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February 17, 2005

BY ELECTRONIC FILING

Ms. Blanca Bayó, Director
The Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Petition and complaint of AT&T Communications of the Southern States, LLC for suspension and cancellation of Transit Traffic Service Tariff No. FL2004-284 filed by BellSouth Telecommunications, Inc.

Dear Ms. Bayó:

Enclosed for electronic filing is the Petition and Complaint of AT&T Communications of the Southern States, LLC for suspension and cancellation of Transit Traffic Service Tariff No. FL-2004-284 filed by BellSouth Telecommunications, Inc. Pursuant to the Commission's Electronic Filing Requirements, this version should be considered the official copy for purposes of the docket file.

Copies of this document will be served on all parties via electronic and U.S. Mail. If you have any questions, please do not hesitate to contact me at (850) 425-6360.

Thank you for your assistance with this filing.

Sincerely yours,

s/ Tracy W. Hatch

Tracy W. Hatch

TWH/scd
Attachment
cc: Nancy White
BellSouth Telecommunications, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Petition was furnished by U. S. Mail to the following this 17th day of February, 2005

Nancy B. White, Esq.
c/o Nancy Sims
BellSouth Telecommunications, Inc.
150 N. Monroe Street, Suite 400
Tallahassee, FL 32301

s/Tracy Hatch

Tracy Hatch, Esq.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition and Complaint of AT&T) Docket No.
Communications Of the Southern States, LLC)
for suspension and cancellation of Transit)
Traffic Service Tariff No. FL2004-284 filed)
by BellSouth Telecommunications, Inc.) Filed: February 17, 2005

PETITION AND COMPLAINT

AT&T Communications of the Southern States, LLC (AT&T), hereby files this Petition and Complaint against BellSouth Telecommunications, Inc. (BellSouth) seeking an immediate suspension and cancellation of BellSouth’s Tariff establishing a new rates, terms and conditions for the provision of Transit Traffic Service, Section A.16.1 of BellSouth’s General Subscriber Services Tariff. This Petition and Complaint is filed pursuant to Sections 364.01(4)(c), 364.01(4)(g), 364.01(4)(i), 364.051(5)(b), Florida Statutes, and Rules 25-22.036(2) and 28-106.201, Florida Administrative Code. In support of this petition AT&T states:

1. The name and address of the Petitioner is:

AT&T Communications of the Southern States, LLC
1230 Peachtree Street
4th Floor
Atlanta, Georgia 30309

2. All pleadings, documents, correspondence, notices, staff recommendations and orders filed, served or issued in this docket should be served on the following on behalf of Petitioner:

Tracy Hatch, Esq.
AT&T Communications of the Southern States, LLC
101 N. Monroe Street
Suite 700
Tallahassee, FL 32301

3. BellSouth Telecommunications, Inc. is an incumbent local exchange company certificated by the Commission to provide local exchange services in Florida. BellSouth's address for receiving communications from the Commission is:

Ms. Nancy H. Simms
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1556

4. AT&T is certificated by the Florida Public Service Commission in Florida as an Interexchange Carrier (IXC) and a Competitive Local Exchange Telecommunications Company (CLEC). AT&T is authorized to provide switched and non-switched local exchange and long distance services in Florida. AT&T provides long distance (*i.e.*, interexchange toll) services throughout Florida, including to customers who obtain their local service from BellSouth and/or who make calls to BellSouth's local exchange customers. AT&T also provides local exchange service in BellSouth's territory in Florida. AT&T's substantial interests are significantly affected by the anticompetitive provisions of BellSouth's Transit Traffic Service Tariff, A16.1, effective February 11, 2005 and attached hereto as Attachment A.

5. BellSouth is an incumbent local exchange company (ILEC). BellSouth provides, *inter alia*, facilities and services to competitive local exchange carriers (CLECs) and interexchange carriers (IXCs) to enable such competitive carriers to provide both local and long distance services. One of the services provided by BellSouth is Transit Traffic Service. In BellSouth's case, transit traffic occurs when a local call is originated by a CLEC or ILEC other than BellSouth, the call is terminated by another CLEC or ILEC other than BellSouth and BellSouth transports the call between the originating and terminating carriers.

6. Pursuant to Sections 251(a)(1) and 251(c)(2) of the Telecommunications Act of 1996 (the “Act”), BellSouth is obligated to provide for direct or indirect interconnection for the transmission and routing of telephone exchange or exchange access service. Transit traffic clearly falls within the confines of these obligations. Moreover, the transport of transit traffic must be offered at TELRIC rates pursuant to Section 252(d)(1) of the Act.

7. On January 27, 2005, BellSouth filed revisions to its Transit Traffic Services Tariff to dramatically increase the rate that BellSouth charges for transit traffic set forth in Section A16.1.3(a) to \$0.003 per minute of use (MOU). The tariff was effective February 11, 2005.

8. As a CLEC, AT&T must use Bellsouth’s transit services to interconnect with other local carriers. AT&T anticipates that BellSouth will use the Transit traffic tariff provisions to arbitrarily increase the amounts that CLECs must pay for any traffic that transits BellSouth’s network to terminate on a third party’s network or as the basis to impose the increased transit traffic rate as a “market rate” in CLEC’s interconnection agreements. Allowing BellSouth’s proposed tariff filing to go into effect without opportunity for hearing as to the appropriate rate level for this service sets a precedent without an evidentiary record as to the Commission’s policy on appropriate rates for transit traffic.

9. Under AT&T’s interconnection agreement with BellSouth in effect for Florida, BellSouth will provide a transit traffic function, which has an associated “transit” charge of \$0.0005767 per minute. The Commission pursuant to Section 252 of the Act has approved this interconnection agreement. BellSouth’s new tariffed rate for transit traffic service of \$0.003 represents more than a five hundred percent (500%) increase in the rate that AT&T can expect to pay if the tariff is allowed to continue in effect. On its face, an increase in the transit traffic rate

of the magnitude found in the transit traffic tariff is not consistent with the TELRIC pricing principals. Without any showing that such a price increase is warranted pursuant to a TELRIC cost study, the tariffed rate is clearly unfair and anticompetitive in violation of Sections 364.01(4)(c), 364.01(4)(g), 364.01(4)(i) and 364.051(5)(b) as well as Section 252(d) of the Act.

10. Sections 364.01(4)(c), (g) and (i) provide:

(4) The commission shall exercise its exclusive jurisdiction in order to:

(c) Protect the public health safety, and welfare by ensuring that monopoly services provided by telecommunications companies be subject to effective price, rate and service regulation.

(g) Ensure that all providers of telecommunication services are treated fairly, by preventing anticompetitive behavior and eliminating unnecessary regulatory restraint.

(i) Continue its historical role as a surrogate for competition for monopoly services provided by local exchange telecommunications companies.

Section 364.051(b) provides:

(b) The commission shall have continuing regulatory oversight of nonbasic services for purposed of ensuring resolution of service complaints, preventing cross-subsidization of nonbasic services with revenues from basic services, and ensuring that all providers are treated fairly in the telecommunications market. The cost standard for determining cross-subsidization is whether the total revenue from a nonbasic service is less than the total long-run incremental cost of the service Total long-run incremental cost means service-specific volume and nonvolume-sensitive costs.

11. BellSouth is effectively a monopoly provider of transit traffic service. BellSouth's use of its effective monopoly status to impose a substantial increase in the transit traffic tariffed rate is unjust, unreasonable, unfair, arbitrary and anticompetitive in violation of Sections 364.01(4)(c)(g) and (i) as well as 364.051(b).

12. AT&T anticipates that disputed issues of material fact will include, but not be limited to, BellSouth's disagreement with some or all of Petitioners' contentions set forth in this Petition.

WHEREFORE, Petitioners respectfully request that the Commission:

- A. Immediately suspend BellSouth's Transit Traffic Service Tariff, Section A16.1 of BellSouth's General Subscriber Services Tariff filed January 27, 2005;
- B. Schedule and conduct an expedited review/hearing to address disputed issues of fact and law regarding the Tariff pursuant to Sections 120.569 and 120.57(1), Florida Statutes;
- C. Enter a final order denying and canceling the Tariff; and
- D. Grant such further relief as the Commission may deem appropriate.

RESPECTFULLY submitted this 17th day of February, 2005.

s/Tracy Hatch

Tracy Hatch, Esq.
AT&T Communications of the Southern States, LLC
101 N. Monroe Street
Suite 700
Tallahassee, FL 32301

BELLSOUTH
TELECOMMUNICATIONS, INC.
FLORIDA

GENERAL SUBSCRIBER SERVICE TARIFF

First Revised Page 1
Cancels Original Page 1

ISSUED: January 27, 2005

EFFECTIVE: February 11, 2005

BY: Joseph P. Lacher, President -FL
Miami, Florida

DE A16. TELECOMMUNICATIONS SERVICE PROVIDER SERVICES

A16.1 Transit Traffic Service

A16.1.1 Terms and Definitions

- A. Telecommunications Service Provider - a provider of local and/or access telecommunications service who is legally certified to provide service within the state of Florida, or is licensed by the Federal Communications Commission (FCC) to provide Commercial Mobile Radio Service (CMRS). For purposes of this tariff, this definition includes, but is not limited to, CMRS providers, Competitive Local Exchange Carriers (CLECs) and Independent Telephone Companies (ICOs).** (N)
- B. Transit Traffic – Local Traffic originating on one Telecommunications Service Provider’s network that is delivered by BellSouth to a different Telecommunications Service Provider’s network for termination.** (N)
- C. Transit Traffic Service – BellSouth’s provision of the functions to allow a Telecommunications Service Provider to send and receive Transit Traffic.** (N)
- D. Local Traffic – for purposes of this tariff;** (N)
- 1. For wireline-to-wireline traffic, Local Traffic is any intraLATA circuit switched call transiting BellSouth’s network that originates from and terminates to carriers other than BellSouth, and for which BellSouth does not collect toll charges or access charges, either directly or indirectly, as the intraLATA toll provider for the end user. This traffic includes ICO-to-ICO traffic, CLEC-to-ICO traffic, ICO-to-CLEC traffic, and CLEC-to-CLEC traffic; or** (N)
 - 2. For wireless-to-wireless traffic, wireline-to-wireless traffic, and wireless-to-wireline traffic, Local Traffic is any circuit switched call originating from and terminating to carriers other than BellSouth and transiting BellSouth’s network that originates and terminates within the same Major Trading Area (MTA), subject to BellSouth’s LATA restrictions. An MTA is the largest FCC-authorized wireless license territory which serves as the definition of local service area for CMRS traffic as defined in 47 C.F.R 24.202(a). This traffic includes, but is not limited to, CMRS-to-CMRS, CMRS-to-ICO, ICO-to-CMRS, CLEC-to-CMRS and CMRS-to-CLEC calls.** (N)

A16.1.2 Rules and Regulations

- A. This tariff provides the rates, terms and conditions for BellSouth’s provision of Transit Traffic Service.** (N)
- B. If Transit Traffic is specifically addressed in a separate agreement between BellSouth and the originating Telecommunications Service Provider, then the rates, terms and conditions contained in that separate agreement will apply in lieu of this tariff. If such separate agreement is limited to certain types of traffic or carriers, then the separate agreement will apply to those traffic types or carriers, and this tariff will continue to apply to any traffic types and carriers not covered under the separate agreement.** (N)
- C. BellSouth offers Transit Traffic Service only for Transit Traffic that is intended to terminate to a Telecommunications Service Provider whose network is directly interconnected with BellSouth’s network. Where BellSouth accepts Transit Traffic from a Telecommunications Service Provider, BellSouth is not liable or responsible for payment to the terminating carrier. Such payment is the sole responsibility of the originating Telecommunications Service Provider. By utilizing BellSouth’s Transit Traffic Service for the delivery of Transit Traffic, the originating Telecommunications Service Provider is committing to establishing a traffic exchange agreement or other appropriate agreement to address compensation between the originating Telecommunication Service Provider and the terminating carrier(s).** (N)
- D. Notwithstanding anything in C. preceding to the contrary, in the event that the terminating Telecommunications Service Provider imposes on BellSouth any charges or costs for the delivery of Transit Traffic, the originating Telecommunications Service Provider utilizing BellSouth’s Transit Traffic Services pursuant to this tariff shall reimburse BellSouth for such charges or costs.** (N)
- E. BellSouth, as the tandem switching provider for Transit Traffic, will generate and deliver to the terminating Telecommunications Service Provider industry standard call detail records, where available, for its use in billing the originating Telecommunications Service Provider for the termination of Transit Traffic. Notwithstanding the foregoing, unavailability of such call detail records does not relieve the originating Telecommunications Service Provider of its obligation to pay the charges for Transit Traffic Service as specified in this tariff, nor does it create any liability to the terminating Telecommunications Service Provider on the part of BellSouth.** (N)

ISSUED: January 27, 2005
BY: Joseph P. Lacher, President -FL
Miami, Florida

EFFECTIVE: February 11, 2005

A16. TELECOMMUNICATIONS SERVICE PROVIDER SERVICES

(N)

A16.1 Transit Traffic Service (Cont'd)

(N)

A16.1.2 Rules and Regulations (Cont'd)

(N)

F. Telecommunications Service Providers originating Transit Traffic may elect one of two options for measuring Transit Traffic minutes of use for which charges are due.

(N)

1. The originating Telecommunications Service Provider shall utilize its originating switch recordings to compensate BellSouth based upon actual Transit Traffic minutes of use ("Actual Measurements"). Telecommunications Service Providers electing to utilize Actual Measurements shall provide a monthly report to BellSouth reflecting actual Transit Traffic minutes of use, along with payment on a per minute of use basis at the applicable rate set forth in Section A16.1.3 below, within sixty days of the date of usage.

(N)

2. In lieu of Actual Measurements, the originating Telecommunications Service Provider shall provide to BellSouth a percent local usage factor (PLU) estimating the percentage of total minutes of use delivered to BellSouth that constitutes Transit Traffic ("Estimated Measurements"). The PLU must be provided to BellSouth in writing within 30 days of the effective date hereof, or within 30 days of delivering Transit Traffic to BellSouth. In the event the originating Telecommunications Service Provider fails to provide a PLU to BellSouth during this timeframe, BellSouth will assign a PLU to be used until a PLU is provided. To the extent a PLU is provided after the default PLU has taken effect, the PLU provided by the Telecommunications Service Provider shall be applied on a prospective basis only. The PLU shall be updated annually, or sooner in the event of a change in Local Traffic volume.

(N)

G. BellSouth reserves the right to contest the accuracy of both the Actual Measurements and Estimated Measurements provided by Telecommunications Service Providers and may conduct audits or internal studies for verification.

(N)

H. In the event a dispute arises regarding Actual Measurements or Estimated Measurements, BellSouth will continue to bill based upon information provided by the Telecommunications Service Provider or utilizing the assigned PLU until the dispute is resolved.

(N)

I. If BellSouth and the Telecommunications Service Provider are unable to successfully negotiate a resolution to the dispute within 30 days of notice of the existence of a dispute, the aggrieved Party shall seek dispute resolution with the appropriate governing regulatory body.

(N)

J. Once the dispute is resolved, the parties shall utilize the resulting Actual Measurements or Estimated Measurements on a going forward basis. The parties shall negotiate a true up of any billing inaccuracies occasioned by application of such Measurement on a retroactive basis.

(N)

K. Charges shall be billed to the originating Telecommunications Service Provider and shall be payable under the terms of A2.4 of the General Subscriber Services Tariff.

(N)

A16.1.3 Rates and Charges

(N)

Transit Traffic Service, per MOU

Charge
\$0.003

USOC
NA

(N)

(N)

BELLSOUTH
TELECOMMUNICATIONS, INC.
FLORIDA

GENERAL SUBSCRIBER SERVICE TARIFF

First Revised Page 1
Cancels Original Page 1

ISSUED: January 27, 2005
BY: Joseph P. Lacher, President -FL
Miami, Florida

EFFECTIVE: February 11, 2005

A16. TELECOMMUNICATIONS SERVICE PROVIDER SERVICES

(N)

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A32.	INTEGRATION PLUS MANAGEMENT SERVICES (IPMS)	

[®]Registered Trademark of American Telephone & Telegraph Company
All BellSouth marks contained herein and as set forth in the trademarks and servicemarks section of this Tariff are owned by BellSouth Intellectual Property Corporation.

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T.

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(N)

A16. TELECOMMUNICATIONS SERVICE PROVIDER SERVICES

(N)

A16.1 Transit Traffic Service

(N)

A16.1.1 Terms and Definitions

(N)

- A. Telecommunications Service Provider - a provider of local and/or access telecommunications service who is legally certified to provide service within the state of Florida, or is licensed by the Federal Communications Commission (FCC) to provide Commercial Mobile Radio Service (CMRS). For purposes of this tariff, this definition includes, but is not limited to, CMRS providers, Competitive Local Exchange Carriers (CLECs) and Independent Telephone Companies (ICOs). (N)
- B. Transit Traffic – Local Traffic originating on one Telecommunications Service Provider’s network that is delivered by BellSouth to a different Telecommunications Service Provider’s network for termination. (N)
- C. Transit Traffic Service – BellSouth’s provision of the functions to allow a Telecommunications Service Provider to send and receive Transit Traffic. (N)
- D. Local Traffic – for purposes of this tariff; (N)
 - 1. For wireline-to-wireline traffic, Local Traffic is any intraLATA circuit switched call transiting BellSouth’s network that originates from and terminates to carriers other than BellSouth, and for which BellSouth does not collect toll charges or access charges, either directly or indirectly, as the intraLATA toll provider for the end user. This traffic includes ICO-to-ICO traffic, CLEC-to-ICO traffic, ICO-to-CLEC traffic, and CLEC-to-CLEC traffic; or (N)
 - 2. For wireless-to-wireless traffic, wireline-to-wireless traffic, and wireless-to-wireline traffic, Local Traffic is any circuit switched call originating from and terminating to carriers other than BellSouth and transiting BellSouth’s network that originates and terminates within the same Major Trading Area (MTA), subject to BellSouth’s LATA restrictions. An MTA is the largest FCC-authorized wireless license territory which serves as the definition of local service area for CMRS traffic as defined in 47 C.F.R 24.202(a). This traffic includes, but is not limited to, CMRS-to-CMRS, CMRS-to-ICO, ICO-to-CMRS, CLEC-to-CMRS and CMRS-to-CLEC calls. (N)

A16.1.2 Rules and Regulations

(N)

- A. This tariff provides the rates, terms and conditions for BellSouth’s provision of Transit Traffic Service. (N)
- B. If Transit Traffic is specifically addressed in a separate agreement between BellSouth and the originating Telecommunications Service Provider, then the rates, terms and conditions contained in that separate agreement will apply in lieu of this tariff. If such separate agreement is limited to certain types of traffic or carriers, then the separate agreement will apply to those traffic types or carriers, and this tariff will continue to apply to any traffic types and carriers not covered under the separate agreement. (N)
- C. BellSouth offers Transit Traffic Service only for Transit Traffic that is intended to terminate to a Telecommunications Service Provider whose network is directly interconnected with BellSouth’s network. Where BellSouth accepts Transit Traffic from a Telecommunications Service Provider, BellSouth is not liable or responsible for payment to the terminating carrier. Such payment is the sole responsibility of the originating Telecommunications Service Provider. By utilizing BellSouth’s Transit Traffic Service for the delivery of Transit Traffic, the originating Telecommunications Service Provider is committing to establishing a traffic exchange agreement or other appropriate agreement to address compensation between the originating Telecommunication Service Provider and the terminating carrier(s). (N)
- D. Notwithstanding anything in C. preceding to the contrary, in the event that the terminating Telecommunications Service Provider imposes on BellSouth any charges or costs for the delivery of Transit Traffic, the originating Telecommunications Service Provider utilizing BellSouth’s Transit Traffic Services pursuant to this tariff shall reimburse BellSouth for such charges or costs. (N)
- E. BellSouth, as the tandem switching provider for Transit Traffic, will generate and deliver to the terminating Telecommunications Service Provider industry standard call detail records, where available, for its use in billing the originating Telecommunications Service Provider for the termination of Transit Traffic. Notwithstanding the foregoing, unavailability of such call detail records does not relieve the originating Telecommunications Service Provider of its obligation to pay the charges for Transit Traffic Service as specified in this tariff, nor does it create any liability to the terminating Telecommunications Service Provider on the part of BellSouth. (N)

A16. TELECOMMUNICATIONS SERVICE PROVIDER SERVICES (N)

A16.1 Transit Traffic Service (Cont'd) (N)

A16.1.2 Rules and Regulations (Cont'd) (N)

- F. Telecommunications Service Providers originating Transit Traffic may elect one of two options for measuring Transit Traffic minutes of use for which charges are due. (N)
 - 1. The originating Telecommunications Service Provider shall utilize its originating switch recordings to compensate BellSouth based upon actual Transit Traffic minutes of use ("Actual Measurements"). Telecommunications Service Providers electing to utilize Actual Measurements shall provide a monthly report to BellSouth reflecting actual Transit Traffic minutes of use, along with payment on a per minute of use basis at the applicable rate set forth in Section A16.1.3 below, within sixty days of the date of usage. (N)
 - 2. In lieu of Actual Measurements, the originating Telecommunications Service Provider shall provide to BellSouth a percent local usage factor (PLU) estimating the percentage of total minutes of use delivered to BellSouth that constitutes Transit Traffic ("Estimated Measurements"). The PLU must be provided to BellSouth in writing within 30 days of the effective date hereof, or within 30 days of delivering Transit Traffic to BellSouth. In the event the originating Telecommunications Service Provider fails to provide a PLU to BellSouth during this timeframe, BellSouth will assign a PLU to be used until a PLU is provided. To the extent a PLU is provided after the default PLU has taken effect, the PLU provided by the Telecommunications Service Provider shall be applied on a prospective basis only. The PLU shall be updated annually, or sooner in the event of a change in Local Traffic volume. (N)
- G. BellSouth reserves the right to contest the accuracy of both the Actual Measurements and Estimated Measurements provided by Telecommunications Service Providers and may conduct audits or internal studies for verification. (N)
- H. In the event a dispute arises regarding Actual Measurements or Estimated Measurements, BellSouth will continue to bill based upon information provided by the Telecommunications Service Provider or utilizing the assigned PLU until the dispute is resolved. (N)
- I. If BellSouth and the Telecommunications Service Provider are unable to successfully negotiate a resolution to the dispute within 30 days of notice of the existence of a dispute, the aggrieved Party shall seek dispute resolution with the appropriate governing regulatory body. (N)
- J. Once the dispute is resolved, the parties shall utilize the resulting Actual Measurements or Estimated Measurements on a going forward basis. The parties shall negotiate a true up of any billing inaccuracies occasioned by application of such Measurement on a retroactive basis. (N)
- K. Charges shall be billed to the originating Telecommunications Service Provider and shall be payable under the terms of A2.4 of the General Subscriber Services Tariff. (N)

A16.1.3 Rates and Charges (N)

	Charge	USOC	
Transit Traffic Service, per MOU	\$0.003	NA	(N)

BELLSOUTH
TELECOMMUNICATIONS, INC.
FLORIDA

GENERAL SUBSCRIBER SERVICE TARIFF

First Revised Page 1
Cancels Original Page 1

ISSUED: January 27, 2005
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A16. TELECOMMUNICATIONS SERVICE PROVIDER SERVICES (N)

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