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July 16, 2004

Mrs. 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 Nos. 030851-TP and 030852-TP

Dear Ms. Bayó:

On July 7, 2004 a status conference took place in the above-listed dockets. During the conference call, staff and the parties discussed a series of questions, and BellSouth committed to provide additional information relating to those matters today. This letter contains BellSouth's responses to the questions discussed, which responses are italicized immediately following each question.

#### Background

On June 10, 2004, in a letter to FCC Chairman Powell, BellSouth committed that it will not "unilaterally increase the prices it charges for the mass market UNE-Platform or high-capacity loop or transport UNEs before January 1, 2005 for those carriers with current interconnection agreements."

On June 15, 2004, BellSouth posted a Carrier Notification Letter, SN91084128, in which it informed CLECs that it will continue to offer a transition plan for high capacity loops and transport and commits to provide no rate increases for existing facilities through December 31, 2004. The letter also states that this offer may be terminated at any time upon notice.

#### Questions

1. Under BellSouth's commitment, will it continue to accept and process UNE orders for unbundled local switching and unbundled high capacity loops and transport through December 31, 2004, for CLECs with existing interconnection agreements?

Mrs. Blanca S. Bayó

July 16, 2004

Page 2

*BellSouth's Response: Yes, unless the parties agree otherwise.*

1. (a) If an existing interconnection agreement is successfully amended through the change of law provisions prior to January 1, 2005, then will the amendment govern or BellSouth's June 10, 2004 commitment to the FCC?

*BellSouth's Response: BellSouth's commitment to the FCC was that it will not unilaterally raise rates for the mass market platform or for high capacity loop and transport UNEs through the end of the year for carriers with existing interconnection agreements. In the scenario outlined in the question, the amendment would govern the relationship between BellSouth and the carrier. However, BellSouth has available a commercial offer for switching, and a dark fiber, loop, and transport transition plan, both of which result in no increase in rates through the end of the year.*

1. (b) If a CLEC is newly certified and comes to BellSouth to execute an interconnection agreement, will BellSouth grant that CLEC the commitment contained in the June 10, 2004 letter to the FCC?

*BellSouth's Response: If the CLEC wishes to purchase switching functionality from BellSouth, it may do so through a commercial agreement. BellSouth's current commercial offer does not contain a price increase for mass market switching until January 1, 2005. The new interconnection agreement would not contain the network elements vacated by the Court's decision. High capacity loops and transport will be available to such CLECs pursuant to BellSouth's tariffs.*

1. (c) If a CLEC whose existing agreement has expired, but who is in negotiation with BellSouth, will BellSouth grant that CLEC the commitment contained in the June 10, 2004 letter to the FCC? What about if that CLEC is in arbitration with BellSouth on the new agreement?

*BellSouth's Response: Because BellSouth and the CLEC continue to operate under the terms of the expired agreement until a new agreement is reached, BellSouth will honor the rates, terms and conditions of expired or "due to be replaced" agreements until they are replaced with a new agreement. However, while the parties are operating under the terms of such agreement, the change of law provisions of the agreement are effective, and BellSouth will expect that the CLEC will honor those change of law provisions. BellSouth expects that any replacement agreement or amended agreement will not contain the elements vacated by the Court's decision, but the CLEC may take advantage of commercial agreements and transition plans BellSouth offers that will result in no rate increases to the CLEC for mass market switching and for the embedded base of high capacity loops and transports for the remainder of 2004 .*

2. Will BellSouth extend this offer until final FCC unbundling rules are released, thereby maintaining the status quo? If no, why not?

*BellSouth's Response: At this time, BellSouth does not anticipate extending this offer beyond the end of this year, because it does not believe an extension is needed. The FCC has indicated its intention to release permanent rules by year end. BellSouth will comply with any effective rules issued by the FCC.*

3. Under what circumstances does BellSouth envision that it might terminate its June 15 offer?

*BellSouth's Response: At this time, BellSouth does not anticipate terminating its offer and cannot predict with any accuracy what events would cause a change in its position.*

4. Is it still BellSouth's position that it will implement the USTA II decision through the change in law provisions in existing agreements?

*BellSouth's Response: Yes. BellSouth also incorporates its response to 4(a) below.*

4. (a) If BellSouth has a number of arbitrations resulting from the change of law negotiations, will BellSouth be moving to consolidate those arbitrations?

*BellSouth's Response: The change of law process contained in BellSouth's interconnection agreement does not contemplate an arbitration proceeding to resolve any dispute arising as a result of the negotiations concerning the change of law. The change of law process simply allows either party to petition the PSC for resolution of the issue in dispute. BellSouth is interested in resolving any dispute in an efficient and economic manner. Whether BellSouth would move to consolidate any proceedings is dependent upon the commonality of the issues and facts in the proceedings.*

5. Now that the DC mandate has been issued, are there any reasons that Docket Nos. 030851 & 030852 should not be closed?

*BellSouth's Response: Because the FCC may require factual information from state commissions in its proceedings, it may be premature to close Docket Nos. 030851 and 030852 at this time.*

Mrs. Blanca S. Bayó  
July 16, 2004  
Page 4

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,

*Nancy B. White (JAS)*

Nancy B. White

Enclosure

cc: All Parties of Record  
Marshall M. Criser III  
R. Douglas Lackey  
Meredith Mays

543868

**CERTIFICATE OF SERVICE**  
**Docket Nos. 030851-TP and 030852-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

Electronic Mail and U.S. Mail this 16<sup>th</sup> day of July 2004 to the following:

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