” However, the 2000 and 2001 data do not display the full
 2 extent of the economic downturn. When the 2002 ARMIS data is added to the
 3 comparison, it shows a dramatic increase over the 2001 uncollectibles levels,
 4 as shown in the table below:

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BST Interstate Special Access Uncollectibles Ratios
ARMIS Report 43-04

(\$000)	2002	2001	2000
Interstate Special Access Revenue	\$2,005,943	\$1,831,143	\$1,217,326
Interstate Special Access Uncollectibles	\$52,025	\$11,416	\$1,578
Uncollectible Ratio	2.59%	0.62%	0.13%

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BST Total Interstate Access Uncollectibles Ratios
ARMIS Report 43-04

(\$000)	2002	2001	2000
Interstate Network Access Revenue	\$4,537,767	\$4,491,131	\$4,086,188
Interstate Access Uncollectibles	\$ 107,623	\$67,982	\$31,189
Uncollectible Ratio	2.37%	1.51%	0.76%

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 12
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BST Total Regulated Uncollectibles Ratios
ARMIS Report 43-03

(\$000)	2002	2001	2000
Total Regulated Revenue	\$16,888,867	\$17,616,004	\$16,965,995
Total Regulated Uncollectibles	\$377,812	\$322,578	\$159,381
Uncollectible Ratio	2.24%	1.83%	0.94%

14

1 Furthermore, even looking at an additional year of uncollectibles does not
2 show the whole picture. In addition to uncollectibles reported in ARMIS for
3 2002, BellSouth recognized as revenue reductions \$231.8 million related to
4 certain customer specific receivables for which collectibility was not
5 reasonably assured.

6

7 Q. FURTHER, ON PAGE 36, MR. WATTS STATES, "IT IS COMPELLING
8 THAT THE FCC CONSIDERED AND REJECTED SIMILAR REQUESTS
9 FROM BELLSOUTH ONLY FIVE MONTHS AGO." PLEASE COMMENT.

10

11 A. Mr. Watts cites the FCC's Policy Statement *In the Matter of Verizon Petition*
12 *for Emergency Declaratory and Other Relief*, WC Docket No. 02-202, *Policy*
13 *Statement*, Rel. December 23, 2002. Verizon filed specific revisions to its
14 interstate access tariffs seeking to broaden its discretion to require security
15 deposits and advance payments, and to shorten the notice period required
16 before it may take action against customers who are not paying their interstate
17 access bills on time. The FCC concluded (p. 14),

18

19 *We do not believe that broadly crafted measures applicable*
20 *to all customers, such as additional deposits, are necessary*
21 *to strike the balance between the interests of incumbent*
22 *LECs and their customers. ... We believe that narrower*
23 *protections such as accelerated and advanced billing*
24 *would be more likely to satisfy statutory standards.*

25

26 Therefore, although the FCC did not agree to the "broadly crafted" tariff
27 changes requested by Verizon and other ILECs, it recognized that narrower

1 protections, including shortened intervals for discontinuance of service may be
2 appropriate. The problem is that, from experience negotiating with CLECs,
3 they want more time, not less time; so, that would not help protect the ILECs,
4 even though the FCC may approve such a provision in an FCC tariff.

5

6 ***Issue 62: Limitation on Back Billing (Attachment 7 – Section 3.5): Should there be***
7 ***a limit on the parties' ability to back-bill for undercharges? If so, what***
8 ***should be the time limit?***

9

10 Q. PLEASE COMMENT ON DELTACOM'S PROPOSAL ON PAGE 39 OF
11 MR. WATTS' TESTIMONY THAT BACK BILLING BE LIMITED TO 90
12 DAYS.

13

14 A. DeltaCom's proposal is nonsensical and impractical. Due to the complexity of
15 BellSouth's billing systems, 90 days is not a sufficient amount of time for the
16 retrieval of billing data and records and any system programming to
17 substantiate and support the back billing of under billed charges. While
18 BellSouth strives to bill incurred charges in a timely manner, it should not be
19 forced to limit back billing to 90 days.

20

21 Q. MR. WATTS, AT PAGES 39-40, CLAIMS THAT BELLSOUTH'S
22 BACKBILLING OF DUF RECORDS UP TO THREE YEARS HAS
23 JEOPARDIZED DELTACOM'S ABILITY TO COMPETE. WHAT IS
24 YOUR RESPONSE?

25

1 A. In the case of DUF records, BellSouth has been providing DeltaCom with
2 ADUF records for the last three years, but did not bill the per ADUF record
3 charge as set forth in their Interconnection Agreement for the period February
4 2000 to November 2001. DeltaCom, therefore, has had the records necessary
5 to bill other carriers for the originating and terminating messages reported by
6 ADUF. If DeltaCom has not billed the other carriers, that is not BellSouth's
7 fault. As a matter of fact, DeltaCom has either billed, or has had the
8 opportunity to bill, the other carriers for three years without having to pay
9 BellSouth for providing the ADUF records.

10

11 *Issue 64: ADUF: What terms and conditions should apply to the provision of*
12 *ADUF records?*

13

14 Q. WHAT IS ADUF?

15

16 A. ADUF stands for Access Daily Usage File.

17

18 Q. HOW DOES A CLEC USE AN ADUF?

19

20 A. ADUF provides the CLEC with records for billing interstate and intrastate
21 access charges. ADUF records enable DeltaCom to bill other carriers for
22 originating and terminating IXC messages and terminating messages from
23 facility-based CLECs, ICOs and wireless carriers.

24

1 Q. ON PAGE 9, MS. CONQUEST CONTENDS THAT DELTACOM SHOULD
2 NOT BE BILLED FOR ADUF RECORDS ASSOCIATED WITH LOCAL
3 CALLS. PLEASE DESCRIBE UNDER WHAT CIRCUMSTANCES
4 LOCAL CALLS WOULD BE INCLUDED IN ADUF RECORDS.

5
6 A. ADUF records will be generated in those circumstances when a DeltaCom end
7 user served by an unbundled port places a call using an access code (i.e.,
8 1010XXX) to an end user within the designated local calling area. In this
9 situation, the call is recorded as an access call - the location of the terminating
10 end user has no bearing on the generation of the record. Another example of
11 an ADUF record being generated is when a facility-based CLEC (or ICO or
12 wireless carrier) end user calls a DeltaCom end user served by an unbundled
13 port within the designated local calling area. Again, in this situation, the call is
14 recorded as an access call - the location of the terminating end user has no
15 bearing on the generation of the record. DeltaCom is asking BellSouth to
16 generate a custom report for it, excluding local calls and/or duplicate calls.
17 BellSouth does not agree to provide custom reports for each CLEC. The
18 reports are generated on the same basis for all CLECs, and are consistent with
19 such reports provided by other ILECs.

20
21 Q. DOES DELTACOM CLAIM THAT BELLSOUTH'S ADUF CONTAINS
22 RECORDS THAT ARE NOT BILLABLE?

23
24 A. Yes. BellSouth's understanding is that DeltaCom contends the ADUF records
25 that BellSouth is sending DeltaCom are not "billable". The ADUF records that

1 BellSouth provides are capable of being billed, provided DeltaCom has
2 established billing arrangements with these other carriers.

3

4 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

5

6 A. Yes.

7

8 DOCs # 490015