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BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint Petition by TDS Telecom d/b/a)	Docket No. 050119-TP
TDS Telecom/Quincy Telephone; ALLTEL)	
Florida, Inc.; Northeast Florida Telephone)	
Company d/b/a NEFCOM; GTC, Inc. d/b/a)	
GT Com; Smart City Telecommunications,)	
LLC d/b/a Smart City Telecom; ITS)	
Telecommunications Systems, Inc.; and)	
Frontier Communications of the South, LLC)	
["Joint Petitioners"] objecting to and)	
requesting suspension and cancellation of)	
proposed transit traffic service tariff filed by)	
BellSouth Telecommunications, Inc.)	
)	
In re: Petition and complaint for suspension)	Docket No. 050125-TP
and cancellation of Transit Traffic Service)	
Tariff No. FL2004-284 filed by BellSouth)	
Telecommunications, Inc. by AT&T)	
Communications of the Southern States, LLC)	

PRE-FILED REBUTTAL TESTIMONY

OF

STEVEN E. WATKINS

ON BEHALF OF THE

SMALL LEC JOINT PETITIONERS

Filed: January 30, 2006

1 **Q: Please state your name, business address and telephone number.**

2 A: My name is Steven E. Watkins. My business address is 2154 Wisconsin Avenue,
3 N.W., Suite 290, Washington, D.C., 20007. My business phone number is (202)
4 333-5276.

5 **Q: Did you file Direct Testimony in this proceeding on December 19, 2005?**

6 A: Yes. I submitted Direct Testimony ("Watkins Direct") to the Florida Public
7 Service Commission ("Commission") on behalf of several small Rural Telephone
8 Companies, specifically TDS Telecom d/b/a TDS Telecom/Quincy Telephone;
9 Northeast Florida Telephone Company d/b/a NEFCOM; GTC, Inc. d/b/a GT
10 Com; Smart City Telecommunications, LLC d/b/a Smart City Telecom; and
11 Frontier Communications of the South, LLC (collectively referred to as the "Small
12 LECs").

13 **Q: What is the purpose of your Rebuttal Testimony?**

14 A: The purpose of my Rebuttal Testimony is to address select issues and comments
15 of the other parties' witnesses, specifically the direct testimonies filed with the
16 Commission on December 19, 2005 by Kenneth Ray McCallen of BellSouth
17 Telecommunications, Inc. ("McCallen Direct"); Timothy J. Gates on behalf of the
18 Competitive Carriers of the South, Inc. ("Gates Direct"); Marc B. Sterling of
19 Verizon Wireless ("Sterling Direct"); and Billy H. Pruitt on behalf of Sprint
20 Spectrum Limited Partnership, Nextel South Corporation, Sprint Communications
21 Company Limited Partnership, and T-Mobile USA ("Pruitt Direct").

22 **Q: Do you have any initial comments in response to the other parties'**
23 **testimonies?**

24 A: Yes. My Direct Testimony anticipated and, therefore, addresses many of the
25 contentions and positions of the other parties included in their Direct Testimony.

1 Accordingly, I will focus my Rebuttal Testimony on select contentions that I
2 believe merit further discussion and emphasis or may need clarification. To the
3 extent that I do not address all of the comments of the other witnesses, it should
4 not be construed to suggest that the Small LECs necessarily agree with such other
5 portions of the testimonies of the other witnesses.

6 **Q: Please provide a brief summary of the conclusions in your Direct Testimony?**

7 A: I concluded in my Direct Testimony that:

8 (1) A tariff is not the proper mechanism to establish terms, conditions and
9 rates for BellSouth's provision of transit service in an interconnection
10 arrangement. BellSouth should properly establish interconnection terms and
11 conditions in the same manner as other carriers and as required by law. (*See*
12 Watkins Direct at pp. 16-24 regarding the response to Issue 1.)

13 (2) The BellSouth Transit Tariff should not be permitted to be used as a
14 vehicle to thrust obligations on the Small LECs beyond those which are required
15 of the Small LECs (or any other LEC) under the Act and controlling rules. (*See*
16 Watkins Direct at pp. 24-35 regarding the response to Issue 2.)

17 (3) The Small LECs have no obligation to incur extra cost to transit local
18 traffic to points beyond any technically feasible interconnection point on their
19 incumbent LEC networks to accommodate a choice and request made by a
20 competitive local exchange carrier ("CLEC") or a Commercial Mobile Radio
21 Service ("CMRS") provider. The Small LECs may be willing to continue to
22 provision such extraordinary arrangements if the CLECs and CMRS providers are
23 willing to be responsible for the extraordinary costs that may arise solely because
24 of their preferred interconnection arrangements (*i.e.*, the expense of the transit
25 service).

1 (4) Assuming for argument sake that the Small LECs, in some situations,
2 were to be held responsible for the true cost of transit services, then all of the
3 interconnection terms and conditions including proper rates, should be properly
4 established for BellSouth's transit service.

5 (5) Such interconnection terms and conditions should, among other
6 things, limit BellSouth's commingling of third party transit traffic with
7 BellSouth's own access traffic to a certain level of minutes of use. In other
8 words, when third party traffic with a Small LEC is more than an insignificant
9 amount (i.e., above the threshold), separate trunk groups with that third party
10 should be provisioned. Separate and apart from the trunking arrangement with
11 any specific third party carrier, it is also the position of the Small LECs that transit
12 traffic that BellSouth delivers to, or receives from, a Small LEC or third party
13 carrier should be provisioned on trunks separate from those that BellSouth uses
14 for toll/access purposes.

15 **Q: On p. 8, lines 1-2 of McCallen Direct, BellSouth contends that the Small**
16 **LECs, as an option, can avoid the BellSouth Transit Tariff charges by simply**
17 **"entering into direct interconnection agreements with other**
18 **[Telecommunications Service Providers]." Do you have a response to this**
19 **suggestion?**

20 **A:** Yes. I have three responses.

21 First, as I explained in my Direct Testimony (in my response to Issue 2), the
22 Small LECs do not have an obligation to pay a cost caused by the CLECs or
23 CMRS providers. The use of BellSouth's network to transit traffic arises only
24 because such providers have made a decision, presumably driven by their own
25 cost savings, to utilize the BellSouth tandem to interconnect with the Small LECs.

1 The Small LECs should not bear the cost of that decision.

2 Second, the Small LECs may avoid BellSouth's Transit Tariff charges by
3 provisioning an indirect arrangement with CLECs and CMRS providers, rather
4 than through BellSouth's tandem switch. In other words, there are other options
5 available to Small LECs and third party carriers that would avoid the tandem
6 switched Transit Tariff service including indirect facility arrangements that do not
7 utilize the tandem transit service. Mr. McCallen's suggestion that avoidance of
8 the charge can be obtained through "direct interconnection" is true—what he fails
9 to say is that there are also other network options.

10 Third, unless the CLEC or CMRS provider establishes directly or indirectly a
11 technically feasible interconnection point ("IP") on the incumbent LEC network of
12 the Small LEC, the Small LEC is left with no practical alternative (other than to
13 route traffic via interexchange carriers) to route calls that terminate to the CLEC
14 and CMRS provider customers. No witness appearing on behalf of a CLEC or
15 CMRS provider is advocating that the Commission require such third party CLEC
16 or CMRS providers to establish proper terms, including the establishment of a
17 proper IP, that would allow the Small LECs "to avoid the tariffed transit charges."

18 Thus, Witness McCallen's belief that the Small LECs can avoid the transit charge
19 by interconnections with the CLECs and CMRS Providers ignores the reality that
20 such interconnections have not and will not occur in the real world so long as
21 there is no incentive to do so or so long as there is incentive and opportunity by
22 the CLECs and CMRS to attempt to shift costs to the Small LECs. Absent a
23 requirement by this Commission that the CLEC and CMRS providers, the cost
24 causers, bear any Commission approved transit charges, there will be no incentive
25 for interconnections that avoid the BellSouth tandem switched arrangement.

1 **Q: On p. 6, lines 2-3 of the Sterling Direct, Mr. Sterling asserts that “a**
2 **terminating carrier has no control over how a call was sent to its network.”**
3 **Do you agree?**

4 A: No, I do not. When a CLEC or CMRS provider makes a decision not to establish
5 an IP either directly or indirectly on the network of the Small LEC as the Act and
6 rules require, or establish with the Small LEC some other arrangement consistent
7 with the obligations that apply to the Small LEC, then the terminating CLEC or
8 CMRS provider has decided, by not allowing any other options, how traffic will
9 be delivered — i.e., through the BellSouth tandem switched arrangement. If
10 Verizon Wireless chooses to interconnect indirectly through the BellSouth tandem,
11 then the Small LECs have no option to complete calls other than to transit the
12 BellSouth tandem (except for routing calls to interexchange carriers). The
13 Commission must stop this “interconnection coercion.” Verizon Wireless cannot
14 dictate where and how a local call must be delivered by the originating Small LEC
15 to Verizon Wireless and cannot dictate that a Small LEC must obtain transit
16 switched services from BellSouth. Congress has already addressed this issue in
17 the Act, as I explained in my Direct Testimony. Clearly, if the Small LEC has
18 control over how it sends its traffic, as Mr. Sterling suggests, then it follows that
19 the Small LECs do not have to send originating traffic via the BellSouth transit
20 arrangement. The Small LEC would elect to deliver traffic to Verizon Wireless
21 at a technically feasible interconnection point on the incumbent network of the
22 Small LEC as the controlling rules require. The point is that the Small LECs
23 must have lawful interconnection options available as alternatives to the Transit
24 Tariff service. There is simply no interconnection requirement which obligates
25 the Small LECs to obtain such service from BellSouth.

1 **Q: But doesn't Witness McCallen claim on p. 11, line 4 that "BellSouth is not**
2 **seeking to force ICOs to use its transit service"?**

3 A: Yes, he does. My fear is that by avoiding the thorny issues and apparent positions
4 of the other parties, Witness McCallen's comment is nothing more than a hollow
5 commitment, without practical application. Mr. McCallen does not explain how
6 the Small LECs will be able to exercise a right to pursue other options with the
7 third parties. If the Commission were to establish that the Small LECs have the
8 right to deliver their own originating local traffic to an IP that is technically
9 feasible for the Small LEC and is on incumbent Small LEC network, and that this
10 option is available as the means to avoid BellSouth's Transit Tariff service and
11 charges, then some, if not many, of the fundamental issues in this proceeding
12 regarding carriers' rights and competitive fairness would be resolved.

13 **Q: Does the manner in which the CLECs and the CMRS providers have**
14 **designed their existing arrangements with BellSouth, and the subsequent**
15 **roll-out by BellSouth of its proposed Transit Tariff service, present issues of**
16 **concern to the Small LECs?**

17 A: Yes. My Direct Testimony explained at length why the Small LECs' rights should
18 not be denied and limited by BellSouth and the CLEC/CMRS carriers' design.
19 The Small LECs remain concerned that CLECs and CMRS providers, with the
20 help of BellSouth, will attempt to improperly limit the Small LECs' network and
21 service options. The Small LECs do not have an obligation to purchase BellSouth
22 Transit Services as the means of interconnection to deliver local traffic to third
23 party CLECs and CMRS providers. The Transit Tariff and the third party
24 arrangements with BellSouth essentially attempt to force the Small LECs to incur
25 expenses to provision a transport arrangement at the Small LECs' cost to the

1 benefit of other carriers. The fundamental precept of a competitive environment
2 is undermined when two carriers (*e.g.* a CLEC and BellSouth, or a CMRS
3 provider and BellSouth) can design a network and business arrangement between
4 themselves and then dictate that arrangement to a third carrier (*e.g.* a Small LEC)
5 under which the third carrier must obtain services from one of the other two
6 interconnected carriers to accommodate that arrangement.

7 **Q: Witness McCallen suggests at p. 10, lines 16-17 of his Direct Testimony that**
8 **the “originator of the traffic decides if its traffic transits BellSouth’s**
9 **network.” Do you agree?**

10 A: No, that is also a distortion of the current facts. Mr. McCallen does not address
11 how a Small LEC should address a recalcitrant CLEC or CMRS provider that
12 refuses to establish a proper IP directly or indirectly with the Small LEC and
13 expects the Small LEC to pay the Transit Tariff rate. The Commission should use
14 this proceeding to correct these issues and reinforce the rights of the Small LECs.
15 Each Small LEC should have the right to expect that if CLECs and CMRS
16 providers want the Small LECs to exchange local interconnection traffic, then the
17 CLECs and CMRS providers must offer arrangements that would not necessarily
18 require the Small LEC to route traffic through the BellSouth transit arrangement
19 and would instead allow the Small LECs to deliver this traffic to a point that is
20 technically feasible for the Small LEC and on the Small LEC's network. Absent
21 such alternatives, it is fair and equitable that these carriers pay the costs for their
22 preferred network arrangements.

23 **Q: On p. 13, lines 6-9 of the McCallen Direct, the BellSouth witness suggests**
24 **that the blocking of traffic would be an option for the Small LECs. Do you**
25 **have any comment?**

1 A: First, I am concerned that the comment regarding "blocking" by Mr. McCallen
2 may be an attempt to elicit an emotional, negative reaction from the Commission
3 against the Small LECs. Let me make it clear. The Small LECs have no
4 intention of doing anything irresponsible, and Mr. McCallen's comment should be
5 viewed in that context.

6 Regardless, in an ideal world, the issue of blocking should never arise.
7 Fundamentally, no carrier has the right to send traffic to another without proper
8 terms and conditions being in place. However, for a variety of reasons, that has
9 not been the case for the sequence of events in recent years with the emergence of
10 CLEC and CMRS provider interconnection with BellSouth. I have already
11 explained in my Direct Testimony the background on the sequence of events
12 regarding so-called transit traffic over the last nine years. (*See Watkins Direct at*
13 *pp. 5-16.*) Nevertheless, it is the Small LECs' fundamental position that, prior to
14 service implementation by a new competitive carrier and/or the deployment of a
15 new NPA-NXX by a carrier that would involve local calling with the Small LEC,
16 proper agreements should be in place before the Small LEC begins to deliver
17 local traffic to the other carrier. In such case, there would be no issue of blocking
18 because the traffic would not flow in the first place until the parties address the
19 initial implementation of local interconnection and the rights and responsibilities
20 are settled.

21 Moreover, to the extent that there is no local interconnection option for the
22 Small LECs to route their originating traffic to CLECs and CMRS providers as
23 local calls under reasonable terms and conditions, or that the only option for
24 routing of such traffic would require transport responsibility to some distant point,
25 then short of blocking calls, the Small LECs could provision calls as long distance

1 calls, in which case calls would be routed to, and transported by, an interexchange
2 carrier. This option is not mentioned by Mr. McCallen. In such case, all calls
3 could be completed without blocking.

4 **Q: On p. 8, lines 10-13 of his Direct Testimony, Mr. McCallen defines "Local**
5 **Traffic" for wireline-to-wireline traffic. Is his explanation correct?**

6 A: No. I think that Mr. McCallen has left one important component out of his
7 explanation. He suggests that "any IntraLATA circuit switched call transiting
8 BellSouth's network" between two other wireline LECs would be Local Traffic
9 and treated under the terms of the Transit Tariff. I believe what he meant to say is
10 that any local intraLATA call between two transiting local wireline LECs would
11 be subject to the Transit Tariff. Local traffic for purposes of interconnection
12 between two wireline carriers is defined as that traffic that both originates and
13 terminates within the geographic area that constitutes the local calling area
14 pursuant to a state commission's determination of what the geographic area should
15 be for local calling. Many intraLATA calls are not local calls and are subject to
16 access charges. Non-local intraLATA calls are subject to the compensation terms
17 of intrastate access tariffs. Non-local intraLATA calls are not within the
18 definition of the transit traffic arrangement that Mr. McCallen discusses. Any
19 switching or transport of access traffic that BellSouth or the Small LECs perform
20 are subject to the terms and conditions of intrastate access tariffs, not the Transit
21 Tariff. Mr. McCallen's suggestion that potentially all intraLATA transited calls
22 could be subject to the tariff is simply wrong, and this omission should be
23 corrected.

24 **Q: On p. 10, lines 10-11 of his Direct Testimony, Mr. McCallen concludes that**
25 **the originating carrier of transit traffic is the cost causer and should be the**

1 **carrier that pays. Do you agree?**

2 A: No. That conclusion may be acceptable to two CLECs that operate on either side
3 of a BellSouth tandem, compete within the BellSouth area, and seek to exchange
4 traffic between them, and have voluntarily agreed to participate in such transit
5 arrangement with BellSouth in lieu of establishing dedicated trunks between
6 them. (Of course, there is also no requirement that a CLEC participate in such
7 transit arrangement or agree to receive traffic from BellSouth under which
8 multiple carrier local traffic is commingled with access traffic.) However, Mr.
9 McCallen's statement is not true for the situation where Small LECs provide
10 service in areas adjacent to BellSouth incumbent areas.

11 I set forth an example in my Direct Testimony of an end user of a Small LEC that
12 makes EAS calls to a BellSouth end user in a neighboring town. (See pp. 31-33 of
13 my Direct Testimony.) The economic arrangement between the Small LEC and
14 BellSouth for the provision of EAS calls, as required and ordered by the
15 Commission, makes the Small LEC responsible for transporting EAS calls to and
16 from a meet point with BellSouth (usually at or near the boundary between the
17 incumbent LECs). When an end user of BellSouth changes his or her local
18 service to a CLEC, and the CLEC is too small or incapable to have established (or
19 simply refuses to establish) an equivalent arrangement with the Small LEC, the
20 costs that arise as a result of BellSouth's provision of tandem switched transit
21 services are caused by the CLEC. The fact that an end user of Bellsouth changes
22 his or her service to a CLEC cannot create new and extraordinary obligations and
23 costs for a Small LEC for what is the exact same EAS call to the same end user
24 located at the same location. To the extent that there is additional switching
25 performed and additional transport above and beyond that which would apply if

1 the same EAS call were exchanged with a BellSouth end user, the cause of the
2 additional cost is the CLEC that demands a different and more costly treatment of
3 the same EAS call. To the extent that a CLEC does not have trunking
4 capabilities, or is unwilling to be responsible for the transport of EAS calls to and
5 from the meet point with the Small LECs, any additional cost to accommodate
6 some superior arrangement is caused by the CLEC's decisions. The Small LECs
7 have no obligation to subsidize CLECs by being responsible for the extraordinary
8 costs that arise for network arrangements that go beyond what the incumbent
9 LECs do for any other local call.

10 **Q: Mr. Sterling comments at p. 6, lines 15-17 of his Direct Testimony that other**
11 **state commissions have ruled in support of his conclusion that the Small**
12 **LECs should be responsible for the payment of transit charges to BellSouth**
13 **for the Small LECs. Do you have any comment?**

14 **A:** Yes. I am aware that some state commissions have concluded that where a LEC
15 routes its originating local traffic through BellSouth for what BellSouth describes
16 as a transit traffic arrangement, the originating LEC should be responsible.
17 However, the Georgia and Tennessee decisions that Mr. Sterling cites on p. 6 of
18 his Direct Testimony create no obligation for a small LEC to involuntarily route
19 its originating local traffic in that manner. In fact, the Tennessee decision that Mr.
20 Sterling refers to specifically notes that if the small LEC must transport traffic to a
21 distant location, then that traffic may be treated as an interexchange service and
22 routed to an interexchange carrier. In such case, the originating LEC would not be
23 using the BellSouth transit service (the interexchange carrier would be) and the
24 originating LEC would avoid the charge. In Georgia, the incumbent LECs are
25 free to require in the course of establishing interconnection with a CLEC that the

1 CLEC be responsible for the extraordinary costs of transit if the small, incumbent
2 LEC is willing to send local traffic via BellSouth. In the *Mountain*
3 *Communications* court case cited by Mr. Sterling, the court made no formal
4 decision on the transit traffic issue after the petitioner withdrew that part of its
5 appeal.

6 In any event, the spin that Mr. Sterling would want to attach to these decisions
7 cannot be squared with the explicit requirements of the Act and the FCC's rules.
8 Mr. Sterling incorrectly interprets these decisions to support the conclusion that a
9 CLEC or CMRS provider can demand that the IP for Small LECs, where local
10 traffic subject to Section 251(b)(5) of the Act is to be exchanged, must be on
11 BellSouth's incumbent network and not on the Small LEC's incumbent network.
12 The point on the BellSouth network is not technically feasible for the Small LEC
13 because the Small LEC is neither an incumbent LEC in BellSouth's territory nor
14 does it have network facilities in BellSouth's territory. Any interpretation
15 inconsistent with these principles would be wrong. *See Watkins Direct* at pp. 24-
16 35.

17 As I have previously discussed, the Federal Communications
18 Commission's rules require originating incumbent LECs to establish an
19 "interconnection point between the two carriers" (47 C.F.R. § 51.701(c)) for the
20 transport and termination of local traffic subject to Section 251(b)(5) of the Act
21 (47 C.F.R. § 51.701 (a)-(e)), and the incumbent LEC must allow the
22 interconnecting carrier to establish that interconnection point(s) "with the local
23 exchange carrier's network . . . at any technically feasible point within the carrier's
24 network." (47 U.S.C. §§ 251(c)(2)(A)-(C).

25 The Commission has consistently applied these rules in interconnection

1 proceedings involving BellSouth and there never has been any suggestion that the
2 IP would not be on the incumbent LEC network of BellSouth or any arrangement
3 beyond that which I have set forth immediately above as the Act and the rules
4 prescribe.

5
6 **Q: On p. 22 of your Direct Testimony, you maintain that the BellSouth's Transit**
7 **Tariff is flawed in that BellSouth does not provide assurance that BellSouth**
8 **will provide accurate and complete information about transit traffic to the**
9 **affected carriers. Does Mr. McCallen address this issue?**

10 A: Yes. Mr. McCallen admits at p. 16, lines 13-15 of his Direct Testimony that
11 BellSouth does not provision transit traffic with all third party carriers under what
12 it refers to as "Meet-Point-Billed" ("MPB") arrangements and that some traffic is
13 provisioned on a non-MPB basis. It is not clear how the Small LECs will know
14 which arrangement is applicable, and the tariff does not suggest a definitive
15 answer. It would appear that there are shortcomings in BellSouth's capabilities
16 with respect to what BellSouth refers to as non-MPB traffic. Perhaps more
17 critical, Mr. McCallen admits on p. 21 of his Direct Testimony that BellSouth
18 provides detailed records for MPB carriers but provides what he refers to as
19 "Summary Reports" for "UNE-P CLEC usage" and for "non-MPB CMRS usage."
20 BellSouth's Transit Tariff fails to disclose what type of information BellSouth
21 intends to provide for each example of usage and whether that information will be
22 complete and accurate. It is the position of the Small LECs that the information
23 that BellSouth currently is capable of providing (and is providing) to document
24 transited traffic contains "improvised" and arbitrary information that BellSouth
25 adds itself, and in some cases where BellSouth apparently does not create detailed

1 usage records, there remain questions as to what accurate and complete
2 information, if any, exists.

3 **Q: On p. 22, lines 7-13 of his Direct Testimony, Mr. McCallen states that**
4 **BellSouth's only obligation with respect to potential disputes between and**
5 **among carriers that transit traffic through BellSouth would be to provide**
6 **support to answer questions. Do you have any comment?**

7 A: Yes. BellSouth's "commitment" to provide "support to answer questions" as its
8 only responsibility in connection with transit traffic is an unconscionable
9 position. In my direct testimony, I set forth a list of terms and conditions which
10 would need to be addressed with BellSouth regarding its responsibilities. (*See, e.g.,*
11 *Watkins Direct at pp. 18-21.*) What is BellSouth's responsibility if it fails to
12 provide complete and accurate usage information? What is BellSouth's
13 responsibility to the other carriers when the other carriers are required to expend
14 resources to address BellSouth's mistakes and failures? How will the carriers be
15 expected to resolve the situation whereby the Small LEC measures the total
16 amount of traffic that BellSouth sends to the Small LEC over a specific trunk
17 group but the component usage parts that BellSouth identifies and reports do not
18 equal the total usage? Because BellSouth sends its own access traffic over trunk
19 groups with commingled third party traffic, BellSouth is responsible for
20 compensation for some of the traffic. Therefore, it is important that all of the
21 components can be reconciled with the total and that BellSouth pay for its proper
22 share. Will BellSouth be responsible for the payment of access for any short fall
23 of identified traffic or for any traffic that cannot be properly attributed to other
24 transiting carriers? To the extent that the Small LECs may be willing to
25 participate voluntarily in such transit arrangements with BellSouth, these issues

1 need to be addressed with contractual terms and conditions with BellSouth.
2 BellSouth has resisted addressing these issues and its response to this issue is
3 another example of its resistance.

4 I would note that Witness Pruitt agrees that if BellSouth intends to provide
5 transit services to CLEC and CMRS providers such that a Small LEC will be a
6 terminator of transited traffic (a service that BellSouth could not provide without
7 the involvement of the Small LECs), the relationship that BellSouth has with the
8 Small LEC should be pursuant to an interconnection agreement. (Pruitt Direct at
9 p. 26.) Moreover, Mr. Pruitt agrees that disputes over transit traffic usage should
10 be resolved pursuant to appropriately negotiated and potentially arbitrated
11 interconnection agreements. (*Id.* at pp. 32-33.)

12 **Q: On p. 19, lines 1-2 of his Direct Testimony, Mr. McCallen states that the**
13 **transit tariff rate of \$0.003 in its tariff is a “composite” rate that is**
14 **“comparable to rates in recently negotiated agreements.” Do you have any**
15 **comment about this observation?**

16 A: Yes. BellSouth should be required to offer its transit services in a non-
17 discriminatory manner. A composite rate does not comply with non-
18 discrimination. To the extent that BellSouth has offered a better (*i.e.*, lower) rate
19 to some carrier(s) in Florida, then that rate should be available to all, even through
20 the tariff offering. I cannot see how BellSouth's tariff proposal could satisfy a
21 non-discrimination criterion if BellSouth's tariff did not offer the same
22 advantageous rate that BellSouth has already agreed to with other carriers.
23 For example, Witness Gates observes that BellSouth's proposed “composite” rate
24 is approximately three times as much as the effective rate BellSouth has with one
25 CLEC. Gates Direct at pp. 45-46 and footnote 35. Mr. Gates also observes that

1 the BellSouth transit rate is more than approximately twice that of BellSouth's
2 rates for the equivalent functions in BellSouth interstate access tariff. *Id.* at p. 46
3 and footnote 36.

4 Interestingly, in Docket No. 030869-TL, Petition by BellSouth
5 Telecommunications, Inc. to Reduce Its Network Access Charges Applicable to
6 Intrastate Long Distance in a Revenue-Neutral Manner, it has apparently been
7 BellSouth's position that its existing level of access rates were priced above cost,
8 creating what it maintains is an uneconomic subsidy. Yet, in the provisioning of
9 transit service where BellSouth is the dominant provider of the service, BellSouth
10 apparently intends to exploit its market position with rates twice that for the
11 equivalent functions in BellSouth's access tariff.

12 I would add that Witness Sterling admits that Verizon Wireless has a rate
13 of \$0.002 for transit service with BellSouth. Sterling Direct at p. 8. (*See also*
14 Watkins Direct at p. 46, regarding comparison to access rates.) The Commission
15 should require that BellSouth include a rate that is non-discriminatory based on
16 the other rates BellSouth has already agreed to.

17 **Q: On p. 29, lines 1-7 of the Direct Testimony of Mr. Gates, he states that the**
18 **market can and should determine when it is appropriate to establish**
19 **dedicated trunking arrangements. Do you agree?**

20 **A:** No. In theory, all things being equal, the market might do a reasonable job of
21 determining how carriers provision transport and switching for the exchange of
22 traffic. However, in the case here, there are no balanced market considerations
23 between those carriers serving the more urban markets and the Small LECs that
24 generally serve the more rural areas. There is often no balance of traffic between
25 Small LECs and CLECs. The CLECs want to design an arrangement that places

1 the burden on the Small LECs to serve the interests of the CLECs' business plans.

2 Most notable, many Internet Service Providers ("ISPs") obtain service
3 from CLECs that operate in the more large urban areas. With EAS calling
4 between the rural markets of the Small LECs and the urban markets of the CLEC,
5 an ISP is provided the capability to offer Internet access to rural customers and to
6 receive dial-up calls to its location in the more urban area. This creates a
7 significant benefit to the ISP. But there is no balancing of considerations if the
8 Small LEC, in order to send dial-up traffic to the ISP served by the CLEC, must
9 pay BellSouth to transport traffic to the CLEC on its way to the ISP. The small
10 LEC is harmed and the ISP (and its serving CLEC) greatly benefit. There is no
11 market balancing implication here. Since the traffic to ISPs (i.e., to the CLEC
12 serving the ISP) is one-way, there is no economic incentive for the CLEC to
13 establish a connection with the Small LEC, at a point on the Small LEC network,
14 in a manner that would allow the Small LEC to avoid the burdensome BellSouth
15 charges. Pursuant to the CLECs' imbalanced approach, the CLEC bills and
16 receives revenues from the ISP and both the CLEC and ISP benefit, while the
17 Small LEC is harmed, subjected to transit costs, and effectively subsidizes the
18 CLEC's offering to the ISP. There would be no incentive for the CLEC to change
19 this arrangement.

20 **Q: On p. 34, lines 7-10 of the Direct Testimony of Mr. Gates, he indicates that if**
21 **the Commission does establish a threshold which would determine when**
22 **traffic between a third party carrier and a Small LEC should be provisioned**
23 **with a distinct trunk group, it should be based on a sustained level of traffic,**
24 **such as over a three consecutive month period, to account for isolated**
25 **variations. Do you agree?**

1 A: Yes, the Small LECs believe that a three consecutive month period is a reasonable
2 basis over which to determine whether a traffic level threshold has been reached.

3 **Q: Does this conclude your Rebuttal Testimony?**

4 A: Yes. However, after I review the rebuttal testimony and responses to
5 interrogatories and information requests, I reserve the right to revise this
6 testimony in light of any new information.