

ORIGINAL**Timolyn Henry**

060068-TP

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Sent: Wednesday, January 25, 2006 3:24 PM
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Cc: Vicki Gordon Kaufman; mmansour@national-tel.com; Patrick Wiggins; Nancy White; Nancy Sims
Subject: E-filing - New Docket
Attachments: Complaint FINAL 01.25.06.pdf

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Docket No. and title: Complaint of National Telecom & Broadband Services LLC against BellSouth
 Telecommunications, Inc. for Breach Interconnection Agreement and Petition for Emergency
 Order Restoring Service
 Docket No: TBA

Filed on behalf of: National Telecom & Broadband Services, LLC (National Telecom)

Number of pages: 30
 Document attached: Complaint Against BellSouth Telecommunications, Inc. for Breach of Interconnection Agreements
 and Overbilling and Petition for Emergency Order Restoring Lens Access

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DOCUMENT NUMBER-DATE

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1/25/2006

FPSC-COMMISSION CLERK

ORIGINAL

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Complaint of National
Telecom & Broadband
Services, LLC against
BellSouth Telecommunications,
Inc. for Breach of Interconnection
Agreement and Petition for
Emergency Order Restoring
Service. _____ /

Docket No. 060068

Filed: January 25, 2006

**COMPLAINT OF NATIONAL TELECOM & BROADBAND SERVICES, LLC
AGAINST BELL SOUTH TELECOMMUNICATIONS, INC. FOR BREACH OF
INTERCONNECTION AGREEMENTS AND OVERBILLING
AND
PETITION FOR EMERGENCY ORDER RESTORING LENS ACCESS**

Pursuant to sections 120.569, 364.01 and 364.162, Florida Statutes, rules 25-22.036 and 28-106.201, Florida Administrative Code, and 47 U.S.C. §§ 251 and 252, National Telecom & Broadband Services, LLC (National Telecom) files this Complaint against BellSouth Telecommunications, Inc. (BellSouth) seeking (1) immediate restoration of Local Exchange Navigation System (LENS) service to National Telecom; (2) an order requiring BellSouth to credit National Telecom with all monies National Telecom has paid to BellSouth as a result of BellSouth's overbilling; and, (3) an order requiring BellSouth to cease billing National Telecom at the incorrect rates UNE rates.

INTRODUCTION

1. The name and address of Petitioner is:

National Telecom & Broadband Services, LLC
2626 E. Oakland Boulevard, Suite 400
Ft. Lauderdale, Fl 33306

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

National Telecom:

Vicki Gordon Kaufman
Moyle Flanigan Katz Raymond White & Krasker, P.A.
118 North Gadsden Street
Tallahassee, Florida 32301
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3. This Complaint addresses BellSouth's denial of access to LENS to National Telecom. On January 19, 2006, BellSouth unilaterally denied National Telecom access to LENS. BellSouth's denial of access to LENS has interfered with National Telecom's ability to market its services and to procure new customers as it has been denied the ability to process orders. This Complaint also address BellSouth's erroneous billing of National Telecom, both in the past and on a going forward basis. In particular, BellSouth is incorrectly assessing and back billing National Telecom for UNEs at market based rates rather than at the applicable cost-based rates contained in the pertinent Interconnection Agreements and Amendment. Such erroneous billing constitutes a breach of the parties' Interconnection Agreements in violation of state and federal law.

4. BellSouth's breach of the Interconnection Agreements' (ICAs) provisions has resulted in overcharges to National Telecom of approximately \$50,400.00, for which National Telecom is entitled to a credit. BellSouth's misapplication of the terms of the ICAs between the parties will continue to result in overcharges until the Commission directs BellSouth to cease such overcharges and its related collection activities. In support of its Complaint, National Telecom states:

PARTIES

5. National Telecom is a limited liability corporation with its principal place of business at 2626 E. Oakland Boulevard, Suite 400, Ft. Lauderdale, Florida 33306.

6. National Telecom is a competitive local exchange carrier (CLEC) and, as such, it competes with BellSouth to provide telecommunications services in Florida.

7. BellSouth Telecommunications, Inc. (BellSouth) is a Georgia corporation with its principal place of business at 675 W. Peachtree St. NE, Atlanta, GA 30375. BellSouth is an incumbent local exchange carrier and a common carrier in Florida. BellSouth's address for receiving Commission communications is:

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

JURISDICTION

8. The Commission has jurisdiction over this matter under Section 252 and 222 of the Telecom Act, 47 U.S.C. §§ 252, 222. Pursuant to Sections 364.01 and 364.162, Florida Statutes, the Commission also has authority to review a complaint regarding an interconnection agreement approved by the Commission.

BACKGROUND

9. On April 29, 2002, National Telecom executed an Interconnection Agreement (ICA) with BellSouth. The ICA was filed with the Commission and reviewed in Docket No. 030326-TP. (ICA I). ICA I set out the terms, conditions and rates that would govern the parties' relationship from April 29, 2002 through May 26, 2005. An amendment to that ICA was executed on January 27, 2004 (ICA Amendment). The amendment was filed with the Commission and reviewed in Docket No. 040335-

TP.¹ On May 26, 2005, National Telecom executed an ICA governing the parties' relationship from May 26, 2005 through May 26, 2008. (ICA II). This ICA was filed and reviewed by the Commission in Docket No. 050435-TP. BellSouth has materially breached both ICAs because it has overcharged National Telecom for UNEs by assessing it the market based rate, rather than the cost-based rate, for UNEs, where the market based rate is inapplicable.

10. National Telecom has raised the issue of BellSouth's overbilling with BellSouth on numerous occasions. National Telecom has appropriately disputed the amounts in contention as required by the dispute provisions of the ICAs.

11. BellSouth was aware that National Telecom had a billing dispute with it not only because the amounts in question were formally disputed but because of numerous emails, correspondence and conference calls with BellSouth regarding this dispute. Nonetheless, on January 19, 2006, BellSouth cut off National Telecom's access to LENS, thus making it impossible for National Telecom to place or process any new orders.

12. LENS is an electronic interface that allows CLECs to manage their customers' accounts. National Telecom uses LENS to initiate, terminate and restore local exchange service to its customers. Without access to LENS, National Telecom cannot initiate service to new customers, terminate service to customers who request termination, deny service to customers in default, or restore service to customers who have had an outage. National Telecom cannot do business without access to LENS.

¹ An additional amendment was filed and reviewed in Docket No. 040666-TP, but that amendment is not related to the current dispute.

BellSouth's improper termination of access to LENS has caused, and continues to cause, irreparable harm to National Telecom and its customers.

13. As explained below, the majority of the amounts in dispute arise under the provisions of ICA I.² Section 1.7.2 of Attachment 7 of ICA I prohibits BellSouth from suspending or terminating service for non payment of disputed amounts. That section provides:

BellSouth reserves the right to suspend or terminate service for nonpayment. *If payment of amounts not subject to a billing dispute*, as described in Section 2, is not received by the bill date in the month after the original bill date, BellSouth will provide written notice to NTBS that additional applications for service may be refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if payment is not received by the fifteenth day following the date of the notice.³

National Telecom has disputed, and continues to dispute, those amounts described below related to BellSouth's UNE billing and has paid all amounts "not subject to a billing dispute." National Telecom is current on all other portions of its bill which are not in dispute, and the amount in dispute (which spans over a two year period) is less than 5% of National Telecom's monthly bill. In addition, BellSouth's denial of access to LENS violates the provisions of ICA I. Further, BellSouth did not provide the 30-day notice as required by ICA I.

14. In addition, BellSouth's unilateral action in deciding a bona fide billing dispute in its own favor and then demanding payment or denying LENS access to National Telecom (the only way in which National Telecom can serve its customers) is unreasonable and an abuse of BellSouth's extraordinary bargaining power in comparison to a small CLEC like National Telecom. Small CLECs, like National Telecom, simply

² The Amendment to ICA I did not affect Attachment 7 of ICA I which relates to billing disputes.

³ Emphasis added.

do not have the resources to engage in arbitration with BellSouth and in order to do business must often accept BellSouth's template agreement, which can be characterized as a contract of adhesion. Such abuse by BellSouth can result in the very situation before the Commission now -- National Telecom cannot serve its current customers or process orders for new customers and is held hostage to BellSouth's interpretation of, and demand, for payment under the ICA.

15. BellSouth's denial of access to LENS constitutes anticompetitive behavior in violation of state and federal law.

16. The fundamental disagreement between BellSouth and National Telecom relates to BellSouth's mischaracterization of the End Users that National Telecom serves as having "four (4) or more voice-grade (DS0) lines." As explained below, National Telecom's End Users do not have 4 or more DS0 lines as BellSouth claims.

17. Under ICA I, BellSouth is authorized to charge \$1.17 for a UNE port combination in Zone 1. (Exhibit 1, pp. 189-190 of 834). Instead, BellSouth has charged National Telecom \$14.00 per UNE port⁴, apparently taking this price from the market-based pricing portion of ICA I. (Exhibit 1, p. 196 of 834). This has resulted in overcharges under ICA I of approximately \$43,200.00.⁵

18. As National Telecom understands BellSouth's position, BellSouth is attempting to rely upon Attachment 2, § 4.2.3 of ICA I for the erroneous \$14.00 charge. (Exhibit 2, pp. 87-88 of 834). This section provides that National Telecom shall be charged market based rates in certain MSAs when it "orders local circuit switching for an

⁴ Even when all the features are purchased, this UNE rate is \$2.26, making the difference over \$10 per line per month.

⁵ BellSouth bills these types of charges in arrears. Because BellSouth's bills are very complicated and often contain back bills and other charges with no explanation, National Telecom is continuing to analyze the bills and will adjust this amount if necessary.

end user with four (4) or more DS0 equivalent lines. . . ”⁶ However, National Telecom is *not* ordering circuit switching for an end user with four (4) or more DS0 lines⁷ as to the bills in dispute and BellSouth’s assessment of charges on this erroneous basis is contrary to the language of ICA I.

19. The pertinent definitions are set out in the General Terms and Conditions Section of ICA I. “End User” is defined as “the ultimate user of the Telecommunications Service.” (Exhibit 3, p. 6 of 834). BellSouth’s overcharges relate to its attempt to characterize service going to individual dwelling units or individual businesses, when totaled together, as constituting an “end user with four (4) or more DS0 equivalent lines.” This strained interpretation of ICA I is incorrect and contrary to the plain language of the ICA. For example, National Telecom provides service to condominiums. It may have one or two lines going to each individual apartment. Each apartment tenant (not all tenants together) is clearly the End User. Nonetheless, BellSouth treats *all* lines going to the entire condominium complex as *one end user*, when clearly it is not, for purposes of charging National Telecom the much higher market based rate. In other instances, National Telecom provides service to one location which may house different businesses. Again, BellSouth incorrectly totals up the number of lines to the various businesses and charges the market based rate.

20. The Amendment has similar language regarding an “End User with four (4) or more voice-grade (DS0) equivalents or lines” (Exhibit 4, p. 34 of 417, § 4.2.2) as well as the same pricing as ICA I. (Exhibit 4, pp. 122-123 of 417). Nonetheless,

⁶ Emphasis added.

⁷ This distinction regarding the number of lines an end user has is related to the distinction between a “mass market” customer and an “enterprise” customer. “Mass market” customers are generally those who take POTS service and can only be economically served with a DS0 line. That is, it would make no economic sense to serve an apartment with two lines with a T-1 line.

BellSouth has continued its inflated pricing based on its erroneous practice of combining the lines of multiple small End Users and treating them as one large End User⁸ with a total of four (4) or more lines, when in fact each End User has less than four (4) lines.

21. Under ICA II, BellSouth has continued the incorrect and inappropriate billing described above. ICA II has the same language regarding an “End User with four (4) or more voice-grade (DS0) equivalents or lines” (Exhibit 5, pp. 85-86 of 642) and the same pricing as ICA I and the Amendment, with the addition of the \$1.00 transitional charge. (Exhibit 5, pp. 158-159 of 642). Further, the definition of “End User” is the same in ICA II as in ICA I. (Exhibit 5, p. 6 of 642). BellSouth’s erroneous charges have resulted in overcharges of \$7,200.00 under ICA II, which should be credited to National Telecom.

22. The total overcharges under both ICAs are approximately \$50,400.000 through December 2005.

COUNT I

23. National Telecom incorporates paragraphs 1-22 above, as if fully set forth herein.

24. BellSouth’s improper termination of LENS has caused, and continues to cause irreparable harm to National Telecom and its customers. As long as National Telecom cannot access LENS, its ability to retain and serve its current customers as well as procure new customers is compromised. The Commission should order BellSouth to immediately restore LENS service to National Telecom pending the resolution of this Complaint.

⁸ The definition section, including the definition of “End User,” was not amended.

25. BellSouth's termination of LENS service is in violation of Florida and federal law prohibiting anticompetitive conduct.

COUNT II

26. National Telecom incorporates paragraphs 1-25 above, as if fully set forth herein.

27. BellSouth has improperly overcharged National Telecom for UNEs by incorrectly billing them at the market based rather than at the cost based rate as the agreements between the parties require. The Commission should immediately require BellSouth to credit National Telecom with the overcharges as set forth above and direct BellSouth to correctly bill National Telecom on a going forward basis.

WHEREFORE, National Telecom respectfully requests that the Commission:

(1) Order BellSouth to restore LENS service to National Telecom immediately, and to continue providing such service during the pendency of this Complaint;

(2) Determine that BellSouth has overcharged National Telecom by charging National Telecom at market based rates rather than cost based rates for the UNEs at issue;

(3) Require BellSouth to cease from such overcharging and to credit National Telecom with the overcharged amount; and

(4) Grant such other relief as may be necessary.

s/ Vicki Gordon Kaufman

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Attorneys for National Telecom

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Complaint and Petition for Emergency Order Restoring LENS Access has been served by electronic mail and U.S. Mail this 25th day of January 2006 to:

Patrick K. Wiggins
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Beth Salak
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Nancy White
c/o Nancy H. Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1556

s/ Vicki Gordon Kaufman
Vicki Gordon Kaufman

EXHIBIT 1

UNBUNDLED NETWORK ELEMENTS - FLORIDA

CATEGORY	RATE ELEMENTS	UNIT	ZONE	RCS	USOC	NATE(S)	Nominating				SOMAN
							Spec Order	Spec Order	Spec Order	Spec Order	
Exchange Ports - 4-Wire DS1 Port with DO capability	Exchange Ports - 4-Wire DS1 Port with DO	per line					151.11	48.81	27.75	11.50	1.83
	Exchange Ports - 2-Wire ISDN Port (See Notes below)	per line					54.85	48.81	27.75	11.50	1.83
Exchange Ports - 4-Wire DS1 Port	Exchange Ports - 4-Wire DS1 Port - Channel Protecs	per line					0.00	0.00	0.00	11.50	1.83
	Exchange Ports - 4-Wire ISDN Port	per line					0.00	0.00	0.00	11.50	1.83

NOTE: Translations/rates changes associated with POT's circuit switched usage will also apply to circuit switched voice and circuit switched data transmission by B-Channel's associated with 2-wire DS0 ports.

NOTE: Access to B-Channel Packet capabilities will be available only through B-Terminal Business Request Process. Rates for the packet capabilities will be determined via the Business Request Process.

UNBUNDLED LOCAL SWITCHING PORT USAGE	LEPFX	LEPFX	LEPFX	LEPFX	LEPFX	LEPFX	LEPFX	LEPFX	LEPFX
End Office Switching (Port Usage)	0.000092								
End Office Switching (Port - Shared, Per MOU)	0.000164								
Trunking Switching (Port Usage) (Local or Access Trunking)	0.0001319								
Common Trunking	0.000238								
Common Trunking - Per Line, Per MOU	0.000035								
Common Trunking - Exclusive Trunking Per MOU	0.0004372								

Cost Based Rates are applied where indicated by FCC and/or State Commission rules to provide Unbundled Local Switching or Switch Ports.

Features that apply to the Unbundled Point-to-Point Contribution - Cost Based Rate section in the same manner as they are applied to the Standard-Access Unbundled Port section of this Rate Exhibit.

End Office and Trunking Switching (Local or Access Trunking) and Common Trunking (Local or Access Trunking) and Trunking Switching (Port Usage) (Local or Access Trunking) for Georgia, Kentucky, Louisiana, Maryland, Massachusetts, North Carolina and Tennessee, the recurring LUMP Port and Loop charges shall apply to all components of loopport network elements except for LUMP Cost Port/Loop Contributions.

Currently Computed Contributes for all states: in GA, KY, LA, MS, SC and TN these recurring charges are computed based rates and in AL, FL and NC these recurring charges are Market Rates and are also listed in the Market Rate section.

For Currently Computed Contributes in all other states, the recurring charges shall be those indicated in the Nonrecurring - Currently Computed section.

LUMP Loop Rates

1 LUMPX 12.84

2 LUMPX 17.02

3 LUMPX 31.87

LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates
2-Wire Voice Grade Loop (SL1) - Zone 1	LEPFX	12.84	11.71	11.90	11.90	11.90	11.90	11.90	11.90
2-Wire Voice Grade Loop (SL1) - Zone 2	LEPFX	17.02	11.71	11.90	11.90	11.90	11.90	11.90	11.90
2-Wire Voice Grade Loop (SL1) - Zone 3	LEPFX	31.87	11.71	11.90	11.90	11.90	11.90	11.90	11.90

LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates
2-Wire Voice Grade Loop (SL1) - Zone 1	LEPFX	12.84	11.71	11.90	11.90	11.90	11.90	11.90	11.90
2-Wire Voice Grade Loop (SL1) - Zone 2	LEPFX	17.02	11.71	11.90	11.90	11.90	11.90	11.90	11.90
2-Wire Voice Grade Loop (SL1) - Zone 3	LEPFX	31.87	11.71	11.90	11.90	11.90	11.90	11.90	11.90

LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates
2-Wire Voice Grade Loop (SL1) - Zone 1	LEPFX	12.84	11.71	11.90	11.90	11.90	11.90	11.90	11.90
2-Wire Voice Grade Loop (SL1) - Zone 2	LEPFX	17.02	11.71	11.90	11.90	11.90	11.90	11.90	11.90
2-Wire Voice Grade Loop (SL1) - Zone 3	LEPFX	31.87	11.71	11.90	11.90	11.90	11.90	11.90	11.90

LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates
2-Wire Voice Grade Loop (SL1) - Zone 1	LEPFX	12.84	11.71	11.90	11.90	11.90	11.90	11.90	11.90
2-Wire Voice Grade Loop (SL1) - Zone 2	LEPFX	17.02	11.71	11.90	11.90	11.90	11.90	11.90	11.90
2-Wire Voice Grade Loop (SL1) - Zone 3	LEPFX	31.87	11.71	11.90	11.90	11.90	11.90	11.90	11.90

LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates	LANE Loop Rates
2-Wire Voice Grade Loop (SL1) - Zone 1	LEPFX	12.84	11.71	11.90	11.90	11.90	11.90	11.90	11.90
2-Wire Voice Grade Loop (SL1) - Zone 2	LEPFX	17.02	11.71	11.90	11.90	11.90	11.90	11.90	11.90
2-Wire Voice Grade Loop (SL1) - Zone 3	LEPFX	31.87	11.71	11.90	11.90	11.90	11.90	11.90	11.90

UNBUNDLED NETWORK ELEMENTS - Florida

CATEGORY	RATE ELEMENTS	Interf #	Zone	BCE	USOC	RATES(\$)					Svc Order Submitted Elec per LSR	Svc Order Submitted Manually per LSR	Attachment 2		Exhibit B		Incremental Charge - Manual Svc Order vs. Electronic- Disc Add'l	Incremental Charge - Manual Svc Order vs. Electronic- Disc Add'l			
						Res		Nonrecurring		Nonrecurring Disconnect			SOMECC	SOMAN	SOMAN	SOMAN			SOMAN	SOMAN	
						First	Add'l	First	Add'l	First											Add'l
	LINE Loop Rates																				
	2-Wire Voice Grade Loop (SL1) - Zone 1		1	UEPBX	UEPLX	12.94															
	2-Wire Voice Grade Loop (SL1) - Zone 2		2	UEPBX	UEPLX	17.06															
	2-Wire Voice Grade Loop (SL1) - Zone 3		3	UEPBX	UEPLX	31.67															
	2-Wire Voice Grade Line Port (Bus)																				
	2-Wire voice unbundled port without Caller ID - bus			UEPBX	UEPBL	1.17	90.00	90.00					11.00								
	2-Wire voice unbundled port with Caller + E484 ID - bus			UEPBX	UEPBC	1.17	90.00	90.00					11.00								
	2-Wire voice unbundled port outgoing only - bus			UEPBX	UEPBO	1.17	90.00	90.00					11.00								
	2-Wire voice unbundled incoming only port with Caller ID - Bus			UEPBX	UEPBI	1.17	90.00	90.00					11.00								
	LOCAL NUMBER PORTABILITY																				
	Local Number Portability (1 per port)			UEPBX	LNPCX	0.35															
	FEATURES																				
	All Features Offered			UEPBX	UEPVF	2.26	0.00	0.00					11.00								
	NONRECURRING CHARGES (NRCS) - CURRENTLY COMBINED																				
	2-Wire Voice Grade Loop / Line Port Combination - Conversion - Switch as Is			UEPBX	USAC2		0.102	0.102					11.00								
	2-Wire Voice Grade Loop / Line Port Combination - Conversion - Switch with change			UEPBX	USACC		0.102	0.102					11.00								
	ADDITIONAL NRCS																				
	2-Wire Voice Grade Loop/Line Port Combination - Subsequent Activity			UEPBX	USAS2		0.00	0.00					11.00								
	1-WIRE VOICE GRADE LOOP WITH 2-WIRE LINE PORT (RES - PBX)																				
	LINE Port/Loop Combination Rates																				
	2-Wire VG Loop/Port Combo - Zone 1		1			14.11															
	2-Wire VG Loop/Port Combo - Zone 2		2			18.23															
	2-Wire VG Loop/Port Combo - Zone 3		3			30.04															
	LINE Loop Rates																				
	2-Wire Voice Grade Loop (SL 1) - Zone 1		1	UEPRG	UEPLX	12.94															
	2-Wire Voice Grade Loop (SL 1) - Zone 2		2	UEPRG	UEPLX	17.06															
	2-Wire Voice Grade Loop (SL 1) - Zone 3		3	UEPRG	UEPLX	31.67															
	2-Wire Voice Grade Line Port Rates (RES - PBX)																				
	2-Wire VG Unbundled Combination 2-Way PBX Trunk Port - Res			UEPRG	UEPRD	1.17							11.00								
	LOCAL NUMBER PORTABILITY																				
	Local Number Portability (1 per port)			UEPRG	LNPCP	3.15	0.00	0.00					11.00								
	FEATURES																				
	All Features Offered			UEPRG	UEPVF	2.26	0.00	0.00					11.00								
	NONRECURRING CHARGES (NRCS) - CURRENTLY COMBINED																				
	2-Wire Voice Grade Loop/ Line Port Combination (PBX) - Conversion - Switch-As-Is			UEPRG	USAC2		8.46	1.91					11.00								
	2-Wire Voice Grade Loop/ Line Port Combination (PBX) - Conversion - Switch with Change			UEPRG	USACC		8.46	1.91					11.00								
	ADDITIONAL NRCS																				
	2-Wire Voice Grade Loop/ Line Port Combination (PBX) - Subsequent Activity			UEPRG	USAS2	0.00	0.00	0.00					11.00								
	PBX Subsequent Activity - Change/Reconfigure Multiline Hunt Group						7.00	7.00					11.00								
	2-WIRE VOICE GRADE LOOP WITH 2-WIRE LINE PORT (BUS - PBX)																				
	LINE Port/Loop Combination Rates																				
	2-Wire VG Loop/Port Combo - Zone 1		1			14.11															
	2-Wire VG Loop/Port Combo - Zone 2		2			18.23															
	2-Wire VG Loop/Port Combo - Zone 3		3			30.04															
	LINE Loop Rates																				
	2-Wire Voice Grade Loop (SL 1) - Zone 1		1	UEPPX	UEPLX	12.94															
	2-Wire Voice Grade Loop (SL 1) - Zone 2		2	UEPPX	UEPLX	17.06															
	2-Wire Voice Grade Loop (SL 1) - Zone 3		3	UEPPX	UEPLX	31.67															
	2-Wire Voice Grade Line Port Rates (BUS - PBX)																				
	Line Side Unbundled Combination 2-Way PBX Trunk Port - Bus			UEPPX	UEPPC	1.17	90.00	90.00					11.00								

EXHIBIT 2

- 3.2.14.4 Once a Party has isolated a trouble to the other Party's portion of the loop, the Party isolating the trouble shall notify the end user that the trouble is on the other Party's portion of the Loop.
- 3.2.14.5 Notwithstanding anything else to the contrary in this Agreement, when BellSouth receives a voice trouble and isolates the trouble to the physical collocation arrangement belonging to NTBS, BellSouth will notify NTBS. NTBS will provide no more than two (2) verbal connecting facility assignments (CFA) pair changes to BellSouth in an attempt to resolve the voice trouble. In the event a CFA pair change resolves the voice trouble, NTBS will provide BellSouth an LSR with the new CFA pair information within 24 hours. If the owner of the collocation space fails to resolve the trouble by providing BellSouth with the verbal CFA pair changes, BellSouth may discontinue NTBS's access to the High Frequency Spectrum on such loop. BellSouth will not be responsible for any loss of data as a result of this action.

4 Local Switching

- 4.1 BellSouth shall provide non-discriminatory access to local circuit switching capability and local tandem switching capability on an unbundled basis, except as set forth in the Sections below to NTBS for the provision of a telecommunications service. BellSouth shall provide non-discriminatory access to packet switching capability on an unbundled basis to NTBS for the provision of a telecommunications service only in the limited circumstance described below in Section 4.5.

4.2 Local Circuit Switching Capability, including Tandem Switching Capability

- 4.2.1 Local circuit switching capability is defined as: (A) line-side facilities, which include, but are not limited to, the connection between a loop termination at a main distribution frame and a switch line card; (B) trunk-side facilities, which include, but are not limited to, the connection between trunk termination at a trunk-side cross-connect panel and a switch trunk card; (C) switching provided by remote switching modules; and (D) all features, functions, and capabilities of the switch, which include, but are not limited to: (1) the basic switching function of connecting lines to lines, line to trunks, trunks to lines, and trunks to trunks, as well as the same basic capabilities made available to BellSouth's customers, such as a telephone number, white page listings, and dial tone; and (2) all other features that the switch is capable of providing, including but not limited to customer calling, customer local area signaling service features, and Centrex, as well as any technically feasible customized routing functions provided by the switch. Any features that are not currently available but are technically feasible through the switch can be requested through the BFR/NBR process.
- 4.2.2 Notwithstanding BellSouth's general duty to unbundle local circuit switching, BellSouth shall not be required to unbundle local circuit switching for NTBS when

NTBS serves an end-user with four (4) or more voice-grade (DS-0) equivalents or lines served by BellSouth in one of the following MSAs: Atlanta, GA; Miami, FL; Orlando, FL; Ft. Lauderdale, FL; Charlotte-Gastonia-Rock Hill, NC; Greensboro-Winston Salem-High Point, NC; Nashville, TN; and New Orleans, LA, and BellSouth has provided non-discriminatory cost based access to the Enhanced Extended Link (EEL) throughout Density Zone 1 as determined by NECA Tariff No. 4 as in effect on January 1, 1999.

- 4.2.3 In the event that NTBS orders local circuit switching for an end user with four (4) or more DS0 equivalent lines within Density Zone 1 in an MSA listed above, BellSouth shall charge NTBS the market based rates in Exhibit B for use of the local circuit switching functionality for the affected facilities. If a market rate is not set forth in Exhibit B, such rate shall be negotiated by the Parties.
- 4.2.4 Unbundled Local Switching consists of three separate unbundled elements: Unbundled Ports, End Office Switching Functionality, and End Office Interoffice Trunk Ports.
- 4.2.5 Unbundled Local Switching combined with Common Transport and, if necessary, Tandem Switching provides to NTBS's end user local calling and the ability to presubscribe to a primary carrier for intraLATA and/or to presubscribe to a primary carrier for interLATA toll service.
- 4.2.6 Provided that NTBS purchases unbundled local switching from BellSouth and uses the BellSouth CIC for its end users' LPIC or if a BellSouth local end user selects BellSouth as its LPIC, then the Parties will consider as local any calls originated by an NTBS local end user, or originated by a BellSouth local end user and terminated to an NTBS local end user, where such calls originate and terminate in the same LATA, except for those calls originated and terminated through switched access arrangements (i.e., calls that are transported by a party other than BellSouth). For such calls, BellSouth will charge NTBS the UNE elements for the BellSouth facilities utilized. Neither Party shall bill the other originating or terminating switched access charges for such calls. Intercarrier compensation for local calls between BellSouth and NTBS shall be as described in BellSouth's UNE Local Call Flows set forth on BellSouth's web site.
- 4.2.7 Where NTBS purchases unbundled local switching from BellSouth but does not use the BellSouth CIC for its end users' LPIC, BellSouth will consider as local those direct dialed telephone calls that originate from an NTBS end user and terminate within the basic local calling area or within the extended local calling areas and that are dialed using 7 or 10 digits as defined and specified in Section A3 of BellSouth's General Subscriber Services Tariffs. For such local calls, BellSouth will charge NTBS the UNE elements for the BellSouth facilities utilized. Intercarrier compensation for local calls between BellSouth and NTBS shall be as described in BellSouth's UNE Local Call Flows set forth on BellSouth's web site.

EXHIBIT 3

Effective Date is defined as the date that the Agreement is effective for purposes of rates, terms and conditions and shall be thirty (30) days after the date of the last signature executing the Agreement. Future amendments for rate changes will also be effective thirty (30) days after the Effective Date of the Amendment, which shall be the date of the last signature executing the Amendment. Other Charges and Credits will be mechanically created to adjust recurring rates previously billed in advance at the previous rates.

End User means the ultimate user of the Telecommunications Service.

FCC means the Federal Communication Commission.

General Terms and Conditions means this document including all of the terms, provisions and conditions set forth herein.

Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications Service means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

Telecommunications Act of 1996 ("Act") means Public Law 104-104 of the United States Congress effective February 8, 1996. The Act amended the Communications Act of 1934 (47 U.S.C. Section 1 et. seq.).

1. CLEC Certification

- 1.1 NTBS agrees to provide BellSouth in writing the certificate number, company number or docket number, for the docket pending certification, for all states covered by this Agreement except Kentucky prior to BellSouth filing this Agreement with the appropriate commission for approval.
- 1.2 Additionally, NTBS will notify BellSouth in writing when it becomes certified or has a docket pending certification to operate in any other state in the BellSouth region. Upon notification, BellSouth will file this Agreement with the appropriate commission for approval.

2. Term of the Agreement

- 2.1 The term of this Agreement shall be three years, beginning on the Effective Date and shall apply to the BellSouth territory in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee. Notwithstanding any prior agreement of the Parties, the rates, terms

EXHIBIT 4

- 3.10.1 BellSouth will be responsible for repairing voice services and the physical loop between the NID at the customer's premises and the termination point. NTBS will be responsible for maintaining the voice and data services. Each Party will be responsible for maintaining its own equipment.
- 3.10.2 NTBS shall inform its End Users to direct all problems to NTBS or its authorized agent.
- 3.10.3 If NTBS is not the data provider, NTBS shall indemnify, defend and hold harmless BellSouth from and against any claims, losses, actions, causes of action, suits, demands, damages, injury, and costs including reasonable attorney fees, which arise out of actions related to the data provider.

4 **Local Switching**

- 4.1 BellSouth shall provide non-discriminatory access to local circuit switching capability and local tandem switching capability on an unbundled basis, except as set forth in the Sections below to NTBS for the provision of a telecommunications service.

4.2 **Local Circuit Switching Capability, including Tandem Switching Capability**

- 4.2.1 Local circuit switching capability is defined as all line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch. The features, functions, and capabilities of the switch shall include the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks. Local circuit switching includes all vertical features that the switch is capable of providing, including custom calling, custom local area signaling service features, and Centrex, as well as any technically feasible customized routing functions.
- 4.2.2 Notwithstanding BellSouth's general duty to unbundle local circuit switching, BellSouth shall not be required to unbundle local circuit switching for NTBS when NTBS: (1) serves an End User with four (4) or more voice-grade (DS0) equivalents or lines served by BellSouth in Zone 1 of one of the following MSAs: Atlanta, GA; Miami, FL; Orlando, FL; Ft. Lauderdale, FL; Charlotte-Gastonia-Rock Hill, NC; Greensboro-Winston Salem-High Point, NC; Nashville, TN; and New Orleans, LA; or (2) serves an End User with a DS1 or higher capacity Loop in any service area covered by this Agreement. To the extent that NTBS is serving any End User as described in (2) above as of October 2, 2003, such arrangement may not remain in place any longer than April 1, 2004, after which such arrangement must be terminated by NTBS or BellSouth shall convert such arrangement to tariff pricing. The filing of this Amendment with the applicable Commission shall constitute the filing of the joint transition plan specified by the FCC.

INCLUDED NETWORK ELEMENTS - FEES

Table with 10 columns: CATEGORY, RATE ELEMENTS, Unit, Zone, RCS, USDC, MONITORING, and various rate types (Basic, Add'l, Final, Total).

Attachment 2

Table with 10 columns: CATEGORY, RATE ELEMENTS, Unit, Zone, RCS, USDC, MONITORING, and various rate types (Basic, Add'l, Final, Total).

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EXHIBIT 5

- 3.4.3 The foregoing procedures are applicable to migration from a UNE-P arrangement to Line Splitting Service.
- 3.5 **CLEC Provided Splitter – Line Splitting**
- 3.5.1 To order High Frequency Spectrum on a particular Loop, NTBS must have a DSLAM collocated in the central office that serves the End User of such Loop.
- 3.5.2 NTBS must provide its own splitters in a central office and have installed its DSLAM in that central office.
- 3.5.3 NTBS may purchase, install and maintain central office POTS splitters in its collocation arrangements. NTBS may use such splitters for access to its customers and to provide digital line subscriber services to its customers using the High Frequency Spectrum. Existing Collocation rules and procedures and the terms and conditions relating to Collocation set forth in Attachment 4-Central Office shall apply.
- 3.5.4 Any splitters installed by NTBS in its collocation arrangement shall comply with ANSI T1.413, Annex E, or any future ANSI splitter Standards. NTBS may install any splitters that BellSouth deploys or permits to be deployed for itself or any BellSouth affiliate.
- 3.6 **Maintenance – Line Splitting.**
- 3.6.1 BellSouth will be responsible for repairing voice troubles and the troubles with the physical loop between the NID at the End User's premises and the termination point.
- 3.6.2 NTBS shall indemnify, defend and hold harmless BellSouth from and against any claims, losses, actions, causes of action, suits, demands, damages, injury, and costs including reasonable attorney fees, which arise out of actions related to the other service provider, except to the extent caused by BellSouth's gross negligence or willful misconduct.
- 4 **Local Switching**
- 4.1 Notwithstanding anything to the contrary in this Agreement, the services offered pursuant to this Section 4 are limited to DS0 level Local Switching and BellSouth is not required to provide Local Switching pursuant to this Agreement except as set forth in Section 4.2.
- 4.1.1 BellSouth shall not be required to unbundle local circuit switching for NTBS for a particular End User when NTBS: (1) serves an End User with four (4) or more voice-grade (DS0) equivalents or lines served by BellSouth in Zone 1 of the following MSAs: Atlanta, GA; Miami, FL; Orlando, FL; Ft. Lauderdale, FL; Charlotte-Gastonia-Rock Hill, NC; Greensboro-Winston Salem-High Point, NC;

Nashville, TN; and New Orleans, LA; or (2) serves an End User with a DS1 or higher capacity Loop in any service area covered by this Agreement. To the extent that NTBS is serving any End User as described above as of the Effective Date of this Agreement, such End User's arrangement may not remain in place and such Arrangement must be terminated by NTBS or transitioned by NTBS, or BellSouth shall disconnect such Arrangements upon thirty (30) days notice.

4.2 Transition for Local Switching

4.2.1 For purposes of this Section 4, the Transition Period for the Embedded Base of Local Switching is the twelve (12) month period beginning March 11, 2005 and ending March 10, 2006.

4.2.2 For the purposes of this Section 4, Embedded Base shall mean Local Switching and any additional elements that are required to be provided in conjunction therewith that were in service for NTBS as of March 10, 2005. Subsequent disconnects or loss of End Users shall be removed from the Embedded Base.

4.2.3 During the Transition Period only, BellSouth shall make Local Switching available for the Embedded Base, in addition to all elements that are required to be provided in conjunction with Local Switching, at the rates, terms and conditions set forth in this Attachment. The Transition Period shall apply only to NTBS's Embedded Base and NTBS shall not place new orders for Local Switching pursuant to this Agreement.

4.2.4 Notwithstanding the Effective Date of this Agreement, the rates for NTBS's Embedded Base of Local Switching during the Transition Period shall be as set forth in Exhibit A.

4.2.5 Effective March 11, 2006, Local Switching will no longer be made available pursuant to this Agreement and any remaining Embedded Base will be disconnected.

4.3 Local Switching Capability, including Tandem Switching Capability

4.3.1 Local Switching capability is defined as all line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch. The features, functions, and capabilities of the switch shall include the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks. Local Switching includes all vertical features that the switch is capable of providing, including custom calling, custom local area signaling service features, and Centrex, as well as any technically feasible customized routing functions.

4.3.2 Unbundled local switching consists of three separate components: Unbundled Ports, End Office Switching Functionality, and End Office Interoffice Trunk Ports.

UNBUNDLED NETWORK ELEMENTS - Florida

CATEGORY	RATE ELEMENTS	Intrinst	Zone	BCS	USCC	RATES (\$)	Svc Order Submitted Elec per LSR	Svc Order Submitted Monthly per LSR	Attachment 2 Ex. A						
									Incremental Charge - Manual Svc Order vs. Electronic-1st	Incremental Charge - Manual Svc Order vs. Electronic-Add'l	Incremental Charge - Manual Svc Order vs. Electronic-Disc 1st	Incremental Charge - Manual Svc Order vs. Electronic-Disc Add'l	OSB Rates (\$)		
													SOMECC	SOMAN	SOMAN
	Interoffice Transport - Dedicated - 2 Wire Voice Grade - Per Mile or Fraction Mile			UEPRX	UITVM	0.0091	0.00	0.00							
	2-WIRE VOICE GRADE LOOP WITH 2-WIRE LINE PORT (BUS)														
	UNE Port/Loop Combination Rates														
	2-Wire VG Loop/Port Combo - Zone 1					11.94									
	2-Wire VG Loop/Port Combo - Zone 2					18.05									
	2-Wire VG Loop/Port Combo - Zone 3					28.80									
	UNE Loop Rates														
	2-Wire Voice Grade Loop (SL1) - Zone 1		1	UEPBX	UEPLX	9.77									
	2-Wire Voice Grade Loop (SL1) - Zone 2		2	UEPBX	UEPLX	13.88									
	2-Wire Voice Grade Loop (SL1) - Zone 3		3	UEPBX	UEPLX	24.63									
	2-Wire Voice Grade Line Port (Bus)														
	2-Wire voice ungrounded port without Caller ID - bus			UEPBX	UEPBL	2.17	53.31	26.46	27.50	8.37					
	2-Wire voice ungrounded port with Caller ID - bus			UEPBX	UEPBC	2.17	53.31	26.46	27.50	8.37					
	2-Wire voice ungrounded port outgoing only - bus			UEPBX	UEPBO	2.17	53.31	26.46	27.50	8.37					
	2-Wire voice ungrounded incoming only port with Caller ID - Bus			UEPBX	UEPBI	2.17	53.31	26.46	27.50	8.37					
	2-Wire voice ungrounded incoming Only Port without Caller ID Capability			UEPBX	UEPBE	2.17	53.31	26.46	27.50	8.37					
	FEATURES														
	All Features Offered			UEPBX	UEPVF	2.26	0.00	0.00							
	NONRECURRING CHARGES (NRCs) - CURRENTLY COMBINED														
	2-Wire Voice Grade Loop / Line Port Combination - Conversion - Switch-as-is			UEPBX	USAC2		0.102	0.102							
	2-Wire Voice Grade Loop / Line Port Combination - Conversion - Switch with charge			UEPBX	USACC		0.102	0.102							
	ADDITIONAL NRCs														
	2-Wire Voice Grade Loop/Line Port Combination - Subsequent Activity			UEPBX	USAS2		0.00	0.00							
	Unbundled Miscellaneous Rate Element - Tag Loop at End User Premise			UEPBX	URETL		8.53	0.83							
	OFFER PREMISE EXTENSION CHANNELS														
	2-Wire Analog Voice Grade Extension Loop - Non-Design		1	UEPBX	UEAEN	10.68	49.57	22.83	25.82	6.57					
	2-Wire Analog Voice Grade Extension Loop - Non-Design		2	UEPBX	UEAEN	15.20	49.57	22.83	25.82	6.57					
	2-Wire Analog Voice Grade Extension Loop - Non-Design		3	UEPBX	UEAEN	28.97	49.57	22.83	25.82	6.57					
	2-Wire Analog Voice Grade Extension Loop - Design		1	UEPBX	UEAED	12.34	135.75	82.37	83.53	12.01					
	2-Wire Analog Voice Grade Extension Loop - Design		2	UEPBX	UEAED	17.40	135.75	82.37	83.53	12.01					
	2-Wire Analog Voice Grade Extension Loop - Design		3	UEPBX	UEAED	30.87	135.75	82.37	83.53	12.01					
	INTEROFFICE TRANSPORT														
	Interoffice Transport - Dedicated - 2 Wire Voice Grade - Facility Termination			UEPBX	UITV2	25.32	47.35	31.78							
	Interoffice Transport - Dedicated - 2 Wire Voice Grade - Per Mile or Fraction Mile			UEPBX	UITVM	0.0091	0.00	0.00							
	2-WIRE VOICE GRADE LOOP WITH 2-WIRE LINE PORT (RES - PBX)														
	UNE Port/Loop Combination Rates														
	2-Wire VG Loop/Port Combo - Zone 1					11.94									
	2-Wire VG Loop/Port Combo - Zone 2					18.05									
	2-Wire VG Loop/Port Combo - Zone 3					28.80									
	UNE Loop Rates														
	2-Wire Voice Grade Loop (SL 1) - Zone 1		1	UEPRG	UEPLX	8.77									
	2-Wire Voice Grade Loop (SL 1) - Zone 2		2	UEPRG	UEPLX	13.88									
	2-Wire Voice Grade Loop (SL 1) - Zone 3		3	UEPRG	UEPLX	24.63									
	2-Wire Voice Grade Line Port Rates (RES - PBX)														
	2-Wire VG Unbundled Combination 2-Way PBX Trunk Port - Res			UEPRG	UEPRD	2.17	174.81	100.65	75.88	12.73					
	FEATURES														
	All Features Offered			UEPRG	UEPVF	2.26	0.00	0.00							
	NONRECURRING CHARGES (NRCs) - CURRENTLY COMBINED														
	2-Wire Voice Grade Loop / Line Port Combination (PBX) - Conversion - Switch-as-is			UEPRG	USAC2		8.45	1.91							
	2-Wire Voice Grade Loop / Line Port Combination (PBX) - Conversion - Switch with Charge			UEPRG	USACC		8.45	1.91							
	ADDITIONAL NRCs														
	2-Wire Voice Grade Loop / Line Port Combination (PBX) - Subsequent Activity			UEPRG	USAS2	0.00	0.00	0.00							

Effective Date is defined as the date that the Agreement is effective for purposes of rates, terms and conditions and shall be thirty (30) days after the date of the last signature executing the Agreement. Future amendments for rate changes will also be effective thirty (30) days after the date of the last signature executing the amendment.

End User means the ultimate user of the Telecommunications Service.

FCC means the Federal Communications Commission.

Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications Service means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

Telecommunications Act of 1996 (Act) means Public Law 104-104 of the United States Congress effective February 8, 1996. The Act amended the Communications Act of 1934 (47 U.S.C. Section 1 et. seq.).

1. CLEC Certification

- 1.1 NTBS agrees to provide BellSouth in writing NTBS's CLEC certification for all states covered by this Agreement except Kentucky prior to BellSouth filing this Agreement with the appropriate Commission for approval.
- 1.2 To the extent NTBS is not certified as a CLEC in each state covered by this Agreement as of the execution hereof, NTBS may not purchase services hereunder in that state. NTBS will notify BellSouth in writing and provide CLEC certification when it becomes certified to operate in any other state covered by this Agreement and upon receipt thereof, NTBS may thereafter purchase services pursuant to this Agreement in that state. BellSouth will file this Agreement with the appropriate Commission for approval.
- 1.3 Should NTBS's certification in any state be rescinded or otherwise terminated, BellSouth may, at its election, terminate this Agreement immediately and all monies owed on all outstanding invoices shall become due, and BellSouth may refuse to provide services hereunder in that state until certification is reinstated in that state, provided such notification is made prior to expiration of the initial term of this Agreement. NTBS shall provide an effective certification to do business issued by the secretary of state or equivalent authority in each state covered by this Agreement.

2. Term of the Agreement

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12/09/04