

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Application by BellSouth Corporation,
BellSouth Telecommunications, Inc., and
BellSouth Long Distance, Inc., for
Provision of In-Region, InterLATA
Services in Louisiana

CC Docket No. _____

To: The Commission

**BRIEF IN SUPPORT OF APPLICATION BY BELL SOUTH FOR
PROVISION OF IN-REGION, INTERLATA SERVICES IN LOUISIANA**

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EXECUTIVE SUMMARY

This application should serve as further confirmation that BellSouth has worked earnestly and successfully to meet all prerequisites for in-region, interLATA relief under the Telecommunications Act of 1996 (the “Act” or “1996 Act”). BellSouth has opened the local exchange in Louisiana to competition by negotiating dozens of carrier-specific interconnection agreements and filing a Statement of Generally Available Terms and Conditions that has been approved by the State public service commission. The State commission conducted an extensive evidentiary proceeding, open to all, to investigate BellSouth’s compliance with the requirements of section 271. After its investigation, the State commission found that BellSouth has met the Act’s requirements and that BellSouth’s provision of in-region, interLATA services would serve the public interest.

As in South Carolina, for which BellSouth has a pending application for long distance authority, long distance callers in Louisiana — and particularly average residential users — pay more than they should for interLATA service because BellSouth has been excluded from the market. Potential wireline carriers in Louisiana are holding back in offering facilities-based local service to residential customers even though they can obtain interconnection and unbundled network elements from BellSouth to ease their entry. These potential competitors are focusing instead on urban business markets, where they can earn higher profits by selectively “cherry picking” BellSouth’s most profitable customers.

New competitors simply sense no urgency in entering the local market in Louisiana on a broad basis. As long as BellSouth cannot offer its ordinary local customers one-stop shopping, potential competitors face little risk from holding off as well. They can ignore residential callers

in favor of more lucrative business customers, or postpone entering the local telephone business altogether, knowing that BellSouth can neither gain an advantage by selling bundled services nor take a single penny from the incumbents' interLATA profits.

With this application, BellSouth seeks to bring greater local and long distance competition to all Louisianans. Notwithstanding the limited strategic entry by wireline local carriers, BellSouth is eligible to file under Track A, 47 U.S.C. § 271(c)(1)(A), because PCS providers unaffiliated with BellSouth have commenced service over their own networks in Louisiana. Under the plain language of the Act as well as this Commission's prior decisions, these PCS carriers are "competing providers of telephone exchange service . . . to residential and business subscribers." The legislative history of section 271 further makes clear that Track A is satisfied because these wireless carriers provide a facilities-based alternative to BellSouth for local calls.

BellSouth also has fully complied with the local competition provisions of the 1996 Act. The Louisiana Public Service Commission ("Louisiana PSC") conducted a nine-month review of BellSouth's compliance with section 271. It also established separate proceedings to ensure that BellSouth's resale discount and rates for interconnection and unbundled network elements are consistent with section 252 of the Communications Act. After thorough investigation into these three dockets, the Louisiana Commission: (1) concluded that BellSouth's Statement of Generally Available Terms and Conditions makes available to competitors each of the 14 items required under the competitive checklist and (2) set a resale discount and cost-based rates and approved their inclusion in the Statement. Existing wireline carriers, PCS providers, and any other parties that seek to enter the local market in Louisiana have access to these terms under BellSouth's generic statement or their own, custom-tailored agreements.

In its review of BellSouth's eligibility for interLATA relief, the Louisiana PSC paid particular attention to competitors' access to BellSouth's operations support systems ("OSSs"). Parties such as AT&T, MCI, and the U.S. Department of Justice will claim in this proceeding that BellSouth cannot prove such access is available until competitors actually choose to avail themselves of it. Yet, after inspecting BellSouth's OSS interfaces and procedures and giving opponents an opportunity to prove alleged deficiencies in a live demonstration, the Louisiana PSC determined exactly the opposite: BellSouth's systems, the Louisiana PSC held, "do in fact work and operate to allow potential competitors full non-discriminatory access."¹

The Louisiana PSC's findings establish BellSouth's satisfaction of all relevant requirements under sections 251 and 252 of the Communications Act and section 271's checklist. They rule out the possibility that the limited scope of local wireline competition in Louisiana is attributable to BellSouth rather than the business strategies of potential competitors.

In addition to meeting all requirements imposed by the State commission and the Act itself, BellSouth has abided by the general guidance given in this Commission's Michigan Order² to the fullest extent possible while still preserving BellSouth's right to have a court decide whether certain of these requirements would be consistent with the Act if applied to the facts in Louisiana. For example, this application includes extensive documentation requested by the

¹ Order U-22252-A, Consideration and Review of BellSouth Telecommunications, Inc.'s Preapplication Compliance with Section 271 of the Telecommunications Act of 1996, Dkt. U-22252, at 4-5, 15 (LPSC rel. Sept. 5, 1997) ("Compliance Order") (App. C Tab 136).

² Memorandum Opinion and Order, Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as Amended, to Provide In-Region, InterLATA Services in Michigan, CC Docket No. 97-137, FCC No. 97-298 (rel. Aug. 19, 1997) ("Michigan Order").

Commission regarding performance data, pricing, and other matters, notwithstanding pending proceedings that bear on the legal relevance of such evidence.

The benefits of granting this application are crystal clear. BellSouth has, for example, committed to establish its basic interLATA rates at least 5 percent below those of AT&T immediately upon entering the market. This discount (and ensuing competitive marketing by all carriers) would guarantee residential callers in Louisiana, who are most in need of price relief, the opportunity to realize savings from a long distance carrier they know and can trust. By 2006, fuller competition as a result of in-region, interLATA relief will create more than 7,600 new jobs in Louisiana and increase the gross state product by more than \$900 million. Nationwide, residential customers would save \$7 billion per year. That means that these ordinary callers are losing well over \$100 million every week that the Commission delays section 271 relief — a price tag that should weigh heavily on this Commission.

BellSouth's entry into interLATA services will ignite competition in Louisiana's local markets as well. In particular, the major long distance carriers will no longer be able to pursue other opportunities with the assurance that BellSouth cannot sell packages of local and interLATA services consumers desire. After interLATA relief is granted, moreover, AT&T, MCI, and Sprint will be freed of all restrictions on their own bundled service packages, which will add an additional dimension to local competition.

The traditional justification for excluding Bell companies from interLATA services, and foregoing such benefits, is that they might dominate interexchange markets through cost misallocation or discrimination. Yet the 1996 Act, together with longstanding Commission

regulations, state regulations, and market realities, renders such misconduct inconceivable. The local exchange in Louisiana is open to competitors. BellSouth will start with zero market share in a long distance business dominated by entrenched incumbents with vast resources and high sunk costs, factors that make successful predation unimaginable. Commission rules and procedures have successfully protected regulated ratepayers when incumbent local exchange carriers have entered other markets adjacent to the local exchange. As the Commission has confirmed, the 1996 Act gives it ample authority to deter anticompetitive behavior and to facilitate detection of potential violations of the Act.

There can be no basis for delaying level competition by BellSouth in Louisiana, except to hold back BellSouth until potential entrants such as AT&T and MCI, who have spent the last 21 months plotting regulatory strategies instead of pursuing market entry, are willing to compete. Any such effort to manage competition would flatly violate the 1996 Act and Congress's deregulatory policies. Just as important, a failure to free BellSouth to compete would — as this application demonstrates — gravely harm the Louisiana consumers whose interests should be paramount.

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APPENDIX A

TAB	DESCRIPTION	
	Affidavit	Subject
1	George F. Agerton	BST Section 272 Compliance
2	Guy L. Cochran	BST Section 272 Compliance
3	Richard J. Gilbert	Public Interest Test
4	John R. Gunter	Public Interest Test (Impossibility of Technical Discrimination)
5	Jerry A. Hausman	Public Interest Test*
6	David Hollett	Checklist Compliance (Billing Systems)
7	Victor E. Jarvis	BSLD Section 272 Compliance
8	David A. Kettler	Manufacturing Relief
9	W. Keith Milner	Checklist Compliance
10	D. John Roberts	Public Interest Test (No Risk of Predatory Pricing)*
11	Richard L. Schmalensee	Public Interest Test*
12	William N. Stacy	Checklist Compliance (Operations Support Systems)
13	William N. Stacy	Checklist Compliance (Performance Measures)
14	Alphonso J. Varner	Checklist Compliance and BST Section 272 Compliance
15	Glenn A. Woroch	Public Interest Test
16	Gary M. Wright	Local Competition

* Affidavits marked with an asterisk were originally filed with the Commission on September 30, 1997, as part of the Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in South Carolina, FCC Docket No. 97-208.

APPENDIX B

INTERCONNECTION AND RESALE AGREEMENTS		
TAB	APPROVAL	PARTY
1	10/08/96	American MetroComm Corporation Interconnection Agreement
2	10/08/96	Hart Communications Interconnection Agreement
3	10/08/96	Intermedia Communications, Inc. Interconnection Agreement and 06/20/97 Amendment
4	10/30/96	National Tel Interconnection Agreement and 06/20/97 Amendment
5	11/04/96	American Communications Services, Inc. (ACSI) Interconnection Agreement and 02/03/97 Amendment
6	02/03/97	Competitive Communications, Inc. Interconnection Agreement
7	02/03/97	TriComm, Inc. Interconnection Agreement
8	02/03/97	WinStar Wireless, Inc. Interconnection Agreement
9	02/04/97	Communication Brokerage Services, Inc. Resale Agreement
10	02/04/97	Tie Communications, Inc. Resale Agreement
11	03/12/97	Unidial Communications, Inc. Resale Agreement
12	03/14/97	US LEC of North Carolina L.L.C. Interconnection Agreement
13	04/08/97	American Communications Services, Inc. (ACSI) Resale Agreement
14	04/08/97	Interlink Telecommunications of Florida, Inc. Resale Agreement
15	04/08/97	U.S. Long Distance, Inc. Resale Agreement
16	04/21/97	Advanced Tel, Inc. Resale Agreement
17	06/19/97	BellSouth Cellular Corporation Interconnection Agreement and 10/05/97 Amendment
18	06/20/97	AT&T Wireless Services, Inc. Interconnection Agreement

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TAB	APPROVAL	PARTY
19	06/20/97	Comm. Depot, Inc. Interconnection Agreement
20	06/20/97	DeltaCom, Inc. Interconnection Agreement and Amendments
21	06/20/97	FiberSouth, Inc. Interconnection Agreement and Amendment
22	06/20/97	GNet Telecom, Inc. Interconnection Agreement
23	06/20/97	ICG Telecom Group, Inc. Interconnection Agreement
24	06/20/97	KMC Telecom, Inc. Interconnection Agreement
25	06/20/97	LCI International Telecom Corporation Resale Agreement
26	06/20/97	LCI International Telecom Corporation Line Information Database (LIDB) Storage Agreement
27	06/20/97	Powertel, Inc. Interconnection Agreement
28	08/12/97	PrimeCo Personal Communications, L.P. Interconnection Agreement
29	08/12/97	SouthEast Telephone, Ltd. Interconnection Agreement
30	08/12/97	Sprint Spectrum, L.P. Interconnection Agreement
31	08/12/97	Telephone Company of Central Florida Resale Agreement
32	08/12/97	Teleport Communications Group Interconnection Agreement
33	08/20/97	ALEC, Inc. Interconnection Agreement
34	08/20/97	Communication Options Southern Region, Inc. d/b/a COI Resale Agreement
35	08/20/97	Inter-World Communications Resale Agreement
36	08/20/97	National Tel Resale Agreement
37	08/20/97	Preferred Payphones, Inc. Resale Agreement
38	08/20/97	RGW Communications, Inc. Resale Agreement
39	08/20/97	Sterling International Funding, Inc. d/b/a Reconex Resale Agreement

INTERCONNECTION AND RESALE AGREEMENTS		
TAB	APPROVAL	PARTY
40	08/21/97	Cybernet Group Interconnection Agreement and Amendment and 10/26/97 Second Amendment
41	08/21/97	Interstate Telephone Group Interconnection Agreement and Amendment and 10/20/97 Second Amendment
42	09/01/97	Shell Offshore Services Company, Inc. Interconnection Agreement
43	09/23/97	Alliance Telecommunications, Inc. Resale Agreement
44	09/23/97	Annox, Inc. Renegotiated Resale Agreement
45	09/23/97	AXSYS, Inc. Renegotiated Interconnection Agreement
46	09/23/97	AXSYS, Inc. Renegotiated Resale Agreement
47	09/23/97	Don-Mar Telecommunications, Inc. Resale Agreement
48	09/23/97	NOW Communications, Inc. Renegotiated Resale Agreement
49	09/23/97	SouthEast Telephone, Ltd. Resale Agreement
50	09/23/97	Southern Phon-Reconnek, Inc. Renegotiated Resale Agreement
51	09/23/97	Supra Telecommunications, Inc. Resale Agreement
52	09/23/97	Tel-Link, L.L.C. d/b/a TEL-LINK, L.L.C. and Tel-Link of Florida, L.L.C. Renegotiated Resale Agreement
53	09/23/97	Wright Businesses, Inc. Renegotiated Resale Agreement
54	10/05/97	American MetroComm Corporation Renegotiated Resale Agreement
55	10/05/97	BTI Telecommunications, Inc. Resale Agreement
56	10/05/97	Data & Electronic Services, Inc. Resale Agreement
57	10/05/97	Diamond Telephone Resale Agreement
58	10/05/97	EZ Phone, Inc. Resale Agreement
59	10/05/97	JETCOM, Inc. Renegotiated Resale Agreement

INTERCONNECTION AND RESALE AGREEMENTS		
TAB	APPROVAL	PARTY
60	10/05/97	TTE, Inc. Renegotiated Resale Agreement
61	10/05/97	Teleconex, Inc. Resale Agreement
62	10/05/97	Tele-Sys, Inc. Renegotiated Resale Agreement
63	10/20/97	Centennial Cellular Corp. Interconnection Agreement
64	10/20/97	Comm South Companies, Inc. Resale Agreement
65	10/26/97	Louisiana Unwired, Inc. Resale Agreement
66	10/26/97	MERETEL COMMUNICATIONS L.P. Interconnection Agreement
67	10/26/97	Netel, Inc. Resale Agreement
68	10/26/97	OmniCall, Inc. Resale Agreement
69	10/26/97	Preferred Carrier Services, Inc. Resale Agreement
70	11/05/97	ACCESS Integrated Networks, Inc. Resale Agreement
71	11/05/97	Davco, Inc. Resale Agreement
72	11/05/97	NEXTEL Communications, Inc. Interconnection Agreement
73	11/05/97	Robin Hood Telecommunications Resale Agreement
74	11/05/97	U.S. Dial Tone, Inc. Resale Agreement
75	11/05/97	US Telco, Inc. Resale Agreement
76	10/23/97	AT&T Telecommunications of the Southern Central States, Inc. (Arbitrated Interconnection Agreement & PSC Orders)

APPENDIX C-1

TAB	RECORD OF LOUISIANA PSC DOCKET NO. U-22252 Section 271 Proceeding	
1	12/18/96	Transcript of Open Session
2	01/10/97	Official Bulletin No. 610
3	01/16/97	AT&T's Motion Requesting Leave to Intervene
4	01/17/97	LPSC Letter to Guerry Acknowledging Receipt of AT&T's January 16, 1997 Petition
5	01/22/97	Petition to Intervene of Sprint Communications Company L.P.
6	01/24/97	LPSC Letter to Atkinson Acknowledging Receipt of Sprint's January 22, 1997 Petition
7	01/31/97	MCI Telecommunications Corporation's Notice of Intervention
8	02/03/97	BellSouth Telecommunications, Inc. (BellSouth) Notice of Intervention and Request to be Placed on Service List
9	02/03/97	Louisiana Cable Telecommunications Association, Inc.'s Petition of Intervention, Request for Party of Record Status and Inclusion on Service List
10	02/04/97	LDDS WorldCom Notice of Intervention
11	02/04/97	Access Network Services, Inc.'s Motion to Intervene
12	02/05/97	LPSC Letter to Daly Acknowledging Receipt of LDDS WorldCom's February 4, 1997 Petition
13	02/05/97	LPSC Letter to Rieger Acknowledging Receipt of Louisiana Cable Telecommunications Association, Inc.'s February 3, 1997 Petition
14	02/05/97	LPSC Letter to Twomey Acknowledging BellSouth's January 31, 1997 Petition
15	02/05/97	LPSC Letter to King Acknowledging Receipt of MCI Telecommunications's January 31, 1997 Petition

TAB	RECORD OF LOUISIANA PSC DOCKET NO. U-22252 Section 271 Proceeding	
16	02/07/97	LPSC Letter to Hubbard Acknowledging Receipt of Access Network Services, Inc.'s February 3, 1997 Petition
17	02/07/97	LPSC Staff Attorney Letter to Commissioners Regarding Proposed Procedural Schedule
18	02/19/97	Transcript of Open Session
19	02/24/97	BellSouth Notice of Intent to File Section 271 Application with the Federal Communications Commission
20	02/26/97	BellSouth Long Distance, Inc.'s Motion for Leave to File Petition of Intervention and Petition of Intervention
21	02/28/97	BellSouth's Request for Status Conference
22	03/03/97	Notice of Assignment and Scheduling of Status Conference
23	03/14/97	Direct Testimony of James G. Harralson, Michael Raimondi, Loren Scott, and William E. Taylor on Behalf of BellSouth Long Distance, Inc.
24	03/14/97	Direct Testimony of Robert C. Scheye and Alphonso J. Varner on Behalf of BellSouth
25	03/14/97	Report on March 13, 1997 Status Conference and Notice of Revised Procedural Schedule
26	03/17/97	Notice of Intervention and Motion to File Out-of-Time on Behalf of American Communication Services of Baton Rouge, Inc., American Communication Services of Louisiana, Inc. and American Communication Services of Shreveport, Inc.
27	03/17/97	LPSC Letter to Freysinger Acknowledging ACSI's Notice of Intervention and Motion to File Out-of-Time Intervention
28	03/20/97	Notice of Opportunity to Object to Late Intervention
29	03/24/97	AT&T's Notice of Deposition to All Counsel of Record
30	03/24/97	Notice of Deposition for D. Loren Scott
31	03/24/97	Revised Notice of Deposition for D. Loren Scott

TAB	RECORD OF LOUISIANA PSC DOCKET NO. U-22252 Section 271 Proceeding	
32	03/27/97	Ruling on Motion for Late Intervention
33	04/01/97	AT&T's Motion to Amend Procedural Schedule
34	04/01/97	LPSC's First Set of Data Request to BellSouth
35	04/02/97	Order Amending Procedural Schedule
36	04/04/97	Amended Notice of Intent to File Section 271 Application with the Federal Communications Commission
37	04/07/97	Direct Testimony of Riley M. Murphy on Behalf of American Communication Services of Louisiana, Inc., American Communication Services of Shreveport, Inc., American Communication Services of Baton Rouge, Inc.
38	04/11/97	Direct Testimony of David E. Stahly and Melissa L. Cloz on Behalf of Sprint Communications Company L.P.
39	04/14/97	Direct Testimony of Jay Bradbury, Preston Foster, Joe Gillan, and John Hamman on Behalf of AT&T Communications of the South Central States, Inc.
40	04/14/97	Direct Testimony of Don J. Wood and David L. Kaserman on Behalf of MCI Telecommunications Corporation and AT&T Communications of the South Central States, Inc.
41	04/17/97	BellSouth's Letter to All Parties Proposing Additional Hearing Dates
42	04/21/97	Notice of Time and Location for April 28, 1997 Status Conference
43	04/23/97	Sprint Letter to ALJ Requesting to Specially Set its Witnesses
44	04/23/97	BellSouth Long Distance, Inc.'s Response to LPSC's First Set of Data Request to BellSouth
45	04/23/97	BellSouth's Responses to LPSC's Data Request
46	04/24/97	Letter From D. Shapiro Requesting to be Placed on Service List
47	04/25/97	Notice of New Date and Time for Status Conference

TAB	RECORD OF LOUISIANA PSC DOCKET NO. U-22252 Section 271 Proceeding	
48	04/29/97	Letter From W. Glenn Burns Informing LPSC of Substitute for Status Conference
49	04/30/97	MCI Telecommunications Corporation's Motion for Declaratory Order and Motion for Partial Summary Judgment
50	05/02/97	BellSouth's Rebuttal Testimony of Gloria L. Calhoun, Robert C. Scheye and Alfonso J. Varner
51	05/02/97	BellSouth Long Distance, Inc. Rebuttal Testimony of James G. Harralson and Dr. William E. Taylor
52	05/06/97	Ruling on MCI Telecommunications Corporation's Motion for Declaratory Order and Motion for Partial Summary Judgment
53	05/06/97	Report on May 5, 1997 Status Conference and Notice of Revised Hearing Dates
54	05/06/97	Ruling on Motion for Leave to Intervene of the Competitive Telecommunications Association
55	05/07/97	Motion for Leave to Intervene of the Competitive Telecommunications Association
56	05/07/97	Notice of Appearance of Counsel for WorldCom, Inc.
57	05/12/97	Notice of Opportunity for Objection to Motion for Leave to Intervene of the Competitive Telecommunications Association
58	05/14/97	Joint Witness List
59	05/14/97	BellSouth's Objection to Late Intervention
60	05/16/97	BellSouth Letter to ALJ Regarding Potential Move to Disqualify Counsel
61	05/16/97	Reply of CompTel to Ruling on Motion for Leave to Intervene
62	05/19/97	Statement of Generally Available Terms and Conditions for Interconnection, Unbundling and Resale Provided by BellSouth in the State of Louisiana
63	05/19/97	Hearing Transcript: Volume I

TAB	RECORD OF LOUISIANA PSC DOCKET NO. U-22252 Section 271 Proceeding	
64	05/20/97	Hearing Transcript: Volume II
65	05/21/96	Hearing Transcript: Volume III
66	05/22/97	Notice of Commission Consideration of BellSouth's Statement of Generally Available Terms Within This Docket ALSO Notice of Deadlines Established for Intervention and Participation With Regard to Commission's Consideration of BellSouth's SGAT ALSO Notice of New Deadline for Filing Post-Hearing Briefs
67	05/22/97	Hearing Transcript: Volume IV
68	05/23/97	Hearing Transcript: Volume V
69	05/23/97	ACSI Letter to ALJ Regarding Witness Scheduling of Riley Murphy
70	05/27/97	Hearing Transcript: Volume VI
71	05/28/97	Hearing Transcript: Volume VII
72	05/29/97	Submission of MCI/Taylor Cross Exhibit 5
73	06/06/97	Motion to Intervene of Entergy Hyperion Telecommunications of Louisiana, L.L.C.
74	06/06/97	Intermedia Communications, Inc. Petition for Leave to Intervene
75	06/06/97	Notice of Intervention by Radiofone, Inc.
76	06/06/97	Notice of Intervention by WorldCom, Inc. Regarding BellSouth's SGAT
77	06/06/97	Comments of WorldCom, Inc. on BellSouth's Statement of Generally Available Terms
78	06/06/97	Petition for Leave to Intervene and Comments of the Telecommunications Resellers Association
79	06/09/97	Global Tel*Link, Inc.'s Notice of Intervention
80	06/09/97	Motion for Leave to File Petition of Intervention and Comments of Cox Fibernet Louisiana, Inc. Regarding BellSouth's Statement of Generally Available Terms and Conditions

TAB	RECORD OF LOUISIANA PSC DOCKET NO. U-22252 Section 271 Proceeding	
81	06/10/97	Notice of Hearing
82	06/11/97	Motion of Radiofone, Inc. to Withdraw Request to Cross-Examine BellSouth's Witnesses
83	06/11/97	Intermedia Letter to ALJ Regarding Cross-Examination of BellSouth Witnesses, Testimony at June 13, 1997 Hearing, and Right to File Post-Hearing Brief
84	06/11/97	BellSouth Letter to ALJ Requesting the Cancellation of Hearings Scheduled for Cross-Examination of BellSouth Witnesses
85	06/11/97	Notice of Omission of One Intervenor in June 10, 1997 Notice and of Revised Request of Intervenor Intermedia Communications, Inc.
86	06/11/97	Notice of Cancellation of Hearing Previously Scheduled for June 12 and 13, 1997
[87]		Intentionally omitted.
88	06/11/97	Motion to File Out of Time Notice of Intervention on Behalf of Communications Workers of America
89	06/13/97	BellSouth's Objection to Late Intervention
90	06/16/97	Order Granting with Limitations Motion to File Out of Time Notice of Intervention on Behalf of Communications Workers of America
91	06/17/97	Brief of American Communication Services of Louisiana, Inc., American Communication Services of Baton Rouge, Inc. and American Communication Services of Shreveport, Inc.
92	06/17/97	Brief of Sprint Communications Company L.P.
93	06/18/97	Joint Post-Hearing Brief of Louisiana Cable Telecommunications Association and Cox Fibernet Louisiana, Inc.
94	06/18/97	Post-Hearing Memorandum of MCI Telecommunications Corporation
95	06/18/97	Post Hearing Brief of BellSouth Long Distance, Inc., on the Public Interest Issue

TAB	RECORD OF LOUISIANA PSC DOCKET NO. U-22252 Section 271 Proceeding	
96	06/18/97	AT&T Communications of the South Central States, Inc.'s Post-Hearing Brief in Opposition to Approval of BellSouth's Statement of Generally Available Terms and Conditions, and In Opposition to BellSouth's Request for a Recommendation of Preapplication Compliance with §271 to Provide InterLATA Services Originating In-Region
97	06/18/97	BellSouth's Post Hearing Brief
98	06/18/97	LPSC Staff Post Hearing Brief
99	06/18/97	Post-Hearing Brief of WorldCom, Inc.
100	06/24/97	[Revised] AT&T Communications of the South Central States, Inc.'s Post-Hearing Brief in Opposition to Approval of BellSouth's Statement of Generally Available Terms and Conditions, and In Opposition to BellSouth's Request for a Recommendation of Preapplication Compliance with §271 to Provide InterLATA Services Originating In-Region
101	07/01/97	Supplemental Post-Hearing Memorandum of MCI Telecommunications Corporation
102	07/01/97	ACSI Supplement of its Post-Hearing Brief
103	07/01/97	AT&T Letter to ALJ Regarding BellSouth's SGAT
104	07/01/97	BellSouth Letter to ALJ Requesting Opportunity to File "Supplemental" Pleading in Response to AT&T and MCI's Late Filing of Post-Hearing Brief
105	07/02/97	Notice of Opportunity to File Supplemental Briefs Concerning June 26, 1997 Memorandum Opinion and Order of the Federal Communications Commission
106	07/03/97	Sprint Letter to ALJ Regarding Supplementing Briefs
107	07/03/97	Supplemental Comments of the Telecommunications Resellers Association
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205	09/27/96	AT&T's First Set of Data Requests to BellSouth
206	10/04/96	Report on Status Conference
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209	10/23/96	Direct Testimony of Robert Scheye on Behalf of BellSouth
210	10/30/96	Notice of Consolidation of Proceedings
211	11/01/96	Joint Motion to Modify Procedural Schedule Established October 9, 1996
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217	11/27/96	Joint Motion to Amend Procedural Schedule
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219	12/03/96	Order on Joint Motion to Amend Procedural Schedule
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221	01/08/97	Notice of Revised Hearing Schedule and Extension of Deadline for Filing Glossary
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225	02/05/97	Order Denying BellSouth's Motion for Partial Stay
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243	07/03/97	Recommendation Regarding Increase in the Authorized Budget for Amount Acadian Consulting Group
244	07/11/97	BellSouth's Cost Studies
245	07/18/97	BellSouth Letter to ALJ Regarding Status Conference
246	07/23/97	AT&T Letter to BellSouth Proposing Changes to Scheduling
247	07/23/97	WorldCom Letter to ALJ in Response to BellSouth's Letter Regarding Status Conference
248	07/25/97	MCI Telecommunications Corporation's Motion to Extend Schedule and Require Training Regarding Cost Studies
249	07/28/97	Transcript of Special Open Session
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252	08/01/97	Notice of Date for BellSouth Tutorial Presentation
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256	08/26/97	BellSouth's Motion for Leave to File Supplemental Testimony
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259	09/03/97	BellSouth's Motion and Order for Expedited Hearing on Notices of Deposition
260	09/04/97	Notice of Telephone Status Conference on Thursday, September 4, 1997 on Thursday, September 4, 1997 at 2:30 P.M.
261	09/04/97	AT&T's Objections to BellSouth's Notice to Take Depositions
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274	09/29/97	Post Hearing Brief of BellSouth
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276	09/29/97	Post Hearing Brief of MCI Telecommunications Corporation
277	09/29/97	Post-Hearing Brief of Sprint Communications Company, L.P.
278	09/29/97	Post-Hearing Brief of American Communication Services of Baton Rouge, Inc., American Communication Services of Louisiana, Inc., and American Communication Services of Shreveport, Inc.
279	09/29/97	LPSC Staff Post Hearing Brief
280	09/29/97	Post-Hearing Brief of Cox Louisiana Telecom II, L.L.C.
281	09/29/97	AT&T Communications of the South Central States, Inc.'s Post-Hearing Brief
282	09/30/97	AT&T Letter to LPSC Submitting Omitted Exhibits
283	10/15/97	BellSouth Letter to ALJ Regarding 8th Circuit Ruling
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285	10/24/97	Order of the LPSC Setting Rates

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TAB	RECORD OF LOUISIANA PSC DOCKET NOS. 22020 Resale Pricing	
286	06/17/96	BellSouth Telecommunications, Inc.'s (BellSouth) Cost Studies
287	07/01/96	LPSC Letter Regarding Previous Interventions
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290	08/13/96	BellSouth's Motion to Convert August 20, 1996 Informal Presentation Conference to Informal Status Conference
291	08/14/96	AT&T's Opposition to BellSouth's Motion to Convert August 20, 1996 Informal Presentation Conference to Informal Status Conference
292	08/14/96	Transcript of Open Session
293	08/15/96	Notice of Assignment: Scheduling of Additional Status Conference
294	08/26/96	Report of Status Conference
295	08/30/96	Direct Testimony of Guy L. Cochran, Robert C. Scheye and William E. Taylor on Behalf of BellSouth
296	08/30/96	Direct Testimony of Joseph Gillan on Behalf of AT&T Communications of the South Central States, Inc. and WorldCom, Inc., d/b/a LDDS WorldCom
297	08/30/96	Direct Testimony of Patricia McFarland on Behalf of AT&T Communications of the Southern States, Inc.
298	08/30/96	Direct Testimony and Exhibit of Dr. Marvin H. Kahn
299	08/30/96	Direct Testimony of Greg Darnell on Behalf of MCI Telecommunications Corporation and MCImetro Access Transmission Services, Inc.
300	09/04/96	Report of Status Conference Procedural Schedule

TAB	RECORD OF LOUISIANA PSC DOCKET NOS. 22020 Resale Pricing	
301	09/13/96	Rebuttal Testimony of Patricia McFarland on Behalf of AT&T Communications of the Southern States, Inc.
302	09/13/96	Rebuttal Testimony of Greg Darnell on Behalf of MCI Telecommunications Corporation and MCImetro Access Transmission Services, Inc.
303	09/13/96	Rebuttal Testimony and Exhibit of Dr. Marvin H. Kahn
304	09/13/96	Rebuttal Testimony of Joseph Gillan on Behalf of AT&T Communications of the South Central States, Inc. and WorldCom, Inc., d/b/a LDDS WorldCom
305	09/13/96	Rebuttal Testimony of Guy L. Cochran, William E. Taylor, and Robert C. Scheye.
306	09/16/96	BellSouth's Motion for Expedited Discovery and Leave to Present Surrebuttal Testimony; and Alternatively, Motion to Continue Hearing
307	09/16/96	Hearing Transcript: Volume 1
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309	09/18/96	Hearing Transcript: Volume 3
310	09/26/96	Brief of Sprint Communications Company L.P.
311	09/27/96	Proposed Findings of Fact and Conclusion of Law
312	09/27/96	Post-Hearing Brief of BellSouth
313	09/27/96	Post-Trial Brief of AT&T
314	09/27/96	Post-Hearing Brief of MCI Telecommunications Corporation
315	09/27/96	Post-Hearing Brief filed by the Small Company Committee of the Louisiana Telephone Association
316	09/27/96	Brief of the Public Service Commission
317	09/27/96	Post-Hearing Brief of WorldCom, Inc. d/b/a/ LDDS WorldCom
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TAB	RECORD OF LOUISIANA PSC DOCKET NOS. 22020 Resale Pricing	
319	09/27/96	Original Post-Hearing Brief of the Louisiana Cable Telecommunications Association
320	09/27/96	MCI Telecommunications Corporation's Proposed Findings of Fact and Conclusions of Law
321	10/01/96	Reply Brief of Sprint Telecommunications Company L.P.
322	10/02/96	Reply Brief of AT&T
323	10/02/96	Reply Brief of the Louisiana Public Service Commission
324	10/02/96	Post-Hearing Reply Brief of BellSouth
325	10/02/96	Post-Hearing Reply Brief of MCI Telecommunications Corporation
326	10/09/96	Recommendation Setting Wholesale Discount Rate at 20.72%
327	10/14/96	BellSouth's Exception to Administrative Law Judge's Recommendation and Request for Oral Argument
328	10/16/96	Transcript of Open Session
329	11/12/96	Order Setting Resale Rates
330	12/17/96	Notice of Opportunity to Comment
331	01/09/97	Comments on Behalf of Global Tel*Link, Inc.
332	01/10/97	MCI Telecommunications Corporation's Opposition to the Filing of BellSouth's Exception to Administrative Law Judge's Recommendation and Request for Oral Argument
333	01/10/97	Opposition to Filing of Exception by BellSouth

APPENDIX D

TAB	DESCRIPTION	
1	10/1/97	Transcript of Open Session (LPSC §271 Docket and BellSouth/AT&T Arbitration Docket)
2	10/22/97	Transcript of Open Session (LPSC Cost Docket)
3	11/3/97	Affidavit of David Barron
4	1/29/97	Order U-22146 (BellSouth/Sprint Arbitration)
5	11/4/97	Declaration of William Denk
6	10/28/97	Affidavit of Aniruddha Banerjee
7	11/4/97	Affidavit of Silas Lee
8	BellSouth OSS Interface Presentation (Videotape)	
9	General Subscriber Service Tariff Excerpt	
10	Private Line Services Tariff Excerpt	

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Application by BellSouth Corporation,
BellSouth Telecommunications, Inc., and
BellSouth Long Distance, Inc., for
Provision of In-Region, InterLATA
Services in Louisiana

CC Docket No. _____

To: The Commission

**BRIEF IN SUPPORT OF APPLICATION BY BELLSOUTH FOR
PROVISION OF IN-REGION, INTERLATA SERVICES IN LOUISIANA**

Pursuant to section 271(d)(1) of the Communications Act of 1934, as amended, 47 U.S.C. § 271(d)(1), BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. (collectively, "BellSouth") hereby seek authorization to provide interLATA services originating in the State of Louisiana, including all services treated as such under 47 U.S.C. § 271(j). BellSouth has satisfied each of the four requirements for approval of its application. Part I of this Brief explains that BellSouth has received state approval of interconnection agreements under which it is providing interconnection and network access to facilities-based providers of telephone exchange service in accordance with section 271(c)(1)(A). Part II shows that BellSouth provides these facilities-based carriers and all competitive local

exchange carriers (“CLECs”)¹ interconnection and network access in accordance with the fourteen-point competitive checklist of section 271(c)(2)(B). Part III confirms that BellSouth will abide by the safeguards of section 272.² Part IV demonstrates that approving BellSouth’s application “is consistent with the public interest, convenience and necessity.” 47 U.S.C. § 271(d)(3)(C). This Brief and supporting affidavits are available in electronic form at <<http://www.bellsouthcorp.com>>.

Pursuant to section 271(d)(2)(B) — which provides state commissions a formal consultative role on local issues in section 271 proceedings — the Louisiana PSC established a docket in December 1996 to consider BellSouth’s eligibility to provide interLATA services in its State. Compliance Order at 1-4. That docket involved discovery, hearings, and evidentiary submissions from such parties as AT&T, MCI, Sprint, WorldCom, the Louisiana Cable Telecommunications Association, ACSI, Cox Fibernet, the Telecommunications Resellers

¹ We use the term “CLECs” to refer to both potential and actual competitors, consistent with the Commission’s use of this term. See Memorandum Opinion and Order, Application by SBC Communications Inc., Pursuant to Section 271 of the Communications Act of 1934, as Amended, to Provide In-Region, InterLATA Services in Oklahoma, CC Docket No. 97-121, FCC No. 97-128, ¶ 35 (rel. June 26, 1997) (“Oklahoma Order”).

² BellSouth intends to offer in-region, interLATA services in Louisiana through BellSouth Long Distance, Inc., which will operate in accordance with the requirements of section 272. However, all references to BellSouth Long Distance, Inc. should be understood to encompass any affiliate of BellSouth Telecommunications, Inc. (or its successors or assigns that provide wireline telephone exchange service) that operates consistent with this application’s representations regarding the future activities of BellSouth Long Distance, Inc. The Commission should confirm when it approves this application that no further authorization, under section 214 or otherwise, is necessary for these entities to commence providing in-region, interLATA and international services in Louisiana.

Association, and the Communications Workers of America. Id. at 1 n.1, 3 n.7. All interested parties had a chance to present their views and examine BellSouth's evidence, although many chose to waive that opportunity. For instance, the U.S. Department of Justice did not participate and CompTel withdrew from the proceeding rather than disclose whose interests it truly represents. Id. at 1 n.1.

The state commission adduced evidence, evaluated the credibility of witnesses who were exposed to cross examination under oath, and reached conclusions on a nearly 6,200-page record that included over 3,800 pages of testimony. The record of the Louisiana PSC's proceedings, including the Compliance Order issued at the conclusion of those proceedings, is reproduced as Appendix C of this application. See also App. D at Tab 1 (Oct. 1, 1997 transcript).

In its Compliance Order, the Louisiana PSC provided a review of BellSouth's checklist offerings, paying special attention to the pricing requirements of the Act and OSS access, which was the subject of a live technical demonstration before the commissioners. Id. at 4-15. The commission concluded that BellSouth's Statement of Generally Available Terms and Conditions ("Statement") — as modified in accordance with the Louisiana PSC's instructions — meets each of the 14 checklist requirements.

In addition to its assessment of BellSouth's checklist compliance, the Louisiana PSC determined that "BellSouth's entry into the long distance market will further the Act's goal of assuring that consumers get the full benefit of competition" and will serve the public interest. Compliance Order at 14. "[T]he evidence presented," said the State commission, "mandates a finding that consumers in Louisiana, both local and long distance, would be well served by

BellSouth's entry into the long distance market." Id. These determinations by the expert agency responsible for overseeing telecommunications markets in Louisiana provide the proper starting point for this Commission's review of BellSouth's application.

Finally, to carry out its responsibilities under section 252, the PSC established separate cost proceedings to establish rates for interconnection, unbundled network elements, and resale. The Louisiana PSC's cost proceedings were as thorough as its docket under section 271. Before establishing a discount rate in its Resale Order, the Louisiana PSC held extensive proceedings, considered detailed cost studies, and consulted an independent expert.³ Likewise, before issuing its Pricing Order (on interconnection and UNE rates) on October 24, 1997,⁴ the Louisiana PSC considered cost studies, supporting briefs, and live testimony from 33 witnesses representing BellSouth and its competitors, and hired an outside consultant to conduct an independent analysis and testify before the commission. Pricing Order at 1-4. Briefs, transcripts, cost studies, orders, and other relevant portions of the records of these two dockets are reproduced in Appendix C of this application, at Tabs 198-333; see also App. D at Tab 2 (Oct. 22, 1997 transcript).

These proceedings, together with other State proceedings conducted to oversee local interconnection negotiations under sections 251 and 252 of the Telecommunications Act, constitute an extraordinary commitment of resources by the Louisiana PSC. Although opponents

³ Order No. U22020, Review and Consideration of BellSouth's Resale Cost Study Submitted Pursuant to Section 1101(D) of the Louisiana PSC Local Competition Regulations, Dkt. No. U-22-2 (LPSC issued Nov. 12, 1996) (App. C at Tab 329).

⁴ Order No. U-22022/22093-A, Review and Consideration of BellSouth's TSLRIC and LRIC Cost Studies Submitted Per Sections 901.C and 1001.E of the LPSC Local Competition Regulations, Dkt. Nos. U-2202/22093 (LPSC issued Oct. 24, 1997) (App. C at Tab 285).

of this application predictably will attempt to disparage the Louisiana PSC's methods and findings, that is only because these parties' arguments were found meritless after full investigation. The Louisiana PSC has performed its responsibilities under section 271 with diligence and thoroughness; if there are supposed gaps in the record before the Louisiana PSC, that is solely because parties failed to present their evidence or ask their questions when invited to do so. This Commission must not countenance efforts to end-run the investigations of state commissions that are most familiar with the facts and best positioned to determine local competition issues. It should, instead, accord the findings of the Louisiana PSC the deference to which they are properly entitled under section 271.

III. BELLSOUTH MAY PROCEED UNDER TRACK A

BellSouth has opened its local markets in Louisiana to competitors both by negotiating agreements with individual CLECs and by obtaining State approval of terms and conditions for access and interconnection that are generally available to all CLECs in the State. While wireline CLECs have limited their facilities-based entry in Louisiana in order to pursue the most economically attractive opportunities, BellSouth nonetheless is eligible to apply for interLATA relief under Track A based on its interconnection agreements with several wireless carriers. These local carriers have seized the opportunities available to all CLECs in Louisiana.

A. BellSouth Has Taken All Required Steps to Open Local Markets in Louisiana

BellSouth has done its part to facilitate competitive entry in Louisiana by negotiating agreements with individual CLECs and offering interconnection and network access through its Statement of Generally Available Terms and Conditions.

1. *BellSouth Has Negotiated Agreements with Numerous CLECs*

BellSouth's negotiators have devoted countless hours to fielding CLEC requests and negotiating arrangements that meet individual CLECs' needs. As a result of these efforts, BellSouth has signed more local interconnection agreements than any other incumbent LEC. Indeed, BellSouth was responsible for finalizing about 45 percent of all Bell company agreements as of July 1997. *Woroch Aff.* ¶ 41 (App. A at Tab 15).

In Louisiana, BellSouth has executed approved agreements with 70 different telecommunications carriers. See *Wright Aff. Attach. WLPE-A*. BellSouth's 76 State-approved agreements and the Louisiana PSC orders and notices approving them are reproduced in Appendix B of this application.⁵ All the agreements except BellSouth's agreements with AT&T

⁵. The Louisiana PSC formally approved agreements between BellSouth and the following CLECs: Advanced Tel, Inc.; American Communications Services, Inc. (Separate Interconnection and Resale Agreements); American MetroComm Corporation (Interconnection Agreement); AT&T Telecommunications of the Southern Central States; AT&T Wireless Services, Inc.; BellSouth Cellular Corporation; Comm. Depot, Inc.; Communication Brokerage Services, Inc.; Competitive Communications, Inc.; DeltaCom, Inc.; FiberSouth, Inc.; GNet Telecom, Inc.; Hart Communications; ICG Telecom Group, Inc.; Interlink Telecommunications of Florida, Inc.; Intermedia Communications, Inc.; KMC Telecom, Inc.; LCI International Telecom Corporation (Separate Resale and LIDB Storage Agreements); National Tel (Interconnection Agreement) Powertel, Inc.; Tie Communications, Inc.; TriComm, Inc.; Unidial Communications, Inc.; US LEC of North Carolina L.L.C.; U.S. Long Distance, Inc; WinStar Wireless, Inc.

In addition, if the Commission docket an interconnection agreement and no protest or intervention is filed, the agreement is deemed approved after the 90 day period for Commission review has expired. See generally Affidavit of David Barron (App. D at Tab 3); 47 U.S.C. § 252(e)(4). Agreements between BellSouth and the following CLECs became approved in this fashion: ACCESS Integrated Networks, Inc.; ALEC, Inc.; Alliance Telecommunications, Inc.; American MetroComm Corporation (Resale Agreement); Annox, Inc.; AXSYS, Inc. (Separate Interconnection and Resale Agreements); BTI Telecommunications, Inc.; Centennial Cellular Corporation; Comm South Companies, Inc.; Communication Options Southern Region, Inc.; Cybernet Group; Davco, Inc.; Data & Electronic Services, Inc.; Diamond Telephone; Don-Mar

and Sprint were completed entirely without the need for arbitration. Relevant portions of the Louisiana PSC's record and that Commission's decision in the AT&T/BellSouth arbitration (which had not been appealed as of November 5, 1997) are reproduced in Appendix C (at Tabs 143-197). The Sprint/BellSouth arbitration covered only 8 issues, after an additional 42 were resolved by the parties through stipulation. A copy of that decision (which was not appealed) is provided at Tab 4 of Appendix D. There are no outstanding requests by any CLEC for arbitration with BellSouth in Louisiana.

As Professor Woroch, Executive Director of the Consortium for Research on Telecommunications Policy at the University of California, Berkeley, notes, BellSouth's agreements "go beyond the statutory minimum in promoting competition in Louisiana" and "reveal attempts by [BellSouth] to support robust, productive transactions typical of commercial relationships found in almost any industry." Woroch Aff. ¶¶ 43, 47. They stand as powerful evidence that "local exchange markets in Louisiana are open to competitors, and will remain open." Id. ¶ 9.

Telecommunications, Inc.; EZ Phone, Inc.; Interstate Telephone Group; Inter-World Communications; JETCOM, Inc.; Louisiana Unwired, Inc.; MERETEL COMMUNICATIONS L.P.; National Tel (Resale Agreement); Netel, Inc.; NEXTEL Communications, Inc.; NOW Communications, Inc.; OmniCall, Inc.; Preferred Carrier Services, Inc.; Preferred Payphones, Inc.; PrimeCo Personal Communications, L.P.; RGW Communications, Inc.; Robin Hood Telecommunications; Shell Offshore Services Company, Inc.; SouthEast Telephone, Ltd. (Separate Interconnection and Resale Agreements); Southern Phon-Reconnek, Inc.; Sprint Spectrum, L.P.; Sterling International Funding, Inc. d/b/a Reconex; Supra Telecommunications, Inc.; Teleconex, Inc.; Telephone Company of Central Florida; Teleport Communications Group ("TCG"); Tele-Sys, Inc.; Tel-Link, L.L.C. d/b/a TEL-LINK, L.L.C. and Tel-Link of Florida, L.L.C.; TTE, Inc.; U.S. Dial Tone, Inc.; US Telco, Inc.; Wright Businesses, Inc.

2. *BellSouth Has Obtained State Approval of Its Statement*

BellSouth has also actively invited entry by CLECs in Louisiana through its Statement, which sets out specific terms and conditions under which BellSouth offers to provide interconnection and access to its network, as well as resale opportunities, on a nondiscriminatory basis to any requesting CLEC. It “assures that efficient firms can enter the local exchange markets in Louisiana and offers them . . . every conceivable commercial opportunity so as to maximize the likelihood that efficient entrants will succeed.” Id. ¶ 5. In order to ease entry by CLECs (particularly smaller CLECs) that do not want to negotiate carrier-specific terms, and to establish a useful model for carriers that do want to negotiate, the Statement sets out these offerings in “as straightforward and simple” a way as possible. Varner Aff. ¶ 13 (App. A at Tab 14).

Pursuant to section 252(f) of the Act, the PSC approved BellSouth’s Statement in its Compliance Order on September 5, 1997. That approval required BellSouth to make several revisions to the Statement, including changes to the Statement’s procedure for truing-up rates for interconnection and unbundled network elements (“UNEs”) after completion of the Louisiana PSC’s cost proceeding. See Compliance Order at 5 (summarizing required revisions). The required changes have been made and, as explained below, the Statement also has been revised in light of the Louisiana PSC’s October 24 Pricing Order. A revised Statement that reflects all relevant Louisiana PSC decisions has been approved by the State commission and is provided as an exhibit to the Affidavit of Alphonso Varner. Varner Aff. ¶ 8 & Ex. AJV-1.

B. PrimeCo, Sprint Spectrum, and MereTel Are Operational Track A Competitors

Although BellSouth does not have complete information regarding the activities of all CLECs in Louisiana, BellSouth does have ample information to know that its agreements with three wireless carriers — PrimeCo Personal Communications (“PrimeCo”) and Sprint Spectrum in New Orleans, and MereTel Communications in Baton Rouge — qualify BellSouth to file this application for authority to provide interLATA services in Louisiana under section 271(c)(1)(A), or “Track A.”

Where a BOC relies upon the presence of a facilities-based competitor to support a Track A application, that unaffiliated carrier must: (1) have an “agreement[t] that has been approved under section 252 of this title specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities;” (2) be a “competing provide[r] of telephone exchange service (as defined in section 153(47)(A) of this title), but excluding exchange access;” (3) serve residential and business subscribers; and (4) offer service exclusively or predominantly over its own telephone exchange service facilities. 47 U.S.C. § 271(c)(1)(A). PrimeCo, Sprint Spectrum, and MereTel meet all four requirements in Louisiana.

The PCS providers’ satisfaction of the first, third and fourth criteria requires no extended discussion. The BellSouth/PrimeCo interconnection agreement was effective April 1, 1997, see App. B at Tab 28, received state approval id.; Wright Aff. ¶ 115, and has been implemented through actual interconnection. Wright Aff. ¶ 9. Likewise, the BellSouth/Sprint Spectrum agreement was effective April 14, 1997, see App. B at Tab 30, received approval, id.; Wright Aff. ¶ 111, and has been implemented through actual interconnection, Wright Aff. ¶ 9. The

BellSouth/MereTel agreement was effective July 15, 1997, see App. B at Tab 66, became approved, Wright Aff. Attach. WLPE-A; Barron Aff., and has been implemented through actual interconnection, Wright Aff. ¶ 119.

PrimeCo, Sprint Spectrum, and MereTel serve both “residential and business subscribers” in Louisiana. Id. ¶¶ 9, 111, 113-115, 118; see Denk Report, Attach. MARC Study at 2 (App. D at Tab 15); PrimeCo News Release, PCS Subscribers Are Full of Surprises, Aug. 19, 1997 <<http://www.primeco.com>> (see PrimeCo Primer, News). Because these carriers offer service exclusively over their own facilities — including cell sites, switches, and wireline network connections — the “facilities-based” requirement of Track A is satisfied as well. See Wright Aff. ¶¶ 9, 117, 119.

The only remaining issue is whether PrimeCo, Sprint Spectrum, and MereTel are “competing providers of telephone exchange service” for purposes of section 271(c)(1)(A). As explained below, the plain language of this phrase encompasses PCS providers as well as wireline providers. While that should end the inquiry, market evidence confirms that PrimeCo and Sprint Spectrum (and almost certainly MereTel as well) do compete in an economic sense with BellSouth’s wireline operations for local customers in Louisiana.

I. PCS Service Is “Telephone Exchange Service”

While exchange access and cellular service are expressly excluded from the definition of “telephone exchange service” for purposes of section 271,⁶ PCS service is not. Section 271 defines “telephone exchange service” by reference to section 3(47)(A) of the Communications

⁶ Exchange access is excluded by name; cellular is excluded by reference to 47 C.F.R. § 22.901.

Act, 47 U.S.C. § 153(47)(A), which in turn defines “telephone exchange service” as “service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge.”⁷

PCS service satisfies this definition by offering service over a radio-based network equivalent to an ordinary wireline exchange, for a non-distance-sensitive “airtime” charge. This is confirmed by the last sentence of section 271(c)(1)(A); that sentence provides that technically and commercially similar cellular service “shall not be considered telephone exchange servic[e]” for purposes of Track A, indicating such wireless service would otherwise qualify. Finally, section 221(b) of the Communications Act, 47 U.S.C. § 221(b), specifically deprives the Commission of jurisdiction over “telephone exchange service” furnished by “mobile, or point-to-point radio,” thus confirming that mobile service can be telephone exchange service.⁸

The Commission recently held that cellular and PCS services are “telephone exchange service.”⁹ Although it relied expressly upon section 3(47)(B) — which is not relevant under

⁷ Commission regulations defining the same term, promulgated as part of the Commission’s implementation of the 1996 Act, track the statute verbatim. See 47 C.F.R. § 51.5.

⁸ This section predates the 1996 Act, which added new language to the definition of “telephone exchange service” as section 3(47)(B). Accordingly, radio services must qualify as telephone exchange service under the prior definition of “telephone exchange service” (current section 3(47)(A)), which is referenced in section 271(c)(1)(A).

⁹ First Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, 15999-16000, ¶ 1013 (1996) (“Local Interconnection Order”), modified on reconsideration, 11 FCC Rcd 13042 (1996), vacated in

section 271(c)(1)(A) — the Commission relied implicitly on section 3(47)(A), by noting Track A’s carve-out of cellular service: “[I]f Congress did not believe that cellular providers were engaged in the provision of telephone exchange service,” the Commission observed, “it would not have been necessary to exclude cellular providers from this provision.”¹⁰ Because the cellular carve-out of Track A applies only to section 3(47)(A), the Commission thus necessarily imputed to Congress a judgment that wireless service qualifies as telephone exchange service under that section — and therefore section 271(c)(1)(A) as well.

2. *Track A Does Not Require That the Competitor’s Service Be Equivalent in Every Respect to the BOC’s*

Having brought PCS within Track A through the definition of “telephone exchange service,” Congress did not take it outside Track A through the statute’s reference to a “competing provider.” Although the Commission has not fully interpreted this phrase in the context of section 271(c)(1)(A), it has stated that, to be a competing provider to the BOC, a competitor need not meet “any specified level of geographic penetration” or have any particular market share, but rather must “be said to be an actual commercial alternative to the BOC”¹¹ and “actually be in the market and operational (*i.e.*, accepting requests for service and providing such service for a

part, Iowa Utils. Bd. v. FCC, 120 F.3d 754 (8th Cir. 1997), modified, 1997 U.S. App. LEXIS 28652 (8th Cir. Oct. 14, 1997).

¹⁰ Id. 11 FCC Rcd at 16000, ¶ 1014.

¹¹ Memorandum Opinion and Order, Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as Amended, to Provide In-Region, InterLATA Services in Michigan, CC Docket No. 97-137, FCC No. 97-298, at ¶¶ 76-78 (rel. Aug. 19, 1997) (“Michigan Order”).

fee).”¹² PrimeCo, Sprint Spectrum, and MereTel satisfy both the plain statutory requirement and the Commission’s gloss on that test.

Looking first to the structure of the Act, the fact that PCS providers may qualify as “competing providers” under section 271(c)(1)(A) is demonstrated by Congress’s use of the phrase “competing providers” elsewhere in the 1996 Act. Section 251(b)(3) imposes upon incumbent LECs a duty to provide “competing providers of telephone exchange service” dialing parity and nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listings.¹³ In implementing this provision, the Commission has broadly defined “competing provider” to mean “a provider of telephone exchange . . . services that seeks nondiscriminatory access from a [LEC] in that LEC’s service area.”¹⁴ This definition includes requesting PCS providers; indeed, PrimeCo, Sprint Spectrum, and MereTel have all negotiated for access to telephone numbers, directory listings and directory assistance, operator services, and dialing parity in Louisiana.¹⁵ In light of the canon that language used in more than one place in a

¹². Id. ¶ 75

¹³. Likewise, section 251(b)(4) requires incumbent LECs to give “competing providers of telecommunications services” access to poles, ducts, conduits, and rights-of-way.

¹⁴. 47 C.F.R. § 51.217(a)(1).

¹⁵. PrimeCo Agreement §§ X, XI, XVI.E; Sprint Spectrum Agreement §§ XI, XII, XVII.E; MereTel Agreement §§ XI, XII, XVII.E; see also Second Report and Order and Memorandum Opinion and Order, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 19392, 19430, ¶ 71 (1996) (“Dialing Parity Order”) (“We anticipate that local dialing parity will be achieved upon implementation of the number portability and interconnection requirements of section 251.”).

statutory scheme must be read the same way each time it appears,¹⁶ it follows that the phrase “competing provide[r] of telephone exchange service” should be read by the Commission to encompass PCS providers for purposes of Track A as well.

The legislative history of Track A confirms this. As originally drafted by the House Commerce Committee, the provision that became section 271(c)(1)(A) specified that a Track A carrier must be “an unaffiliated competing provider of telephone exchange service that is comparable in price, features, and scope” to the BOC’s service.¹⁷ Cellular services were deemed by the Committee not to satisfy this requirement of comparability, and so they were expressly excluded from Track A.¹⁸ Subsequently, however, the underscored language of the Committee bill was removed on the House floor.¹⁹ This was no technical change: Representative Bryant objected, without success, that the deletion would make a “big major change” and unreasonably ease BOC entry into long distance.²⁰

As finally enacted, section 271(c)(1)(A) requires only that a facilities-based provider of telephone exchange service (other than exchange access) “actually be in the market” and compete for customers in a geographic locale served by the BOC. Michigan Order ¶ 75. This ensures, for

¹⁶ See, e.g., Ratzlaf v. United States, 510 U.S. 135, 143 (1994); Atlantic Cleaners & Dyers, Inc. v. United States, 286 U.S. 427, 433 (1932).

¹⁷ H. R. Rep. 104-204, pt. 1 at 8 (1995) (“House Report”) (proposing new section 245(c)(1)(A)) (emphasis added).

¹⁸ See id., pt. 1 at 77 (cellular excluded “since the Commission has not determined that cellular is a substitute for local telephone service”).

¹⁹ See S. 652 § 101(a) (House substitute, Oct. 12, 1995) (proposing new § 245(a)(2)(a)).

²⁰ 141 Cong. Rec. H8451, H8452 (daily ed. Aug. 4, 1995).

example, that a BOC cannot satisfy section 271(c)(1)(A) through an interconnection agreement with an independent LEC that serves an adjacent service area. By continuing to exclude cellular carriers from eligibility under Track A even after it deleted the requirement of “comparable” service, moreover, Congress ensured that prior to Bell company interLATA entry there would be some additional local competition beyond the cellular competition that was well established in all 50 states prior to the 1996 Act.²¹ Otherwise, Track A would have been available to every BOC in every state immediately upon enactment.

Congress’s decision that the “price, features, and scope” of a competitor’s service need not be comparable to those of the BOC’s service makes sound policy sense. The purpose of section 271(c) — including both Track A and Track B as well as the checklist — was not to guarantee any particular type or extent of local competition, but rather to ensure that the BOC has taken the necessary steps to open the local exchange to all comers.²² That is why Congress refused to tie BOC interLATA relief to some measure of actual local competition. See Michigan Order ¶¶ 76-77. Moreover, wireless and wireline networks use the same basic forms of interconnection with the incumbent LEC and generally obtain checklist items in the same fashion. Any agreement with a PCS provider under sections 251 and 252 would be available to other CLECs under the same terms and conditions, so there is no danger that a BOC could obtain

²¹. See generally Donaldson, Lufkin & Jenrette, The Wireless Communications Industry (Summer 1994).

²². See 141 Cong. Rec. S8188, S8195 (daily ed. June 12, 1995) (statement of Sen. Pressler) (noting adoption of checklist approach in place of “actual competition” test); 141 Cong. Rec. S8009 (daily ed. June 8, 1995) (statement of Sen. Hollings) (“checklist” is test of “what actual and demonstrable competition would encompass”).

interLATA relief by making preferential arrangements with a PCS provider. See 47 U.S.C. § 252(i).

3. *For Some Customers and Uses, PCS Service Is a Substitute for BellSouth's Wireline Service*

Even if the Commission wrongly read the term “competing provider” to require economic comparability of the sort originally proposed by the House Commerce Committee, PrimeCo, Sprint Spectrum, and MereTel would still be Track A “competing providers.” Market surveys of PCS service in Louisiana indicate that about 17 percent of PrimeCo’s and Sprint Spectrum’s 8000-plus customers chose to subscribe to PCS service instead of subscribing to wireline service. See Denk Report at Tables 3-5 (App. D at Tab 5). Moreover, having signed up for PCS service, 29 percent of Louisiana PCS users report that they now use PCS as their primary home or business phone, id. Table 7; 56 percent say they sometimes use PCS to receive and place calls at home, id. Table 8; 47 percent use PCS as a second telephone at work, id. Table 9; and 80 percent report using their PCS phone rather than using the wireline service of a friend or business associate when they are away from home or work, id. Table 6. Each of these study results indicates that substitution between wireless and wireline calling is occurring.

The press similarly reports that GTE Wireless has “already detected [a] shift among students, who are signing up for cellular or PCS service rather than buying [a] separate phone line.”²³ And according to market analysts Schroder Wertheim & Co. Inc., “Sprint Spectrum’s

²³ Industry Sees Students and Retirees Dropping Wired Phone for Wireless, Communications Daily, September 15, 1997.

wireless objectives include not only penetration of the existing cellular market but also capturing significant wireline local telephony market share.”²⁴

Pricing comparisons confirm that for low-volume residential customers in Louisiana a PCS subscription can be less expensive than taking the equivalent wireline intraLATA services from BellSouth. Banerjee Report (App. D at Tab 6). Dollar-for-dollar rate comparisons, moreover, do not account for the mobility and one-stop-shopping advantages of wireless, which may cause customers to substitute PCS for less expensive wireline service. *Id.* at 1, 7. Given the higher rates they pay for wireline service, business customers should be even more likely to find PCS attractive. *Id.* at 7.

C. “Track A” Wireline Carriers Are Entering the Louisiana Market

Relevant evidence regarding wireline entry into Louisiana’s local markets is not as readily obtainable by BellSouth as evidence regarding wireless entry. To ensure a full record, therefore, the Commission should direct all commenters on BellSouth’s application to give specific details regarding their own telephone exchange service operations, if any, in Louisiana, including descriptions of all services now being offered and furnished, all steps currently being taken to enter the market, and timetables for introducing new services.

That said, BellSouth has collected evidence establishing that several wireline CLECs in Louisiana are beginning to serve the most attractive customer groups in the State. The Affidavit of Gary Wright describes in detail the activities of CLECs with facilities in Louisiana.

²⁴ Schroder Wertheim & Co. Inc., Company Report — Cox Communications, Inc., dated July 9, 1996.

ACSI provides exchange access over its own networks in New Orleans, Baton Rouge, and Shreveport. See Wright Aff. ¶ 18 & Attach. WLCE-A (Confidential). ACSI began providing resold telephone exchange service to business customers in these three cities in April, 1997 and introduced facilities-based business service in New Orleans on July 30, 1997. Id. ACSI's tariff offers service to business and residential customers, although ACSI's rates are priced to compete with BellSouth's business rates and it is unclear whether any residential customer has taken ACSI up on its tariff offerings. Id. ¶ 20. One customer who requested ACSI residential service was told that "[w]e are not able to provide service to residential. It is an FCC issue." Lee Affidavit ¶ 3 (App. D at Tab 7). Nevertheless, ACSI has told this Commission that it "will provide facilities-based services to residential callers through MDUs [multiple dwelling units] and STS [shared tenant service] providers where it makes economic sense." ACSI Opposition, Application by BellSouth for Provision of In-Region InterLATA Services in South Carolina, CC Dkt. No. 97-208, at 14 (FCC Oct. 20, 1997). Indeed, ACSI reported that it already was providing "a wide variety of local exchange services" using switches in New Orleans and elsewhere in BellSouth's region. Id. at 14 & attached Falvey Aff. ¶ 10.

American MetroComm and KMC Telecom are competitive access providers that thus far have provided telephone exchange service only on a resale basis. American MetroComm has a fiber optic network and switch in New Orleans, and a fiber optic network in Baton Rouge. Wright Aff. ¶ 32 & Attach. WLCE-B (Confidential). KMC Telecom owns fiber optic networks in Baton Rouge and Shreveport and has installed local exchange switching facilities in both cities. See id. ¶ 38 & Attach. WLCE-C. Although both companies have thus far used their networks

only to provide exchange access, and have limited their local exchange service to resale, American MetroComm and KMC Telecom are expected to begin facilities-based service in Louisiana in mid-November. See Wright Aff. ¶¶ 33-40.

Like ACSI, American MetroComm, and KMC TeleCom, SHELL Offshore Service Company (“Shell”) — a subsidiary of the oil company — has an approved interconnection agreement with BellSouth, is certified to provide local service in Louisiana, and has filed a local exchange service tariff with the Louisiana PSC. Id. ¶¶ 42-43. A detailed description of Shell’s network and tariff offerings for residential and business customers is included in Attachment WLCE-D of the Wright Affidavit.

Cox Fibernet has announced that it will serve residential and business customers in New Orleans using its own wireline hybrid coax/fiber facilities — a network that passes 428,000 homes and currently serves about 275,00 cable television subscribers. Wright Aff. ¶¶ 51-52 & Attach. WLCE-E (confidential). Cox provides access service, long distance service (with its partner Frontier Corporation), Internet access, and private line services, and is currently installing an Ericsson AXE central office switch. Although Cox has not negotiated an interconnection agreement with BellSouth, Cox’s parent company owns a 30% stake in TCG, which has executed an interconnection agreement with BellSouth. Id. ¶ 56. Cox is certified to provide local service in Louisiana. Id. ¶ 49.

Entergy Hyperion Telecommunications is certified to provide local service in Louisiana and has an approved local exchange service tariff. Id. ¶¶ 70-71. Entergy Hyperion's plan for

facilities-based entry is targeted to the business end-user and the company is in the process of finalizing an interconnection agreement with BellSouth. Id. ¶¶ 70, 74.

ITC DeltaCom provides exchange access over a series of fiber optic routes in Louisiana and throughout most of BellSouth's region. Id. ¶¶ 75-76. Although ITC DeltaCom launched both resold and facilities-based local service in Alabama in June 1997, and has received Louisiana PSC approval of its interconnection agreement, application for CLEC certification, and tariff, ITC DeltaCom has not yet announced local entry plans for Louisiana. Id. ¶¶ 81-82.

If the evidence confirms that one or more of these wireline carriers are in fact offering both residential and business facilities-based service in Louisiana, Track A would be satisfied without regard to the status of PCS providers, and it would be unnecessary for the Commission to address that issue of first impression. Likewise, if the evidence shows that a wireline CLEC has begun supplementing facilities-based service to business customers with resale of BellSouth's residential service in Louisiana (or vice versa), BellSouth would be eligible for interLATA relief under Track A.²⁵ Furthermore, Track A can be satisfied by a combination of CLECs, rather than the activities of just one CLEC alone. See Michigan Order ¶¶ 82-85.

²⁵ The Department of Justice has explained that the Act "does not . . . require that each class of customers (i.e., business and residential) must be served over a facilities-based competitor's own facilities." Addendum to DOJ Oklahoma Evaluation at 3, CC Dkt. No. 97-121 (May 21, 1997). "[I]t does not matter whether the competitor reaches one class of customers — e.g., residential — only through resale, provided the competitor's local exchange services as a whole are provided 'predominantly' over its own facilities." Id.

D. If No Wireline or Wireless CLEC Had Launched Track A Service, BellSouth Would Be Eligible for InterLATA Relief Under Track B

Even if PCS providers did not qualify under Track A for some reason, and even if no wireline carrier had commenced facilities-based service that would bring it under Track A, BellSouth would still be eligible to apply for interLATA entry in Louisiana. While the Commission has read section 271(c)(1)(B) to condition Bell company interLATA entry on the absence of a request for negotiation to obtain access and interconnection “from a prospective competing provider of the type of telephone exchange service described in section 271(c)(1)(A),” Oklahoma Order ¶ 31 (emphasis added), this interpretation of Track B is contrary to the plain language of the statute and has been challenged before the U.S. Court of Appeals for the District of Columbia. SBC Communications, Inc. v. FCC, No. 97-1425 (D.C. Cir. to be argued Jan. 9, 1998). BellSouth believes that, after December 8, 1996, Track B is foreclosed only if the BOC has received a request from a qualifying “competing provide[r]” that actually meets the criteria of Track A as of “the date which is 3 months before the date the company makes its application.” 47 U.S.C. § 271(c)(1)(B). Accordingly, if no CLEC in Louisiana qualifies under Track A, it necessarily follows that BellSouth had not received any qualifying request as of three months prior to this application and is eligible to file under Track B.

Depending upon the record facts gathered by the Commission in this proceeding, BellSouth might qualify as well under the Commission’s interpretation of Track B, on the basis that no CLEC is taking “reasonable steps” toward providing Track A service in Louisiana. See Oklahoma Order ¶¶ 57-58. For example, a CLEC would not be taking reasonable steps to provide residential service on a facilities basis if it offers business services over its own network,

but refuses to serve residential customers over that operational network. Likewise, a carrier such as AT&T that has sought to enter the local market by demanding a pre-assembled “platform” of network elements to which it has no legal entitlement, is not taking reasonable steps toward providing Track A service in Louisiana.

II. BELLSOUTH PROVIDES INTERCONNECTION AND ACCESS IN COMPLIANCE WITH THE COMPETITIVE CHECKLIST

BellSouth satisfies each of the fourteen requirements of the competitive checklist by “providing access or interconnection” pursuant to its state-approved interconnection agreements with PrimeCo, Sprint Spectrum, MereTel, and other carriers in Louisiana, as well as through the general offerings of the Statement. PrimeCo, Sprint Spectrum, and MereTel have negotiated with BellSouth for contract provisions that meet their particular requirements. These carriers also have a contractual right to opt-in to designated provisions of other BellSouth agreements that have been approved by the Louisiana PSC, or to take the terms of another agreement — such as the arbitrated agreement between BellSouth and AT&T — in their entirety. Finally, PCS providers and other CLECs may take advantage of the Statement, which, as the Louisiana PSC has confirmed, meets all checklist requirements.²⁶ Should CLECs place orders for checklist items

²⁶ These local competition issues are at the core of the Louisiana PSC’s expertise and jurisdiction. See Iowa Utils. Bd. v. FCC, 120 F.3d 753 (8th Cir. 1997) (confirming state jurisdiction over local interconnection and resale agreements and pricing). This Commission, moreover, is required to consult with the Louisiana PSC “to verify” BellSouth’s satisfaction of the checklist, further driving home that the state commission’s determinations are entitled to great weight. 47 U.S.C. § 271(d)(2)(B).

There is no conflict between the statute’s requirement of consultation with the state commission to verify checklist compliance and the additional requirement of consultation with the Attorney General. See 47 U.S.C. § 271(d)(2)(A). Unlike the state commissions, the Department

under these provisions, they will find BellSouth ready, willing, and able to furnish each item at the requisite level of quality.

In that regard, a clear distinction must be drawn between competitive entry by CLECs, on the one hand, and CLECs' ability to obtain local facilities and services from BellSouth, on the other. This Commission has acknowledged that CLECs might limit their local services if doing so will slow Bell company entry into long distance. See Michigan Order ¶ 111; Oklahoma Order ¶ 56. In just the same way, CLECs have doggedly sought to convert their own lack of interest in the local market (or their ineptitude in executing business plans for local entry) into a strategic weapon: They suggest that any delays in local competition must necessarily be the fault of the incumbent. Consistent with that tactic, AT&T and others will predictably imply that — but for some failing by BellSouth — they would already be up and running as local carriers in Louisiana.

That is nonsense. AT&T in particular is making no serious effort to enter the local telephone business in Louisiana; it is too caught up in seeking to persuade judges and regulators to rewrite the 1996 Act. See Wright Aff. ¶¶ 105-108. Nor is BellSouth responsible for the relatively slow pace of entry by those CLECs that are now commencing local service, or those

of Justice has no special expertise on checklist issues and chose not to be a participant in state-level evidentiary proceedings. Accordingly, the Department of Justice's views would be entitled to less weight than the Louisiana PSC's even if one did not consider the legislative history of the Act. When that legislative history is considered, it shows that Congress intended to limit the Attorney General's consultative role to antitrust issues under the public interest test. See, e.g., 142 Cong. Rec. H1176 (daily ed. Feb. 1, 1996) (statement of Rep. Jackson-Lee) ("substantial weight" to be accorded to the views of the Attorney General is limited to her "expertise in antitrust matters"); id. at H1178 (statement of Rep. Sensenbrenner) ("FCC's reliance on the Justice Department is limited to antitrust related matters"); see also id. at H1157 (statement of Sen. Hyde) ("the Department of Justice will apply any antitrust standard it considers appropriate").

carriers' general avoidance of residential customers. As explained in detail below, all required checklist items are demonstrably available to for those CLECs who are prepared to compete.

There are a few areas in which BellSouth disagrees with the interpretations of checklist requirements suggested in the Commission's Michigan Order, particularly regarding pricing, combinations of UNEs (an issue recently resolved in BellSouth's favor by the Eighth Circuit), and certain OSS performance measurements and standards. BellSouth and other parties have properly presented these issues to the courts and the Commission;²⁷ in this application BellSouth preserves its positions for resolution by the courts if necessary.²⁸ No one who fully reviews this application, however, could genuinely question BellSouth's good-faith commitment to satisfying the local-market requirements of the checklist and the 1996 Act. BellSouth thus believes not only that the Commission should change its position on the disputed legal issues as to which it has not already

²⁷. In connection with its decision in Iowa Utilities Board, 120 F.3d 753, the Eighth Circuit has pending before it petitions arguing that because pricing matters are reserved to the States under section 252, and the checklist simply requires compliance with section 252's pricing rules, the checklist does not authorize the Commission to condition BOC interLATA entry upon compliance with federal pricing rules. In addition, BellSouth has petitioned the Commission to reconsider and clarify portions of the Michigan Order, including those dealing with OSS performance measurements and standards and evidentiary matters. Petition of BellSouth Corporation for Reconsideration and Clarification, Application of Ameritech Michigan Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Michigan, CC Docket No. 97-137 (filed Sept. 18, 1997).

²⁸. BellSouth recognizes that the Commission has no power now to grant relief on BellSouth's belief that section 271, along with other provisions of the 1996 Act that single out and impose burdens on the BOCs by name, constitutes an unconstitutional bill of attainder and also violates both separation of powers and equal protection principles. Accordingly, BellSouth preserves these arguments as well for future review in the courts.

been overruled, but also that the Commission should look beyond these narrow disagreements to the broad effort BellSouth is making to accommodate competitive.

A. BellSouth is Providing Nondiscriminatory Access to its Operations Support Systems

In its Michigan Order this Commission emphasized nondiscriminatory access to OSSs as a critical aspect of the checklist requirements. Michigan Order ¶¶ 128-221. After exhaustive and very expensive efforts to implement, test, and make commercially available new and improved interfaces and OSSs, see generally Stacy OSS Aff. (App. A at Tab 12), and to establish and staff new organizations, centers, and procedures for the benefit of CLECs, see Stacy Performance Aff. ¶¶ 4-11 (App. A at Tab 13), BellSouth is able to ensure CLECs the required access. BellSouth is not stopping there, however. As the affidavits cited below explain, BellSouth is continuing to enhance its systems, which already meet the Act's requirements, so that CLECs will have even better access to OSSs. Although not necessary to this application, that fact should give the Commission additional confidence in BellSouth's commitment to facilitate local market entry.

CLECs are able to perform traditional OSS functions such as pre-ordering, ordering, provisioning, maintenance and repair, and billing "in substantially the same time and manner" as BellSouth. Local Interconnection Order, 11 FCC Rcd at 15764, ¶ 518. As demonstrated in a videotape provided as part of Appendix D to this application, BellSouth has modified its OSSs to process CLEC transaction requests and has developed interfaces that allow CLECs to obtain access to resale services and unbundled elements at parity with BellSouth. With these modifications now in place, CLECs may obtain pre-ordering information, prepare and enter

orders, receive provisioning information, enter and track the receipt and status of trouble reports, and bill customers accurately, in substantially the same manner as BellSouth.

To cater to the differing needs of various CLECs, BellSouth has provided a choice of manual or electronic OSS interfaces. Electronic interfaces currently are available for every aspect of OSS access. These interfaces meet existing industry standards; as new industry standards are developed, BellSouth will implement them, too. See Stacy OSS Aff. ¶ 6. In addition, BellSouth has provided CLECs with all information (such as user guides and ordering codes) necessary to enable quick processing of CLEC requests, as well as the training they may need to use BellSouth's systems effectively. Stacy OSS Aff. ¶¶ 136-144 & Exs. WNS-48-51.

Whatever interface(s) a CLEC chooses, BellSouth will provide substantially the same type of functionality at substantially the same level of performance that BellSouth provides to itself. The Louisiana PSC has found as much. It explained that the sufficiency of BellSouth's systems was "[p]erhaps the single most hotly contested aspect of" its proceedings, eliciting supplemental briefing, over 115 data requests, and live demonstrations by BellSouth, AT&T, and MCI. Compliance Order at 4, 15. Based upon this "careful . . . analysis," the Louisiana PSC determined that BellSouth's systems "do in fact work and operate to allow potential competitors full non-discriminatory access" to BellSouth's OSSs. Id. at 15.

Nor can there be any argument that the access BellSouth provides is not viable at commercially reasonable usage levels. All of BellSouth's OSS interfaces have been subjected to extensive internal testing. See Stacy OSS Aff. ¶ 118. For example, BellSouth has conducted tests of its combined electronic interfaces to establish a minimum capacity of 10,000 total requests

per day in BellSouth's nine-state region. Id. ¶ 120. Almost 3,500 trouble reports have been processed through the maintenance and repair interface and BellSouth received more than 16,500 electronic orders for resale services in September alone. Id. ¶ 129 & Ex. WNS-46. BellSouth's systems are readily expandable to meet any reasonably foreseeable CLEC demand without discriminatory delays. Id. ¶ 122.

There will be those who say that the sufficiency of BellSouth's OSSs can only be shown by processing larger numbers of actual orders from CLECs. This Commission, however, has already rejected the argument that the availability of local facilities and services can only be shown by furnishing them to competitors at some minimum volume. Michigan Order ¶¶ 113-115. The checklist does not empower CLECs to delay long distance competition by refusing to come and get BellSouth's offerings.

Pre-ordering. To access OSSs containing pre-ordering information, CLECs can select a manual or electronic interface. The electronic interface — known as the Local Exchange Navigation System ("LENS") — is an interactive system that allows the CLEC direct, real-time access to BellSouth's pre-ordering OSSs. Stacy OSS Aff. ¶¶ 6-12. LENS is compatible with inexpensive, commercially available hardware and software and requires no additional development effort by the CLEC, yet can be customized by the CLEC to whatever extent the CLEC chooses. Id. ¶ 10. To accommodate CLECs of differing sizes and needs, LENS is accessible through direct (LAN-to-LAN) connections, dial-up access, or public Internet access. Id. LENS enables a CLEC to satisfy a customer's needs for pre-ordering information during a

single telephone call with the customer, without any assistance or intervention from BellSouth personnel. Stacy OSS Aff. ¶ 4.

For manual pre-ordering, which “smaller competing carriers [may] prefer,” Michigan Order at ¶ 137 & n.333, the CLEC simply passes on pre-ordering information requests to one of BellSouth’s two (redundant) Local Carrier Service Centers (“LCSCs”) via facsimile, telephone, or mail. See Stacy Performance Aff. ¶¶ 4-5 (discussing LCSCs).

Using either of these interfaces, CLECs may gather and verify street address information, telephone number availability, service and feature availability, due date information, and customer service record information. Stacy OSS Aff. ¶¶ 13-41. For instance, if a CLEC initiates an address verification query through LENS, the LENS server will query the appropriate BellSouth database and verify the address on a real-time basis. Id. ¶¶ 16, 20. A CLEC can use LENS to select and reserve telephone numbers (including vanity numbers) on a real-time basis while the CLEC’s customer is on the line. Id. ¶ 24. LENS also may be used to validate what features are available to particular end-user customers, either by entering a ten-digit telephone number or a street address. Id. ¶ 26.

LENS allows CLECs to obtain due date information for installations requiring a premises visit. Id. ¶¶ 32-33.²⁹ Authorized CLECs likewise may access customer service records on a real-time basis through the LENS interface. Id. ¶ 38. Not all pre-ordering functions are applicable to UNEs, but where a particular function is applicable (such as assigning a telephone number for an

²⁹ Business rules for other due-date intervals have been provided to CLECs. Stacy OSS Aff. ¶ 139.

unbundled port), BellSouth's pre-ordering interface can be used for UNEs as well as resold exchange services. Id. ¶ 48.

BellSouth personnel must use different systems for residential and business pre-ordering. Solely for the convenience of CLECs, however, BellSouth has made the single LENS system available for both business and residential pre-ordering. Id. ¶ 12.³⁰ LENS is, in addition, more user-friendly than some of the systems used by BellSouth's own service representatives, because it relies exclusively on graphics and English-text prompts rather than code and function keys. Id. ¶¶ 8, 12.

In an effort to make LENS even more useful to larger CLECs, BellSouth has provided to interested CLECs a LENS interface specification that allows for direct integration of data into a CLEC's systems. This enables the CLEC to use its own systems to obtain and manipulate the data provided by LENS. Stacy OSS Aff. ¶ 44. Over and above the nondiscriminatory access provided by LENS and required under the Act, moreover, BellSouth will make available machine-to-machine interfaces for access to pre-ordering OSSs that are tailored to individual CLECs' requirements. Id. ¶¶ 42-45. For instance, even though it is not required to do so to meet its duty of nondiscriminatory access under the Act, BellSouth is developing a customized machine-to-

³⁰ Certain complex services that require extensive design work and are ordered in relatively low volumes, such as SONET rings, may only be pre-ordered and ordered through a paper process. This is true for BellSouth and CLECs alike. Stacy OSS Aff. ¶¶ 63-73 & Ex. WNS-30. The service inquiry and any subsequent service requests are handled without distinguishing between orders generated by BellSouth and orders generated by a CLEC. Id. ¶ 64. The processes employed by BellSouth for these services thus afford CLECs and their customers the same level of timely service as BellSouth and its retail customers receive. See id. ¶¶ 63-73.

machine interface (“EC-LITE”) that meets AT&T’s particular specifications. BellSouth expects to deploy this interface in December 1997. Id. ¶ 42.

As described in the attached Stacy OSS Affidavit, tests and actual usage demonstrate that LENS is comparable in speed to the interfaces through which BellSouth’s customer service representatives access the same systems. Id. ¶¶ 6, 9, 20, 31. BellSouth’s central OSS databases thereafter treat all queries alike, whether they originate with a CLEC or a BellSouth service representative. Id. ¶¶ 16, 24, 28, 34 & Ex. WNS-37.

Ordering and Provisioning. Ordering and provisioning are the processes whereby a CLEC requests resold services, UNEs, or interconnection trunking from BellSouth and then receives information such as a confirmation that the order has been accepted. See 47 C.F.R. § 51.5. CLECs may use the Exchange Access Control and Tracking (“EXACT”) system to request interconnection trunking. This is the same industry-standard interface BellSouth uses to process access service requests from interexchange carriers. Stacy OSS Aff. ¶ 56. In addition, a second interface specifically developed for CLECs, Electronic Data Interchange (“EDI”), has been available to CLECs since December 31, 1996. Currently, five CLECs have an EDI interface in actual use with BellSouth. Id. ¶ 55. EDI allows CLECs to order resold services, including four “complex” services, and unbundled loops, unbundled ports, and interim number portability. Id. ¶¶ 58, 60. BellSouth’s interface meets the industry standards for EDI developed by the Ordering and Billing Forum (a subcommittee of the Association for Telecommunications Industry Solutions), allowing a CLEC to transmit service requests in standard EDI format to BellSouth. Id. ¶ 50. Using the EDI format, for instance, CLECs may specify that a customer be switched “as

is” (no features or functions are added or deleted) or “as specified” (specified features or functions are added or deleted). Id. ¶¶ 50-51.

CLECs have other alternatives as well. In addition to the nondiscriminatory access afforded by EXACT and EDI, CLECs may, at their option, submit service requests for most non-complex services through LENS. Id. ¶ 56. Or if a CLEC chooses not to use an electronic interface, it may request services or UNEs using a manual process. Stacy Performance Aff. ¶ 8.

CLECs’ access to BellSouth’s ordering functions is substantially the same as the access provided to BellSouth’s own retail operations. Mechanized order generation is available on BellSouth’s side of the EDI interface for resale services that collectively represent 90 percent of BellSouth’s consumer and small business revenues. Stacy OSS Aff. ¶ 67. Mechanized service order generation for unbundled loops, ports, and interim number portability was made available to CLECs as of October 6, 1997, following testing by BellSouth. Id. While there have in the past been problems with rejection of electronic orders placed by CLECs, problems attributable to BellSouth have been corrected. Id. ¶¶ 68-72.

After the CLEC submits its order through the preferred interface, the request is screened for formatting errors and the complete and correct service request is transferred to the same service order control system used for BellSouth’s own retail orders. This database automatically delivers service order records to the downstream OSSs that select and assign facilities and cross-connect wiring functions. There is no distinction between CLEC- and BellSouth-originated order records. Instead, orders are scheduled and filled on a first-come, first-served basis. Stacy OSS Aff. ¶¶ 23, 33, 34.

All of BellSouth's systems for ordering and provisioning are easily capable of meeting current demand and are scalable to meet reasonably foreseeable demand, including order "spikes," without discriminatory delays. Id. ¶¶ 119-134; Stacy Performance Aff. ¶¶ 4-11 (discussing BellSouth service centers).

Service Maintenance and Repair. CLECs can use BellSouth's interactive Trouble Analysis Facilitation Interface ("TAFI") or a manual interface to initiate maintenance or repair inquiries for services associated with a telephone number. Stacy OSS Aff. ¶ 86. If a CLEC elects to use the manual interface, BellSouth will handle the CLEC's phoned-in trouble reports in the same way it handles reports from its own retail customers — by entering the report into TAFI. Id. ¶¶ 90, 93. But if the CLEC chooses direct access to TAFI, its personnel are themselves able to input trouble reports, obtain commitment times, and check on the status of previously entered reports in the same way BellSouth retail service representatives, who use TAFI themselves, would accomplish the same task. Id. ¶ 93. Unlike BellSouth retail service representatives, however, CLECs have the advantage of being able to access TAFI for both business and residential customers through the same interface. Id. ¶ 90. CLECs have access to information on the resale services and UNEs they have purchased from BellSouth, but not to information about the customers of other CLECs. Id. ¶¶ 90-91.

TAFI automatically performs diagnostic tests and, by interacting with other internal BellSouth systems, is often able to correct a trouble report while the customer is still on the line. For example, if a customer were to report a problem with call waiting, TAFI would first verify that the feature is listed on the customer service record. Then, depending on the nature of the

problem, TAFI may be able to restore the service to the line. Id. ¶ 87. Where further action is required BellSouth will advise the CLEC of the steps being taken and the time they will take, so that the CLEC can inform its own customer. Id. ¶ 86. Thereafter, the CLEC can check the status of a repair order by entering a subsequent report into TAFI or, if it placed the initial order manually, by contacting the BellSouth Residence Repair Center or Business Repair Center with which it placed the initial report. See id.

As of September 30, 1997, eighteen CLECs had entered trouble reports via TAFI. A total of 3,463 trouble reports were generated by CLECs on TAFI from June through September 1997. Id. ¶ 129. BellSouth is able to add additional capacity almost immediately. Stacy OSS Aff. ¶ 128. Usage data and testing confirm that the access provided to CLECs through TAFI is nondiscriminatory. See Stacy OSS Aff. ¶¶ 120-135.

For designed services (which are associated with a circuit number), CLECs have the ability to pass a trouble ticket electronically into the Work Force Administration database using the Exchange Carrier - Common Presentation Manager interface. Id. ¶¶ 84, 95. For trouble reporting regarding designed services (such as resold complex private line services), interconnection trunking, or designed UNEs, CLECs today have access to the T1M1 electronic bonding interface used by interexchange carriers for access services. Id. ¶ 95. In addition, BellSouth will make available to CLECs in November 1997 yet another option beyond the nondiscriminatory access required under the Act: namely, the Electronic Communications Trouble Administration Gateway, a system based on the T1M1 standard for repair and maintenance of local service that can be used for non-designed and designed services and UNE trouble reports.

Id. ¶ 97. BellSouth also will develop customized systems such as one now being developed for AT&T based on the T1M1 standard. Id.

Billing. BellSouth bills CLECs using its two billing systems — Carrier Access Billing Systems (“CABS”) and Customer Records Information System (“CRIS”). CABS is a billing system for carriers that measures billable access usage and conforms to industry standards established by the Ordering and Billing Forum. CRIS was developed for billing end users and is used to bill CLECs for resold services: It measures billable call events (e.g., the use of a vertical service that is charged on a per-use basis) and accumulates call record details. Hollett Aff. ¶ 5 (App. A at Tab 6).

A CLEC receives separate bills from the CRIS and CABS systems, just as a BellSouth end user who subscribes to a service that is recorded in both systems would receive two bills. Stacy OSS Aff. ¶ 101. A variety of billing media formats are available to CLECs for both CRIS and CABS bills; BellSouth also offers a capability for sorting the information provided on CRIS bills. Hollett Aff. ¶ 6. To accommodate the preferences of CLECs, BellSouth has even negotiated to provide CRIS data in CABS format and is testing this capability with AT&T and MCI. Id. ¶ 7; see also Stacy OSS Aff. ¶ 102.

BellSouth additionally offers CLECs access, either electronically or using a magnetic tape, to usage-sensitive data in a manner that facilitates end-user billing. Hollett Aff. ¶ 11. Fourteen CLECs in BellSouth’s region now use this daily data transfer and another ten are receiving test files. Id. In all, approximately 1.5 million such messages are transmitted monthly throughout BellSouth’s region. Id. Daily usage information is available for resold lines, interim number

portability accounts, and some unbundled network elements such as unbundled ports. Id. This system provides CLECs access to the data they need in substantially the same time and manner as BST, as the Louisiana PSC confirmed through its own investigation. See Compliance Order at 15. Testing and actual usage prove that CLECs are able to receive billing information on a nondiscriminatory basis. See Hollett Aff. ¶¶ 9-18 (discussing measures to ensure adequacy of billing systems for CLECs' needs); Stacy OSS Aff. Ex. WNS-53. BellSouth has adopted a variety of safeguards to prevent double-billing and other billing errors and has addressed the few issues of this sort that have arisen. Hollett Aff. ¶¶ 9-17.

Performance Measurements. BellSouth has collected for this application and will make available to CLECs extensive data on the real-world performance of its systems. Data are provided to assess system availability, response time, and usage billing timeliness. See Stacy Performance Aff. ¶¶ 32-35. BellSouth also has provided data on the percentage of orders placed through BellSouth's electronic interfaces that "flow through" the OSSs without manual intervention. Id. ¶ 36.³¹

B. All Fourteen Checklist Items Are Legally and Practicably Available

BellSouth's OSSs enable CLECs to obtain the local network facilities and services BellSouth provides in accordance with other checklist requirements. See 47 U.S.C. § 271(c)(2). The Commission has explained that "to be 'providing' a checklist item, a BOC must have a

³¹. As BellSouth explained in its petition for reconsideration of the Michigan Order, however, the Commission may not enforce substantive performance standards for other checklist items under the rubric of access to OSSs. What happens after CLECs' requests have made it through BellSouth's support systems is governed not by the Act's OSS provisions, but rather by the checklist requirements (if any) that address the underlying item ordered.

concrete and specific legal obligation to furnish the item upon request” and “must demonstrate that it is presently ready to furnish each checklist item in the quantities that competitors may reasonably demand and at an acceptable level of quality.” Michigan Order ¶ 110.

BellSouth satisfies both elements of this test with respect to all checklist items. BellSouth is legally obligated to provide all fourteen checklist items to PrimeCo, Sprint Spectrum, MereTel, or any other CLEC that asks. First, the specific provisions of the PrimeCo, Sprint Spectrum and MereTel agreements directly require BellSouth to make a number of checklist items available. Second, the agreements require BellSouth to make available to PrimeCo, Sprint Spectrum, and MereTel portions of any of BellSouth’s other state approved agreements on matters such as: interconnection, collocation, unbundled access to any network element, access to poles, ducts, conduits, and rights-of-way, access to 911/E911 emergency network, and access to telephone numbers. PrimeCo Agreement § XVI.B, E.2; Sprint Spectrum Agreement § XVII.B, E.2; MereTel Agreement § XVII.B, E.2. Third, PrimeCo, Sprint Spectrum and MereTel may choose to opt into an entire agreement negotiated by another CLEC. PrimeCo Agreement § XVI.B, E.1; Sprint Spectrum Agreement § XVII.B, E.1; MereTel Agreement § XVII.B, E.1. Thus, for example, BellSouth is legally obligated to provide these carriers whatever it offers to AT&T, pursuant to AT&T’s arbitrated interconnection agreement. Fourth, any CLEC that is certified by the Louisiana PSC to provide local telecommunications services in the State has access to the terms of BellSouth’s approved Statement. Statement at 1. Moreover, pursuant to MFN clauses in their own negotiated agreements, Sprint Spectrum, PrimeCo, and MereTel have access to the terms of BellSouth’s approved Statement, either in their entirety or on a section-by-section basis

if they fall within one of the categories noted above. See Sprint Spectrum Agreement § XVII.C, E.1-2 (making available terms of any “order,” including the terms imposed by the Louisiana PSC in its Compliance Order); see also PrimeCo Agreement § XVI.C, E.1-2 (same); MereTel Agreement § XVII.C, E.1-2 (same).

BellSouth’s legal obligations to provide all fourteen checklist items are not mere paper promises. Rather, commercial usage throughout BellSouth’s region, as well as thorough testing in Louisiana and elsewhere, confirm that all checklist items are available today on a nondiscriminatory basis that enables CLECs to provide the same quality telecommunications services as BellSouth and in sufficient quantities to meet reasonably foreseeable CLEC demand.

(1) Interconnection. Subsection 271(c)(2)(B)(i) requires BellSouth to hold out interconnection with its network facilities in accordance with the requirements of sections 251(c)(2) and 252(d)(1) of the Communications Act. These two provisions in turn require BellSouth to provide interconnection: (A) “for the transmission and routing of telephone exchange service and exchange access;” (B) “at any technically feasible point;” (C) “that is at least equal in quality” to what BellSouth provides itself; (D) “on rates, terms and conditions that are just, reasonable, and nondiscriminatory;” and (E) based upon cost plus a “reasonable profit.”

BellSouth’s agreements with PrimeCo, Sprint Spectrum, and MereTel (among other carriers) satisfy sections 251(c)(2) and 252(d)(1) and applicable Commission regulations by providing local interconnection of equal quality, at any technically feasible point, at cost-based rates. See Varner Aff. ¶¶ 50, 56-63; Milner Aff. ¶¶ 12-15 (App. A at Tab 9). In addition to setting forth specific interconnection terms, PrimeCo Agreement §§ IV, VI; Sprint Spectrum

Agreement §§ IV, VI; MereTel Agreement §§ IV, VI, the agreements enable PrimeCo, Sprint Spectrum, and MereTel to opt into the interconnection provisions of other agreements and the Statement. PrimeCo Agreement §§ XVI.E.2.a; Sprint Spectrum Agreement § XVII.E.2.a; MereTel Agreement § XVII.E.2.a. For example, the terms of the AT&T Agreement would allow PrimeCo, Sprint Spectrum, and MereTel to “interconnect” with BellSouth “at any point . . . that is technically feasible.” AT&T Agreement § 30.2 & Attach. 2, § 16. The Statement allows interconnection at the line-side or trunk-side of the local switch, as well as at trunk interconnection points for a tandem switch, central office cross-connect points, and out-of-band signal transfer points. See Statement § I.A.1. Pursuant to a “Bona Fide Request Process” that was developed jointly with AT&T and is available to all CLECs, BellSouth also will provide local interconnection at any other technically feasible point, including meet-point arrangements. AT&T Agreement Attach. 14; Statement § I.A.2 & Attach. B; Varner ¶¶ 16, 50; Milner Aff. ¶ 12; Woroch Aff. ¶¶ 28-29 (Bona Fide Request Process allows new and unusual offerings and “gives the CLEC the flexibility to respond to market uncertainties”). Interconnection is available through several alternative methods, including virtual and physical collocation and interconnection via purchase of facilities by either company from the other. PrimeCo Agreement § VI.A.; Sprint Spectrum Agreement § VI.A; MereTel Agreement § VI.A; see also AT&T Agreement § 32.1 & Attach. 3 at § 2; Statement § I.C & II.B.6; Varner Aff. ¶¶ 44-45, 47.

The Louisiana PSC has confirmed that interconnection is available in compliance with the Act. Compliance Order at 6-7. As of September 30, 1997, BellSouth had installed more than 30,500 interconnection trunks in its region, including 936 trunks in Louisiana. Milner Aff. ¶ 13.

There are, in addition, 21 physical collocation arrangements in place in BellSouth's region and 88 in progress, including one in place and two in progress in Louisiana. See Milner Aff. ¶ 23 (discussing and providing list of physical collocations). Four virtual collocation arrangements are in place in Louisiana and another four are in progress, and another 145 have been established elsewhere in BellSouth's region. Milner Aff. ¶ 29 & Ex. WKM-2 (list of BellSouth's virtual collocations). Because BellSouth uses the same processes with respect to checklist items in all of its nine states, this experience within and outside Louisiana confirms the practical availability of interconnection in Louisiana. Milner Aff. ¶ 5.

To demonstrate that the interconnection BellSouth provides competitors is equal in quality to that BellSouth provides itself, BellSouth has furnished the following materials with this application: detailed technical service descriptions outlining its local interconnection trunking arrangements and switched local channel interconnection, Milner Aff. ¶¶ 13-14 & Ex. WKM-9; BellSouth's Collocation Handbook, which establishes standardized procedures for collocation, Milner Aff. ¶ 17; Varner Ex. AJV-4; and blockage rates for trunks that route BellSouth traffic and for trunks that route competitors' traffic, see Stacy Performance Aff. ¶¶ 47-49. Each of these three bases for comparison confirms that the interconnection BellSouth provides competitors equals what BellSouth provides to itself. Milner Aff. ¶ 12; Stacy Performance Aff. ¶¶ 63-65 & Exs. WNS-11-14. In every instance in which a trunk has been blocked, BellSouth has cooperated with competitors to resolve the problem in a nondiscriminatory fashion. See Milner Aff. ¶ 16 (describing examples).

BellSouth's interconnection agreements and Statement also address the rates at which interconnection will be provided. PrimeCo Agreement Attach. B-1; Sprint Spectrum Agreement Attach. B-1; see also AT&T Agreement Part IV (pricing of transport); id. Table 2 (pricing for physical and virtual collocation); Statement § I.E & Attach. A at 1. After an in-depth cost proceeding in which BellSouth and other parties submitted forward-looking cost studies and other evidence, the Louisiana PSC recently established cost-based interconnection rates that have been incorporated into the Statement and — where lower than BellSouth's interim rates — were automatically included (via a true-up process) in BellSouth's agreements. See Pricing Order Attach. A, § D (interconnection and transport), § H (collocation); Varner Aff. ¶¶ 48, 50 (discussing rates). The Louisiana PSC arrived at these rates after consulting an independent expert, whose recommendations often differed from those of BellSouth and other parties. Pricing Order at 4. The independent consultant's methodology, which the Louisiana PSC adopted, was identical to the methodology relied upon by the Michigan Commission, id. at 3, and endorsed by this Commission as "fully consistent with TELRIC principles." Michigan Order ¶ 290.³²

³². In its Pricing Order, the Louisiana PSC explained that its rates were derived in accordance with nine principles: (1) long-run implies a period long enough that all costs are avoidable; (2) cost causation is a key concept in incremental costing; (3) the increment being studied should be the entire quantity of services provided; (4) any function necessary to produce a service must have an associated cost; (5) common overheads are not part of a long run incremental cost study and recovery of those costs is a pricing issue; (6) technology used in a long-run incremental cost study should be the least-cost most efficient technology that is currently available for purchase; this assumes existing structural facilities, but allows for replacement with the most efficient, least-cost technology; (7) costs should be forward-looking and should not reflect the company's embedded costs; (8) cost studies should be performed for the total output of specific services and preferably at the level of basic network functions from which services are derived; and (9) the same long-run incremental cost methodology should apply to all services. Pricing Order at 3-4.

The PrimeCo, Sprint Spectrum and MereTel agreements contain true-up provisions to ensure that BellSouth's Louisiana PSC-approved TELRIC rates are available to these carriers. PrimeCo Agreement § V; Sprint Spectrum Agreement § V; MereTel Agreement § V. Although the PrimeCo, Sprint Spectrum, and MereTel agreements specify that rates may be adjusted upward or downward to reflect the Louisiana PSC's rate orders, the MFN clauses of the PrimeCo and Sprint PSC agreements allow these carriers to benefit from the downward-only adjustments provided for in the AT&T and MCI agreements and the Statement. PrimeCo Agreement § XVI.E.2.a; Sprint Spectrum Agreement § XVII.E.2.a; MereTel Agreement § XVII.E.2.a. In addition, for local interconnection or UNEs placed in service at a rate subject to true-up prior to October 24, 1997, if the rate established in the Pricing Order is higher than the interim rate, no additional payment is due BellSouth from the CLEC. Varner Aff. ¶ 29. Accordingly, BellSouth makes interconnection available to these carriers at cost-based rates in compliance with sections 251(c)(2) and 252(d)(1), and checklist item (i).

The Louisiana PSC's pricing determinations are conclusive with respect to particular rate levels. Section 252(d) reserves to the States pricing authority over local interconnection, unbundled access, resale, and transport and termination of traffic. "[T]he FCC has no valid

Although the Louisiana PSC decided to follow a TELRIC pricing methodology, the PSC was not required to do so under the Act. Indeed, the Department of Justice and this Commission have conceded that the Act, in requiring that rates be based on costs, does not specify any particular cost methodology. The Commission explained, "[t]he core terms in section 252(d) — 'just and reasonable' rates based on 'cost' — are elastic terms in ratemaking, for which 'neither law nor economics has yet defined generally accepted standards.'" Brief for Respondents Federal Communications Commission and United States of America at 47, Iowa Utils. Bd. (filed Dec. 23, 1996).

pricing authority over these areas of new localized competition.” Iowa Utils. Bd., 120 F.3d at 799. The checklist, in turn, requires only that interconnection pricing comply with the requirements of sections 251(c)(2) and 252(d)(1). 47 U.S.C. § 271(c)(2)(B)(i). This incorporation of the States’ rate-setting authority into the checklist does not suggest any transfer of power to the Commission. Indeed, far from issuing an “explici[t] direct[ion]” that the Commission exercise jurisdiction over intrastate rates (as would be necessary to establish federal authority, California v. FCC, No. 96-3519, 1997 U.S. App. LEXIS 22343, at *10 (8th Cir. Aug. 22, 1997)), Congress forbade the Commission from extending the checklist requirement of State-regulated pricing in accordance with section 252. 47 U.S.C. § 271(d)(4). Simply put, “state commission determinations of the just and reasonable rates that incumbent LECs can charge their competitors for interconnection, unbundled access, and resale” are “off limits to the FCC.” Iowa Utils. Bd., 120 F.3d at 804.³³

(2) Access to Network Elements. Subsection 271(c)(2)(B)(ii) requires BellSouth to provide access to UNEs in accordance with the requirements of sections 251(c)(3) and 252(d)(1) of the Communications Act. Sections 251(c)(3) and 252(d)(1) in turn require BellSouth to provide access to unbundled network elements: (A) “at any technically feasible point;” (B) “on rates, terms and conditions that are just, reasonable, and nondiscriminatory;” and (C) based upon cost plus a “reasonable profit.” In addition, in the Local Interconnection Order, the Commission

³³. Despite the Department of Justice's claims, the requirement that the Commission consider the Attorney General's evaluation does not enable the Department to bring pricing within the Commission's jurisdiction at will. See Evaluation of the United States Department of Justice at 44-45, CC Docket No. 97-208 (filed Nov. 4, 1997) (“DOJ South Carolina Evaluation”).

adopted rules that require BellSouth to make interconnection available for unbundled access to, at a minimum, the following independent network elements: local loops; the network interface device; switching; interoffice transmission facilities; signaling networks and call-related databases; OSS functions; and operator services and directory assistance. 47 C.F.R. § 51.319.

The Louisiana PSC found that BellSouth has satisfied its obligations under checklist item (ii) throughout the Statement. Compliance Order at 8. BellSouth's interconnection agreements bear this out. For instance, BellSouth's agreement with Sprint Spectrum provides access to a number of specified unbundled network elements, including loops, switching, and transport, and provides in addition that any elements not specifically provided for in the agreement are available through the Bona Fide Request Process, where technically feasible. See Sprint Spectrum Agreement § VIII; see also MereTel Agreement § VIII. In addition, Sprint Spectrum, MereTel, and PrimeCo have terms in their agreements that enable them to opt into any provision of any state commission-approved BellSouth agreement or the Statement providing "unbundled access to network elements, which include: local loops, network interface devices, switching capability, interoffice transmission facilities, signaling networks and call-related databases, operations support systems functions, operator services and directory assistance, and any elements that result from subsequent bona fide requests." PrimeCo Agreement § XVI.E.2.c; Sprint Spectrum Agreement § XVII.E.2.c; MereTel Agreement § XVII.E.2.c. Thus, by virtue of BellSouth's agreement with AT&T and BellSouth's Statement, PrimeCo, Sprint Spectrum, and MereTel have nondiscriminatory access to all network elements identified in the Commission's rules on an unbundled basis at any technically feasible point. AT&T Agreement §§ 29-30 & Attach. 2;

Statement § II & Attach. C; Varner Aff. ¶¶ 60-70; Milner Aff. ¶¶ 32-34; see also supra Part II(A) (OSS access).

BellSouth does not impose any limitations, restrictions, or requirements on requests for or use of a UNE that would impair a CLEC's ability to provide a telecommunications service in the manner it intends. See Sprint Spectrum Agreement § VIII.F; MereTel Agreement § VIII.B; AT&T Agreement §§ 29-30 & Attach. 2; Statement § II.G ("Network elements may be combined in any manner."). CLECs obtain exclusive use of an unbundled network facility and may use features, functions, or capabilities for a set period of time as required by section 51.309(c) of the Commission's rules. Varner Aff. ¶ 59. BellSouth retains the obligation to maintain, repair, or replace UNEs, also in compliance with section 51.309(c). Id.; see AT&T Agreement §§ 29-30 & Attach. 2; Statement Attach. C.

BellSouth permits any CLEC to recombine UNEs on an end-to-end (or any other) basis, thereby creating the equivalent of one of BellSouth's retail services or a different service of its own. Varner Aff. ¶ 66. The Act, however, only requires incumbent LECs to provide UNEs "in a manner that allows requesting carriers to combine such elements," 47 U.S.C. § 251(c)(3), "which unambiguously indicates that requesting carriers will combine the unbundled elements themselves." Order on Petitions for Rehearing at 2, Iowa Utils. Bd. v. FCC, No. 96-3321 (8th Cir. Oct. 14, 1997). Therefore, if a CLEC wishes to obtain an existing retail service from BellSouth on a pre-combined, "switch-as-is" basis, BellSouth will provide this service as a wholesale service, at the retail rate less the 20.72 percent resale discount set by the Louisiana PSC. Varner Aff. ¶ 68.

The Louisiana PSC — exercising its exclusive jurisdiction over pricing of both UNEs and resale services — has confirmed the consistency of this practice with the requirements of the 1996 Act. See Order U-22145, at 39, Interconnection Agreement Negotiations Between AT&T Communications of the South Central States and BellSouth Telecommunications, Inc. (Jan. 15, 1997) (“AT&T Arbitration Order”) (“a rose by any other name is still a rose, and so it is with resale, even when AT&T chooses to call it a combination of unbundled elements”); Varner Aff.

¶ 75. The Louisiana PSC’s pricing decision is determinative and, in any event, is consistent with the Eighth Circuit’s ruling on the Commission’s pricing rules. Order on Petitions for Rehearing at 2, Iowa Utils. Bd. (“To permit . . . an acquisition of already combined elements at cost based rates for unbundled access would obliterate the careful distinctions Congress has drawn in sections 251(c)(3) and (4) between access to unbundled network elements on the one hand and the purchase at wholesale rates of an incumbent’s telecommunications retail services for resale on the other.”).

The Statement’s rates for specific network elements purchased on an unbundled basis also were set by the Louisiana PSC, in its recent Pricing Order. Pricing Order Attach. A; see also Varner Aff. ¶¶ 22-25; Sprint Spectrum Agreement Attachs. B1, C-16; AT&T Agreement Table 1; Statement Attach. A at 1 & Attach. G. As discussed above, PrimeCo, Sprint Spectrum, and

MereTel have access to these cost-based rates pursuant to true-up provisions³⁴ and MFN clauses,³⁵ and the Louisiana PSC's conclusion that BellSouth's rates are cost-based is definitive.

BellSouth recognizes that a CLEC does not have to own or control some portion of a telecommunications network before being able to purchase UNEs, see Iowa Utils. Bd., 120 F.3d at 814, and therefore will provide CLECs with UNEs in "a manner that enables the competing carriers to combine them." Order on Petitions for Rehearing at 2, Iowa Utils. Bd. BellSouth will perform all services necessary to make UNEs available to CLECs so that CLECs themselves may combine the UNEs. BellSouth will also perform network software modifications that are necessary for the proper functioning of CLEC-combined BellSouth UNEs at no additional charge. Varner Aff. ¶ 67. CLECs may use the Bona Fide Request Process to request additional software modifications to allow new features or services, or to request services related to combining or operating of BellSouth UNEs. Id. These voluntary accommodations by BellSouth do not, however, lift from CLECs their responsibility for assembling the tools, equipment, and expertise necessary to accomplish desired combinations of UNEs. Just as the Act does not "levy a duty" on BellSouth to combine UNEs for a CLEC, Order on Petitions for Rehearing at 2, Iowa Utils. Bd., it also does not require an incumbent LEC to provide every item needed by a CLEC to accomplish the combination.

³⁴. PrimeCo Agreement § V; Sprint Spectrum Agreement § V; MereTel Agreement § V.

³⁵. PrimeCo Agreement § XVI.E.2.c; Sprint Spectrum Agreement § XVII.E.2.c; MereTel Agreement § XVII.E.2.c.

Nor is BellSouth required, as a condition of in-region, interLATA relief, to try to anticipate all the services CLECs may in the future request to assist in combining UNEs. See DOJ South Carolina Evaluation at 19-25. To date, CLECs that have expressed an intent to utilize combinations of UNEs (notably AT&T) have focused on circumventing the requirement that they perform combinations themselves, not implementing that requirement. BellSouth therefore has not had occasion to address these issues with CLECs in negotiations under the Act. It would be premature for BellSouth unilaterally to establish detailed terms and conditions for unspecified services that may never be sought by CLECs in practice, even at the negotiation stage. Such terms and conditions would also come within the purview of the state commissions under section 251 and 252, see Iowa Utils. Bd., 120 F.3d at 803-04, and may not be dictated by this Commission (much less the Department of Justice) through the backdoor of the section 271 process. See DOJ South Carolina Evaluation at 22 (seemingly proposing a preferred approach to facilitating UNE combinations).

Contrary to AT&T's argument in other proceedings, moreover, the Eighth Circuit has never suggested that a CLEC may obtain unlimited access to an incumbent LEC's network and facilities for the purpose of combining UNEs.³⁶ On the contrary, the Eighth Circuit emphasized that "the degree and ease of access that competing carriers may have to incumbent LECs'

³⁶ See Comments of AT&T Corp. in Opposition to BellSouth's Section 271 Application for South Carolina at 22 (FCC, filed Oct. 20, 1997) ("[T]he limited opportunity that BellSouth provides for combining only two elements using a new entrant's equipment in collocated space is itself an unlawful restriction under the Eighth Circuit's decision.")

networks is . . . far less than the amount of control that a carrier would have over its own network.” Iowa Utils. Bd., 120 F.3d at 816.

Specifically, the Act indicates that an incumbent LEC will provide access to its UNEs at a dedicated collocation space located at the premises of the incumbent LEC. See 47 U.S.C. § 251(c)(6) (incumbent LEC must provide “for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier.”). If a LEC demonstrates that physical collocation is not practical “for technical reasons or because of space limitations,” the incumbent LEC may instead offer “virtual collocation” for this purpose. See 47 U.S.C. § 251(c)(6). BellSouth has made collocation space available to CLECs, and as a general rule will deliver UNEs to this collocation space. See Varner Aff. ¶ 66; Milner Aff. ¶ 28. Where obtaining access to the UNE at the CLEC’s collocation space is not practical, BellSouth will make access available at another appropriate location. For instance, BellSouth provides CLECs access to the network interface device (“NID”) on an unbundled basis at the end user’s premises (as well as in combination with other subloop elements that BellSouth offers). See Varner Aff. ¶¶ 86, 88-89 ; Milner Aff. ¶ 34 ; Statement § IV.B.2, Attach. C at 2; AT&T Agreement, Attach. 2, § 4.1; PrimeCo Agreement § XVI.E.2.c; Sprint Spectrum Agreement § XVII.E.2.c.

The collocation provision of section 251(c)(6) is the Act’s only statutory authorization for CLEC entry into the premises of an incumbent LEC for the purpose of combining UNEs. Lacking additional statutory authority, the Commission may not require further CLEC access to the central office or other facilities of incumbent LECs. To do so would work an impermissible

expansion of the Commission's statutory authority. See Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 426 (1982) ("We conclude that a permanent physical occupation authorized by government is a taking without regard to the public interests that it may serve."); Bell Atlantic Telephone Co. v. FCC, 24 F.3d 1441, 1446 (D.C. Cir. 1994) (holding that the pre-1996 Act "does not expressly authorize an order of physical collocation, and thus the Commission may not impose it.").

In the Bell Atlantic case, the Commission had ordered incumbent LECs to provide collocation space within their central offices to competitors, so that the competitors could install their own circuit terminating equipment. Id. at 1444. The LECs would have recovered their "reasonable costs" of providing collocation. Id. at 1445 n.3. Yet, at the time that the Commission issued this requirement, the Act did not contain express language authorizing this access to the facilities of incumbent LECs. Id. at 1446. The Court of Appeals therefore vacated the order on the basis that the Act did "not supply a clear warrant to grant third parties a license to exclusive physical occupation of a section of the LECs' central offices." Id.

Congress was aware of this limitation in drafting the 1996 Act, and for this reason expressly provided for collocation. See 47 U.S.C. § 251(c)(6); House Report at 73. However, this is the Act's only statutory authorization for CLEC entry into BellSouth's premises. Had Congress intended to grant CLECs a further right of physical access to the facilities and networks of incumbent LECs in connection with their responsibility for recombining UNEs, it would have included the necessary statutory language authorizing this access. Congress did not do so, thus

putting any further encroachments on incumbent LECs' property rights beyond the Commission's power.

(3) Nondiscriminatory Access to Poles, Ducts, Conduits and Rights-of-Way. Section 271(c)(2)(B)(iii) directs BellSouth to provide nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by it at just and reasonable rates in accordance with the requirements of section 224.

BellSouth's agreements with PrimeCo, Sprint Spectrum, and MereTel provide such non-discriminatory access on terms that fulfill all statutory and regulatory requirements. PrimeCo Agreement § VIII; Sprint Spectrum Agreement § IX; MereTel Agreement § IX; see also AT&T Agreement § 32.1; id. Table 3; id. Attach. 3, § 3; Statement § III & Attachs. A & D; Varner Aff. ¶¶ 74-76; Milner Aff. ¶¶ 39-40; Pricing Order Attach. A, § J.2 (pricing of access). Nine CLECs in Louisiana have executed license agreements with BellSouth to attach facilities to BellSouth's poles and place facilities in BellSouth's ducts and conduits. Milner Aff. ¶ 39. In addition, BellSouth has provided cable television and power companies with access to poles, ducts, conduits and rights-of-way in Louisiana and throughout its region for many years. Id. Such arrangements are "business as usual" for BellSouth. Id. ¶ 40. Accordingly, the Louisiana PSC found that BellSouth complies with checklist item (iii). Compliance Order at 8.

(4) Unbundled Local Loops. Section 271(c)(2)(B)(iv) requires BellSouth to make available local loop transmission from the central office to the customer's premises unbundled from local switching or other services. As noted above, BellSouth makes local loop transmission available on an unbundled basis in compliance with section 51.319 of the Commission's rules.

See Sprint Spectrum Agreement §§ VIII.A-B, XVII.E.2.c; MereTel Agreement §§ VIII, XVII.E.2.c; PrimeCo Agreement § XVI.E.2.c (access to local loop provisions of agreements and Statement); see also AT&T Agreement Attach. 2 §§ 2-6; Statement § IV. Standard unbundled local loops available under the AT&T Agreement and Statement include 2- and 4-wire voice-grade analog lines, 2-wire ISDN digital grade lines, 2-wire Asymmetrical Digital Subscriber Line (“ADSL”), 2-wire and 4-wire High-bit-rate Digital Subscriber Line (“HDSL”), and 4-wire DS-1 digital grade line, and 56 or 64 Kbps digital grade lines. See Compliance Order at 9; Varner Aff. ¶ 76; AT&T Agreement Attach. 3, § 2.2; Statement § IV.A. Technical service descriptions of BellSouth’s loop offerings are included in Exhibit WKM-9 to the Affidavit of Keith Milner. Additional loop types may be requested through the Bona Fide Request Process. Varner Aff. ¶ 80.

In addition to loops themselves, CLECs are able to obtain and use the Network Interface Device (“NID”). AT&T Agreement Attach. 2, § 4; Statement § IV.B, Attach. C at 2; Varner Aff. ¶¶ 80, 86; Milner Aff. ¶¶ 34-35. In response to a desire expressed by AT&T in state proceedings, BellSouth also offers two alternative ways of providing CLECs access to loops “behind” integrated digital loop carrier equipment, where the necessary facilities exist. Varner Aff. ¶¶ 88-92; AT&T Agreement Attach. 2, § 3. As explained in connection with checklist item (ii) above, BellSouth’s prices for local loops are in compliance with the Louisiana PSC’s Pricing Order and section 252(d)(1). See Pricing Order Attach. A, § A; Varner Aff. ¶ 79.

Local loops are available in practice to any CLEC that wishes to order them. Although CLECs in Louisiana have not taken BellSouth up on its offer, see Compliance Order at 9,

BellSouth had provisioned 5,882 unbundled loops to CLECs in its nine-state region as of September 30, 1997. Milner Aff. ¶ 41. BellSouth also has tested its ability to process orders and bill for various loops that its approved agreements and Statement make available, ensuring that orders for these items flow through BellSouth's systems in a timely and accurate fashion. See Id. ¶ 43. In actual practice, BellSouth has confirmed that at least 98 percent of the time it is able to cut-over loops to CLECs within a 15 minute window. Id. ¶ 45.

(5) Unbundled Local Transport. Section 271(c)(2)(B)(v) of the Act requires BellSouth to offer local transport unbundled from switching or other services. BellSouth makes available dedicated and shared transport between end offices, between tandems, and between tandems and end offices. See Sprint Spectrum Agreement §§ VIII.C, XVII.E.2.c & Attach. B-1; MereTel Agreement §§ VIII, XVII.E.2.c; PrimeCo Agreement § XVI.E.2.c; AT&T Agreement Attach. 2, §§ 9-10; Statement § V.A; Varner Aff. ¶¶ 102-106; Milner Aff. Ex. WKM-9 (technical service descriptions). CLECs have access to the same transport facilities that BellSouth uses to carry its own traffic, and no distinction is made between BellSouth's traffic and the CLEC's traffic. Varner Aff. ¶ 105. CLECs choosing shared transport have access to the routing tables in BellSouth's switches. Id.

BellSouth permits a requesting carrier to use shared transport to provide interstate exchange access to customers for whom the carrier provides local service. Varner Aff. ¶ 106. In such cases the CLEC, rather than BellSouth, will collect the corresponding interstate access charges. See id.

Like BellSouth's other rates, its rates for transport have been approved by the Louisiana PSC, Pricing Order Attach. A, § D, and PrimeCo, Sprint Spectrum, and MereTel have access to these rates pursuant to their MFN clauses. PrimeCo Agreement § XVI.E.2.c; Sprint Spectrum Agreement § XVII.E.2.c; MereTel Agreement § XVII.E.2.c.

BellSouth has provided twenty-two dedicated local trunks to CLECs in Louisiana, and nearly 1000 dedicated trunks to CLECs throughout its region. Milner Aff. ¶ 51; see also Compliance Order at 10 (noting that BellSouth cannot be faulted for failure of some CLECs to order local transport). BellSouth has likewise demonstrated its ability to furnish shared transport upon request. Milner Aff. ¶ 52.

(6) Unbundled Local Switching. Section 271(c)(2)(B)(vi) of the Act requires BellSouth to make available local switching unbundled from transport, local loops, or other services. The Commission's rules require further unbundling of local and tandem switching capabilities. 47 C.F.R. § 51.319(c)(2). BellSouth meets these requirements. See Sprint Spectrum Agreement § VII, XVII.E.2.c; see also MereTel Agreement § VII, XVII.E.2.c; PrimeCo Agreement § XVI.E.2.c (MFN clause providing access to switching provisions of other agreements and Statement); AT&T Agreement Attach. 2, § 7; Statement § VI.A; Varner Aff. ¶¶ 112-17; Milner Aff. Ex. WKM-9.

AT&T and other CLECs have expressed a desire for customized or "selective" routing capability using line class codes, which BellSouth will provide. Varner Aff. ¶ 118; Milner Aff. ¶ 55; Compliance Order at 12-13; Statement § VI.A.2. A second method of providing selective routing is through the use of BellSouth's Advanced Intelligent Network (AIN) platform.

Development work continues on this method and it is expected that a technical and market trial will commence in Georgia during December of 1997.

BellSouth will follow any intervals specified in its Louisiana PSC-approved interconnection agreements and Louisiana orders in converting service from BellSouth to a CLEC, or from one CLEC to another. BellSouth's general policy, however, is that where the CLEC does not specify another due date, conversions requiring only a software change will be made on the same day they are requested if requested by 3:00 p.m. Stacy OSS Aff. ¶ 37; see also Michigan Order ¶ 141. If requested later, such conversions will be made on the next business day. Stacy OSS Aff. ¶ 37.³⁷

BellSouth's switch offerings also satisfy the pricing requirements of checklist item (ii) and section 252(d)(1). Pricing Order Attach. A, § C; see Varner Aff. ¶ 115; Sprint Spectrum Agreement §§ VIII.C, XVII.E.2.c & Attach. C-17; PrimeCo Agreement § XVII.E.2.c; MereTel Agreement §§ VIII, XVII.E.2.c; AT&T Agreement Table 1; Statement § VI.B & Attach. A at 3. BellSouth has amended its Statement in accordance with the Louisiana PSC's instructions so that the vertical features of a switch are available as UNEs, rather than merely as retail services. See Compliance Order at 10-11; Statement VI.A; Varner Aff. ¶¶ 113-17. The PSC's rates for

³⁷. Although these intervals are shorter than those BellSouth adheres to when customers request a new presubscribed interexchange carrier ("PIC"), see Stacy OSS Aff. ¶ 37, BellSouth notes that the Local Exchange Carrier Coalition, of which BellSouth is a member, has petitioned for reconsideration of the Local Interconnection Order insofar as it requires customer switchovers to be made within the same intervals as PIC switchovers. See Petition of the Local Exchange Carrier Coalition for Reconsideration and Clarification at 24-25, Dkt. Nos. 96-98 & 95-185 (filed Sept. 30, 1996).

vertical switching features have been incorporated into the Statement. Varner ¶ 115; Pricing Order Attach. A, § B.2.

BellSouth has completed the required development and implementation work and has a process in place and the capacity to produce bills mechanically for usage charges when CLECs purchase unbundled switching from BellSouth. Milner Aff. ¶ 57. Bills were generated for CLECs in September 1997; to date BellSouth has not received any complaints regarding the format or accuracy of these bills. Milner Aff. ¶ 59 In addition, BellSouth provides CLECs with usage data that allows them to bill for access services they provide their customers. Stacy OSS Aff. ¶ 104.

Region-wide, BellSouth has furnished CLECs with 21 unbundled ports. Milner Aff. ¶ 54. BellSouth has conducted extensive tests to ensure that CLECs purchasing selective routing can route 0+, 0-, and 411 calls to an operator other than BellSouth's or route 611 repair calls to a repair center other than BellSouth's. See Milner ¶ 55. The Louisiana PSC thus properly concluded that BellSouth provides local switching in accordance with checklist item (vi). Compliance Order at 11.

(7) Nondiscriminatory Access to 911, E911, Directory Assistance, and Operator Call Completion Services. Section 271(c)(2)(B)(vii) of the Act further conditions in-region, interLATA relief on providing nondiscriminatory access to 911 and E911 services, directory assistance services, and operator call completion services. BellSouth fulfills each of these requirements. See PrimeCo Agreement §§ IX, XVI.E.2.e; Sprint Spectrum Agreement §§ X,

XVII.E.2.e; MereTel Agreement §§ X, XVII.E.2.e; see also AT&T Agreement Attach. 2, § 16.1.10 - 16.7.2.6.3; Statement § VII; Varner Aff. ¶¶ 121-42; Milner Aff. ¶¶ 61-74.³⁸

Whether they are facilities-based competitors or resellers, CLECs have nondiscriminatory access to BellSouth's 911 and Enhanced 911 facilities. See Varner ¶ 121; Statement § VII.A. For 911 calls, facilities-based CLECs translate the 911 call to a 10-digit number (provided by BellSouth) and route the call to BellSouth's tandem or end office, at which point BellSouth will complete the call. Varner Aff. ¶ 123; Statement § VII.A.3. CLECs are responsible for obtaining the trunks needed to reach BellSouth's switch, but the cost of the 911 (or E911) functionality is borne by the municipality purchasing the service. Varner Aff. ¶ 123; AT&T Agreement Attach. 2, § 16.6.1.10; Statement § VII.A.3-A.5. For E911 calls, the CLEC forwards the 911 call and Automatic Number Identification ("ANI") to the appropriate BellSouth tandem. Varner Aff. ¶¶ 124-25; AT&T Agreement § 16.6.1.10; Statement § VII.A.4. If the E911 tandem trunks are not available, the CLEC will route the call (without ANI) over BellSouth's interoffice network using a 7-digit number. Varner Aff. ¶ 125. BellSouth has developed a guide that provides facilities-based CLECs with the information they need to interconnect with BellSouth for 911 and E911 service, which is furnished as part of this application. Milner Aff. ¶ 61 & Ex. WKM-10.

³⁸. Although PrimeCo and Sprint Spectrum serve mobile end-user customers and thus have somewhat different 911 needs than landline CLECs, the agreements of both carriers nonetheless ensure access to "911-like" services and provide access to the provisions of BellSouth's other agreements and its Statement regarding BellSouth's 911/E911 emergency network. See PrimeCo Agreement §§ IX, XVI.E.2.e; Sprint Spectrum Agreement §§ X, XVII.E.2.e.

BellSouth routinely monitors call blockage on E911 trunk groups and, in coordination with the CLEC, takes corrective action using the same trunk servicing procedures for E911 trunk groups from CLEC switches as for E911 trunk groups from BellSouth switches. Id. ¶ 65.

BellSouth is responsible for maintaining the Automatic Location Identification/Database Management System and will use its service order process to do so by updating CLEC customers' information on the same daily schedule that BellSouth uses for information pertaining to its own end-user customers. Varner Aff. ¶ 122; Milner Aff. ¶ 62. CLECs will provide BellSouth with daily database updates. Varner Aff. ¶ 124; Milner Aff. ¶ 62. Any errors found by BellSouth in the data supplied by CLECs are faxed back to the CLEC along with error codes. Milner Aff. ¶ 62. Explanations of these error codes are contained in the guide that BellSouth provides to facilities-based CLECs, which is furnished as part of this application. Id.; CLEC Guide (App. C at Tab 142). BellSouth's procedures for maintaining the database and providing nondiscriminatory access to it are fully discussed in Exhibit WKM-4 to the Affidavit of Keith Milner. BellSouth is not aware of any instance in which it caused incorrect end user information regarding a CLEC end user customer to be sent to emergency service personnel. Milner Aff. ¶ 62.

BellSouth has 213 trunks connecting CLECs with BellSouth's E911 arrangements in its nine-state service area, including eight trunks in Louisiana. Milner Aff. ¶ 67. BellSouth also is receiving mechanized database updates from 15 different CLECs. Id.

BellSouth both offers to perform directory assistance ("DA") and directory assistance call completion ("DACC") services on behalf of CLECs and provides CLECs with direct access to its

DA databases. Varner Aff. ¶¶ 121-126; Milner Aff. ¶¶ 68-72; PrimeCo Agreement §§ X; XVI.E.2.c; Sprint Spectrum Agreement §§ XI, XVII.E.2.c; MereTel Agreement §§ XI, XVII.E.2.c; AT&T Agreement § 20 & Attach. 2, § 13.7; Statement § VII.B. Details of BellSouth's DA and DACC services are set out in a technical service description. Milner Aff. ¶¶ 68, 72 & Ex. WKM-9. Subject to line class code capacity, BellSouth will use selective routing to provide branded or unbranded directory assistance capabilities for facilities-based CLECs and resellers. Varner Aff. ¶ 129; AT&T Arbitration at 22; AT&T Agreement § 19; Statement § VII.B.3. In addition, BellSouth currently is developing AIN capabilities to provide selective routing. Milner Aff. ¶ 56. CLECs' subscriber listings will be included in BellSouth's DA databases at no charge and will be maintained in the same manner and within the same intervals as BellSouth end user listings. Varner Aff. ¶ 130; PrimeCo Agreement § X.B; Sprint Spectrum Agreement § XI.B; MereTel Agreement § XI.B; AT&T Agreement § 20.3; Statement § VII.B.1.

BellSouth has "for many years provided comparable directory assistance to independent local telephone companies . . . as well to IXCs" in all of its in-region States. See Milner Aff. ¶ 69. Currently, moreover, BellSouth provides DA service to 15 CLECs and DACC services to 9 CLECs in its region. Id. ¶ 68. As of September 30, these CLECs were using 492 BellSouth directory assistance trunks, including six in Louisiana. Id. Ten CLECs and other service providers in BellSouth's region, and nine CLECs and other service providers in Louisiana, were using BellSouth's DA database service as of September 1, 1997. One third-party service provider in BellSouth's region was using BellSouth's direct access to DA service ("DADAS") as of

September 1. Id. ¶ 73. This service provider, in turn, provides directory assistance services to CLECs and others. Id.

BellSouth likewise provides operator services in compliance with statutory and regulatory requirements, allowing a CLEC's subscribers to access services such as operator call processing access services, busy line verification, centralized message distribution system hosting, emergency interrupt, intercept, and operator services transport. Varner Aff. ¶¶ 133-139; Milner Aff. ¶¶ 72, 73 & Ex. WKM-9; PrimeCo Agreement § XVI.E.2.c (access to any agreement or Statement provision regarding operator services); Sprint Spectrum Agreement § XVII.E.2.c (same); MereTel Agreement § XVII.E.2.c (same); AT&T Agreement Attach. 2, § 16.6.1.10.3.4 ; Statement § VII.C & Attach. E (CMOS). As of September 30, 1997, there were 6 operator services trunks and 2 verification trunks in place in Louisiana, and a total of 194 operator services trunks and 48 verification trunks across BellSouth's nine states. Milner Aff. ¶ 74.

Rates for directory assistance and operator services have been set by the Louisiana PSC and are further discussed in the Affidavit of Alphonso Varner. Pricing Order Attach. A, § G; Varner Aff. ¶¶ 140-142; see AT&T Agreement Table 1; Statement Attach. A at 3-4.

(8) White Pages Directory Listings for CLEC Customers. Section 271(c)(2)(B)(viii) requires BellSouth to make available White Pages directory listings for the customers of competing CLECs. BellSouth satisfies this requirement. PrimeCo Agreement § X.A & Attach. C-1; Sprint Spectrum Agreement § XI.A & Attach. C-1; MereTel Agreement § XI.A & Attach. C-1; AT&T Agreement § 20; Statement § VIII.A; see Varner Aff. ¶¶ 144-149. BellSouth makes available White Pages listings for customers of both resellers and facilities-based carriers, as if

they were BellSouth customers. Varner Aff. ¶ 145; PrimeCo Agreement § X.A; Sprint Spectrum Agreement § XI.A; AT&T Agreement § 20; Statement §§ VIII.A & F. CLEC subscribers are not separately classified or otherwise identified, and their listings are accorded the same level of confidentiality as the listings of BellSouth customers. Varner Aff. ¶¶ 144-45. The Louisiana PSC found that BellSouth satisfies this checklist requirement. Compliance Order at 11; see also Milner Aff. ¶ 75. Although it is not required to do so under the checklist or any other provision of the Act, BellSouth also includes listings of CLECs' business subscribers in the appropriate Yellow Pages or classified directory. PrimeCo Agreement § X.A.; Sprint Spectrum Agreement § XI.A; MereTel Agreement § XI.A; AT&T Agreement § 20.1.3; see Varner Aff. ¶ 146.

(9) Nondiscriminatory Access to Telephone Numbers. Pursuant to section 271(c)(2)(B)(ix) of the Act, BellSouth must provide CLECs with nondiscriminatory access to telephone numbers for assignment to their customers until telecommunications numbering administration guidelines, plans, or rules are established. BellSouth has met this requirement. See PrimeCo Agreement § XI.A; Sprint Spectrum Agreement § XII.A; MereTel Agreement § XII.A; Statement § IX; Varner Aff. ¶¶ 150-51; Milner Aff. ¶¶ 78-80; Compliance Order at 12.

As the Central Office Code ("NXX") Administrator for its territory, BellSouth has followed industry-established guidelines published by the Industry Numbering Committee. Milner Aff. ¶ 78 & Ex. WKM-5. Pursuant to its procedures, as of October 7, 1997, BellSouth had assigned 14 NPA/NXX codes for CLECs in Louisiana and 821 region-wide. Milner Aff. ¶ 78. BellSouth has not turned down any requests for NPA/NXX code assignments in Louisiana. Id.

(10) Nondiscriminatory Access to Signaling and Call-Related Databases. Section 271(c)(2)(B)(x) of the Act requires BellSouth to provide CLECs with nondiscriminatory access to databases and associated signaling necessary for call routing and completion. The Commission's implementing regulations also require BellSouth to provide nondiscriminatory access to signaling networks and call-related databases. 47 C.F.R. § 51.319(e).

BellSouth's Statement offers the required access. PrimeCo Agreement §§ XII, XVI.E.2.c; Sprint Spectrum Agreement §§ XIII, XVII.E.2.c; MereTel Agreement §§ XIII, XVII.E.2.c; AT&T Agreement Attach. 2, §§ 11-13; Statement § X; Varner Aff. ¶¶ 150-63; Milner Aff. ¶¶ 81-103. CLECs in Louisiana have access to Signaling Links (dedicated transmission paths carrying signaling messages between switches and signaling networks), Signal Transfer Points (signaling message switches that interconnect Signaling Links to route signaling messages between switches and databases), and call-related Service Control Points (databases containing customer and/or carrier-specific routing, billing, or service instructions). Compliance Order at 12; Varner Aff. ¶¶ 153-56; AT&T Agreement Attach. 2, §§ 11-13; Statement § X.A. Service Control Points to which CLECs have access include (but are not limited to) Line Information Data Base ("LIDB"), toll free number database, Automatic Location Identification/Data Management System, AIN and selective routing. Compliance Order at 12; Varner Aff. ¶¶ 153-62; AT&T Agreement Attach. 2, § 13; Statement § X.A.3 & Attach. F (LIDB). BellSouth provides access to its databases on a nondiscriminatory basis and in a manner that complies with the requirements of section 222 of the Communications Act. See Milner Aff. ¶¶ 83-103; see also Milner Aff. Ex. WKM-9 (technical

service descriptions); Statement § X & Attach. C. BellSouth's cost-based prices for databases were established by the Louisiana PSC in its cost proceeding. Pricing Order Attach. A, §§ E, K.

In the first 8 months of 1997 alone, CLECs and other telecommunications service providers made approximately 22 million queries to BellSouth's toll free database. Milner Aff.

¶ 101. BellSouth's LIDB processed more than 328 million queries from outside BellSouth from January through September, 1997. Id. BellSouth's AIN Toolkit 1.0 and AIN SMS Access 1.0 — which CLECs will use in connection with AIN access — have been tested and the accuracy of billing for these offerings has been confirmed. Id. ¶ 102. BellSouth's signaling services are also available to CLECs in practice, as demonstrated by actual CLEC interconnection. See Milner Aff. ¶ 103.

(11) Interim Number Portability. Section 271(c)(2)(B)(xi) of the Act requires BellSouth to provide CLECs with interim number portability ("INP"), either through remote call forwarding ("RCF"), direct inward dialing ("DID"), or other comparable arrangements, until the Commission issues regulations to ensure permanent number portability. See also 47 C.F.R. §§ 42.7(a), 42.9, 42.3(a), (b). BellSouth meets this requirement as well. It offers RCF or DID, at the CLEC's option, on non-discriminatory rates, terms and conditions. AT&T Agreement § 39, Table 4, & Attach. 8; Statement § XI & Attachs. A at 5-6 and G; Varner Aff. ¶ 168; Milner Aff. ¶¶ 104-13 & Ex. WKM-9 (technical descriptions of RCF and DID). CLECs that choose DID number portability have access to signaling using the SS7 protocol. Milner Aff. ¶ 104. Additional methods such as Route Index - Portability Hub, Direct Number Route Index, and Local Exchange Routing Guide are available through the Bona Fide Request Process. Varner Aff. ¶ 168.

PrimeCo, Sprint Spectrum, and MereTel have access to number portability via the MFN clauses in their agreements. PrimeCo Agreement § XVI; Sprint Spectrum Agreement § XVII; MereTel Agreement § XVII.

The Louisiana PSC found that BellSouth's INP offerings comply with the requirements of the Act, as well as those imposed by the PSC itself. Compliance Order at 13. Indeed, BellSouth already has ported over 18,300 business numbers and 30 residence numbers. Milner Aff. ¶ 106. BellSouth's rates for number portability were approved by the Louisiana PSC and are consistent with the requirements of the Act. Pricing Order Attach. A, § I; see Varner Aff. ¶ 171; Statement Attach. A at 5-6.

As explained in the Affidavit of Keith Milner, BellSouth will implement a permanent approach to number portability consistent with the standards set by the Louisiana PSC, this Commission, and industry fora. Milner Aff. ¶ 111 & Exs. WKM-6 & WKM-7; AT&T Agreement 8, § 1; Statement § XI.F; see also Varner Aff. ¶ 172.

(12) Local Dialing Parity. Section 271(c)(2)(B)(xii) of the 1996 Act requires BellSouth to provide CLECs with nondiscriminatory access to services and information that are necessary to allow local dialing parity in accordance with section 251(b)(3). See also 47 C.F.R. § 51.207 (equal number of digits). The Commission has held "that local dialing parity will be achieved upon implementation of the number portability and interconnection requirements of section 251." Dialing Parity Order, 11 FCC Rcd at 19430, ¶ 71. Consistent with its obligations, BellSouth guarantees that "CLEC customers will not have to dial any greater number of digits than BellSouth customers to complete the same call" and that "CLEC local service customers will

experience at least the same quality as BellSouth local service customers regarding post-dial delay, call completion rate and transmission quality.” Statement § XII.A; see Varner Aff. ¶ 176 (noting that “[b]ecause BellSouth and CLECs can use the same dialing and numbering plans, local dialing parity simply happens as CLECs begin operating”); Milner Aff. ¶ 114; see also PrimeCo Agreement § XVI (MFN clause); Sprint Spectrum Agreement § XVII (same); MereTel Agreement § XVII (same). The Louisiana PSC found that BellSouth offers local dialing parity in accordance with the checklist requirement. Compliance Order at 13.

(13) Reciprocal Compensation for the Exchange of Local Traffic. Section 271(c)(2)(B)(xiii) requires BellSouth to agree, under section 251(d)(2), to just and reasonable terms and conditions that provide for mutual and reciprocal recovery by BellSouth and the CLEC of the costs associated with transporting and terminating calls that originate on the other carrier’s network. BellSouth’s rates are those approved by the Louisiana PSC. Pricing Order Attach. A, § D; see PrimeCo Agreement § V & Attach. B-1 (establishing rates and providing for true-up to PSC-established rates); Sprint Spectrum Agreement § V & Attach. B-1 (same); MereTel Agreement § V & Attach. B-1 (same); AT&T Agreement Table 1; Statement Attach. A at 1; Varner Aff. ¶¶ 177-78. As discussed above, the Louisiana PSC’s conclusions on these matters are definitive. BellSouth does not pay or bill local interconnection charges for traffic termination to enhanced service providers because this traffic is jurisdictionally interstate. Id. ¶ 177.

(14) Resale. Section 271(c)(2)(B)(xiv) requires BellSouth to make its telecommunication services available for resale in accordance with the provisions of sections 251(c)(4) and 252(d)(3) of the Communications Act. These provisions, in turn, require BellSouth to provide its services at

wholesale rates, with no unreasonable or discriminatory conditions or limitations. 47 U.S.C. §§ 251(c)(4), 252(d)(3); see also 47 C.F.R. § 51.603(b) (requiring equal quality, subject to the same conditions, and with the same provisioning time intervals).

BellSouth's Statement and agreements provide CLECs wholesale rates for any services that BellSouth offers to its retail customers, with the exception of those excluded from resale requirements in accordance with the Commission's rules and the orders of the Louisiana PSC. See PrimeCo Agreement § XVI (MFN clause); Sprint Spectrum Agreement § XVII (same); MereTel Agreement § XVII (same); AT&T Agreement §§ 23-28; Statement § XIV; Compliance Order at 14; see Varner Aff. ¶¶ 184-85; Milner Aff. ¶¶ 115-18 & Ex. WKM-9 (technical service descriptions).

BellSouth has filled more than 8,000 resale orders in Louisiana and over 175,000 orders in its region. See Milner Aff. ¶ 115 & Ex. WKM-8. Testing confirms the practical availability of resale services that have not yet been purchased by any CLEC. Milner Aff. ¶ 118. All known billing problems associated with resale services have been corrected by BellSouth. Id. ¶¶ 116-17.

BellSouth's discount rate of 20.72 percent, see Statement Attach. H; AT&T Agreement § 35, was established by the Louisiana PSC in Order No. U-22020 (Nov. 12, 1996), based upon cost studies provided by BellSouth and an outside consultant's application of "avoidable" cost methodologies recommended by this Commission. See Cochran Aff. ¶ 31 & Attach. A (App. A at Tab 2). The PSC again confirmed the consistency of this discount with the Act's requirements in its Compliance Order at 14. Although not strictly relevant, it is worth noting that the Louisiana

PSC's 20.72 percent wholesale discount falls well within the Commission's now defunct proxy range. 47 C.F.R. § 51.611 (overruled).

In accordance with the Louisiana PSC's holdings, services to which the ordinary resale rules do not apply include promotions of 90 days or less (which are not subject to resale requirements),³⁹ grandfathered services (which may only be resold to subscribers who have already been grandfathered),⁴⁰ and contract service arrangements, or "CSAs" entered into after January 28, 1997 (which are available for resale on the same terms and conditions, including rates, BellSouth offers to the end user customers).⁴¹ Varner Aff. ¶ 184.

A CSA is an individually negotiated arrangement between BellSouth and an end user whose local service is subject to competition. Under BellSouth's General Subscriber Services and Private Line Services Tariffs for Louisiana, CSAs may only be used where "there is a reasonable potential for uneconomic bypass of [BellSouth's] services," such that a competitive alternative is available to the end user customer at a price below BellSouth's tariffed rates but above BellSouth's incremental costs. General Subscriber Services Tariff § A5.6.1 (effective July 24, 1992); Private Line Services Tariff § B5.7.1 (effective Nov. 27, 1989) (App. D at Tab __).

The Louisiana PSC approved BellSouth's pricing of CSAs for resellers because "[r]equiring BellSouth to offer already discounted CSAs for resale at wholesale prices would

³⁹. AT&T Arbitration at 5 ("short-term promotions . . . should not be offered at a discount to resellers"); Order No. U-22145-A, at 3 (June 12, 1997) ("short term promotions . . . are not subject to mandatory resale).

⁴⁰. AT&T Arbitration at 6.

⁴¹. Id. at 4.

create an unfair advantage for AT&T.”⁴² The PSC’s decision on this local pricing matter is determinative. See Iowa Utils. Bd., 120 F.3d at 794-800. Indeed, although prior to the Eighth Circuit’s recent decision the Commission sought to assert control over some local pricing matters, it has always acknowledged that “the substance and specificity of rules concerning which discount and promotion restrictions may be applied to resellers in marketing their services to end users is a decision best left to state commissions.” Local Interconnection Order, 11 FCC Rcd at 15971, ¶ 952. Thus, the Commission’s rules permit an incumbent LEC to “impose a restriction [on resale] . . . if it proves to the state commission that the restriction is reasonable and nondiscriminatory.” 47 C.F.R. § 51.613(b). Although the Commission has held that the 1996 Act provides for the resale of contract and other customer-specific offerings, Local Interconnection Order, 11 FCC Rcd at 15970, ¶ 948, the Commission has never questioned State authority to determine the appropriate discount available to resellers.⁴³

⁴² AT&T Arbitration at 4. In the AT&T Arbitration and in a separate proceeding governing local competition in Louisiana generally, the PSC directed that “Contract Service Arrangements which are in place on January 28, 1997 shall be exempt from mandatory resale. All CSAs entered into after January 28, 1997, and existing CSAs upon termination after January 28, 1997 will be subject to resale at no discount.” Id.; General Order, Amendments of Regulations for Competition § 1101.B.2, at 8 (March 19, 1997) (App. C, Tab 186) (“Louisiana Competition Order”).

⁴³ Nor for that matter is there any basis to challenge BellSouth’s PSC-approved approach of restricting the resale of CSAs to the end-user for whom the CSA was established. See AT&T & LCI Motion at 17-18. As noted above, the Louisiana PSC allows BellSouth to negotiate CSAs in order to respond to particular competitive situations. Resale of an individually-tailored CSA to other customers with different competitive situations would be at odds with the underlying rationale for CSAs. In short, BellSouth has demonstrated to the Louisiana PSC that its restriction of CSAs to particular customers “is reasonable and nondiscriminatory.” 47 C.F.R. § 51.613(b).

The Louisiana PSC's decision not to impose a further discount for already discounted CSAs is in fact the only sensible approach. As the Commission has held, the "State commissions have established rate structures that take into account certain desired balances between residential and business rates and the goal of maximizing access by low-income consumers to telecommunications services." Local Interconnection Order, 11 FCC Rcd at 15975, ¶ 962. CSAs enable BellSouth to offer a price lower than the tariffed rate established by the Louisiana PSC to meet a competitive threat. If BellSouth lacked this flexibility, it would almost necessarily lose these customers and the contribution to total cost recovery they represent, without any opportunity to compete in a fashion that benefits the end user.

Likewise, if CLECs were entitled to an automatic 20.72 percent discount beyond the discounts already included in BellSouth's CSAs, end users would automatically be able to chop an additional discount off of BellSouth's competitive price simply by turning to BellSouth's competitors. As a practical matter, end users would never sign long-term CSAs with BellSouth; instead, they would negotiate their best price with BellSouth, sign a short-term deal, and then switch to a lower-priced reseller at the earliest opportunity. This would interfere with BellSouth's cost recovery under the Louisiana PSC's pricing regime and subvert free-market negotiations between end users and BellSouth. See generally Iowa Utils. Bd. 120 F.3d at 800-01 (noting Act's "preference" for free-market negotiations).

Conversely, the Louisiana PSC's policy regarding CSAs does not place CLECs at any competitive disadvantage. For one thing, CLECs can choose to order services for resale either at

the CSA rate, or at the tariffed retail rate minus the 20.72 percent discount. For another, the South Carolina PSC explained in the Commission's section 271 proceedings for that State,

Because CSAs, unlike ordinary retail offerings, are individually negotiated arrangements, BellSouth does not bear ordinary marketing costs with respect to these services. It would be impossible for the Commission to determine on a case-by-case basis what additional discount, if any, is necessary to account for BellSouth's potential cost savings with respect to a particular CSA. What is clear, however, is that if applied to CSAs, the . . . resale discount applicable to BellSouth's generally available retail offerings would greatly overstate the costs avoided by BellSouth and in many cases might require BellSouth to sell services to CLECs at rates that are below BellSouth's costs.

South Carolina PSC Comments at 10, CC Dkt. No. 97-208 (Oct. 17, 1997).

There is no possible basis for speculation that BellSouth might seek to convert customers to CSAs in order to "evade" the Louisiana PSC's 20.72 percent wholesale discount. Any discount off the tariffed rate that BellSouth offers to end users through CSAs means a smaller profit for BellSouth's retail operations. Moreover, BellSouth might well earn more from a wholesale transaction at the 20.72 percent discount than a CSA at some lesser discount, because the wholesale transaction allows BellSouth to avoid negotiating the CSA, issuing end user bills, and collecting payments from the end user. Finally, the Louisiana PSC's procedures protect against any attempt to abuse the CSA process. Based on BellSouth's CSA filings, the Louisiana PSC has all the information it needs to challenge any effort by BellSouth to evade tariff restrictions on the use of CSAs.

C. Performance Measurements

As it has with OSSs, BellSouth has agreed to provide CLECs with performance measurements regarding other checklist items. These measurements will allow interested CLECs, state commissions, and this Commission to verify that CLECs are receiving network

interconnection and access in accordance with the Act. BellSouth has implemented a data warehouse to collect and produce the data necessary to generate these measurements. Stacy Performance Aff. ¶ 13. BellSouth will provide CLECs access to this data warehouse, enabling them to obtain specific results without intervention by BellSouth. Id. ¶ 15.

BellSouth has assembled from the data warehouse data to produce two types of reports. First, BellSouth has prepared contractual measurements based on existing contractual agreements with AT&T, Time Warner and US South.⁴⁴ Second, BellSouth's permanent measurements include contractual measurements but also additional measurements that BellSouth typically presents to regulatory bodies in order to demonstrate its nondiscriminatory performance. Id. ¶ 16. Permanent measurements do not displace any CLEC-specific measurements that are outlined in particular agreements. Id. Rather, permanent measurements are measurements that BellSouth, on its own initiative, has proposed and adopted to verify that it is providing services to CLECs in a nondiscriminatory fashion. Id.

Where relevant historical data are available, BellSouth applies three standard deviations (the industry standard) to its average retail performance in order to determine upper and lower acceptable limits for each measurement. Id. ¶ 20. These calculations establish statistical process control parameters against which BellSouth's service to CLECs is compared. Id. ¶ 21. If the average performance for BellSouth's services to CLECs is higher or lower than the corresponding performance measurement for BellSouth's service to itself for three consecutive months, or if a

⁴⁴ Of these agreements, only the AT&T agreement has been approved by the Louisiana PSC at the present time.

single monthly measure is outside of the control limits, BellSouth undertakes an investigation (known as a root cause analysis) to determine the cause of the deviation. Based on this investigation, BellSouth takes the corrective action when appropriate. Id. ¶ 23.

Some service categories do not have historical data, because they are actions that BellSouth has never before had to undertake in serving its customers. See generally Michigan Order ¶¶ 210-12. To address this absence of historical data, BellSouth has published target intervals. Stacy Performance Aff. ¶ 27. Also where sufficient data have not yet been collected for a particular service category, BellSouth will use negotiated measures to set estimated values for the average, as well as the upper and lower controls, which will be adjusted as additional data become available. Id. ¶ 28. These target intervals and negotiated performance levels will allow BellSouth to begin to generate the data that it needs for future measurements. Id. ¶ 27.

The data that BellSouth has collected and analyzed establishes that for interconnection trunking, provisioning of UNEs, and resale services, CLECs are receiving nondiscriminatory service.

Interconnection trunking: BellSouth has agreed to provide four groups of measurements related to local interconnection trunking, including data specific to Louisiana. Id. ¶ 42. These measurements are: % Provisioning Appointments Met; % Provisioning Troubles within 30 days of the Installation of New Service; Maintenance Average Duration (Receipt to Clear); and Trouble Report Rate. Id. ¶ 29.

While there currently are insufficient data from which to draw state-specific conclusions for Louisiana, the regional data reveal that CLECs are receiving interconnection trunking that is

substantially similar to what BellSouth provides itself. Id. ¶ 43. For instance, the new circuit failure rate on local interconnection trunks was better for CLECs than for BellSouth retail customers for six of the eight months that measurements were taken. Id. Ex. WNS-10.

While some blockage of CLEC trunks has occurred, it is consistent with the service levels BellSouth provides to its local customers. Id. ¶ 64. In almost all cases where CLECs have experienced trunking problems, moreover, those problems were caused either by the CLEC's failure to provide BellSouth with sufficient advance notice of its trunk request, or by the CLEC's failure to be ready to add the requested trunk on time.⁴⁵ Id. ¶¶ 66-67.

Provisioning UNEs: BellSouth has published a set of target intervals for provisioning UNEs. Id. ¶ 27 & Ex. WNS-7. BellSouth has also recently finalized a similar set of target intervals for maintenance of UNEs. Id. ¶ 27 & Ex. WNS-8. In addition, BellSouth has agreed to meet with AT&T in order to establish percentage target performance levels for UNEs. Id. ¶ 18. Until sufficient data are collected, BellSouth intends to use negotiated measures to set the estimated values needed to verify that CLECs are receiving UNEs in a manner that enables them to provide service that is substantially similar to the service that BellSouth provides its own retail customers. Id. at ¶ 28.

⁴⁵ For example, on July 10, 1997, a CLEC informed BellSouth that starting on August 1, 1997, and proceeding over the next four months, it was going to need 10,000 trunks installed in a single city. BellSouth simply could not provision that many trunks in such a short time period. BellSouth does not have 10,000 trunk terminations available for immediate ordering or use, and if BellSouth has to add equipment, its vendor may require up to twenty-six weeks before it can provide this equipment. Id. ¶ 66. Other CLECs have failed to provide any forecast of the trunks they will need, and have notified BellSouth of large trunk requests only after making commitments to end users. Id. ¶ 67.

For purposes of this application, BellSouth has provided data showing average installation intervals for unbundled loops. While no direct comparison to BellSouth retail services is possible, unbundled loops for CLECs were installed on time at a rate higher than 90 percent for six of the eight months in which measurements were taken. Id. ¶ 44. The rate was never lower than 86 percent, and in one month (March), the rate was 99 percent. Id.

Although the Commission suggested in its Michigan Order that average installation intervals were appropriate empirical evidence given the limitations of Ameritech's proxy data, Michigan Order at ¶ 212, these intervals depend upon the due dates requested by CLECs, whose business needs may call for due dates later than the soonest date available from BellSouth's systems in accordance with nondiscriminatory assignment procedures. See id. ¶ 45; see also Stacy OSS Aff. ¶¶ 32-37 (discussing due date assignments). Because BellSouth's assignment of due dates is nondiscriminatory, BellSouth's record of meeting those due dates provides a better indication of BellSouth's actual service performance. See Stacy Performance Aff. ¶ 45 & Exs. WNS-9, WNS-10, and WNS-11. BellSouth has provided with its application the data necessary to demonstrate nondiscrimination as to the establishment of due dates, the meeting of due dates, and average performance in this area.

Resale Services: BellSouth has developed permanent measurements for resale services, using the historical and current performance of BellSouth as the standard to establish statistical process control parameters. Id. ¶¶ 20-21. There are twenty-eight resale service measurements. Id. ¶ 40. Of these twenty-eight measurements, twenty-one indicate that CLECs are receiving either better service than BellSouth's own retail customers, or service that is within the control

parameters. Of the few measurements in which discrepancies favoring BellSouth's retail operations have occurred, the percentage point differentials are minimal, and do not suggest any discrimination or competitive disadvantage. BellSouth is currently initiating root cause analysis to investigate these areas, and will take corrective action as appropriate. Id. ¶ 41.

These measurements confirm that local interconnection trunking, unbundled loops, and resale services are available to CLECs on a nondiscriminatory basis. By making these performance measurements available to interested CLECs and to regulators, BellSouth gives these parties ample tools to ensure that BellSouth is providing and will continue to provide the nondiscriminatory access required by the Act. The measurements prevent the possibility of undetected back-sliding from BellSouth's commitments and ensure continued implementation of all checklist obligations.

III. BELLSOUTH SATISFIES THE REQUIREMENTS OF SECTION 272

Section 271(d)(3)(B) authorizes the Commission to ensure that "the requested authorization will be carried out in accordance with the requirements of section 272." Section 272 in turn requires compliance with structural separation and nondiscrimination safeguards that prevent a Bell company from providing its long distance affiliate with an unfair advantage over competitors. As described below, BellSouth is submitting as part of this application extensive evidence that its entry into long distance will be carried out in accordance with each of the requirements of section 272 and the Commission's implementing regulations.

Separate Affiliate Requirement of Section 272(a). BellSouth Corporation has established an affiliate — BellSouth Long Distance, Inc. ("BSLD") — that will provide in-region interLATA

services in compliance with the structural separation and operational requirements of section 272. Jarvis Aff. ¶¶ 5-9 (App. A at Tab 7).

Structural and Transactional Requirements of Section 272(b). Section 272(b)(1) provides that the required separate affiliate “shall operate independently from the Bell operating company.” BSLD and BST will operate in a manner that satisfies both this statutory requirement and the Commission’s implementing regulations. Jarvis Aff. ¶¶ 10-11; Cochran Aff. ¶¶ 8-19. BSLD and BST do not and will not jointly own telecommunications transmission or switching facilities or the land and buildings on which such facilities are located. Jarvis Aff. ¶ 10; Cochran Aff. ¶ 9. BST and BSLD use separate personnel to operate, install, and maintain facilities, and will continue to do so. Jarvis Aff. ¶ 10; Varner Aff. ¶ 231.

BST and BSLD also will comply with the requirements, set out in sections 272(b)(2) and 272(b)(3), that they maintain separate books and separate officers, directors, and employees. Jarvis Aff. ¶¶ 11-12; Cochran Aff. ¶¶ 11-17. In accordance with section 272(b)(4), BSLD’s creditors do not and will not have recourse to BST’s assets. Jarvis Aff. ¶ 13; Cochran Aff. ¶ 19.

Consistent with section 272(b)(5), all transactions between the two companies will be conducted on an arms-length basis, reduced to writing, subject to public inspection, and accounted for in accordance with all applicable Commission requirements. Jarvis Aff. ¶¶ 11-14 (describing procedures); id. ¶ 14(d) (describing procedures for posting transactions on the Internet); id. Ex. 4 (copy of Internet homepage); Cochran Aff. ¶ 20 (describing cost allocation manual).

BST and BSLD need not conduct or report transactions in accordance with the requirements of section 272 prior to receiving interLATA authorization and establishing BSLD as a section 272 affiliate. Section 271(d)(3)(B) employs the future tense, authorizing the Commission to ensure that “the requested authorization will be carried out in accordance with the requirements of section 272” (emphasis added). While “past and present behavior” under applicable rules may be relevant to ensuring future compliance with section 272 (and in Ameritech’s case was “highly relevant” because Ameritech claimed already to be in compliance), Michigan Order ¶ 366, the Act does not empower the Commission to require full section 272 compliance before the BOC applicant receives interLATA authorization.

Nonetheless, in order to provide the Commission with what it may deem “relevant” information when assessing BellSouth’s future compliance, BellSouth has included with its application descriptions of all transactions between BST and BSLD to date as well as of future services that may be provided. Jarvis Aff. ¶¶ 14(b)-(c). The transactions have been carried out on an arms-length basis in accordance with the Commission’s applicable affiliate transaction and cost-accounting rules. Cochran Aff. ¶¶ 19-23. Accordingly, transactions conducted between March 13, 1996 (the date on which BSLD was incorporated) and August 12, 1997 (the date on which the requirements of the Accounting Safeguards Order went into effect) have been carried out in accordance with the affiliate transaction rules prescribed in the Commission’s Joint Cost

Order.⁴⁶ BellSouth affiliate transactions after August 12, 1997 are conducted in accordance with the requirements of the Accounting Safeguards Order.

Agreements between BST and BSLD have been posted on the Internet in accordance with the posting procedures BST and BSLD will follow when BST operates as a section 272 affiliate. See Accounting Standards Order ¶ 122. Descriptions of transactions that have occurred between BST and BSLD (as provided in the accompanying affidavit of Victor Jarvis) also are being made available on the Internet through BellSouth's homepage, located at <http://www.bellsouthcorp.com>. Jarvis Aff. ¶ 14(d); Cochran Aff. ¶ 26.

Nondiscrimination Safeguards of Section 272(c). Section 272(c)(1) prohibits BST from discriminating between BSLD and any other entity. In compliance with this provision and Commission regulations, and subject to the joint marketing authority granted by section 272(g), BST will make available to unaffiliated entities any goods, services, facilities and information that BST provides to BSLD at the same rates, terms, and conditions. Varner Aff. ¶ 196. These may include exchange access, interconnection, collocation, UNEs, resold services, access to OSSs, and administrative services. Id. ¶¶ 197-200. To the extent BST develops new services for or with BSLD, it will also cooperate with other entities on a nondiscriminatory basis to develop such services, so long as it is required to do so under section 272. Id. ¶ 200. BST does not and will not, for so long as the requirement applies, discriminate between BSLD and other entities with

⁴⁶ Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, CC Docket No. 86-111, Report and Order, 2 FCC Rcd 1298, 1304, 1328 (1987), recon., 2 FCC Rcd 6283, further recon., 3 FCC Rcd 6701, aff'd sub nom. Southwestern Bell Corp. v. FCC, 896 F.2d 1378 (D.C. Cir. 1990).

regard to dissemination of technical information and interconnection standards related to telephone exchange and exchange access services, or with regard to protection of confidential network or customer information. Id. ¶¶ 201-203; see also infra Part IV.D.1 (describing regulatory and practical protections against technical discrimination). Nor will BST disclose any individually identifiable Customer Proprietary Network Information (“CPNI”) to BSLD except to the extent that such disclosure is consistent with section 272 and Commission rules. Varner Aff. ¶ 206. BST will continue to provide public notice regarding any network change that will affect a competing telecommunications carrier’s performance or ability to provide service, or will affect BST’s interoperability with other telecommunications carriers. Id. ¶ 204.

As required by section 272(c)(2), BST will account for all transactions between BSLD and BST in accordance with applicable Commission rules. See Cochran Aff. ¶¶ 20-23.

Audit Requirements of Section 272(d). Pursuant to section 272(d)(1), BST will obtain and pay for a biennial federal/state audit, commencing after section 272’s requirements become applicable. See Cochran Aff. ¶ 27. In accordance with section 272(d)(2), BST will require the independent auditor to provide this Commission and the Louisiana PSC with access to working papers and supporting materials relating to this audit. Id. ¶ 30. And, as required by section 272(d)(3), BST and its affiliates, including BSLD and BellSouth Corporation, will provide the independent auditor, the Commission, and the Louisiana PSC with access to financial records and accounts necessary to verify compliance with section 272 and the regulations promulgated thereunder, including the separate accounting requirements under section 272(b). Id. ¶ 29.

Fulfillment of Requests Pursuant to Section 272(e). Pursuant to section 272(e)(1), BST will fulfill any requests from unaffiliated entities for installation and maintenance of telephone exchange and exchange access services within a period no longer than the period in which it provides such services to BSLD. Varner Aff. ¶ 209. In addition, BellSouth will comply with all applicable Commission monitoring and reporting requirements. Id. ¶ 212.

BST will comply with section 272(e)(2) by refusing to provide any facilities, services, or information concerning its provision of exchange access to BSLD unless such facilities, services, or information are made available to other providers of interLATA services in that market on the same terms and conditions. Varner Aff. ¶ 216. In accordance with section 272(e)(3), BST will charge BSLD rates for telephone exchange service and exchange access that are no less than the amount BST would charge any unaffiliated interexchange carrier for such service. Id. ¶¶ 224-225. Where BST uses access for provision of its own services, BST will impute to itself the same amount it would charge an unaffiliated interexchange carrier. Id. ¶ 225. Finally, to the extent that BST is permitted to provide interLATA or intraLATA facilities or services to BSLD, BST will make such services or facilities available to all carriers at the same rates and on the same terms and conditions, in accordance with section 272(e)(4). Id. ¶ 216.

Joint Marketing Provisions of Section 272(g). Pursuant to 272(g)(1), BSLD will not market or sell BST's telephone exchange service unless BST permits BSLD's competitors to do so as well. Varner Aff. ¶ 228.

With respect to joint marketing, BellSouth has petitioned the Commission to reconsider its discussion of Ameritech Michigan's proposed "telemarketing script," because that discussion may

be read as forbidding a Bell company from mentioning its long distance affiliate prior to reading a list of all available carriers in random order. See Michigan Order ¶¶ 375-376; Varner Aff. ¶¶ 223-24.⁴⁷ Section 251(g) preserves a BOC's pre-existing obligation to provide equal access. The Act, however, also authorizes the BOCs and their section 272 affiliates to market services jointly upon receiving interLATA relief under section 271. 47 U.S.C. § 272(g)(2). In the Non-Accounting Safeguards Order the Commission struck a balance between these provisions. The Commission explained that "the continuing obligation to advise new customers of other interLATA options is not incompatible with the BOCs' right to market and sell the services of their section 272 affiliates under section 272(g)."⁴⁸ Rather, a BOC can meet its equal access obligations in the joint marketing context by "inform[ing] new local exchange customers of their right to select the interLATA carrier of their choice and tak[ing] the customer's order for the interLATA carrier the customer selects." Id.

⁴⁷ Another concern expressed by the Commission in the Michigan Order related to Ameritech's "Winback program." Michigan Order ¶¶ 379-380. As explained in the Varner Affidavit, BellSouth will not engage in "winback" campaigns for residential customers at least for the duration of this year. When BellSouth implements any such campaign, it will comply with section 222 of the Act and Commission regulations. Varner Aff. ¶ 228. With respect to large business customers, BellSouth will not encourage any customer to breach a contract with a competitor, but will limit its marketing efforts to contacting customers regarding new services and services similar to those under contract. Id. ¶ 229.

⁴⁸ First Report and Order and Further Notice of Proposed Rulemaking, Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended, 11 FCC Rcd 21905, 22046, ¶ 292 (1996) ("Non-Accounting Safeguards Order"), modified on recon. 12 FCC Rcd 2297(1997), further recon. 12 FCC Rcd 8653 (1997), pet'n for review pending sub nom. Bell Atlantic Tel. Cos. v. FCC, No. 97-1432 (D.C. Cir. filed July 11, 1997).

When explaining that the two provisions are compatible, the Commission relied on the ex parte comments of NYNEX, id. & n.764, in which NYNEX set forth a marketing script reflecting the fact that section 251(g) “does not continue the MFJ’s prohibition against ‘marketing,’” but “only continues the requirement to advise new customers of available carriers if the customer does not name a long distance carrier.”⁴⁹ The NYNEX script that the Commission cited approvingly informed customers that they had a choice of carriers, but did not require NYNEX representatives to list all of the eligible interexchange carriers until after NYNEX had mentioned its own long distance affiliate and asked the customer if he or she had already made a selection. Id.

This balanced approach makes sense. Any requirement that the BOC’s long distance affiliate be mentioned only as part of a random list would nullify the BOC’s statutory joint marketing right. Moreover, requiring a BOC to list every interexchange carrier even when the customer (after thirteen years of equal access and exposure to numerous carriers’ marketing efforts) has already made up his or her mind would impose a needlessly burdensome obligation that would slow the presubscription process and annoy the BOC’s local customers. Such a requirement also would be flatly inconsistent with the Commission’s prior recognition that section 251(g) does not add to a BOC’s pre-existing equal access obligations and that, under section 272(g), a BOC must be permitted to market the services of its long distance affiliate. Non-Accounting Safeguards Order, 11 FCC Rcd at 22046, ¶ 292. If the statute’s express joint

⁴⁹ Letter from Susanne Guyer, Executive Director, Federal Regulatory Policy Issues, NYNEX to William F. Caton, Acting Secretary, FCC at 3 (Oct. 23, 1996) (emphasis added).

marketing authorization is to retain any meaning, a BOC cannot be denied the opportunity to bring its affiliate's services to the customer's attention in a preferential fashion.⁵⁰

Compliance. BSLD has developed a compliance plan to ensure satisfaction of its obligations under section 272. Likewise, BST has an extensive compliance program in place, which will be expanded to include the company's non-discrimination obligations under section 272. Agerton Aff. ¶¶ 5-17 (App. A at Tab 1). These procedures, which are similar to procedures used to comply with judicial restrictions under the Modification of Final Judgment ("MFJ"), will ensure that the letter and spirit of section 272 and its implementing regulations are honored.

IV. BELLSOUTH'S ENTRY INTO THE INTERLATA SERVICES MARKET WILL PROMOTE COMPETITION AND FURTHER THE PUBLIC INTEREST

The final element of the Commission's section 271 analysis is a determination whether interLATA entry "is consistent with the public interest, convenience and necessity." 47 U.S.C.

⁵⁰. See Babbitt v. Sweet Home Chapter of Communities for a Great Oregon, 115 S. Ct. 2407, 2426 (1995) ("statutes should be read . . . to give independent effect to all their provisions"); see also Weinberger v. Hynson, Westcott and Dunning, Inc., 412 U.S. 609, 631-32 (1973) ("It is well established that our task in interpreting separate provisions of a single Act is to give the Act 'the most harmonious, comprehensive meaning possible'"). The Order's restrictions on joint marketing raise First Amendment concerns as well. The Commission may not restrict a BOC's ability to disclose "truthful, verifiable, and nonmisleading factual information" about its long distance affiliate's offerings absent a "substantial" government interest that reasonably "fit[s]" the Commission's restriction. Rubin v. Coors Brewing Co., 115 S. Ct. 1585, 1590 (1995); Cincinnati v. Discovery Network, Inc., 507 U.S. 410, 416 (1993). Because the Order's approach to presubscription would deprive the BOCs of a statutory right to engage in joint marketing that Congress granted the Bell companies after full deliberations, it fails both prongs of this test. The Commission's suggested approach might, in addition, run afoul of the constitutional prohibition on coercing parties to deliver messages with which they disagree. See Pacific Gas & Elec. Co. v. Public Util. Comm'n, 475 U.S. 1, 10-11 (1986); cf. Glickman v. Wileman Bros. & Elliott, Inc., 117 S. Ct. 2130, 2138 (1997) (contrasting situation in which complainants "agree with the central message of the speech").

§ 271(d)(3)(C). The remainder of this brief demonstrates that BellSouth's provision of interLATA services in Louisiana meets this test.

The Louisiana PSC held unanimously below that "consumers in Louisiana, both local and long distance, would be well served by BellSouth's entry into the long distance market."

Compliance Order at 14. This conclusion is consistent with Congress's expectation, in passing the 1996 Act, that "removing all court ordered barriers to competition — including the MFJ interLATA restriction — will benefit consumers by lowering prices and accelerating innovation." 142 Cong. Rec. S713 (daily ed. Feb. 1, 1996) (statement of Sen. Breaux). The U.S. Department of Justice agrees that in-region interLATA entry by Bell companies would promote long distance competition.⁵¹ This Commission also recently affirmed that "BOC entry into the long distance market will further Congress's objectives of promoting competition and deregulation of telecommunications markets." Michigan Order ¶ 381.

The damage done by continuing to exclude the Bell companies from in-region, interLATA services is staggering. As the attached affidavit of Professor Jerry Hausman of MIT details, delaying Bell company interLATA entry has cost U.S. residential consumers \$7 billion per year, effectively imposing an annual tax on each long distance customer. Hausman Aff. ¶¶ 5, 21-23, 24 (App. A at Tab 5). This public burden cannot be justified by a desire to promote local competition. The 1996 Act already opens local markets and any additional benefit from applying some higher standard would be much less than the costs of continuing to curtail interLATA

⁵¹. Evaluation of the United States Department of Justice, Application of SBC Communications Inc., CC Docket No. 97-121, at 3-4 (FCC filed May 16, 1997).

competition. Id. ¶¶ 11, 24-25; see also Michigan Order ¶¶ 387, 390 (suggesting higher standards). As Professor Hausman explains, “[t]he consumer welfare gains from increased competition in long distance will more than outweigh the incremental gain from the last step to regulatory perfection” that parties such as the Department of Justice are urging this Commission to enforce as a prerequisite to interLATA relief. Hausman Aff. ¶ 25.

In Louisiana there is no offsetting benefit at all from delaying long distance competition because BellSouth’s interLATA entry would increase local competition. The Louisiana PSC found that approving BellSouth’s application would benefit “both local and long distance” consumers in Louisiana. Compliance Order at 14. Allowing BellSouth’s entry would end the incentives of potential competitors to go slow in Louisiana, or to limit their local offerings, in an effort to delay BellSouth’s entry while pursuing more profitable markets elsewhere.

A. The Scope of the Public Interest Inquiry

While the public interest inquiry generally may provide the Commission with “broad discretion . . . to consider factors relevant to the achievement of the goals and objectives of” the legislation, Michigan Order ¶ 385, it is limited by Congress’s specific determinations.⁵² In the 1996 Act, Congress decided that it would open local markets by enacting a competitive checklist that sets forth concrete obligations in plain terms. The “checklist” was Congress’s test of “what

⁵² See NAACP v. FPC, 425 U.S. 662, 669 (1976) (“the use of the words ‘public interest’ in a regulatory statute . . . take meaning from the purposes of the regulatory legislation”); New York Central Sec. Corp. v. United States, 287 U.S. 12, 25 (1932) (“the term public interest’ as thus used [in a statute] is not a concept without ascertainable criteria”); Business Roundtable v. SEC, 905 F.2d 406, 413 (D.C. Cir. 1990) (“broad ‘public interest’ mandates must be limited to ‘the purposes Congress had in mind when it enacted [the] legislation’” (quoting NAACP v. FPC, 425 U.S. at 670)).

. . . competition would encompass,” 141 Cong. Rec. S7972, S8009 (daily ed. June 8, 1995) (statement of Sen. Hollings), and Congress forbade the Commission from second-guessing its judgment or modifying its checklist “by rule or otherwise.” 47 U.S.C. § 271(d)(4) (emphasis added); see also 141 Cong. Rec. S8188, S8195 (daily ed. June 12, 1995) (statement of Sen. Pressler) (noting adoption of checklist approach in place of “actual competition” test). As the Chairman of the Senate Commerce Committee reassured Senators, “[t]he FCC’s public-interest review is constrained by the statute” because “the FCC is specifically prohibited from limiting or extending the terms used in the competitive checklist.” 141 Cong. Rec. S7967 (daily ed. June 8, 1995) (statement of Sen. Pressler). Accordingly, the Commission may not use the public interest inquiry to add local competition criteria beyond those that Congress included in the checklist.

The Michigan Order nevertheless suggests that public interest approval should be conditioned in every case on exceeding the checklist. The Commission reasoned that because Congress (1) wanted the Bell companies to enter long distance only after local markets are open and (2) included both the competitive checklist and the public interest test in section 271, Congress must have viewed the competitive checklist as an inadequate mechanism to open local markets.⁵³ But in fact, Congress wanted the Commission to examine an essential element of Bell company interLATA entry not addressed by any other part of section 271: the competitive

⁵³. See Michigan Order ¶ 389 (reasoning that if “compliance with the checklist alone is sufficient to open a BOC’s local telecommunications markets to competition,” then “BOC entry into the in-region interLATA services market would always be consistent with the public interest requirement whenever a BOC has implemented the competitive checklist”).

consequences of that entry, given the checklist and section 272's safeguards.⁵⁴ The Commission's equation of the public interest inquiry with its own assessment of local competition is implausible on its face, for it assumes that Congress devoted countless hours to honing the smallest details of the checklist and forbade the Commission from altering them, see 47 U.S.C. § 271(d)(4), and yet wanted the Commission to use a different standard of open local markets as the dispositive test in considering BOC applications.⁵⁵

The point of the public interest test is thus to allow the Commission to examine the effect on competition of Bell company entry into the interLATA market. The principal focus of the inquiry must be the market where the effects of Bell company entry would directly be felt: the interLATA market. It cannot be the local market, for issues related solely to local competition are conclusively determined by compliance with the competitive checklist.

The Commission may as part of its public interest inquiry evaluate such matters as the current state of long distance competition and the degree to which the checklist, section 272, and other regulatory safeguards constrain anticompetitive conduct in the interLATA market. These inquiries are familiar for the Commission. As long as a decade ago, for example, the Commission addressed the hotly contested issue whether regulatory safeguards and market conditions were then sufficient to preclude the Bell companies from impeding competition in long distance. The Commission concluded that they were and thus agreed with the Department of Justice that the

⁵⁴. See Michigan Order ¶ 388 (discussing "congressional determination" that open local markets and regulatory safeguards will protect interLATA competition).

⁵⁵. See, e.g., 141 Cong. Rec. S8188, S8195 (daily ed. June 12, 1995) (statement of Sen. Pressler) (describing extensive negotiations and work that went into developing the competitive checklist).

MFJ's line of business restrictions should be lifted, notwithstanding that the Bell companies in 1987 had no obligations to competitors comparable to the checklist.⁵⁶

The Commission also may consider individual circumstances that Congress could not have anticipated — such as the applicant's history of compliance or non-compliance with Commission rules. See Michigan Order ¶ 397. The Commission may not, however, use the public interest inquiry to substitute its own local competition plan for that established by Congress. Over-regulation of local and long distance markets today cannot be defended in the name of ideal competition tomorrow.⁵⁷ The Commission also may not use the public interest inquiry to rewrite express provisions of the Act.⁵⁸ In particular, the public interest test may not be used as a vehicle

⁵⁶ Responsive Comments of the Federal Communications Commission As Amicus Curiae on the Report and Recommendations of the United States Concerning the Line of Business Restrictions Imposed on the Bell Companies by the Modification of Final Judgment, at 58, United States v. Western Electric Co., No. 82-0192 (D.D.C. filed Apr. 27, 1987).

⁵⁷ See MCI Telecommunications Corp. v. FCC, 627 F.2d 322, 341 (D.C. Cir. 1980) (“The best must not become the enemy of the good.”); see generally 47 U.S.C. § 271(d)(4); Conference Report at 1 (enacting a “de-regulatory national policy framework”); 141 Cong. Rec. S7895 (daily ed. June 7, 1995) (statement of Sen. Hollings) (“We should not attempt to micro-manage the marketplace”); 141 Cong. Rec. H8282 (daily ed. Aug. 2, 1995) (statement of Rep. Bliley) (Congress wanted to promote “competition, and not Government micro-management of markets”); accord Local Interconnection Order, 11 FCC Rcd at 15509, ¶ 12 (“look[ing] to the market, not to regulation” to determine entry strategies); see also Hausman Aff. ¶ 10 (“The Commission is once again failing to recognize that regulation is meant to benefit consumers, not to further other objectives of regulators.”).

⁵⁸ See NAACP v. FPC, 425 U.S. at 669; United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd., 484 U.S. 365, 371 (1988) (when “only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law” statutory provision's meaning is “clarified by the remainder of the statutory scheme”) (internal quotation marks omitted); National Broadcasting Co. v. United States, 319 U.S. 190, 216 (1943) (the public interest “is to be interpreted by its context”).

for circumventing the specific statutory restrictions of sections 251 and 252 regarding such matters as the pricing of UNEs and resold services. Although this issue is now pending before the Eighth Circuit,⁵⁹ that Court just recently confirmed that this Commission does not have “jurisdiction over intrastate telecommunications matters” under the Communications Act unless Congress has drafted provisions that “expressly apply to intrastate telecommunications matters and explicitly direct the FCC to implement the act’s intrastate requirements.”⁶⁰ Because section 252 reserves pricing authority to the States, and the public interest provisions of section 271 do not purport to override that delegation of authority, the FCC is powerless to usurp State jurisdiction over pricing through the section 271 process.

B. The Current Long Distance Oligopoly Limits Competition

Turning to the core of the Commission’s proper inquiry, it has long been settled that the benefits of new entry in long distance presumptively outweigh any risk of harm,⁶¹ even where the

⁵⁹ See Petition of the State Commission Parties and the National Association of Regulatory Utility Commissioners for Issuance and Enforcement of the Mandate (filed Sept. 17, 1997) & Petition for Immediate Issuance and Enforcement of the Mandate (filed Sept. 18, 1997), Iowa Utils. Bd. v. FCC, No. 96-3321 (8th Cir.).

⁶⁰ California v. FCC, 1997 U.S. App. LEXIS 22343, at *10 (emphasis in original) (citing Louisiana Pub. Serv. Comm’n v. FCC, 473 U.S. 355, 376-77 (1986)).

⁶¹ See Report and Order, Inquiry into Policies to be Followed in the Authorization of Common Carrier Facilities to Provide Telecommunications Serv. off of the Island of Puerto Rico, 2 FCC Rcd 6600, 6604, ¶ 30 (1987) (“plac[ing] a burden on any entity opposing entry by a new carrier into interstate, interexchange markets to demonstrate by clear and convincing evidence that [additional] competition would not benefit the public”) (emphasis added); Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking, MTS-WATS Market Structure Inquiry, 81 F.C.C.2d 177, 201-02, ¶ 103 (1980) (Commission will “refrain from requiring new entrants to demonstrate beneficial effects of competition in the absence of a showing that competition will produce detrimental effects”).

long distance entrant is an incumbent local exchange carrier.⁶² That presumption is especially apt when applied to this application.

The interexchange market is highly concentrated and systematically non-competitive. In the Michigan Order, the Commission repeated its “concern[s] . . . that not all segments of this market appear to be subject to vigorous competition,” and “about the relative lack of competition among carriers to serve low volume long distance customers.” Michigan Order ¶ 16. Likewise, in Louisiana, the PSC “has instituted its own investigation into whether long distance companies currently operating in Louisiana have properly passed access charge reductions on to their ratepayers,” based on “serious questions raised at both the national level and within Louisiana regarding abuse in the long distance market.” Compliance Order at 14.

In a competitive market, entry by new firms and competition by incumbent firms drive prices toward cost. See Schmalensee Aff. ¶ 9 (App. A at Tab 11); Paul W. MacAvoy, The Failure of Antitrust and Regulation to Establish Competition in Long-Distance Telephone Services 173-74 (1996) (“MacAvoy Study”). Yet long distance carriers have failed to pass on cost savings to their customers. Access charges constitute nearly half of interexchange carriers’ total costs. Hausman Aff. ¶ 30. From January 1990 to July 1996 these charges declined by 27 percent, yielding at least a 13 percent reduction in interexchange carriers’ total costs during that period. Id. Yet carriers have raised their prices despite these declines in access charges. See

⁶². See Inquiry into Policies to Be Followed in the Authorization of Common Carrier Facilities to Provide Telecommunications Serv. Off the Island of Puerto Rico, 2 FCC Rcd at 6604, ¶ 30 (Commission’s “open entry policy,” “clearly contemplate[s] competitive entry by independent local exchange companies”) (citing MTS-WATS Market Structure Inquiry, 81 F.C.C.2d at 186).

Schmalensee Aff. ¶ 9 (9% drop in access charges between 1993 and 1996, while AT&T raises rates 22%); Hausman ¶¶ 28-32. Indeed, they have raised prices despite additional savings from new transmission technologies and lower equipment prices. Id.; see Schmalensee Aff. ¶ 9; MacAvoy Study at 96; WEFA Study at p. 11 (App. C at Tab 23) (failure to pass through cost reductions of 6 to 7 percent per year). The major carriers have, moreover, raised their discounted rates along with the basic rates off of which discounts are taken. Hausman Aff. ¶ 31; see Schmalensee Aff. ¶¶ 11, 16-17 (discounted rates yield “supracompetitive profits”).

Recent flat-rate promotions do not mark a substantial departure from the longstanding pattern of lock-step price increases. Schmalensee Aff. ¶¶ 12-14; Hausman Aff. ¶ 32. AT&T’s flat rate of 15 cents per minute — higher than its standard evening rate — does not benefit typical residential callers who place most calls during off-peak hours. Schmalensee Aff. ¶ 13. MCI’s flat rate of 14.5 cents and Sprint’s two-tiered plan of a 25 cent peak rate and 10 cent off-peak rate also provide modest relief at best.⁶³ The monthly consumer price index for interstate toll calls rose steadily during 1995 and 1996, with only minor declines in early 1997. See WEFA Study at p. 10. As Professor Schmalensee points out, “the only reason that many consumers might find the One Rate plan attractive today is that AT&T has substantially raised its basic rates over the last several years.” Schmalensee Aff. ¶ 14.

To the extent that there have been price reductions, they consist simply of passing only a portion of the interexchange carriers’ savings from recent access charge reductions, and were effected only because the Commission required AT&T to share some of its windfall with

⁶³. See AT&T Calls MCI Flat Pricing More Than a Coincidence, Newsbytes, Sept. 30, 1996.

residential consumers who pay undiscounted basic rates. See Hausman Aff. ¶ 32 (noting that none of the access charge savings was passed on to discount customers). In a competitive industry, regulators do not need to strong-arm competitors into passing on cost-savings to consumers. See Schmalensee Aff. ¶ 9.

The major carriers themselves concede that they do not compete for the business of the lowest volume callers. See id. ¶ 15. They have in the past claimed that these customers are served below cost, but that does not explain why mid-volume callers are denied discounts. See id. ¶¶ 15-17. Besides, even if claims of below-cost pricing were true, they would only highlight the need for additional competition to place pressure upon all carriers to lower operational and marketing costs.

C. Market Evidence Confirms that BellSouth's Entry into the InterLATA Market in Louisiana Will Benefit Consumers

BellSouth's entry into interLATA services in Louisiana will provide the needed competition and benefit long distance consumers through lower prices and/or higher quality service. Moreover, by chipping away at costly barriers between local and long distance services, BellSouth's entry will bring further benefits. The United States is the only nation in the world that rigidly divides local from long distance telephone service and thereby deprives consumers the benefits of both vertical integration and additional competitors in long distance. Hausman ¶¶ 26-27; see also Gilbert Aff. ¶ 44 (App. A at Tab 3). Despite hypothetical possibilities of anticompetitive conduct, every other country that has permitted competition in long distance has decided that the benefits of allowing incumbent LECs to participate outweighs possible anticompetitive concerns. Hausman Aff. ¶ 26. The record of incumbent LECs' competitively

beneficial provision of vertically related services makes clear that the unanimous conclusion of all these other nations is correct.

1. Evidence of Competition Where LECs Have Been Allowed to Offer Long Distance

Uniform historical experience confirms the potential benefits of in-region interLATA entry by BellSouth. As the Commission itself has recognized, the “recent successes of [SNET] and GTE in attracting customers for their long distance services illustrates the ability of local carriers to garner a significant share of the long distance market rapidly;” “recent studies” based upon these positive market experiences “have predicted that AT&T’s share of the long distance market may fall to 30 percent with BOC entry;” and such “additional competition in the long distance market is precisely what the 1996 Act contemplates and is welcomed.” Michigan Order ¶ 15.

Long distance customers in Connecticut have benefitted from SNET’s price competition since it entered the interstate market in 1994.⁶⁴ On average, SNET’s residential long distance rates have been 17-18 percent lower than AT&T’s. Hausman Aff. ¶¶ 16-19. These savings have especially benefitted low-volume callers who, prior to SNET’s entrance, had disproportionately stayed with AT&T because they were ignored by other carriers. See Schmalensee Aff. ¶¶ 25-28. SNET has shown both a willingness and ability to compete for this segment of the market, attracting a much higher share of interstate customers than interstate revenues.⁶⁵

⁶⁴. Consumers of intrastate services also have benefitted, as AT&T responded to SNET’s long distance offerings with competitive intrastate offerings. See Gilbert Aff. ¶¶ 37-38.

⁶⁵. See Susan Jackson, A Telecom Yankee Defends its Turf, Business Week, Oct. 28, 1996, at 167.

To compete with SNET, AT&T petitioned the Commission for authority to reduce its long distance rates specifically for Connecticut.⁶⁶ AT&T's stated reason for the petition was "the rapidly emerging competition from SNET in Connecticut."⁶⁷ AT&T thus effectively admitted that it faces more intense competition in Connecticut than elsewhere because the incumbent LEC has been allowed to enter the long distance market.⁶⁸

The two geographic corridors running from New York City and Philadelphia to New Jersey offer another example in which incumbent local exchange carriers — in this case Bell Atlantic and NYNEX — have competed in in-region, interLATA services by setting prices below those of the major carriers. AT&T concedes that Bell Atlantic's corridor rates are as much as one-third lower than AT&T's,⁶⁹ and credits Bell Atlantic's widespread marketing of "sav[ings] over AT&T's basic rates" for Bell Atlantic's 20 percent market share of interstate corridor calls.⁷⁰ See Taylor Direct Testimony at p. 18 (App. C at Tab 23). AT&T and MCI sought permission to reduce their rates in these corridors precisely because they face more intense competition there

⁶⁶. See AT&T Comments, Market Definition, Separations, Rate Averaging and Rate Integration, at 29, Policy and Rules Concerning the Interstate, Interexchange Marketplace & Implementation of Section 254(g), CC Docket No. 96-61 (FCC Apr. 19, 1996) ("AT&T Rate Averaging Comments"); AT&T Corp.'s Petition for Reconsideration, Policy and Rules Concerning the Interstate, Interexchange Marketplace at 2-5 (FCC Sept. 16, 1996); see also supra at 3-4 (discussing nationwide rate increases).

⁶⁷. AT&T Petition for Reconsideration at 2.

⁶⁸. See id. at 2-5; AT&T Rate Averaging Comments at 29.

⁶⁹. AT&T Corp.'s Petition for Waiver and Request for Expedited Consideration, AT&T Petition for Waiver of Section 64.1701 of the Commission's Rules, CC Docket No. 96-26 Attachment A (FCC filed Oct. 23, 1996) ("AT&T Waiver Petition").

⁷⁰. Id. at 3.

than elsewhere.⁷¹ Neither questions that consumers in these corridors are better off because of price competition from the incumbent Bell company.⁷²

Evidence from foreign markets confirms this domestic experience. In Canada, where the incumbent local carrier has been allowed to offer long distance toll service, long distance rates are lower than in this country even though carriers use essentially the same equipment as in the United States to serve less densely populated areas. Hausman Aff. ¶ 27; see Gilbert Aff. ¶ 44 & n.70. Conversely, healthy competition to the vertically integrated incumbent carrier has developed in the United Kingdom, notwithstanding that regulators have done considerably less to open local markets than was done by the 1996 Act in the United States. Gilbert Aff. ¶ 44.

2. *BellSouth Is Suited to Break Up the Interexchange Oligopoly in Louisiana*

BellSouth will offer consumers these same sorts of competitive benefits when it provides in-region, interLATA service in Louisiana.

BellSouth has an affirmative incentive to lower long distance prices in Louisiana, because increased interLATA usage will increase usage of BellSouth's access services as well. See Hausman Aff. ¶¶ 12-14. Indeed, BellSouth has committed, upon receiving interLATA authority, to setting its initial basic rates at least 5% lower than the corresponding rates of the largest

⁷¹ See id. at 1, 5; MCI Comments at 1, AT&T Petition for Waiver of Section 64.1701 of the Commission's Rules, CC Docket No. 96-26 (FCC filed Nov. 18, 1996) ("MCI Comments") (petitioning the Commission "so that [MCI] likewise will be in a position to benefit consumers by being able to compete effectively against Bell Atlantic and AT&T").

⁷² See AT&T Waiver Petition at 5 (consumers in the corridors, unlike other areas, "benefit from the highest degree of competition possible"); MCI Comments at 3 ("fully support[ing]" AT&T's "arguments").

interexchange carrier. See Harralson Testimony at p. 1219 (App. C at Tab 68). All types of consumers will benefit. For example, in addition to authorizing carriage of calls “originating in” Louisiana under section 271(b)(1), approval of this application will further benefit competition by allowing BellSouth to provide interLATA toll-free and private line services under section 271(j). See Jarvis Aff. ¶ 5. BellSouth thus will be able to provide customers in Louisiana inbound 800 and 888 service from any location across LATA boundaries (relief that was granted to the BOCs for out-of-region customers under sections 271(b)(2) and 271(j)).

BellSouth is, moreover, well-positioned to spur the competition that will lower interexchange prices. BellSouth has honed its marketing skills as a wireless carrier in Louisiana, as well as a provider of other competitive offerings such as exchange access to business customers, Centrex service, customer premises equipment, and directories. These experiences will enable BellSouth to provide better interexchange services to Louisiana and to sell them effectively. See Schmalensee Aff. ¶¶ 30-37. BellSouth also could reduce costs by using existing sales and customer support systems (in compliance with the requirements of section 272). See Gilbert Aff. ¶¶ 24-28; Schmalensee Aff. ¶ 29. AT&T secured approval to acquire McCaw in part on such grounds. Applications of Craig O. McCaw, 9 FCC Rcd 5836, 5885, ¶ 83 (1994), aff’d sub nom. SBC Communications Inc. v. FCC 56 F.3d 1484 (D.C. Cir. 1995).

Above all, however, BellSouth’s brand name will make it a strong competitor to the three major incumbents. The BellSouth brand is recognized by approximately 70 percent of consumers in region — less than AT&T and MCI, but high in relation to other potential entrants into long distance. Gilbert Aff. ¶ 17. BellSouth’s reputation is on par with that of the major incumbent

interexchange carriers: better than three out of four customers rated BellSouth as “very good” in the categories of customer service and service reliability/product quality. Schmalensee Aff. ¶ 32. Indeed, BellSouth received the highest customer satisfaction rating of any major LEC in a recent survey.⁷³ These factors will give BellSouth lower marketing costs in-region than other potential new entrants and position BellSouth as a serious competitor to AT&T, MCI, and Sprint.⁷⁴

BellSouth’s marketing strength will be most pronounced among current BellSouth customers who are part of a low-volume market segment that is “neglected in the competition among interexchange carriers.” Schmalensee Aff. ¶ 26. The failure of the three large carriers to market services to this group leads many residential and small business customers to choose AT&T out of inertia, without giving other carriers serious consideration. See id. ¶¶ 27-28. If BellSouth (and other Bell companies across the country) can make competitive inroads, however, AT&T, MCI, and Sprint are likely to respond with new promotions and expanded eligibility for targeted offerings, to the benefit of low-volume callers. Id. ¶ 37.

Likewise, BellSouth will be able to offer bundled service offerings and “one stop shopping.” Bundled service packages can “have clear advantages for the public,” such as greater convenience and the ability to secure volume discounts by aggregating purchases of different

⁷³ J.D. Power and Associates, 1997 Residential Local Telephone Study, RBOCs Achieve Higher Customer Satisfaction than Independent Carriers: BellSouth Top Carrier for Second Year, Aug. 26, 1997 <<http://www.jdpower.com//0826pho.html>>.

⁷⁴ See Schmalensee Aff. ¶ 37; Gilbert Aff. ¶ 28; see also Applications of Craig O. McCaw, 9 FCC Rcd at 5871-72, ¶ 57 (AT&T’s acquisition of McCaw would serve the public interest due to AT&T’s brand name, financial strength, marketing experience, and technological know-how).

services.⁷⁵ The Commission thus has supported developments that promise to speed the introduction of bundled services at the retail level. This was one reason why the Commission approved AT&T's buyout of McCaw Cellular Communications, saying it "would deny users the current and prospective benefits of bundling only if presented with a compelling public interest justification" for doing so. 9 FCC Rcd at 5880, ¶ 75; see Gilbert Aff. ¶ 19.

BellSouth will not be the only, or even the first, carrier to market bundled offerings, and it will have no unfair advantage in providing bundled packages. See Gilbert Aff. ¶¶ 7-16.⁷⁶ Bundled offerings are the cornerstone of interexchange carriers' plans for entering the local exchange. AT&T, for example, has announced that it plans to "take a basic \$25-a-month long distance customer and convert him or her into a \$100-a-month customer for a broader bundle of services." AT&T Challenges the Bell Companies," Wall St. J., June 12, 1996, at A3; see Gilbert Aff. ¶¶ 7-19 (describing AT&T's plans). MCI is offering long distance, cellular service, Internet access, and MCImetro local service on the same bill in some States. Gilbert Aff. ¶ 10. Sprint is bundling its

⁷⁵ Applications of Craig O. McCaw, 9 FCC Rcd at 5879-80, ¶¶ 73-75; see 141 Cong. Rec. S713 (daily ed. Feb. 1, 1996) (statements of Sen. Harkin) (1996 Act will allow "low cost integrated service with the convenience of having only one vendor and one bill to deal with"); S. Rep. No. 104-23, at 43 (joint offerings constitute a "significant competitive marketing tool"); see also Gilbert Aff. ¶ 16 ("Consumers will benefit from the integration of service offerings and the marketing of bundled products through convenience and through the increased number and variety of telecommunications options available in the marketplace."); Hausman Aff. ¶ 7.

⁷⁶ As Gilbert explains, "[a]ny argument that the offering of integrated packages of local and long distance services could lead to a return of the market structure that existed prior to the Modification of Final Judgment ("MFJ") is not justified by market realities. The structure of the telecommunications marketplace has changed dramatically since the MFJ's break-up of AT&T. Not only will there now be several competitors offering packages in a given geographic market, but the local and long distance markets separately will be subject to competition." Gilbert Aff. ¶ 23.

long distance offerings with local wireline service, cable television, and PCS offerings. Id. ¶¶ 11-14. Following MFS Communications' merger with the Internet access provider UUNet and the long distance carrier WorldCom (to form the entity that now wants to buy MCI), the merged entity's President explained: "We are creating the first company since the breakup of AT&T to bundle together local and long distance service carried over an international end-to-end fiber network owned or controlled by a single company." Communications Firms to Join in \$12-Billion Deal, Los Angeles Times, August 27, 1996, at A-1 (see also Gilbert Aff. ¶ 15).

A recent study by J.D. Power and Associates found that 65 percent of households are likely to sign up with one company for all their telecommunications services, with the majority choosing their current long distance carrier as that sole provider. Gilbert Aff. ¶ 18. Congress recognized the importance of bundled offerings to the development of local and long distance competition, noting that a "full 86 percent of . . . small business owners want one-stop shopping for telecommunications services" and that "[t]wo-thirds of them want to be able to choose one provider that can give them both local and long-distance telephone service." 141 Cong. Rec. S7903 (daily ed. June 7, 1995) (statement of Sen. Burns). Legislators considered bundling so important that they barred the major interexchange carriers from jointly marketing resold local service with their own long distance services until the incumbent Bell company has an equal ability to combine local and long distance offerings. 47 U.S.C. § 271(e)(1).

Approval of BellSouth's petition also will lift remaining prohibitions on BellSouth's participation in telecommunications equipment manufacturing and allow BellSouth to pursue all opportunities in this area, subject to statutory and regulatory safeguards. See id. § 273(a);

S. Rep. No. 104-23, at 67 (allowing Bell Companies to engage in manufacturing will “foste[r] competition . . . and creat[e] jobs along the way”). Only the currently dominant equipment manufacturers support these archaic restrictions, for “[a]most everyone else in the domestic market has been disadvantaged, either from a negative impact on efficiency or through loss of investment and opportunities.” Kettler Aff. ¶ 17 (App. A at Tab 8). For instance, smaller telecommunications equipment manufacturers have strongly supported BellSouth’s application for interLATA relief in South Carolina, based upon their expectation that BellSouth’s ability to “have more normal business relationships” with unaffiliated manufacturers will benefit the domestic manufacturing industry as a whole. Comments of Ad Hoc Manufacturers, Application by BellSouth for Provision of In-Region, InterLATA Services in South Carolina at 17-24, CC Dkt. 97-208 (FCC Oct. 20, 1997).

Finally, approval of this application would trigger “1+” intraLATA competition in Louisiana, intensifying competition in the intraLATA toll market as well. See 47 U.S.C. § 271(e)(2). The Louisiana PSC has issued a General Order establishing regulations for 1+ presubscription, and BellSouth has filed a tariff with the State commission for services that will be required to implement intraLATA toll dialing parity. Varner Aff. ¶ 199 & Ex. AJV-5. These tariffed offerings will become effective when BellSouth receives authorization to provide interLATA services in Louisiana. Id. ¶ 191. IntraLATA toll presubscription will be implemented using a two-PIC method, allowing the customer to choose different carriers for intraLATA toll and interLATA calls. Id. ¶ 192. Cost recovery for the incremental costs of dialing parity will be implemented in a competitively neutral manner over a four year period. Id. ¶ 193.

The rivalry between SNET and AT&T in Connecticut — which quickly spilled over from interstate services to intrastate toll — indicates how, in a world of bundled service offerings, greater competition in interLATA services will benefit Louisianans across a range of telecommunications services including local and intraLATA toll. See Gilbert Aff. ¶¶ 34-38; Hausman Aff. ¶¶ 10 n.13, 22.

While it is difficult to quantify such benefits with precision, estimates are available. An analysis conducted by the WEFA Group predicts that long-distance rates will drop by 25 percent as a result of Bell company in-region, interLATA entry. WEFA Study at p. 11; Raimondi Testimony at p. 5 (App. C at Tab 23). The study estimates that BellSouth's entry into the interLATA long distance markets throughout Louisiana will by the year 2006 generate an additional 7,600 new jobs in the state and increase the gross state product by approximately \$922 million. WEFA Study at pp. 1-2, 21. An independent economist, Loren Scott, Chairman of the Economics Department and Director of the Economic Development and Forecasting Division of Louisiana State University, has confirmed that the WEFA model was based on reliable assumptions and that its results are reasonable and conservative estimates. Scott Aff. at p. 5 (App. C at Tab 23).

These estimates are consistent with the work of other prominent economists. Dr. Paul MacAvoy of Yale projects that, nationwide, the total gains to consumers from unrestricted Bell company entry into the long distance market would be as high as \$306 billion, even if AT&T, MCI, and Sprint “maintain their tacitly collusive pricing strategies.” MacAvoy Study at p. 185. During debates on the 1996 Act, Congress relied upon estimated savings of \$333 billion from

greater long distance competition. 141 Cong. Rec. S704 (Feb. 1, 1996) (statement of Sen. Ford). Relying upon actual market experience with local telephone company entry into long distance as well as incumbent LECs' economic incentive to lower prices upon vertical integration, Professor Hausman anticipates that prices would fall by about 17-18 percent as a result of in-region entry by the Bell companies, and that residential customers alone stand to benefit by about \$7 billion per year. Hausman Aff. ¶¶ 5, 20-23.

In other proceedings, the incumbent interexchange carriers and the Department of Justice have questioned the magnitude of the consumer savings that will result from Bell company entry into long distance. See DOJ South Carolina Evaluation at 48-49. The important thing, however, is the indisputable fact of significant consumer benefits from greater interLATA competition. The Justice Department's consultant, for instance "expect[s] price reductions." Schwartz Supplemental Aff. ¶ 77 (filed with DOJ South Carolina Evaluation). Whether these benefits total \$7 billion per year, \$10 billion per year, or a "mere" \$1 or \$2 billion per year is nearly immaterial for purposes of this application, because the public interest requires that consumers be allowed to reap any possible benefits from competitive markets where, as here, there are no offsetting costs.

D. BellSouth's Entry into the InterLATA Market, Subject to Extensive Statutory and Regulatory Safeguards, Presents No Risk to Competition

For all its potential strengths as a competitor, BellSouth has absolutely no ability to impede competition by entering the interLATA market. The 1996 Act and regulatory reforms have rendered 20-year-old worries about cross-subsidy and network discrimination obsolete.

1. *Regulation and Practical Constraints Make “Leveraging” Strategies Impossible to Accomplish*

In light of the federal and state safeguards that prevent Bell companies from engaging in anticompetitive conduct upon entering long distance, the Commission recently held that the Bell companies should be regulated as non-dominant when they provide in-region, interLATA services.⁷⁷ It found that Bell companies could not drive other interexchange carriers from the market through cost misallocation, that federal and state price caps reduce incentives to misallocate costs, and that existing safeguards “will constrain a BOC’s ability to allocate costs improperly and make it easier to detect any improper allocation of costs that may occur.” *Id.* ¶ 105. The Commission likewise dismissed fears of predation against the established long distance incumbents, *id.* ¶ 108; found that the numerous protections against discrimination will prevent Bell companies from gaining market power upon entry through such tactics, *id.* ¶¶ 111-119; and concluded that any risk of price squeezes can be addressed through FCC procedures and the antitrust laws, *id.* ¶¶ 128-129. Finally, the Commission recognized “that the entry of the BOC interLATA affiliates into the provision of in-region, interLATA services has the potential to increase price competition and lead to innovative new services and market efficiencies.” *Id.* ¶ 134.

⁷⁷ Second Report and Order in CC Docket No. 96-149 and Third Report and Order in CC Docket No. 96-61, Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC’s Local Exchange Area and Policy and Rules Concerning the Interstate Interexchange Marketplace, FCC No. 97-142 (rel. Apr. 18, 1997) (“BOC Non-Dominance Order”).

Each of these conclusions is buttressed by the success that federal and state regulators have had in regulating Bell companies over the years, as well as by the new, additional safeguards imposed by the 1996 Act and the Commission's implementing regulations. As a former Deputy Assistant Attorney General for Economics in the current Administration's Antitrust Division explains, existing safeguards "expressly and comprehensively" address potential harms. Gilbert Aff. ¶ 43.

a. Cost Misallocation. Theories that BellSouth might shift costs incurred in providing interLATA services to local ratepayers, thereby giving itself a competitive edge as an interLATA carrier, are premised upon the assumption that BellSouth "is regulated under rate-of-return regulation." Notice of Proposed Rulemaking, Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended, 11 FCC Rcd 18877, 18882-83, ¶ 7 (1996) ("Non-Accounting Safeguards NPRM.")⁷⁸

To cure this problem, the Commission has totally overhauled its approach to rate regulation. See Hausman Aff. ¶ 34. The Commission adopted a price cap regime that sets maximum rates almost entirely without regard to costs, thereby giving LECs "a powerful profit incentive" to cut the costs of their regulated services. National Rural Telecom Ass'n v. FCC, 988 F.2d 174, 178 (D.C. Cir. 1993). There is no "reward for shifting costs from unregulated activities into regulated ones, for the higher costs will not produce higher legal ceiling prices." Id.; see

⁷⁸. The Department of Justice contended in supporting approval of the MFJ that the Bell System's alleged practice of subsidizing its competitive offerings at ratepayers' expense "stem[med] . . . directly from AT&T's status as a rate-of-return regulated firm . . ." Competitive Impact Statement at 13, United States v. AT&T, No. 74-1698 (D.D.C. Feb. 10, 1982).

Non-Accounting Safeguards NPRM, 11 FCC Rcd at 18942-43, ¶ 136 (Commission’s price cap policies “reduc[e] the potential that the BOCs would improperly allocate the costs of their affiliates’ interLATA services”); Hausman ¶ 34. Indeed, the Commission has described price cap regulation as providing strong “efficiency incentives” to keep down costs allocated to regulated services. Report and Order, Implementation of the Telecommunications Act of 1996; Accounting Safeguards Under the Telecommunications Act of 1996, 11 FCC Rcd 17539, 17605-06, ¶ 145 (“Accounting Safeguards Order”); see also Illinois Public Telecommunications Ass’n v. FCC, 117 F.3d 555, 570 (D.C. Cir. July 1, 1997) (under price caps “risk of loss” is borne by “investors rather than ratepayers”), clarified, Case No. 96-1394, slip op. (D.C. Cir. Sept. 16, 1997); Hausman Aff. ¶¶ 35-36.⁷⁹

Congress nevertheless took steps to address supposed worries about possible cost misallocation. In section 272 of the 1996 Act, Congress sharply reduced opportunities for cost-shifting by requiring that a Bell company provide long distance through an affiliate that has separate facilities, employees, and record-keeping from the local telephone company. 47 U.S.C. § 272. Moreover, Congress reinforced structural separation with demanding accounting requirements. See id. § 272(d), Hausman Aff. ¶ 37. Legislators concluded, after hearing arguments on all sides, that these statutory safeguards and the Commission’s implementing rules

⁷⁹ To the extent that improper cost sharing may formerly have been a concern, see Non-Accounting Safeguards NPRM, 11 FCC Rcd at 18942-43, ¶ 136, that concern is addressed by the Commission’s recent decision to eliminate sharing entirely. Fourth Report and Order in CC Docket No. 94-1 and Second Report and Order in CC Docket No. 96-262, Price Cap Performance Review for Local Exchange Carriers and Access Reform Charge, FCC 97-159, ¶¶ 147-155 (rel. May 21, 1997); see Hausman Aff. ¶ 34.

would be sufficient to deal with concerns about Bell company cost misallocation. See, e.g., 47 U.S.C. § 254(k) (requiring Commission to implement regulations as necessary “to ensure that” revenues from regulated services are not used to subsidize competitively provided services). The Commission has likewise expressed confidence in the efficacy of structural separation in various contexts.⁸⁰

Beyond this statutory requirement, the Commission has explained that its preexisting “cost allocation and affiliate transactions rules, in combination with audits, tariff review, and the complaint process, have proven successful at protecting regulated ratepayers from bearing the risks and costs of incumbent local exchange carriers’ competitive ventures.” Accounting Safeguards Order, 11 FCC Rcd at 17550-51, ¶ 25. The Commission reasoned that these rules together “will effectively prevent predatory behavior that might result from cross-subsidization,” and that because they “have proven generally effective” there was “no reason to require a change to a different system.” Id. 17551, ¶ 28, 17586, ¶ 108; see also First Report and Order, Access Charge Reform, CC Docket No. 96-262, FCC No. 97-158, ¶ 283 (rel. May 16, 1997) (“Access Reform Order”) (price caps protect against cross-subsidization).

Louisiana regulators have implemented a parallel regulatory regime that contains many of these same protections. Like the Commission, the Louisiana PSC has abandoned rate-of-return regulation in favor of price-cap regulation. See Woroch Aff. ¶ 53; see also Roberts Aff. ¶ 44

⁸⁰ Report and Order, Inquiry into the Use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Sys., 86 F.C.C. 2d 469, 494, ¶ 50 (1981) (cellular); Final Decision, Amendment of Section 64.702 of the Commission’s Rules and Regulations (Second Computer Inquiry), 77 F.C.C.2d 384, 453 ¶ 177 (Bell System), aff’d sub nom. Computer and Communications Indus. Ass’n v. FCC, 693 F.2d 198, 211 (D.C. Cir. 1982).

(App. A at Tab 10). The Louisiana PSC also matches this Commission's accounting requirements, imposing similar record-keeping and reporting requirements and carrying out periodic audits. Cochran Aff. ¶ 14; Woroch Aff. ¶ 53.

b. Other Pricing Strategies. Just as cost misallocation would be impossible to accomplish, BellSouth would not and could not raise the cost of its access services in an effort to effectuate a "price squeeze" on other interexchange carriers.⁸¹ The Commission has cited a host of factors that "constrain the ability of a [Bell company or its] interLATA affiliate to engage in a predatory price squeeze," and concluded that Bell companies "will not be able to engage in a price squeeze to such an extent that the [Bell company] interLATA affiliates will have the ability, upon entry or soon thereafter, to raise price by restricting their own output." BOC Non-Dominance Order ¶ 129; see also Access Reform Order, ¶ 278 ("we have in place adequate safeguards against such conduct"). The Commission likewise concluded that a strategy of providing long distance services below cost to drive out competitors could not be profitable for Bell companies because losses incurred in predation could not later be recovered through supra-competitive pricing. Id. ¶ 108; see also Non-Accounting Safeguards NPRM, 11 FCC Rcd at 18943-44, ¶ 137; Hausman Aff. ¶ 38.

Wholly aside from regulatory safeguards, "predatory pricing schemes are rarely tried, and even more rarely successful." Brooke Group v. Brown & Williamson Tobacco Corp., 509 U.S. 209, 226 (1993) (citations omitted); see Roberts Aff. ¶ 54. In an industry with standardized

⁸¹. See generally Town of Concord v. Boston Edison Co., 915 F.2d 17, 18 (1st Cir. 1990) (per Breyer, J.) (discussing theory of price squeezes), cert. denied, 499 U.S. 931 (1991).

technologies and sophisticated incumbents, it is “especially unlikely” that BellSouth could employ the classic predatory strategy of lowering prices below cost to affect competitors’ assessments of future competition. Id. ¶¶ 24, 46-48; see also Gilbert Aff. ¶¶ 43-46. Realistically, moreover, any attempt to drive out large and well-financed incumbent carriers who have made mammoth sunk investments would be doomed. Roberts Aff. ¶¶ 46-47.

c. Price Discrimination. Perhaps the weakest of all theories advanced by those with a vested interest in delaying interLATA competition is that Bell companies might discriminate in the pricing of their exchange access services. The Commission has for years “require[d] any exchange carrier offering interexchange service to impute to itself the same costs that it uses to develop the access rates that it charges its interexchange customers.” Order on Reconsideration, Policy and Rules Concerning Rates for Dominant Carriers, 6 FCC Rcd 2637, 2714, ¶ 168 (1991). Consistent with that regulatory requirement, Congress specifically provided that the Bell company must charge its affiliate, or impute to itself, “an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service.” 47 U.S.C. § 272(e)(3). The Commission thus rightly has concluded that “the statutory and regulatory safeguards . . . will prevent a [Bell company] from discriminating to such an extent that its interLATA affiliate would have the ability, upon entry or shortly thereafter, to raise the price of in-region, interstate, domestic, interLATA services.” BOC Non-Dominance Order ¶ 119.

d. Technical Discrimination. Theories that BellSouth might impede competition by engaging in technical discrimination are equally unfounded. AT&T, MCI/British

Telecom (/WorldCom or /GTE), and Sprint/Centel/Deutsche Telekom/France Telecom are sophisticated, vertically integrated goliaths with revenues much greater than BellSouth's and the expertise and resources to detect and challenge systematic discrimination. See Gilbert Aff. ¶¶ 46-47, 49. Indeed, to state how discrimination against them would have to occur is virtually to prove its impossibility: In order to gain an anticompetitive edge, BellSouth would have to provide inferior access services to its major competitors, without disrupting its own local or long distance services, in a fashion that cannot be proved by other interexchange carriers or detected by regulators, yet is so apparent to customers that it drives them to switch to BellSouth's long distance service, but not the service of some other competitor. See Hausman Aff. ¶ 40; see also Gilbert Aff. ¶¶ 46-47 (no harm to competition unless discrimination raises consumer prices). When one considers these realities, it is not surprising that incumbent interexchange carriers never have produced specifics (much less hard evidence) as to the precise form hypothetical future discrimination would take, how it is feasible, what effect it would have on consumer decision-making, what costs it would impose on interexchange carriers, or how it would reduce competition and increase prices.

To accomplish discrimination, BellSouth would have to circumvent the mechanization of its technical and operations systems, including assignment and provisioning processes. It would have to bypass the SONET capabilities used by many interexchange carriers to reconfigure immediately their networks should a malfunction or service degradation occur. Gunter Aff. ¶¶ 40-42 (App. A at Tab 4). If technically possible at all, this would require substantial and visible investments, participation by large numbers of employees, and the cooperation of hardware and

software vendors who have no interest in favoring BellSouth's interLATA services operations, all of which make such a strategy unthinkable. Id. ¶ 40. Of course, there also would be no guarantee that customers who are unhappy with their existing long distance carrier would switch to BellSouth; targeted discrimination against, say, Sprint, would send many customers to AT&T and MCI, giving BellSouth no benefit. Cf. United States v. Western Elec. Co., 993 F.2d 1572, 1579 (D.C. Cir. 1993) (noting that discrimination is unlikely where "customers could readily shift to the BOC's larger competitors") cert. denied, Consumer Fed'n of America v. United States, 510 U.S. 984 (1983).

Furthermore, BellSouth has been providing exchange access services to the long distance industry for over a dozen years. Interexchange carriers can and do directly monitor BellSouth's performance, making it "likely that an IXC would detect any degradation in BellSouth's access service long before any customer could notice that degradation and attribute it to the IXC." Gilbert Aff. ¶¶ 46-47. BellSouth's interconnection arrangements with all the major interexchange carriers establish specific criteria for service quality and procedures for the interexchange carrier to monitor BellSouth's performance. Gunter Aff. ¶¶ 28-32. In addition, BellSouth is required to file various reports, of proven effectiveness, with the Commission. See Varner Aff. ¶ 212; Gilbert Aff. ¶ 48.⁸² And, BellSouth is subject to rigorous industry standards which "neither BellSouth,

⁸² See also, e.g., Order, Revisions of ARMIS Quarterly Report, 11 FCC Rcd 22508, 22515, ¶¶ 20, 22 (1996) (reporting of, inter alia, information about trunk blockage, total switch downtime, and consumer satisfaction); Id. at 22515, ¶ 20 (reporting of installation and repair intervals); Non-Accounting Safeguards Order; 11 FCC Rcd at 22020, ¶ 242, 22081, ¶ 368 (reporting of the "service intervals in which the BOCs provide service to themselves or their affiliates").

nor RBOCS generally, nor anyone else is able to affect or influence . . . without technical justification and industry consensus.” Gunter Aff. ¶ 20; see Woroch Aff. ¶¶ 30-31.

The Commission recently rejected additional reporting requirements because “sufficient mechanisms already exist within the 1996 Act both to deter anticompetitive behavior and to facilitate the detection of potential violations of section 272 requirements.” Non-Accounting Safeguards Order, 11 FCC Rcd at 22060-61, ¶ 321. Indeed, the Commission explained that “the reporting requirements required by the 1996 Act, those required under state law, and those that may be incorporated into interconnection agreements negotiated in good faith between BOCs and competing carriers will collectively minimize the potential for anticompetitive conduct by the BOC and its interexchange operations. In addition to deterring potential anticompetitive behavior, these information disclosures will also facilitate detection of potential violations of the section 272 requirements.” Id. at 22063-64, ¶ 327.

Suggestions that a Bell company might seek to slow-roll interexchange carriers in developing and implementing new access arrangements are equally unfounded. The 1996 Act provides that a Bell telephone operating company “may not discriminate between that company or affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards,” 47 U.S.C. § 272(c)(1); must fulfill “any requests from an unaffiliated entity for telephone exchange service, and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates,” id. § 272(e)(1); and may not provide facilities, services, or information concerning exchange access to its long distance affiliate unless they are

made available to other providers of interLATA service on the same terms and conditions, id. § 272(e)(2), (4). See Gilbert Aff. ¶¶ 42-43; Woroch Aff. ¶ 58.

Regulators should have no trouble enforcing these requirements. The Commission has explained that existing rules relating to enhanced services and customer premises equipment currently protect against analogous discrimination. Non-Accounting Safeguards NPRM, 11 FCC Rcd at 18915-16, ¶ 75. Moreover, access revenues account for one-quarter of BellSouth Telecommunications' total operating revenues, 1996 Annual Report at 20. BellSouth thus has an affirmative incentive to provide higher-quality or lower-cost access to interexchange carriers, so as to increase demand for its exchange access services and avoid the loss of access revenues that would result if interexchange carriers provided their own access services or obtained access services from a facilities-based competitor to BellSouth. See Schmalensee Aff. ¶ 45; Woroch Aff. ¶ 77 (discussing access competition in Louisiana). All that will be required in the context of new exchange access arrangements is an evolution of existing, routinized, and mutually advantageous arrangements between interexchange carriers and BellSouth, which leave no room or reason for misconduct.

e. Misuse of Confidential Information. Section 272(c)(1) prohibits a Bell company from discriminating “in the provision or procurement of goods, services, facilities, or information.” The Commission has interpreted “information” in section 272(c)(1) so that it “includes, but is not limited to, CPNI and network disclosure information.” Non-Accounting Safeguards Order, 11 FCC Rcd at 22010, ¶ 222. Accordingly, a Bell company must make such information available to other interexchange carriers on the same terms and conditions as its own

long distance affiliate. Id.; see Woroch Aff. ¶ 70 (citing Statement and agreement provisions governing confidentiality).

The Commission has explained that its “current network disclosure rules are sufficient to meet the requirement of section 272(e)(2) that BOCs disclose any ‘information concerning . . . exchange access’ on a nondiscriminatory basis.” Non-Accounting Safeguards Order, 11 FCC Rcd at 2206, ¶ 253. Commission regulations also have long governed, and will continue to regulate, access to competitively useful information concerning particular customers. See id. at 22010, ¶ 222 (noting separate CPNI proceeding). Under the Commission’s rules, for example, Bell companies must disclose CPNI to unaffiliated enhanced service providers and CPE suppliers at the customer's request; bar their own enhanced service sales personnel from accessing certain CPNI without customer authorization; and notify multi-line business customers of their CPNI rights each year.⁸³

f. Penalties. In light of its inability to engage in cost misallocation or any form of discrimination, there simply would be no reason for BellSouth to risk the substantial penalties likely to follow such a fruitless endeavor. If BellSouth were to violate any provision of the Communications Act of 1934 it would be required to pay civil fines, 47 U.S.C. § 202(c), and would be liable to injured parties for the amount of their injuries plus attorneys’ fees. 47 U.S.C. §§ 206-207. In addition, section 220(e) of the Communications Act imposes criminal penalties

⁸³. See Report and Order, *Furnishing of Customer Premises Equipment by the Bell Operating Companies and the Independent Telephone Companies*, 2 FCC Rcd 143, 153 ¶ 66 (1987), on reconsideration, 3 FCC Rcd 22 (1987), pet’n for review denied, *Illinois Bell Telephone Co. v. FCC*, 883 F.2d 104 (D.C. Cir. 1989); Computer III Remand Proceedings: Bell Operating Company Safeguards, 6 FCC Rcd 7571, 7602-14, ¶¶ 68-95 (1991).

for false entries in the books of a common carrier — a strong deterrent against purposeful violations of the accounting requirements described above. Sections 501 through 504 provide additional penalties — including imprisonment, fines, and forfeiture — for knowing violations of any statutory or regulatory provision. Moreover, if the Commission determines that BellSouth “has ceased to meet any of the conditions required for” interLATA entry, it may revoke interLATA authority under section 271(d)(6).⁸⁴

All of the Act’s and the Commission’s specific statutory and regulatory protections are backed up by federal and state antitrust laws. The weighty corporate and personal penalties (including imprisonment) that may be levied against violators of the antitrust laws, combined with the near impossibility of keeping systematic discrimination or cost-shifting secret, make it most unlikely that Bell company managers would order unlawful practices.⁸⁵

Given its own decisions noting the strength of all these various statutory and regulatory protections, the Commission could hardly find them inadequate to the task in this case. Moreover, the Commission recently determined, in approving British Telecom’s proposed acquisition of MCI, that regulations in the United Kingdom “ensure proper cost allocation, timely and nondiscriminatory disclosure of network technical information, and protection of carrier and

⁸⁴. The Commission has ruled that once a complainant makes a prima facie showing that a Bell company has “ceased to meet the conditions of entry,” the burden shifts to the Bell company to produce evidence of its compliance. Non-Accounting Safeguards Order, 11 FCC Rcd at 22072, ¶ 345. This is a complete answer to claims that discrimination and cross-subsidy, even though detectable, might be hard for rival interexchange carriers to prove.

⁸⁵. See, e.g., 15 U.S.C.A. §§ 1, 2 (Sherman Act); United States Sentencing Comm’n, Guidelines Manual § 2R1.1 (requiring prison sentences for a number of antitrust violations).

consumer proprietary information against unauthorized disclosure,” and thereby “contro[l] BT’s market power” in the provision of access services. Memorandum Opinion and Order, Merger of MCI Communications Corp. and British Telecommunications PLC, GN Docket No. 96-245, FCC No. 97-302 at ¶ 203 n.288 (rel. Sept. 24, 1997). The U.K.’s safeguards, however, are weaker than those under the Act and this Commission’s regulations, see id. ¶¶ 218-223, and do not even include equal access, unbundling, or resale, id. ¶ 202. If the U.K.’s regulations and the potential for future competition are sufficient to prevent harm from BT’s vertical integration with MCI, see id. ¶ 210, then the much stronger U.S. safeguards and the openness of Louisiana markets to competitors under the checklist must be sufficient to address any analogous concerns raised in this proceeding.

Actual Experience with LEC Participation in Adjacent Markets Disproves Theories about Anticompetitive Potential

BellSouth’s inability to raise prices or restrict output as an interexchange carrier in Louisiana is confirmed by over a decade of experience with LEC entry into markets adjacent to the local exchange, including, in some instances, long distance service. As noted earlier, local exchange carriers have competed fairly and effectively where they have been permitted to offer long distance. See supra at 76-78.⁸⁶ One would not have expected such competitive benefits

⁸⁶ The same is true of BOC participation in the information services and CPE markets. See Hausman Aff. ¶¶ 33, 40. For instance, while the interexchange carriers have tried in various proceedings to cast BellSouth’s introduction of its MemoryCall voice-messaging service as an example of discriminatory conduct, that only shows how bare the record is of any wrongdoing. In 1991, the Georgia PSC did find that BellSouth had used improper marketing practices and had discriminated against competing enhanced service providers and ordered a temporary halt to MemoryCall sales. Yet MCI and Sprint, among others, supported BellSouth’s successful position before the FCC that the PSC lacked jurisdiction to find a violation where BellSouth had acted in

based on the self-serving predictions of potential competitors, which were of the same ilk as the arguments they will make in opposing this application.

The New Jersey Corridors. When NYNEX and Bell Atlantic sought permission to operate as interexchange carriers in limited geographic corridors during the early 1980s, the

accordance with FCC rules. Memorandum Opinion and Order, Petition for Emergency Relief and Declaratory Ruling Filed by the BellSouth Corporation, 7 FCC Rcd 1619 (1992). This Commission later stated that it found the Georgia PSC's finding of improper practices unpersuasive on the merits. Brief for Respondents, California v. FCC, No. 92-70083, at 59-61 (9th Cir. filed July 14, 1993).

There likewise is no merit to contentions that BellSouth Telecommunications, Inc. ("BST") has discriminated against unaffiliated payphone service providers with respect to network access. This Commission has approved BST's CEI plan, pursuant to which BST offers independent payphone providers nondiscriminatory access to the regulated payphone services used by its wholly-owned payphone affiliate, BellSouth Public Communications, Inc. ("BSPC"). See Order, BellSouth's Corporation's Offer of Comparably Efficient Interconnection to Payphone Service Providers, 12 FCC Rcd 4318 (1997). BST has followed the terms of its CEI plan and will continue to do so after section 271 relief is granted.

Equally meritless are recent claims before this Commission that BSPC has impermissibly interfered with contracts between its payphone customers and interexchange carriers. Section 276 of the Communications Act and this Commission's payphone orders specifically authorize BSPC to negotiate, select, and contract with interexchange carriers on behalf of its payphone customers. BSPC has mailed materials to its payphone customers advising them of this fact. Nowhere do these materials suggest that location providers must reevaluate, let alone change, existing contracts with interexchange carriers. To the contrary, BSPC expressly requires that any such contracts be allowed to run their term unaffected. Nor is there any truth to the assertions that BSPC discriminates against payphone subscribers who do not authorize BSPC to negotiate with interexchange carriers on their behalf. BSPC currently imposes a \$15 fee on a small minority of its payphones that generate insufficient traffic to recover their costs. BSPC anticipates that, when authorized to do so, it will be able to make up the revenue shortfall on these payphones by negotiating with an interexchange carrier to carry the traffic from these payphones. But where the location provider chooses to select an interexchange carrier itself, BSPC is unable to cover the costs of the payphone. BSPC thus charges a monthly fee of \$15 to location providers whose phones do not cover their costs and who elect not to appoint, or are precluded by contract from appointing, BSPC as their agent. This charge is entirely consistent with the letter and the spirit of section 276 and with this Commission's payphone orders.

district court credited suggestions that allowing such service would give “the Operating Companies the same incentive to discriminate against new entrants that they had while part of the integrated Bell [s]ystem,” and that it “may be tantamount to giving to the Operating Companies a monopoly over certain interstate traffic.” United States v. Western Elec. Co., 569 F. Supp. 990, 1018 n.142, 1023 (D.D.C. 1983). Yet these (now merged) Bell companies do not dominate corridor traffic. By AT&T’s own count, Bell Atlantic has less than 20 percent of the corridor business. AT&T Waiver Petition at 3. AT&T and MCI have sought authority to lower their long distance rates in the corridors while they raise them elsewhere, not because of any leveraging of local “bottlenecks,” but rather because their prices are being undercut. See AT&T Waiver Petition at 5; MCI Comments at 3. Disproving the predictions of potential competitors, Bell Atlantic and NYNEX have benefitted consumers by lowering prices.

SNET in Connecticut. Similarly, all the evidence suggests that SNET’s competitive success in Connecticut is due to its lower prices, not to any anticompetitive behavior. See Hausman Aff. ¶¶ 16, 22, 41. AT&T does not allege that SNET has gained market share through anticompetitive conduct, but rather attributes SNET’s success to lower prices. Id.; see also Gilbert Aff. ¶ 53 (no complaints against SNET or Frontier Communications). Moreover, competition between SNET and AT&T is vigorous, leading AT&T to ask for permission to reduce prices along with SNET in order to preserve its market share. See supra at 76-77.

GTE/Sprint. GTE’s ownership of Sprint proves the same point on a larger scale. See Gilbert Aff. ¶¶ 51-52. As the fourth largest local exchange carrier and the incumbent carrier across large geographic areas, GTE had the same theoretical incentives to impede interexchange

competition as would a Bell company entering the long distance market today. See United States v. Western Elec. Co., 993 F.2d at 1579 (explaining relevance of GTE experience). Indeed, when seeking to place conditions on GTE's purchase of Sprint in 1984, the Department of Justice argued that because GTE "provide[d] in the same market both local monopoly telecommunications services and competitive long distance services, it" necessarily would have "the incentive and ability to foreclose or to impede competition in the competitive (or potentially competitive) market by discriminating in favor of its own long distance carrier." United States v. GTE Corp., 603 F. Supp. 730, 732 (D.D.C. 1984).

Yet after the acquisition was completed, Sprint never was able to accumulate disproportionate market share in areas served by a GTE telephone company. The Department of Justice found no pattern of discrimination by GTE in favor of Sprint, Gilbert Aff. ¶ 52, and even AT&T and MCI have had to concede that GTE's monopoly power in the local exchange never enabled it to "achieve market power" in its in-region interLATA market.⁸⁷ As further evidence of its inability to earn monopoly profits in the long distance business, GTE sold Sprint in three installments between 1986 and 1992. Gilbert Aff. ¶ 51. GTE recently entered long distance as a new entrant — in the same way that BellSouth will enter — and has competed effectively with AT&T not through any anticompetitive conduct but rather through residential prices that are 17.2 percent lower. Hausman Aff. ¶ 23.

⁸⁷ MCI's Initial Comments to the Department of Justice Concerning the Motion to Vacate the Judgment and NYNEX's Request to Provide Interexchange Service in New York State at 58, United States v. Western Electric Co., No. 82-0192 (D.D.C., Dec. 9, 1994); see AT&T's Opposition to the Four RBOCs' Motion to Vacate the Decree at 159, United States v. Western Electric Co., No. 82-0192 (D.D.C. Dec. 7, 1994).

Cellular Services. Similarly, given that cellular carriers and interexchange carriers have similar local interconnection requirements, Bell companies have had essentially the same incentive and ability to act anticompetitively against rival cellular carriers as they would have to act anticompetitively against other interexchange carriers in in-region states. See Hausman Aff. ¶¶ 33, 40. As with interexchange services, moreover, predictions of future harm to the public interest preceded Bell company participation in the cellular business. See, e.g., 825-845 MHZ Inquiry, 86 F.C.C.2d at 469, 530-31, 540-43, 550-51, 643 (summarizing comments of Millicom, Telocator, and the Department of Justice).

Yet, this theoretical incentive of wireline carriers to inhibit cellular growth has not created any actual problems. The Commission has confirmed “the infrequency of interconnection problems” between local exchange carriers and unaffiliated cellular providers. Eligibility for the Specialized Mobile Radio Servs., 10 FCC Rcd 6280, 6293, ¶ 22 (1995). Indeed, “the wireless communications business is one in which relatively small, entrepreneurial competitors have often been as successful as . . . the BOCs.” Applications of Craig O. McCaw and AT&T Co., 9 FCC Rcd at 5861-62, ¶ 38.

The Bell companies, who would know if incumbent local telephone companies could give their cellular affiliates an unfair competitive edge, have invested heavily in cellular systems that compete with the incumbent LEC’s systems. BellSouth, for instance, competes against an incumbent LEC’s wireless affiliate in Hawaii, California, Illinois, and Indiana. Such investments would never be made if Bell companies really believed that LECs can frustrate fair competition. Even AT&T effectively has agreed that the Bell companies have no ability to overwhelm

competitors in wireless; it bought the nation's largest cellular carrier and has invested billions more for PCS licenses, investments that would not make sense if the incumbent LEC had a clear edge.

E. The Effect of BellSouth's Entry on Local Competition

Even if the Commission follows the policy suggested in its Michigan Order and focuses primarily on local competition, it should find that approving BellSouth's application is in the public interest. The expert agency on local telecommunications in Louisiana found that "consumers in Louisiana, both local and long distance, would be well served by BellSouth's entry into the long distance market." Compliance Order at 14 (emphasis added). The Louisiana PSC's conclusion is consistent with common sense, economic theory,⁸⁸ and the findings of other State commissions. For example, the South Carolina PSC explained that allowing BellSouth into long distance "will create real incentives for the major [interexchange carriers] to enter the local market . . . , because they will no longer be able to pursue other opportunities secure in the knowledge that [BellSouth] cannot invade their market until they build substantial local facilities." South Carolina Order at 67. The Oklahoma Corporation Commission similarly determined in connection with section 271 relief that "once full long distance competition is opened up in Oklahoma, the major competitive providers of local exchange service will take notice and adjust their respective

⁸⁸. See Woroch Aff. ¶¶ 17-19, 79-86 (noting incentives of CLECs, absent BellSouth interLATA entry, to "go slow" in Louisiana and to pursue markets that offer greater profit margins); Hausman Aff. ¶ 9 (noting that, following BellSouth interLATA entry, interexchange carriers "and other competitors will be required by competition to respond with competitive offerings").

business plans to move Oklahoma closer to the top of their schedules, resulting in faster and broader local exchange competition for Oklahoma consumers.”⁸⁹

Approving BellSouth’s application, moreover, would provide the Big Three long distance carriers with the ability to compete more effectively as CLECs. These carriers are temporarily prohibited from bundling any wholesale services they obtain from BellSouth in Louisiana with interLATA services. BellSouth’s entry will release the interexchange carriers from this prohibition, 47 U.S.C. § 271(e)(1), and produce the result Congress envisioned: enhanced competition in both local and long distance markets. Conference Report at 1 (Act intended to “ope[n] all telecommunications markets to competition”); see Gilbert Aff. ¶¶ 18-23 (noting benefits to competition and consumers of bundled offerings); Hausman Aff. ¶ 7 (same).

The Act’s prohibition on bundling by the major carriers pending BellSouth’s interLATA entry is the only barrier remaining to full local competition in Louisiana. “[A]ll procompetitive entry strategies are available to new entrants” in the State⁹⁰ and the currently limited extent of wireline, facilities-based local competition is due solely to the business decisions of competitors. See Woroch Aff. ¶¶ 51-53 (discussing Louisiana PSC policies and absence of municipal entry barriers). When BellSouth has opened its local markets through compliance with the checklist, it is simply wrong for any party to suggest that there would be consumer benefits from further

⁸⁹. Comments of the Oklahoma Corporation Commission at 11, Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Oklahoma, CC Docket No. 97-121 (FCC filed May 1, 1997).

⁹⁰. Michigan Order ¶ 387.

delaying certain long distance competition in the name of possible local competition — particularly where the Louisiana PSC has authoritatively found that local competition will increase as a result of approving this application.

The Louisiana PSC's efforts to promote local competition in the State are extensive. In addition to reviewing scores of interconnection agreements and applications for CLEC certification, presiding over arbitrations, establishing cost-based rates in its Pricing Order, and reviewing BellSouth's Statement and its eligibility for interLATA relief, the Louisiana PSC has issued rules affirmatively to ensure that all CLECs — whether they proceed under the Statement's standard terms or tailored agreements — have access to the prerequisites for competition. See Woroch Aff. ¶¶ 51, 53; Louisiana Local Competition Order.

The Affidavit of Gary Wright describes the varied backgrounds and business plans of CLECs that have responded to the opportunities available in Louisiana. Eighteen CLECs have already ordered services from BellSouth for resale in Louisiana and CLECs are already serving a substantial number of customers and access lines on this basis and over their own networks. Wright Aff. ¶ 122; see also id. Attach. WLCE-G. As of September 30, 1997, CLECs had captured 3608 business lines and 3460 residential lines from BellSouth. Id.

Whether or not they yet qualify as Track A providers, CAPS such as ACSI, American MetroComm, KMC Telecom, and ITC DeltaCom, and cable television companies such as Cox, have facilities that could be utilized to offer telephone exchange service and are likely to be a source of facilities-based competition in a matter of months. Wright Aff. ¶¶ 17-41, 49-63, 75-86. ACSI, for example, has networks in New Orleans, Baton Rouge and Shreveport. Wright Aff.

¶ 18. American MetroComm has a fiber optic network and a Nortel DMS Central Office switch in New Orleans. Wright Aff. ¶ 32. KMC Telecom owns fiber optic networks in Baton Rouge and Shreveport and has installed local exchange switching facilities in both cities. See Wright Aff. ¶ 38 & Attach. WLCE-C. ITC DeltaCom provides exchange access over a series of fiber optic routes in Louisiana and throughout most of BellSouth's region. Wright Aff. ¶ 75. Cox's network passes 428,000 homes and currently serves about 275,000 cable television subscribers. Wright Aff. ¶ 52. The future facilities-based offerings of these traditional telecommunications carriers will be complemented by the competitive entry of Shell, which is making the transition to a full-scale CLEC with entry plans covering the entire State. Wright Aff. ¶ 47 & Attach. WLCE-D.

When these competitors choose to provide local service on a facilities basis, they will be able to compete for a substantial percentage of BellSouth's Louisiana revenues without even extending their networks or resorting to resale. See Wright Aff. ¶ 125; see also Attach. WLCE-A - WLCE-E (providing confidential figures). About 30 percent of BellSouth's Louisiana revenues are generated by customers connected to just 7 wire centers serving 2.0 percent of BellSouth's service area — the same area covered by the networks of potential facilities-based carriers. Wright Aff. ¶ 125 & Attach. WLCE-A-WLCE-E. This geographic concentration of revenues means that the threat of competition imposes significant competitive constraints on BellSouth, even though competition may not be widespread outside Louisiana's urban centers.

BellSouth also faces a competitive threat from wireless providers. As described earlier, these carriers price their services competitively with wireline services for some BellSouth wireline customers, and they can offer the advantages of mobility and one-stop shopping as well. See

supra Part I.C.3. Indeed, market factors in Louisiana such as long average loop lengths make wireless an especially attractive local entry strategy in the State. Woroch Aff. ¶ 88. In that regard, it is noteworthy that Cox, TCI and Comcast are equity partners in Sprint Spectrum's PCS venture in New Orleans, and that Sprint Spectrum has announced its intention to use the wireline networks of its cable television partners to accelerate the deployment of its PCS network infrastructure. Wright Aff. ¶¶ 58, 61. Other wireless carriers in Louisiana also are affiliated with wireline providers, positioning them to integrate wireless and wireline services as well. See Wright Aff. ¶¶ 104, 117-118.

The only obstacles preventing CLECs from competing fiercely with BellSouth are the CLECs' incentives to pursue more profitable markets and to protect long distance profits by keeping BellSouth out of interLATA services. Under the Act, the Commission simply may not delay interLATA relief until CLECs choose to confirm in the marketplace that they are viable, long-term competitors. Nor would such delay be sound policy. "[T]he social cost of such a delay," including foregone competition in the interLATA and local markets, "is prohibitive." Woroch Aff. ¶ 55. As former Chairman Hundt has put it, "[c]ompetition delayed is competition denied."⁹¹

CONCLUSION

Louisiana consumers have been denied the benefits of competitive interLATA and local telecommunications markets long enough. The Commission should end that situation, as

⁹¹ Separate Statement of Reed Hundt, Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, FCC 97-342, WT Dkt 97-82, at 6 (rel. Oct. 16, 1997).

BellSouth, November 6, 1997, Louisiana

recommended by the Louisiana PSC, by authorizing BellSouth to provide in-region, interLATA services under section 271. Because BellSouth has satisfied all specific statutory prerequisites to provide interexchange services in Louisiana and such service would promote the public interest, the application should be granted.

Respectfully submitted,

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**Materials not included on this diskette are on file
with the Federal Communications Commission.**

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20544

In the Matter of:

Application of BellSouth)
Telecommunications, Inc. for)
Provision of In-Region InterLATA)
Services in Louisiana)

AFFIDAVIT OF GEORGE F. AGERTON

1. My name is George F. (“Trip”) Agerton. I am employed by BellSouth Telecommunications, Inc. (“BST”). My business address is 675 West Peachtree Street, Atlanta, Georgia 30375. I am the Assistant Vice President - Cross Segment Marketing. In this position, I am responsible for, among other things, oversight of policy and procedure implementation for the marketing organizations of BST that will ensure compliance with federal statutory obligations. I have held numerous positions with BST in sales, marketing and staff operations. The purpose of this affidavit is to address BST’s plans to provide training to its employees regarding their obligations under 47 U.S.C. Section 272 and applicable FCC regulations.

2. BST will develop a process to ensure compliance with Section 272 that is at least as comprehensive as the compliance program BST established regarding local competition and its obligations under 47 U.S.C. Section 251 and applicable FCC regulations.

3. Beginning in the second half of 1996, BellSouth undertook a comprehensive training program designed to inform each of its employees of their obligations and responsibilities under the Telecommunications Act of 1996 (the “Act”).

4. Pursuant to this effort, BellSouth designated a representative from the Customer Operations Units, one from the Public Relations Department, and one from the Legal Department (the "Training Committee"). The Training Committee had responsibility for ensuring that training was developed and provided to every BST employee.

5. The Training Committee determined that training should be tailored to the job responsibilities of specific employee groups. Employees who did not have direct involvement with Competitive Local Exchange Carriers ("CLECs") or their customers received an overview of the Act, focusing on its requirements that all competitors be treated in a non-discriminatory manner. Attached hereto as GFA-1 is a copy of an employee publication entitled "Telescope," dated February 5, 1997, which summarizes the requirements of the Act in this regard. This document was provided to every employee of BST. In addition, each BST employee received a copy of each of two "Competitive Alerts," addressing various competitive issues. Copies of the Competitive Alerts are attached hereto as GFA-2 and GFA-3.

6. Each employee also received a letter from the officer responsible for his or her organization advising of the need to "follow the rules and regulations set forth in the Telecom Act." A copy of the form used by each of the officers is attached as GFA-4. The letter advised that employees "must not discriminate in the service we provide between BellSouth customers and customers of our competitors or among any of the customers of our competitors. The letter also instructed that no "BellSouth employee say, write or otherwise do anything to disparage our competition." And, the letter warned that "once a competitor has won a customer, no BellSouth employee can improperly come between the contractual relationship between those parties."

7. For those employees who do have direct involvement with CLECs or their customers, specific training, based upon each employee groups' job responsibilities, was

developed. For example, one training program was created and provided to the employees who work in BST's Local Carrier Service Center ("LCSC"). A different training program was developed for employees who have installation and repair responsibilities in the field and thus have contact with customers of BST and CLECs. Yet another program was developed for employees of BellSouth Business Systems, which is BellSouth's large business customer operations unit.

8. Training manuals and other material were provided to those employees with direct involvement or contact with CLECs or their customers. One example of the type of material provided to these employees is the "Charting the Course" materials prepared and used by BellSouth Business Systems. A copy of this material is attached hereto as GFA-5.

9. All managers with customer service responsibilities or who provide direct support to customer-affecting operations are required to include in their annual performance plan a commitment that addresses the need to treat CLEC customers and BST end users equitably and in a competitively neutral manner.

10. Because of the importance placed by BellSouth on ensuring compliance with the requirements of the Act, each employee with direct involvement with CLECs or their customers was required to confirm that he or she was trained as to his or her obligations and responsibilities with respect to CLECs under the Act. A copy of the confirmation form is attached hereto as GFA-6. Moreover, each officer organization with employees with direct involvement with CLECs and their customers was required to certify to the Training Committee that the employees in his or her organization had received the training. Each such officer group affirmatively responded that such training had been completed.

11. Prior to commencing in-region, interLATA operations in Louisiana, BST will

distribute to its management employees copies of section 272 and FCC requirements and regulations relating thereto. All employees with relevant responsibilities will be informed of these requirements and future applicable modifications to the Act or FCC requirements. BST will provide a summary of each of the relevant requirements, along with explanatory materials.

12. BST will provide additional training to all officers and managers who have significant responsibility for implementing the requirements of the Telecommunications Act, and applicable federal and state regulatory requirements, as such requirements pertain to BST's provision of in-region interLATA services in Louisiana.

13. BST has established an "Ethics Hotline," which is a toll-free number that employees may use to report anonymously suspected violations of the law, including violations of Section 272, and applicable federal and state regulatory requirements. The Ethics Hotline is described in BST's Personal Responsibility Handbook, which is distributed to all BST employees when they commence employment with BST. A copy of the Personal Responsibility Handbook is attached as GFA-7.

14. The Personal Responsibility Handbook provides the following counsel: "It is also important to remember what we can and cannot say to our customers about products and services offered by various BST subsidiaries. Check with your supervisor or the Legal Department if you have any questions." (Emphasis in original.)

15. The Personal Responsibility Handbook also instructs employees that the FCC has specific guidelines concerning how products and services are offered, and that employees should check with supervisors in the event they have any questions. Finally, it instructs employees that they may also contact the BST Legal Department for issues relating to competition, environmental or other legal matters that they "may be concerned about."

16. Suspected violations will be investigated. If corrective action is required, a plan for corrective action will be formulated and implemented.

17. As with the local competition compliance program, BST will use various compliance techniques, including presentations, both live and videotaped, and articles in company newsletters to reinforce to all appropriate employees the need to comply with requirements of Section 272 and applicable FCC regulations.

18. This concludes my affidavit.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September __, 1997.

George F. Agerton
Assistant Vice President-
Cross Segment Marketing

STATE OF GEORGIA
COUNTY OF FULTON

Subscribed and sworn to before me
this _____ day of _____, 1997

Notary Public

**Before the
FEDERAL
COMMUNICATIONS
COMMISSION
Washington, D.C. 20554**

In the Matter of
Application by BellSouth Corporation
for Provision of In-Region, InterLATA
Services

CC Docket No. _____

AFFIDAVIT OF GUY L. COCHRAN, being duly sworn, deposes and says:

My name is Guy L. Cochran. I am Senior Director-Finance at BellSouth
Telecommunications, Inc. ("BST")

I am responsible for ensuring that the accounting policies and procedures
employed by BellSouth comply with the accounting and cost allocation rules
prescribed by the Federal Communications Commission ("FCC") and state
regulators.

I received a Bachelor of Science degree (Accounting) from the University of
Alabama at Birmingham in 1972. I am a Certified Public Accountant (CPA)
licensed in the state of Georgia, and am a member of the American Institute of
CPAs and the Georgia Society of CPAs. I am also a Certified Management
Accountant (CMA) as administered by the Institute of Management
Accountants, of which I am a member. I have been employed by BellSouth
(formerly South Central Bell) and its parent company BellSouth Corporation
for 29 years, the last 25 years in various accounting assignments.

The purpose of my affidavit is to demonstrate that BST will comply with relevant
requirements of section 272 of the Communications Act of 1996 ("Act"), and
the rules promulgated by the FCC relating thereto, following BellSouth

Corporation's receipt of in-region, interLATA authority. The affidavit of Vic Jarvis demonstrates the compliance of BellSouth Long Distance, Inc. ("BSLD") with sections 272(a), (b), and (g) of the Act and the FCC's implementing rules. No BellSouth affiliate is currently engaged in manufacturing activities; origination of in-region interLATA services, other than incidental services; or provision of interLATA information services. Nevertheless, my comments will demonstrate that BellSouth has prepared to comply with the requirements of section 272 once it is authorized to engage in such activities.

My affidavit is divided into four parts which correspond to provisions of the Act: The separate affiliate requirement (section 272(a)); structural and transactional requirements (section 272(b)); rule compliance requirements (section 272(c)); and audit requirements (section 272(d)). Additionally, a fifth section is included which discusses the methodology and factual evidence the Louisiana PSC (LPSC) used to determine the 20.72% discount rate.

I. BST COMPLIES WITH THE SEPARATE AFFILIATE REQUIREMENT OF SECTION 272(a)

6. BST is a "Bell operating company" ("BOC") within the meaning of the Act. 47 U.S.C. §153(4). BST has not, and will not itself provide in-region interLATA services originating within the BellSouth nine state region or which are treated as originating within the BellSouth nine state region under section 271(j) of the Act, for so long as the structural separation obligations of section 272 apply to this activity. BST also has not and will not itself engage in manufacturing activities for which structural separation is required under section 272(a)(2), for so long as the structural separation obligation of section 272 apply to this activity.
7. BST owns no stock of BSLD; correspondingly, BSLD owns no stock of BST.

II. **BST COMPLIES WITH THE STRUCTURAL AND TRANSACTIONAL REQUIREMENTS OF SECTION 272(b)**

8. Section 272(b) provides that the required separate affiliate “shall operate independently from the Bell operating company.” The FCC has concluded that section 272(b)(1) “imposes requirements beyond those listed in sections 272(b)(2)-(5).” Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended ¶158, CC Docket 96-149, released December 24, 1996 (“Non-Accounting Safeguards Order”). Although section 272 does not yet apply to BST’s dealings with BSLD, those dealings already meet both the Act’s and the Commission’s operational independence requirements.
9. Under the Commission’s rules, a BOC and its section 272 affiliate must not jointly own switching or transmission facilities or the land or the buildings where those facilities are located. Non-Accounting Safeguards Order ¶158. BSLD and BST has not and will not jointly own telecommunications transmission and switching facilities or the land and buildings on which such facilities are located, for so long as this restriction applies. The affidavit of Alphonso Varner discusses the use of personnel for installation and maintenance.
10. BST has not transferred to any affiliate any network facilities that are required to be unbundled pursuant to 251(c)(3). Accordingly, BST has not transferred facilities to any affiliate which would make that affiliate a successor or assign of BST under section 272(b)(5).
11. Section 272(b)(2) requires a BOC and its section 272 affiliate to maintain separate books, records, and accounts. BST has complied and will continue to comply with these requirements, for so long as the obligation attaches.
12. BST maintains books, records, and accounts that are separate from the books, records, and accounts maintained by BSLD, and will continue to do so for so long as the duty applies.

13. BST follows Generally Accepted Accounting Principles (GAAP) and alternative regulatory accounting rules (such as affiliate transaction rules), as required by the Commission. Implementation of the Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934 as amended ¶170, CC Docket No. 96-150, released December 24, 1996 (“Accounting Safeguards Order”).
14. BST’s original books, records, and accounts are compiled in accordance with Part 32, Uniform System of Accounts for Telecommunications Companies, and Part 64, Subpart I, Allocation of Cost as required by the Commission. Various annual reports are publicly filed via the Commission’s Automatic Reporting and Management Information Systems (ARMIS). The opinion of Coopers & Lybrand, independent accountants, accompanies the annual ARMIS Joint Cost Report.
15. BST makes the necessary adjustments to the original books of account to bring the books that have been prepared in accordance with regulatory requirements, into compliance with GAAP and files its external financial statements in accordance with GAAP. These financial statements along with the opinion of Coopers & Lybrand are included in BST’s form 10-K filed annually with the Securities and Exchange Commission.
16. Section 272(b)(3) requires a BOC and a section 272 affiliate to maintain separate officers, directors, and employees. BST and BSLD satisfy this requirement. BST’s Board of Directors are C. S. Boren, J. A. Drummond, E. R. King, C. B. Coe, and R. M. Flynt, Jr. None of these persons is an officer or director of BSLD and as long as this restriction applies no person will be an officer or director of BSLD so long as they are an officer or director of BST.
17. None of BST’s employees is currently, or will be while the restriction applies, simultaneously an officer, director, or employee of BSLD. BST and BSLD maintain separate payrolls and will continue to do so as required under section 272.
18. Section 272(b)(4) prohibits BSLD from providing its creditors with recourse

to BST's assets. BST has not made and will not make available to any creditor of BSLD recourse to the assets of BST nor will BST co-sign a contract or any other arrangement with BSLD which would permit a creditor to obtain recourse to BST's assets in the event of a default by BSLD.

19. Section 272(b)(5) requires that a section 272 affiliate's transactions with a BOC be conducted on an arms-length basis, reduced to writing, and subject to public inspection. BST will comply with this requirement, insofar as it applies to BST.

III. BST Complies with the Commission Rules of Section 272(c)

20. Section 272(c)(1) is addressed in the affidavit of Alphonso Varner. Section 272(c)(2) requires a BOC to account for the transactions with its section 272 affiliates in accordance with the Commission rules. BST accounts for all transactions between BSLD and BST in accordance with all applicable requirements of Part 64.902 and 32.27 of the Commission's accounting rules. The FCC modified the affiliate transaction rules in its Accounting Safeguards Order which was effective August 12, 1997. As described below, BST offers or plans to offer the following types of services to BSLD: (1) Telecommunications & Related Services, (2) Billing and Collection, (3) Fraud Management, (4) Trouble Reporting & Referral, (5) Sales Agency (joint marketing), and (6) Administrative Services. In its May 15, 1997, Cost Allocation Manual filing, BellSouth disclosed these services as "telecommunications services, joint marketing, and post sales activities." Post Sales activities will be further delineated and administrative services will be added as a separate category of service in BST's next CAM filing as these activities have now been defined and contractual negotiations are closer to completion.
21. As each of these services is defined and planned, subject matter experts from legal, regulatory, and accounting participate on the teams, providing the consultation to ensure that: (1) the team members have a common

understanding of the requirements of the law and the applicable orders, (2) the substance of the transactions are accurately described and defined in writing as required, and (3) the services to be provided are properly accounted for as nonregulated services and/or affiliate transactions (Parts 32 & 64).

22. BST's system of internal accounting controls and existing accounting policies and procedures have been proven effective over the years for ensuring compliance. As referenced above, these controls and policies are subject to annual audits. Revisions to these policies and procedures will ensure that BST will continue to comply with all affiliate transaction rules changes in the Accounting Safeguards Order.

23. All transactions between BST and BSLD have been and will be conducted on an arms length basis, they will be reduced to writing and will be made available for public inspection, for so long as is required.

24. **Nondiscriminatory Services:** BST will provide certain telecommunications related services (co-location), billing and collections, trouble reporting & referral, and fraud management services to BSLD upon grant of section 271 authority. BST currently provides telecommunications services and limited administrative services to BSLD. A brief description of the services that are or will be provided is as follows:

Billing & Collection: This category includes in-region billing and collection services much like those currently provided to interexchange carriers. Included are functions such as: message processing, processing and rendering of customer bills, and end-user account management (inquiry service, post-billing adjustments, bill information and assistance).

Trouble Reporting & Referral: BST will receive reports related to customer trouble respecting the use of interexchange carrier services which will include such functions as: screening of trouble calls to determine nature of trouble, verifying that trouble reports forwarded to the interexchange carrier are in fact related to that interexchange carrier, and electronically transferring trouble information to interexchange carriers.

Fraud Management: This category includes functions such as fraud detection, investigation, correction and tracking service.

Telecommunications & Related Services: This category includes local exchange services and other services, such as co-location, intraLATA toll resale, daily usage file, interoffice testing, and end-to-end testing.

Administrative Services: Currently, BST provides BSLD mail service in the “Perimeter Center” area of Atlanta, Georgia.

25. **Joint Marketing Services**: All transactions involving joint marketing of services provided by BST to BSLD, or vice versa, will be provided pursuant to arms-length agreements, reduced to writing, available for public inspection, and accounted for in accordance with the requirements adopted in the Accounting Safeguards Order. Services provided pursuant to the Joint Marketing provisions of section 272(g) include the following: development and creation of packages of local and long distance services offered on an integrated basis, sales of BSLD services through direct sales forces and/or telemarketing sales representatives, provision of customer care functions such as product and service descriptions and operations, promotional pricing plans, and rate information.
26. BellSouth has no obligation to make written disclosure of transactions between BST and BSLD in any form until such time as BST is granted in-region, interLATA authority. Nevertheless, written disclosure of expired, current, and anticipated transactions is available for public inspection at BellSouth Center, 675 West Peachtree Street, NE, Atlanta, Georgia. I have reviewed the detailed list of services included in the affidavit of Vic Jarvis and concur with this listing. This list includes services provided to BSLD during 1996, as well as 1997. BSLD will post all services provided by BST on their Internet homepage. Accordingly, Vic Jarvis’s affidavit contains a description of that homepage, and the services posting and update procedures.

IV. BST WILL COMPLY WITH THE BIENNIAL AUDIT REQUIREMENT OF SECTION 272(d)

27. Pursuant to section 272(d)(1), BST will obtain and pay for a joint Federal/State biennial audit conducted by an independent auditor to verify compliance with the requirements of section 272 and the Commission regulations promulgated thereunder, including the separate accounting requirements under section 272(b). The independent auditor will be selected in accordance with the Commission's requirements specified in the Accounting Safeguards Order and section 53.211, Audit Planning of the Commission's rules, and comply with the procedures described in section 53.211 of the Commission's rules. BST's letter of engagement with the independent auditor will require the engagement be performed consistent with all applicable regulatory requirements, including the specific requirements described in section 53.209(b) of the Commission's rules and the engagement plan negotiated with and approved by the joint state/federal audit team.
28. Pursuant to section 272(d)(2) of the Act, BST will require the independent auditor to submit the results of the audit to the Commission and the applicable Public Service Commissions (PSCs) in accordance with the requirements of Section 53.213 of the Commission's rules.
29. As required by section 272(d)(3), BST and its affiliates, including BSLD and BellSouth Corporation, will provide the independent auditor, the Commission, and the state commissions with access to financial records and accounts, as well as other documentation, necessary to verify compliance with section 272 and the regulations promulgated thereunder, including the separate accounting requirements under section 272(b).
30. BST will require the independent auditor to provide the Commission and the PSCs with access to working papers and supporting materials relating to this engagement.

V. THE METHODOLOGY USED TO DETERMINE THE 20.72% DISCOUNT RATE.

31. In Louisiana BST filed two studies regarding determination of the wholesale discount: a 11.72% residence and 10.01% business avoided cost study and a 14.6% avoidable cost study using the FCC's avoidable cost methodology. The LPSC hired a consultant to analyze the BST study and/or perform his own study. The LPSC consultant performed what he characterized as an "avoided" cost study. However, his methodology was identical to the methodology described by the FCC in CC Docket 95-185 (Interconnection Order). The BST FCC methodology yielding a discount of 14.6% and the LPSC study yielding a discount of 20.72% are detailed on Exhibit A.

This concludes my affidavit

GUY L. COCHRAN

Subscribed and sworn before me on this _____ day of October, 1997.

NOTARY PUBLIC

INTRODUCTION

I am Professor of Economics and Adjunct Professor of Business Administration at the University of California at Berkeley, specializing in industrial organization and regulation, and a Principal at the Law & Economics Consulting Group. From 1993 until 1995, I was the Deputy Assistant Attorney General for Economics in the Antitrust Division of the U. S. Department of Justice, the highest-ranking economics position in the Antitrust Division. In this capacity, I was involved in the Department's competitive analysis of AT&T's proposed acquisition of McCaw Cellular Communications, BT's proposed equity investment in MCI, Deutsche Telekom and France Telecom's proposed equity investment in Sprint, and other matters involving competition in the telecommunications industry. I was invited to testify before the Federal Trade Commission on antitrust policy in high technology and other markets.

I have been an Associate Editor of *The Journal of Economic Theory*, *The Journal of Industrial Economics*, and *The Review of Industrial Organization*. From 1994 to 1995, I was President of the Industrial Organization Society. From 1994 until 1996, I was vice-chair of the American Bar Association's antitrust section committee on economics. I have lectured widely on industrial organization theory and policy, and I have testified before U.S. courts of law, regulatory commissions, and Congress on economic policy issues. I received Bachelors and Masters Degrees in Electrical Engineering from Cornell University in 1966 and 1967, respectively. I received a Masters Degree in Economics from Stanford University in 1975, and a Ph.D. in Engineering-Economic Systems from Stanford University in 1976.

I have been asked by counsel for BellSouth to evaluate whether the entry of BellSouth into the provision of long distance telecommunications services in its "home" region is in the public interest. The focus of my evaluation is on whether BellSouth's entry into long distance promotes the economic welfare of consumers, with particular focus on

competition in the provision of bundled services or "one-stop shopping" options for consumers.

SUMMARY OF AFFIDAVIT

The entry of BellSouth into long distance service may affect consumer welfare through the prices or costs of telecommunications services (local, long distance, or other services) or through the range of services available to consumers, including offerings comprised of bundles of telecommunications services. In this affidavit, I analyze BellSouth's entry into the provision of long distance services in its region by focusing on the resulting expansion of the telecommunications choices available to consumers. I address the effects of this entry on the promotion of the development and introduction of new services and on the offering of "one-stop shopping" options for telecommunications services. Consumers appear to desire one-stop shopping options for telecommunications services. Such offerings are pro-competitive and beneficial to consumer welfare where competitors strive to provide the most desirable "

I also briefly show that the risk that BellSouth could exploit its position in local exchange service to harm competition in interLATA service is not significant. Although not the principal focus of my affidavit, I also review the interconnection rules, unbundling rules, and other restrictions under the Telecommunications Act of 1996 (the "1996 Act"), as well as the monitoring of BellSouth's services by interLATA providers. These indicate that the anticompetitive practices which BellSouth could allegedly adopt (according to opponents of its effort to provide interLATA service) either are not feasible, or are easy to detect, imposing considerable financial and regulatory risk on BellSouth. Rather, BellSouth's entry into long distance is likely to be procompetitive and to bring substantial benefits, a prediction which is confirmed by other instances of vertical integration between local exchange and long distance providers. I therefore conclude that BellSouth's entry into the provision of in-region long distance service will promote consumer welfare and

is in the public interest.

THE ENTRY OF BELL SOUTH INTO LONG DISTANCE SERVICE WILL EXPAND THE TELECOMMUNICATIONS CHOICES AVAILABLE TO CONSUMERS BY PROMOTING THE INTRODUCTION OF NEW SERVICES AND BY PROVIDING A "ONE-STOP SHOPPING" SOLUTION FOR THESE SERVICES.

BellSouth's entry into the long distance market will enable it to offer "one-stop shopping" for local and long distance telecommunications services to consumers. This will benefit consumers by providing convenient access to these services. Market surveys indicate that consumers desire the convenience of purchasing multiple telecommunications services from one provider. Consumers will also benefit from the marketing of an increased variety of service offerings as a result of one-stop shopping.

Other telecommunications providers may also provide "one-stop" or bundled services to consumers. The interconnection regulations of §§ 251 and 252 of the 1996 Act allow competing companies to offer one-stop shopping packages to consumers, either as resellers of BellSouth's local service or as facilities-based local exchange service providers.¹ Both individual products and packages of products will be offered in the marketplace. The firms BellSouth hopes to compete against have announced plans to bundle multiple telecommunications services and some are already doing so. BellSouth will be at a competitive disadvantage if it is unable to match these offers with bundles of its own. In

¹ Section 271(e) of the 1996 Act restricts the major interexchange carriers from bundling long distance with resold Bell Company ("BOC") services; however, these companies can resell unbundled local service elements provided by BOCs as pay service packages. This restriction expires either when the BOC is authorized to provide in-region long distance service or will have passed since the enactment of the 1996 Act, whichever comes first.

particular, the firms that may be BellSouth's primary competitors in long distance- AT&T, MCI, and Sprint- all market bundled products and are planning to market additional packages of telecommunications services that include local exchange service. For example, according to AT&T CEO Robert Allen:

"[W]e're extending from the long-distance business into what might best be called 'anytime, anywhere, any distance' business. That means combining long-distance and local, voice, and data. We'll serve up whatever services the customer needs. Not as stand-alone services, but with complete interoperability, and backed up by a smart network^Y we'll differentiate ourselves not on price, but on service features, applications and value that enrich people's lives and make businesses more successful."²

In order to prepare to offer packages of services in the telecommunications marketplace of the future, companies such as interexchange carriers ("IXCs"), competitive access providers ("CAPs"), local exchange carriers ("LECs"), cable companies, and information service providers have recently been involved in a wave of mergers and joint ventures. These enable the firms involved to provide integrated packages incorporating a wide range of telecommunications and entertainment services. According to AT&T CEO Robert Allen, AT&T intends to "convert today's \$25-a-month customers of long-distance phone service into big-spending consumers of AT&T's bundled services, including wireless communications, direct satellite TV, Internet access, and both local and long-distance telecommunications."³ Similarly, Sprint CEO William Esrey has stated that Sprint will "be a telecommunications provider of different hybrid services, with

² AT&T CEO Robert Allen's speech in "Leading the Transformation: AT&T and the Emerging Communications Industry," Strategic Decisions Conference, New York, June 5, 1997.

³ "Telecom -- AT&T Calling," *Information Week*, March 31, 1997, p. 36.

one place to call [for services] and one bill. You won't even recognize them as separate local, long distance or wireless services."⁴

To achieve its emerging strategy of offering integrated packages of communications services, AT&T has made acquisitions in wireless and broadcast services. AT&T acquired McCaw Cellular, now AT&T Wireless, in 1994. AT&T Wireless is now the largest wireless provider in the country, with a near nation-wide footprint. With its investments of \$2.1 billion in wireless licenses over the last two years, AT&T's wireless network will cover 93 percent of the U.S. population.⁵ Recently, AT&T also announced its intentions to enter the local market using wireless technology and its broadband personal communications services ("PCS") licenses. Wireless local loops will facilitate entry into new markets.⁶ "While everyone thought [AT&T was] going to use these licenses for mobile-phone services, [AT&T was] getting them for the fixed-wireless local-phone system as well as mobile services."⁷ AT&T "hopes that customers will be enticed by uncomplicated pricing plans and the ease of combining local, long-distance, and other AT&T offerings such as wireless and online services, onto one monthly bill."⁸ Continuing this strategy, AT&T recently launched its "PocketNet" smart-phone service, which combines wireless telephony with e-mail, Internet access, and a personal

⁴ "Sprint Shoots to Go From Global to Galactic," *Communications Week*, September 16, 1996.

⁵ Keller, John, "AT&T Unveils New Wireless System Linking Home Phones to Its Network," *The Wall Street Journal*, F 26, 1997, p. B4.

⁶ "AT&T Aims for Local Business Customers with New Services," *Local Competition Report*, February 3, 1997, p. 1.

⁷ *Supra* note .

⁸ *Supra* note .

organizer in one device.⁹

In pursuit of its bid to offer "one-stop shopping," MCI has forged alliances with Microsoft, Westinghouse, PointCast, Inc., PageNet, and SkyTel to offer integrated packages combining services such as long distance calling, cellular, Internet access and services, home security, paging service, a personal 800 number, and a calling card, all on the same bill.¹⁰ These services are brought together with one number routing in the "MCI One" communications package, which allows customers to tailor their package to fit their individual communications needs, all under one bill, from one company, with one number.¹¹ MCI is also marketing its "networkMCI One" as the "first integrated communications brand for businesses" [that offers] a fully integrated package of services featuring local, long distance, international, data, conferencing, paging, Internet, cellular, network management and more,¹² making it the "total solution for business communications."¹³ MCI also formed MCImetro, a wholly owned subsidiary, to offer local phone services in major

⁹ "AT&T PocketNet Service, " <<http://www.attws.com/nohost/data/pocketnet/>>, downloaded September 2, 1997.

¹⁰ Louise Kehoe, "Microsoft Forges Network Alliance," *Financial Times*, April 10, 1996, p. 25; and "MCI Taps Industry Stars' to support MCIOne," *PR Newswire*, April 29, 1996.

¹¹ <<http://www.mci.com/aboutus/products/mcione/textyou.shtml>>, downloaded August 25, 1997.

¹² <http://www.mci.com/aboutus/company/news/digipresskits/corp_milestones.shtml>, downloaded September 2, 1997.

¹³ Under networkMCI One, business customers can integrate over 20 telecommunications services and reap larger volume combining cellular usage with their communications expenses. <<http://www.mci.com/aboutus/products/glossary/business/networkmci.shtml>> and <<http://www.mci.com/aboutus/company/news/digipresskits/wirelss.shtml>>, downloaded August 25, 1997.

metropolitan markets.¹⁴ MCI has a strategic alliance with BT, which now holds a 20 percent stake in MCI and has received Department of Justice and FCC clearance to buy the whole company.¹⁵ The combination of BT and MCI, to be renamed Concert after completion of the acquisition, has "crafted a sweeping strategy for offering corporations one-stop shopping for communications services around the globe."¹⁶ MCI's May 1995 acquisition of Nationwide Cellular, the nation's largest cellular reseller,¹⁷ has enabled MCI to expand the availability of its cellular packages, which include local, long distance, and other integrated services.¹⁸ Furthermore, through agreements with NextWave Telecom, the largest bidder in the PCS C-Block auctions, MCI will purchase up to 10 billion minutes of PCS airtime and market it under its own brand name along with its other service offerings.¹⁹ MCI has also allied itself with Microsoft and Digital to offer its own local- and wide-area network services bundled with Microsoft BackOffice and Digital hardware and su

¹⁴ *Supra* note .

¹⁵ MCI and BT announced a proposed merger on Nov. 3, 1996, which would consolidate BT's existing 20% ownership of what was recently approved by the Department of Justice and the FCC. "DOJ Sets The Rules For BT/MCI Merger," *Telecom A.M.* 1997; and "FCC Approves MCI/British Telecom Merger," *FCC News*, August 21, 1997, Report No. IN 97-25.

¹⁶ Julia Flynn and Catherine Yang, "Still Full of Knots," *Business Week*, September 8, 1997, p. 48.

¹⁷ <<http://www.mci.com/aboutus/company/news/digipresskits/wirelss.shtml>> and <http://www.mci.com/aboutus/company/news/digipresskits/corp_milestones.shtml>downloaded September 18, 1997.

¹⁸ MCI currently offers cellular services to more than 40 local markets with plans to add nearly 25 more in 1997. <<http://www.mci.com/mcisearch/aboutus/company/news/digipresskits/wireless.shtml>>, downloaded August 25, 1997. "MCI Breadth of Cellular Coverage," *IAC Industry Express*, July 29, 1996, vol. 14, no. 16; "MCI Adds Local Cellular Services in Detroit and Greater Michigan," *Business Wire*, June 26, 1996.

¹⁹ Lawrence M. Fisher, "MCI Joins NextWave in Wireless Communications Venture," *The New York Times*, August 27, 1997, p. 1.

²⁰ "Microsoft Forges Network Alliance," *supra* note ; and "MCI Moves for Microsoft Communications," *IAC Industry Express*, June 3, 1996, p. 18.

Providing bundled service offerings also seems to be a central tenet of Sprint's strategy. Wayne Peterson, President of Sprint's National Integrated Services Division, recently claimed that:

"Sprint is positioned ideally to be a national provider of seamless, integrated telecommunications services to businesses and consumers. Strategically, Sprint has the assets, infrastructure and expertise to expand its local presence through its existing local and national networks, the resale of service of an incumbent provider and through the nationwide wireless network of Sprint Spectrum."²¹

Sprint has formed the Sprint Telecommunications Venture with TCI, Comcast, and Cox Communications, Inc., to

"create an unprecedented communications alternative, packaging local telephone, long distance, and personal communications with cable services into a single offering for consumers and businesses... Consumers can look forward to the widest possible array of communications and entertainment services delivered with unsurpassed quality and with all the assurances and conveniences of a strong national brand."²²

Sprint plans to offer the full range of "long distance, wireless, Internet and local products" starting January,

²¹ "Sprint Continues Its Move Toward Packaged Communications Services On A National Scale," Oct. 1, 1996, <<http://www.sprint.com/sprint/press/release/9610/9610010300.html>>, downloaded August 26, 1997.

²² Notice of Ex Parte Communications By Sprint in R.95-04-043/I.95-04-044, June 5, 1995.

1998.²³ As of May 1, 1996, Sprint's local telephone operations adopted the Sprint name. Sprint announced that Sprint Spectrum is investing an estimated \$10 billion to build wireless PCS networks to serve markets with a total population of 190 million.²⁴ This service is currently available in 59 cities across the country.²⁵ In August of 1996, Sprint entered the Internet market by introducing "Sprint Internet Passport" that will eventually become available in over 300 U.S. metropolitan cities.²⁶ Today, Sprint is the world's largest carrier of Internet traffic.²⁷ As was explained by Darrell Kelley, president of Sprint's local Florida operations,

"In a competitive communications environment, it's important that our customers know their local telephone service provider is part of the same company that can connect them with the world seamlessly over Sprint's networks."²⁸

Sprint is also taking steps to become a premier global full-service provider of integrated communications by

²³ "Sprint Local Companies To Sell Full Range of Sprint Local, Long Distance, Wireless Services," July 17, 1997; <<http://www.sprint.com/sprint/ir/press/releases/9707/9707170063.html>>, downloaded August 26, 1997.

²⁴ Cunningham, Brent, "Corporate Profile; Sprint bets big on wireless technology; \$10 billion network to provide digital s markets by year's end," *Telecom World*, February 3, 1997, p. 30.

²⁵ <<http://www.sprint.com/pcs/area.html>>, downloaded August 25, 1997.

²⁶ "Sprint Introduces Internet Service," August 21, 1996, <http://www.cmtcanada.com/CyberNetProviders/aug21_sprint.h> downloaded August 25, 1997.

²⁷ *Supra* note .

²⁸ "Sprint Launches Familiar Weapon in Telecom Brand Battle; Unveils New Image Campaign for Local Division: 'Here' Easier," *Business Wire*, May 2, 1996.

forming strategic alliances. Foremost amongst these alliances is Sprint's Global One joint-venture with its partners Deutsche Telekom and French Telecom,²⁹ whose purpose is to "serve customers with a seamless platform of products and services on a global basis moving rapidly toward single-source service for consumers, businesses and other telecom carriers."³⁰

WorldCom, Inc., currently the fourth largest long distance provider, is also pursuing a strategy of vertical integration. In the last year WorldCom transformed itself to an one-stop full-service provider by acquiring two large competitive local exchange carriers (CLECs), MFS and Brooks Fiber,³¹ as well as acquiring the network-services units of CompuServe and America Online. WorldCom has also recently proposed to acquire MCI.³² If approved by shareholders and regulators, this transaction would bring WorldCom closer to being "the first major phone company

²⁹ France Telecom and Deutsche Telekom together own 20% of Sprint voting stock as a result of the completion of the Sprint's cellular business. Sprint 1996 Annual Report, p. 3.

³⁰ 1996 Sprint Annual Report, p. 15.

³¹ MFS was acquired on December 31, 1996 for \$14 billion. MFS had previously merged with UUNet, allowing it to include access and services in its integrated package offerings. On September 29, 1997, WorldCom proposed the purchase of Brooks Fiber for \$14 billion. WorldCom had previously acquired long distance provider LDDS, which had itself acquired another long distance provider. "WorldCom to Acquire MFS in \$14 Billion Deal," *Washington Telecom Newswire*, August 26, 1996; "WorldCom, MFS Release Financial Results," *Telecom A.M.*, vol. 3, no.39, February 28, 1997; "MFS and UUNet Announce Merger Agreement to Form Internet Business Communications Company," *PR Newswire*, April 30, 1996; and "The New World Order," *Business Week*, October 13, 1997, p. 26.

³² "The New World Order," *Business Week*, October 13, 1997, p. 26.

to offer long-distance and local service across the U.S.,³³ with a local presence in over 100 cities across the U.S.³⁴ WorldCom expects to realize significant synergies from these acquisitions, as "the [MFS] merger will allow Y [redeployment of] about \$400 million in capital expenses from inter-city fiber to local networks"³⁵ and the MCI merger "is expected to [yield] Y synergies of approximately \$2.5 billion in the first year, growing to approximately \$5 billion in the fifth year Y [which] are anticipated to result from better utilization of the combined network and other operational savings."³⁶

The ability to offer consolidated packages of telecommunications services, including interLATA service, is a formidable source of competitive advantage for IXCs over Bell Operating Companies ("BOCs"), if the BOCs are restricted from offering in-region long distance service, a critical component of any integrated telecommunications package. Consumers will benefit from the integration of service offerings and the marketing of bundled products through convenience and through the increased number and variety of telecommunications options available in the marketplace.

It is likely that competition will occur among several financially strong providers of integrated telecommunications services, in addition to competition from firms that choose to supply unbundled services. The major

³³ *Id.*

³⁴ *Id.*

³⁵ "WorldCom to Acquire MFS in \$14 Billion Deal," *Washington Telecom Newswire*, August 26, 1996

³⁶ "WorldCom Offers \$41.50 In Stock per MCI Share Total Transaction Valued At Approximately \$30 Billion," WorldCom filing with SEC, exhibit 99.1.

IXCs will be substantial competitors to BellSouth in the marketing of bundled service offerings, and their present marketing strengths will make them important rivals in the telecommunications marketplace of the future. The primary long distance carriers have very strong brand name recognition. Marketing services against these brand names will be a formidable challenge for BellSouth. An MTA-EMCI study found that the AT&T brand was recognized nationwide by 97% of consumers, followed by 84% for MCI and 75% for Sprint.³⁷ The MTA-EMCI study also divided the nation into four regions and considered brand name awareness in each region. In the MTA-EMCI southern region, AT&T's brand name was recognized by 97% of consumers.³⁸ The MCI, Sprint, and BellSouth brand names were recognized by 82%, 77%, and 70%, respectively.³⁹ Thus each of the major IXCs has a well-known brand in BellSouth's region, and each will be a significant competitor for bundled offerings in this region. Furthermore, the MTA-EMCI study reported that AT&T had the highest positive recognition among survey participants, with 68% of the respondents who were familiar with the AT&T name rating it as a very good or excellent provider of telecommunication services for the future.⁴⁰

The MTA-EMCI study further found a strong interest by consumers in purchasing bundled products. A total of 67% of respondents would purchase two or three services bundled together, even when they derive no pricing

³⁷ "Branding & Bundling Telecommunications Services: Telephony, Video & Internet Access," *MTA-EMCI*, Washington, MTA-EMCI, August 1996, p. 118.

³⁸ *Id.*, figure 5.2, p. 91. The southern region included Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia.

³⁹ *Id.*, p. 118.

⁴⁰ *Id.*, pp. 119-120.

advantages from the purchase of bundled services.⁴¹ Only 19% chose unbundled products.⁴² Furthermore, a J.D. Power and Associates study found that 65% of consumers surveyed would prefer to purchase all of their telecommunications services from one provider, and the majority of this group would choose their current long distance carrier to be their lone supplier.⁴³ This result is not surprising given the name recognition behind the AT&T, MCI, and Sprint brands. The IXCs have spent years developing their brands and have extensive experience marketing telecommunications products and services, further suggesting that the major IXCs will be successful competitors to BellSouth in the future.

The provision of bundles along with separately available services expands consumer choices and thus is pro-competitive. The recent surveys described above indicate that consumers desire bundled products. Consumers will benefit from the integrating of service offerings and the marketing of bundled products through convenience and through the increased number and variety of telecommunications options available in the marketplace. In fact, the FCC has previously found one-stop shopping to be an efficiency that justified approval of a vertical merger – even though most major competitors, such as the BOCs, could not at the time offer similar packages. In its Order approving AT&T's acquisition of McCaw Cellular, the Commission stated:

"We conclude that the proposed transfer will have important pro-competitive aspects that weigh heavily in our public interest calculus.... The merger will allow McCaw to use AT&T's strong brand name and

⁴¹ *Id.*, p. 142. The study assumed that the price of a bundled service offering was simply the sum of the prices of its components and did not consider discounted pricing on bundle components.

⁴² *Id.*, p. 142.

⁴³ "J.D. Power and Associates Analysis Reveals: Long Distance Carriers Prime for Local and Long Distance Telephone Market." *J.D. Power and Associates News & Information Release*, February 27, 1997.

its marketing and sales force. Each of the applicants also will have an opportunity to cross-sell or bundle its service with the other's products and services.... As a result, we expect the AT&T/McCaw merger to lead to a broadened range of consumer choices, more price competition, an increased responsiveness to consumer needs and desires on the part of competing carriers and potential entrants, as well as incentives for continued technical and service innovations...."⁴⁴

Similar consumer benefits can be expected to result from bundling long distance and local exchange service by BellSouth. Other firms are also likely to offer bundles of local, wireline long distance, and cellular service, and in addition may include other services such as cable television and paging in their packages. With the entry of BellSouth into long distance, the opportunity to offer packages including, at a minimum, local, long distance, and cellular service, will become more symmetric.

Specifically with regard to BellSouth, these consumer benefits were recognized by the Public Service Commission of South Carolina. In its Order approving BellSouth's Statement of Generally Available Terms and Conditions (the "Statement"), the PSC stated:

"Moreover, BellSouth's entry will release the interexchange carriers from the current prohibition under the [1996] Act against the joint packaging of local and long distance service. BellSouth is also required under the [1996] Act to implement 1+ intraLATA toll dialing simultaneously with its entry into

⁴⁴ Memorandum Opinion and Order, *In Applications of Craig O. McCaw, Transferor, and American Telephone and Telegraph Company, Transferee, For Consent to the Transfer of Control of McCaw Cellular Communications, Inc. and its Subsidiaries*, 9 FCC Rcd 5836, ¶ 57, September 19, 1994.

interLATA long distance. These requirements will free all competitors in South Carolina to finally offer the simplified 'one-stop' shopping that customers want. BSLD's entry into the interLATA market will give BSLD's customers the same opportunity as customers of other South Carolina local telephone companies (i.e., GTE in Myrtle Beach and Sumter; Sprint-United in Beaufort and Greenwood; Rock Hill Telephone Co. in Rock Hill and York) to choose one provider for all their telecommunications needs."⁴⁵

It has been argued that "if the BOC sells Y bundles of local and toll services, the willingness of customers to switch will be that much less and the [BOC] will be able effectively to lock-in a significant portion of its customer base."⁴⁶ However, the BOC's mere ability to sell bundles does not by itself lead to lock-in, as proponents of this argument ignore the fact that both local and toll service will continue to be offered separately, as well as in a bundle. Further, this Commission has stated that its evaluation of a §271 application would assess "whether all procompetitive entry strategies are available to new entrants."⁴⁷ Therefore, under this Commission's proposed standard, others firms would be able to bundle local services with toll or other telecommunications services just as effectively as the BOC. Consumers would also

⁴⁵ Public Service Commission of South Carolina, Docket No. 97-101-C. Order Addressing Statement and Compliance with the Telecommunications Act of 1996, *In RE: Entry of BellSouth Telecommunications, Inc., into the InterLATA Toll Market*, July 31, 1997, pp. 6-7.

⁴⁶ Affidavit of R. Glenn Hubbard and William H. Lehr on behalf of AT&T Corp., submitted as AT&T Exhibit L, *In the Matter of Application of Ameritech Michigan Pursuant to Section 271 of The Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Michigan*, FCC Docket No. 97-137, June 1997, ¶ 95.

⁴⁷ Federal Communications Commission, Memorandum Opinion and Order, *In the Matter of Application of Ameritech Michigan Pursuant to Section 271 of The Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Michigan*, Docket No. 97-137, August 19, 1997, hereafter "Ameritech order," ¶ 387.

still be able to combine local BOC services with toll services provided by other firms, as well as choosing bundles from either the BOC or its competitors. Therefore, the BOC's ability to offer bundles *per se* does not provide a means to lock-in customers. If customers switch from unbundled provision to a BOC bundle, it will be because they p

Any argument that the offering of integrated packages of local and long distance services could lead to a return of the market structure that existed prior to the Modification of Final Judgment ("MFJ") is not justified by market realities. The structure of the telecommunications marketplace has changed dramatically since the MFJ's break-up of AT&T. Not only will there now be several competitors offering packages in a given geographic market, but the local and long distance markets separately will be subject to competition. Customers may choose among several facilities-based suppliers of long distance (interLATA) services, and the 1996 Act opens local service to competition as well. Incumbent LECs may not foreclose access to their networks to rivals. Financially strong firms, each with potent brand name recognition, will use combinations of resold local service, unbundled network elements, and their own facilities to supply integrated services in direct competition with local exchange companies. There is competition in other telecommunication services as well, such as Internet access and wireless services. Thus, consumers will be offered varied options in the marketplace. Comparing this situation to the monopoly provision of integrated services before the MFJ ignores the reality that many large, well-financed firms are investing in facilities and other assets, forming partnerships, and successfully negotiating and implementing interconnection agreements with incumbent LECs in order to develop individual or bundled products to provide in the telecommunications marketplace of the future.

THE ENTRY OF BELLSOUTH INTO IN-REGION LONG DISTANCE SERVICE WILL LOWER THE TOTAL COST OF LONG DISTANCE AND LOCAL EXCHANGE SERVICES

BY EXPLOITING ECONOMIES OF SCALE AND SCOPE IN THE PROVISION OF THESE SERVICES.

Business opportunities often exist for firms in markets that are related to those in which they already supply products or services. Offering products or services in related markets allows firms to take advantage of potential economies of scale and scope in the production and marketing of these products or services, as well as in the development of new offerings over time. Though the FCC's structural safeguard regulations may limit potential efficiencies in some areas,⁴⁸ BellSouth nevertheless will be able to take advantage of economies of scale and scope. This is pro-competitive because taking advantage of efficiencies generally increases output and reduces prices, furthering the interests of consumers.

Entry by BellSouth into interLATA service will permit the realization of economies of scale and scope from several sources. These include both economies arising from BellSouth's existing billing and collections operations and marketing economies from its brand name recognition.

BellSouth's billing and collections operation is composed of customer account records, usage records, billing systems, accounts receivable, and collections. BellSouth's entry into interLATA service will require adding long distance calling to its record keeping functions for its own customers. This will not require significant new capital investment because BellSouth already handles billing and collections functions for its intraLATA toll traffic. Also, BellSouth's current system already provides billing and collection services for AT&T, MCI, Sprint, and other providers of

⁴⁸ For example, current FCC rules do not allow a local Bell Operating Company to provide interLATA services to its long affiliate.

telecommunications services. BellSouth's billing and collections systems have excess capacity and are capable of handling new interLATA traffic. Over the last six years, AT&T has moved nearly all of its business billing and collections accounts in-house, leaving primarily its residential accounts with BellSouth. Thus, BellSouth has both the needed experience and the systems in place to provide these services for its own long distance customers. Furthermore, the capacity of BellSouth's systems may be expanded without incurring substantial new investments. These systems provide BellSouth economies of scale and scope that will allow BellSouth to enter efficiently into the provision of interLATA s

Of course BellSouth is not the only telecommunications provider in its region that will have access to efficient support systems. All of BellSouth's major competitors, including IXC's, other LECs, CAPs, competitive local exchange carriers, and cable companies, have systems that perform all or most of the required support functions. Moreover, these systems are available from third parties such as Electronic Data Systems,⁴⁹ Andersen Consulting,⁵⁰ IBM,⁵¹ and others (including, of course, BellSouth).⁵² Even so, the fact that BellSouth has systems with excess capacity that can be utilized to support its long distance service is a benefit, both to BellSouth and to consumers who can be served by an efficient supplier.

⁴⁹ "EDS Wins Big," *Communications Week*, April 28, 1997, p. 43.

⁵⁰ "Connecticut Proposes Outsourcing," *Information Week*, March 17, 1997, p. 22.

⁵¹ "ICI Outsources to IBM," *European Telecommunications*, April 18, 1997.

⁵² Examples include: ACC, Hewlett-Packard Co., Sun Microsystems Computer Corp., and 3Com. See: "And the Lion W With the Lamb," *Communications Week International*, April 22, 1996, p. 1.

BellSouth will also be able to take advantage of economies of scope in the joint marketing of its local and long distance services as the costs of advertising and brand promotion can be quite high. For example, AT&T spent \$2.7 billion on advertising in 1996 alone.⁵³ BellSouth can derive scope economies in part from brand name recognition in its region, which will assist BellSouth's entry into the interLATA market and will help establish BellSouth as a significant competitor for interLATA services within its region. These scope economies and the joint marketing of local and long distance service under the BellSouth name enhance the pro-competitive benefits of BellSouth's entry into the provision of interLATA services.

Economists who oppose granting BOCs interLATA authority have argued that "the sources of alleged scale and scope economies are not clear,"⁵⁴ that "entry by [a BOC into long distance] is not required to capture scale and scope economies,"⁵⁵ and that "because smaller long distance carriers are permitted to market the products of local carriers Y efficiencies from joint marketing of these products can be captured completely through contracts."⁵⁶ This is incorrect, because the billing and brand efficiencies I have highlighted above are likely to be significant, and may not be fully realizable through contracts.

⁵³ 1996 AT&T Annual Report, p. 34.

⁵⁴ Affidavit of R. Glenn Hubbard and William H. Lehr, *supra* note , ¶ 84.

⁵⁵ *Id.*, ¶ 84.

⁵⁶ Affidavit of Robert Hall on behalf of MCI Telecommunications Corporation, submitted as MCI Exhibit C, *In the Matte Application of Ameritech Michigan Pursuant to Section 271 of The Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Michigan*, FCC Docket No. 97-137, June 1997, ¶ 73.

Marketing and billing are significant costs in the provision of interLATA service, and therefore realizing efficiencies in these areas is of competitive importance. For example, AT&T has estimated its non-network, non-access incremental costs, excluding corporate operations, to be \$0.035 per minute, or approximately 20% of its average revenue per minute.⁵⁷ BellSouth could therefore economize on this substantial cost category if it were allowed to provide interLATA service by using the existing spare capacity in its billing system and by extending its brand name to this service.

While contractual arrangements can help realize efficiencies in lieu of integration of firms into a single entity, they are unable to substitute fully for integration in instances where either complex coordination is required or where investments in sunk or specific assets are necessary to bring about the efficiency gains.⁵⁸ Billing systems require investment in systems integration and software development which are largely sunk once incurred. The complex coordination required to make successful incremental investments may not be so readily achieved through arms-length contracting. Similar contract problems might arise regarding BellSouth's brand name, even if this contract were exclusive (as it would have to be to avoid dilution), because the party contracting the brand would have an incentive to exploit it in the short term, diminishing its long term brand value. It may be possible to devise complex contracts to alleviate these problems, but not without cost.

Finally, market developments indicate that BellSouth's competitors appear to prefer integration relative to

⁵⁷ Affidavit of R. Glenn Hubbard and William H. Lehr, *supra* note , ¶ 129 note 97 and ¶ 125.

⁵⁸ Henry W. Chesbrough and David J. Teece, "When is Virtual Virtuous?" *Harvard Business Review*, January-February 1994, 65-73.

contracts. As discussed above, MCI and BT decided to merge, rather than attempt to realize efficiencies through contracts, while France Telecom and Deutsche Telekom have acquired a substantial equity interest in Sprint. WorldCom chose to make a competing, higher takeover offer for MCI rather than continue to lease capacity from MCI. This choice is presumably driven in part from the benefits of integrating local operations with long-distance and internet services.⁵⁹ Similarly, the GTE's recent takeover bid for MCI, in competition with the existing BT and WorldCom offers, appears to have been driven by the perceived benefits of integration. With this acquisition, GTE would be "the first company since 1984 to have a large presence in both the local and long-distance telephone markets."⁶⁰ Additionally, Unisource, the European telecommunications alliance in which AT&T is a key partner, is "considering an exchange of stakes to cement the links between its remaining three members,"⁶¹ a cross-shareholding approach "designed to address concerns that Unisource, a loose grouping, didn't have the commitment of its participants. I therefore conclude that the economies from BellSouth's provision of interLATA service are likely to be significant, and that use of contracts alone would be unlikely to realize fully these economies.

THE POTENTIAL IMPACT OF BELL SOUTH'S ENTRY ON COMPETITION FOR LONG DISTANCE SERVICE

The pro-competitive bundles I have described are not the only benefits that will flow from BellSouth's entry into the provision of in-region interLATA services. BellSouth's *de novo* vertical integration, either through facilities-based

⁵⁹ The proposed WorldCom-MCI merger would combine the local operations of MFS, Brooks Fiber, and MCI metro; the Internet business of UUNet, AOL and CompuServe; the Internet backbone of UUNet and MCI; with the MCI and WorldCom long-distance businesses.

⁶⁰ "GTE Joins Fight for MCI With \$28 Billion Cash Bid," *The New York Times*, October 16, 1997.

⁶¹ "Unisource Moves to Retain Remaining Members," *Telecom A.M.*, April 22, 1997.

entry or through resale, increases the number of providers of interexchange service within the BellSouth region and will increase the competitiveness of the interexchange market within its region. There are direct benefits of additional competition in the market for interLATA services, a topic addressed in the affidavits of professors Jerry Hausman and Richard Schmalensee as well as in the recent works of economists Paul MacAvoy, Robert Crandall, and Leonard Waverman.⁶² As an example of these direct benefits, BellSouth has filed a proposed tariff for long distance service containing rates which would undercut AT&T's basic rates by 5%.⁶³

**The Connecticut Experience Demonstrates the Benefits of Vertical Integration by a
Local Exchange Carrier into InterLATA Service**

The opening of the Connecticut long distance marketplace provides an example of the benefits that may accrue to consumers in BellSouth's territory once BellSouth is authorized to compete with the current IXCs. In the summer of 1993, both interstate and intrastate long distance services in Connecticut were opened to competition.⁶⁴ This change allowed SNET America, a subsidiary of local service provider Southern New England Telecommunications Corporation ("SNET"), to provide interstate (interLATA) service, while IXCs were allowed to provide intrastate service.

⁶² MacAvoy, Paul, *The Failure of Antitrust and Regulation to Establish Competition in Long-Distance Telephone Service Markets*, MIT Press, 1996; and Crandall, Robert and Leonard Waverman, *Talk is Cheap: The Promise of Regulatory Reform in North American Telecommunications*, The Brookings Institution, Washington D.C., 1995.

⁶³ Public Service Commission of South Carolina, Docket No. 97-101-C. Order Addressing Statement and Compliance with the Telecommunications Act of 1996, *In RE: Entry of BellSouth Telecommunications, Inc., into InterLATA Toll Market*, July 31, 1997, p. 13, citing testimony of BellSouth's James G. Harralson.

⁶⁴ Connecticut is a single-LATA state. Therefore, all interstate telephone services in Connecticut are interLATA services

As of April 1994, SNET and SNET America began to jointly market their products, giving their customers "one-stop shopping" for telecommunications services, reselling Sprint's out-of-state long distance service.⁶⁵ SNET consolidated its marketing operations and now offers all of its products, (including Internet, multimedia, cellular and paging services) under the SNET brand name. It also obtained a state-wide cable TV license and is installing a hybrid fiber optic-coaxial cable network capable of carrying voice, video and data simultaneously, a ten year, \$4.5 billion investment program.⁶⁶

From the time of its entry into interstate services, SNET has used a simple two-price structure for calls to any location within the United States, charging \$0.23/minute for peak time calls and \$0.13/minute for off-peak calls. SNET also offered further discounts for calls within the Northeast. AT&T's undiscounted rates for comparable calls when SNET entered the market were \$0.27 and \$0.17, respectively 17% and 30% above SNET.⁶⁷

SNET captured about 20 percent of Connecticut's interstate calls, which reduced AT&T's long distance market share from 60 percent before SNET's entry to less than 50 percent by October 1996.⁶⁸ AT&T responded by offering Connecticut residents starting May 1996 a rate of 5 cents per minute for in-state calls made any time of day. AT&T's new

⁶⁵ "A Telecom Yankee Defends Its Turf," *Business Week*, October 28, 1996, pp. 167-168.

⁶⁶ "A Telecom Yankee Defends Its Turf," *id.*

⁶⁷ *Reference Book: Rates, Price Indexes and Household Expenditures for Telephone Service*, FCC, Washington, DC, November, 1995.

⁶⁸ "A Telecom Yankee Defends Its Turf," *supra* note .

rate was roughly one half of SNET's quoted in-state off-peak rate and less than one third of its peak time rate. This aggressive response was probably focused on intrastate rates because of the federal requirement that interstate rates be uniform across states. While responding to SNET through the interstate rate would have passed the savings of competition on to all AT&T customers nationwide, reducing only the intrastate rate limits the impact on AT&T's overall revenue, while responding to competitive pressure in Connecticut. SNET countered AT&T's move one day later by introducing billing in one-second increments for all in-state toll calls, rather than rounding to the next minute like AT&T and other competitors.⁶⁹ AT&T's response indicates that it was willing to reduce rates substantially in order to maintain market share. It may also indicate that AT&T would be willing to reduce its interstate rates if faced by widespread competition from BOCs.

A full assessment of the benefits of SNET's entry into interstate long distance must include the effects on intrastate rates because SNET's national rivals are constrained in their ability to respond to single-state competition through interstate rates by geographical rate averaging requirements. SNET's effective intrastate rates declined 11 percent, 8 percent and 5 percent in 1994, 1995 and 1996 respectively.⁷⁰ Other improvements, (such as SNET's introduction of one-second billing increments rather than one-minute), must also be included in the analysis, as they result in lower quality-adjusted effective prices. For example, a consumer making a 2.5 minute call would save about 17 percent on average by switching to one second billing instead of one minute billing. It has been estimated that the overall benefits

⁶⁹ "A Telecom Yankee Defends Its Turf," *id.*

⁷⁰ SNET 1995 and 1996 Annual Reports.

of SNET's entry amount to \$127 million per year, or almost \$58 per year per access line in Connecticut.⁷¹

Regulation Prohibits Discrimination in the Provision of Access Services

Opponents of BOC entry into long distance allege that harm may result if BOCs were then to discriminate in favor of their long distance subsidiaries. I believe that it is unlikely that BellSouth will have an incentive or ability to engage in discriminatory conduct, for the reasons I discuss below. I further believe that even if BellSouth did have such an incentive or ability, it is unlikely that it could engage in this behavior without detection and vigorous enforcement by regulatory and antitrust authorities.

Note that even if such discrimination were to occur (which is unlikely), it would not have an anticompetitive effect unless it raised prices or reduced service quality to telecommunications consumers. The Department of Justice's Charles E. Biggio emphasized this point in the context of vertical merger policy, stating that:

"With the changing regulatory landscape in telecom [and other industries] ... I think we can expect more mergers that squarely present interesting vertical issues. Generally, I believe we won't find competitive problems in the vast majority of vertical mergers. ... If a vertical merger is problematic, it's problematic because of a probable downstream price or output effect. That effect does not arise simply because input prices are raised to non-integrated rivals. These increased input prices must translate into higher

⁷¹ Reply Affidavit of Robert Crandall and Leonard Waverman on behalf of Ameritech, *In the Matter of Application of Ameritech Michigan Pursuant to Section 271 of The Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Michigan*, FCC Docket No. 97-137, ¶ 33.

market prices or lower output downstream."⁷²

BellSouth cannot foreclose access to rival IXCs due to FCC regulations and the provisions in the 1996 Act. In particular, BellSouth is required to provide non-discriminatory access to all IXCs. Thus, foreclosure is not possible, and only the potential for less drastic forms of anti-competitive discrimination need to be analyzed. In the remainder of this section, I examine the potential for BellSouth to engage in either price or quality discrimination against its rivals. I conclude that such discrimination is unlikely.

The safeguards of the 1996 Act ensure that BOC interexchange entry will not result in discrimination by requiring, among other conditions, that:

The BOC may not discriminate between its interLATA affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards; and shall account for all transactions with an affiliate in accordance with accounting principles designated or approved by the Commission (§272.c.1-2);

A BOC that provides interLATA services must provide intraLATA toll dialing parity to other carriers (§271.e.2.A);

A BOC must charge its interLATA affiliate, or impute to itself (if using the access for its provision of its own services), an amount for access to its telephone exchange service and exchange access that is no less than the amount it charges any unaffiliated interexchange carriers for such service (§272.e.3);

⁷² Charles E. Biggio, "Merger Enforcement at the Antitrust Division," Speech before the Antitrust Law Committee of the Association, Chicago, IL, May 15, 1996.

The equal access regime decreed by the MFJ and implemented by the FCC continues until such a time that the FCC modifies or abolishes it (§251.g).

Section 272 of the 1996 Act expressly and comprehensively prohibits discrimination by BellSouth against unaffiliated long distance providers, covering, among other things, the provision of services, facilities, and information; the establishment of standards; and the timeliness in which these services are rendered. For example, according to the 1996 Act, BellSouth must offer to IXC competitors, on the same terms and conditions, any intraLATA facilities used by its interLATA affiliate.

The effectiveness of antitrust and regulatory safeguards in preventing discrimination is demonstrated by the Department of Justice's continued use of such safeguards in vertical transactions which raise issues similar to those of BOC interLATA authority. In both BT's proposed equity investment in (and later its proposed merger with) MCI, and Deutsche Telekom and France Telecom's proposed equity investment in Sprint, a dominant local exchange provider proposed acquiring all or part of a facilities-based competitor on a major international route. In the U.K. example, BT is the incumbent provider of local exchange services in a market that is not as open as the local market in the U.S. (due to sections 251 and 252 of the 1996 Act). Therefore, concerns that an upstream regulated provider would discriminate against unaffiliated downstream competitors would have to be greater in the U.K. case (discrimination in provision of originating or terminating access in the U.K. for international services between the U.S. and the U.K.⁷³) than in the

⁷³ The Department found that "in addition to BT's incentive to discriminate, concerns about BT's ability to discriminate against MCI's competitors also still exist. BT maintains substantial market power in local and domestic long distance services in the Kingdom. As a result of its new analysis, the Department has concluded that provisions of the Final Judgment aimed at detecting discrimination need to be retained and, in some cases, strengthened." See Memorandum of the United States in Support of Modification of the Final Judgment at pp. 5,6, *United States of America v. MCI Communications Corporation and BT Forty-Four (NewCo)*, (D.D.C. July 1997, No. 94-1317, TFH).

BellSouth case (discrimination in provision of access for interLATA services originating in the BellSouth region). In the absence of regulatory oversight, concerns would have to be greater still regarding the Sprint transaction and the acquirers' control of local exchange networks in France and Germany, given that the FCC considers the U.K. telecommunications market to be "the most liberalized market in the European Union,"⁷⁴ and that France's competition authorities recently fined France Telecom for abusing its dominant position against a foreign-based competitor.⁷⁵ However, the Department of Justice concluded that the regulatory and antitrust safeguards it imposed in the U.K. case "will continue to protect U.S. consumers from the possibility that the newly formed company, using BT's local service monopoly, would harm competition in the markets for telephone calls between the U.S. and the U.K., and for worldwide telecommunications services."⁷⁶ Regulatory and antitrust safeguards could therefore also protect U.S. consumers adequately from the possibility that BellSouth might discriminate against unaffiliated interLATA providers.

The 1996 Act's requirement that BOCs entering the long distance market do so through separate affiliates reflects an approach used in other deregulated industries. An example is the natural gas industry, in which competitive gas marketing activities are housed in affiliates distinct from pipelines, with rules of conduct imposed by the Federal Energy

⁷⁴ Declaratory Ruling and Order, *In the Request of MCI Communications Corporation and British Telecommunications place, Joint Petition for Declaratory Ruling Concerning Section 310 (b)(4) and (d) of the Communications Act of 1934, as amended*, Release No. 94-188, July 25, 1994, ¶28.

⁷⁵ "Business This Week," *The Economist*, August 1, 1997.

⁷⁶ US Department of Justice Press Release, *"Justice Department Asks Court to Modify and Extend Previous British Telecom/MCI Settlement After Reviewing New Deal - Justice Department Acts to Prevent Discrimination Against Competitors,"* July 7, 1997.

Regulatory Commission ("FERC") to govern the relationships between the two lines of business. The FERC then mitigates a gas utility's market power in transmission (use of the pipeline) via the open access requirements (similar to interconnection requirements in telecom) set out in Order 636 which govern the relationships between pipelines and their gas marketing affiliates.⁷⁷ The FERC considers that "[natural gas] restructuring has been a success. Order 636 succeeded in eliminating the competitive distortions caused by the bundled pipeline merchant function."⁷⁸

IXCs Can Readily Detect Quality Deterioration

Even assuming it were possible to provide different levels of service for different interLATA carriers, this behavior would be noticed by BellSouth's interLATA competitors. In the interLATA market, BellSouth would face three substantial competitors in AT&T, MCI, and Sprint, each with the incentive, ability, and procedures in place to scrutinize BellSouth's performance. AT&T, MCI, Sprint, and others purchase access services from all five BOCs, as well as from other LECs, and, as a consequence, each IXC has benchmarks available for gauging anti-competitive conduct. Each of the IXCs has in place aggressive "vendor management" programs to monitor the quality of access service it receives from BOCs and other LECs, thus allowing them to track BellSouth's performance on access provisioning and quality. These procedures will remain in place after BellSouth starts providing long distance service and will continue to enable accurate monitoring to detect any degradation of service quality by BellSouth.

⁷⁷ Federal Energy Regulatory Commission Order 636, Docket Nos. RM91-11-000 and RM87-34-065, April 16, 1992. Ord requires pipelines to unbundle their sales services from their transportation services at an upstream point near the production provide all transportation services on a basis that is equal in quality for all gas supplies whether purchased from the pipeline other gas supplier. In addition, pipelines are required to provide a variety of unbundled transportation services to shippers, s "no-notice" firm transportation, (ii) firm transportation, (iii) interruptible transportation, and (iv) storage services, among oth

⁷⁸ "Interstate Pipeline Rate Design: If You're Still Debating 'MFV vs. SFV,' You May Be Fighting the Last War," remark FERC Commissioner Donald F. Santa Jr. to the NARUC Gas Committee, Washington D.C., February 26, 1996, p. 2.

Furthermore, these programs permit the comparison of service quality both over time and across LECs. AT&T, for example, oversees the quality of the switched access service it receives using standardized Access Supplier Assessments.⁷⁹ AT&T uses this program to evaluate the performance of the switched access vendor across a wide variety of access services and using objective "direct measures of quality," including timeliness of provisioning and installations, mean time to restore failures, network reliability, circuit failure rates, repeat failure rates, and switched access quality such as call blockage per one million call attempts. Finally, to have an anti-competitive effect, the degradation in service would have to be significant enough for customers to notice it. These vendor management programs make it likely that an IXC would detect any degradation in BellSouth's access service long before any customer could notice that degradation and attribute it to the IXC.

The IXCs have access to service quality data collected under the FCC's Automated Reporting and Management Information System ("ARMIS"). The Commission has been monitoring service quality since the MFJ, and now requires annual service quality reports from other companies subject to price-cap regulation, including GTE and Sprint.⁸⁰ The annual service quality data collected by ARMIS Forms 43-05 and 43-06 can be reviewed by IXCs and used with any internally-collected information to judge service quality. MCI has argued that collecting these data are "necessary to monitor quality and service standards."⁸¹ The FCC used these data during its most recent price-cap performance review

⁷⁹ MCI operates a similar program.

⁸⁰ MCI comments in CC Docket No. 96-23, as quoted in the FCC's *Report and Order*, November 13, 1996, CC Docket N ¶50-54.

⁸¹ *Id.*, at ¶52.

for the LECs to conclude that there has not been any significant degradation of service quality since price-cap regulation was instituted for these LECs,⁸² and its recent decision to continue to impose these reporting requirements on local exchange carriers clearly indicates their usefulness for detecting potential discrimination.⁸³

In conclusion, BellSouth cannot feasibly degrade the quality of service to IXC competitors relative to that offered to its own interLATA affiliate in an attempt to confer competitive advantage to the affiliate. BellSouth cannot apply, without detection, a different level of service quality to a particular call originating in its territory just because that call is destined for transport by AT&T, MCI, or another IXC competitor to BellSouth's interLATA affiliate. I note that Professor Schwartz's economic evaluation for the Department of Justice, while expressing concern that "access arrangements to wholesale local services are largely new [and] their implementation will require extensive cooperation by incumbents,"⁸⁴ agrees that "the scope for a BOCY to degrade existing access arrangements used by IXCs is relatively limited"⁸⁵ as "regulatory and other safeguards can prevent significant degradation ... [and] can render the threat to technical arrangements for long-distance access tolerable."⁸⁶

⁸² *LEC Price-cap Order, FCC Second Report and Order*, CC Docket No. 87-313, 5 FCC Rcd., Oct. 4, 1990.

⁸³ *Supra* note .

⁸⁴ Affidavit of Marius Schwartz, Competitive Implications of Bell Operating Company Entry into Long-Distance Telecon Services, Submitted on behalf of the Department of Justice, In the Matter of Application of SBC Communications Inc. to Proc Inter-LATA Services in Oklahoma, FCC CC Docket No. 97-121, May 16, 1997, ¶ 15.

⁸⁵ *Id.* ¶ 140.

⁸⁶ *Id.* ¶ 14.

EXISTING VERTICAL INTEGRATION BETWEEN LOCAL AND LONG DISTANCE PROVIDERS DOES NOT INDICATE DISCRIMINATION.

In examining the issue of whether overt or covert quality discrimination is likely if BellSouth is allowed to offer interLATA service, it is instructive to examine existing firms which are vertically integrated in local exchange and long distance provision, such as GTE, United/Sprint, SNET, and Frontier.

GTE, a diversified local exchange company, wholly owned Sprint between 1983 and 1986, which in that period was the third largest IXC. GTE gradually divested its ownership of Sprint by selling 50%, 30%, and 20% to United Telecom in 1986, 1988, and 1992 respectively. During this period GTE would have had the same incentives to discriminate against the other IXCs that BellSouth would allegedly have if they were allowed to enter long distance now. After being divested by GTE, Sprint was acquired by United Telecom, and the combined entity was renamed Sprint. Sprint now provides both local exchange service and long distance service in 19 states. Sprint is the seventh largest local exchange carrier in the U.S. and maintains extensive technology and industry expertise which it could use to evaluate possible discriminatory behavior.

From a competitive point of view, BellSouth would be positioned similarly to Sprint in these areas if interLATA relief were granted, except that BellSouth would be subject to the additional separate subsidiary requirement and associated safeguards for at least three years, and possibly more, at the FCC's discretion. Consequently, if quality discrimination were to occur, it would be expected in those areas where Sprint is an integrated provider of access and interexchange services. However, I am not aware of any complaints filed by other IXCs against Sprint's local operations

alleging discrimination in the local exchange, which suggests that a pattern of discrimination was not present. The Department of Justice came to a similar conclusion in its 1986 review of the GTE-United joint-ownership of

"We found no evidence, however, of any pattern of discrimination [by Sprint] Y Perhaps most significant to our assessment of the consent decree's efficacy is that none of the interexchange carriers have complained to either the Department or the FCC concerning [GTE's] provision of exchange access to them, even in response to our solicitation of such complaints."⁸⁷

In a more recent review, Professor Schwartz concludes that "GTE and SNET have been very successful in capturing long-distance business, but neither has elicited serious complaints concerning their degradation of existing long-distance access arrangements for IXCs."⁸⁸ Therefore, the evidence to date does not indicate that other local exchange carriers who recently expanded into long distance service have manipulated quality to reduce competition in the long distance market.

In sum, the actual post MFJ experience of U.S. local exchange carriers that are vertically integrated into interLATA service does not appear to have been associated with discrimination or reduced competition in the long distance market. The former Bell System's discrimination in long distance prior to the MFJ does not support theories of competitive harm today as a result of BellSouth's request for section 271 authority. The mandate which AT&T believed

⁸⁷ Report to the Court of the Approval by the US Department of Justice, Pursuant to Paragraph VI(A) of the Final Judgment in *States v. GTE Corporation*, of the Proposed Joint Venture Between GTE Corporation and United Telecommunications Inc., (Action No. 83-1298, June 30, 1986, p.10.

⁸⁸ Schwartz affidavit, *supra* at ¶139.

it had from regulators before the MFJ is quite different from the missions and mandates which the BOCs and AT&T have today.⁸⁹ In short, it is not proper to project AT&T's pre-MFJ behavior **C** where AT&T often acted as if it believed it was required to thwart new entry in order to safeguard the integrity of the network and to support a system of cross-subsidies imposed by regulators **B** onto BellSouth today.

CONCLUSION

BellSouth's entry into long distance promises substantial benefits to consumers by providing them with an expanded range of services at prices that reflect economies of scale and scope in production and marketing. Moreover, BellSouth's entry into long distance will increase competition in interLATA services, resulting in greater choice and lower prices for consumers.

The FCC should not delay granting interLATA authority to BellSouth until competition in the local exchange and access markets reaches some predetermined state. The FCC should not treat the interLATA and local exchange and access markets as if they are "linked" in this sense. Any delay in granting BellSouth interLATA authority because local competition is not sufficiently established in all of BellSouth's current service territory will deny telecommunications consumers the benefit of increased choice and increased competition in long distance, and will therefore be to the detriment of the public interest.

⁸⁹ Roger G. Noll and Bruce M. Owen, "The Anticompetitive Uses of Regulation: United States v. AT&T," in *The Antitrust Revolution*, John E. Kwoka, Jr. And Lawrence J. White, eds., 1989, pp. 290-337.

Affidavit of Richard J. Gilbert

I swear that the foregoing is true and accurate to the best of my knowledge and belief.

Richard J. Gilbert

Sworn to and signed before me this ____ day of November, 1997.

Notary Public

My commission expires:

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Application of BellSouth) Docket No. _____
Corporation to Provide)
In-Region, InterLATA Long)
Distance Services Under)
Section 271 of the)
Telecommunications Act of 1996)

AFFIDAVIT OF JOHN R. GUNTER

John R. Gunter, being duly sworn, deposes and says:

1. I am John R. Gunter, Vice President-Network, Strategic Planning and Support, at BellSouth Telecommunications (BellSouth). In that role, I am responsible for network architecture and operations planning and the support of network installation, design and maintenance. I submit this affidavit in support of BellSouth's petition to provide interLATA services originating in-region. The purpose of this affidavit is to demonstrate that, if BellSouth were allowed to enter the interexchange business, it would not be able to discriminate, from a technological viewpoint, against competing interexchange carriers.

2. Since I assumed my present responsibilities, the development and review of technology plans and operational arrangements for BellSouth have been performed under my direction. These plans and operational arrangements involve, inter alia, the deployment of network architectures and the development of appropriate technical standards and interfaces for BellSouth's transmission and switching facilities. I am familiar with the exchange access services provided by BellSouth to interexchange carriers and those carriers' customers, and the technologies through which such services are provided.

3. Prior to assuming my present position, I was Vice President-Information Services and Market Plans for BellSouth and had additional duties as officer in charge of corporate responsibility and compliance with all federal, state and local laws regarding contracting with governmental entities. In April 1993, I was appointed Vice President-Network Operations-North for BellSouth and assumed my present duties on September 1, 1993.

4. The only potential anticompetitive discrimination relevant to the competitive effect of BellSouth's interLATA market entry on long distance markets is discrimination in connection with the provision of exchange access. Based upon my knowledge of and experience with the technology used today in the telecommunications industry, and particularly by BellSouth, I believe that there is no

significant chance that BellSouth (or indeed any amalgam of local exchange carriers) could technologically discriminate anticompetitively against interexchange carriers through local exchange operations. This is true today, and will remain true in the future, both because of the industry-wide standards process through which the nation's telecommunications infrastructure has been and continues to be developed, and because of the nature of the technology actually utilized to provide telecommunications throughout the United States. Furthermore, any RBOC attempt at discrimination to gain an anticompetitive interexchange advantage would, of necessity, be so obvious as to be self-defeating and highly counter-productive for any RBOC involved. To demonstrate my reasons for these conclusions, let me turn first to the telecommunications standards process.

I. THE STANDARDS PROCESS PREVENTS DISCRIMINATION

5. BellSouth is a member of the Alliance for Telecommunications Industry Solutions ("ATIS"), formerly the Exchange Carrier Standards Association ("ECSA"). The membership of ATIS is open to manufacturers, facilities-based carriers and resellers of domestic transport and switching services, including interexchange carriers, non-RBOC exchange carriers, cellular (and other wireless) carriers and enhanced service providers, as well as RBOCs. ATIS provides administrative support to the standards-setting body known as the Committee T-1,¹ and helps ensure T-1's conformance to American National Standards Institute ("ANSI") accreditation requirements.² As a board member of ATIS, and in my other professional roles, I am familiar with the various aspects of the development of telecommunications standards.

6. Based upon my knowledge of the standards process, I am confident that no entity or collection of entities, including the RBOCs or anyone else, can control or somehow subvert that process. The rapid development of new technologies, the globalization of telecommunications markets, and the divestiture of the RBOCs from AT&T have created a standards-setting environment which effectively insulates the standards process from anticompetitive influences. In this environment, which will persist through any foreseeable future, cooperation among manufacturers,

¹ The Committee T-1, one of many committees under ATIS auspices, deals primarily with network interface standards, and its work is described in paragraphs 13-18, infra. In addition to supporting the Committee T-1, ATIS sponsors a broad range of other working committees covering the gamut of telecommunications industry activities, including the Carrier Liaison Committee ("CLC"), the Network Interconnection and Interoperability Forum ("NIIF"), the Ordering and Billing Forum ("OBF"), the Network Reliability Steering Committee ("NRSC"), and the SONET Interoperability Forum ("SIF").

² ANSI is a non-profit organization which serves as a national standards clearinghouse. One of the prerequisites for ANSI accreditation of a standards-making organization, and for final ANSI approval of the standards developed by that organization, is conformance to ANSI "due process" requirements. ATIS and T-1 thus are very careful to comply with ANSI due process rules. For example, ATIS has a Standards Advisory Committee which has responsibility to audit T-1 to insure that ANSI guidelines are followed.

interexchange carriers, local exchange carriers and users is absolutely essential for the telecommunications network as a whole to function properly. Any attempt by BellSouth, or even all the RBOCs as a group, to impede competition by distorting the standards process or creating a proprietary network architecture would, in my opinion, be easily detected, certain to fail, and self-destructive.

7. There are three additional powerful forces that make it impossible for BellSouth to control or unduly influence the national or international standards-setting processes. These three forces are: (1) the accredited national and international standards bodies, which operate by consensus of all industry members and in which the RBOCs, even as a group, have only a small minority of the votes; (2) the provision for customer representation in standards bodies and customer demand for services and equipment which interconnect transparently with the services and equipment of other suppliers; and (3) federal and state government requirements for interconnection and compatibility, such as the equal access required by the FCC and the Modification of Final Judgment, open network architecture ("ONA") and comparably efficient interconnection ("CEI") as required by the FCC, and the FCC's CPE registration program. This affidavit will focus primarily upon the first two factors, beginning with the broad reach of international standards-setting.

8. Telecommunications standards are increasingly set on a global level. The International Telecommunications Union-Telecommunications Standardization Sector ("ITU-T," the successor organization of the International Telegraph and Telephone Consultative Committee, or "CCITT"), an organization of government representatives operating under treaty, and the International Organization for Standardization ("ISO"), a voluntary, non-treaty organization of the principal standards bodies in member countries, have cooperated to set forth the major end-to-end architectural components of telephone and information processing networks and systems³. In particular, ITU-T conducts important global standards work for the Integrated Services Digital Network ("ISDN"). ISDN is currently being made more widely available as a network which provides more powerful, versatile and manageable communications services. Similarly, Synchronous Optical Network ("SONET") standards, which permit worldwide interconnection of higher speed circuits, were developed under the aegis of ITU-T.⁴ These standards are at the heart of present and future national, as well as international, telecommunications systems.

9. The work of ITU-T and ISO cannot be controlled or dominated by any one interest, and certainly not by BellSouth, which has no votes in either organization. In ITU-T, for example, the United States, through the State Department, has only one of 163 votes. Furthermore, the United States' positions before and contributions to ITU-T are not determined by any one company but are discussed and approved at State Department meetings which are open to any interested party.

10. Similarly, ANSI represents United States interests in ISO, and BellSouth is not a member of ISO. Not even the pre-divestiture Bell System could dictate standards to such international standards organizations. As one clear example, in the 1960s the Bell System took the

³ The CCITT was reorganized and re-named ITU-T by a treaty ratified in 1992. For convenience, and because of the substantial institutional identity of the two organizations, the work of the former CCITT is referred to herein under the name ITU-T.

⁴ Within ITU-T, the SONET standards are referred to as "Synchronous Digital Hierarchy" standards.

initiative in technological development of DS1 digital carrier systems⁵ involving a 1.544 Mbps digital line. It urged that 1.544 Mbps line rate be standardized on an international basis. Despite those urgings, and despite the actual deployment of the AT&T design in the North American network, ITU-T adopted a dual standard which included both the 1.544 Mbps and 2.048 Mbps rates. The latter has now become prevalent throughout the world except in North America and Japan.

11. Another example of the former Bell System's inability to impose its will on the international standards community occurred in the 1970s. AT&T developed a new signaling system which it called Common Channel Interoffice Signaling ("CCIS"). However, the ITU-T recommendation, while accommodating CCIS, in fact supported another signaling system called Signaling System 6 ("SS6"). It was not until the 1980s that ITU-T adopted an international standard evolving from both CCIS and SS6 which has become familiar as Signaling System 7 ("SS7"). This system is now used widely in both the domestic and international telecommunications networks.

12. In the United States, domestic standards-setting activities are carried on by a number of organizations, all of which have broad-based memberships. These organizations utilize procedures which follow the elaborate due process requirements promulgated by ANSI.

13. Of these many domestic standards-setting organizations, the Committee T-1 is one of the most active. T-1 is an ANSI-accredited, FCC-endorsed national standards-setting organization, and is sponsored by ATIS. Other important telecommunications standards groups in the United States include the X3 Committee, which deals with, among other things, computer and information processing standards and is sponsored by the Computer and Business Equipment Manufacturers Association ("CBEMA"); the 802 Committee sponsored by the Institute of Electrical and Electronics Engineers ("IEEE"), which is actively developing standards with respect to, among other things, local area networks; and the TR41 Committee, sponsored by the Telecommunications Industry Association ("TIA"), which sets standards for telecommunications equipment used at customers' premises (some of which have been adopted as national standards using ANSI-approved procedures and as international standards through ISO and ITU-T).⁶

14. The Committee T-1 was established in 1984 in response to industry and FCC concerns about preserving the integrity of nationwide telecommunications in the wake of the impending Bell System divestiture. T-1 was formed and operates as an independent public committee, receiving only administrative support and due process oversight (under the ANSI guidelines) from ATIS. A major part of T-1's activities relate to standards for the interconnection and inter-operability of networks at interfaces where unaffiliated service providers, or CPE and an exchange carrier, meet. For example, T-1 studies and establishes interconnection and inter-operability standards at the exchange carrier/CPE interface, the exchange/interexchange interface, and the exchange service/information service interface. Another important function of T-1 is the setting of standards for end-to-end performance of the network. Specific areas of study and standards-setting within T-1 include switching, signaling, transmission, performance, operations, administration and maintenance. As of August 1997, T-1 has developed 263 national standards, including standards relating to all of the

⁵ The DS1 digital carrier is a transmission system consisting of 24 separate channels.

⁶ Under ANSI rules, a sponsor provides the Secretariat function, i.e., administrative support which permits the proper implementation of ANSI due process procedures. Sponsorship of T-1 by ATIS or of the X3 committee by the Computer and Business Equipment Manufacturers Association ("CBEMA") does not imply that ATIS influences the work of T-1 or that CBEMA influences the work of X3.

topics listed above, and has issued fifty-three Technical Reports addressing on a comprehensive basis a number of varied technological issues.

15. Membership in Committee T-1 is open to all entities, foreign or domestic, which have a direct and material interest in its work or may be impacted by a national standard originating in T-1. As of July 31, 1997, 49% of T-1's total voting membership of 65 were manufacturers and vendors; 18.5% of the members were local exchange carriers; 21.5% were users and other participants with a general interest in its activities; and 11% were interexchange carriers and resellers.⁷ Together, the RBOCs and Bellcore constitute only slightly more than 10% of the voting members. T-1 meetings are announced in advance, held in open public session, and documented with agendas, attendance records and minutes. Substantive decisions are made by formal vote, usually letter ballot at the full Committee T-1 level, allowing ample opportunity for review and comment. "No" votes on a proposed standard must be accompanied by a technical explanation of the basis for opposition, and attempts are uniformly made to resolve all comments and reach consensus. Ultimately, every comment and its resolution are published and the public is advised of the balloting.

16. Some T-1 decisions are approved by simple majority, e.g., the decision to undertake new projects, and others require two-thirds approval e.g., draft standards. However, draft standards have never been approved solely on the basis of a two-thirds vote. ANSI procedures require consensus for approval of standards, and consensus requires substantial agreement among all directly and materially affected interest groups. Standards-setting in T-1 is therefore a process which involves robust debate among all interest groups. In this process, participants in T-1 are motivated by the need to develop technically sound standards which will not only further the goals of their respective organizations individually, but also gain industry-wide acceptance by others. Final standards require consensus approval in each of four different interest categories (manufacturing, exchange, interexchange, and general interest, including users). From a practical point of view, the consensus required to establish a standard is unanimous or near-unanimous approval among these four interest categories (though agreement by participating companies within each category may not be unanimous). Hence, no RBOC, nor all the RBOCs, nor even all exchange carriers (RBOC and non-RBOC) acting together, can achieve the adoption of a standard which is not supported by manufacturers, interexchange carriers, and users.

17. Nor could any group consisting of a small minority of all the voting members (such as the RBOCs) possibly control or distort the standards process either by controlling committee leadership positions or by attendance at committee, sub-committee or working group meetings. With regard to leadership positions, in particular, committee and sub-committee leaders are elected by all members, and the RBOCs clearly lack the votes to dominate this selection process, just as they lack the votes to control standards directly.

18. In addition, ANSI guidelines require that consensus reached in a working group must be reviewed industry-wide and voted upon at the committee level before it can become a standard. Working group participation is open to all who are willing to provide resources to further the necessary initial formulation of a proposed standard. Due process in the setting of standards is assured under the ANSI guidelines. Even in the unlikely event that the working group consisted entirely of RBOCs (or manufacturers or interexchange carriers), the draft standard would still have to be submitted to the appropriate sub-committee for consensus and then be submitted to the full Committee T-1 for voting.

⁷ In addition, any organization or individual may be an observer member. Each such entity is advised of Committee activities, and may attend meetings and submit comments, but has no vote.

19. Although standards are "voluntary" in the sense that compliance is not legally compelled, compliance is not "voluntary" in the sense that a carrier or manufacturer can readily choose to ignore a standard. For example, an exchange carrier which wished to ignore an established standard would find it quite infeasible to deal with other exchange and interexchange carriers which expected to be able to interconnect using that standard; or to deal with manufacturers which made equipment incorporating that standard; or to deal with users who expected to obtain and interconnect with services using that standard. Additionally, such behavior would almost certainly result in complaints of discrimination in various industry forums. Hence, BellSouth could not conceivably afford to ignore completely an established standard.

20. For all these reasons, neither BellSouth, nor RBOCs generally, nor anyone else is able to affect or influence the standards process without technical justification and industry consensus. Indeed, the essence of the standards process is that any organization may raise any objection, but that only objections with technical merit and broad industry support can prevent the adoption of otherwise meritorious standards.

21. AT&T itself made this point before the FCC, during the proceeding on its acquisition of McCaw Cellular Communications. There, AT&T stated that "existing procedural safeguards [in the standards-setting process] . . . prevent any single entity from 'dictating' equipment standards." (AT&T's and McCaw's Opposition to Petitions to Deny and Reply to Comments, FCC File No. ENF. 93A4, filed December 2, 1993, p. 117). AT&T then expanded on this statement, saying that standards-setting "rules require that standards programs be conducted fairly and in good faith, with user participation, and that they not be used to restrict competition Because [of] the . . . 'one company, one vote' rule, no single firm can 'dictate' formal standards for the industry [footnote omitted]." (*Id.*, p. 118).

22. It is true that unanimity among interest categories is often achieved through the standards process, but unanimity is not a prerequisite for either the development or final adoption of telecommunications standards. Indeed, standards have on a number of occasions been adopted despite the no vote of an RBOC or several RBOCs. For example, the Committee T-1 adopted, with no undue delay, two standards governing various types of network interfaces over the objection of an RBOC. (Standard TI.640 BISDN, Network Node Interfaces and Internetwork Interface Rates and Formats; and Standard TI.646, Broadband ISDN and DS1/ATM User-Network Interfaces).

23. Based upon these rigorous, open and comprehensive processes by which telecommunications standards are adopted and implemented, there is simply no significant possibility that anticompetitive bias could be introduced into the national network, or any part of it, by BellSouth or by the RBOCs as a group. The standards processes in fact represent, as they were designed and intended to do, a guarantee that the evolution of the telecommunications network will proceed for the common benefit of all participants, with no real possibility of anticompetitive discrimination in favor of any one industry segment.

II. MARKET AND TECHNICAL OBSTACLES PREVENT DISCRIMINATION

24. In addition to the participation of a broad range of entities in various national and international standards setting bodies, a related deterrent to discriminatory behavior by a single dominant entity or group of entities is the number and variety of competitors in the telecommunications industry. Since at least the early 1980s, each year has seen many diverse types of competitors (wireless providers, cable TV companies, satellite providers, information and enhanced service providers, competitive local exchange carriers, etc.) entering the industry. Those new competitors are often non-traditional entrants who also bring with them new and different categories

of suppliers to the industry. It thus becomes practically impossible for a company like BellSouth to engage in discriminatory network planning and implementation. Because of the sharing of network facilities dictated by today's network as discussed immediately below, the ever increasing number of industry participants with their diverse needs and views subject BellSouth and the other RBOCs to increased scrutiny and, practically-speaking, immediate detection of any such attempted discrimination.

25. Further, as regards the actual current operation of the network, anticompetitive discrimination is not possible in light of the technologies now being used (let alone those which will be introduced in the near future to further improve the network's performance). One of the main trends in telecommunications technology today is toward large-scale, more powerful devices. This trend, which has been in place for some time, in turn leads to service applications of increasing scale and scope. That is to say, in practical terms, that both switching and transmission systems must be shared among many users and over a variety of services, in order to be used most efficiently.

26. In exchange carrier networks, this need for sharing causes both exchange and exchange access services to be carried over the same transmission facilities and through the same switches (except in the case of a final dedicated transmission link from an RBOC switch to an interexchange carrier POP, which is addressed in paragraphs 33-34, *infra*). Both the local switching element and the tandem switching elements are provided using the same switches that BellSouth uses to provide service to its customers. With regard to end-user customers, this intermingling of all types of traffic on common facilities effectively negates any credible prospect of discrimination.

27. The extensive sharing of transmission facilities means that BellSouth could not discriminate against calls made using the services of a competing interexchange carrier without simultaneously harming its own exchange services and exchange access provided to its interLATA affiliate. It simply would not be possible to single out long-distance calls of other carriers' customers and selectively degrade those calls, or degrade the exchange services of those customers, without causing widespread and intolerable damage to BellSouth's own transmission services.

28. Moreover, BellSouth has been providing both direct interoffice transport and shared interoffice transport services and tandem switching services to interexchange carriers since 1984. During this time, both BellSouth and the IXCs have developed methods of monitoring BellSouth's performance in both providing services and maintaining the services once installed. For example, AT&T has a very detailed performance evaluation system that it uses for switched and special access services provided by BellSouth. This system measures over 100 performance items each quarter. Included are such items as Access Network Reliability, number of blocked calls on BellSouth's switched access network, maintenance and installation of test lines, SS7 network performance, percent of trunk groups meeting or exceeding AT&T grade of service, due dates not met, and many other measures of interoffice transport performance. In addition, several other major IXCs, including but not limited to MCI, Sprint, and WorldCom, use similar evaluation systems to closely monitor BellSouth's performance. It should also be noted that access to BellSouth's network performance management capabilities is not limited to IXCs. BellSouth provides similar access to such capabilities to Competitive Access Providers (CAPs), such as Teleport Communications Group (TCG), Metropolitan Fiber Systems (MFS), and IntelCom Group, Inc. (ICG), and to Competitive Local Exchange Carriers (CLECs).

29. BellSouth's access tariff incorporates or references appropriate technical publications for the transmission quality specifications for access services provided to IXCs. These include requirements for parameters such as transmission loss, C-notched noise, C-message noise, 3-tone slope, direct current continuity, and operational signaling. With the results of these initial baseline tests, a carrier would be able to detect any degradation of the facility after it was installed.

30. The most common type of access connection is a Feature Group-D trunk. Included in the testing capabilities, referenced in BellSouth's Tariff FCC No. 1, is seven digit access to a balance (100 type) test line, milliwatt (102 type) test line, nonsynchronous or synchronous test line, automatic transmission measuring (105 type) test line, data transmission (107 type) test line, loop around test line, short circuit test line, and open circuit test line. In addition, in-service tests may be scheduled any time after the installation of a Feature Group-D trunk for verification of circuit performance. All of these access test facilities will continue to be available to the IXCs. This will enable any carrier to detect service problems on the facilities being obtained from BellSouth. Also included in the BellSouth Tariff FCC No. 1 are provisions that require BellSouth to provide service performance data on end-to-end service. These provisions will continue to be available to IXCs.

31. BellSouth also provides special access performance monitoring via the Hekimian Performance Monitoring Integrator. This system places performance thresholds on individual special access circuits assigned to IXCs and/or CAPs. The system then monitors the circuit and provides an index that measures signal loss and other performance criteria. BellSouth performance monitoring technicians then proactively perform maintenance on any circuit experiencing degradation prior to the occurrence of an actual circuit failure. This surveillance of access quality is done on the entire universe of circuits and not on an access customer-specific basis.

32. As discussed above, all the major IXCs have detailed monitoring processes, independent of BellSouth's monitoring and testing offerings, which cover all phases of BellSouth's operations relating to the provision, maintenance, and billing of switched and special access services to IXCs. Any change in the level of service being provided to an IXC by BellSouth would be immediately detected through these IXC monitoring processes and/or the monitoring and testing capabilities by provided by BellSouth.

33. In the case of an unbundled loop used by a CLEC/interexchange carrier to provide telephone exchange service and exchange access, the unbundled loop will most likely be in the same cable sheath with other loop facilities providing BellSouth's local exchange service. Any cable cut or outage would have the same effect on the services of all interexchange and exchange service providers using the cable, including BellSouth and CLECs. In order to minimize the impact of shared facility failures or outages on interexchange carriers, BellSouth offers on a tariffed basis the same capabilities (diverse routing, feature testing, test access points, etc.) it uses itself in the event of a failure or to protect against a failure.

34. It should also be noted that the network unbundling requirements of the Telecommunications Act of 1996 will lead to both an increased number of network interconnection points as well as an increased sharing of unbundled network elements and facilities by all telecommunication service providers, thus further ensuring the impossibility of purposeful, targeted degradation of the network or its associated network elements by BellSouth or any local exchange carrier.

35. The signaling network, which has dramatically changed from predominantly multi-frequency in-band to SS7 out-of-band since divestiture, is also shared between exchange and exchange access services. The shared impact upon both exchange and interexchange carriers from any difficulty in the SS7 network became apparent several years ago, when massive service outages were experienced in the national network as the result of bugs in the SS7 software. These outages affected local and interexchange carriers alike. The industry responded to these problems with, among other things, the formation of the Network Reliability Council ("NRC") under the aegis of the FCC. The NRC effort recently completed its third stage with the July 15, 1997 presentation of the Network Reliability and Interoperability Council ("NRIC") report to the FCC. The FCC approved formation of the NRIC with two subtending Focus Groups to address issues related to the coordination of interconnectivity and interoperability. I served as the Chairman of one of these Focus

Groups, which investigated barriers to interconnectivity and developed recommendations for overcoming these barriers from both network-to-network and network-to-CPE perspectives. Another NRIC Focus Group specifically examined the existing standards setting processes to determine if these processes address the industry's current needs with regard to interconnection. The NRIC's Report to the FCC included a multitude of recommendations covering several key areas including interoperability planning, implementation planning for network interconnection, operations, user interoperability, internet interconnections, and the standards development process. The recommendations in this report will without doubt improve interconnection and interoperability between networks. In addition, the report's recommendations relative to the standards development process will further ensure that this process is effective, non-discriminatory, and open to all interested parties. The NRIC and its two Focus Groups were open forums with cross-industry representation. Any decisions or recommendations were based on input from and consensus of all participants. This is a perfect example of active LEC participation in industry activities to further ensure interconnectivity and interoperability between all telecommunications service providers, as well as to improve the industry-wide standards process.

36. While an attempt at discrimination in signaling services presumably would be more subtle than a mass outage, it is unlikely that today's technology would permit any "fine tuning" of discrimination. Any such attempts would have to elude detection by the many interested parties observing this sensitive arena, while at the same time being obvious to their intended targets and effective in coercing them to change carriers. There is no reasonable prospect that this could succeed undetected, and thus an attempt to implement such a discriminatory scheme would not be a rational act.

37. With regard to switching, the leading-edge Asynchronous Transfer Mode ("ATM") technology now being introduced into the network is expected to permit even greater combinations of signals for voice, video, data and image switching. In addition, SONET standards for optical transmission have already increased the capacity of single optical fibers in the network to 2.5Gbps,⁸ and even higher in some new systems. These trends will continue for the foreseeable future and thereby reinforce the requirement for facilities sharing between exchange and exchange access services, while virtually eliminating any practical possibility of discrimination.

38. On another front, Intelligent Network capabilities including the Advanced Intelligent Network (AIN), which permit customers to custom design their own routing patterns, are being introduced by both exchange and interexchange carriers. The complexities that would be entailed in developing a sufficient understanding of each and every customer's routing schemes are simply too great for any meaningful pattern of discrimination to be developed and maintained cost-effectively. With regard to switched services, therefore, discrimination would be virtually impossible to accomplish in any competitively meaningful sense.

39. With respect to the portion of the transport system that is dedicated to a single interexchange provider, *i.e.*, the link from the BellSouth switch to the interexchange carrier POP, electronic interfaces between operations systems are now being deployed. These electronic interfaces permit interexchange carriers and other access customers to use the same testing or administrative systems for their access services that the serving exchange carriers use for those same services. These

⁸ "Gbps" stands for gigabits per second. A gigabit is one billion bits, and a transmission speed of two and one-half billion bits per second is extremely fast -- the equivalent of more than 32,000 simultaneous phone calls. Indeed, this technology was still in laboratory testing as little as five years ago.

arrangements eliminate the possibility of any differences in the abilities of exchange carriers and their access customers to observe, measure and evaluate the performance of the dedicated portion of the customer's exchange access services. In fact, as a practical matter the IXCs, and particularly the large facilities-based carriers such as AT&T, could monitor interconnected RBOC facilities to virtually any extent they choose, without passively awaiting customer complaints. For example, the IXCs could monitor various technical parameters, such as bit errors and loss of signal, which affect transmission quality. Electronic interfaces will provide real-time access to BellSouth's testing and administrative systems to further enhance the monitoring capabilities available to IXCs. The IXCs thus are only as helpless beyond the POP as they choose to be.

40. Nor could traffic control software programs be altered to selectively disrupt non-RBOC interexchange traffic by increasing the number of blocked calls. I know of no way to do this with current technological capabilities. Existing control programs affect all traffic on the network and could not feasibly be used to target the traffic of particular IXCs. Any manipulative change in such software would be expensive both to design and deploy, and would also result in the loss of access revenues which otherwise would be earned through the completion of blocked calls. It would also necessarily involve the knowing participation of many BellSouth employees in many areas of the company. In addition, any attempt to selectively alter traffic control software programs would involve the knowledge and participation of unaffiliated hardware manufacturers and software developers, many of whom would likely be unwilling to develop selective modifications and all of whom would be completely free to inform others that such selective modifications had been requested. The knowledge and participation of so many parties who have no interest in favoring any particular carrier (and indeed have a business interest in remaining neutral between customers who compete) would raise the certain prospect that the attempted manipulation would quickly be revealed.

41. Moreover, the assignment and provisioning of BellSouth's equipment and facilities have been almost completely computerized. The systems which assign central office equipment, trunks, loops and nearly all other facilities do so automatically, based on the technical requirements of the service being provided and equipment availability. There is little, if indeed any, opportunity for intervention in the mechanized assignment and provisioning process to provide competitors with purposely degraded facilities. Most of BellSouth's other technical and operational activities are also now mechanized, and similarly present very little potential for purposeful discrimination. Any attempts at such discrimination would have to involve interference with the normal and established operation of these systems and willful degradation of facilities which would be obvious to any auditor.

42. In addition, BellSouth's widespread deployment of SONET technology permits immediate reconfiguration should a dedicated exchange access facility experience any malfunction. This reconfiguration capability can be designed by the access customers themselves, including interexchange carriers, and will operate automatically. Moreover, it is sophisticated enough to operate in the case either of complete failure or of less-severe service degradation. Once again, any attempted discrimination would be quickly and effectively remedied.

43. All of the above advances in technology (SS7 out-of-band signaling, ATM, AIN, electronic interfaces to operations systems, and SONET) are being incorporated into BellSouth's and the interexchange carriers' networks as quickly as they become technically and economically feasible. In fact, many of these technical capabilities are already widely deployed in BellSouth's network and available for use by all interexchange carriers. There is every indication that this process of technological modernization will continue apace throughout the coming years, and each new generation of equipment will provide further barriers to any potential forms of discrimination.

III.CONCLUSION

44. Based upon my knowledge of and experience in the telecommunications industry,

there is no reasonable possibility that BellSouth, if allowed to enter the in-region interexchange marketplace, could discriminate anticompetitively against rival interexchange carriers. Any such attempt would confront insuperable barriers to BellSouth's success because of the manner in which the national (and international) telecommunications system is being developed through the standards process, and because the telecommunications technology employed today would require a discriminatory BellSouth to inflict unacceptable damage on its own services in pursuing any conceivable discriminatory scheme. Moreover, the pursuit of such a scheme, if it actually resulted in differential service levels, would be immediately obvious to the other participants in and observers of the telecommunications industry. Today, any claim that BellSouth could discriminate to favor its own in-region interexchange services is, from a technological viewpoint, simply an argument that has outlived its time.

45. I hereby swear that the foregoing is true and correct to the best of my information and belief.

John R. Gunter
Vice President-Network,
Strategic Planning and Support
BellSouth Telecommunications, Inc.

Subscribed and sworn to before me this _____
day of _____, 1997.

Notary Public

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Declaration of Professor Jerry A. Hausman

1. I am MacDonald Professor of Economics at the Massachusetts Institute of Technology in Cambridge, Massachusetts, 02139.

2. I received an A.B. degree from Brown University and a B.Phil. and D. Phil. (Ph.D.) in Economics from Oxford University where I was a Marshall Scholar. My academic and research specialties are econometrics, the use of statistical models and techniques on economic data, and microeconomics, the study of consumer behavior and the behavior of firms. I teach a course in "Competition in Telecommunications" to graduate students in economics and business at MIT each year. Competition in long distance is one of the primary topics covered in the course. I was a member of the editorial board of the Rand (formerly the Bell) Journal of Economics for the past 13 years. The Rand Journal is the leading economics journal of applied microeconomics and regulation. In December 1985, I received the John Bates Clark Award of the American Economic Association for the most "significant contributions to economics" by an economist under forty years of age. I have received numerous other academic and economic society awards.

3. I have done significant amounts of research in the telecommunications industry. My first experience in this area was in 1969 when I studied the Alaskan telephone system for the Army Corps of Engineers. Since that time, I have studied the demand for local measured service, the demand for intrastate toll service, consumer demands for new types of telecommunications technologies, marginal costs of local service, costs and benefits of different types of local services, including the effect of higher access fees on consumer welfare, demand and prices in the cellular telephone

industry, and consumer demands for new types of pricing options for long distance service. I have also studied the effect of new entry on competition in paging markets, telecommunications equipment markets, and interexchange markets and have published a number of papers in academic journals and books about telecommunications. I have also edited two recent books on telecommunications, Future Competition in Telecommunications (Harvard Business School Press, 1989) and Globalization, Technology and Competition in Telecommunications (Harvard Business School Press, 1993).

4. I have previously provided affidavits to the FCC on competition among long distance providers. I submitted an affidavit to the FCC in November 1993 regarding competition for Basket 1 services in the long distance industry as part of the AT&T dominance proceeding. I also submitted affidavits in 1994 and 1995 on competition among long distance providers to the Department of Justice (DOJ) regarding the waiver request of the Bell Operating Companies (BOCs) to provide cellular long distance and to provide landline long distance service. For this declaration I have updated my analysis by using newly available data from 1997. I have been asked by BellSouth to consider the question of whether consumers would benefit from BOC entry into the residential long distance market and, if so, whether there should be any local competition prerequisite to BOC interLATA entry.

I. Summary and Conclusions

5. BOC entry into long distance will lead to decreased prices and increased competition. BOCs have an economic incentive to offer lower prices than interexchange carriers (IXCs). Market evidence for landline long distance offered by SNET in Connecticut and by GTE elsewhere in the US, demonstrates that prices could well decrease by about 17-18%. Economic benefits to residential customers would be in the range of \$6-\$7 billion per

year.

6. BOC entry into long distance creates incentives for faster local entry, especially by IXCs. All competing carriers will want to offer one-stop shopping, so BOCs and IXCs will compete in both local and long distance markets, if permitted to do so by the Commission. Consumers will benefit from having the option of one-stop shopping for telecommunications services.

II. BOC Entry into Long Distance Will Lead to Lower Prices and Increased Competition

7. Most students of telecommunications agree that customers want some degree of one-stop shopping. AT&T, MCI, and Sprint have all stated publicly that they believe it is important competitively to be able to offer one-stop shopping. BOC entry into long distance will permit the BOCs to offer one-stop shopping to compete with AT&T, MCI, Sprint, Time Warner, and other companies who have publicly announced their future strategy. Increased choices to consumers make them better off, so they will benefit from BOC entry into long distance. Furthermore, market data from the UK and Canada demonstrate that a significant proportion of consumers will choose the one-stop shopping package if it is made available.¹ However, increased choices will not be the only consumer effect of BOC entry. Lower long distance prices and increased long distance competition will be the main benefit. In a market of about \$67 billion per year, price decreases will create consumer benefits in the billions of dollar per year. Market evidence which I discuss below demonstrates that long distance prices have decreased in landline long distance in Connecticut where SNET has been permitted to provide competition

1. For instance, in the UK greater than 50% of cable customers also buy their local and long distance telephone service from their cable operator. I examine data from Canada subsequently.

to the IXCs and in California and other states where GTE has been permitted to provide competition to the IXCs.

8. BOC entry into long distance will increase the economic incentives and the ability of IXCs to begin to offer local services. BOC entry will remove restrictions on AT&T, MCI, Sprint and other IXCs from bundling resold local services with their long distance services. The removal of bundling restrictions will increase the expected economic return to IXCs from offering local services. Thus, competition will increase in local markets and in long distance markets since consumers have indicated their preferences for one-stop shopping. Increased competition by BOCs in long distance markets will benefit consumers through lower long distance prices and through one-stop bundled packages of local and long distance services offered by the BOCs and by the IXCs. Increased competition will occur in local markets because once the BOCs begin to offer bundled packages of local and long distance services, IXCs will have to respond competitively with similar bundled packages of local and long distance services. The goals of increased competition of the Telecom Act of 1996 will be furthered since competition will increase in both long distance and local markets.

9. The ability of the BOCs to engage in joint marketing of local, long distance, and mobile packages will also increase competition in local markets (where IXCs and other competitors will be required by competition to respond with competitive offerings) and in long distance and mobile markets (where again competitive offerings will expand and prices will decrease). The current policy which restricts bundled offerings and joint marketing is a restriction on competition by regulation which is harming consumers.

10. The Commission's recent ruling on Ameritech's Michigan application (FCC 97-298, August 19, 1997) fails to recognize the substantial consumer

benefits from the availability of one-stop shopping, joint marketing, and lower residential long distance prices. Instead, the Ameritech order states that the public inquiry "should focus on the status of market-opening measures in the relevant local exchange market". (para. 385) The Order states that BOC entry into long distance market is "an incentive or reward for opening the local exchange market." (para. 388) The Commission is once again failing to recognize that regulation is meant to benefit consumers, not to further other objectives of regulators which can lead to decreases in consumer welfare on an overall basis. The Commission's view of BOC long distance entry as a "reward" does not analyze the effect on consumers of restrictions on the BOCs while they seek to achieve "reward status" according to the Commission's dictates. My academic research has demonstrated that the Commission's previous regulatory actions on voice messaging cost consumers over \$1 billion per year and the Commission's regulatory actions on cellular cost consumers about \$25 billion per year.² Here, the Commission's policy likewise is costing consumers billions of dollars per year, as I demonstrate subsequently, plus the benefits of one-stop shopping which consumers have indicated meets their preference for buying telecommunications services. Furthermore, as I explained above, local telephone customers suffer as well from diminished competition in those markets.

11. The Commission's "no barriers to entry" standard of regulatory perfection directly harms consumers by costing them billions of dollars per year. The policy is also not based on sound economic reasoning. Economic analysis for policy making considers the benefits and costs of a given policy design and attempts to equate the marginal benefits and marginal costs. As I

2. See J. Hausman, "Valuation and the Effect of Regulation on New Services in Telecommunications", forthcoming in Brookings Papers on Economic Activity, Microeconomics 1997.

demonstrate below the marginal costs of the Commission policy of not permitting increased competition in long distance markets is high--in the billions of dollars per year. The marginal benefits of the regulatory perfection standard of no barriers to local entry are considerably less than the Ameritech decision implies. If all significant barriers to local entry have been removed, the Commission should permit BOC entry into long distance markets.³ However, even if say 95% of the barriers to entry had been eliminated and 5% remained, it would not be in the consumers' best interest to forgo the billions of dollars of consumers benefits from long distance competition to achieve the last 5% of entry barrier removal. Thus, the Ameritech decision does not do the correct tradeoff analysis that economic analysis demonstrates leads to the greatest consumer benefits.⁴

A. Economic Theory Demonstrates that BOCs Have an Economic Incentive to Decrease Long Distance Prices

12. Economic theory demonstrates quite clearly that BOCs have an economic incentive to decrease long distance prices. First, BOCs will have economies of scope which (to the extent they can be realized consistent with FCC rules) will lead to lower costs and lower prices. More importantly, because (under current regulatory policies) access and long distance are both sold at prices well above marginal (incremental) cost to cover the large fixed costs of the local and long distance networks, the "double marginalization"

3. By significant barriers to entry, I mean barriers to entry that would allow a BOC to charge supra-competitive prices.

4. This situation is similar to the previous Commission decision in 1981 which did not permit BOC entry into voice messaging and which led to approximately a ten year delay before the service was offered. I estimate that this FCC decision cost consumers about \$1.2 billion per year. See J. Hausman, Valuation and the Effect of Regulation on New Services in Telecommunications, forthcoming in Brookings Papers on Economic Activity, Microeconomics 1997. No rational economic analysis could have led to the conclusion that the possible cost of BOC entry in terms of consumer harm could have been anywhere near this amount.

effect will give the BOCs an economic incentive to lower prices. The double marginalization effect occurs when two companies are in a vertical supplier/customer relationship. The upstream company sets its margin to maximize its profits individually while the downstream company does the same. If the upstream company begins to offer the downstream product also, it generally will set the final price of the downstream product to maximize its profits jointly. The company offering the combined product will often find it profitable to lower the price of the final product because it can increase its profits by lowering the price of the final product below the combined price of the previous economic situation. This price decreasing effect of vertical integration has been recognized by economists for decades.⁵ While access reform under the 1996 Act has decreased the access margin, it has not eliminated the entire margin. Thus, the price decreasing effect of BOC entry into long distance will remain.⁶

13. Suppose the BOC incremental margin on access is \$0.03 per minute while the IXC incremental margin on residential long distance service is at least \$0.07 per minute. The BOC would find it to be profit maximizing to lower the total margin from \$0.10 per minute because it earns both margins, rather

5. See e.g. J. Tirole, The Theory of Industrial Organization, Cambridge, 1988, p. 174 ff. Tirole discusses the "famous illustration of double marginalization" of J. Spengler, "Vertical Integration and Antitrust Policy", Journal of Political Economy, 58, 1950. While the original example of double marginalization was in the case of monopoly, it is well known to work in the case of imperfect competition as well. Imperfect competition occurs in telecommunications markets because of large fixed and common costs. While a large literature exists that can sometimes lead to adverse results to consumers with vertical integration, these results are not applicable in the current situation because the BOCs' access price is regulated and they cannot cause the IXCs to exit the long distance market given equal access regulation and the presence of substantial sunk costs.

6. Although BOC entry together with the resulting price decreases may harm some inefficient IXCs, the public interest inquiry concerns protection of competition, not inefficient competitors. Also, note that under Sections 251 and 252 of the 1996 Act, IXCs have the ability to provide facilities-based access, which allows them to realize both margins similar to the BOCs.

than only a single margin (\$0.03 for access + \$0.07 for long distance = \$0.10 total margin).⁷ When the BOC decreases the price slightly, it sells more access and more long distance and earns approximately \$0.10 per minute, while if an IXC decreases the price it only receives the additional margin from increased long distance of \$0.07 per minute. Thus, the BOC has a greater incentive to charge lower long distance prices than an IXC. Furthermore, when the BOC lowers the long distance price, the IXCs will lower their prices, which will increase the number of long distance minutes demanded and the number of access minutes for the BOCs.⁸

14. Using a long distance elasticity estimate of -0.723 and an economic model of AT&T price leadership in residential long distance, I compute that BOC entry will lead to decreased long distance price of at least 15-25%.⁹ The long distance price elasticity predicts the percentage increase in long distance calls for a 1% decrease in long distance prices, and the calculation finds that the BOCs have a significant economic incentive to lower prices because of the significant increase in long distance traffic that a lower price would cause. Thus, economic analysis predicts that BOC entry creates an incentive for BOCs to decrease long distance prices and increase long distance

7. Note that the BOC would also be using two sets of facilities, local access and long distance facilities, to earn this higher margin.

8. This economic reasoning holds true under a wide range of specific assumptions about the exact size of the relevant margins.

9. If I let the long distance margin be higher than my previous assumption of \$0.07 per minute, which is likely to be the actual situation, I would estimate a larger expected decrease in long distance prices. The market price elasticity that I use is widely accepted in the economics literature. See J. Gatto et. al., "Interstate Switched Access Demand", Information Economics and Policy, 3, 1988, and W. Taylor and L. Taylor, "Post-Divestiture Long-Distance Competition in the United States", American Economic Review, 83, 1993.

competition. Consumers would benefit from this outcome.¹⁰

B. Long Distance Entry by SNET has Led to Decreased Long Distance Prices

15. BOC entry into long distance will almost surely lead to price decreases for consumers, especially residential customers. Decreased prices should be an important consideration for a public interest determination regarding BOC entry since consumers always benefit from decreased prices for a product or service (holding quality constant). To the extent that BOCS are permitted to enter the market, prices will decrease because the BOCs will start with a 0% share and be forced to attract customers away from AT&T, MCI, Sprint, and other IXCs. Customers will be made better off by the decreased prices and increased competition.¹¹

16. An example of consumer benefits and increased competition from LEC entry into long distance is Southern New England Telephone Company (SNET). SNET was part of the old AT&T system, but because it was minority owned by AT&T, SNET was not covered by the MFJ. SNET provides local telephone service to all of Connecticut (except for Greenwich). Thus, SNET is in a similar position to a BOC, for instance BellSouth in any of its nine in-region states.

10. This conclusion would again hold under a wide range of assumptions. For instance, if instead of a price leadership model by AT&T, I used an oligopoly model of IXC behavior such as a Cournot model, I would again find a substantial predicted decrease in long distance prices from BOC entry because the firm price elasticities increase with BOC entry. Higher firm price elasticities lead to more competitive prices. Actual market outcomes, which I discuss below, further demonstrate that prices decrease significantly when a LEC is permitted to provide long distance service.

11. AT&T has claimed numerous times that the reason that it has continued to increase Basket 1 prices is that the FCC set these prices too low. Indeed, AT&T's economists, Prof. Willig and Prof. Bernheim stated that the fact that Basket 1 prices were too low was their "central observation" in an affidavit filed with the Department of Justice regarding BOC entry into long distance. (Affidavit of Prof. R. Willig and D. Bernheim, 1995, p. 138). However, BOC entry will lead to lower prices.

SNET has been allowed to provide interLATA long distance service, and has offered attractive price plans. By doing so, SNET is reported to have gained about a 35%-40% share of long distance business in Connecticut, and its long distance customer base and interstate long distance revenues are growing in excess of 40% per year.¹² To compare SNET's prices to AT&T's, I gathered data during early January 1997 on SNET's long distance prices.¹³ Using a typical pattern for residential customers, I estimated that SNET's prices were 24.0% lower than AT&T for a customer who did not qualify for an AT&T discount plan and 10.6% less for customers who qualified for an AT&T discount. Using the estimated number of AT&T customers on a discount plan, I find that overall SNET residential prices were about 18.4% less than AT&T's prices on average.

17. To do some direct comparisons, SNET's peak period (no discount) interstate price was \$0.23 per minute while AT&T's was \$0.31 per minute, a difference of 34.8%. Since SNET does not bill in full minute increments the actual difference will be even larger. For an average user who qualifies for a discount, SNET's price decreased to \$.20 per minute while AT&T's decreased to \$.233 per minute, for a difference of 15.5%. Similar differences existed for shoulder and offpeak periods. SNET charged a uniform rate for both shoulder (5-11 PM) and offpeak of \$.13 per minute, while AT&T charged \$.19 per minute for shoulder and \$.16 per minute for offpeak, both significantly above SNET's rates. Thus, while the per minute average differed depending on the exact calling pattern for a particular residential user, SNET's rates were significantly below AT&T's rates in Connecticut.¹⁴

12. Southern New England Telecommunications Corporation Press Release, July 24, 1997.

13. SNET had both lower prices than AT&T and a longer offpeak period, both of which lead to savings for consumers.

14. I only use interstate rates in the comparison since those rates are analogous to the interLATA rates affected by the prohibition on the BOCs to provide interLATA long distance. To the extent that AT&T has decreased its

18. This comparison of AT&T and SNET did not account for the recent price changes enacted on July 1, 1997 by AT&T due to their promise to the FCC to lower residential long distance prices when access rates were decreased. However, I checked AT&T's new prices in Connecticut and I found a similar relationship of SNET undercutting AT&T prices. In particular, AT&T decreased its peak period rate to \$0.29 per minute and also decreased its evening and night rates. However, AT&T does not include these lower rates in its discount plans, so that customers who qualify for discounts still pay the previous rates. I now estimate that overall SNET rates are about 17.3% less than AT&T's interLATA rates in Connecticut.

19. During 1997 AT&T has offered one-rate plans, with the primary advertised package a single rate of \$0.15 per minute at all times of day. However, SNET has undercut AT&T prices here as well. SNET offers a discount of 10%-15% off the \$0.15 per minute price depending on monthly calling volume. SNET also bills in per second increments while AT&T bills in per minute increments.¹⁵ Taking these two source of price differences into account and assuming an average long distance call of 4.0 minutes with a uniform distribution across seconds, I estimate that SNET's one-rate prices are approximately 17.5% lower than AT&T's one-rate prices.¹⁶ This estimate is

intrastate rates to consumers, which may be compared to intraLATA rates in the BOCs' territories, an additional consumer benefit would arise from increased competition. AT&T has decreased its intrastate rates in Connecticut because AT&T cannot lower interstate rates only in Connecticut, but would be required to do a nationwide price decrease which would not be in AT&T's profit maximizing interest since it does not face long distance competition from BOCs (or other LECs) in most other states.

15. AT&T also offers a lower one-rate price after payment of a monthly fee. However, AT&T's most economical plan bills in one minute increments so that it generally continues to be more expensive than SNET's one-rate plan, although the percentage difference decreases for greater monthly usage.

16. Use of a log normal distribution for call duration yields a minimum estimate of 17.5%. As the variance of the distribution increases the percentage discount also increases.

quite close to the 17.3% estimate above on the standard long distance rates.

C. Gains in Consumer Welfare from Decreased Long Distance Prices

20. On a national basis, if competition had the same effect as in Connecticut, the benefits to residential long distance customers can be calculated using a well known economic approach.¹⁷

Change in Consumer Welfare from Lower Long Distance Prices

$$\begin{aligned} \Delta W &\approx \sum_{i=1}^m -\epsilon_i p_i (q_i + .5) q_i \\ &\approx \sum_{i=1}^m -\frac{\Delta p_i}{p_i} [p_i q_i + .5 \epsilon_i \left(\frac{\Delta p_i}{p_i} \right) (p_i q_i)] \end{aligned}$$

where: q_i = quantity (1)

p_i = price

ϵ_i = price elasticity

$\Delta p_i / p_i$ = percentage change in price

The first term in the formula is the percentage price change times the size of the residential long distance market which I estimate to be approximately \$33.7 billion. I first use the SNET prices from January, 1997 to estimate the consumer savings which are approximately \$6.2 billion per year.¹⁸ Thus, the direct savings to residential long distance customers would total about \$6.2

17. This formula is well known in the public finance literature in economics. See e.g. A. Auerbach, "The Theory of Excess Burden and Optimal Taxation", in A. Auerbach and M. Feldstein, Handbook of Public Economics, Amsterdam, 1985. The second term in the formula is calculated with (utility) compensated quantities using the formula from J. Hausman, "Exact Consumer's Surplus and Deadweight Loss", American Economic Review, 71, 1981.

18. This term arises from multiplying \$33.7 billion by 0.184.

billion per year. The second term in the equation arises from increased consumer welfare from making more long distance calls because of the lower prices. Here, I need an estimate of the uncompensated price elasticity so that I use -0.723 given above. This term leads to another \$406 million in increased consumer welfare that would arise from additional calls that customers would place because of the lower rates.¹⁹ The total increase in consumer welfare using 1996 values is \$6.6 billion, under the assumption that AT&T and other major IXCs will be forced to respond to BOC entry with lower prices.²⁰ Additional gains would also go to businesses because of the increased competition which would likely lead to lower long distance prices for small businesses.

21. When I update the calculations using AT&T's August 1997 rates, which imply a price change of 0.173, and expected 1997 long distance revenues of \$37.1 billion, I estimate that the direct savings to residential long distance customers with BOC entry into long distance would total about \$6.42 billion per year. The second term, for consumer surplus, leads to another \$395 million in increased consumer welfare that would arise from additional calls that customers would place because of the lower rates. The total increase in consumer welfare for residential customers alone from BOC long distance entry using 1997 values is \$6.82 billion. Thus, using updated 1997 data, I estimate that overall residential consumers would gain about \$7 billion in consumer welfare. Again, additional gains would also go to

19. I use a compensated demand elasticity of -.712 which leads to \$406 million using the second term of equation (1).

20. AT&T has approximately 50% of the residential long distance market. When the BOCs begin to offer lower long distance prices, AT&T will be forced by competition to respond with lower prices. I then expect the pricing plans of other large IXCs to decrease by similar percentage amounts to maintain their competitive position. Prices could well decrease by more than SNET's discounts, however, since the wholesale price of interLATA traffic of 1.0-1.5 cents per minute demonstrates that long distance margins could decrease considerably with increased competition.

businesses because of the increased competition causing lower long distance prices for small businesses.

22. The public interest benefit of BOC entry into long distance markets is demonstrated by SNET's role in bringing lower long distance prices to Connecticut consumers.²¹ AT&T has responded by lowering its intrastate prices as well, which demonstrates increased competition. AT&T has not claimed that SNET has distorted competition through cross subsidy, misallocation of costs, or through discrimination. SNET has simply offered lower prices. Increased competition from new entry leads to lower prices. Consumers benefit from lower prices and increased competition.

23. Another example of a large LEC which provides interstate long distance service is GTE.²² GTE began providing long distance telephone service in areas in which GTE provides local exchange service in March 1996. GTE charges lower rates than AT&T for both interstate and intrastate calls. GTE's discount plan, Easy Savings, has the same discount rates and terms as AT&T's largest discount plan, True Reach Savings, so that the comparison of prices is straightforward between GTE and AT&T and their discount plans.²³ GTE's prices are 17.2% lower than AT&T's prices for residential customers.²⁴

21. Similarly, cellular long distance prices have decreased in some markets since BOC entry into providing cellular long distance after passage of the Telecommunications Act of 1996. For instance, Bell Atlantic-NYNEX chose a strategy of undercutting by 10% or more the lowest available long distance prices in a give MSA. This strategy caused Bell Atlantic-Nynex long distance cellular rates to be about 15-25% below AT&T's long distance cellular rates.

22. GTE is approximately equal to an average size BOC in terms of either total access lines or total revenue.

23. GTE gives an additional 10% discount for the first year of service. I do not take account of this additional discount in the calculation because of not knowing the churn rate for GTE customers.

24. AT&T began an advertising campaign which claimed that GTE's service and network is unreliable. GTE sued AT&T for false and misleading advertising.

Thus, both GTE and SNET are offering customers substantial discounts in the range of 17-18%. The estimate of consumer savings and increased consumer welfare from BOC entry would again be in the \$7 billion range if based on GTE's prices, similar to the calculations based on SNET's prices.

D. Gains in Consumer Welfare from the Ameritech Decision Standard

24. The previous analysis demonstrates that Commission policy is costing consumers approximately \$7 billion per year, or about \$580 million per month for each month of Commission induced delay in seeking its goal of no barriers to entry. The mistake in this policy can be demonstrated by using equation (1) to estimate how much consumer gain might be caused by a realization of the Commission's regulatory perfection standard of no barriers to entry. This estimate demonstrates that Commission policy is harming consumers and contravenes the public interest standard.

25. The second term in equation (1) for local exchange markets is essentially zero because previous research has found that the own price elasticity of local exchange service is near zero.²⁵ Thus, only the first term $-(p_j/p_j)(p_jq_j)$ occurs in the consumer welfare calculation where p_j and q_j are the prices and quantities of local exchange demand. This term is likely to be small overall to the extent that regulation has been effective.²⁶

25. Hausman et. al. estimated the elasticity with respect to the basic exchange price to be -0.005. See J. Hausman, T. Tardiff, and A. Belinfante, "The Effects of the Breakup of AT&T on Telephone Penetration in the United States," American Economic Review, 83, 1993. Other econometric research has estimated a similarly low elasticity.

26. An objection might be made here that long distance access prices could decrease with competitive entry. Of course, the Commission could achieve this goal by increasing the SLC and decreasing long distance access prices which would increase consumer welfare as I have demonstrated previously. See J. Hausman, "Proliferation of Networks in Telecommunications: Technological and Economic Considerations," D. Alexander and W. Sichel eds., Networks, Infrastructure, and the New Task for Regulation, Univ. of Michigan Press, 1995. In the context of the first term of equation (1) this policy

Furthermore, most economists agree that local exchange service is priced below incremental cost which further limits welfare gains. Most importantly, if the BOCs have satisfied the provisions of Sections 271 and 272 of the Telecommunications Act of 1996, then significant barriers to local entry have been removed.²⁷ For the Commission to set a standard so that all barriers to entry have been eliminated is against the public interest because the incremental gain from the first term is likely to be very small for the last incremental step to regulatory perfection. Analysis of the public interest standard of consumer welfare demonstrates that consumer welfare would be increased if BOC entry were permitted because the consumer welfare gains from increased competition in long distance will more than outweigh the incremental gain from the last step to regulatory perfection that the Commission's Ameritech decision demands.

III. Further Economic Factors

A. Experience in Other Countries

26. The U.S. is the only country where the incumbent LEC is not permitted to compete in long distance. Every other country which has permitted competition has permitted the incumbent LEC to compete. For example, Canada, the UK, Australia, New Zealand, Japan, and Hong Kong all allow the incumbent LEC to compete in long distance. Long distance competition began in Mexico in January 1997, and the incumbent LEC was also allowed to compete there, too. Thus, every other country has decided that the

change of an increased SLC and decreased long distance access prices would be a pure transfer among consumers with no aggregate consumer welfare effects to the extent that regulation has been effective. The effects on the deadweight loss from long distance calling from the second term of equation (1) would be very much smaller than the \$7 billion per year I have estimated for BOC entry into long distance markets.

27. By significant barriers to entry, I mean barriers to entry that would allow a BOC to charge supra-competitive prices.

benefits of LEC competition in long distance outweigh possible competitive concerns. Many of these countries, e.g. the UK, Australia, and Mexico, have somewhat similar price cap regulatory frameworks to the U.S. I find it instructive that all these other countries which face the same (or even greater) anti-competitive hypothetical possibilities have rejected the U.S. framework of not allowing LECs to compete in long distance.²⁸

27. In 1992 when Canada decided to allow long distance competition, it decided not to follow the U.S. prohibition on LEC provision of long distance. Instead, it decided to allow BC Tel, TELUS, Bell Canada and the other regional LECs to provide long distance in competition with AT&T Canada (previously associated with other companies) and Sprint. Indeed, Canada now has lower residential long distance prices than does the U.S. For example, the local company in British Columbia (BC Tel) offers a price of C\$0.17 per minute during all times periods, or US\$0.122 per minute in U.S. currency. TELUS, the local telephone company in Alberta, charges US\$0.115 in US currency per minute during peak periods and US\$0.10 during off peak periods. Sprint in Canada has recently offered an even lower price plan of \$0.108 per minute in U.S. currency.²⁹ Thus, BC Tel is 18.6% less expensive than AT&T's one rate plan offered to residential consumers in the U.S., and Telus is 28% less expensive. This outcome is quite remarkable given that Canada is much less densely populated than the U.S. and has historically had significantly higher long distance prices. Moreover, the markets for telecommunications equipment, e.g.

28. Since all of these countries have introduced competition subsequent to the AT&T divestiture decree, each country has considered and rejected the U.S. choice of not permitting LEC competition in long distance. Other countries, moreover, may well have greater anti-competitive possibilities because of problems with their form of regulation, e.g. Australia.

29. Note that Sprint offers a \$0.10 per minute rate in the US during off-peak periods, but charges regular peak prices during peak periods. Thus, the Canadian plan is significantly cheaper.

fiber optic cable, electronics, and switches, are international in scope so that Canadian long distance companies and U.S. long distance companies purchase their equipment from the same vendors, e.g. Northern Telecom and Lucent.³⁰ Significantly greater competition has occurred in Canada because of LEC participation, similar to the outcome in Connecticut and in GTE territories. Consumers benefit from the lower prices in Canada.

B Lock Step Pricing Among the Major U.S. Long Distance Providers

28. Current residential long distance prices are above the competitive level. In Exhibit 2, I demonstrate the lock step pricing behavior of AT&T, MCI, and Sprint over the period 1990-1996. Each time AT&T announced a price increase, MCI and Sprint followed. The remarkable economic fact about most of these price increases is that they were not the result of changes in AT&T's economic costs. Instead, regulatory accounting changes explain most of the price increases. The price increases were the result of changes in the FCC price cap regulation of AT&T, which allowed for price increases when the "Z factor" changed because of non-economic accounting regulation changes.³¹

29. An even more troubling outcome of AT&T's price increases is that MCI and Sprint followed along. Certainly, MCI's and Sprint's economic costs

30. Canada also has a long distance access payment system similar to the U.S. with similar access prices, so that the lower long distance prices are the result of increased competition. For instance, the BC Tel access rate at each end is \$0.028 per minute in US currency and Telus is \$0.034 per minute in US currency. Both amounts exceed the U.S. long distance access rate of approximately \$0.025 per minute.

31. For instance, in 1993, AT&T's price cap index was increased by over \$200 million, primarily because of the adoption of accrual accounting for certain post-retirement benefits (SFAS 106). Effective August 1, 1993, AT&T raised its rates for residential services by about one percent and its commercial rates by about 3.9 percent. Another price increase episode soon followed, in January 1994, when AT&T raised its prices yet again by about \$700 million. Two further lock step pricing episodes occurred in 1996 when AT&T raised its prices and MCI and Sprint soon followed the price increase.

did not change significantly when the regulatory accounting revisions were made to AT&T's regulation by the FCC. MCI and Sprint could have kept their prices at the old level and gained share from AT&T. Instead, they decided it would be more profitable to increase their prices along with AT&T.

30. The lock step price increases in long distance are even more troubling because the largest cost component, long distance access, has decreased significantly over the same time period. In Exhibit 2, the national average for access charges as computed by the FCC is given. During the period January 1990-July 1996, average access charges fell by 27%. Since AT&T and MCI have stated on numerous occasions that access charges are 45-50% of their costs, the decrease in access charges leads to a decrease of approximately 13% in total costs. Furthermore, other cost components of long distance have decreased, especially the electronics which are used in the fiber optic networks. Over the last 3 years, the price of bulk long distance for large volumes has decreased from 4.5 cpm to about 1.3 cpm. As one would expect the bulk long distance price to be affected primarily by the marginal costs of transport, this decrease in prices indicates that the marginal cost of transport almost certainly has decreased. Thus, two major cost components of long distance service -- access and transport -- have both decreased significantly over the past few years, yet residential long distance prices have not reflected these price decreases. This outcome is another indication of non-competitive behavior.

31. Economists for AT&T and MCI have responded to the lock step pricing data by stating that many customers receive discounts. About 50% of AT&T customers do not receive discounts. Furthermore, since many of the discounts are computed as a percentage off of the list price, increases in the list price also affect discount prices. Thus, the tariff rates have an important effect on long distance prices.

32. AT&T, MCI, and Sprint again raised their prices during late November 1996. AT&T announced the increase in its prices by 5.9% on November 27, 1996. As usual, MCI increased its prices by approximately the same percentage to go into effect at the same time as the AT&T price increases. Sprint also raised its prices at approximately the same time. Note that a substantial number of AT&T customers pay these higher prices, which increased by 10.2% in 1996 alone.³² During 1997 AT&T has offered one-rate plans, but these plans do not offer significant savings to a large segment of residential long distance customers who make the majority of their calls during off-peak periods. Furthermore, AT&T did not pass on the recent (July 1997) access rate decreases to its one-rate plan customers or indeed, to any of their residential discount rate plan customers. AT&T only decreased prices for non-discount customers, e.g. those residential customers who pay \$0.29 per minute for peak period long distance calls. This action again demonstrates non-competitive behavior.

IV. Regulation Eliminates Hypothetical Competitive Distortions as a Significant Concern

33. Opponents to BOC entry into long distance typically bring up hypothetical concerns that BOC entry will distort competition. Market experience does not support their hypothetical concerns. BOCs have been allowed to compete in cellular telephone for over twelve years, CPE for over twelve years, and information services for over five years. Yet no market evidence exists to demonstrate that prices are higher or competition less because of BOC entry. Non-BOC cellular companies have been highly successful,

32. AT&T stated that part of the price increase was necessary to fund its efforts to enter the local and wireless markets. (WSJ, Nov. 29, 1996) This statement demonstrates AT&T's belief in its market power since investments in local and wireless markets do not affect the incremental cost of providing long distance service.

e.g., McCaw and now AT&T. Similarly, despite opponents' dire warnings, the BOCs have at most 20% of the CPE market and probably less than 1% of information services revenue.³³

A. Possible Cross Subsidy and Cost Misallocation

34. Almost all economists agree that "pure" price caps remove cost misallocation problems. Since the regulatory cost basis does not affect prices under price cap regulation, cost allocations do not matter. Under previous FCC price cap regulation, the only major deviation from pure price caps is the possibility of sharing. Sharing is always uncertain, so cost misallocations have at most a small effect. However, now that the FCC has eliminated the sharing option, the previous objections that sharing can lead to possible competitive problems no longer exist.³⁴

35. No human undertaking, regulation included, is perfect. Yet in previous proceedings, some opposing economists have set up perfection as their standard, and they criticize price-cap regulation recently adopted by the FCC and many states because the regulation is not "pure." Yet most economists recognize that the price cap plans do substantially decrease any incentives for a BOC to cross subsidize or misallocate costs. As the Commission previously concluded: "Incentive regulation, by in large measure removing the incentive to misallocate costs between services, may mitigate misallocation as

33. See e.g. J. Hausman, "Competition in Long Distance and Equipment Markets", Journal of Managerial and Decision Economics, 1995.

34. A possible objection can be made that the bi-annual review of the productivity adjustment in the price cap formula can still create a potential problem. However, to the extent that the Commission uses an industry productivity adjustment, the effect of any individual BOC's actions are too small to have a significant effect on the productivity adjustment and its prices. Indeed, I have estimated that \$1 of successful cost misallocation would lead to a change in a BOC's revenues of \$0.0094, less than 1%. Given the penalties for violating the regulations, this extremely small possible benefit demonstrates that attempts at cost misallocation would not be worthwhile.

a regulatory concern." (In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, 5 FCC Rcd 6786, 6791 (1990)) Indeed, in recent reviews of price cap regulation, regulators have not used a rate of return approach to modify the price cap formulas. Instead, they have maintained the price cap approach of not basing regulated rates explicitly on costs. Without a cost basis for rate regulation, cross subsidy is not a problem because costs cannot be misallocated with any effect on regulated rates.

36. Indeed, the DOJ long ago realized that even under the previous rate of return regulation that local exchange service was unlikely to be used to cross-subsidize competitive services: "Experience to date indicates that such services are a very unlikely source of subsidy for competitive activities. Regulators are unwilling to let basic residential service charge or residential access charges--now generally subsidized by other services--rise to, much less above, their cost."³⁵ Now that the ability to cross-subsidize has been eliminated through the use of "pure" price caps, the specter of cross subsidy should finally be put to rest.

37. Furthermore, the FCC has a well developed regulatory framework to stop cost misallocations. Given that the Telecommunications Act of 1996 requires separation of the BOC's long distance operations from its local exchange operations for 3 years, the possibility of cost misallocations is reduced even further.

38. It would be economically irrational for the BOCs to attempt cross subsidy to distort competition in long distance. BOCs begin with a 0% share

35. Response of the United States to Comments on its Report and Recommendations Concerning the Line-of-Business Restrictions Imposed on the Bell operating Companies by the Modification of Final Judgment", April 27, 1987, p. 50.

of interLATA long distance traffic. BOCs would only benefit from cross subsidy of long distance if lower prices today (which helps consumers) could be made up with higher prices in the future. However, such a predatory strategy is economically irrational. The "big 3" IXCs plus WorldCom all have networks which are mostly sunk costs, creating a large barrier to exit. Furthermore, no barriers to re-entry exist since the networks would still be there. Thus, BOCs could not hope to drive out the IXC competition and later raise prices.³⁶ Of course, even if they did try the Commission could always stop the attempt to raise prices by re-imposition of price caps in the interexchange market.

39. The cross subsidy hypothetical problem is sometimes cast as a possible "leveraging" problem. Leveraging is not a competitive problem if prices decrease in the related market which economic analysis and market experience demonstrates is the expected outcome in the long distance. Price decreases lead to increased consumer welfare and are pro-competitive.

B Possible Discrimination

40. The FCC has over 10 years of experience of non-discrimination provision for BOCs providing access. Over 97% of BOC access lines are equal access so that no competitive problem will likely arise given the successful equal access experience, as the DOJ economist in this proceeding has agreed.³⁷ The key insight here is that for possible discrimination to distort

36. Note that the correct definition of predation here would be price below marginal cost plus BOC contribution from access. This total equals at most \$0.072 per minute which is less than 50% of the current price of long distance to residential customers. Thus, BOCs could decrease long distance prices greatly while still pricing above incremental cost plus contribution from access.

37. M. Schwartz, "Competitive implications of Bell Operating Company Entry Into Long-distance Telecommunications Services", May 14, 1997, paras. 137-140.

competition, the discrimination must be visible to the customer, but not visible to the competitor. Given the wide range of regulations and the agreements and network tests between BOCs and IXCs, this outcome seems almost impossible. As I discussed above, competition in cellular and information services, both of which depend crucially on BOC network access, has worked well. A similar situation would exist in long distance.

41. Market experience for other LECs providing long distance service also demonstrates the lack of competitive problems. SNET, the LEC for Connecticut, has been a successful competitor in long distance in Connecticut with no claims of discrimination filed by its IXC competitors. Similarly, when I analyzed the Sprint-Centel merger, Sprint's interLATA market share was no higher in states in which it provided local service so that no evidence of discrimination was found. Since the merger of Sprint and Centel, no claims of discrimination have arisen in Nevada where Sprint is the LEC for most of the population. Thus, fears of possible discrimination have not been seen in market experience. Hypothetical concerns should not be allowed to stop increased market competition in long distance. Indeed, Professor Marius Schwartz in his affidavit for the DOJ (op. cit., para. 74) concluded that no competitive problems are likely to exist from BOC entry into long distance, and that consumers would benefit from the increased competition. (paras. 138-139)

V. Conclusion

42. The estimated benefits to consumers from BOC entry into long distance total about \$7 billion per year. Considered another way, once the BOCs have satisfied the provisions of Sections 271 and 272 of the Telecommunications Act of 1996, further delay of BOC entry into long distance is equivalent to a tax on residential long distance customers of approximately

\$7 billion year or over \$60 per household per year. This tax is significant for many households, since my previous academic research has demonstrated that poor households make a significant amount of long distance calls (e.g. American Economic Review, 1993). Increased consumer welfare or increased economic efficiency is the appropriate public interest standard from an economic perspective. Since BOC entry into long distance has such a potentially large effect on consumer welfare, I recommend that approval be granted as soon as Sections 271 and 272 have been satisfied.

Jerry Hausman

Subscribed and sworn to before me
on this 26 day of September, 1997.

Notary Public

My Commission Expires: 7/3/98

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Application of BellSouth) Docket No. _____
Corporation to Provide)
In-Region, InterLATA Long)
Distance Services Under)
Section 271 of the)
Telecommunications Act of 1996)

AFFIDAVIT OF DAVID HOLLETT

David L. Hollett, being duly sworn, deposes and says:

1. I am David L. Hollett, Senior Director, Customer Billing Services, at BellSouth Telecommunications (BellSouth). In that role, I am responsible for the operational support (bill verification, message investigation, service order correction, adjustments, etc.) for bills generated from BellSouth's Customer Record Information System (CRIS) and Carrier Access Billing System (CABS). I submit this affidavit in support of BellSouth's petition to provide interLATA services originating in-region. The purpose of this affidavit is to demonstrate

that BellSouth is providing billing to local competitors on a non-discriminatory basis.

2. Since I assumed my present responsibilities, the oversight of development of much of the billing systems and operational billing support for BellSouth have been performed under my direction. I am familiar with the billing services provided by BellSouth to local competitors, interexchange carriers and BellSouth's end user customers.

3. Prior to assuming my present position, I was Director of the usage operations within Customer Billing Services (CBS). In July 1996, I was appointed Senior Director within CBS and assumed my present duties.

4. This declaration describes how BellSouth provides billing for Resale, Local Interconnection, and Unbundled Network Elements in a non-discriminatory manner as required by state public service commissions and the Federal Communications Commission. I describe the systems or platforms used for billing as well as the measures and controls in place to ensure accuracy and timeliness.

5. BellSouth provides bills to CLECs from either CRIS or CABS depending on the service provided. CABS is an Ordering and Billing Forum (OBF) compliant billing system that measures billable access usage and is used for billing to carriers. CRIS is an end user billing system that measures billable call events and accumulates call record details.

Generally, services ordered from the General Subscriber Services Tariff (GSST) or the Private Line Services Tariff (PLT) are billed through CRIS. Resold services, white page listings, and some unbundled network elements such as ports, non-designed loops, etc. are examples of CRIS billed services. Services ordered from the Access Services Tariff (AST) are billed through CABS. Local interconnection trunking and usage charges, unbundled designed loops, unbundled interoffice transport, etc. also are billed through CABS. On either a CRIS billing account or a CABS billing account, depending on the Unbundled Network Element (UNE) ordered, BellSouth can produce billing for all UNEs. These are the same billing systems BellSouth uses for its retail and access customers.

6. Currently, for the BellSouth region, 71 CLEC bills are being generated through CABS while 370 CLEC bills are being generated through CRIS as shown in exhibits 1 and 2. In Louisiana, the numbers are 0 and 22, respectively. BellSouth also provides CLECs with various billing media types. For CABS billing, the options include magnetic tape, diskette, CD ROM and Connect:direct transmission (point-to-point dedicated line data transfer) in addition to the paper bill. The CLECs' CRIS bills can be sorted by end user or account number using the Customized Large User Bill (CLUB) format which BellSouth provides to many of its retail business customers and to CLECs upon request. Also, Diskette Analyzer Bill (DAB) in either diskette or CD ROM version, Magnetic Tape Billing, and Electronic Data Interchange are available. See exhibits 3, 4, and 5 for CRIS billing options in use by CLECs and a CRIS Resale bill example.

7. BellSouth also agreed through contract negotiations and arbitration with AT&T and MCI to provide the CRIS billing in a CABS format. Although the AT&T Georgia contract gave BellSouth until August 3, 1997 to provide this CABS format, BellSouth provided a test file of AT&T's July 20, 1997 billing on July 24, 1997. There were minor errors in this preliminary file for which BellSouth provided an error report at AT&T's request. AT&T's August 20, 1997 bill was delivered via this mechanism, in addition to a paper bill, with one out of balance condition of \$1.00. Likewise, billing data has been provided for MCI's July and August billing well in advance of the September 7, 1997 contractual obligation. BellSouth will continue to furnish a CRIS paper bill until such time as the CLECs indicate they are ready to move to production.

8. In FCC proceedings regarding BellSouth's application for interLATA authority in South Carolina, MCI has asserted that BST does not provide billing information in industry standard format, CABS. (Declaration of Samuel L. King on Behalf of MCI, pp. 95 - 98). While, in general, BellSouth does provide billing for resale and some unbundled network elements from its CRIS system, the OBF has not defined standards for all aspects of local competition billing. For instance, OBF provided guidelines for data elements should an ILEC decide to use a CABS format for resale billing but did not purport that CABS was the standard.

9. Moreover, BST has provided MCI with CABS formatted resale data on five occasions and has worked cooperatively with MCI to resolve any concerns. The header problem referred to by MCI (King declaration, p. 97), was corrected with tapes sent October 23, 1997 and subsequently. MCI did not review the data on prior tapes due to this header issue. However, data provided to AT&T in the same format was processed by AT&T.

10. Statements made by MCI that a CRIS bill does not provide usage sensitive data or call detail are entirely false. (King declaration, p. 96). BellSouth uses the CRIS bill for its own end users. These bills, as are shown in exhibit 5 of my affidavit, contain both local usage summaries and call detail for intraLATA toll, per use calling features, etc. For measured local plans, local usage is also available in call detail format for the appropriate tariffed fee. Contrary to the comments made by MCI, the CRIS bill does provide the billing period date at the top of each page.

11. In addition, BellSouth has developed an OLEC Daily Usage File (ODUF) to deliver usage sensitive data in a manner that facilitates the CLECs' end user billing. ODUF information is available for resold lines, interim number portability accounts and some unbundled network elements such as unbundled ports. As determined by the Louisiana Public Service Commission (PSC), this system provides CLEC's "access to the data they need in substantially the same time and manner as BST". As of the date of this declaration, 14 CLECs are receiving the daily usage file in production mode while another 10 CLECs are receiving test files with approximately 1.5 million messages being transmitted monthly throughout the BellSouth region. This optional service can be provided electronically through Connect:direct transmission or magnetic tape.

12. The usage data transmitted to the CLECs, whether in rated or unrated format, is processed through extensive edits to ensure data integrity. While these edits are in

place and working, additional controls are being implemented as a result of a problem with one CLEC - ACSI, as I explain below.

13. BellSouth has procedures for delivering Directory Assistance (DA) messages to ACSI for their end user calls routed to BellSouth via unbundled operator services, then dropping these messages from further processing within the BellSouth system. Due to an error in identifying and dropping the usage, duplicate recordings were sent to ACSI for DA calls placed by subscribers served out of ACSI's end offices. While appropriately sending these recordings via the Daily Usage File, BellSouth failed to drop them from further processing. Instead, a second copy of each record was sent to ACSI via their daily Centralized Message Distribution System (CMDS) feed. BellSouth investigated and corrected the problem effective with the August 19, 1997 message processing cycle. Seventeen cycles have been processed since that time with no repeat of this duplication.

14. As a further "belt and suspenders" measure to prevent any future occurrences, BellSouth will be implementing programming logic in CMDS processing to drop these type of messages if originating from a CLEC NXX. Until this logic can be put in place, the CMDS file will be randomly verified, with no impact on the CLECs' access to the data, to ensure there are no CLEC NXX originated 0+, 0- or Directory Assistance calls. Also, additional controls have been and are being implemented for the ODUF process itself.

15. Although the only instance I am aware of billing accounts being double billed (i.e., BellSouth continuing to bill an end user after transferring to a CLEC) was provided in AT&T's Tamplin testimony in Georgia, BellSouth will be implementing a process by year end 1997 that will eliminate any potential for double billing. This process will allow a single service order to be issued to transfer an account to the CLEC rather than the need for a disconnect and a new connect order. Any time there are multiple service orders issued in this manner, there is a potential for a timing difference for completion. If this should occur, an automatic refund back to the effective date of the disconnect would be generated when the disconnect order completes. When orders are issued to transfer an end user to a CLEC, the end user's account is automatically removed from BellSouth's billing system after three months. This period of time allows for processing any delayed usage to the account.

16. Sprint claimed in the FCC's South Carolina proceeding that wholesale billing of its affiliate in Florida has been repeatedly incorrect. (Petition to deny of Sprint Communications Company, L.P., p. 18, Affidavit of Melissa L. Cloz attached to Sprint petition, p. 29). BST has received complaints from Sprint related to charges received due to errors in service order issuance and timely changes in rates. The necessary adjustments have been issued for these occurrences. While it is unfortunate these problems happened, they do not reflect on the integrity of BST's billing system. Service order issuance is not a billing issue (rather, it is addressed in other affidavits filed with this application) and the rate change problem was a

result of miscommunication not a fault in the rate change processing.

17. BellSouth also uses a variety of mechanisms to ensure accurate and timely billing. These processes and procedures are used for CLEC billing just as is done for BellSouth's end users. In addition, BellSouth is negotiating with some CLECs to develop a billing quality assurance process that will be used for the CLECs' CRIS billing.

18. BellSouth uses a bill verification process that targets risk areas to ensure accurate billing. These risk areas may be new products or services or those services with a change in billing structure. Usage related services that may include volume-sensitive or discounted calling plans are included in the sample also. Existing flat-rated services would not be heavily sampled as the risk of incorrect billing is minimal. A sample for each bill period is used that crosses customer and service types. Monthly service, other charges and credits, usage (local and intraLATA) and all other charges and taxes are verified.

19. An end-to-end test process that includes billing is performed for products and services before being made available to end users. This process tests the ordering, provisioning and billing for the service. The test results require approval signatures by the product team members before the service can be implemented.

20. Internal measurements on the number and amount of

billing adjustments and inquiries are also maintained. Other measurements include bill release timeliness and service order error rates. All measurement data are compared to expected results.

21. Many areas of billing are measured and have controls in place. Some are as basic as volume comparison of what enters a billing program and what exits. Other controls and measures can be very in-depth and detailed but all are used to ensure an accurate bill is generated and is received in a timely manner by the customer. All of these measures and controls apply to CLEC billing as they do to BellSouth's end users.

22. BellSouth has also implemented a number of billing and rating changes to meet the demands of the CLEC market. For Resale billing, BellSouth implemented a discount rating process that will allow PSC mandated or contractual rates to be billed. Rate changes for Louisiana accounts were run August 23, 1997. The discounting of non-recurring charges as ordered by the Louisiana PSC was implemented September 11, 1997.

23. In summary, BellSouth has the capability to bill CLECs on a non-discriminatory basis. BellSouth will also make the necessary billing system enhancements to meet new contractual or regulatory obligations in the future.

I hereby swear that the foregoing is true and correct to the best of my information and belief.

David L. Hollett
Sr. Director-Customer Billing
Services,
BellSouth Telecommunications,
Inc.

Subscribed and sworn to before me this ____
day of _____, 1997.

Notary Public

EXHIBITS

Exhibit 1CLEC CABS Billing Data for BellSouth Region

Exhibit 2CLEC CRIS Billing Data for BellSouth Region

Exhibit 3CLEC CRIS Billing Accounts with Diskette
Analyzer Bill (DAB) Option

Exhibit 4CLEC CRIS Billing Accounts with Magnetic
Tape Billing Option

Exhibit 5Sample CRIS Resale Bill

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

=====
**Application by BellSouth Corporation
for Provision of In-Region, InterLATA
Services in Louisiana**
=====

Docket No. _____

AFFIDAVIT OF VICTOR E. JARVIS

Victor E. Jarvis, being duly sworn, deposes and states as follows:

My name is Victor E. Jarvis. I am Vice President and Chief Financial Officer of BellSouth Long Distance, Inc. ("BSLD"). In this capacity, I am responsible for financial, accounting and general compliance matters relating to BSLD's operations, including its transactions with affiliates.

I earned a Bachelor of Business Administration degree in Accounting from the University of Florida in 1967. After graduation, I was employed by the accounting firm of Coopers & Lybrand, as a supervisor. In 1973, I accepted the position of Comptroller with Southeastern Utilities. In 1974, I joined the accounting organization of Southern Bell Telephone and Telegraph Company in Atlanta. For the past 23 years, I have held various positions in the financial organizations of Southern Bell, BellSouth Advertising and Publishing Company, BellSouth Corporation and BSLD. I was employed as the Chief Corporate Auditor of BellSouth Corporation from 1987 to 1996. I accepted my current position in 1996. I was licensed as a Certified Public Accountant in Georgia in

1971, and I am a member of the American Institute of Certified Public Accountants. In addition, I am a Certified Internal Auditor, and I am a member of the Institute of Internal Auditors. I served as International Treasurer of the Institute of Internal Auditors from 1993 to 1995.

The purpose of my affidavit is to demonstrate that BSLD will carry out the authorization requested by this application in accordance with the requirements of Sections 272(a), (b), and (g) of the Communications Act (“Act”) and the FCC rules relating thereto. The Affidavits of Alphonso Varner and Guy Cochran discuss compliance by BellSouth Telecommunications Inc. (“BST”) with Sections 272(a), (b), (c), (d), (e), and (g) of the Act.

My affidavit is divided into three parts which correspond to specific provisions of the Act: the Separate Affiliate Requirement (Section 272 (a)); Structural Transactional Requirements (Section 272(b)); and Joint Marketing (Section 272(g)).

BSLD COMPLIES WITH THE REQUIREMENTS OF SECTION 272(a)

5. Assuming the authorization requested by this application is obtained, BSLD will provide in-region interLATA services originating in Louisiana or which are treated as originating in Louisiana under Section 271(j). The services treated as originating under Section 271(j) include, but are not limited to, 800 service. When providing 800 service in Louisiana, BSLD will provide the same types of unrestricted 800 service offerings that interexchange carriers located in Louisiana currently provide to their customers.
6. Assuming the authorization requested by this application is obtained, BSLD will be a “separate affiliate” as described in Section 272.
7. BSLD is a duly formed and existing corporation organized under the laws of Delaware. BSLD is a wholly-owned subsidiary of BellSouth Long Distance Holdings, Inc. BellSouth Long Distance Holdings, Inc., which has no other subsidiaries, is a wholly-owned subsidiary of BellSouth Corporation. A copy of BSLD’s certificate of incorporation is attached hereto as Exhibit 1. BellSouth Corporation’s local telephone operating company, BST, owns no stock of BSLD; correspondingly, BSLD owns no stock of BST. BSLD is in all respects a separate corporate entity from BST.

8. BSLD provides no in-region originating interLATA wireline services of any kind as of the date of this affidavit.
9. BellSouth Corporation may from time to time reorganize, merge, or otherwise change the form of BSLD or create or acquire additional interexchange subsidiaries. Any such subsidiaries will meet the requirements of Section 272 of the 1996 Act, as well as applicable state and federal regulations.

BSLD COMPLIES WITH STRUCTURAL AND TRANSACTIONAL REQUIREMENTS OF SECTION 272(b)

Section 272(b)(1) provides that the required separate affiliate “shall operate independently from the Bell operating company.” The Commission has concluded that Section 272(b)(1) “imposes requirements beyond those listed in Section 272(b)(2)-(5).” Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, CC Dkt No. 96-149 at ¶ 158 (rel. Dec. 24, 1996) (“Non-Accounting Safeguards Order”). BSLD meets both the Act’s and the Commission’s operational independence requirements.

A Bell operating company (“BOC”) and its Section 272 affiliate must not jointly own switching or transmission facilities or the land or buildings where those facilities are located. Non-Accounting Safeguards Order ¶ 158. BSLD and BST have not ever, do not now, and will not jointly own telecommunications transmission and switching facilities or the land and buildings on which such facilities are located. Except as qualified by the Commission, a BOC and its Section 272 affiliate each are precluded from performing operating, installation and maintenance functions associated with the other’s facilities. *Id.* ¶ 163. Except as may be permitted by Commission rules, BSLD has not received, is not currently receiving, and will not request or accept from BST operating, installation and maintenance services in connection with switching and transmission facilities owned by BSLD or leased by BSLD from a provider other than BST. Moreover, BSLD has not provided, is not currently providing, and will not provide operating, installation and maintenance services to BST in connection with BST’s switching and transmission facilities, except that BSLD may perform such services for BST for sophisticated equipment

purchased from BSLD pursuant to paragraph 164 of the Non-Accounting Safeguards Order.

Section 272(b)(2) requires a BOC and its Section 272 affiliate to maintain separate books, records, and accounts. BSLD has complied and will continue to comply with these requirements.

a. Attached as Exhibit 2 to this affidavit is the chart of accounts and account descriptions used by BSLD. BSLD exercises adequate internal controls to ensure that its books and records are maintained in accordance with Generally Accepted Accounting Principles (GAAP). Those internal controls take several forms. One form is organizational structure. BSLD is a separate corporation. BSLD's organizational structure provides for a separate finance department which I head. Reporting to me are seven financial professionals who include six certified public accountants, three certified internal auditors and one certified management accountant (some of the professionals have multiple certifications). These professionals and I have responsibility for accurate accounting for the activities of the corporation.

In carrying out our responsibilities, we implement the controls contained in the BellSouth Financial Accounting Policy and in the Executive Instructions and Executive Directives of BellSouth Corporation, all of which have been previously reviewed by the FCC in various audits. These policies represent significant controls. In addition to internal policies, internal audits are regularly conducted by BellSouth Corporation to assure compliance. Finally, as a reporting company under the major federal securities statutes, BellSouth Corporation is required to report its financial activities in accordance with GAAP, and it obtains regular external audits to assure its compliance. These audits include BSLD.

b. BSLD maintains books, records, and accounts that are separate from the books, records, and accounts maintained by BST, and will continue to do so. BellSouth Corporation provides the accounting services within its journal entry system for the books of BSLD.

c. BSLD follows Generally Accepted Accounting Principles (GAAP) as required by

the Commission. Implementation of the Accounting Safeguards of Section 271
and 272 of the Communications Act of 1934, as amended, CC Docket No. 96-
150, ¶ 170 (rel. Dec. 24, 1996) (“Accounting Safeguards Order”).

Section 272(b)(3) requires a BOC and a Section 272 affiliate to maintain separate officers, directors, and employees. BSLD satisfies this requirement. BSLD’s officers are listed in Exhibit 3. BSLD’s sole director is William F. Reddersen. As of November 1, 1997, BSLD has 144 employees. No officer, director, or employee of BSLD is currently, or will be, simultaneously an officer, director, or employee of BST. BSLD and BST maintain separate payrolls and will continue to do so.

Section 272(b)(4) prohibits BSLD from providing its creditors with recourse to BST’s assets. BSLD has not obtained, and will not obtain, credit under any arrangement that would permit a creditor, upon default or otherwise, to have recourse to the assets of BST. BSLD has not requested and will not request BST, BellSouth Corporation or any other non-272 affiliate to co-sign a contract or any other arrangement with BSLD that would permit a creditor to obtain recourse to BST’s assets in the event of a default by BSLD.

Section 272(b)(5) requires that all transactions between a BOC and a Section 272 affiliate be conducted on an arm’s length basis, reduced to writing, and subject to public inspection.

BSLD will conduct its transactions with BST on an arm’s length basis. BSLD management has assigned responsibility for negotiation and administration of agreements with BST to the same employees responsible for these activities with unaffiliated suppliers of BSLD, and provides direction to those employees about the results expected from their work with BST and unaffiliated suppliers. Because BSLD is committed to providing its customers with quality service at fair prices, it will negotiate and administer its contracts with BST and other suppliers to obtain the inputs it needs at a price commensurate with the value of those inputs.

Transactions with BST will be reduced to writing. BSLD and BST have begun negotiations concerning the transactions they expect to occur. The following is a brief description of the services that BST will or may provide pursuant to written

agreement with BSLD:

- (1) Billing and Collection - BST will perform billing and collection services for BSLD in much the same fashion as it performs billing and collection for several interexchange carriers today;
- (2) IntraLATA Toll Resale - BSLD may purchase intraLATA toll from the tariffs of BST at the discounts ordered or approved by state public service commissions;
- (3) Daily Usage File - BSLD may obtain from BST usage information related to the intraLATA toll it purchases in order that it will have the necessary information to correctly format the billing information it must provide to BST and others;
- (4) Fraud Management - BSLD will obtain services from BST that will assist in detecting and preventing BSLD's services from being used by those who are unauthorized to use them or who have no intent to pay for those services;
- (5) Trouble Reporting and Referral - BSLD may obtain service from BST of receiving a trouble report from an end user customer concerning BSLD's service and referring that trouble report to the BSLD trouble management, which will manage the troubled resolution and close out the trouble with the customer;
- (6) Miscellaneous Services Agreement - BSLD may obtain miscellaneous administrative services from BST;
- (7) BST and BSLD will engage in joint marketing and sales activities permitted by Section 272 (g)(3).

BST and BSLD have conducted transactions. BST has performed and billed BSLD for the following described services performed through August 31, 1997 (certain bills delivered by BST totaling \$44,500 are under investigation and are not included here):

- (1) Customer Billing Services:

Initial planning associated with setting up end user billing accounts for the initial BellSouth Long Distance product offering. Included planning associated with rating of calls, discounting of rated calls, computing, billing, and collecting taxes, bill presentation, and billing information flow

between BST and BSLD. Also included documentation of work requirements for Information Technology (IT) coding. These services were provided to BSLD at fully distributed costs. The amount for these services totaled \$645,500. Services were provided from April, 1996 through August, 1997.

(2) Project Management:

Project management within BST for implementation of the sale of long distance products on an agency basis for BSLD. Provided assistance with issues such as the introduction, billing, and support of products through BST as a sales agent. These services were provided to BSLD at fully distributed costs. The amount of these services totaled \$195,000. Services were provided from June, 1996 through August, 1997.

(3) Network - Infrastructure Planning and Management - Provision of CIC Code:

BST provided BSLD the rights to use 377 as a Carrier Identification Code (CIC). These services were provided to BSLD at fully distributed costs. The amount for these services totaled \$481,700. Services were provided from December, 1996 through July, 1997.

(4) Interconnect Services - Advanced Intelligent Network (AIN):

BST provided initial application software development for a Proprietary Calling Card Service Package. The software is for use in BSLD's Advanced Intelligent Network. This service was provided to BSLD at fully distributed costs. The amount for this service totaled \$80,000. Services were provided in November and December, 1996.

(5) Sales Channel Planning and Design:

BST provided planning and design services required to integrate long distance products into BST marketing plans and operations. Included

development of specifications for taking service orders, handling of customer inquiries, credit policies, adjustment procedures, testing of sales and billing procedures, and training of service representatives. These services were provided to BSLD at fully distributed costs. The amount for these services totaled \$1,445,900. Services were provided from April, 1996 through August, 1997.

(6) Initial Planning:

Initial planning services during the start up phase for BSLD. These services were provided to BSLD at fully distributed costs. The amount for these services totaled \$23,700. Services were provided from April, 1996 through August, 1996.

(7) Information Technology - Billing Systems:

BST provided services associated with the development, design, coding, and testing of systems, including infrastructure changes, to bill long distance products to end users based on BSLD's billing requirements and of reports to verify compliance with sales activities. Included changes necessary to provide customers a consolidated bill for local and long distance services. These services were provided to BSLD at fully distributed costs. The amount for these services totaled \$2,995,400. Services were provided from April, 1996 through August, 1997.

(8) Information Technology - Product Integration:

BST provided services to implement and test the systems interface between BST and BSLD for long distance products. Included development of initial account structure, systems changes for the acceptance of orders and customer inquiries, development of systems for the acceptance of BSLD product codes, and development of databases to

store BSLD customer information. These services were provided at fully distributed costs. The amount for these services totaled \$622,000. These services were provided from April, 1996 through July, 1997.

(9) Employee Expense Correction:

During the first half of 1996, employees from BST accepted positions at BSLD. BST continued to incur payroll and benefit costs for a brief time after the employees accepted positions and began work at BSLD. BST billed these costs back to BSLD. This transaction was at fully distributed costs. The amount of the transaction totaled \$194,800.

(10) Investment Related Costs - PCs:

Depreciation of computers for BST employees assigned to BSLD-related projects. This transaction was at fully distributed cost. The amount of the transaction totaled \$30,700. Services were provided from September, 1996 through August, 1997.

(11) Interoffice Testing - CO Switch:

BST provided facilities, including SCPs and a Lucent #5ESS switch, and staff to test BSLD equipment. These services were provided at BST's prevailing company price. The amount for these services totaled \$42,800. These services were provided in June, 1997.

(12) Telecommunications Services:

BST provided local phone service to BSLD at standard tariff rates. The amount for these services totaled \$166,500. Services were provided from April, 1996 through August, 1997.

End to End Testing:

BST provided facilities in order to test various electronic and manual interfaces and systems between BST and BSLD. These services were provided at standard tariff rates. The amount for these services totaled \$2,309. Services were provided through August, 1997.

(14) Collocation:

BST has granted BSLD the right to occupy certain enclosed areas within BST's central offices located at: Courtland Street Office, Atlanta, Georgia; Orlando Main Office, Orlando, Florida; New Orleans Main Office, New Orleans, Louisiana; and Caldwell Street Office, Charlotte, North Carolina. This right is granted for a period of two years from the date BSLD's equipment becomes operational. These services were provided at BST's prevailing company price. The amount for these services totaled \$2,204,000. Services were provided from June, 1997 through August, 1997.

(15) Mail Service:

BST provided daily inbound and outbound mail services to BSLD. These services included the pick-up and delivery of mail to and from other BellSouth entities as well as pick-up and delivery of mail to and from external entities. Pick-up and delivery occurs daily at BSLD's principal place of business, 32 Perimeter Center East, Atlanta, Georgia, 30346. These services were provided at fully distributed costs. The amount for these services totaled \$67,800. Services were provided from January, 1997 through August, 1997.

Consistent with the requirements of Section 272 and applicable Commission rules, the transactions between BST and BSLD will be made available for public inspection. Responsibility for posting transactions to the Internet is assigned to BSLD's Director of Regulatory and Legislative Affairs. As transactions that must be posted occur, they will be forwarded to this Director for appropriate inclusion to the Internet site described below. Interested parties will be able to access the Internet as follows:

Access the BellSouth Corporation homepage at

<http://www.bellsouthcorp.com/>

Click on the "Public Policy" tab;

Click on the highlighted title "Transactions between BellSouth

Telecommunications, Inc. and BellSouth Long Distance, Inc."

A copy of the homepage is attached as Exhibit 4.

Although it is not obligated to do so, BSLD is publishing all of its executed written agreements with BST at the Internet site referenced above. In addition, my descriptions of past transactions listed in paragraph 14(c) are also being posted to the site.

15. Prior to commencing in-region, interLATA operations in Louisiana, BSLD will distribute to its management employees copies of section 272 and FCC requirements and regulations relating thereto. All employees with relevant

responsibilities will be informed of these requirements and future applicable modifications to the Act or FCC requirements. BSLD will provide a summary of each of the relevant requirements, along with explanatory materials.

The summary and materials will supplement training already provided by the Legal Department of BSLD. In addition, the Legal Department will continue to provide advice and assistance as needed with respect to the requirements.

BellSouth's written policies also instruct employees that the FCC has specific guidelines concerning how products and services are offered, and that employees should check with supervisors in the event they have any questions. Those policies also instruct employees that they may also contact the Legal Department for issues relating to competition, environmental or other legal matters that they may be concerned about.

This concludes my affidavit.

Victor E. Jarvis

STATE OF _____)

)

COUNTY OF _____)

Subscribed and sworn before me, the undersigned authority, on this _____ day of September, 1997.

NOTARY PUBLIC

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Application of BellSouth) Docket No. _____
Corporation to Provide)
In-Region, InterLATA Long)
Distance Services Under)
Section 271 of the)
Telecommunications Act of 1996)

AFFIDAVIT OF DAVID A. KETTLER

David A. Kettler, being duly sworn, deposes and says:

1. I am Network Vice President for Science and Technology for BellSouth Telecommunications, Inc., a fully owned subsidiary of BellSouth Corporation. In this capacity, I am in charge of the Science and Technology organization at BellSouth. I have been engaged in telecommunications research, development, and systems engineering for 26 years, having been employed at Bell Laboratories for 16 years prior to taking my present position at BellSouth in 1987. I have a Ph.D. in Electrical Engineering from the University of Virginia, and I have been engaged in a wide range of telecommunications architecture and standards issues during my career. I am a Senior Member of IEEE.

2. The Telecommunications Act of 1996 eased the MFJ restrictions on manufacturing. It permits the BOC's to engage in "close collaboration", research, and royalty arrangements. It does not, however, lift the restrictions entirely. As described below, even the modified restrictions of the Act hinder introduction of

new technologies that would enable either new services or operational efficiencies. In contrast, by lifting the continuing prohibitions, in-region interLATA relief under section 271 of the 1996 Act will allow equipment manufacturers, telecommunications carriers, and consumers to realize the benefits of new technologies and improved services.

3. The 1996 Act, while a step in the right direction, left unresolved issues which materially affect BellSouth's ability to create new technology and profit thereby. A key issue is the need for a clear understanding of the phrase "close collaboration" which the act allows, but is subject to FCC interpretation. In the past, the BOC's worked with manufacturers by creating and providing generic requirements which, at a functional level, described the product development which the BOC's desired. In practice, this led to substantial interoperability problems when different vendors used these requirements as their guide for product development. Even with use of extraordinarily detailed generic requirements, we have found it impossible in a practical sense to imagine every different interpretation that a developer might make of a requirement and to ensure through additional details that the requirement is unambiguous. Attempts to do so have resulted in requirements documents that are hundreds or thousands of pages long, so lengthy that the detailed information often gets lost in the volume.

4. The net effect of these restrictions has been that many

attempts to deploy new telecommunications capabilities over the past thirteen years using only generic requirements and minimal customer collaborations have been substantially delayed as manufacturers have had to substantially rework their original developments to achieve interoperability, often several times.

It is not clear at this juncture, that the opportunity for "close collaboration" materially affects this situation, given the uncertainty created by the possibility of a narrow definition by the FCC of the rights afforded to the Bell companies by the Act. In particular, if the FCC were to hold in cc Docket No. 96-254 that "close collaboration" is limited to establishing generic specifications and testing as some have urged, the provision of the 1996 Act would afford no practical relief from the MFJ at all.

5. In the complex world of technology, the absence of the opportunity for a customer to work intimately with a supplier ultimately results in increased costs. The user and supplier must share knowledge about the value and the cost of individual features in an iterative process to arrive at the optimum overall design for a given need. More often than not, the detailed information that must be shared between a customer and a supplier to bring a new product to market is proprietary, having to do with costs of manufacturing or costs of operations. Disclosure of such detailed information exposes the business case information of the respective parties, something neither is prone to do unless there is sharing of risk and investment. Collaborations that do not involve sharing

of risk, investment, and the benefits that accrue from such investments are handicapped from the beginning. To the extent that investments cannot be recouped by one of the parties, the BOC, the effectiveness of collaboration is compromised. Avoidance of problems as will be outlined below necessitates that BOC's and vendors work together on the details of a product , not just it's function. In some instances, there is a need for the BOC to design and create a product prototype. On other occasions, a joint design team, consisting of both vendor and BOC personnel is the most effective approach. In particular, the unfettered sharing of most aspects of the design process, including investment and reward, is key to an effective result.

6. There have been numerous opportunities over the past 13 years in which BellSouth might have reduced costs or met market needs for new services sooner if the MFJ manufacturing restrictions had not been in place. In light of the uncertainty created by a possibly narrow FCC interpretation of Section 273(b) and the limits of those immediate authorizations, I perceive little change in the situation absent in-region interLATA relief. I will describe two situations as examples. The first relates some experiences that BellSouth has had with respect to university research which BellSouth has sponsored over the years, and the effectiveness of that research under the manufacturing restrictions. The second relates BellSouth's experiences with our Advanced Intelligent Network (AIN) deployment and the effect of the restrictions on the

efficiency and effectiveness of that work.

7. BellSouth has long believed in the vision expressed by Vice President Gore a few years ago of a broadband National Information Highway. We have sponsored trials and deployments of broadband fiber optic networks, achieving many "firsts" in the nation in terms of the use of advanced technology. In further support of our belief, we have sponsored university research, particularly among the medical community, to discover and demonstrate uses of advanced networking technology for the purpose of improving the efficiency and efficacy of medical care.

8. Among these have been a project with the medical school at the University of North Carolina at Chapel Hill (UNC) and the Microcomputer Center of North Carolina (MCNC) to demonstrate dynamic radiation therapy planning. Dr. Julian Rosenman used a high speed ATM network provided by BellSouth and GTE to share supercomputer resources at MCNC for the purpose of planning radiation therapy treatments for patients at the UNC hospital. By positioning appropriately multiple sources of radiation, it is possible to use the principles of constructive and destructive interference to concentrate radiation directly on a tumor while avoiding high doses of radiation to the surrounding healthy tissue.

The supercomputer, which generally would not be locally available to a hospital, is needed for the extremely complex calculations required to simulate the effect of the multiple radiation sources on the human body. This work was successful, but has not

progressed in a commercial sense.

9. At the University of Alabama at Birmingham, we have funded research by Dr. Tom Winokur to develop equipment and procedures in support of telepathology, i.e., the use of a remotely controlled microscopic video camera, and network and control software to examine tissue samples as images via a remote computer terminal. The point of this research is to demonstrate that a pathologist can use high resolution imaging and high speed networking for the purpose of examining tissue samples rather than physically travel to the location where the patient is located. Implementation of such procedures will make pathologists more productive and could allow immediate consultation with other specialists should the tissue samples prove to have unusual characteristics. This work has been successful in that it has been demonstrated that no statistical difference exists in the accuracy of the pathologists' diagnosis over a wide range of diseases and other medical conditions whether done remotely via this system or locally using the actual slides with a conventional microscope.

10. Another project funded by BellSouth with the University of North Carolina, Healthcare 2000, established large scale multimedia terminals supporting high quality video and imaging applications on the North Carolina Information Highway (NCIH) for the purpose of providing geriatric medicine in rural areas. Dr. Mark E. Williams, a geriatric physician at UNC, has demonstrated

that an effective physician visit can occur via video telephony avoiding the need for patients with chronic conditions to travel long distances to see medical specialists on a continuing basis. In many past cases, patients have chosen not to see the physician rather than endure the necessary travel. The results of this work have been sufficiently successful so that there are now four commercial sites on NCIH being used for geriatric telemedicine. To my knowledge, there is no further commercialization.

11. At this point, the results of any of this research could be commercialized. However, the manufacturing restriction continues to present a problem to BellSouth. BellSouth cannot benefit financially from the manufacture and distribution of the terminal equipment and software to enable the kinds of capabilities described above without running the risk of conflict with the manufacturing restrictions in the 1996 Act. Therefore, any business case to invest in the development of such equipment fails.

All of these projects require very high speed network connections and associated customer premises equipment. The design and development of any equipment requires that network vendors, customer premises equipment vendors, and carriers work closely together. However, the fact that these are new, one-of-a-kind applications means that all the parties must share ideas in great detail to be sure that the resulting products meet the needs of both the initial customers and the perceived future market. This in-depth sharing of ideas and requirements by all parties makes it

very difficult to create a royalty arrangement, because it becomes impossible to determine who initiated an idea, who improved upon it, and how much value was provided by each. Practically, such arrangements need to be decided via equity and funding arrangements made before collaborative work begins.

12. Other venture capitalists might be found, and BellSouth has tried to find manufacturing companies who might be interested. BellSouth might expect to see, at most, a return on this investment in research from increases in network usage that are precipitated by the use of these kinds of applications. However, investments in the network features to support such applications can not be justified unless the availability of terminal equipment to support the application is assured. The business case for terminal equipment development and manufacturing cannot be justified unless the availability of network resources is assured. An end-to-end business case or joint venture is required to achieve success, and because the manufacturing restriction has made, and continues to make, such relationships either illegal, legally risky, or ineffective, progress in the commercialization of new telecommunications applications has been and continues to be substantially encumbered.

13. To give another example, in the spring of 1989, BellSouth decided to pursue the development and deployment of AIN technology. A system architecture for the proposed deployment was defined and generic requirements were developed for network

elements and operations support technology, which provided the basis for an RFP sent to appropriate telecommunications and computing vendors. After an analysis of available and prospectively available products, BellSouth decided to purchase Service Node (SN) and Service Control Point (SCP) hardware and software from AT&T Network Systems (now Lucent). A Service Management System (SMS) was necessary to support the operational aspects of input and management of feature and subscriber data to the SN and SCP. However, BellSouth was unable to find any vendor that was capable and willing to develop operations tools sufficient to meet BellSouth's needs that would interwork with the AT&T products. After a series of attempts to do so, BellSouth ultimately decided, late in 1990, to pursue the development of AIN operations support tools internally.

14. One of the difficulties in outsourcing the development of such tools is the necessity of developing detailed interworking specifications between the elements, in this case between the SCP and the SMS. Because the fundamental premise of AIN is to create the ability to create new applications unknown at the time of the platform hardware and software development, the SMS operations application must be able to understand the details of the data structures in the feature software running in the SN or SCP. Specifying details of data structures for parallel software developments in the context of generic requirements is possible, but is an extraordinarily onerous task. Invariably, each software

development organization has to develop additional software to make the internal software structure meet some arbitrary interface specification, whereas, if design collaborations with AT&T Network Systems were unambiguously permitted by the Act or the FCC's implementing rules, it would be possible to more tightly couple the designs of the two systems, thus achieving greater efficiency of design. Further, differences in implementation between two independent designs often are found only in the final testing stages which leads to design changes, delays, and increased costs as the implementations are reconciled.

15. BellSouth experienced an extremely frustrating series of requirements development, testing, and reconciliation efforts trying to develop management tools that would interwork across a wide range of applications with the AT&T products. Our inability to engage in design discussions with AT&T, to understand their design, to have them understand our design, and to suggest methods of design that would improve the interoperability of the systems made the task take much longer than might have been the case without the MFJ restrictions. Had two entities independent of the manufacturing restrictions been engaged in this effort, they might have temporarily merged development groups, solved design issues jointly, and then each developed software under a detailed design agreement that improved the probability of successful interworking. Further, absent the manufacturing restrictions, the costs of each of the development efforts would have been lower.

16. I am not claiming that we have not been successful with our AIN program. We have endured the difficulties, and have made the program a success. Many opportunities for individual advanced services have been lost, however, because we were not able to achieve a viable cost structure given restrictions on BellSouth's manufacturing activities. Within the cost structure imposed on us by the MFJ restrictions, only the highest value service opportunities can meet business case thresholds.

17. I have explained only a few examples of the continuing negative impact of the 1996 Act's manufacturing restrictions and unreasonably narrow interpretations of the authority granted by Section 273(b) of the 1996 Act on BellSouth and on the domestic telecommunications industry as a whole. It is difficult to understand who, other than dominant equipment manufacturers, has been advantaged by these restrictions. Almost everyone else in the domestic market has been disadvantaged, either from a negative impact on efficiency or through loss of investment and opportunities. This is in part because the design and development personnel of a manufacturing company need access to their customers to determine what details of design are important, and customers need access to detailed knowledge about design and manufacturing constraints and costs to understand what features are cost effective. The 1996 Act continues to encumber this essential exchange of information so that the US domestic telecommunications industry has not progressed as far as it might have without such

encumbrances.

18. With the large number of small development and manufacturing companies now working with emerging Internet technology, there are many opportunities for services innovation and network improvements that might be fostered by collaborations with network service providers. Absent the possibility of equity investment from major potential customers, many of these potential innovators are unable to fully develop their ideas. Likewise, in the absence of the ability to benefit financially from collaboration with such innovators, BOC's have far less incentive to provide the resources for collaboration. In short, many potential innovations are lost or rendered ineffective because of the continuing restrictions on investment and the lack of clarity in the FCC's interpretation of the statute's authorization of "collaboration". Freeing the BOC's from manufacturing restrictions would enable them to help counter this trend. The BOC's would then be able to provide direct equity investments to small manufacturers or universities in order to bring to market new products which support their service plans.

19. The MFJ manufacturing restrictions on the Bell operating companies have had, and even with the 1996 Act, continue to have, the opposite effect to that which was intended: they harm US consumers and manufacturers rather than protect them.

I hereby swear that the foregoing is true and correct to the best of my information and belief.

David A. Kettler
Network Vice President
Science and Technology
BellSouth Telecommunications, Inc.

Subscribed and sworn to before me this ____
day of _____, 1996.

Notary Public

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In The Matter of

Application of BellSouth Telecommunications Inc.)

for Provision of In-Region, InterLATA)

Services in Louisiana)

AFFIDAVIT OF W. KEITH MILNER
ON BEHALF OF BELL SOUTH TELECOMMUNICATIONS, INC.

I, W. Keith Milner, being of lawful age, and duly sworn upon my oath, do hereby depose and state:

My name is W. Keith Milner. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375. I am Director - Interconnection Operations for BellSouth Telecommunications, Inc. ("BellSouth"). I have served in my current role since February, 1996 and have been involved with the management of certain issues related to local interconnection and unbundling.

I graduated from Fayetteville Technical Institute in Fayetteville, North Carolina in 1970 with an Associate of Applied Science in Business Administration degree. I graduated with a Master of Business Administration Degree from Georgia State University in Atlanta, Georgia in 1992.

My business career spans over 26 years and includes responsibilities in the areas of network planning, engineering, training, administration and operations. I have held positions of significant responsibility with a local exchange telephone company, a long distance company, and a research and development laboratory. I have extensive experience in all phases of telecommunications network planning, deployment, and operation in both the domestic and international arenas.

The purpose of my affidavit is to describe how BellSouth has satisfied all of the network related items of the competitive checklist set forth in Section 271(c)(2)(B) of the Telecommunications Act of 1996 ("Act"). I will address these issues in terms of the relevant checklist item number. In doing so I will describe the network related items that BellSouth offers to requesting carriers through BellSouth's Statement of Generally Available Terms and Conditions ("SGAT") and through BellSouth's approved interconnection agreements with carriers such as Sprint Spectrum L. P. ("Sprint"), PrimeCo Personal Communications, L.P. ("PrimeCo"), and AT&T.

My affidavit will show that BellSouth is currently offering all required Checklist items in its SGAT for Louisiana and carrier-specific agreements, and CLECs are able to take advantage of those offerings. In many cases, BellSouth is already furnishing Checklist items to CLECs in Louisiana as well as in other states in BellSouth's nine-state region. The evidence of BellSouth's furnishing these items is contained in the counts of those items contained in my affidavit. In some cases, CLECs have not requested a given Checklist item in Louisiana but have requested that same item in another state in BellSouth's nine-state region. BellSouth's processes are identical in all nine states for ordering, provisioning,

maintaining and repairing network facilities and services and for rendering a bill. Thus, BellSouth's provision of a given Checklist item in one state is evidence of that item's functional availability in Louisiana. For some items, BellSouth has been providing the equivalent functionality for many years. Other items have not yet been ordered by CLECs; however, BellSouth has conducted extensive testing of these items to confirm that a given service or unbundled network element is functionally available from BellSouth.

This means that BellSouth need not depend upon CLECs actually ordering each item that is generally offered in order to prove that each item is functionally available. BellSouth has conducted testing, which I will refer to in my testimony as end-to-end testing, which demonstrates that a given Checklist item is functionally available from BellSouth even if, to date, no CLEC has requested it. This end-to-end testing was conducted to confirm that, once requested by a CLEC, BellSouth could provision, maintain and repair, and render a bill for the Checklist item. The end-to-end testing was conducted by product managers, project managers, and others within BellSouth who have day-to-day responsibilities associated with providing service to BellSouth's CLEC customers. Each end-to-end test summary included a "sign-off" sheet identifying the functional responsibilities of each end-to-end test team member along with a signature page showing each team member's verification of the successful conclusion of the test. Exhibit WKM-1, which is attached to this affidavit, shows Checklist items for which BellSouth has performed end-to-end testing. Exhibit WKM-1 also contains the summaries of the end-to-end test results.

The end-to-end testing was performed by the testing team by first creating an order for a given Checklist item and placing that order into the provisioning process flow.

The progress of that test order was then monitored at each step of the provisioning process to verify that the order could be processed as expected without error conditions occurring or manual corrective intervention being applied. If the test order encountered problems or errors were identified, the test was halted and analyses performed to identify the cause of the problem or error. Corrective action was taken to eliminate the source of the problem or error. Once the corrective action was in place, the end-to-end test was restarted to verify that the solution was effective and that no other problems or errors occurred. The end-to-end test was deemed successful only when an order could proceed through all required provisioning steps without error and without any manual intervention. In many cases the test team discussed any problems encountered plus the corrective actions taken. All end-to-end tests summarized in Exhibit WKM-1 were successfully completed.

Several of the end-to-end test summaries contain comments by the subject matter experts who conducted the test providing additional information regarding the conduct or results of the test. One such example is included in the test results summary sheet for unbundled local switching - 2 wire analog port. The comments are made in response to the questions "Was enough time allotted for ETET [end-to-end testing] requirements?" The author responded "Enough time was allotted for actual test of ordering, provisioning, and maintenance, however there was not enough time or resources allotted for development of the product or billing." Regarding "development of the product", the author was referring to additional product development such as new feature or functionality development. Such product development was rightly not the subject of the end-to-end test. Instead, the end-to-end test was designed to verify that BellSouth could appropriately respond to a request from a CLEC for a given unbundled

network element or resold service. The functionality and attributes of that unbundled network element or resold service were set out in the appropriate technical service description. Regarding “billing”, the author was recognizing that, at the time the end-to-end test was performed that BellSouth had not yet completed work necessary to mechanically produce a bill for unbundled local switching. The author noted also that “Billing data reflects rates expected from contract file.” Thus, while development of the mechanized billing process was not yet complete at the time the end-to-end test was performed, the test team did verify that billing records were generated and the those records reflected the expected rates which would be used by the mechanized billing system. The mechanized billing process for those unbundled network elements containing a usage charges has now been developed, tested and implemented as discussed in the part of this affidavit addressing Checklist Item VI, local switching.

The end-to-end test summaries also contain comments by the authors regarding any problems or anomalies encountered such as data base updating activities for unbundled network elements. One such example in the Test Results Summary Sheet for unbundled channelization is the comment “In addition channelized services did not load to WFA [Work Force Administration, a support system used by BellSouth during provisioning and maintenance activities]; this was found to be a preexisting condition and does not affect CLEC identification or provisioning.” In this case, the test team is simply pointing out that the end-to-end testing for unbundled channelization was successfully completed (as were all the end-to-end tests summarized in Exhibit WKM-1) and that the preexisting limitation in WFA did not impede the appropriate updating of required databases.

The end-to-end testing also verified that all required databases used in the

maintenance and repair of a Checklist item were appropriately updated.

Verifications were made that, if BellSouth received a trouble report from a CLEC customer for a Checklist item, BellSouth could maintain and repair the Checklist item appropriately.

The end-to-end testing also verified that an accurate bill could be rendered to the CLEC customer for the Checklist item. This included verifying that the discount level, in the case of resold services, was the correct level at the time the testing was performed.

CHECKLIST ITEM(i): INTERCONNECTION

The access BellSouth provides CLECs to points of interconnection will be equal in quality (as defined by 47 C.F.R. § 51.331) to what BellSouth provides to itself, and will meet the same technical criteria and standards used in BellSouth's network for a comparable arrangement, except where requested otherwise. 47 U.S.C. § 251(c)(2)(C) and 47 C.F.R. § 51.305(a)(3), (4). BellSouth and a CLEC may mutually agree to utilize another interconnection method when it is determined to be technically feasible via the bona fide request process.

BellSouth has technical service descriptions outlining its local interconnection trunking arrangements and switched local channel interconnection. These, and other technical service descriptions, are included in Exhibit WKM-9 which is attached to my affidavit. BellSouth also has procedures in place for the ordering, provisioning, and maintenance of its interconnection services. As of September 30, 1997, BellSouth has provisioned approximately 936 trunks interconnecting its network with the networks of CLECs in Louisiana (that is, trunks from CLECs' switches to BellSouth's switches). In its nine-state region, BellSouth has installed approximately 30,609 interconnection trunks from CLECs' switches to

BellSouth's switches as of September 30, 1997.

Interconnection at all points and using all methods available is provided under nondiscriminatory and reasonable terms and at the same level of quality and comparable interconnections that BellSouth provides to itself and its affiliates. 47 U.S.C. § 251(c)(2)(C) and (D). These equal quality interconnections are achieved through the use of the same facilities, interfaces, technical criteria, and service standards as BellSouth applies to itself. Order ¶ 224. The above standard of interconnection fulfills BellSouth's obligations under Section 271 (c)(2)(B)(i) and 251 (c)(2)(B) and (C) to interconnect with other carriers at a level of quality that is at least equal to what BellSouth provides itself.

End-to-end testing of interconnection was not performed given the very large quantity of interconnection trunks already in service. Further, because the necessary methods and procedures for access have been in place for many years, the necessary procedures for ordering, provisioning and maintaining interconnection trunks were in place and were considered "business as usual."

In the past, BellSouth has experienced a small number of isolated problems in establishing physical connections with certain CLECs' networks. Although some of these problems caused service disruptions for short periods of time, BellSouth has implemented numerous procedures to eliminate such problems. For example, BellSouth has modified the procedures by which BellSouth employees verify and test the interconnection provided to CLECs; BellSouth has also added network equipment to prevent trunk blockage problems and to restore service quickly in the case of future outages. BellSouth is not aware of any incident where it improperly canceled a CLEC's service, or did not respond in a timely manner to a CLEC's properly executed request for interconnection.

PHYSICAL COLLOCATION AND VIRTUAL COLLOCATION

The procedures for entering into collocation arrangements are included in BellSouth's Collocation Handbook. This handbook is available to all CLECs upon request and is intended to provide in one reference source all pertinent information. The Collocation Handbook contains established standardized procedures which will reduce the need for individualized negotiations and pricing.

BellSouth offers CLECs that collocate equipment in BellSouth's central offices several options of how to power their equipment. Obviously, for safety reasons, proper standards must be conformed to by all parties. BellSouth places no restrictions on the type of telecommunications equipment which may be physically collocated within a BellSouth central office. However, in order to protect BellSouth facilities, equipment and personnel, and the equipment and personnel of collocators, all collocation arrangements must be engineered and installed by a BellSouth certified supplier and must comply with the BellSouth Engineering and Installation Standards for Central Office Equipment (TR 73503). A CLEC may be approved to perform those tasks (physical collocation) which must be performed by certified suppliers, except in those situations where the required work may result in going beyond their equipment parameters (i.e. virtual collocation). In virtual collocation situations, CLECs will be required to use a BellSouth Engineering and Installation (E/I) certified supplier. Beyond these requirements, installation and engineering decisions regarding physically collocated equipment are left to the discretion of the collocator and the collocator's certified engineering and installation vendor.

Within its central offices, BellSouth conducts routine inspections and uses standard security procedures to ensure that BellSouth's facilities, as well as the collocated facilities of CLECs, are protected and to certify that all of the equipment that is

connected to such facilities is installed by certified vendors. A CLEC is permitted to employ its own personnel in establishing connections for that CLEC's facilities which are allocated in physical collocation arrangements within BellSouth's central offices. In either case, BellSouth requires that its own employees also be present to monitor and provide BellSouth's half of the connection.

With either Physical Collocation or Virtual Collocation, BellSouth provides an interconnection point or points, physically accessible by both BellSouth and the requesting CLEC, at which the transmission cables carrying the CLEC's circuits enter BellSouth's premises. The CLEC may use at least two such interconnection points at each of BellSouth's premises at which there are at least two existing entry points and where space is available for new facilities in those entry points. 47 C.F.R. § 51.323(d)(1) and 47 C.F.R.- § 51.323(d)(2). SGAT § I.1, Sprint § VI.A, PrimeCo § VI.A .

The Synchronous Optical Network based (SONET-based) Interconnection arrangement is similar to the Virtual Collocation arrangement, except that both the CLEC and BellSouth install SONET-based equipment in their respective locations and can choose the SONET equipment vendor of their choice. All of the same options for service configurations exist for this arrangement as with the Virtual Collocation Interconnection. The FCC tariff rate will be applied in accordance with Paragraph 826 of the FCC's First Report and Order (released August 8, 1996). ("FCC Order").

If a CLEC has no cable facilities of its own available for interconnection, it can lease special access DS1 or DS3 facilities from BellSouth. If the CLEC already has a fiber facility collocated in a BellSouth central office for other purposes, it can use the spare capacity of that facility for local exchange interconnection. 47 C.F.R. §

51.323(g).

BellSouth will provide to a CLEC at the CLEC's request, on a first come, first served basis, physical collocation under the same terms and conditions available to similarly situated carriers. 47 C.F.R. § 52.323 (f). SGAT § II.B.6, Sprint § VI.A, PrimeCo § VI.A. Physical collocation is available from BellSouth as evidenced by the fact that, from late 1996 through September 30, 1997, 21 physical collocation arrangements have been put in service throughout BellSouth's nine-state region. As of September 30, 1997, one (1) physical collocation arrangement was in service for a CLEC in Louisiana and two (2) physical collocation arrangements were in progress towards completion. Also as of September 30, 1997, a total of 88 physical collocation arrangements were in progress across BellSouth's nine-state region.

Collocated equipment will be placed in secured areas, separated from BellSouth's equipment area. The CLEC may elect to terminate its own fiber entrance cables on its collocated equipment. A space preparation charge will be assessed for constructing the secure space. The CLEC will be able to install, operate and maintain its equipment within that space and arrangements will be made for the installation of cross-connections to BellSouth's unbundled network elements, transport services, and trunking to other BellSouth central offices. In addition, BellSouth will permit the placement of interconnection facilities which allow a collocating CLEC to connect its equipment in its physical collocation space to the equipment in another CLEC's physical collocation space within the same central office. BellSouth also permits a CLEC to place interconnection facilities between its physical collocation spaces within a building in those cases when a single CLEC has more than one physical collocation arrangement in a given central office building. The CLECs may provide such interconnection facilities

themselves or, at the CLECs' request, such facilities will be provided by BellSouth. In the event that the equipment of either or both CLECs is placed in virtual collocation space, BellSouth will provide such interconnection facilities for their use. A CLEC may use its collocated facilities to provide interoffice trunking for the purpose of originating and terminating calls between a CLEC's switch and a BellSouth switch, and for transit calls to or from a third party via BellSouth's tandem switch. 47 U.S.C. § 251(c)(6).

A CLEC may also use its physical collocation arrangement to combine unbundled network elements which the CLEC acquires from BellSouth. Such combinations may also include equipment or facilities which the CLEC provides for itself. BellSouth will extend unbundled network elements to a CLEC's physical collocation arrangement and will terminate those unbundled network elements in such a way as to allow the CLEC to provide any cross connections or other required wiring within the collocation arrangement in order to effect the combination. One simple example to illustrate how a CLEC might combine individual unbundled network elements is the combination of an unbundled loop with an unbundled switch port. Both the loop and the switch port are normally terminated on the Main Distributing Frame (MDF) within the BellSouth central office. Upon request of the CLEC, BellSouth will wire the loop from the MDF to the CLEC's collocation arrangement. BellSouth will also wire the switch port from the MDF to the collocation arrangement. The CLEC may then combine any unbundled loop it has acquired from BellSouth with any unbundled switch port it has acquired from BellSouth, subject to the technical parameters of the loop and the port. By technical parameters, I refer to the characteristics and functionality provided by given unbundled network elements. For example, a two-wire analog unbundled loop will normally be combined with a two-wire unbundled switch port.

The CLEC is responsible for making any necessary cross connections within the physical collocation arrangement.

The collocating CLEC may locate any equipment used for interconnection or access to unbundled network elements in the secured space. Under this option, the CLEC may locate remote switching modules that do not provide enhanced services in BellSouth buildings. 47 C.F.R. § 51.323(c).

BellSouth's goal is to adapt its central offices such that separate and secured entrances are available for use by personnel of physically collocated carriers. Construction efforts are now underway in several BellSouth central offices to achieve this goal. Regrettably, some buildings cannot be or have not yet been reconfigured to permit the desired separate entrance. In such cases, security escorts are provided to accompany non-BellSouth personnel who must traverse BellSouth restricted areas to reach the equipment spaces of collocated carriers. Security escorts are available to CLECs 24 hours a day, seven days a week. The procedure is the same regardless of the time of day or the day of the week. BellSouth will not make inspection of CLEC collocation arrangements without prior notification except in emergency situations.

Virtual Collocation

Where space is not available for Physical Collocation, or upon request of the CLEC, BellSouth will offer Virtual Collocation in accordance with the existing BellSouth Tariff FCC Number 1, Section 20, "Virtual Expanded Interconnection Service", as contemplated by Paragraph 826 of the FCC Order. Under this option, the CLEC would install fiber optic transmission cable to the entrance manhole of the BellSouth tandem or end office and provide sufficient additional cable for BellSouth to pull the cable into a cable vault. BellSouth will splice the CLEC's

transmission cable to a CLEC-provided riser tail and cable termination shelf assembly. The CLEC will directly contract with a BellSouth certified vendor for the engineering and installation of its collocation equipment arrangement. The CLEC will lease to BellSouth all equipment, facilities and support components required to provision and maintain/repair the arrangement on an ongoing basis for the nominal fee of one dollar (\$1.00). Performance monitoring, alarm monitoring and software cross-connect control of all collocator-owned/BellSouth-leased facilities and equipment are the responsibility of the CLEC. Once notified by the CLEC that work is necessary, BellSouth will, at a minimum, maintain and repair collocated equipment within the same time periods as those that apply to the performance of similar functions for the same types of equipment used by BellSouth for itself. The facilities installed under this option can be used for interoffice trunking between the CLEC and BellSouth and for access to unbundled network elements. These virtual collocation facilities may also be used for special or switched access. 47 C.F.R. § 51.323(a), (e).

Exhibit WKM-2 is a list of physical and virtual collocation arrangements in progress and complete in Louisiana and BellSouth's nine-state region. Across BellSouth's nine-state region, there were 149 virtual collocation arrangements in service to CLECs with an additional 41 arrangements in progress as of September 30, 1997.

In Louisiana, the four (4) virtual collocation arrangements in service plus the four (4) virtual collocation arrangement in progress are located in four different BellSouth central offices. Those central offices are:

Baton Rouge Goodwood;

Baton Rouge Main;

New Orleans Main;

Shreveport Main.

Thus, BellSouth has experience in providing virtual collocation to CLECs in Louisiana in a variety of central offices.

Details of collocation arrangements are worked out between the parties. Thus, end-to-end testing was not performed for physical or virtual collocation.

CHECKLIST ITEM (ii): NONDISCRIMINATORY ACCESS TO NETWORK ELEMENTS

Each network element provided by BellSouth to all CLECs will meet applicable performance standards and be at least equal in quality and performance to that which BellSouth provides to itself.

As required by the FCC's Order, BellSouth makes available nondiscriminatory access to the following core unbundled elements:

- Local loop;
- Loop concentration in BellSouth central offices;
- Network Interface Device;
- Local switching;
- Tandem switching;
- Interoffice transport;
- Digital cross connection;
- Signaling networks and call-related databases;
- Operations support systems functions;
- Operator services and directory assistance.

Most of the minimum set of network elements are separately required by the checklist and therefore will be discussed in later sections of my affidavit. However, the Network Interface Device ("NID") will be discussed in this section. The NID is a cross-connect device used to connect loop facilities to a customer's inside

wiring. The NID contains connection points to which the service provider and the end-user customer each make their connections. The CLEC may provide its own NID and thereby interface to the customer's inside wire through the customer chamber of the BellSouth NID. This method has been referred to as the "NID-to-NID" method in that the CLEC connects its NID to the BellSouth NID and thereby gains connectivity between the CLEC's loop and the customer's inside wire. As a second method, BellSouth has agreed to allow a CLEC to connect its loop directly to any spare terminals in the BellSouth NID and thereby gain access to the customer's inside wire. 47 C.F.R. § 51.319(2).

Any repairs, upgrades, or rearrangements requested by the CLEC will be performed by BellSouth based on time and material charges.

At multiple dwelling units or multiple-unit business premises, it is normally expected that the CLEC will provide its own NID and will connect directly with the customer's inside wire without any requirement to connect to the BellSouth NID. In those situations where it is necessary to relocate or rearrange the BellSouth NID to allow access to the customer's inside wiring, such rearrangements or relocations will be charged to the CLEC on a time and materials basis.

The NID may be purchased separately if the CLEC provides its own loop distribution facilities. BellSouth will also provide a loop/NID combination upon request by the CLEC. BellSouth has tested the availability of the NID. During the testing process, service orders for a NID flowed properly through BellSouth's systems and accurate bills were generated.

The cross connect, which BellSouth also makes available to CLECs, is the media between the BellSouth distribution frame and a CLEC-designated collocation facility or BellSouth provided unbundled network elements purchased by the CLEC. SGAT § IV.B.2. BellSouth has tested the availability of the cross

connect. During the end-to-end testing process for collocation spaces, the proper order processing and billing for cross connections were verified.

CHECKLIST ITEM(iii): ACCESS TO POLES, DUCTS, CONDUITS AND RIGHTS-OF-WAY

At present, 13 CLECs, including 9 that operate in Louisiana, have executed license agreements with BellSouth that allow them to attach their facilities to BellSouth's poles and place their facilities in BellSouth's ducts and conduits. Furthermore, BellSouth has been providing cable television companies and power companies with access to poles, ducts, conduits and rights-of-way for many years. Exhibit WKM-3 to my affidavit contains a status report of all requests from CLECs in Louisiana for access to poles, ducts, conduits and rights-of-way. It shows that access to poles, ducts, conduits, and rights of way is functionally available from BellSouth.

Access to poles, ducts, conduits and rights of way is an arrangement rather than an unbundled network element. Access to poles, ducts, conduits and rights of way is worked out between the parties. Further, because methods and procedures have been in place to allow other utilities access to BellSouth's poles, ducts, and conduits, the necessary methods and procedures for obtaining such access by CLECs are in place and are considered business as usual. Accordingly, end-to-end testing was not performed for access to poles, ducts, conduits and rights-of-way.

CHECKLIST ITEM (iv): LOCAL LOOP

Unbundled local loop transmission is functionally available from BellSouth. BellSouth has technical service descriptions outlining the unbundled loops that are available and has implemented procedures for the ordering, provisioning, and maintenance of unbundled loops. These technical service descriptions are included in Exhibit WKM-9 which is attached to my affidavit. While as of September 30, 1997, no CLEC in Louisiana has requested any unbundled loops from BellSouth, BellSouth had provisioned 5,882 unbundled loops to CLECs in its nine-state region as of that same date.

BellSouth has worked cooperatively to meet CLECs' loop requirements. In one instance, a CLEC in Florida requested BellSouth to provide a loop which the CLEC could use to provide Frame Relay service to its customer. As BellSouth and the CLEC undertook to determine the technical requirements of such a Frame Relay capable loop, BellSouth made its Synchronet service available to the CLEC on an interim basis because this service has many of the service attributes the end user customer wanted. BellSouth and the CLEC have subsequently determined and agreed to loop types and sub-loop elements required for the CLEC to provide its Frame Relay service in Florida and BellSouth stands ready to provide those items to the CLEC upon request.

BellSouth also has conducted testing to verify that unbundled local loop transmission is available to CLECs. Specifically, BellSouth tested the availability of: (1) 2-wire and 4-wire unbundled voice loops; (2) 56 Kbps and Basic Rate Interface unbundled digital loops; (3) unbundled DS1 with bundled interoffice transport; (4) ADSL capable loop and; (5) HDSL 2-wire and 4-wire capable loops. An order for each of these items was generated and flowed through BellSouth's systems in a timely and accurate fashion. Billing records were reviewed as part

of the end-to-end testing to verify that each item had been billed correctly. BellSouth has devoted considerable resources to coordinating responses to CLEC requests for unbundled loops to ensure that loops are provided properly and accurately and to correct any and all deficiencies that CLECs reasonably identify. Where repair is required to correct a deficiency and BellSouth is at fault, BellSouth covers all charges for the repair of unbundled loops.

In addition to the unbundled loop, BellSouth provides access to Network Interface Devices as explained in connection with checklist item (ii), above. BellSouth will also provide a loop/NID combination upon request by a CLEC.

BellSouth conducted a study of its cutover results for one CLEC doing business in Georgia. As of June 20, 1997, BellSouth has provisioned 325 loops to that CLEC in Georgia. Of these, 318 loops (98%) were cutover within 15 minutes.

As with any complex offering such as unbundled loops, a few problems occurred in late 1996 and early 1997 for certain CLEC customers. In a very small number of instances, human error resulted in a service problem for CLEC customers. One such incident occurred in Georgia due to a BellSouth service representative misinterpreting instructions for filling out a necessary form and mistakenly inputting incorrect information into the form. BellSouth corrected the problem when the CLEC made BellSouth aware of it. The service representative was trained on the correct steps to take in fulfilling an order of the type involved. Apart from isolated cases of human error, past problems (which have all been corrected) fall into the following three categories: (1) incorrect loop design specifications which resulted in low transmission levels or noise on customer circuits; (2) lack of proper coordination between work activities removing the customer's loop from the BellSouth switch and reconnecting the customer's loop to the CLEC's switch, and (3) improper changes to a switch memory setting

referred to as a Simulated Facilities Group (SFG). Each of these three problems along with corrective actions taken by BellSouth to prevent future such occurrences are described in the paragraphs immediately following.

A very few customer loops in Georgia (less than ten) had an incorrect technical design specification which inserted transmission loss into the circuit. This additional loss caused low transmission levels (low volume) and noise on the customer's loops. The corrective action taken by BellSouth was to redesign the loop specifications to eliminate the inserted loss. This loop specification became the BellSouth standard used in all nine BellSouth states including Louisiana. No further customer problems of this type have occurred, although BellSouth has since provided thousands of unbundled loops to CLECs.

During the process of loop conversions from BellSouth to a CLEC, the customer loop is physically removed from the BellSouth switch and then reconnected to the CLEC switch. This step is necessary in order to effect the conversion. Until early in 1997, BellSouth accomplished this conversion by processing two different orders. The first order accomplished the disconnect activity and the second order accomplished the reconnect activity. In a very few instances, the required coordination between the disconnect and reconnect orders did not take place effectively and customer service was interrupted. The corrective action taken by BellSouth was to classify the disconnect and reconnect orders as "related" orders that were to be processed together. In this manner, a BellSouth technician, in preparing to work the disconnect order, is automatically informed of the associated reconnect order which must be worked at the same time. Since this corrective action was put in place in early 1997, no additional problems of this type have occurred.

One CLEC has argued that its loop cutovers were not coordinated even though the

CLEC had sent requests to BellSouth for the updating of information in BellSouth's Line Information Database (LIDB), which is used in verifying calling cards used to place toll calls. Given that similar LIDB update requests are made for CLEC end user customers who are not served over an unbundled loop provided by BellSouth, however, requests to update LIDB cannot be properly construed as requests for coordinated provision of unbundled loops. BellSouth routinely performs the necessary updates to LIDB as required. Further, I am not aware of any complaints by CLECs regarding BellSouth providing either LIDB updates or access to the database. The LIDB update process and coordination of loop cutovers are entirely separate steps in providing service, whether the CLEC serves the end user customer over an unbundled loop provided by BellSouth or whether the CLEC serves the end user customer over a CLEC-provided loop.

During late 1996 and early 1997, on certain conversions of unbundled loops from the BellSouth switch to the CLEC switch, the CLEC also requested interim number portability and problems with porting of the telephone number occurred due to incorrect settings of the SFG. The maximum number of simultaneous ported number calls from the BellSouth switch and a given CLEC switch is controlled by the SFG. The SFG contains a numeric value that equals the maximum quantity of simultaneous ported calls from all customers of a given CLEC served by that BellSouth switch. In a very few instances, the SFG was incorrectly set to very low values which restricted the quantity of simultaneous calls that could be ported. As a result, some CLEC customers complained that they could not be called. However, the CLEC customer could always make outgoing calls. BellSouth has solved this problem by instituting special training for BellSouth's technicians who make changes to the SFG and by having a special computer

message appear to the BellSouth technician informing him or her of the critical nature of the SFG translation and requesting that the technician positively affirm the intention to proceed with making any change to the SFG. Since the introduction of the training and associated on-line reminders in early 1997, BellSouth has had no further occurrences of incorrect settings of SFGs for CLECs.

CHECKLIST ITEM (v): LOCAL TRANSPORT

Local transport is functionally available from BellSouth. BellSouth has technical service descriptions outlining both dedicated and shared interoffice transport and has procedures in place for the ordering, provisioning, and maintenance of these services. These technical service descriptions are included in Exhibit WKM-9 which is attached to my affidavit. As of September 30, 1997, BellSouth had provided twenty two (22) dedicated local transport trunks to CLECs in Louisiana. BellSouth has provided 961 dedicated trunks providing interoffice transport to CLECs in its nine-state region as of that same date.

For shared transport, specific counts of trunks providing service to CLECs can not be determined. This is because, as the name (shared transport) implies, all trunks in a given trunk group are available for carrying any carrier which uses that group, including BellSouth and in some cases multiple CLECs. At present, no CLEC in Louisiana has requested that BellSouth provide it shared transport. Across its nine-state region, BellSouth is providing shared transport to two CLECs.

Because unbundled interoffice transport (both dedicated and shared) is very similar to the interoffice transport components of special access services that BellSouth has been providing for years, BellSouth reasonably concluded that end-to-end

testing of its systems and circuits was not necessary. However, BellSouth did conduct testing which verified that service orders for dedicated transport, shared transport, and unbundled channelization flowed through the back office systems as planned and that accurate bills were generated.

CHECKLIST ITEM (vi): LOCAL SWITCHING

BellSouth has a technical service description and has procedures in place for the ordering, provisioning, and maintenance of its switching services. This technical service description is included in Exhibit WKM-9 which is attached to my affidavit. As of September 30, 1997, BellSouth has no unbundled switch ports in service in Louisiana. Region-wide, BellSouth had 21 unbundled switch ports in service as of that same date, which evidences the functional availability of unbundled local switching from BellSouth.

Customized routing (which has also been referred to as selective routing) allows the calls from a CLEC's customers served by a BellSouth switch to reach the CLEC's operator service or directory assistance service platforms instead of BellSouth's operator service and directory assistance service platforms. As yet no CLEC in Louisiana has requested that BellSouth provide it with customized routing; however, BellSouth has completed work to provide a CLEC in Georgia with customized routing and customized routing is operationally available to that CLEC. BellSouth provided selective routing to the CLEC in Georgia using the "line class code" method. In addition, that same CLEC has requested that certain calls, such as "411" calls to directory assistance, be re-routed as 900 NPA calls to the CLEC's directory assistance platform. While this type of routing was neither the subject of arbitration between BellSouth and any CLEC, nor in the CLEC's original request for customized routing under its interconnection

agreement, BellSouth will investigate this additional functionality via the bona fide request process agreed to between BellSouth and this CLEC.

A second method for providing selective routing is through the use of BellSouth's Advanced Intelligent Network (AIN) platform. Development work continues on this method and it is expected that a technical and market trial of this method will commence in Georgia during December 1997. Exhibit WKM-11 to my affidavit is a description of the AIN method of providing selective routing.

A bill for the monthly charges for the flat-rate priced (that is, non-traffic sensitive) components of unbundled local switching can be system generated at present. The usage charges for the traffic sensitive components of unbundled local switching contain several components and can vary by distance and the number of switches involved in completing the call. Here again, BellSouth has completed the required developmental and implementation work and has a process in place and the capability to produce a bill mechanically for usage charges if a CLEC purchases unbundled switching from BellSouth.

BellSouth's billing system for unbundled network elements has been enhanced to mechanically generate a bill for those unbundled network elements which contain a local usage element. For unbundled local switching, the new billing process provides for six (6) usage sensitive elements as follows:

- Unbundled local switching - switching function
- Unbundled local switching - trunk port
- Unbundled interoffice transport - fixed element
- Unbundled interoffice transport - mileage element
- Unbundled tandem switching - switching function
- Unbundled tandem switching - trunk port

BellSouth provides the CLEC customer with details of usage measurements

upon request in order for the CLEC to verify the accuracy of the “summary usage file” .

Key dates for the implementation of the new billing process are as follows:

August 14, 1997: Customer Record Information System (CRIS) is updated to Release 97.3 which allows production of the “summary usage file.”

August 25, 1997: First production cycle of the “summary usage file” is sent from CRIS to the Customer Billing Systems File Transfer Protocol (FTP) server.

September 15, 1997: “Summary usage file” is processed to produce and verify accuracy of test bills.

September 25, 1997: First production of bills for CLECs for usage elements. Output of process is sent back to CRIS for inclusion on CLEC bills in “Other Charges and Comments” section.

Exhibit WKM-12 which is attached to this affidavit is a copy of a test bill generated to verify the accuracy of the process. To my knowledge, there have been no CLEC complaints regarding the format, contents or accuracy of the bills produced beginning September 25, 1997.

CHECKLIST ITEM (vii): 911/E911, DIRECTORY ASSISTANCE AND OPERATOR CALL COMPLETION

BellSouth has developed a “CLEC GUIDE” (E911 Local Exchange Carrier Guide for Facility Based Providers) (Exhibit WKM-10) which provides the information needed for facility based providers to interconnect to BellSouth for 911 services. In general, the process for facility based carriers begins upon initial contact with the BellSouth CLEC Coordinator where a non-disclosure agreement is provided

to the CLEC for 911 services. Once BellSouth receives the signed non-disclosure agreement from the CLEC, and any concerns are mutually discussed and resolved, 911 trunks are ordered through the CLEC's Interconnect Account Team.

BellSouth subsequently works with the CLEC to determine the appropriate 911 tandem for routing of the CLEC's 911 calls. The CLEC will then furnish, to BellSouth, lists of the CLEC's NPA/NXXs and 911 tandems as well as a MSAG (Master Street Address Guide) request. The MSAG is used by the CLEC to send its customer data (mechanically) to BellSouth in the correct format. This data is then included in the 911 database; subsequent data sent by the CLEC is processed daily. Any errors found are faxed back to the CLEC with error codes (codes furnished in the CLEC Guide). It is the responsibility of the CLEC to correct errors and re-submit its subscriber information mechanically back to BellSouth. Also, the CLEC has a responsibility to remain in contact with the counties to determine certain information such as default ESN (Emergency Service Number) and surcharge information. Exhibit WKM-4 indicates how BellSouth maintains the accuracy of CLEC information in the 911 database with the same accuracy and reliability that it maintains the database entries for its own customers and provides access to this database in a nondiscriminatory manner. BellSouth is not aware of any instances where it caused incorrect end user information regarding a CLEC end user customer to be sent to emergency services personnel.

Access to 911 and E911 services is provided through existing tariffs to local government bodies in Louisiana. BellSouth will provide customers of CLECs with access to the type of 911 service selected by the governmental body of the area in which they reside in a manner identical to the 911 service supplied to

BellSouth's own customers. A CLEC may provide 911 access service directly to the governmental body, or may interconnect to BellSouth's existing service arrangement, at the request of the governmental body.

BellSouth will provide and maintain equipment at the E911 Control office and the Database Management System as necessary to perform E911 services for the requesting local E911 customer. This will include some or all of the following as needed:

Transporting the E911 calls from the CLEC's switches to the Control Office of the E911 system;

Switching the E911 calls through the Control Office to the Public Safety Answering Point;

Storing the names, addresses, and associated telephone numbers from the CLEC's customers in electronic data processing databases for the E911 Database Management System;

Transmission of the information associated with the CLEC's customers to the Public Safety Answering Point upon the customer calling 911.

BellSouth will provide and maintain sufficient dedicated E911 circuits according to provisions of the E911 tariff and specifications of the E911 customer. BellSouth will also provide the CLEC a description of the geographic area and Public Safety Answering Points served by the E911 Control Office. SGAT §VII.A, Sprint § X.A, PrimeCo § IX.A, AT&T Att.2 (Pg.106), MCI Att.VIII-63. BellSouth routinely monitors service levels (percent call blockage) on E911 trunk groups and takes appropriate, coordinated action with the responsible CLEC to provide additional trunks as needed. These trunk servicing activities are performed in the same time frame and manner as BellSouth does for the E911 trunk groups from its own switches. See the affidavit of William N. Stacy for an extended

discussion of BellSouth's trunking architecture and procedures.

BellSouth will provide all necessary street address information for the exchanges or communities where the CLEC will operate in order to allow the CLEC to create the necessary customer files for E911 automatic location identification.

BellSouth will also provide the CLEC with all necessary documentation for the operation of the local E911 system and the methods of downloading and maintaining files of end user records. SGAT § VII.A.4, Sprint § X.A, PrimeCo § IX.A, AT&T Att.2 (Pg.106), MCI Att.VIII-63.

BellSouth has had procedures in place since early 1996 by which CLECs can connect their switches to BellSouth E911 tandems. As of September 30, 1997, CLECs have requested and BellSouth had provided eight (8) such trunks from CLECs in Louisiana. In its nine-state region, BellSouth had 213 trunks in service connecting CLECs' switches with BellSouth's E911 arrangements as of that same date. In its nine-state region, 15 CLECs were sending mechanized telephone updates to BellSouth for inclusion in the 911 database as of September 15, 1997. Those mechanized updates include both end user customers to whom CLECs provide service via the resale provisions of the Act as well as those end user customers to whom CLECs provide service from the CLECs' own switches. Because methods and procedures have long been in place to allow other carriers, including independent LECs, access to BellSouth's E911 and 911 updating capabilities, the necessary methods and procedures for obtaining such updating by CLECs have been business as usual. Accordingly, end-to-end testing of E911 database updating was not performed.

BellSouth provides CLECs with Directory Assistance Access Service (DAAS), which allows CLEC end users to obtain telephone listing information from BellSouth's directory assistance platforms. CLECs also have access to BellSouth's

Directory Assistance Call Completion (DACC) service, which gives the CLEC end user the option to have a call to BellSouth's DA completed automatically. BellSouth has developed a technical service description and ordering, provisioning, and maintenance procedures for both its DAAS and DACC services. These technical service descriptions are included in Exhibit WKM-9 which is attached to my affidavit. Facilities-based CLECs obtain access to these services through trunks connecting the CLEC's point of interface to BellSouth's DA location. As of September 30, 1997, CLECs in Louisiana had requested six (6) directory assistance trunks from BellSouth and in BellSouth's nine-state region, there were 492 directory assistance trunks in place serving CLECs. In its nine-state region, 15 CLECs were purchasing DAAS and 9 CLECs were purchasing DACC from BellSouth as of October 1, 1997.

BellSouth provides selective routing which allows a CLEC to brand calls from its customers with all directory assistance and operator services. Please refer to the discussion earlier in my affidavit of Checklist Item VI regarding local switching and selective routing.

Because methods and procedures have been in place to allow other carriers, such as independent LECs, access to BellSouth's DAAS, the necessary methods and procedures for obtaining such access by CLECs were considered business as usual. Accordingly, end-to-end testing was not performed for DAAS.

Likewise, because methods and procedures have been in place to allow other carriers access to BellSouth's DACC, the necessary methods and procedures for obtaining such access by CLECs were considered business as usual. Accordingly, end-to-end testing was not performed for DACC.

CLECs also have access to BellSouth's intercept service, which refers calls from a disconnected or non-working number to the proper number. BellSouth has

developed a technical service description and ordering, provisioning, and maintenance procedures for its intercept service. This technical service description is included in Exhibit WKM-9 which is attached to my affidavit. Facilities-based CLECs obtain access to BellSouth's intercept service through a dedicated trunk facility. As of September 30, 1997, no CLECs in Louisiana had requested that BellSouth provide intercept trunks. However, in BellSouth's nine-state region, BellSouth had provided 14 intercept trunks to CLECs as of that same date. Because methods and procedures have been in place to allow other carriers access to BellSouth's intercept service, the necessary methods and procedures for obtaining such access by CLECs were considered business as usual. Accordingly, end-to-end testing was not performed for Intercept service.

BellSouth provides CLECs and other service providers with access to BellSouth's Directory Assistance Database Service (DADS). This allows CLECs to use BellSouth's subscriber listing information to set up their own directory assistance type services. BellSouth also provides CLECs and other service providers with access to BellSouth's Direct Access to Directory Assistance Service (DADAS), which gives CLECs direct access to BellSouth's DA database in order to provide a traditional directory assistance service. BellSouth currently provides both DADS and DADAS to CLECs and to various third-party service providers, which in turn furnish the service to CLECs. As of September 1, 1997, nine (9) CLECs and other service providers in Louisiana were using BellSouth's DADS. Ten (10) CLECs and other service providers were using DADS across BellSouth's nine-state region as of that same date. While as of September 1, 1997, no CLEC in Louisiana was using BellSouth's DADAS, one (1) third party service provider was using DADAS in another state of BellSouth's nine-state region to

provide the service to CLECs. Technical service descriptions and ordering, provisioning, and maintenance procedures have been developed for both DADS and DADAS. These technical service descriptions are included in the information provided as Exhibit WKM-9. Because methods and procedures have been in place to allow other carriers access to BellSouth's DADS, the necessary methods and procedures for obtaining such access were considered business as usual. Accordingly, end-to-end testing for DADS was not performed. Likewise, because methods and procedures have been in place to allow other carriers access to BellSouth's DADAS, methods and procedures for obtaining such access by CLECs were also considered business as usual and end-to-end testing was not performed.

Operator call processing is functionally available from BellSouth, which allows CLECs to obtain both live operator and mechanized functionality. BellSouth has prepared a technical service description and ordering, provisioning, and maintenance procedures for its operator call processing service. The technical service description is included in Exhibit WKM-9 which is attached to my affidavit. Facilities-based CLECs can obtain access to operator call processing by connecting their point of interface via a trunk group to BellSouth's operator services system. As of September 30, 1997, BellSouth had provided CLECs in Louisiana with six (6) operator services trunks. Across its nine-state region, BellSouth had provided CLECs with 194 operator services trunks as of that same date. In Louisiana, BellSouth had provided CLECs two (2) verification trunks as of September 30, 1997. Across its nine-state region, BellSouth had provided CLECs with 48 verification trunks as of that that same date. Because methods and procedures have been in place to allow other carriers, such as independent LECs, access to BellSouth's Operator Call Processing, the

necessary methods and procedures for obtaining such access by CLECs were considered business as usual. Accordingly, end-to-end testing was not performed for operator call processing.

CHECKLIST ITEM (viii): WHITE PAGES LISTINGS

BellSouth has long made its white page listing capabilities available to independent LECs and other service providers. Because methods and procedures have been in place to allow other carriers access to BellSouth's white page listing capabilities for many years, the necessary methods and procedures for obtaining such listings for CLECs were considered business as usual. Accordingly, end-to-end testing for white pages listings was not performed.

I am aware of only one problem associated with inclusion of CLEC listings in BellSouth's white page listings. That problem resulted from the customer's listing erroneously not being included in the information downloaded into the BellSouth directory assistance database. That one incident occurred in Georgia on or about May 21, 1997, and was corrected upon notification to BellSouth by the CLEC.

One CLEC has also argued that it should be provided the directory listings of local exchange service providers other than BellSouth, even when those service providers have expressly instructed BellSouth not to provide such listings until an agreement between the CLEC and the local service provider is reached. BellSouth has honored such requests from local service providers and believes this to be a matter between the CLEC and those service providers, rather than a matter between the CLEC and BellSouth. If a local service provider has not expressly informed BellSouth to not provide its listings, BellSouth makes the listings of that local service provider available to CLECs.

CHECKLIST ITEM (ix): CODE ADMINISTRATION

BellSouth, as the North American Numbering Plan Administrator for its territory, ensures that CLECs have nondiscriminatory access to telephone numbers for assignment to their customers. SGAT § IX.A, Sprint § XII.A, PrimeCo § XI.A, MCI Att.VIII-11. BellSouth adheres to the code administration guidelines (which are attached to my affidavit as Exhibit WKM-5) published by the Industry Numbering Council (INC), a national industry body under the Carrier Liaison Committee (CLC), which is sanctioned by the Alliance for Telecommunications Industry Solutions (ATIS). These guidelines provide instructions to CLECs as to how to request and have NPA/NXX codes assigned. BellSouth has established procedures to provide nondiscriminatory NXX code assignments to CLECs. Pursuant to these procedures, which conform to the INC standards, BellSouth had assigned a total of 14 NPA/NXX codes for CLECs in Louisiana as of October 7, 1997. In its nine-state region, BellSouth had assigned 821 NPA/NXX codes for CLECs as of October 7, 1997. To my knowledge, no requests from CLECs for NPA/NXX code assignments have been refused by BellSouth either in Louisiana or in BellSouth's nine-state region.

BellSouth became aware of a very few instances where a NPA/NXX code assigned to a CLEC was not activated as scheduled in all affected BellSouth switches. To remedy the problem, about midyear in 1997 BellSouth modified its testing procedures for new NPA/NXX codes to verify activation in all switches. The problem has not recurred since BellSouth changed its procedures, although scores of NPA/NXX codes have been assigned.

Because methods and procedures have been in place to allow other local service providers to access NPA/NXX codes, the necessary methods and procedures to

allow CLECs to obtain such NPA/NXX codes were considered business as usual. Accordingly, end-to-end testing for NPA/NXX code assignments was not performed.

CHECKLIST ITEM (x): ACCESS TO DATABASES AND ASSOCIATED SIGNALING

The Checklist further requires that BellSouth provide:

Nondiscriminatory access to databases and associated signaling necessary for call routing and completion. 47 U.S.C. § 271(c)(2)(B)(x).

Nondiscriminatory access to signaling networks and call-related databases. 47 C.F.R. § 51.319(e).

BellSouth's SGAT and Louisiana agreements provide for non-discriminatory access to BellSouth's signaling networks and call-related databases used for call routing and completion.

BellSouth provides nondiscriminatory access to its signaling links and Signal Transfer Points (STPs) on an unbundled basis. 47 C.F.R. § 51.319(e)(1)(i). SS7 network service is available to CLECs for their use in furnishing SS7-based services to their end users or the end users of another CLEC subtending the Signal Transfer Point (STP) of the interconnecting CLEC. SGAT § X, Sprint § XIII.A, PrimeCo § XII.A, AT&T Att.2 (Pg.51), MCI Att.III-40. This arrangement permits CLECs to use BellSouth's SS7 signaling network for signaling between their switches, between their switches and BellSouth's switches, and between their switches and the networks of other parties connected to the BellSouth SS7 network. 47 C.F.R. § 51.319(e)(1)(iii).

When a CLEC purchases unbundled switching capability from BellSouth, BellSouth will provide access to its signaling network in the same manner that it provides such

access to itself. Since all unbundled switching elements will be provided on switches that BellSouth uses to provide service to its own customers, all signaling functions will be identical. 47 C.F.R. § 51.319(e)(1)(ii).

BellSouth's SS7 network provides dedicated two-way signaling links that interconnect BellSouth STP locations and the CLEC Signaling Points at Signaling Point of Interface locations. SGAT § X.A, Sprint § XIII.A, PrimeCo § XII.A, AT&T Att.2 (Pg.51), MCI Att.III-40. The SS7 network consists of STP Port Termination(s) for CLEC signaling and STP Interconnection Facility (also called Signaling Links). The port terminations will consist of port connections of 56 Kilobits per second (56 Kb/s) transmission facilities on BellSouth's STP. The STP Interconnection Facility is the facility which lies between the multiplexing hub, which demultiplexes the CLEC's 56 kb/s transmission from DS1 transmission facilities, and the STP port. 47 C.F.R. § 51.319(e)(1)(ii).

While one CLEC has argued that BellSouth does not provide CLECs with the use of BellSouth's SS7 network in conjunction with the service called Automatic Call Return, Automatic Call Return does not use or require SS7 functionality. Instead, Automatic Call Return is a switch based service in that the switch temporarily stores the Automatic Number Identification (ANI) information of the calling customer. If the called customer invokes the use of Automatic Call Return, the switch completes the call by referring to the information stored in its memory, rather than through the use of some external database. Thus, SS7 functionality is not required for Automatic Call Return feature to operate properly, either for a CLEC's end user customer or for a BellSouth end user customer.

The FCC Rules identified certain call-related databases at § 51.319(e)(2)(ii). BellSouth provides access to its Line Information Database, 800/888 Service Database, Calling Name Delivery Database, and Advanced Intelligent Services Feature

Database.

BellSouth allows CLECs access to its Line Information Database ("LIDB") on the same basis as BellSouth obtains access itself. The SGAT sets forth the terms and conditions upon which BellSouth will provide database administration to store the CLEC's line/billing records in BellSouth's LIDB. The SGAT provides the methods and procedures to allow a CLEC to query the BellSouth LIDB database. SGAT § X.A.3.a, AT&T Att.2 (Pg.60), MCI Att.III-48.

When a CLEC deploys its own local switching system, it will obtain access to the LIDB by using the SS7 network and will have access to the same functions and features of the database as BellSouth. 47 C.F.R- § 51.319(e)(2)(iv).

When a CLEC purchases unbundled local switching elements, the access will be identical to that of BellSouth in the same switch. 47 C.F.R. § 51.319(e)(2)(iii).

BellSouth will provide access to the LIDB in accordance with the customer privacy rules of § 222 of the Act. 47 C.F.R. § 51.319(e)(2)(vi).

BellSouth will provide all requesting CLECs nondiscriminatory access to its Advanced Intelligent Network (AIN) databases such as Calling Name Delivery Service Database. SGAT §X.A.3.d, AT&T Att.2 (Pg.53), MCI AttIII-56. Calling Name Delivery ("CNAM") service enables the terminating end-user to identify the calling party by a displayed name before the call is answered. The calling party's name, date, and time of the call are retrieved from a Service Control Point ("SCP") database and delivered to the end-user's premises between the first and second ring for display on compatible customer premise equipment. CNAM Service Query is BellSouth's service that allows a CLEC to query BellSouth's Calling Name database.

When a CLEC operates its own switching center, access to the CNAM database is obtained through the SS7 network. The CLEC accesses the SCP through the

BellSouth STP or by connecting the CLEC's STP to the BellSouth STP and then to the BellSouth SCP. The same features, functions and capabilities are available to the CLEC as are available to BellSouth. 47 C.F.R. § 51.319(e)(2)(iv).

When a CLEC purchases unbundled switching elements from BellSouth, the access to the CNAM database will be identical to that used by BellSouth in the same switch. 47 C.F.R. § 51.319(e)(2)(iii).

The SGAT provides the terms and conditions for nondiscriminatory access to BellSouth's Toll Free Number Database. SGAT § X.A.3.b, PrimeCo § XII.C. Access to the Toll Free Number Database allows a CLEC to access BellSouth's Toll Free Number database for the purpose of switch query and database response. This provides the CLEC information required to determine the appropriate routing of an 800 or 888 number.

All of the above features are available to a CLEC and its customers in the same manner as provided by BellSouth to its own customers. When a CLEC operates its own switching system, access to the database will be obtained by using the SS7. 47 C.F.R. § 51.319(e)(2)(iv).

When a CLEC purchases unbundled switching elements from BellSouth, the access to the 800/888 database will be identical to that used by BellSouth in the same switch. 47 C.F.R. § 51.319(e)(2)(iii).

AIN is a vendor-independent network architecture deployed by BellSouth that provides capabilities for creation of custom telecommunications services that are invoked by SS7 messages (called switch "triggers") from a switch to a SCP database. BellSouth offers to provide two AIN services to all CLECs. CLECs may develop AIN applications on BellSouth's Service Control Point using the BellSouth's AIN Toolkit 1.0. The CLEC's applications can then be used with BellSouth's

network. Using BellSouth's AIN Toolkit 1.0, end user customers of the CLEC may also access BellSouth-created AIN applications and/or CLEC created AIN applications residing in BellSouth's SCP via, 1) an unbundled local switching element purchased from BellSouth or, 2) a CLEC's own switch that is connected to BellSouth's SS7 signaling network via the SS7 network element. 47 C.F.R. § 51.319(e)(2)(iii), (iv) and § 51.319(e)(3)(C). SGAT § X.A.3.d.

BellSouth provides access to the Service Management Systems (“SMS”) associated with each of the databases described above in accordance with 47 C.F.R. §51.319(e)(3). Requesting Carriers are provided with the information necessary to format data and enter it into the various databases using the associated SMS.

All data maintained in the above databases is maintained in accordance with §222 of the Act. BellSouth will respond to requests for additional arrangements for access to call-related databases and associated signaling facilities through the Bona Fide Request process. In summary, as required by 47 C.F.R. § 51.319(e), BellSouth provides unbundled, nondiscriminatory access to its signaling networks, to its call-related databases used in signaling networks for billing and collection or the transmission, routing or other provision of telecommunications services, and to the associated SMS for each database. Each database is accessed through BellSouth's STPs by a requesting CLEC in the same manner and via the same signaling links that are used by BellSouth itself.

The signaling elements necessary for call routing and completion are functionally available from BellSouth. BellSouth has technical service descriptions outlining access to its Toll Free Number database, LIDB, and AIN services as well as access to BellSouth's signaling and selective routing services. These technical service descriptions are included in Exhibit WKM-9 which is attached to my affidavit. BellSouth also has procedures in place for the ordering, provisioning,

and maintenance of these services.

Because BellSouth has offered independent LECs and other service providers access to its Toll Free Number database and LIDB for years, BellSouth did not conduct end-to-end testing of these services. However, the functional availability of these services is evidenced by the fact that, from January through August, 1997, CLECs and other service providers across BellSouth's nine-state region made approximately 22 million queries to BellSouth's Toll Free Number database. BellSouth's region-wide LIDB database processed more than 328 million queries from CLECs and others during the period January through September, 1997. Because methods and procedures have been in place to allow other carriers access to BellSouth's Toll Free Number database, the necessary methods and procedures for obtaining such access by CLECs were considered business as usual. Likewise, because methods and procedures have been in place to allow other carriers access to BellSouth's LIDB database, the necessary methods and procedures for obtaining such access were considered business as usual and end-to-end testing was not performed.

BellSouth has tested its AIN Toolkit 1.0, which provides a CLEC with the ability to create and offer AIN-service applications to their end users, as well as its AIN SMS Access 1.0, which provides a CLEC with access to the BellSouth-provided service creation environment. The completion of test calls and the generation of billing records were part of the testing process. The testing confirmed that service orders flowed through BellSouth's systems properly and that accurate bills were rendered.

BellSouth did not test its signaling service, which allows a CLEC's end user to connect to anyone in BellSouth's region and, through other signaling hub providers, to the world-wide telecommunications network. Such testing was not feasible for

several reasons, including the fact that BellSouth's existing signaling network is a real time network that cannot be used for testing simulations without the risk of service disruption. However, BellSouth's signaling service is functionally available as evidenced by the fact that, as of October 1, 1997, while no CLECs are interconnected directly to BellSouth's signaling network, thirteen (13) CLECs have interconnected using a third-party signaling hub provider which in turn accesses BellSouth's signaling network.

CHECKLIST ITEM (xi): SERVICE PROVIDER NUMBER PORTABILITY

Section 271(B)(xi) requires that BellSouth generally offer "until the date by which the Commission issues regulations pursuant to section 251 to require number portability, interim telecommunications number portability through remote call forwarding [RCF], direct inward dialing [DID] trunks (including DID trunks with Signaling System 7 or SS7), or other comparable arrangements, with as little impairment of functionality, quality, reliability, and convenience as possible. After that date, full compliance with such regulations." Interim number portability is functionally available from BellSouth in accordance with these requirements. SGAT § XI, AT&T Att.8, MCI Att.VII-1. BellSouth has technical service descriptions outlining RCF and DID and has procedures in place for ordering, provisioning, and maintaining these services. These technical service descriptions are included in Exhibit WKM-9 which is attached to my affidavit.

Additionally, Route Indexing - Portability Hub (RI-PH) is available as another comparable arrangement in provisioning interim number portability. RI-PH is an extrapolation of the direct inward dialing (DID) method of service provider number portability (SPNP), where the intercompany traffic is delivered from a "hub" location, typically the access tandem, rather than delivered from each local

switching office. The technical feasibility of RI-PH was confirmed in the BellSouth lab environment involving one CLEC's participation during November, 1996 and can be implemented as requested by CLECs with the following exception: RI-PH will not function in the 1AESS switch type from Lucent Technologies if the 1AESS serves an area where ten digit local dialing is required. There is not such a requirement in Louisiana for 10-digit local dialing. Thus, the 1AESS switches in Louisiana can accommodate provision of RI-PH.

While as yet no CLEC in Louisiana has requested interim number portability, in its region, BellSouth has ported 18,311 business and 30 residence directory numbers as of September 30, 1997, which evidences the availability of interim number portability.

BellSouth has developed methods and procedures to be followed when customers want a BellSouth operator to verify or interrupt a telephone number that has been ported to a CLEC switch. It is not technically possible at present for the BellSouth operator to verify such a line in a CLEC switch except where the CLEC and BellSouth establish a special trunk group between the BellSouth operator services platform and the CLEC switch. I am not aware of any CLEC which has allowed such access to its switch. Thus, in the case of verification or busy line interrupt requests from customers served by BellSouth's switches, an operator-to-operator transfer is required such that the BellSouth operator can pass the request off to the CLEC's operator. The type trunk group used is often referred to as an "inward" trunk group. BellSouth has developed the required methods and procedures as well as a database of ported telephone numbers for use by the operator. I understand that work is in progress to establish the operator-to-operator trunk group (that is, the inward operator group) between BellSouth's operator services platform and the operator services platform of a

CLEC in Georgia.

In the early stages of implementing number portability, BellSouth experienced some technical problems (such as incorrect switch translations) that caused service to certain customers of certain CLECs to be disrupted. BellSouth took appropriate steps to correct those problems. For example, BellSouth has added an “overflow” route from the BellSouth switch to the CLEC switch for calls to ported telephone numbers. As another example, BellSouth has modified the process for making related switch translations such that BellSouth’s technicians are automatically reminded of proper procedures and prompted to affirm the technician’s intent to make changes.

While some CLECs have complained about BellSouth’s implementation of interim number portability, these complaints have been in the context of providing interim number portability in conjunction with the provision of unbundled loops. Rather than repeat that discussion here, I would refer the reader back to the discussion of Checklist Item IV in my affidavit.

BellSouth is aggressively implementing permanent number portability in accordance with FCC rules. BellSouth is an original member of the Southeast Region Limited Liability Corporation (LLC) and, along with other CLEC and IXC members, is overseeing the implementation of the southeast region Number Portability Administration Center (NPAC) database. With the assistance of the Georgia Public Service Commission’s staff and the Florida Public Service Commission’s staff, the switch selection process has been completed for Georgia and Florida. In addition, members of the Southeast Operations Team have met with the staffs of the state Commissions in Louisiana, North Carolina, South Carolina, Alabama and Kentucky. The Public Service Commission’s staff in Louisiana, North Carolina, Tennessee and South Carolina have agreed to

perform the function of neutral administrator for the switch selection process in their respective states.

BellSouth will implement permanent number portability in a phased manner. Once the southeast regional NPAC database is delivered and a 30-day inter-company testing period is completed, BellSouth will implement number portability on a staggered basis throughout the time period allowed for Phase I. This same approach will be used by BellSouth for all MSAs in all states that will be implementing permanent number portability.

Attached as Exhibit WKM-6 is the switch list for the Louisiana MSAs. The switch selection process for Louisiana will be finalized by year end 1997. As stated above, the Louisiana Public Service Commission's staff has agreed to be the neutral administrator for the Louisiana switch selection process.

The test plans attached to this affidavit as Exhibit WKM-7, demonstrate in detail what BellSouth and the industry will use to test the implementation of permanent number portability.

CHECKLIST ITEM (xii): LOCAL DIALING PARTY

BellSouth's interconnection arrangements do not require any CLEC to use access codes or additional digits to complete local calls to BellSouth customers. Neither are BellSouth customers required to dial any access codes or additional digits to complete local calls to the customers of any CLEC. The interconnection of the BellSouth network and the network of the CLEC will be seamless from a customer perspective. There are no built-in delays or differences in dialing

requirements. While BellSouth is unable to determine the full extent of CLEC dialing plans, BellSouth is not aware of any complaints from CLEC customers that they are required to dial any access codes or additional digits to complete local calls.

CHECKLIST ITEM (xiv): RESALE OF THE INCUMBENT LEC'S RETAIL

TELECOMMUNICATIONS SERVICES AT A DISCOUNT

BellSouth has met the requirements of this Checklist item. SGAT § XIV, AT&T § 23.1, MCI Att.II-1. CLECs are able to resell BellSouth's retail telecommunications services. BellSouth has developed technical service descriptions and ordering, provisioning, and maintenance procedures for its "top" 50 retail telecommunications services. These technical service descriptions are included in Exhibit WKM-9 which is attached to my affidavit. As of July 22, 1997, there were 8,045 of these "top" 50 services being resold by CLECs in Louisiana while more than 178,330 were being resold throughout BellSouth's region. The table shown in Exhibit WKM-8, which is attached to my testimony, identifies the service and the number of units being resold in Louisiana and across the BellSouth region.

Other retail telecommunications services, although not actually ordered by CLECs to date, are functionally available for resale. These include, but are not limited to, the following: 911 and E-911, LightGate service, SmartPath service, and SmartRing service. Testing has been conducted to verify that these services can be resold at the applicable discount and that a correct bill will be generated.

BellSouth is aware of only two problems in its billing systems affecting the accuracy of bills from BellSouth to CLECs for resold services; both have been corrected.

The ability to apply CLEC-specific discount levels was incorporated into Release 97.3 of BellSouth's Customer Records Information System (CRIS) which is used to perform billing to CLECs for resold services. For North Carolina, Alabama, Kentucky, Louisiana and Tennessee, the rate changes were made on August 23,

1997, and bills rendered on or after that date show the correct discount levels. Similar changes were made in Georgia and Mississippi on August 16, 1997, and bills rendered on or after that date reflect the correct discount levels. For South Carolina, the appropriate rate changes were made on August 22, 1997. For Florida, the rate changes were made on September 20, 1997. The incorrect discount levels resulted from a billing program limitation which has since been overcome.

The second problem affected the proper application of discounts to non-recurring charges associated with resold services. Appropriate changes to the billing system were made in all nine BellSouth states including Louisiana. Here again, the problem resulted from a program limitation which has been corrected. BellSouth regrets any inconvenience that this situation has caused CLECs and will continue to make bill adjustments as needed. This concludes my affidavit.

Service	Louisiana	BellSouth Total
Accupulse	0	1
Area Plus	0	182
Basic Rate ISDN	34	272
Primary Rate ISDN	2	2898
Call Waiting	39	8955
Call Waiting Deluxe	0	182
Caller ID Deluxe	16	2385
Caller ID Enhanced	0	672
Centrex	228	986
Custom Calling - 3 Way Calling	10	4176
Custom Calling - Call Forwarding Variable	140	9647
Custom Calling - Remote Access to CF	4	539
Custom Calling - Speed Calling 8 & 30	0	1037
DID	3636	30410
Enhanced Caller ID/Multiline CID Deluxe/Enhanced CID ACR	9	821
Flat Rate PBX Trunks	17	897
Flat Rate Residence	806	30731
Flat Rate/Basic Local Exchange (Business)	406	30827
Flexserv	0	1
Frame Relay and CDS	6	7
Georgia Community Calling	Not Applicable	499
Hunting	608	18695
Independent Payphone Provider	0	132
Integrated Packages	707	5281
Measured Rate Business	5	910
Measured Rate Residence	0	971
MegaLink	37	448
MegaLink ISDN	2	23
MemoryCall	19	2186
Measured Rate PBX Trunks	22	322
MultiServ	0	743
Off Premise Extensions (OPX)	30	539
Optional Calling Plan	15	959
Remote Call Forwarding (RCF)	18	331
RingMaster	8	472
Synchronet	8	18
TouchStar - Call Block	8	291
TouchStar - Call Return	11	3159
TouchStar - Call Selector	0	81
TouchStar - Call Tracing	0	100
TouchStar - Preferred Call Forwarding	0	32
TouchStar - Repeat Dialing	0	134
TouchTone	1194	16377
Visual Director	0	1
TOTAL	8045	178330

AFFIDAVIT OF D. JOHN ROBERTS

D. John Roberts, being duly sworn, deposes and says:

1. My name is D. John Roberts. I am the Jonathan B. Lovelace Professor of Economics at the Graduate School of Business of Stanford University. I am also Professor, by courtesy, in the Department of Economics at Stanford. Prior to joining the Stanford faculty in 1980, I was Professor of Managerial Economics and Decision Sciences at the Kellogg Graduate School of Management of Northwestern University. I received a B.A. Honours degree in economics from the University of Manitoba in 1967 and a Ph.D. in economics from the University of Minnesota in 1972.

2. I am a Fellow and former Council Member of the Econometric Society and have held visiting research fellowships at the Center for Operations Research and Econometrics of the Catholic University of Louvain in Belgium, the Center for Advanced Study in the Behavioral Sciences in California, and All Souls College, Oxford, in the United Kingdom. I have served on the editorial boards of the *American Economic Review*, *Econometrica*, the *Journal of Economic Theory*, *Games and Economic Behavior*, and the *Journal of Economics and Management Strategy*. I am coauthor with Paul Milgrom of *Economics, Organization and Management* (Prentice-Hall, 1992). Additionally, I have published over sixty scholarly articles, primarily on the application of economic theory and game theory to industrial competition and management. Several of my published papers deal with predatory pricing. I have also served as an expert witness. Some of this work related to predatory pricing and telecommunications.

INTRODUCTION

3. I have been asked by counsel for BellSouth Corporation (BellSouth) to analyze whether allowing the entry of this Regional Bell Operating Company (RBOC) into in-region interLATA markets for long-distance telephone service might lead to its adopting predatory pricing. In doing so, to address the widest possible spectrum of concerns, I use an unusually broad definition of predatory pricing — one that is more inclusive than common definitions. I conclude that it is highly unlikely that BellSouth could profitably engage in predatory pricing, either as I broadly define it or as it is more narrowly defined by federal courts in antitrust cases where an additional cost-based test is imposed.

I. POTENTIAL PREDATORY PRICING STRATEGIES

A. *The Pricing Standard*

4. In this section I examine the pricing strategies available to a potential predator. I define “predatory pricing” broadly as the temporary reducing of prices by a firm in some market in an attempt to reduce long-run, future competition in this or other, related markets. The reduced prices mean that the firm practicing predation earns lower short-run profits than might otherwise be possible in the market. The firm chooses to sacrifice short-run profits and incur temporary economic losses in an attempt to increase its future profitability, either by inducing current competitors to exit or compete less aggressively, or by deterring the entry of future competitors.

5. My definition of predatory pricing requires only that the firm price at a level lower than it otherwise would, were it not attempting to reduce competition) not below some accounting measure of cost. This is a broader definition than those typically used by antitrust courts. This

broader definition is useful for a prospective analysis of the likely effects of allowing BellSouth to enter the in-region interLATA markets. A finding that no predatory pricing would occur under the broader definition means that antitrust violations are especially unlikely to follow from allowing BellSouth to enter the in-region interLATA markets and that even aggressive pricing that damages competition, but is legally permissible, is unlikely.

B. *Motivations for Predatory Behavior*

6. In pursuing the interests of their owners, firms are concerned to maximize the present value of their current and future profits. A firm will forego possible profits in the short run to increase future profits only if there is a reasonable likelihood that future profits will compensate for the foregone short-run returns.

¹ There are several mechanisms through which temporarily low prices can reduce future competition and thereby increase profits.²

1. The Supreme Court recognized that successful recoupment requires good long-term prospects of reducing competition in Brooke Group Ltd. v. Brown & Williamson Tobacco Corp., 114 S. Ct. 13 (1993).

2. See Paul Milgrom & John Roberts, *New Theories of Predatory Pricing*, in *INDUSTRIAL STRUCTURE IN THE NEW INDUSTRIAL ECONOMICS* 112 (Giacomo Bonanno & Dario Brandolini, eds., Oxford University Press, 1990); Janusz A. Ordover & Garth Saloner, *Predation, Monopolization, and Antitrust*, in *1 HANDBOOK OF INDUSTRIAL ORGANIZATION* 537 (Richard Schmalensee & Robert D. Willig, eds., North-Holland, 1989). See also Paul Milgrom, *Predatory Pricing*, in *3 THE NEW PALGRAVE: A DICTIONARY OF ECONOMIC THEORY AND DOCTRINE* 937 (John Eatwell, Murray Milgate & Peter Newman, eds., MacMillan Press Ltd., 1988).

1. *Deep-pocket scenarios*

7. In the “deep pocket” or “long purse” scenario,³ predatory prices impose actual losses on competitors who, fearing or actually experiencing bankruptcy, leave the market. Several requirements must be met for predation to be successful in this scenario.

8. First, by price cutting a predator must be able to impose losses on the competitor by forcing the competitor to choose between (a) matching the predator's price cuts, or (b) maintaining its prices and losing market share. There are many instances in which price cutting will not have the effect of imposing losses on the competitor.

9. Price cutting will be ineffective if the competitor's customers are tied to it by contracts or if switching costs make it expensive for customers to change suppliers to take advantage of temporary price cuts. Even if there are no such contracts and low switching costs, sophisticated customers may still resist the predatory attempt, continuing to deal with the target firm despite its relatively higher prices, because they recognize that the predator, if successful, will charge even higher prices once its predatory strategy succeeds. In addition, depending on the extent of sunk costs, the competitor may be able to defend itself against the predator's temporary price cut by temporarily redeploying its assets.

10. The deep-pocket scenario also requires that the competitor be less able to absorb losses than the predator. If the two firms are equally efficient, then the predator will suffer losses equivalent to those suffered by the competitor. If the competitor has “deeper pockets,” this strategy will not be viable.

3. See Jean-Pierre Benoit, *Financially Constrained Entry in a Game with Incomplete Information*, 15 RAND J. ECON. 490 (1984); Lester Telser, *Cutthroat Competition and the Long Purse*, 9 J.L. & ECON. 259 (1966).

11. Attempts at deep-pocket predation may be futile if the competitor is earning revenues in excess of costs in other markets, has cash reserves or assets that can be sold to raise cash, or has access to external sources of financing. Thus, predation aimed at large, well-established and well-financed firms is unlikely to succeed. Consequently, it is unlikely even to be attempted.

12. A predator with significantly higher costs than a competitor would lose more per unit sales than the competitor; it would be doubly difficult to drive the competitor into bankruptcy while the predator itself remained financially viable. Thus, predation aimed at bankrupting a more efficient competitor is unlikely to succeed or be attempted.

13. Even if the deep pocket predator could force a competitor into bankruptcy, that may not be enough for a successful predatory strategy. The bankrupt competitor may simply reorganize and return to the market. Alternatively, it may sell its facilities to a new entrant. Other competitors may remain in the market or, if there are low barriers to entry, new competitors may enter. In each instance the predator would find it difficult to recoup the profits it lost during the predatory episode by raising its prices and keeping them elevated.

14. The cost of executing a deep-pocket strategy may be prohibitive even where there are entry barriers that allow the firm to maintain its elevated price. If the competitor has large sunk costs and relatively low incremental costs of supplying additional output, the competitor will still prefer to stay in the market as long as possible to recover at least some of those sunk costs, even at very low prices.

15. A strategy of aggressive pricing is less likely in markets with multiple incumbents. If a predator cuts prices widely to force losses on an entrant, it runs the risk that its pricing policy will lead to more intense price competition among the incumbent firms. If it reduces prices in a focused

way and successfully drives out the new entrant, it bears all of the cost of its actions but must share the benefit of reduced competition with the other incumbents.

16. To the extent that aggressive deep-pocket pricing is subject to sanctions under antitrust law, this is another significant deterrent to attempting it.

2. *Expectational and Informational Scenarios*

17. Low current prices might reduce future competition by affecting competitors' beliefs about the profitability of entry or continued presence in the market. By setting low current prices that reduce the profits of current competitors, a company may manipulate its competitors' expectations about future prospects in the hope of deterring their entry or expansion.

a. *Reputation for Aggressive Pricing*

18. An incumbent may establish a reputation for aggressive pricing. Firms contemplating entering a market might decide that entry is not worthwhile if past experience leads them to expect the incumbent to cut prices significantly in response.⁴ This expectational scenario is most applicable when the incumbent foresees an ongoing threat of additional entry, either in the given market or in others in which it operates. It is least plausible when there are relatively few potential entrants.

19. A reputation for aggressive pricing may be difficult to establish. Potential entrants must believe that the aggressive pricing will happen again. Where circumstances are thought to differ across entry attempts, and where it is thought that the incumbent has found its predatory strategy to be very costly, potential entrants may view the aggressive pricing as a one-time occurrence.

4. See FREDERICK M. SCHERER, INDUSTRIAL MARKET STRUCTURE AND ECONOMIC PERFORMANCE 335-40 (Rand-McNally 2d ed. 1980); David Kreps & Robert Wilson, *Reputation and Imperfect Information*, 27 J. ECON. THEORY 253 (1982); Paul R. Milgrom & John Roberts, *Predation, Reputation and Entry Deterrence*, 27 J. ECON. THEORY 280 (1982).

20. Again, predation is less attractive if there are multiple incumbents. The costs of building a reputation are born by the predator alone, while any potential benefits in inducing exit or deterring entry are shared across all the incumbents. Meanwhile, there is the danger that the price cutting may spread throughout the market.

21. A firm that planned to enter a number of markets might seek to establish a reputation for predation in its early entry attempts that would induce incumbents in the markets it planned to enter later to accommodate its entry there by ceding market share. Again, however, the attractiveness of this depends on being able to create such a reputation at reasonable cost.

b. *Informational Differences Among Firms*

22. Firms considering entering a market or continuing to compete in one are typically concerned with their rivals' costs, since cost differences among competitors are an important determinant of long-run profits. Firms often lack accurate information about their rivals' costs. An incumbent's costs may not be directly observed by the potential entrant but may be inferred from indirect evidence such as price. Similarly, established firms may infer a new entrant's costs from the prices it charges.

23. When rivals lack information about a firm's costs, the firm's use of a low-price strategy might give the impression that it has lower costs than its rivals, thereby deterring entry or inducing exit of current competitors.⁵ Such behavior is predatory under my definition, even if it does not involve prices that are below actual costs.

5. See John Roberts, *A Signalling Model of Predatory Pricing*, 38 OXFORD ECON. PAP. 75 (Supp. 1986); Paul R. Milgrom & John Roberts, *Limit Pricing and Entry under Incomplete Information: An Equilibrium Analysis*, 50 ECONOMETRICA 443 (1982).

24. Sophisticated rivals are likely to recognize that an incumbent firm's reduced prices in the face of new entry are not indicative of low costs, in which case the low prices would not damage competition. Similarly, an incumbent would recognize that a new entrant's very low prices may not reflect especially low costs and so will be unlikely to cede it market share. Again the low prices would not damage competition. In particular, such a strategy is especially unlikely to succeed when rivals employ similar technologies.

3. *Cross-Subsidization Scenarios*

25. Cross-subsidies are traditionally a concern when a firm operates in several markets, one or more of which is a monopoly. A common argument is that such a firm may be especially likely to practice predation because it can raise prices in its monopoly market to finance predatory activities in other markets. This argument, however, makes little economic sense. If the firm is not regulated and is already maximizing profits in its monopoly market, it cannot raise profits in that market, whether to finance predatory losses or for any other purpose. If the firm is regulated in its monopoly market, its pricing there may not maximize profits. Raising prices in the regulated market may then increase profits, but regulators would resist price increases aimed at financing predation.

26. Thus, the general argument that a firm would raise prices in its monopoly market to finance predation is incorrect. This is the case whether or not the firm is regulated, assuming that the regulation is at all effective. There are, however, three ways in which monopoly power in one market might, in particular circumstances, make predation more likely.

a. *The Need to Fund Predation from Current Profits*

27. In the first scenario the availability of profits from another market) regulated or non-regulated) allows an incumbent firm to finance its temporary losses from a predatory strategy. The predator is able to finance actual operating losses in the market in question only because it receives current profits from other markets.

28. This scenario of predation financed by current profits is relevant only under special conditions. First, the firm must find predation to be profitable; otherwise, the ability to finance it is irrelevant. Second, the strategy must involve negative cash flows for the predator that require financing; mere economic losses (short-term returns that are less than could otherwise have been achieved) are not enough. Third, the predator must have very limited cash or other liquid assets with which to finance these losses. Fourth, the predator must have very limited access to the financial markets and bank loans. All of these conditions must be met before the existence of profits from a regulated market would influence the firm's decision to undertake cross-subsidized predation in another market.

b. *Rate-of-Return Regulation*

29. In the second scenario the availability of profits from a market subject to rate-of-return regulation allows an incumbent firm to adopt a predatory strategy in another market. Regulators may allow the firm to increase prices and earn higher profits from the regulated market when it preys on the unregulated market. These profits would allow the firm to offset all or part of the costs of predation.⁶

6. See Harvey Averch & Leland Johnson, *The Behavior of the Firm under Regulatory Constraint*, 52 AM. ECON. REV. 1052 (1962).

30. As with the previous scenario, several assumptions must be met before such predation could actually be attractive. First, the firm would have to fool regulators into allowing it to increase its prices in the regulated market when its profits in the unregulated market fall. Under rate-of-return regulation, this would necessitate allowing extra costs to be charged to the regulated portion of the business. It is unlikely that the regulators will knowingly allow the firm to allocate costs in the unregulated sector to the customers of the regulated monopoly business. Second, the firm must believe that predation will succeed in the unregulated market, notwithstanding the obstacles discussed above. Third, the firm must also believe that, should predation succeed, regulators will not then demand that profits in the unregulated market be used to reduce rates and lower profits in the regulated market. The conjunction of the first and third assumptions is particularly demanding. Note too that this strategy loses its appeal entirely when rate-of-return regulation is replaced with price-cap or other, incentive-based, regulation.

c. *Monopoly Extension*

31. The third case in which predatory cross-subsidization may be attractive is where the service or product produced by a firm in a monopolized "upstream" market is an important input to the production of a service or product in a "downstream" market. This monopoly extension scenario arises when the upstream monopolist uses its position in this market to reduce competition in a downstream market in order to increase its overall profits.

32. Some economists have argued that if a firm has a non-regulated upstream monopoly and the downstream market is competitive, the firm has no incentive to dominate the downstream market in which the input is used. There is only a limited amount of profit that can be achieved from

the two markets, even if both are monopolized by the same firm; control of the upstream market alone will allow the firm to extract the full monopoly profits that could be earned from the two markets together.⁷

33. This generally powerful argument loses some of its force if there are substitutes for the monopolized input or if the downstream market is less than perfectly competitive. In these cases, the upstream monopolist will not be able to extract all the profits available from both markets. It may then have an incentive to integrate forward. If it does so, it will rationally choose to charge a lower price to its affiliate in the downstream market than to competitor firms. This price discrimination, however, need not be predatory, because the firm would discriminate in this direction even if there is no prospect of affecting competition.

34. If the monopolized upstream input is indispensable for the downstream firms to operate, however, then the monopolist may be able to drive them out of the market by charging them such a high price for the input that they cannot compete against the firm's downstream operation, which would not face the high price. This does not fit even my broad definition of predation, because the price is elevated, rather than reduced, and because the pricing policy is permanent, rather than temporary. However, it is clearly damaging to competition. This behavior is not a threat, however, if the firm can be prevented from charging different prices to its affiliate than it charges other firms.

35. If the upstream market is regulated, it is unlikely that the upstream monopolist will be able to use its dominance of this market to set prices in a way that permits it to extract the full two-market monopoly profit. Instead, the firm might find it attractive to enter the downstream market

7. See Joseph Spengler, *Vertical Integration and Antitrust Policy*, 58 J. POL. ECON. 347 (1950). See also ROGER BLAIR & DAVID KASERMAN, *LAW AND ECONOMICS OF VERTICAL INTEGRATION AND CONTROL* (Academic Press 1983).

using a non-regulated affiliate to tap any downstream monopoly profit opportunities. Of course, if the regulated upstream firm cannot discriminate on price between its downstream affiliate and other firms, these profits are equally available and equally attractive to any firm that could monopolize this market. Thus, absent price discrimination, control of a regulated upstream market has little, if any, impact on the incentives for trying to control the downstream market, whether by predatory means or not.

II. IMPLICATIONS OF ECONOMIC THEORY FOR ENTRY BY BELL SOUTH INTO THE IN-REGION INTERLATA MARKETS

36. These general propositions indicate that rather specific conditions are needed to make predation attractive. The issue at hand is whether these conditions prevail in the case of entry by BellSouth into the in-region interLATA markets, and, more importantly, whether they are likely to prevail in the foreseeable future. Only if the theoretical conditions are met is there any reasonable likelihood that allowing BellSouth's entry into the in-region interLATA markets might result in its adopting predatory pricing.

37. As I will explain in the following sections, it is my professional opinion that, in the circumstances that prevail in the relevant markets (and, more significantly, in those circumstances that are likely to prevail in the future), the threat of predation is negligible in jurisdictions that maintain price-cap or similar, incentive-based, regulation. The danger would be potentially significant only if rate-of-return regulation were employed *and* the regulators were ineffective in preventing BellSouth from charging the costs incurred in its unregulated businesses to its regulated businesses.

38. The possibility that an RBOC offering even nationwide interLATA service might, through predatory pricing, drive into bankruptcy any of the three carriers that have dominated the interLATA markets is extremely remote. All three of these carriers, AT&T, MCI, and Sprint, are major firms with substantial assets and excellent access to the financial markets. Each has constructed an extensive national network of long-distance lines. Increasingly, these are fiber-optic lines with immense capacities. For 1996, AT&T had annual revenues of \$52.2 billion and total assets of \$55.5 billion.⁸ Its corporate debt had a Standard and Poor's bond rating of AA-. Even with the divestiture of its computer and equipment businesses, AT&T remains one of America's largest and wealthiest corporations. MCI and Sprint had 1996 revenues of \$18.5 and \$17.0 billion, respectively; their total assets were \$23.0 and \$17.0 billion, respectively.⁹ MCI had a bond rating from Standard & Poor's of A, and it is currently on a "positive watch" because it is thought that its rating might improve. Sprint's bonds were rated A-. MCI's planned merger with British Telecommunications PLC will only strengthen its financial position. Even the fourth-place firm, Worldcom, Inc., had revenues of \$5.6 billion and assets of \$19.9 billion, of which \$2.3 billion are current assets. It has built a nation-wide fiber-optic network. So, despite its relatively weak bond rating of BBB-, it would not be easy to drive Worldcom out of business.¹⁰

39. Given these assets and the access to financial markets, the current long-distance carriers would not be easily bankrupted. Further, to the extent that the established firms' existing customer bases for interLATA service give them larger volumes and lower costs (because of economies of scale

8. AT&T CORP., 1996 ANNUAL REPORT (1997).

9. MCI COMMUNICATIONS CORP., 1996 ANNUAL REPORT (1997); SPRINT CORP., 1996 ANNUAL REPORT (1997).

10. WORLDCOM, INC., 1996 ANNUAL REPORT (1997).

in the fiber-optic networks) or to the extent that BellSouth operated as a reseller of other carriers' interLATA services, the RBOC might at least initially be at a cost disadvantage relative to its presumed prey. Moreover, should other RBOCs enter the interLATA markets, they too would be difficult to force into bankruptcy. While preventing BellSouth from offering in-region interLATA service would tend to make it even less able to drive one of the established carriers or another RBOC into bankruptcy, the effect is negligible because the basic premise is so implausible.

40. The possibility that BellSouth, having established itself in the in-region interLATA market, would attempt to bankrupt any later entrants also seems unlikely. At this point, the RBOC would be one of several major carriers (at least four or five, and perhaps as many as eight or ten if all the RBOCs were active in the region). A predatory effort would be costly, and the benefits would be shared by all the existing carriers. It is very unlikely that BellSouth in this situation would find the costs of attempted predation to be justified. Thus, the deep-pockets scenario for predatory pricing is inoperative.

41. Furthermore, the spread of price-cap and incentive regulation means that if there ever was a possibility of financing losses incurred in predatory pricing in the interLATA market by raising local rates, it is rapidly disappearing.

42. Until 1991, the norm for regulation of the RBOCs by the states was rate-of-return regulation: prices were approved to permit the regulated firm to cover costs and earn an allowable rate of return on its capital. Rate-of-return regulation provided little incentive for cost control, and it was alleged to be subject to manipulation that would permit cross subsidization. For example, a firm operating under rate-of-return regulation might charge an unremunerative price to an unregulated affiliate. If the regulator did not discover this, the regulated firm's reduced earnings

would then be the basis for an increase in price in the regulated markets. Meanwhile, the low price on the input bought from the regulated firm would permit the unregulated affiliate to earn superior returns or to price at levels that competitors could not profitably match. Of course, the regulators would monitor the firm to prevent manipulations of this sort, but some failures of the monitoring system surely occurred.

43. More recently, most state regulators have adopted price-cap regulation or a related form of incentive-based regulation. In essence, price-cap regulation involves establishing maximum and, possibly, minimum prices for categories of services and providing the company freedom to set prices as it wishes within that range. The allowed prices are then reduced in inflation-adjusted terms over time to reflect a target rate of reduction in the costs of providing various services and products. This approach is favored because of its incentive properties (firms have an incentive to increase efficiency because their prices are not required to fall immediately when the firm lowers its costs, and do not rise automatically when costs increase). The system also makes cross subsidization less attractive because a decline in revenues arising from an attempt to cross subsidize does not provide a basis for a rate increase.

44. Seven of the nine states in BellSouth's region are now using some form of price-cap regulation. In the two others (Tennessee and North Carolina), price cap regulation is under review.

45. Of course, even where rate-of-return regulation survives, the regulators have every incentive (and increasingly sophisticated tools) to prevent such cross subsidization.

46. Thus, if predation by BellSouth in the in-region interLATA market is to be profitable, it cannot be due to a deep-pockets or cross-subsidization scenario. Successful predation would therefore have to occur through an expectational or informational scenario, in which the firm uses its

pricing to influence rival firms' perceptions of future competitive conditions and future profitability. Recall that theory suggests that one mechanism through which this might occur is the incumbent's establishment of a reputation for predation that induces exit, deters entry, or encourages rivals to accommodate entry by the predator for fear of facing similarly aggressive behavior. The other mechanism involves creating the belief that the predator has especially low costs and therefore that its implicit claims to a large market share under normal competition cannot successfully be countered. Neither scenario accurately describes the in-region interLATA markets.

47. It is hardly likely that BellSouth could persuade one of the existing interLATA carriers (AT&T, MCI, Sprint or Worldcom) or another firm that had invested in its own network to serve the interLATA market that the RBOC was so committed to low prices that the firm would do better to withdraw from the market. According to standard economic analysis, a firm closes down its operations only when revenues are insufficient to cover its average variable costs, which excludes fixed costs. Given the large infrastructure investments required for long-distance service and the relatively low marginal cost of carrying additional traffic over an existing long-distance network, it would take huge and quite visible price reductions to force a firm to shut down or even to scale back its operations. Moreover, even if the firm operating a particular fiber-optic network were forced into bankruptcy, another firm might be able to acquire the network and continue to operate it, since optical fiber has a long useful life.

48. It could be suggested that, once BellSouth is established in the interLATA business, it might seek to deter future entrants by responding in a predatory fashion to any entry attempts by other firms. Yet this too is implausible. Again, once the RBOC is established, it would be only one of at least four significant firms in the industry) and not likely the largest. Consequently, the benefits

of deterring entry would be shared widely, which means that they would be unlikely to justify the RBOC's costs in building a reputation for aggressive responses to entry. Again, limiting the RBOC from the in-region market is unlikely to have any appreciable effect.

49. The other mechanism through which predation aimed at influencing perceptions theoretically could work would be signalling that the predator has especially low costs. This mechanism relies on there being uncertainty on the part of the predator's rivals about its costs and also on these rivals being unsophisticated about their inferences, ignoring the incentives that the potential predator has to attempt to bias their estimates. Neither of these factors seems relevant to the interLATA market. The relevant technologies are well known, and both the current interLATA carriers and the plausible future entrants, including the RBOCs themselves, are large, sophisticated corporations. To the extent that BellSouth obtain interexchange capacity at wholesale for resale to its customers, moreover, the incumbent long-distance carriers providing the capacity would know precisely what the RBOC's transport costs are.

50. Thus, conditions in the interLATA market indicate that there is little reason to expect that BellSouth would have any effective incentive to act in a predatory fashion were it to enter this market. Its control of the local wire networks does not alter this conclusion.

51. There is little chance of BellSouth being able to bankrupt one of the existing interLATA carriers by aggressive pricing, or even of its credibly threatening such. Even if it could finance such an effort by earnings from its local monopoly, BellSouth would have no reason to make the effort because it would be so unlikely to succeed. Further, the regulators would have every reason to prevent cross subsidization, and the use of price-cap and other forms of incentive regulation

further ensure that such cross subsidization would not be possible. Furthermore, the RBOCs' local monopolies are eroding, and with them the possibility of tapping any monopoly profits to finance the predation: indeed, the Telecommunications Act specifically bars the RBOCs from the in-region interLATA service markets unless the preconditions for competition have been established in the corresponding local service markets. The control of the local network also does not make a reputation for practicing predation easier to establish or more valuable to have, and so it cannot influence the incentives to practice predation based on this logic. Nor, absent the possibility of cross-subsidizing from a local market under rate-of-return regulation, does the control of the local market increase the effectiveness or attractiveness of trying to bias rivals' beliefs about costs in the interLATA market.

52. In principle, as noted above, if a monopolist were to integrate forward into markets using its products or services as an input, it would have reason to charge lower prices to its affiliate than to other firms competing with it. In theory, a monopolist under those circumstances might be able to effect a price squeeze, either by raising the prices it charges its downstream competitors for the input or by (in effect) lowering the price it charges itself.

53. To the extent that BellSouth, having entered the in-region interLATA market, might have an incentive to favor its interLATA affiliate with lower access charges, the best way to control this is not to ban its provision of in-region interLATA service and suffer the diminution of competition that would entail. The long-distance carriers can easily monitor the prices they are being charged; existing regulations require the RBOCs to give nondiscriminatory access to their local wire networks; and by law the RBOCs are required to charge their own long-distance companies the same price for access that they charge to long distance competitors. These regulatory requirements should

prevent discriminatory pricing. Price-cap and other forms of incentive regulation are largely immune to the danger of the RBOCs' using below-cost pricing to a long-distance affiliate combined with cross subsidization. Even where rate-of-return regulation is still in place, regulators will have every reason to prevent such cross subsidization. Finally, of course, the erosion of the local monopolies undermines the whole basis for this concern.

CONCLUSION

54. Even using the very expansive definition of predatory pricing that I have adopted here, there is little danger that BellSouth would adopt predatory pricing were it allowed to provide in-region interLATA services. The danger of predation becomes even more remote if regulators can enforce nondiscriminatory access to the local networks and prevent cross subsidization. Further, with the erosion of the local exchange monopoly, which is now occurring, the possibility of predation grows increasingly implausible. For these reasons, entry into the in-region interLATA markets could be allowed without any appreciable danger of predatory harm to customers or the competitive process.

* * *

I hereby swear, under penalty of perjury, that the foregoing is true and correct, to the best of my knowledge and belief.

D. John Roberts

Subscribed and sworn to before me this ____ day of August, 1997.

Notary Public

My Commission expires: _____

**BELLSOUTH'S PROSPECTS FOR SUCCESS IN THE
INTERLATA MARKET**

Declaration on Behalf of BellSouth

by

Richard L. Schmalensee

August 18, 1997

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DECLARATION OF RICHARD L. SCHMALENSEE

I. QUALIFICATIONS

My name is Richard L. Schmalensee. I am the Gordon Y Billard Professor of Economics and Management at the Massachusetts Institute of Technology (MIT), Deputy Dean of MIT's Sloan School of Management, and a Special Consultant to National Economic Research Associates, Inc. (NERA). My business address is One Main Street, Cambridge, Massachusetts 02142.

I served as a Member of President Bush's Council of Economic Advisers, where I had primary responsibility for domestic and regulatory policy, including telecommunications policy. I have done extensive research on aspects of industrial organization and of antitrust and regulatory policy, and I teach graduate courses in industrial organization, its applications to management decisions, government regulation, and government/business relations. I am the author of *The Economics of Advertising* and *The Control of Natural Monopolies* and co-author of *Markets for Power*. I am the co-editor of the *Handbook of Industrial Organization* and founding editor of the MIT Press *Regulation of Economic Activity* monograph series. I have published over 60 articles and have served on editorial boards of several professional journals. I am a Fellow of the Econometric Society and of the American Academy of Arts and Sciences, and I have served on the Executive Committee of the American Economic Association. I have testified before federal and state courts, Congressional committees, and the Federal Trade Commission. I have served as a consultant on regulatory and competitive issues to numerous organizations in the United States and abroad, including the U.S. Federal Trade Commission and the Antitrust Division of the U.S. Department of Justice. I received S.B. and Ph.D. degrees in economics from MIT. A copy of my resume is in the appendix.

II. INTRODUCTION

Counsel for BellSouth has asked me to assess the following:

the extent to which consumers have or have not benefited from long distance competition in

recent years;

BellSouth's credibility as an entrant into the interexchange services market in its "home region;"
and

the effect on interexchange competition of having carrier access charges set above costs.

This affidavit reports on my assessments.

Why are the assessments on which I report here useful? As discussed below, I find that long distance rates paid by consumers have increased in recent years even though interexchange carriers' costs have fallen. This finding is inconsistent with effective competition among the interexchange carriers for the consumer segment. Based on the currently inadequate competition in the interexchange market, one would expect that BellSouth's entry would increase competition in that market. The results would tend to be lower prices, new and better service offerings, increased customer satisfaction, and perhaps more rapid technological improvements. The ultimate beneficiaries of these improvements would be the public which buys interexchange services. For all these improvements to follow, BellSouth should have reasonable prospects for success in the interexchange market; if, to the contrary, its entry were not credible, then its entry is unlikely to have a significant effect on that market. Thus the relevance of my investigation on BellSouth's prospects. The inadequate competition for the consumer segment and the credibility of BellSouth's success supports the public interest benefits of its being allowed to enter the interexchange market. At the same time, the inadequate competition in the market enhances the likelihood of BellSouth's success.

Let me be clear about what this report is and is not. I assess BellSouth's strengths and weaknesses regarding its entry into the interexchange market. Does this mean I can predict with confidence that BellSouth's entry will be profitable for BellSouth's stockholders? No. Market entry is almost always a risky proposition. I am certainly not issuing a buy or sell recommendation to BellSouth's stockholders. Rather, using publicly available information, I assess the plausibility—not probability—of BellSouth's success.

Briefly, these are my findings:

Competition for the consumer segment of the interexchange market is inadequate, as demonstrated by three types of evidence:

The recent pattern of changes in market shares for the interexchange carriers is fully consistent with tacit price coordination among the Big Three interexchange carriers—AT&T, MCI, and Sprint—which are trying to maintain high retail profit margins.

AT&T has increased its interstate basic rates by 22 percent since 1993 even though average access charges declined by nine percent and its other costs also declined.

¹ Most of AT&T's customers face these basic rates. Even if one accounts for increasing subscriptions to discount calling plans, the average consumer still was paying higher rates in 1996 than in 1993. The new flat rate-per-minute plans do not change that conclusion.

AT&T's own data show that the rates paid by most of its residence customers are well above costs.

I present the above evidence in Section III.

To evaluate BellSouth's credibility as an entrant into the interexchange market, a useful approach is to compare BellSouth's strengths not only with the strengths of the three largest interexchange carriers but also with those of a hypothetical *de novo* entrant into the interexchange market and with those of existing small interexchange carriers. I explain this approach in Section IV.

Particularly in the long run, BellSouth would have low incremental costs of providing interexchange service, as I explain in Section V.

BellSouth's reputation with the customers in its region is excellent, so BellSouth's marketing position would be good. Its strength would be particularly important

¹ My analysis does not account for the interexchange carriers' rate reductions in mid-1997. These reductions are part of a deal struck with the FCC in exchange for access charge reductions, for which I also have not accounted.

for the low-usage customers whom other carriers tend to neglect, so BellSouth can increase competitiveness in the market for that segment in a way that other carriers have not. Section VI covers this topic.

The incumbent interexchange carriers have argued that interexchange entry by a local exchange carrier would harm competition as long as carrier access charges are above costs. As discussed in Section VII, I find that this argument has no merit.

The combination of low incremental costs and a good marketing position make the company a credible competitor in the interexchange market, as Section VIII explains. Although BellSouth has competitive strengths, however, these strengths do not appear great enough for the company to dominate the interexchange market.

My conclusion is that BellSouth's entry would increase the competitiveness of the interexchange market, particularly for the consumer segment.

III. INADEQUATE COMPETITION FOR THE CONSUMER MARKET

Although large business customers have benefited from competition in the interexchange market, competition for the consumer market is inadequate. I present three types of supporting evidence for this conclusion.² First, the pattern of changes in long distance market shares is consistent with high retail profit margins. Second, AT&T has increased rates for the consumer segment for the past several years in spite of decreasing costs. Third, AT&T's rates are above costs for most of its residence customers. I explain each of those types of evidence below.

A. Market Share Changes Indicate High Retail Profit Margins

The Federal Communications Commission (FCC) periodically reports on interexchange carrier market shares. It measures market share using access minutes, presubscribed lines, and toll

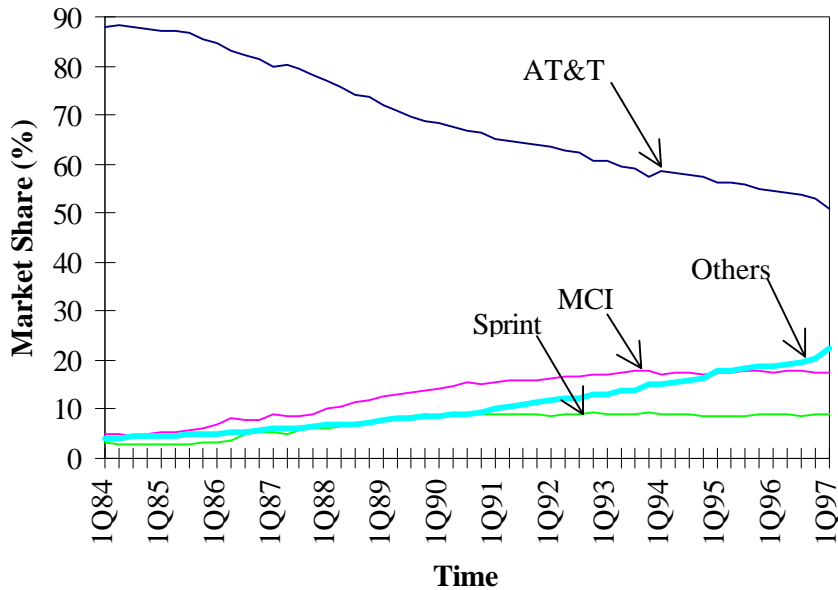
² I have previously written about the additional evidence that the Big Three have consistently increased their rates in lock step. See Paul S. Brandon and Richard L. Schmalensee, "The Benefits of Releasing the Bell Companies from the Interexchange Restrictions," *Managerial and Decision Economics*, Vol. 16, No. 4 (July-August, 1995), pp. 349-364, specifically p. 352.

revenues. For present purposes, toll revenues are a useful summary measure. Figure 1 below shows the toll revenue market shares for the Big Three interexchange carriers and all other carriers combined:³

³ Joe Bender, Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, "Long Distance Market Shares" (July, 1997), Table 8. The FCC report shows WorldCom separately, whereas, to simplify the presentation, Figure 2 combines WorldCom with all other carriers. The lesson from the data would not be changed if WorldCom were shown separately.

Figure 1

Market Shares of Interexchange Carriers



Since the first quarter of 1984, AT&T's market share has declined every year. However, Sprint's share appears to have reached a plateau in 1991, and MCI's share reached a plateau in 1993. The revenue share of carriers other than the Big Three increased every year, and it has *not* hit a plateau. This pattern of growth by the smallest carriers is consistent with tacit price coordination among the Big Three carriers, or at least with a tight-knit oligopoly: the Big Three appear willing to accept a gradually eroding market share—in the case of AT&T—or stable market shares—in the case of MCI and Sprint—in exchange for the higher profits they can earn currently relative to what they could earn if they were to compete more aggressively. Almost all the carriers other than the Big Three are resellers. The Big Three are maintaining and even increasing high profit margins for retail long distance rates relative to wholesale rates, and it is this margin that has been stimulating the growth of smaller carriers.

⁴ WorldCom has network capacity of its own, and it, too, has been increasing its market share. (Joe Bender, "Long Distance Market Shares," *op. cit.* This growth suggests that the wholesale prices of the
(continued...)

B. AT&T Has Increased Rates for the Consumer Segment

AT&T raised its interstate basic rates by 22 percent between 1993 and 1996,⁵ even though average access charges for the interexchange carriers fell by nine percent in that period.⁶ AT&T has also been reducing its costs other than access: according to data supplied by AT&T to the FCC, its annual reports to stockholders, and statements by Professor Robert Hall, the productivity of AT&T and the other interexchange carriers has been increasing. In its price cap filing before the FCC, AT&T reported data showing that, from 1985 to 1991, it reduced its capital costs relative to output by 2.1 percent per year, and it reduced its non-capital costs by 7.3 percent per year.⁷ More recently, AT&T reported that it continued to improve productivity: "Total cost of telecommunications services declined [in 1993 and 1994] despite higher volumes, *in part* because of reduced prices for connecting customers through local networks. *In addition, we improved our efficiency in network operations, engineering and operator services.* With lower costs and higher revenues, the gross margin percentage rose to 41.8% in 1994 from 39.0% in 1993 and 37.2% in 1992."⁸ If the long distance market were truly competitive, the incumbent interexchange carriers would have passed through to consumers the above reductions in both access and nonaccess costs.

The increases in interstate basic rates affected most of AT&T's customers. For each state in

(...continued)

Big Three might also be above cost.

⁵ AT&T raised basic residence rates by an average of 6.3 percent in January 1994 ("AT&T Proposes \$750 Million Rate Hike, New Calling Plan Aimed at High-Volume Residential Users," *Telecommunications Reports*, January 3, 1994); 3.7 percent in December 1994 ("AT&T and Rivals Boost Rates Further," *Wall Street Journal*, November 29, 1994, p. A3); 4.3 percent in February 1996 ("AT&T to Raise Basic Prices an Average 40c a Month," *Bloomberg News Services*, February 16, 1996. See also "AT&T Increases Basic Rates, Extends Discount Plans," *Telecommunications Reports*, February 26, 1996, p. 27); and 5.9 percent in December 1996 ("AT&T Follows MCI, Sprint with Long Distance Rate Increases," *Telecommunications Reports*, December 2, 1996). The cumulative increase is $1.063 \times 1.037 \times 1.043 \times 1.059 - 1 = 0.22$. AT&T also increased rates between 1991 and 1993, but it accelerated the rate of increases after 1993.

⁶ From 1993 to 1996, average switched access charges fell from 6.66 cents to 6.04 cents per conversation minute. *FCC Monitoring Report*, Table 5.11, May 1996, p. 474.

⁷ R. Schmalensee and J. Rohlfs, "Productivity Gains Resulting from Interstate Price Caps for AT&T," report filed by AT&T in CC Docket No. 92-134, July 1992. The cost reductions I report here are in real terms.

⁸ AT&T 1994 Annual Report, p. 24.

BellSouth's territory, Table 1 shows the percentage of AT&T residence customers who faced basic rates for interstate toll in 1996.⁹ These customers include two groups—those who subscribe to no calling plan and those who subscribe to a calling plan but whose toll usage is insufficient to generate any discount.

Table 1
Percentage of AT&T Residence Customers Facing Basic Rates for Interstate Toll in 1996

State	Percentage of Households
Alabama	67%
Florida	59%
Georgia	55%
Kentucky	70%
Louisiana	67%
Mississippi	67%
North Carolina	60%
South Carolina	70%
Tennessee	66%
Total	62%

As these data show, in every BellSouth state more than half of AT&T's residence customers face interstate basic rates and thus have seen rate increases of 22 percent since 1993. For all BellSouth states combined, the percentage facing basic rates is 62 percent.

Some customers do subscribe to discount calling plans and pay less than basic rates. It is even true that the percentage of AT&T's customers subscribing to calling plans has been increasing, so the average percentage discount received by residence customers as a whole has been increasing. But, even taking account of the increase in the average discount, the rates paid by the average residence customer have increased since 1993. For all BellSouth states combined, the average discount off basic rates on a dollar of residence AT&T toll calls in 1996 was only 15.6 percent.

¹⁰ To construct an extreme hypothetical illustration, suppose that *no* AT&T customer had a discount calling plan in 1993. Even under such an extreme assumption, AT&T residence

⁹ Based on calculations using PNR and Associates' "Bill Harvesting III" database, Release 2 (May 1996).

¹⁰ *Ibid.*

customers in BellSouth states would still have experienced an average increase in rates of three percent.

¹¹ Contrary to that extreme illustration, however, according to Yankee Group national surveys, 20.5 percent of AT&T households had a calling plan in 1993,

¹² and the percentage had increased to only 38.4 percent in 1996.

¹³ A plausible estimate of the increase in AT&T's average interstate rates for AT&T residence customers in BellSouth states, *accounting for discounts*, is about 12 percent from 1993 to 1996.

¹⁴ Yet during the period, as I mention above, AT&T's costs declined.

C. The New One-Rate Calling Plans Do Not Change the Results

The interexchange carriers have introduced calling plans with flat per-minute rates; an example is AT&T's One Rate plan, which charges 15 cents per minute regardless of distance or time of day. These new plans do not change the conclusion that AT&T has increased rates since 1993. To evaluate the potential effect of AT&T's One Rate plan, I first calculated the price that an average AT&T customer in the BellSouth states would have paid in December 1996 for domestic direct dialed calls at AT&T's basic interstate rates.

¹⁵ The average rate was about 18.9 cents per minute. Since 15 cents under the One Rate plan is lower than 18.9 cents, the One Rate plan might be attractive to many residence consumers today who are paying basic rates.

¹¹ $1.22*(1-0.156)=1.030$.

¹² The Yankee Group, "The Technologically Advanced Family Tracking Study—1993," Table 327.

¹³ The Yankee Group, "1996 TAF Survey: Implications for Convergence," December, 1996, Table 307, p. 717.

¹⁴ This estimate is based on the Yankee Group data on percent of customers with discount plans, and assumes that the average discount is proportional to the percentage of customers receiving discounts. (Based on data from PNR and Associates' Bill Harvesting III database, Release 2.) Even if the best available discounts might have increased over the period, new plan customers tend to receive lower discounts than previous ones, because the ones who sign up early are the ones for whom the plans are most advantageous.

¹⁵ Based on 1995 calling data from PNR and Associates' "Bill Harvesting II" database.

The One Rate plan would not benefit all residence customers, however. The plan would not be attractive for customers who make most of their calls on weekends or at night. (As discussed below, Professor Robert Hall acknowledges that residence customers make most of their calls in off-peak periods.) The new plan also would not benefit many customers who are already on another plan. For instance, a True Reach customer who already receives a 25 percent discount would typically pay more under the One Rate plan.

My main point about AT&T's One Rate plan is this: the only reason that many consumers might find the One Rate plan attractive today is that *AT&T has substantially raised its basic rates over the last several years*. If instead AT&T had merely passed through its savings in access charges—even ignoring its other cost savings—then its 15-cents-per-minute One Rate plan would be unattractive in comparison. As I have said, AT&T raised its basic rates by about 22 percent between 1993 and 1996. Suppose that AT&T had not increased its rates. Then today the average basic rate for direct-dialed calls would be only about 15.5 cents a minute.

¹⁶ If AT&T had passed through the industry-average decrease in access charges of 0.6 cents since 1993,

¹⁷ then the average basic direct-dialed rate today would be 14.9 cents a minute. If AT&T had also passed through its other cost reductions, today's basic rates would be even lower. In summary, net of access charges AT&T increased basic rates for direct-dialed calls by about 4 cents, or 45 percent.

¹⁸ If instead it had passed through its cost decreases, as would have happened in a truly competitive market, AT&T's touted One Rate plan would be a nonstarter. Thus, in introducing its One Rate plan, AT&T has nothing to brag about. Still, its pricing plans have been clever: (1) It was able to collect increasing excess profits from its residence customers for several years. (2) Just in time for the Section 271 proceedings, it has now introduced its One Rate plan, which it can hope might sway some opinions during the proceedings. (3) And it can be confident that, in spite

¹⁶ $\$.189/1.22 = \0.155 . I implicitly assume that AT&T increased rates for direct-dialed calls by about the same percentage as for other calls.

¹⁷ *FCC Monitoring Report, op. cit.*

¹⁸ $18.9-15.5+0.6=4.0$. $(18.9-6.04)/(15.5-6.66)-1=0.45$.

of making the One Rate plan available, many customers will continue paying basic rates for quite a while.

¹⁹ The combination of rising basic rates and optional calling plans effectively exploits many customers' lack of information and inertia. With their pricing, the interexchange carriers segment the market, separating the active "bargain-hunters" from the "victims."

D. Interexchange Rates Are Above Costs

In an FCC proceeding, AT&T asserted that the costs of serving customers with bills less than \$3 per month exceed the revenues received from them; *i.e.*, AT&T's break-even point is \$3 per month.

²⁰ The incumbent carriers sometimes justify their increases in basic rates by claiming that they must cover the costs of serving customers with low usage. This explanation for increasing rates, even if true, is clearly inadequate. It does not explain why AT&T should have increased rates for two groups: (1) the 22 percent of its customers with monthly bills above \$3 but less than \$10,

²¹ the threshold for eligibility for its True USA and True Reach calling plans; and (2) the many residence customers who have bills exceeding \$10 per month who did not benefit from calling plans. If \$3 per month of billings is the break-even point, then, at a minimum, AT&T is making supracompetitive profits from those two groups, and it increased its profits as it increased basic rates. One can, moreover, derive an alternative estimate of the break-even point using data provided by Professor Robert Hall. Data from an affidavit he filed in FCC proceedings on SBC's Section 271 application for Oklahoma imply that the break-even point is actually lower than AT&T's claim. Specifically, his figures imply a break-even point of \$2.08; thus, even more than

¹⁹ As reported above, between 1992 and 1996, the calling plan subscription rate of AT&T residence customers increased from 20.5 percent to 38.4 percent—only 4.5 percentage points per year. Yankee Group TAF surveys, *op. cit.*

²⁰ Letter from C. L. Ward, AT&T, to W. F. Caton, FCC, Re: *Ex Parte Presentation in Support of AT&T's Motion for Reclassification as a Non-Dominant Carrier*, filed in CC Docket No. 79-252 (April 24, 1995).

²¹ Letter from C. L. Ward, AT&T, to W. F. Caton, FCC, Re: *Ex Parte Presentation in Support of AT&T's Motion for Reclassification as a Nondominant Carrier* (March 9, 1995).

22 percent of AT&T's customers probably have bills between \$10.00 and the break-even point.

22

Further, Professor Hall's own data confirm that AT&T is making supracompetitive profits from its residence customers—even those with calling plans. First, Professor Hall estimates that long distance service costs are a little below ten cents per minute.²³ He uses the approach of estimating costs by finding “the best available price . . . for offices and homes,” which some resellers offer. I interpret that estimate as an upper bound, since a reseller which can profitably sell at that price might pay more than the incremental costs of one of the facilities-based carriers for network transmission and switching. I also assume that that cost applies to direct-dialed domestic calls, not operator service or international calls. Furthermore, as Professor Hall himself points out, the network cost of off-peak calls is lower than that of peak calls, and residence customers make most of their calls in off-peak periods. Thus, the cost for residence customers might be less than ten cents per minute. Second, Professor Hall does not challenge the estimate of Drs. Kahn and Tardiff that AT&T's average revenue per minute from residence customers for direct-dialed calls is about 18 cents. Therefore, Professor Hall's own cost estimate would imply that AT&T's profit margin for the average residence customer is about 8 cents per minute, and it has been increasing as AT&T has raised rates.

Even AT&T residence calling plan customers are paying rates above costs. The maximum standard discount available through AT&T's True Reach plan is 25 percent. So a typical high-volume True Reach customer would pay about 14.2 cents a minute,²⁴ which exceeds Professor

²² Affidavit of Robert Hall on behalf of MCI in *Application of SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., for Provision of In-Region, InterLATA Services in Oklahoma*, CC Docket 97-121. Professor Hall claims that an additional customer costs \$.98. (Hall at ¶ 42) As discussed below, he also estimates that the incremental cost of usage is 10 cents a minute. (Hall at ¶ 36) (To be conservative, here I assume that this 10-cent cost does not double count the per-customer costs of \$.98.) Although he is not clear on the point, I tentatively infer that this cost applies to direct-dialed calls. The average basic rate for direct-dialed calls is 18.9 cents. Then Professor Hall's figures imply that the break-even point would be a monthly bill of about \$2.08 ($0.189 * 0.98 / [0.189 - 0.10]$).

²³ Affidavit by Professor Robert Hall, *op. cit.*, at ¶ 36.

²⁴ $0.189 * (1 - .25)$.

Hall's estimated cost of 10 cents a minute. Subscribers to AT&T's new 15-cent One Rate plan must also be paying rates substantially higher than costs.

IV. AN ANALYTICAL APPROACH TO ASSESSING BELL SOUTH'S ENTRY PROSPECTS

Recall my discussion above that the FCC's data show that the market share of smaller interexchange carriers has been growing relative to that of the Big Three. This fact suggests that there is a promising market opportunity for small or perhaps even newly-entering carriers. If, to the contrary, the market share of the small carriers were declining, I would be more concerned about BellSouth's likely prospects in the interexchange market.

The FCC data are qualitatively consistent with another study by a market survey company called Odyssey. It reports the percentage of U.S. households using each long distance carrier:²⁵

Table 2
Market Shares of Interexchange Carriers
(Percentage of U.S. Households)

Carrier	4Q94	1Q95	4Q95	1Q96
AT&T	74	71	66	65
MCI	11	12	13	12
Sprint	4	4	4	5
Other	—	7	12	12
Don't know/no answer	11	6	5	6

According to these data, too, while AT&T's market share is declining, MCI's and Sprint's shares are stable, and the other carriers' share is growing. The study also reports that "consumers who rated AT&T's image as 'very good' fell from 68% two years ago to 59% in the latest survey."²⁶ Emphasizing the growing market share of resellers, the article states, "The findings point to a potentially lucrative field for the Bell companies, which can succeed in their foray into long-distance by becoming 'super resellers,'"²⁷ according to a separate report by the Yankee Group.

²⁵ Sandra Guy, "Reselling Upends IXCs' Marketing Plan," *Telephony* (July 1, 1996), p. 20.

²⁶ *Ibid.*

²⁷ *Ibid.*

Based on its assessment of the attractiveness of the RBOCs and turnover of customers of the interexchange carriers, a report by the Yankee Group estimates that the RBOCs in the aggregate will achieve about a 10 to 15 percent share of the national interLATA household market 18 months after entering the market.²⁸ If BellSouth's success were equal to that of the average RBOC and if it were to focus on customers in its home region, then its share of the household market within its region would also equal between 10 to 15 percent. Since it has about 14 percent of RBOC access lines, then, based on the Yankee Group predictions, its share of the national interLATA household market would be about 1.7 to 2.6 percent.

I should point out that these data are suggestive, not definitive. Although insufficient by themselves, the combination of these data and the other information discussed in the sections below more convincingly portray the picture of BellSouth's entry prospects.

The supracompetitive profits and pricing discipline of the Big Three carriers would have to diminish in the face of the market entry of BellSouth and other new entrants. From the point of view of customers, the lower prices resulting from such a breakdown in profit margins and pricing discipline would be good news.

Already, there are signs of downward pressure on prices due to RBOC interLATA entry; as one article puts it, "Further evidence of a changing long-distance market is apparent in BellSouth's recent agreement to buy wholesale long-distance transport from AT&T at what the RHC called 'the low end' of the 1¢- to 2¢-per-minute range. The agreement signifies a potentially radical change in consumer and business services pricing and the possibility of a real price war, said Robert Rich, vice president of telecommunications research at The Yankee Group."²⁹ These pressures could only increase when BellSouth and the other RBOCs enter the in-region interLATA market.

²⁸ The Yankee Group, "IXCs versus RBOCs: The Battle of the Century" (December, 1995), p. 24. This report also estimates that the RBOCs will lose about the same percentage of their local market in the same period of time (p. 26).

²⁹ *Ibid.* At the time of the contract, BellSouth could only use the wholesale transport for cellular and out-of-region resale activities. Similarly, Bell Atlantic reportedly negotiated bulk transport at 1.5 cents per minute. "Bell Atlantic Adopts Retail Long Distance Strategy," *Telecommunications Reports* (September 23, 1996).

Now we come to my main point. We have seen that smaller carriers are gradually gaining market share. Still, so far their gains have been insufficient to break down the pricing discipline of the Big Three carriers.³⁰ I explain in the sections below that BellSouth has several strengths. These strengths might be sufficient for a more effective challenge to the Big Three than the existing smaller carriers have presented, particularly for low-usage customers who have faced a succession of price increases in recent years.

Let me expand on that point about low-usage customers. That market segment—predominantly residence customers—is the largest group of customers, yet it is neglected in the competition among interexchange carriers. I report above that, in 1996, 62 percent of AT&T's residence long distance customers in the BellSouth states faced full, undiscounted toll rates.³¹ Also consider Table 3 below. It shows data for 1996 from the FCC's market share report and a calculation I have made from the data. The FCC report shows each major interexchange carrier's number of presubscribed lines and total operating revenues. From the FCC report, I show results for the ten largest interexchange carriers for which the FCC reports data on both presubscribed lines and revenues, plus data for all other interexchange carriers combined.³²

³⁰ See, e.g., P. W. MacAvoy, "Tacit Collusion under Regulation in the Pricing of Interstate Long-Distance Telephone Services," *Journal of Economics and Management Strategy*, v. 4. No. 2 (Summer 1995), pp. 247-185; also see W. E. Taylor and J. D. Zona, "An Analysis of the State of Competition in Long Distance Telephone Markets," Study Attached to Ex Parte Comments Examining the Competition of Interstate Long Distance Telephone Markets, FCC CC Docket No. 79-252 (April, 1995).

³¹ Based on results of analysis of data for 1996 from "Bill Harvesting III" Release 2, *op. cit.*.

³² Joe Bender, "Long Distance Market Shares," *op. cit.* Of the interexchange carriers for which the FCC reports both presubscribed lines and operating revenues, I have selected the ten carriers with the largest number of presubscribed lines. Had I selected the largest carriers based on their revenues, that selection process would have introduced a bias toward displaying carriers which have high revenue per line relative to AT&T. Since I have selected the carriers with the largest number of lines, I avoid that selection bias. One should use these data with caution. The data for revenues might not be fully comparable to the data for presubscribed lines and might not be defined in the same way by different carriers. One should use special caution regarding the revenue figure for "all others," since it is calculated as a residual from the figure for total revenues, which the FCC staff has estimated.

Table 3
Revenue per Presubscribed Line

	Presubscribed Lines in June 1996	Revenue (M) in 1996	Revenue per Line in 1996
AT&T	99,821,499	\$39,264	\$393.34
MCI	24,338,086	\$16,372	\$672.69
Sprint	10,905,940	\$7,944	\$728.41
WorldCom	4,288,401	\$4,485	\$1,045.84
Excel Telecommunications	3,313,287	\$1,091	\$329.28
Frontier companies	2,097,182	\$1,563	\$745.29
LCI	1,965,532	\$1,103	\$561.17
Cable & Wireless	584,802	\$919	\$1,571.47
U.S. Long Distance	356,932	\$188	\$526.71
Business Telecom	171,239	\$149	\$870.13
Vartec Telecom	116,898	\$470	\$4,020.60
General Communications	124,969	\$143	\$1,144.28
All others	<u>3,996,101</u>	<u>\$8,342</u>	<u>\$2,087.53</u>
Total	152,080,868	\$82,033	\$539.40

What we see in the last column is that all the carriers except one have higher revenues per presubscribed line than AT&T does. The only exception is Excel Telecommunications, which, according to the FCC report, is a pure reseller and which is only about two percent of AT&T's size. The lesson is that the carriers other than AT&T tend more to focus on high-volume customers than AT&T does.

This pattern is not surprising, since interexchange carriers bear some fixed costs per customer. Such fixed costs include a fee paid to a local exchange carrier for processing a presubscription order and some of the costs of marketing, customer care, and perhaps some billing costs. To some extent the latter three types of costs increase with a customer's volume of usage, but there is a fixed component, too. Thus, since the low-usage segment is more costly to acquire and serve relative to the revenues it generates, it is not as profitable a segment to pursue aggressively. As I explain in Section VI below, the low-volume market segment should be less costly for BellSouth to serve than it is for other existing interexchange carriers, so BellSouth's entry holds out the prospect of more intensified competition for this segment and more benefits to those consumers

than for the other segments where competition is relatively stronger.

V. BELL SOUTH HAS THE POTENTIAL TO HAVE LOW INCREMENTAL COSTS

There are functions for which economies of scope would potentially strengthen BellSouth's prospects for success when it enters the interexchange market. These economies might enable it to challenge the Big Three interexchange carriers more effectively than small carriers and resellers have to date. Absent legal and regulatory restrictions, such potential economies exist for at least the following functions:

Certain transmission facilities

Sales and marketing

Customer care

Billing.

Such economies of scope could conserve on the economy's scarce resources and benefit consumers. Nevertheless, Section 272 of the Telecommunications Act and the FCC rules implementing the Act require BellSouth to operate largely as a separate, arms-length subsidiary for at least three years; and the FCC could extend the requirement beyond that period. Thus, the principal permissible joint activities are sales, sales support systems, and customer support. The separate subsidiary restriction may tend to postpone the time when competitive forces will determine whether vertically integrated or non-vertically integrated carriers are the most effective and efficient means of serving customers.

VI. BELL SOUTH'S MARKET POSITION

There is evidence about the market credibility of local exchange carriers such as BellSouth. C/J Research conducted a survey in January, 1996. The survey called Comm-Trac asked residence customers about their satisfaction with companies providing long-distance service, local telephone service, cellular service, and cable TV service. The most relevant data compare customers' opinions of the current long-distance companies with local exchange carriers. The survey found that local exchange carriers met or exceeded expectations for 85.4 percent of respondents,

whereas long distance carriers did so for 91.1 percent. To put these figures in perspective, cable TV companies met or exceeded expectations for only 67.3 percent of respondents. Thus, although satisfaction with the long distance carriers is slightly higher than it is with local exchange carriers, satisfaction with both is high, and the difference in satisfaction between long distance carriers and local carriers is small relative to the difference in satisfaction between either of these types of carriers and the cable companies. The survey also asked respondents whether they would change their carrier when a new company begins offering service. The result is that 12.8 percent of residence customers say they would either definitely or probably switch long-distance carrier, while 15.6 percent say they would definitely or probably switch local exchange carrier. This small difference between the two markets contrasts with the large difference between either of those two markets and the cable TV market: for the latter market 37.0 percent said that they would definitely or probably switch.

The Yankee Group conducted a similar study among consumers and found similar levels of satisfaction with the three kinds of carriers as the Comm-Trac survey did. The Yankee Group found that 89 percent of consumers rated the services of long distance carriers as good or excellent; 85 percent of them rated local exchange carrier services at that level; and just 61 percent rated the services of cable TV companies at that level.³³ The data indicate high satisfaction with local exchange carriers in general as service providers. The Yankee Group updated its study in 1996, and the update shows results for individual RBOCs. To help add to the information from the previous Yankee Group study, Table 4 reports results for more detailed questions; I show the percentage of customers who rate a carrier as excellent; and I compare ratings of BellSouth with interexchange carriers and cable companies:³⁴

³³ The Yankee Group, "IXCs versus RBOCs: The Battle of the Century" (December, 1995), p. 33. The report also finds ratings of 76 percent for electric companies and 70 percent for cellular carriers.

³⁴ The Yankee Group, "The 1996 TAF Survey: Implications for Convergence" (1996), p.14; also detailed data obtained directly from The Yankee Group.

Table 4
Percentage of Households Rating Carrier as Excellent

Subject	BellSouth	Interexchange	
		Carriers	Cable TV
Professional and Courteous Personnel	26.6	25.2	11.5
Accurate and Easy-to-Understand Bills	27.0	25.5	15.6
Timely Resolution of Problems	26.6	22.1	11.2
Quick Access to Customer Service	23.4	21.0	10.5
Value for the Money	15.5	18.3	6.3
High-Quality Transmission	21.7	26.2	8.3
Trustworthiness	22.7	24.4	8.7
Deserving of Loyalty	22.7	23.4	7.5

For most measures, BellSouth's ratings are close to those of the interexchange carriers, and some even exceed those of the interexchange carriers. Again, the cable TV companies lag far behind.

A survey by IDC/LINK yields similar information. In its 1995 Home Media Consumer Survey, the research firm asked U.S. households to rate their long distance company, local telephone company, and cable TV company.³⁵ Table 5 shows the results for BellSouth and interexchange carriers:

Table 5
Percentage of Households Rating Carrier as Very Good or Good

Subject	BellSouth	Interexchange	
		Carriers	
Customer Service	76	80	
Service Reliability and Product Quality	77	81	

Again, the differences between BellSouth and long distance carriers is small. If the difference were large, then one would have substantial concerns about BellSouth's entry prospects. But such small differences in percentages generally imply that there is a large customer segment which rates BellSouth as well as or better than the interexchange carriers; further, such a small difference in percentages can be overcome by reasonably diligent efforts.

³⁵ IDC/LINK reports selected results in Rona Shuchat, "Brand Awareness: The Critical Key to Success," IDC/LINK #11179, Volume 1, Tab 1 Market Analysis (March 1996), p. 8. IDC/LINK provided the detailed data directly.

1. The FCC also collects data which enable comparisons among individual local exchange carriers.³⁶ According to the FCC data obtained from the carriers, customer satisfaction with BellSouth has tended to be better than for the other Bell companies as a whole in recent years. For residence customers, from 1H91 through 1H95 (the most recent period with data in the FCC report) the percentage of customers satisfied has exceeded that of the Bell average for five out of nine semiannual periods and has equaled the average in one period. During that four and a half years as a whole, an average of 94.4 percent of BellSouth residence customers were satisfied, as compared with 93.5 percent for the Bell companies in total. The percentage of BellSouth small business customers who were satisfied averaged 94.5 compared with 93.0 for the Bell companies as a whole.³⁷

Since divestiture, the RBOCs have developed marketing and competitive skills that were inadequate prior to divestiture. The RBOCs have honed their competitive skills in a variety of markets that have become competitive or that were competitive early on. Such markets include customer premises equipment, cellular service, certain vertical services, Centrex service, inside wiring installation and maintenance, Yellow Pages, billing and collection services offered to interexchange carriers, and, more recently, intraLATA toll service.

Staffing heavily from BellSouth and other telecommunications firms, BellSouth's long distance affiliate will obviously be thoroughly experienced in the telecommunications industry, its market needs, its operational requirements, its technologies, and its equipment suppliers. In particular, its employees will have experience in the toll market because BellSouth had already been providing intraLATA toll services.

When entering the interLATA market, BellSouth might position itself as a low-priced carrier. It

³⁶ Jonathan M. Kraushaar, "Update on Quality of Service for the Local Operating Companies Aggregated to the Holding Company Level," Common Carrier Bureau—Industry Analysis Division, Federal Communications Commission (March, 1996). The report cautions that some of the data might not be fully consistent among companies or over time for a given company. The FCC aggregates operating-company data to the holding company level using an unweighted average of operating-company data. The FCC report does not cover non-Bell companies.

³⁷ The FCC report also shows data for large business customers; however, the data are not available for all companies for all years. The FCC reports an RBOC average only through the first half of 1993. Satisfaction of BellSouth's large business customers equaled or exceeded the RBOC average for four out of five semiannual periods from 1H91 through 1H93.

might instead differentiate itself by providing superior customer service, quality, or distinctive services. Either way, this additional competition would force the incumbents to respond in kind or by making their offerings more attractive in innovative new ways. Whatever the competitive response, customers—both business and residence—would benefit.

VII. CARRIER ACCESS RATES ABOVE COSTS WILL NOT HARM COMPETITION

I leave to other affiants most of the discussion of whether competition and regulatory safeguards are sufficient to protect the interexchange market from anticompetitive abuses. One topic, however, I will address because I have written on the subject and because I have frequently seen erroneous claims regarding it. All parties—myself included—agree that current rates for carrier access are above the cost of providing the service. This differential has helped to keep rates lower for other services—in particular, residence basic service. The incumbent interexchange carriers and others have claimed that this differential would give a local exchange carrier (LEC) an artificial cost advantage that would cause it to discriminate against competitors and expand its long distance output at the expense of competitors. There are two versions of this claim, the simple version and the subtle version, so I deal with each version in turn.

First consider the simple version of the claim. According to this version, to maximize overall corporate profits, the LEC's long distance affiliate would choose a price level using the true economic cost of carrier access in its calculations rather than the tariff price of carrier access that the incumbent interexchange carriers must pay. As the argument goes, the affiliate could profitably take customers away from its competitors even if it were less efficient than its competitors.

This naïve argument is flat-out wrong. Think about what happens if the long distance affiliate were to take, say, 100 minutes away from a competitor. The LEC would no longer receive carrier access revenues from that competitor. If access charges were, say, 6 cents per minute, then the LEC would forego \$6.00 in access revenues. To maximize profits, the LEC corporate parent must recognize that \$6.00 in lost access revenues as an opportunity cost of having its long distance affiliate carry the 100 minutes. If the affiliate cannot earn enough revenue to cover both its own costs and the opportunity cost of access, then its taking the 100 minutes away from the

competitor would be unprofitable for the LEC corporate parent.

Consider a simple example. For illustration, assume the following:

the price of carrier access is 6 cents per minute,

the LEC's incremental cost of access is 1 cent per minute,³⁸

the market price of long distance service is 16 cents per minute, and

the incremental cost of both the LEC's long distance affiliate and the incumbent IXCs is 10 cents per minute.

Let us look at the problem from an accounting point of view. Consider Scenario 1: An incumbent interexchange carrier carries 100 minutes. In that case, the LEC's access revenues are \$6.00, its incremental access costs are \$1.00, and it earns no profits in the long distance market, so its total corporate profits are \$5.00.

Now consider Scenario 2: the LEC's long distance affiliate carries that 100 minutes instead. The LEC no longer earns those access revenues from the incumbent interexchange carriers. The only revenues to account for are the long distance affiliate's revenues of \$16.00 (100 minutes times the price of 16 cents per minute). We have to account for two sources of costs. First, the LEC's long distance affiliate bears a cost of \$10 (100 minutes times its incremental cost of 10 cents per minute). Second, the LEC bears a cost of providing access of \$1.00 (100 minutes times an incremental cost of one cent a minute). For the LEC corporation as a whole, its profits are the long distance revenues of \$16.00 minus long distance costs of \$10.00 minus access costs of \$1.00; *i.e.*, its total corporate profits are \$5.00—precisely the same amount as it earned in Scenario 1, when the incumbent interexchange carrier carried the 100 minutes. To summarize, the LEC corporate profits in the two scenarios and the difference in profits are as follows:

³⁸ For simplicity of the illustration, I assume here that there are no economies of scope between the LEC's provision of carrier access service to its long distance affiliate and the affiliate's provision of long distance service. There might indeed be such economies of scope.

Table 6
Illustration Showing LEC's Lack of Profit Incentive to Discriminate

	Incumbent IXC Carries	LEC LD Affiliate Carries	Change in Profit
Long distance revenue	\$ 0.00	\$16.00	\$16.00
Long distance costs (neg.)	\$ 0.00	(\$10.00)	(\$10.00)
Access revenue	\$ 6.00	\$ 0.00	(\$ 6.00)
Access costs (neg.)	(\$ 1.00)	(\$ 1.00)	\$ 0.00
Total	\$5.00	\$ 5.00	\$ 0.00

As you can see, the LEC corporation as a whole makes exactly the same profit in the two scenarios. Therefore, the naïve claim about access charges is wrong. The LEC corporation as a whole does not increase profit by taking business away from an equally-efficient competing interexchange carrier.

In that simple illustration I pretended that the long distance market is highly competitive, so the market price equals the sum of the price of access and the cost of long distance. If the long distance market is not fully competitive, as it appears not to be, then the market price would exceed the costs of the incumbent interexchange carriers. In that case, the LEC corporation as a whole would make more profits if the LEC long distance affiliate were to carry the 100 minutes than if the incumbent interexchange carriers were to carry them. But that outcome results from the lack of competitiveness in the market, not from a price of access that exceeds its incremental costs. The LEC long distance affiliate, making its own decisions and taking its carrier access bills as a cost, would make the same decisions about whether to carry traffic as the LEC corporate CEO would have made.

Now consider the more subtle argument, according to which the LEC would increase its profits if its long distance affiliate could somehow cause the market price of long distance services to fall and thereby stimulate demand for the LEC's carrier access services. That outcome is not a problem, since it improves economic welfare, driving prices closer to economic costs.

1. Professor Franklin Fisher, however, raised the concern that a LEC and its long distance affiliate (an "integrated LEC") would behave differently from an unintegrated provider and might expand

output even if it were less efficient than its rivals.³⁹ The potential for an economic problem in this theory arises because the gain in economic welfare from driving long distance prices closer to economic costs might be exceeded by the increase in industry costs. If so, there theoretically could be a loss of economic efficiency. However, as my co-authors and I pointed out in a recent paper,⁴⁰ such losses would be outweighed by efficiency gains from the expansion of industry output as long distance prices are driven closer to economic costs. We found conclusively that, for a wide range of reasonable assumptions, the entry of a vertically integrated LEC would cause an increase in consumer plus producer surplus, even if it were less efficient than its rivals.⁴¹ The economic welfare gain is larger if the vertically-integrated LEC maximizes total corporate profits—taking into account the additional contribution the corporation receives from expanded carrier access demand—than if the LEC’s long distance affiliate maximizes only its own profits.

Thus, our model shows that, under plausible assumptions, Professor Fisher is half right—the incremental profits in long distance and carrier access cause an integrated firm to select a different level of output from what an unintegrated firm would select. However, Professor Fisher is wrong in his conjecture that this leads to losses in economic efficiency.

Our results are consistent with the findings of Sibley and Weisman.⁴² Using a simple model of the long-distance market, they find that combined profit-maximizing behavior of the LECs in a substantial range of circumstances gives them the incentive to reduce rather than raise their rivals’ costs. In sum, the entry of an integrated LEC into the long distance market is procompetitive for

³⁹ Franklin M. Fisher, “An Analysis of Switched Access Pricing and the Telecommunications Act of 1996.”

⁴⁰ Richard L. Schmalensee, William E. Taylor, J. Douglas Zona, and Paul J. Hinton, “An Analysis of the Welfare Effects of Long Distance Market Entry by an Integrated Access and Long Distance Provider,” CC Docket 96-262 *et al.*, on behalf of USTA, *ex parte* filed March 7, 1997.

⁴¹ We estimated that entry by a vertically-integrated LEC, maximizing total corporate profits, would increase net consumer plus producer surplus by \$0.80 per line per month. There are about 100 million residence lines in the U.S.; thus, on a national basis, that represents a welfare gain for residence customers alone of about \$1 billion a year. Even under an extreme assumption that the LEC’s long distance affiliate might be 20 percent less efficient than the incumbent interexchange carriers, the welfare gain still exceeds \$0.60 per line per month. After completing the article, I also found through subsequent research that the conclusions are robust with respect to changes in the technical behavior assumptions of the LEC—whether the LEC assumes that its output decisions do not affect the outputs of competitors or whether it anticipates and takes into account rival output changes responding to its own actions.

⁴² David S. Sibley and Dennis L. Weisman, “The Competitive Incentives of Vertically Integrated Local Exchange Carriers: An Economic and Policy Analysis,” *Journal of Policy Analysis and Management*, forthcoming Vol. 17, No. 1, 1997.

reasonable ranges of parameter values.

VIII. CONCLUSIONS

As we have seen, current long distance competition for the consumer segment is inadequate, and the interexchange carriers have increased rates for this segment. Entry by a strong competitor could break down the pricing discipline that the Big Three have succeeded in maintaining in recent years. BellSouth has a good market position to expand its service offerings to include interexchange services. After expiration of the separate-subsubsidiary restrictions established by the Act and implemented by the FCC order in Docket 96-149, it will be helped by additional economies of scope.

At least one economy of scope will be realizable immediately, even under the separate-subsubsidiary requirement—the benefit of the existing BellSouth brand name. As explained in Section VI, through its high-quality service and advertising, BellSouth has achieved considerable customer recognition, loyalty, and trust. Many customers might have hesitated to buy their interexchange service from a “no-name” carrier. (I do not intend to disparage the small interexchange carriers but rather to indicate how a customer, unfamiliar with the quality and value of such a carrier’s services, might tend to perceive them.) In contrast, most of BellSouth’s customers are familiar with the BellSouth brand name and have a favorable opinion about the company’s quality of service and value. Thus, on this basis at least, BellSouth might be able to offer an effective competitive challenge to existing interexchange carriers even if it were to enter the long distance market as a pure reseller. In addition, BellSouth is large (although not nearly as large as AT&T or MCI); it has substantial positive cash flows; it has healthy relations with the stock, bond, and banking markets; and its securities are rated as low risk. Thus, it is in a good position to fund necessary construction and entry start-up costs. For all the above reasons, BellSouth is a credible competitor in the long distance market and so has good prospects for intensifying competition in that market. Such an intensification of competition would benefit consumers and would be in the public interest. Current carrier access charges, set above costs, are not a threat to those consumer benefits.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
August ____, 1994.

Vita (To Be Added)

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Application by BellSouth Corporation,)	
BellSouth Telecommunications, Inc.)	CC Docket No. _____
and BellSouth Long Distance, Inc., for)	
Provision of In-Region, InterLATA)	
Services in Louisiana)	

AFFIDAVIT OF WILLIAM N. STACY

11/4/97

William N. Stacy, being duly sworn, deposes and says:

I. PROFESSIONAL EXPERIENCE

1. My name is William N. Stacy. I am employed by BellSouth Telecommunications, Inc. (ABellSouth@). My business address is 675 West Peachtree Street, Atlanta, Georgia 30375. I am the Assistant Vice President - Services for the Interconnection Operations department of BellSouth Telecommunications, Inc. (BST). In this position, I am responsible for development of the procedures used by BST personnel to process Competitive Local Exchange Carrier (CLEC) service requests, and for assisting the service centers in Interconnection Operations in implementing CLEC contracts in a manner consistent with State Commission and Federal Communications Commission (AFCC@) rules and regulations governing local exchange competition. I have held numerous positions with BST in Network

Engineering, Operator Services, Network Planning, and Network Operations.

II. PURPOSE OF THE AFFIDAVIT

2. In this affidavit, I address four key elements regarding the OSS functions that BellSouth provides to requesting carriers. (I am also filing another affidavit on performance measurements.) First, I address the meaning of non-discriminatory access in the context of operations support systems. Second, I address the electronic interfaces available for each required function, namely, pre-ordering, ordering, provisioning, maintenance and repair, and billing. There is a separate billing affidavit (of David Hollett) discussing the process of billing for services rendered **B** my affidavit refers only to interfaces for providing billing information and not to the actual capability to bill. I also compare BellSouth=s retail access for each function to the access currently available to and in use by CLECs. Third, I describe the current systems usage, testing, and capacity of each interface to support CLEC transactions, as well as the scalability of each interface and the Ahot spare@ capacity. Finally, I discuss the training, documentation, and other support available to CLECs using BellSouth=s interfaces.

3. The FCC=s August 8, 1996, Order in Docket No. 96-98 (FCC Order), at paragraph 312, indicates generally that the quality of access to unbundled network elements must be comparable among CLECs and between CLECs and incumbent local exchange carriers such as BellSouth. More specifically, paragraph 518 of the FCC Order states that Aif competing carriers are unable to perform the functions of pre-ordering, ordering, provisioning, maintenance and repair, and billing for network elements and resale services in substantially the same time and manner that an incumbent can for itself, competing carriers will be severely disadvantaged, if not precluded altogether, from fairly competing. Thus providing non-

discriminatory access to these support system functions, which would include access to the information such systems contain, is vital to creating opportunities for meaningful competition.@ (Emphasis added.) **The electronic interfaces BellSouth offers to CLECs allow CLECs to access the information and functions in BellSouth=s operations support systems in substantially the same time and manner as BellSouth=s access for its own retail operations.** These interfaces thus provide access to operations support systems, under terms and conditions that would provide an efficient competitor with a meaningful opportunity to compete.@ FCC order, paragraph 315.

FUNCTIONAL COMPARISON OF CLEC INTERFACES AND BELL SOUTH RETAIL SYSTEMS

4. BellSouth provides non-discriminatory access to its operations support systems for pre-ordering, ordering, provisioning, maintenance and repair, and billing. Electronic and manual interfaces for each function are fully operational, **and are in actual use** as addressed in the System Availability and Actual Use section later in this document. I will describe the interfaces for each required function below, and will show how the CLEC interfaces provide access to the required information and functions in substantially the same time and manner as BellSouth=s access when serving its retail customers. For each function, I also will describe how the available interfaces comport with industry standards, where such standards have been developed, and will refute criticisms of the interfaces raised by intervenors in state proceedings.

III. PRE-ORDERING

5. The Commission=s Interconnection Rules at ' 51.5 define pre-ordering and ordering

collectively as including the exchange of information between telecommunications carriers about current or proposed customer products and services or unbundled network elements or some combination thereof. As the definition implies, there is no strict delineation between pre-ordering and ordering, as many pre-ordering activities generally occur in the context of negotiating a service order. For complex services, pre-ordering activities vary considerably depending on the service involved. Nevertheless, pre-ordering typically consists of obtaining access to the following information and functions while discussing an order for basic exchange service with an end-user customer: (1) street address validation; (2) telephone number information; (3) services and features information; (4) due date information; and (5) customer service record information. Pre-ordering activities related to complex services will be discussed later in this affidavit.

6. There are currently no industry standards for many OSS functions, including the pre-ordering function. The industry placed the development of ordering standards ahead of pre-ordering and has devoted most of its efforts to ordering. This is a reasonable approach because pre-ordering information such as obtaining telephone numbers or installation dates is not necessary for competition for the huge installed base of existing customers who only want (at most) to switch service providers. Despite the absence of industry standards for pre-ordering transactions, BellSouth offers CLECs real-time, interactive access to pre-ordering information through its Local Exchange Navigation System (LENS). LENS provides access to pre-ordering information in substantially the same time and manner as BellSouth's retail systems. This method will be described in detail below. In the absence of industry standards for a pre-ordering interface, the only current alternatives to LENS are either some other non-

standard pre-ordering interface or no pre-ordering interface at all. On October 31, 1997, the Electronic Communications Implementation Committee (ECIC) temporarily recommended that OBF create both CORBA and EDI formats for local service request pre-order validation. ECIC anticipates that CORBA may emerge as the preferred long term solution. BellSouth will implement the standards that the industry decides are appropriate for pre-ordering, as it will implement new industry standards for all OSS functions when they are developed.

7. While BellSouth is committed through interconnection agreements with certain CLECs to implement electronic bonding arrangements for pre-ordering information, the LENS pre-ordering interface was developed for the entire CLEC industry. LENS provides real-time, interactive access to pre-ordering information, and is available to support any CLEC that chooses to enter the BellSouth region today.

8. For its retail basic exchange service customers, BellSouth uses three systems to obtain pre-ordering information, based on whether the customer is a residence or business subscriber and on the customer's location. BellSouth uses a system known as the Regional Negotiation System (RNS) for most types of residence orders. For business customers in Alabama, Kentucky, Louisiana, Mississippi, and Tennessee, BellSouth uses a system known as the Service Order Negotiation System (SONGS). For business customers in Florida, Georgia, North Carolina, and South Carolina, BellSouth uses a system known as Direct Order Entry (DOE). SONGS and DOE are also used by service representatives for residence customer transactions not supported by RNS. Each system accesses the necessary operations support systems and databases to obtain most pre-ordering information on a real-time, interactive basis. RNS is a newer system that provides more English-language and point-and-click

capabilities. SONGS and DOE are older systems that are less user friendly, relying more on the use of special codes and function keys.

9. LENS provides CLECs with real-time interactive access to BellSouth=s pre-ordering information in substantially the same time and manner as BellSouth=s access for its retail customers through RNS, DOE and SONGS. CLECs using LENS are capable of pre-ordering interactions that are, from the customer=s perspective, indistinguishable from pre-ordering interactions with BellSouth.

10. LENS is compatible with inexpensive, commercially available hardware and software and requires no additional development effort by the CLEC, but also can be adapted by the CLEC with as much customization as the CLEC is willing to undertake. ~~For CLECs that use an Internet connection with BellSouth, LENS can be run using web browsers such as Netscape Navigator7 and Internet Explorer7.~~ LENS provides a range of connectivity options designed to accommodate the needs of CLECs of various sizes. The three ways for CLECs to connect to LENS include: dedicated local area network (LAN-to-LAN) connections; dial-up connections; and Internet access. Readily available, inexpensive web browser software such as Netscape Navigator 7 and Internet Explorer 7 may be used with all these types of connections.

11. There are two different modes in LENS, known as the inquiry mode and the firm order mode, as shown on page 1 of Exhibit WNS-5. Either mode can be used to obtain pre-ordering information, at the option of the CLEC. The firm order mode assumes a CLEC representative will perform each pre-ordering step in sequence. The inquiry mode assumes the representative may perform only certain steps, as not all pre-ordering functions are

required for every order.

12. LENS is superior to BellSouth=s retail systems (RNS, DOE and SONGS) in that it provides a single interface for both residence and business and supports all states in the BellSouth region. LENS also allows the CLEC to enter a pre-ordering transaction interactively, using prompts and screen displays. The interface converts the CLEC=s inputs into support system commands and database queries as appropriate to obtain the information from a number of BellSouth operations support systems and corporate databases, freeing the CLEC from having to query each downstream system and database separately. The information is collected from the various sources and is returned to the CLEC on a real-time basis. A chart showing that LENS and RNS provide access to BellSouth=s pre-ordering databases in substantially the same manner is provided as Exhibit WNS-1. (DOE and SONGS are old mainframe computer systems, and a similar measure is not available. That is why DOE and SONGS are not shown here. DOE and SONGS will be replaced with a regional business order negotiation system in 1998.) Such access allows a CLEC to discuss pre-ordering information during the course of a single telephone call with an end user customer. Details of system response times are addressed in Section VIII of this affidavit.

A. PRE-ORDERING FUNCTIONS

13. As indicated above, pre-ordering consists of a number of functions, which I now will address individually. For each function, LENS accesses exactly the same data, updated at the same times, as RNS, DOE and SONGS.

1. ADDRESS VALIDATION

14. The CLEC can confirm that its customer has provided a valid street address through the

LENS pre-ordering interface. Valid street addresses are important because they minimize order fall-out which results in manual intervention. Valid street addresses are also a necessary input for other pre-ordering functions, such as obtaining telephone numbers, feature information, and due date information.

15. When serving its retail customers, BellSouth performs address validation differently depending on the type of customer and the customer's location. For residence customers, BellSouth uses the address validation screen in RNS. A copy of an actual address validation screen seen by a BellSouth service representative using RNS is attached as Exhibit WNS-2. For business customers, BellSouth uses the address validation screens in DOE or SONGS, depending on the state. A copy of actual address validation screens seen by a BellSouth service representative using DOE is attached as Exhibit WNS-3; the comparable SONGS screen is provided as Exhibit WNS-4. Using these screens, the BellSouth service representative sends an inquiry to, and receives a response from, the BellSouth database containing address information. That database is known as the Regional Street Address Guide (RSAG).

16. The CLEC performs address validation by using the address validation screens in LENS. A copy of the screens as seen by the CLEC using LENS is provided as Exhibit WNS-5. Using these screens, the CLEC representative sends an inquiry to, and receives a response from, the same BellSouth database containing address information that is accessed by RNS, DOE, and SONGS. The RSAG database returns address information without regard to whether the request originated from a CLEC or from BellSouth. LENS provides community name abbreviations used for service orders, and other useful information, such as zip codes.

17. LENS does not necessarily provide an exact duplicate of the information seen on the address validation screens in BellSouth=s retail systems. In some cases the same information obtained from RSAG is provided in a different location to serve the CLEC better. For example, the address validation screen in SONGS provides the identification of the serving central office for the customer=s address. Because the serving central office information affects both the telephone numbers that can be assigned and the services available in that office, LENS displays this information on both the telephone number screen and the products and services screens, rather than on the address validation screen. This information is shown on Exhibits WNS-6 and WNS-7 in the fields labeled ACLLI@.

18. In state proceedings, CLECs have noted that LENS (like DOE and SONGS) does not show driving instructions for unnumbered addresses, as RNS does. That is true. This information, however, is rarely no longer used or updated by BellSouth due to the proliferation of 911 services. Most municipalities or counties require all addresses to be numbered in order to preserve the integrity of the 911 databases. The absence of this information does not prevent CLECs from having meaningful opportunities to compete, or render LENS significantly dissimilar to RNS.

~~19. RNS did show the previous occupant=s phone number and name, and LENS does not. BellSouth is blocking this information from RNS for resellers. This information had been used by BellSouth for network purposes.~~

In other proceedings, AT&T has complained that if (and only if) the CLEC chooses the inquiry mode of LENS, LENS requires a CLEC to validate an address more than once. However, address validation is a necessary input for other pre-ordering functions and can be

accomplished in a matter of seconds. For example, the list of telephone numbers that can be offered to a particular customer is driven by the set of available numbers in the central office serving that customer=s address, which is determined during the course of address validation. The inquiry mode includes address validation for telephone number selection, product and service availability, and due date information, because associating a central office with an address is a prerequisite for each of these functions, and in the inquiry mode, each of these functions can be performed independently. This does not have a negative impact on the CLECs= ability to obtain pre-ordering information; rather, it allows CLECs to choose which particular pre-ordering functions they desire without having to go through them all. RNS does not have an inquiry mode, so this is an extra benefit given to the CLECs. DOE and SONGS can perform some inquiry functions (e.g., view installation calendar).

20. In summary, CLECs are able to validate addresses through LENS on a real-time, interactive basis while on a single telephone call with an end user customer, which is substantially the same time and manner as BellSouth performs the address validation function for its retail customers. Access times are further discussed in Section VIII of this document (Systems Availability, Actual Use, and Measurements).

2. TELEPHONE NUMBER SELECTION

21. The CLEC can select and reserve a telephone number (or directory number) via the LENS pre-ordering interface. The telephone number can be used by the CLEC to satisfy either a new service or number change request from its customer.

22. BellSouth performs telephone number selection differently when serving its own retail customers depending on the type of customer and the customer=s location. For residence

customers, BellSouth uses the telephone number selection screen in RNS. A copy of a telephone number selection screen as seen by a BellSouth service representative using RNS is attached as Exhibit WNS-8. For business customers, BellSouth uses the telephone number selection screens in either DOE or SONGS, depending on the state. A copy of a telephone number selection screen as seen by a BellSouth service representative using DOE is attached as Exhibit WNS-9 and a SONGS screen is shown as Exhibit WNS-10. Using these screens, the service representative sends an inquiry to, and receives a response from, the BellSouth database containing telephone number information. That database is known as the Application for Telephone Number Load Administration and Selection (ATLAS).

23. The CLEC performs telephone number selection by using the telephone number selection screens in LENS. A copy of telephone number selection screens seen by the CLEC using LENS is provided as Exhibit WNS-6. Using these screens, the CLEC representative sends an inquiry to, and receives a response from the same ATLAS database that is accessed by RNS, DOE, and SONGS. That system provides telephone number information without regard to whether the request originates from a CLEC or from BellSouth.

24. LENS provides on-line selection of special telephone numbers, such as contiguous numbers, vanity numbers and easy numbers, without manual intervention of BellSouth service representatives. All telephone number inventory management functions are done by ATLAS, regardless of whether the telephone numbers are being selected through LENS, RNS, DOE, or SONGS. Thus, the CLEC has substantially the same ability to select special telephone numbers using LENS as BellSouth would have using RNS, DOE, or SONGS. In several respects, moreover, the special number capabilities of LENS are superior to those available to

BellSouth=s service representatives. The easiest way to compare these capabilities is to look at the screens seen by BellSouth service representatives and by users of LENS. Exhibit WNS-8, the RNS telephone number selection screen used by BellSouth=s residence service representatives, has selections for Aeasy@ number, Astylist@ numbers, and Asequential@ numbers. (The terms Astylist@ and Avanity@ are interchangeable, as both allow a search for a number that spells a particular word of interest to the customer.) Exhibit WNS-6 shows the telephone number selection screen from LENS. The first page of that exhibit shows the basic capability to request a random number assignment, as well as requesting a vanity number, by filling in the desired number in the Aspecial number@ fields. The second page of the LENS exhibit shows that in addition to those capabilities, by clicking on the drop-down box for AOptions@, the CLEC can request number assignments of specific patterns, such as Aeasy@ numbers, ascending or descending line digits, identical line digits, or sequential line numbers. Neither RNS, DOE nor SONGS has the capability to search telephone numbers based on ascending or descending line digits or identical line digits. Thus, the CLEC using LENS currently has more telephone number assignment options to offer its customers than BellSouth=s service representatives have available for BellSouth=s retail customers.

25. LENS does not limit the number of telephone numbers that are available for new entrants. In order to foster telephone number conservation, BellSouth limits telephone numbers that can be pre-reserved in BellSouth NXX codes (i.e., held independently of an associated request for service) to 100 per central office per CLEC, or five percent of the numbers available in an office per CLEC, whichever is less. This is not a LENS limitation, but is a practice implemented by BellSouth as a means to administer the finite pool of numbers for the benefit

of all, as CLECs have the capability to reserve telephone numbers in anticipation of future orders for service. This practice does not limit a CLEC=s ordering activity, as numbers associated with actual orders for service do not count against the total reserved numbers, and the supply of numbers can be replenished daily. This practice merely prevents any one carrier from Alocking up@ available telephone numbers in the absence of actual customer orders. This practice only applies to numbers in BellSouth=s NXX codes that would be used for CLECs= resale orders. It does not apply to activations of entire NXX codes for facilities-based CLECs. CLECs can reserve six numbers twice (twelve numbers). CLECs can reserve telephone numbers via LENS for 9 days in inquiry mode and 90 days in firm order mode; RNS, DOE or SONGS do not allow telephone reservation for any period of time.

3. AVAILABILITY OF SWITCH-BASED FEATURES AND SERVICES

26. The CLEC can verify that a switch port feature which has been requested by its customer - or which the CLEC wishes to offer to its customers - is available in a switch. The CLEC can verify feature availability in either of two ways through LENS: the CLEC can enter a ten-digit telephone number, or the CLEC can enter a street address, and LENS will present the feature list for that number or address respectively.

27. CLECs' access to switch-based features and services information occurs in substantially the same time and manner as BellSouth's access for its retail customers. As with other pre-ordering functions, the method by which BellSouth checks the availability of switch-based features and services when serving its retail customers differs depending on the type of customer and the customer's location. For residence customers, BellSouth uses services screens in RNS. A copy of a services screen as seen by a BellSouth service representative using RNS is attached as Exhibit WNS-11. For business customers, BellSouth uses the product and services screens in DOE or SONGS, depending upon the state. A copy of the switch-based features and services main menu screen as seen by a BellSouth service representative using DOE is attached as Exhibit WNS-12; the comparable SONGS screen is shown as Exhibit WNS-13. Using the appropriate one of these screens, the service representative sends an inquiry to, and receives a response from, the BellSouth databases containing switch-based features and services information, which are the Product/Services Inventory Management System (P/SIMS) and the Central Office Features File Interface (COFFI) system.

28. CLECs use comparable switch-based features and services screens in LENS. An example

of one of the many switch-based features and services screens seen by a CLEC using LENS is provided as Exhibit WNS-7. Using these screens, the CLEC representative sends inquiries to, and receives responses from PSIMS and COFFI, the same BellSouth databases containing switch-based features and services information that are accessed by RNS, DOE, and SONGS. These databases provide switch-based features and services information without regard to whether the request originates from a CLEC or from BellSouth.

29. P/SIMS is a database containing feature availability information based on software and hardware capabilities of the central office switches. As office capacity allows and as system upgrades permit, features are activated in BellSouth switches, and the availability date is reflected in P/SIMS. PSIMS also reflects the end users= chosen IntraLATA and InterLATA toll carriers. (Carriers are listed randomly per an equal access requirement. Features are listed alphabetically for ease of use.) The related Universal Service Order Code (USOC) information based on current tariffs is maintained in COFFI. The snapshot database kept in LENS relates these two sets of information (including USOCs). The feature information available to BST via RNS, DOE and SONGS and to the CLEC via LENS is extracted from PSIMS and COFFI on a weekly basis.

30. CLECs have criticized BellSouth for not including BellSouth retail pricing information in LENS, while showing it in RNS. Pricing is not a required element of pre-ordering information. Moreover, a CLEC=s retail prices are controlled by the CLEC, not by BellSouth. Thus, on-line access to BellSouth=s retail prices would not assist the CLEC in its

dealings with its customers. Similarly, information regarding BellSouth=s retail promotions is not a required or appropriate element of CLEC pre-ordering information.

31. CLECs are able to obtain product and service information through LENS on a real-time, interactive basis while on a single telephone call with an end user customer, which is substantially the same time and manner as BellSouth obtains this information for its retail customers.

4. OBTAINING DUE DATES FOR INSTALLATION OF SERVICES

32.

The CLEC can obtain, via this LENS pre-ordering interface, information helpful in negotiating customer commitments for non-designed (that is, telephone number based) service installations requiring a premise visit. In response to a CLEC preordering query, LENS will display installation calendar information for a specific serving central office showing:

M What days of the week are open for installations and which, if any, are closed.

M The current appointment intervals being offered by BellSouth for each type of service which _____

_____requires
field work.

Upcoming dates which have been restricted and the reason for the restriction.

33. BellSouth provides CLECs with access to BellSouth=s due date information and functions in substantially the same time and manner as BellSouth=s access for its retail

customers. As with other pre-ordering functions, the method by which BellSouth obtains due dates when serving its retail customers differs depending on the type of customer and the customer's location. For residence customers, BellSouth uses the due date screen in RNS. A copy of a due date screen as seen by a BellSouth service representative using RNS is attached as Exhibit WNS-14. For business customers, there is a space on the DOE and SONGS screens where a service representative can view and input a requested due date; this is shown in Exhibits WNS-15 and WNS-16, respectively. By these methods, the service representative using RNS and DOE sends an inquiry to, and receives a response from, the BellSouth database containing due date information (such as standard intervals and available installation dates), known as the Direct Order Entry Support Application Program (DSAP). SONGS contains a due date module within its software, which contains similar information as is in DSAP.

34. A CLEC can obtain due date information from DSAP through LENS. A copy of a screen seen by the CLEC using LENS to view the installation calendar is provided as Exhibit WNS-17. Obtaining due dates involves the address validation and telephone number functions, because they are required functions for due date calculation. DSAP processes a request and provides due date information without regard to whether the request originates from a CLEC or from BellSouth. Also, BellSouth does not change the due date after a Firm Order Confirmation (FOC) is sent.

35. LENS does not provide electronic access to due date information for all products and services, such as complex services, but these due dates are not available electronically for complex BellSouth retail services, either. Due dates for complex services can vary

considerably, depending on the complexity and scope of the service involved, and typically are offered on either a negotiated or ACustomer Desired Due Date@ basis. This is further discussed in a complex services discussion at the end of the ordering section.

36. DOE and LENS allow users to select morning or afternoon appointments. RNS allows a customer to pick a particular four-hour block of time only for orders involving inside premises jacks. Although SONGS appears to allow the user to pick a one-hour block of time on dispatchable orders, this is an obsolete feature that is not implemented today. BellSouth=s field work forces only schedule four-hour blocks of time. BellSouth is developing a four-hour block of time capability for a future release of LENS. An appointment calendar problem which did exist with LENS was corrected in early September, 1997. This problem was fixed the day after it was discovered, and LENS pre-ordering transactions have since been processed without recurrence.

37. UNEs due dates are based on published due date intervals, which are shown in Exhibit WNS-18:. Exhibit WNS-19 shows resale intervals, e.g., switch-as-is and switch with changes. For example, orders requiring only a software change received by 3:00 pm will be worked on the same day the request is received, unless otherwise specified by the CLEC. (BST=s PIC - Preferred Interexchange Carrier - change requests are worked the same day received if they are received by 2:00pm.)

5. CUSTOMER RECORD INFORMATION

38. LENS provides CLECs with on-line access to view and print customer service record information in substantially the same time and manner as BellSouth service representatives do for BellSouth=s own retail customers. The CLEC can obtain, via the LENS pre-ordering

interface, Customer Service Record (CSR) information. Using this capability, the CLEC can obtain account information on-line for customers with 54 pages of screens or less. The 54 page limit is a downstream system (BOCRIS) limit. BellSouth service representatives access the same internal system, BOCRIS, which contains the customer service records, that LENS accesses. Typically, customers with more than 54 pages records have complex services for which BellSouth uses manual processes in its own retail operations. Larger account information is provided to the CLECs by BellSouth's Local Carrier Service Center (LCSC) via mechanized fax.

39. The data elements available to CLECs via this CSR electronic access capability are defined by BellSouth and the major CLECs as those items necessary to place an order for service, which include:--

Telephone Number or other Account identification

Listed Name

Listed Address

Directory Listing Information

Directory Delivery Information

Billing Name

Billing Address

Service Address

Product/Service Information

PIC/LPIC (Local Primary Interexchange Carrier)

40. Access to credit information and other customer proprietary restricted data is controlled by each state's public utilities commission. For example, the Florida commission is the only PSC in BellSouth's region which requires a customer's credit history be available on-line. Copies of customer service records screens seen by CLECs using LENS are attached as Exhibit WNS-20. The data elements are provided in a standard and consistent format within the BellSouth region which minimizes confusion when CLECs access various customer records throughout the BellSouth region.

BellSouth retail customers who notify BellSouth to restrict access to their account information will be excluded from CLEC access; otherwise, the CLEC can access information on any BellSouth customer account, or its own customer's accounts, electronically. The CLEC cannot access any other CLEC's accounts or customer information. Likewise, BellSouth's service representatives' view of a CLEC's customer information is restricted.

B. MACHINE-TO-MACHINE PRE-ORDERING INTERFACES

42. Although LENS satisfies BellSouth's duty to provide non-discriminatory access, BellSouth is also going beyond the requirements of the 1996 Act by working with requesting carriers to develop additional pre-ordering interfaces. For example, BellSouth has negotiated an individual interconnection agreement with AT&T that provides for an additional customized pre-ordering interface called AEC-Lite. Under this agreement, BellSouth is developing a machine-to-machine interface designed to AT&T's specifications. EC-Lite is scheduled to be available in December, 1997. At the current time, BellSouth has been provided requirements and on-going discussions continue. Some testing has already been completed. The initial release of EC-Lite contains all of the pre-ordering offerings except

P/SIMS, which was excluded at the request of AT&T. P/SIMS access will be added early in 1998. Exhibit WNS-21 shows the major milestones for EC-Lite=s schedule.

43. Several CLECs have claimed that they must manually re-enter data obtained from LENS into their own operations support systems. There is no need to do this. Several methods exist for transferring the data electronically. A CLEC using LENS can simply Acut and paste@ information from LENS into any other computer application that supports Acut and paste,@ such as Microsoft Windows7. Another method makes available the data underlying the presentation screens supplied through LENS for customization by a CLEC=s software developers. That underlying data is depicted on Exhibit WNS-22. The data also can be provided in additional formats independently of the LENS presentation screens, using the process described next.

44. Alternatively, the LENS data could be provided through a process known as Common Gateway Interface, or CGI. CGI is a specification for communicating data between an information server, such as the LENS server, and another independent application, such as a CLEC operations support system. A CGI script is a program that negotiates the movement of data between the server and an outside application. With BellSouth=s CGI specification, a CLEC could obtain and manipulate data from the LENS server. Using CGI, therefore, provides yet another method for a CLEC to integrate the data obtained through LENS with the CLEC=s internal systems. BellSouth=s CGI specification has been provided to requesting published and is available to any interested CLECs. The specification provides for data labels which can be used by a CLEC presentation management application (system) to communicate via transactions with LENS. BellSouth is updating the CGI specification and

will release it in the near future.

45. To accommodate carriers that want electronic bonding, BellSouth has agreed to additional development of this capability in individual interconnection agreements. However, electronic bonding or a machine-to-machine interface would not satisfy the needs of every CLEC. Of the hundreds of interexchange carriers in the market today, only the very largest use the electronic bonding arrangements already available for access services. Implementing electronic bonding arrangements can be expensive, difficult, and time-consuming. Few CLECs have the resources or desire to make these investments. If electronically bonded interfaces were the only option, most CLECs would be precluded from using them.

C. ADDITIONAL PRE-ORDERING ISSUES

46. During many state proceedings, the competitive carriers' testimony has criticized the *ordering* capabilities of LENS. The primary function of LENS is *pre-ordering*. Non-discriminatory access for ordering is supplied by the industry-standard Electronic Data Interchange (EDI) and Exchange Access Control and Tracking (EXACT) interfaces. BellSouth, along with the industry, recommends EDI for *local exchange* ordering. LENS was originally designed as a pre-ordering tool, and makes a range of connection options available that support both large and small CLECs for that purpose. BellSouth also has developed interactive ordering capabilities as an option through LENS, and over time, BellSouth expects the LENS ordering functions to mirror the capabilities already available through EDI. Currently, however, the primary function of the LENS interface is to obtain real-time, interactive access to pre-ordering information, which is in substantially the same time and manner as BellSouth's access for its retail operations. The fact that LENS for *ordering* does

not yet provide all the capabilities available through the industry standard EDI ordering interface does not detract from the *pre-ordering* capabilities available through LENS.

47. BellSouth added to LENS on October 6, 1997 the capability for the CLEC to view the Quickservice indicator in LENS. The CLECs will be able to view the Quickservice or the Connect-Through indicators in the address validation and due date calendar sections. These

indicators along with equipment, feature and services ordered are used to determine if a technician needs to be dispatched.

48. In summary, pre-ordering functions are available for resale services and UNEs where the particular function applies. For example, telephone number selection is applicable, e.g., for ports queries. No pre-ordering functions are applicable for interconnection/trunking queries. Additionally, a carrier's local tax status is a required field, and applies to the carrier, not to the end customer (per a complaint by MCI). MCI also complained that BellSouth does not provide access to 3 OBF functions which it claims are important to pre-ordering (block of DID numbers inquiry, DID trunk inquiry, and UNE service provider inquiry), which are, in fact, addressed more as ordering functions. If MCI wants BellSouth to develop access to these functions, it can submit this request via the BFR (Bona Fide Request) process.

IV. ORDERING

49. As described in the pre-ordering section, the Commission's Interconnection Rules at ' 51.5 define pre-ordering and ordering collectively as including the exchange of information between telecommunications carriers about current or proposed customer products and services or unbundled network elements or some combination thereof.

50. BellSouth is a strong supporter of industry standards and is a regular participant in the industry bodies developing standards. BellSouth also has developed its interfaces to meet those standards, where they exist. For example, Electronic Data Interchange (EDI), an ordering interface, was adopted by the industry for CLEC local service requests, and BellSouth offers CLECs an EDI ordering interface. EDI is OBF (Ordering and Billing Forum) - TCIF (Telecommunications Industry Forum) 6.0 compliant, and BellSouth is

committed to implementing in early 1998 the 7.0 standard published on July 28, 1997.

51. BellSouth provides CLECs with access to ordering capabilities in substantially the same time and manner as BellSouth's access for its retail customers. BellSouth uses four systems for its own retail operations. BellSouth has different systems for residence and business customers, for local exchange service and for access customers. The systems also vary by customer location. Three of these systems are the same ones already described in the pre-ordering section: the Regional Negotiation System (RNS), for most types of residence orders for all BellSouth states; the Service Order Negotiation System (SONGS), for business orders and residence orders not supported by RNS in Alabama, Kentucky, Louisiana, Mississippi, and Tennessee; the Direct Order Entry (DOE) system, for business orders and residence orders not supported by RNS in Florida, Georgia, North Carolina, and South Carolina. The fourth system is the Exchange Access Control and Tracking system (EXACT), which has been used for access orders for all BellSouth states for more than 12 years.

52. Each of these systems functions somewhat differently, but in general, they all accumulate and format information required to enter an order into BellSouth's Service Order Control System (also known as ASOCS@). For RNS, DOE, and SONGS, BellSouth's service representatives use ordering screens, a sample of which is depicted in Exhibit WNS-23. Copies of EXACT screens used to process access service requests are provided as Exhibit WNS-24.

A. ELECTRONIC DATA INTERCHANGE ORDERING

53. For CLECs, there are two industry-standard CLEC ordering systems, depending on the service type. The first is EDI, which can be used for resale orders and certain unbundled

network elements (this is described in more detail in a following section on Ordering for UNEs). EDI is the electronic interface sanctioned by the OBF for local service request communications. Using this interface, the CLEC will transmit service requests in OBF-standard format to BellSouth. We have also developed a report for AT&T (called OUTPLOC) which transmits information such as loss notification - notification that an end-user has changed carriers - which can also be accessed by any CLEC using EDI. The EDI interface currently supports electronic ordering for 34 resale services and some unbundled network elements. These services represent 80% of BellSouth=s total retail operating revenue including large business services. This includes complex services for which we do not have mechanized service order generation for either BellSouth retail or CLECs.

54. BellSouth has no way of knowing precisely how the screens viewed by a CLEC using EDI will look, because EDI defines only the standards for the exchange of information and not for how it is displayed by either party=s computer system. In a traditional EDI implementation, the CLEC develops its own presentation system to satisfy its internally-defined business needs. To assist CLECs of all sizes that want to use EDI without extensive development effort on the their side of the EDI interface, BellSouth worked with a third party software vendor, Harbinger, to develop the personal computer-compatible, inexpensive and readily available software package called EDI-PC. Attached as Exhibit WNS-25 are screens which provide views of how a CLEC can use EDI-PC to order resold services or certain unbundled network elements from BellSouth. EDI-PC is compatible with BellSouth=s EDI interface, and is readily available to even the smallest CLEC that might not choose to develop its own system.

55. There are several EDI connectivity options available: dedicated point-to-point

connections; dial-up connections; and Value-Added Network (VAN) connections. Since December 31, 1996, BellSouth has had the capability to implement an EDI interface with any CLECs who wish to do so. Currently, there are five CLECs actively using EDI.

B. EXACT

56. The second industry-standard ordering system available to CLECs is the Exchange Access Control and Tracking (EXACT) system. This interface supports CLEC infrastructure orders, primarily for interconnection trunking. This system supports the industry standard access service request (or ASR) process. EXACT is the same interface used by BellSouth for processing ASRs from interexchange carriers or for processing end-user special access orders.

C. LENS

57. Although BellSouth recommends the industry-standard EDI interface for local exchange ordering, BellSouth also provides an interactive, direct order capability through LENS, which is available to CLECs that choose to use it for ordering. The LENS ordering interface currently provides a subset of the order types and activity types provided by the EDI interface.

D. ORDERING FOR UNBUNDLED NETWORK ELEMENTS

58. CLECs can order unbundled network elements via EDI, although it is important to note that many unbundled network elements are infrastructure elements, such as trunking, that are ordered via EXACT. EDI supports ordering of the simpler unbundled elements: unbundled loops, unbundled ports, unbundled interim number portability, and the unbundled loop and interim number portability together that have been defined by the Ordering and Billing Forum. As shown on page one of Exhibit WNS-25 (the EDI ordering screens), in the document

Type@ column, the menu includes purchase orders (PO-850) and purchase order supplements (PO-860) for both resale and unbundled network elements. Page two of that exhibit shows the UNE folder of a local service request. Although EDI is the recommended process, the UNEs listed above also can be ordered via LENS.

59. BellSouth=s position on UNE combinations is that in every state except Kentucky, UNE combination orders replicating a retail service will be treated as resale or as an access service (including provisioning, maintenance, and billing). (BellSouth=s obligations in Kentucky under certain arbitrated interconnection agreements differ slightly from those in other states.) BellSouth will make available separate UNEs which the CLECs can then combine themselves with a collocation arrangement. BellSouth=s electronic interfaces are fully capable of accepting orders. BellSouth=s electronic interfaces are currently equipped to accept orders for the most common types of UNEs, and to flow orders for several types of UNEs through the ordering systems without human intervention. Details of this process are discussed in other parts of the Ordering Section in this affidavit. The changes BellSouth would have to make to our electronic interfaces to accommodate UNE combinations would include modifying them to accept a new UNE order type, and substantial inventory and billing changes, which would be required to allow the systems to provision UNE combinations as resale (since they replicate resale services), but inventory and bill them as UNEs. Since BellSouth is pursuing its legal disagreement with the FCC position on providing UNE combinations as a matter of law, we therefore have not yet undertaken such development.

E. COMPLEX SERVICES

60. Four complex services are orderable via the EDI interface: PBX trunks, SynchroNet7 (a private line data service), ISDN-Basic-Rate service, and hunting. Other complex services requiring account team handling, such as MultiServ7 service, are not presently supported by EDI, but are handled in the same manner for both CLEC and BellSouth retail customers.

61. Non-discriminatory access does not require that all information and functions be electronic and involve no manual handling. In fact, in a state proceeding in Louisiana in May 1997, AT&T's witness Mr. Bradbury agreed that elimination of all manual intervention is not necessary for an interface to meet the non-discriminatory access requirement. (Louisiana Public Service Commission, Docket No. U-22252, May 28, 1997, Hearing Volume Number 7, Page 1782, which is attached as Exhibit WNS-29.) Many services, primarily those known as Acomplex@ services, involve substantial manual handling by BellSouth account teams for both CLEC and BellSouth retail customers. Thus, non-discriminatory access to certain functions for CLECs may also legitimately involve manual processes for these same functions.

62. The manual processes BellSouth uses for complex resold services offered to the CLECs are the same processes used for BellSouth's complex retail services. The specialized and complicated nature of complex services, together with their relatively low volume of orders relative to basic exchange services, renders them less suitable for mechanization, whether for retail or resale applications. Complex, variable processes are relatively difficult to mechanize, and BellSouth has concluded that mechanizing many lower-volume complex retail services would be imprudent for its own retail operations, in that the benefits of mechanization would not justify the cost. Since the same manual processes are in place for both CLEC and

BellSouth retail orders, the processes are competitively neutral. If any CLEC, in exercising its independent business judgment, were to reach a different conclusion, it could certainly fund the cost of complex service mechanization through a bona fide request for additional functionality. At this time, no CLEC has approached BellSouth about mechanizing these processes. It appears that no CLEC in BellSouth=s region is developing systems on its side of the interfaces to accommodate the inputting of complex orders, since no CLEC has requested a joint development effort with BellSouth. BellSouth=s manual processes operate effectively and allow CLECs to compete effectively against BellSouth.

63. An example of a complex service for which retail handling is not fully mechanized is SmartRing7 service, a private line service available to both retail customers and to resellers. In both cases, the pre-ordering and ordering processes are largely manual. Nonetheless, the pre-ordering and ordering processes are virtually identical for both retail and CLEC orders. Orders for retail services are handled primarily by the appropriate business unit for retail services -- BellSouth Business Systems (BBS) account teams. Orders for CLEC services are handled by the appropriate business unit for CLEC services B CLEC account teams which are part Interconnection Services (ICS). ICS= account team handling of complex services for CLECs is substantially the same as BBS= account team handling of complex services for BellSouth=s retail customers; they both use the same procedural processes.

64. To perform the pre-ordering activity for complex services known as Aservice inquiry,@ a systems designer on the appropriate account team fills out an extensive paper form and then provides that form to the project manager for further manual activities. This is done for both retail and resale orders for SmartRing7. On approval of either the retail customer or the

CLEC, as appropriate, the paper service inquiry is re-initiated as a firm order, which also is an extensive paper form with subsequent manual distribution. In both the retail and the resale cases, the Firm Order Package is manually handed off to the service center, where paper service order worksheets are created to assist in initiating service orders in the ordering system. At that point, orders are typed into the appropriate service order system for the customer's location, which is the same system regardless of whether the SmartRing7 service order is for a retail or CLEC customer. This subsequent order entry is the same for both the retail and the resale situations, and thus does not result in a different customer experience in either case. After the typist inputs the service orders, the account team and project manager are notified by e-mail of the service order numbers and due dates. The account team manually reviews the service orders for accuracy and follows up as necessary. Again, these processes, with their substantial reliance on manual handling and paper forms, are common to both retail and CLEC orders.

65. BellSouth Interconnection Services Account Teams provide the same level of technical and implementation support to CLECs for the design and implementation of complex services as BellSouth Business Systems Account Teams do for BellSouth's retail customers. Account teams have a critical role in pre-ordering and ordering activities for both retail and resale complex services. For complex services such as SmartRing7 service orders, as well as for other types of complex orders, both the retail and resale processes involve manual intervention and are handled by account teams. The outcome is therefore competitively neutral.

F. MECHANIZED ORDER GENERATION

___66. In addition to the ordering systems, there are other systems involved to achieve

mechanized service order generation. The Local Exchange Ordering (LEO) system performs edit checks and will pass a complete and correct service request to BellSouth's Local Exchange Service Order Generator (LESOG) for mechanized order generation or to a Local Carrier Service Center work list for further handling by a BellSouth service representative. This is depicted on Exhibit WNS-26. LESOG will mechanically format many service requests into BellSouth service order record formats which can be handled by BellSouth's Service Order Control System (SOCS) and other downstream systems through which BellSouth's service orders are also processed. LESOG requires no manual intervention by a BellSouth service representative.

67. Exhibit WNS-27 lists the 34 resale services for which mechanized order generation is available. Collectively these services represent 90% of Consumer and Small Business retail revenues. No manual intervention is needed on BellSouth's side of the interface for 30 of these services - such as 1 FR, 1FB, Caller ID, custom calling services, Memory Call, Touchstar services. Even the generation of firm order confirmations and completion notices related to these services is fully mechanized. These same 30 services may also be ordered via LENS. If a UNE order is received via EDI (none have been) or manually, mechanized service order generation for the main UNEs (2-wire analog loop, port, INP, loop+INP) has been available since October 6, 1997. Exhibit WNS-28 shows LESOG-generated service orders for non-designed loop, designed (circuit id based) loop, port, and INP.

G. ADDITIONAL ORDERING ISSUES

68. In the various state proceedings, CLECs have complained that BellSouth's systems do not provide integration of the pre-ordering and ordering functions. The fact that the industry

standardized an ordering interface first and separate from the pre-ordering interface which is currently being discussed by the industry presupposes the integration is the responsibility of the CLEC. Nonetheless, BellSouth actually provides three separate cases to be considered:

(1) The CLEC uses LENS for pre-ordering information and EDI for ordering. In this case, integration of pre-ordering and ordering data must be done by the CLEC. Pre-ordering data is available through LENS as Hyper Text Markup Language (HTML) tags, or can be made available through a Computer Gateway Interface (CGI). The CLEC must produce the programs needed to integrate this data with its EDI ordering system. (When using LENS for pre-ordering and EDI for ordering, a CLEC=s representative can Asplit@ its computer screen in order to view both at the same time. The CLEC can run LENS and EDI simultaneously.)

(2) The CLEC uses a customized interface (e.g. AT&T=s EC-Lite) for pre-ordering and EDI for ordering. In this case integration of the pre-ordering and ordering data must be done by the CLEC.

(3) The CLEC uses LENS for pre-ordering information and LENS for ordering. In this case, BellSouth designed the integration into the LENS firm order mode, and provides the integration as part of the LENS software.

69. In state proceedings, MCI and other intervenors have criticized the batch nature of EDI, despite the fact that EDI has been adopted by the industry for CLEC ordering. The EDI interface does send a CLEC=s orders in batches, as EDI, by its nature, is defined as a batch process. In consultation with CLECs, EDI batches initially were set to run every 30 minutes, but they can be adjusted by BellSouth to much shorter intervalsaccommodate specific market

needs. BellSouth will make this adjustment at a CLEC=s request. CLECs using EDI-PC may put their orders in a queue to be sent in a batch or they may send their orders immediately.

70. A CLEC made a complaint on August 12, 1997 that LENS does not handle resale switch-as-is orders properly. That is incorrect; for the month of August, for example, LENS handled 1748 switch-as-is orders. If the CLEC enters the switch-as-is order properly, then LENS handles it properly. LENS is available for switch-as-is customers and converts all their features to the CLEC, including multi-line hunt groups. Another CLEC complained in July that many of their orders were resubmitted as a result of BST=s mishandling and loss of orders. In mid-1997, BellSouth implemented two forms of correction for that type problem: 1) some system improvements were made that enabled better synchronization among the ordering systems, thus fewer orders are accidentally dropped when passed from one system to another, and 2) the Local Carrier Service Center (LCSC) has also made some procedural improvements to likewise ensure that they handle orders promptly. Operational experience since these changes were made confirms that they were successful (see Exhibits WNS-41 and 46). Additionally, AT&T complained about providing line class codes, which are required, and must be provided as feature detail. BellSouth responded to AT&T=s request for line class codes and gave them more than 40.

71. LENS currently allows orders for a maximum of six lines for ordering, and provides a subset of the products and services available through EDI. BellSouth will expand LENS= capabilities in a future LENS release. In any event, however, these limitations do not affect a CLEC=s meaningful opportunity to compete. If a CLEC wishes to order more than six lines or any electronically orderable service, it can use EDI, our primary ordering system described

earlier in this document=s Ordering section, which has no line limit. Moreover, we have been able to determine that there might be only one hundred new end-user customers in the BellSouth region in a year who would be affected by this six line limitation of LENS. The features and services not currently available through LENS can be ordered either through EDI or through a manual process.

72. There have also been questions about expedites and escalations, which are covered in the Local Competition Operational Readiness document prepared for the DOJ, which is the final exhibit to this affidavit.

H. ORDERING SUMMARY

73. To provide a summary of BellSouth=s ordering capabilities, a table from the DOJ document describes the ordering interface for each service and UNE, showing which are orderable via EDI, LENS and EXACT, and is attached as Exhibit WNS-30.

V. PROVISIONING

___74. According to the FCC rules ' 51.5, A>[p]rovisioning= involves the exchange of information between telecommunications carriers where one executes a request for a set of products and services or unbundled network elements or combination thereof from the other with attendant acknowledgments and status reports.@ The acknowledgments and reports are generally firm order confirmations, completion notifications, and other types of order status reports, such as those for missed appointments. |

A. MECHANIZED NOTIFICATION

75. As previously mentioned, BellSouth's implementation of the EDI ordering system is in compliance with the national standards established by the OBF (TCIF version 6.0).

However, this standard has not provided for returning information to the CLEC for orders which contain errors. BellSouth is developing a mechanism to return information about orders with errors. This mechanism will return an error code and an explanation of the error to CLECs using the EDI interface in an 855 or 865 transaction, which are the OBF defined confirmation and completion transaction sets respectively. (Other rejects are faxed to MCI due to MCI's lack of committal to an ordering system, and the fact that there is no standard for rejects.) AT&T indicated that they are not ready to handle electronic rejects in November. To accommodate other CLECs, the initial version of this automated reject capability will be operational in November, 1997; the full version is scheduled to be operational in the first quarter of 1998, if the CLECs agree on the specifications. There are three different electronic order entry interfaces for the CLECs - two used exclusively for local exchange ordering, which have slightly different sets of capabilities for the CLECs in terms of access to provisioning data. EDI is the primary ordering interface; LENS is a secondary ordering interface.

The capabilities of both systems are described in the table below:

Orders entered through EDI		Orders entered through LENS
1.CLEC enters the order (850 or 860 transaction).	2	3.CLEC enters the order.
4.A 997 (or negative 997) transaction acknowledges (or rejects) the order.	5	6.The LENS data formatter checks for required fields and passes or rejects the order.
7.Order is accepted by the Local Exchange Ordering (LEO) database (see Exhibit WNS-26) which performs edit checks.	8	9.Order is accepted by the Local Exchange Ordering (LEO) database (see Exhibit WNS-26) which performs edit checks.
10.Order is tested for mechanized order generation capability and non-mechanized orders are routed to the Local Carrier Service Center (LCSC) for handling.	11	4. Order is tested for mechanized order generation capability and non-mechanized orders are routed to the Local Carrier Service Center (LCSC) for handling.
12.Mechanized orders are passed to the Local Exchange Service Order Generator (LESOG) and Service Order Control System (SOCS) for mechanized order generation.	13	5. Mechanized orders are passed to the Local Exchange Service Order Generator (LESOG) and Service Order Control System (SOCS) for mechanized order generation.
14.Order errors are returned to the LCSC for manual notification of the CLEC and posted in LEO. (No standard process exists to return an order error in an 855 or 865 EDI transaction.)	15	6. Orders errors are posted in LEO where the CLEC and view them using the LENS AView LSR IN ERROR@ screen.
16.Orders without errors generate a service order in SOCS.	17	7. Orders without errors generate a service order in SOCS.

<p>18.SOCS returns a Firm Order Confirmation (FOC) which is posted in the LEO database and returned to the CLEC as an 855 transaction, which includes the class of service.</p>	<p>1 9 .</p>	<p>8. SOCS returns a Firm Order Confirmation (FOC) which is posted in the LEO database. The CLEC can view the FOC using the LENS AView FOC/CN@ function.</p>
<p>20.The order is processed by BellSouth.</p>	<p>2 1 .</p>	<p>9. The order is processed by BellSouth.</p>
<p>22.SOCS returns a Completion Notice (CN) which is posted in the LEO database and returned to the CLEC as an 855 transaction, which includes the class of service.</p>	<p>2 3 .</p>	<p>10. SOCS returns a Completion Notice which is posted in the LEO database. The CLEC can view the CN using the LENS AView FOC/CN@ function.</p>

In addition to FOCs and CNs, BellSouth also returns missed appointments/jeopardies electronically via EDI and LENS.

76. When a BellSouth service representative using RNS releases a service order, the system returns a message indicating that the order has been issued. This is a confirmation that the order has been released for processing by BellSouth's Service Order Control System (SOCS), and is not a confirmation that the order has passed all SOCS edit checks. BellSouth does not provide FOCs or Completion Notices to itself as it does to the CLECs. A copy of the RNS message screen is attached as Exhibit WNS-31.

77. BellSouth provides CLECs with access to provisioning information in substantially the same time and manner as BellSouth's access for its retail customers. A CLEC obtains provisioning information through the various ordering interfaces. Provisioning information obtained through the EDI and EXACT interfaces is defined by the OBF. Copies of the EDI

and LENS order acknowledgment screens are attached in Exhibits WNS-25 and 32 respectively.

B. MANUAL ORDER HANDLING

78. Two main conditions can occur which require manual handling of the order by the LCSC:

1) a complex order, for which there is no mechanized service order generation for either CLECs or BellSouth retail customers, or 2) the order causes an error condition during mechanized ordering processing. Orders requiring manual handling are stored on the database where the LCSC service representative retrieves the order. (This is a similar procedure used by the BellSouth Business Office for retail customers.) The LCSC service representative receives the error data and pulls up the associated service order. SOCS is accessed, the error condition cleared, and the order released.

79. If the service representative is not able to process the service order because of invalid, incomplete or inaccurate information, a request for clarification of the order is faxed to the CLEC. The CLEC then issues a supplemental order to correct the error, or provides clarification back to the LCSC via fax. In the latter case, the LCSC then clears the error condition and releases the order.

C. LOCAL NUMBER PORTABILITY (LNP)

80. CLECs will be able to order Local Number Portability (LNP) via EDI coincident with our LNP ordering policy, which is that LNP orders will be taken two weeks prior to a switch becoming live with LNP capability. (Interim Number Portability, INP, is orderable today.) EDI will send the LNP order to an LSR router which will recognize it as an LNP order and send it to an LNP Gateway. The LNP Gateway will perform enhanced tracking and

customized reporting on LNP for the CLEC. In the first quarter of 1998, the LNP Gateway will also perform LNP service order generation, send the service order into SOCS, and provide automatic FOC generation. (A separate affidavit by Keith Milner addresses LNP in much greater detail.)

VI. MAINTENANCE AND REPAIR/TROUBLE REPORTING

81. The FCC rules at ' 51.5 define maintenance and repair as involving the exchange of information between telecommunications carriers where one initiates a request for maintenance or repair of existing products and services or unbundled network elements or combination thereof from the other with attendant acknowledgments and status reports.

82. BellSouth offers a trouble reporting interface which is superior to that supported by existing industry standards. BellSouth offers CLECs access to the same expert maintenance and repair system that BellSouth uses to handle local exchange trouble reports. This interface, known as the Trouble Analysis and Facilitation Interface (TAFI), is described later in this section. The TAFI functionality is superior to the limited functionality supported by the industry standard for trouble reporting. TAFI allows a repair attendant to clear many trouble reports with the customer on the line, while the industry standard addresses only functions such as electronically opening a trouble ticket or obtaining status information.

Although interfaces that merely conform with industry standards are inferior to TAFI, BellSouth nonetheless has agreed to develop such an interface at the request of AT&T by November 1997. Additionally, BellSouth offers CLECs use of the same T1M1 industry standard trouble reporting interface currently used by the interexchange carriers to report troubles for access services. These interfaces are described later in this section.

83. BellSouth handles trouble reporting for non-designed (i.e., telephone number based) services using TAFI. If TAFI determines that a trouble report must be dispatched to a downstream center or field work group, TAFI passes the trouble ticket to the Line Maintenance Operating System (LMOS), which dispatches the trouble report to the appropriate Installation & Maintenance (I&M) work group. If the ticket needs to be handled by a Central Office (CO) field work group, LMOS passes the ticket to the Work Force Administration (WFA) - Dispatch In module, which loads the ticket to the next available CO technician. No distinction is made in priority between tickets related to CLEC customers versus tickets related to BellSouth retail customers.

84. BellSouth handles trouble reporting for designed (i.e., circuit ID based) services using WFA, which has long been used by Interexchange Carriers (IXCs) via the IXC gateway and is available for CLECs as explained below. All the designed services trouble tickets are generated in the WFA- Control module, which sends the tickets to either the WFA - Dispatch In or WFA - Dispatch Out modules to be worked by either an inside (CO) work group or an outside I&M work group respectively.

85. In all cases, BellSouth has provided CLECs with access to the maintenance and repair function in substantially the same time and manner as BellSouth=s access for its retail customers. As explained below, BellSouth offers CLECs two trouble reporting systems, depending on the type of service for which trouble is being reported.

A. TAFI

86. For BellSouth=s retail customers, BellSouth=s business and residence repair center attendants use either a business or residence version of TAFI, respectively. TAFI is a user

friendly interface that often enables trouble reports to be cleared remotely by the repair attendant handling the initial customer contact, frequently with the customer still on the line.

With this system, any repair attendant can correctly handle a trouble report on any BellSouth-provided basic exchange service.

87. TAFI automatically goes to the correct system associated with a given telephone number and will execute the appropriate test or retrieve the appropriate data. For example, if a customer were to report that the customer=s call forwarding feature was not working, the TAFI system would check the customer=s records to see if the line should be equipped with the feature and would electronically verify whether the feature has been programmed in the switch serving that customer=s line. Once the TAFI analysis of the trouble is complete, TAFI provides a recommendation of what is needed to correct the problem and in some cases implements the corrective action. In the above example, TAFI might instruct the repair attendant to have the customer contact the business office to add the feature or might correct the trouble by implementing a translation change in the switch to add the feature to the line.

88. TAFI is a common presentation expert system (a human-to-machine interface with intelligence to do diagnostics) that provides rapid, consistent, and efficient automated trouble receipt, screening, and problem resolution. It is an interactive system that prompts the repair attendant with questions and instructions while automatically interacting with other internal systems as appropriate. TAFI also provides for the queuing of reports to enable the repair attendant to work on several customer troubles simultaneously, and it provides on-line reference tools. TAFI can also be used to view maintenance histories.

89. BellSouth has provided CLECs with access to its TAFI system in substantially the same time and manner as BellSouth=s access for its retail customers, as shown in Exhibit WNS-33. The CLEC TAFI system contains all the functionality described above that is contained in the

BellSouth TAFI system. In some respects, the access is superior, because the CLEC TAFI system combines the functionality of the separate business and residence versions of TAFI used by BellSouth=s repair attendants. This gives the CLEC a single system for all types of basic exchange service trouble reports. In addition, by providing access to TAFI, BellSouth is making available to CLECs the functionality inherent in the many systems with which TAFI connects, such as LMOS, on the same basis as BellSouth retail personnel obtain such access.

90. There are two minor differences between the CLEC TAFI system functionality and the BellSouth TAFI system functionality: 1) a security step that occurs electronically and nearly instantaneously, and 2) as already noted, the CLEC TAFI system handles both residence and business troubles while BellSouth uses a separate TAFI system for residence and business.

The CLEC TAFI system contains a security screening step that is required to ensure the confidentiality of each CLEC=s information, because the CLEC TAFI system will be used by repair attendants from multiple CLECs. TAFI identifies each CLEC=s repair attendants by company and allows each CLEC=s repair attendants to access records only for that CLEC=s customers. This process typically takes about 2-3 seconds. Once that validation check has been performed, the CLEC repair attendant has access to the full range of TAFI functionality that is available to BellSouth repair attendants for both business and residence exchange services.

91. BellSouth=s personnel do have access to the CLECs= records, since some CLECs choose to have BellSouth process trouble reports for them during a three way call (between the CLEC=s customer, the CLEC, and a BellSouth repair center). However, the BellSouth repair service center personnel are notified by the system that the record is a CLEC record, and are

instructed to re-direct any reports that come direct from the CLEC=s end users in a manner specified by the CLEC.

92. The function and sub-function menus included in Exhibit WNS-34 provide an indication of the depth of TAFI=s abilities to process troubles. Even for trouble reports on complex services that involve exchange services, such as MultiServ7 service or PBX trunks, a CLEC can use TAFI to input trouble reports, obtain commitment times, and check the status of previously entered reports. (TAFI cannot be used, however, for testing or clearing of troubles for complex services. These are handled manually, just as BellSouth handles them for its own customers.) A CLEC also can use TAFI in this manner to handle troublesreport troubles associated with unbundled network elements that can be identified with a telephone number, such as unbundled ports or interim number portability.

93. Exhibit WNS-34 provides examples of the screens seen by both CLEC and BellSouth repair attendants for a trouble report involving the call forwarding feature. The nature of the trouble report determines which of the numerous screens would be seen by both CLEC and BellSouth repair attendants. No matter what the situation, both CLEC and BellSouth repair attendants have access through TAFI to substantially the same information and functions.

94. BellSouth provides two ways for CLECs to connect to TAFI: Dedicated Local Area Network (LAN-to-LAN) connections; and Dial-up connections. TAFI has been in production mode for approximately seven months as of October 31 with one CLEC, and no major problems have occurred with that CLEC or any other. Eighteen CLECs are now actively using CLEC TAFI.

B. T1M1 IXC INTERFACE

95. CLECs have other options for electronic trouble reporting. BellSouth offers CLECs use of the same T1M1 industry standard trouble reporting interface currently used by IXC's to report troubles on access services. CLECs can use this interface for trouble reporting on designed (circuit ID based) services, such as resold complex private line services, or interconnection trunking and designed UNEs. This IXC gateway is a machine-to-machine interface. Also, the Exchange Carrier - Common Presentation Manager (EC-CPM) electronic interface was made available to the CLEC community as of March 31, 1997. EC-CPM allows the CLEC to initiate trouble reports for designed resale services and UNEs interactively into BellSouth's WFA-C system. BellSouth offers two alternative ways for a CLEC to access the BellSouth EC-CPM:

Dedicated Local Area Networks (LAN-to-LAN) connections; and
Dial-up connections.

96. The interface specifications are available to any CLEC who wishes to develop and use the WFA-C electronic interface capability, just as has been true for IXC's for quite some time. As of October 22, 1997, no CLECs had opted to use this capability.

C. EC TROUBLE ADMINISTRATION GATEWAY - T1M1 LOCAL INTERFACE

97. As mentioned earlier, at AT&T's request, BellSouth has agreed to develop a local exchange trouble reporting system similar to the existing interexchange carrier gateway, known as the Electronic Communications Trouble Administration Gateway. This Gateway is based on the T1M1 standard for repair and maintenance of local service. This is an electronic interface for non-designed and designed services and UNE trouble reports. This is an application-to-application gateway which has been developed for InterLATA carriers using

ANSI T1M1.227 and 228 standards as sanctioned by the Electronic Communications Implementation Committee (ECIC), and will be available in November, 1997. All of these interfaces will be available to any other requesting carrier.

D. ADDITIONAL MAINTENANCE ISSUES

98. In state proceedings, many competitive carriers observed that TAFI is not industry-standard. This is true insofar as TAFI is superior to the industry standard for trouble reporting, which addresses only functions such as electronically opening a trouble ticket or obtaining status information. BellSouth uses TAFI in its own retail operations, and in order to provide CLECs with access to BellSouth=s repair and maintenance systems in substantially the same time and manner, BellSouth offers CLECs full TAFI functionality.

99. There have also been questions about expedites and escalations, which are addressed in the Local Competition Operational Readiness document prepared for the DOJ, which is Exhibit WNS-52.

VII. BILLING INTERFACES

___100. The FCC rules state in ' 51.5 that A[b]illing involves the provision of appropriate usage data by one telecommunications carrier to another to facilitate customer billing with attendant acknowledgments and status reports. It also involves the exchange of information between telecommunications carriers to process claims and adjustments.@ David Hollett=s affidavit describes BellSouth=s non-discriminatory billing process. This section describes the billing interface for daily billable usage information BellSouth provides to the CLECs.

101. BellSouth provides CLECs with access to billable usage information in substantially the same time and manner as BellSouth=s access for its retail customers. BellSouth uses two billing systems to bill its end user customers. Depending on the services provided, the same customer will receive two types of bills. For services ordered from the General Subscriber Services Tariff (GSST) and the Private Line Services Tariff (PLT), BellSouth renders bills from CRIS. For services ordered from the Access Services Tariff (AST), BellSouth renders bills from CABS, even if the access services is ordered by and billed to the end user customer. This means that one end user with services from both billing systems will receive both CABS and CRIS bills. BellSouth=s non-discrimination obligation is to provide new entrants with access to information and functions in substantially the same time and manner as BellSouth=s access. BellSouth currently does just that.

102. While BellSouth has agreed through the negotiation and arbitration process with some CLECs to provide a CABS-formatted bill for services that normally would be billed through CRIS, a CABS-formatted bill for all services is not a requirement for non-discriminatory access. BellSouth began testing the CABS formatting capability with CLECs in July, 1997. BellSouth provided CRIS bills and CABS formatted CRIS bills in August and September 1997.

103. The billing interface that is relevant to BellSouth=s non-discriminatory access obligation with respect to billing information is an electronic interface for customer billable usage data transfer, known as the Billing Daily Usage File. It is an optional interface that provides CLECs with a daily file including items such as directory assistance or other billable usage associated with a resold line, interim number portability account, or unbundled network

element such as an unbundled port. The specific types of data provided include: intraLATA toll, billable local calls, billable feature activations, operator services, WATS/800 service, and any service for which there are charges for usage. The file provides billable call detail records in a Bellcore-supported, industry-standard format known as Exchange Message Record (EMR) format, and is offered with several methods of data delivery.

A. CLEC DAILY USAGE FILES (ODUF)

___104. The Daily Usage Files are created and data linked (electronically transferred) to the CLEC through a CRIS software application called ODUF (OLEC Daily Usage File -- OLEC is an acronym for Other Local Exchange Carrier). The CLEC has two options for obtaining Daily Usage Files: via CONNECT: Direct to transfer the Daily Usage Files to the CLEC electronically; and via a magnetic tape, which will be mailed to the CLEC.

105. ODUF was implemented in March 1996 for CLECs= use, and interconnection testing was conducted with a large CLEC at that time. ~~Since then a number of CLECs have implemented the ODUF interface, and over 1 Million CLEC billable usage records have been processed via ODUF.~~ Since then a number of CLECs have implemented the ODUF interface, and over 1 million CLEC billable usage records have been processed via ODUF.

106. The ODUF does not currently contain the usage data which would allow a CLEC to bill an interexchange carrier for the provision of access. BellSouth is developing the capability to include this information as an enhancement to ODUF. Until ODUF has been enhanced, BellSouth will provide this information in paper form which will enable a CLEC to bill for the provision of access.

107. Usage data is provided via ODUF in substantially the same time frame as it is available

to BellSouth (see Exhibit WNS-53). In addition, for CLECs that choose the option of receiving rated usage, the billable call detail records are provided in a manner that is not only non-discriminatory, but also adds significant value compared with the original message recording BellSouth receives from its switches. BellSouth performs extensive processing to add such details as the AFrom Place,@ ATo Place,@ jurisdiction, retail charge, and other items in each call detail record. Regardless of whether the CLEC chooses to receive unrated usage or rated usage, BellSouth performs extensive edits to ensure the integrity of the data. BellSouth runs its billing system every work day. Usage processing begins each morning and the billing system cycle completes the following morning with the creation of actual bills. For CLECs that establish electronic data transmission capability with BellSouth, the usage is then transmitted immediately.

A.ADDITIONAL BILLING ISSUES

108. The ODUF billing is sent to the CLECs when the CRIS account is updated to show the CLEC=s billing record ownership. With the initial transfer of an account from BellSouth to a CLEC, BellSouth may sometimes accumulate usage for a few days before recognizing that the usage belongs to a CLEC and needs to be sent via ODUF. This can occur if an error exists in the CLEC=s service order, thus preventing the order from posting in CRIS. When the service order error is cleared, the CLEC account is established in CRIS, and billing records are sent out via ODUF.

VIII. SYSTEM AVAILABILITY, ACTUAL USE, AND MEASUREMENTS

A. AVAILABILITY

___109. Exhibit WNS-35 summarizes BellSouth=s currently available electronic interfaces for

each function, and provides the availability of each. Exhibit WNS-36 shows the systems= scheduled and actual hours of availability. Where the same systems are accessed, such as the pre-ordering databases RSAG, ATLAS, DSAP, and PSIMS, the hours are the same for CLECs and for BellSouth.

B. RESPONSE TIME

110. Additionally, BellSouth has obtained data to compare response time intervals required for a CLEC transaction using LENS to perform certain OSS functions with the response time intervals required for a BST retail transaction using RNS to perform the comparable function. Measures of system response time intervals are shown in Exhibit WNS-37. The LENS data covers late September through October 10. The data has been limited to this time period because measurements taken beginning late September reflect newer, more consistent measures with RNS. The RNS data covers 12 hardware sites within the BellSouth region for a twenty-day period (September 10-30). BellSouth has standardized the RNS and LENS data collection criteria and measurement. The existing data demonstrate that BST is providing non-discriminatory access to BST=s legacy systems.

C. ACTUAL USE

111. CLECs currently use each of BellSouth=s interfaces, and the numbers continue to increase. Exhibits WNS-38, 39, and 40 show the actual CLEC usage of EDI, LENS, TAFI, and the billing Daily Usage File. These figures apply to all CLECs in the BellSouth region using these systems. -The EXACT system has been available for about 12 years. The BellSouth CLEC EDI interface has been available since December, 1996. EDI itself has been used in commerce for about 30 years. TAFI has been available since March 28, 1997; LENS

has been available since April, 1997, and DUF since March 31, 1996.

D. ORDER FLOW-THROUGH

112. Another area of continued discussion involving the OSs is the amount of flow-through for orders placed through the electronic interfaces. Exhibit WNS-41 provides LSR flow-through data for the months of July and August. The exhibit reflects the number of LSRs by CLEC along with the associated error volume. BST analysis of these orders shows that in July, August, and September, CLEC caused errors represented 50%, 87%, and 82% of the total errors respectively. Each of these errors was individually returned to the CLECs by the LCSC with notes explaining the error, along with regular summaries of the orders in error.

113. Exhibit WNS-41 also shows the effect on flow-through if the CLEC errors were eliminated. The flow-through results based on BST=s internally controlled OSS functionality and data input (excluding CLEC input errors) was 57% for July and 91% for August. This significant increase in adjusted flow-through is based largely on the actions BellSouth took immediately after the July analysis to correct the internally caused error conditions. Nine categories of errors were determined. By August 4, six of the nine error categories had been fixed by BellSouth and the remaining three were fixed by September 1, 1997. The September flow-through rate is misleading at 89% due to the fact that 1 CLEC caused 66% of the total September errors, and had an error rate itself of 71%. BellSouth is working with this CLEC to continue to pursue flow-through improvements.

E. EXACT, EDI, LENS USAGE—Exhibits WNS-___ show the actual CLEC usage of EDI, LENS and TAFI.

114. EXACT is substantially the same mechanized process that IXC's have used for years to

order access trunks, and as such, is a tried and true process with which both BellSouth and many potential CLECs have significant experience. As of September 30, 1997, four CLECs currently use EXACT to process local interconnection orders. As of September 30, 1997, one CLEC is using EDI, and four CLECs are using EDI-PC. Twenty-four CLECs are using LENS to conduct business with BellSouth, while 39 additional CLECs have been trained in LENS as of October 28, 1997.

F. TAFI USAGE

115. The TAFI system for CLECs was released in March, 1997. The electronic bonding trouble reporting interface has been available since December, 1995. As of September 30, 1997, 18 CLECs have entered trouble reports via TAFI. BellSouth also has conducted TAFI training for personnel from 22 other CLECs, and BellSouth maintains a weekly CLEC training schedule. The electronic bonding trouble reporting interface currently is in use by two interexchange carriers that also are CLECs. BellSouth built the CLEC TAFI system based on forecasts provided to BellSouth by the CLECs. There exists today a substantial level of available capacity for additional CLEC trouble reporting. (TAFI has the capacity to support 2600 troubles per hour, and we've seen 3463 troubles total for the period June - September, 1997.)

116. To help reduce invalid CLEC input error messages into TAFI, BellSouth is working on an enhanced owner validation work-around which will be available in December. This work-around will use pending service order data to validate that the CLEC is the owner for repairs due the same day the customer changes to a CLEC. TAFI currently uses the CRIS system to validate the record owner, and CRIS is updated the day following order completion. Thus, if

the CLEC enters a trouble report on the same day the customer changes to that CLEC, an error occurs. The new work-around will prevent these errors.

G. ODUF USAGE

117. The billing daily usage file has been available to CLECs since March, 1996. An AT&T-requested modification to the original design also was completed in September, 1996, and is available for all CLECs. BellSouth has 14 CLEC customers now receiving the daily usage files (DUFs). Ten other CLECs are currently working with BellSouth in preparation for receiving daily usage. There exists today a substantial level of available capacity for handling additional CLEC demand. To illustrate this, the September volume was 1.876 million DUF records total for all CLECs for all Regional Accounting Offices (RAOs). The DUF capacity is 40 million records per day.

H. SYSTEM TESTING

118. BellSouth's OSS interfaces have been subjected to extensive internal testing. As with any other software development effort, testing generally consists of five steps. In generic terms, the first of these is unit testing, in which small units of programming code are tested independently by the software developers. For example, in LENS a small unit of code is used to handle a single field, such as the street name, for the address validation function. The next step is called string testing, in which the smaller units of code are strung together and tested using test input data in a test database with a planned set of expected results. The third step is called system testing, in which units of code are tested at a subsystem and then at a complete system level. For example, the address validation subsystem in LENS was tested separately prior to testing the complete LENS system. This step verifies that the software meets the identified business requirements for the system. The fourth step is interoperability testing, which tests the hardware, software and network interfaces between the new system and

external systems. For example, this stage of LENS testing verified that the connections between LENS and the pre-ordering databases were operating properly. The last step is called acceptance testing, which involved BellSouth personnel, other than computer professionals, testing the systems to determine whether the systems met the business requirements provided to the systems developers.

119. BellSouth has conducted functional and capacity stress testing on the EDI and LENS interfaces. (Such testing of the other interfaces is not needed because they have been tested through actual operations.) Testing included functional testing and capacity stress testing to verify that the interface could handle the planned volumes. IBM was also engaged to perform a preliminary review of the volume testing approach being used to validate that BellSouth's CLEC interface systems can handle the projected loads and to provide input on how the testing could be improved. Specific objectives were to: 1) audit the volume test approach, 2) provide input on data collection and reporting of results, and 3) evaluate the potential use of alternative tools to facilitate the testing approach. IBM reported in May, 1997, as follows:

AThe test approach is in the construction phase. With the anticipated refinements, it appears adequate. The data gathering, data points, and report layouts are in the design phase, and appear acceptable. Given the schedule constraints, alternative tools are not recommended at this time.® The full IBM report is attached as Exhibit WNS-42. IBM's recommendations have been incorporated into BellSouth's testing plan. Moreover, a contract is in place with IBM to have them review results of a multi-day demo of the CLEC interface systems under load conditions. The review is expected to be completed by mid-December, 1997.

Additionally, BellSouth is using a Bellcore web test tool for LENS testing.

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I. SYSTEM CAPACITY

120. BellSouth has, in addition, conducted volume testing, also known as load testing, to determine the capacity of its systems. Based on volume testing, the combined capacity of BellSouth's EDI and LENS ordering systems including the mechanized order generation capability in LESOG, has been verified as being at least 10,000 local service requests per day, which is double the forecasted capacity for which these systems initially were designed. These volumes are depicted on Exhibit WNS-43. It is important to note that local service requests do not equate to lines, because a single service request can involve multiple lines.

121. BellSouth based the size of the initial systems capacity of 5000 local service requests a day on its forecast information for 1997, which incorporated available CLEC forecasts. BellSouth requested and received some CLECs' forecasts, and based its capacity plans for these systems on the summation of all the CLECs' forecasts. For effective system capacity management, of course, all CLECs must cooperate in providing appropriate forecast information that can be used to estimate their system usage. Exhibit WNS-44 shows BellSouth's forecasts for the Electronic Interfaces.

122. This capacity can be readily increased if necessary. For LENS and LESOG, hot spare arrangements, i.e., additional processors, are already in place, which could again double the capacity within one week to 20,000 orders per day, as shown in Exhibit WNS-43 Note 1. These processors protect not only against unforeseen demand surges but also against equipment failure. For EDI and LEO, the additional capacity is available because these systems are operating on a small portion of large, well-established mainframe systems, and significant available capacity exists on both mainframes.

123. LENS has additional capacity for pre-ordering transactions. This interface was designed to support multiple pre-ordering transactions for the expected daily combined volume of CLEC orders.

124. Although BellSouth has established through load testing that the systems could sustain the forecasted volumes, BellSouth maintains test copies of the systems for ongoing stress testing. Stress testing is designed to determine the true upper limits of the systems. Exhibit WNS-45 shows the volume test results.

125. BellSouth has tested the LENS and EDI systems with CLECs. As each CLEC is added to LENS, BellSouth works cooperatively with the CLEC in a process known as Aconnectivity testing, which ensures that the connections between BellSouth and the CLEC are working properly. BellSouth also has engaged in extensive EDI testing with AT&T called Service Readiness Testing (SRT) which we have been conducting since February 10, 1997. This testing has showed EDI to be a reliable system for transmitting ordering data.

126. CLEC ordering activity has not yet approached the forecasted volumes. The combined peak daily ordering volume over the EDI and LENS interfaces has thus far been 1416 orders. The current capacity is at least 10,000 orders per day. BellSouth established the capacity for these systems (such as this 5,000 orders per day) based on a series of discussions and negotiations with CLECs, as well as on internal BellSouth forecasts. Exhibit WNS-46 shows BellSouth's total order processing data, which includes LSRs received electronically and manually for report week, LSR clarifications for report week, the average report week FOC cycle time including clarifications, average report week FOC cycle time excluding clarifications, and average clarification cycle time.

127. To ensure the CLEC TAFI system could handle commercial volumes, BellSouth repair attendants from BellSouth's business and residence repair centers used the CLEC TAFI system in a live mode to process actual trouble reports from BellSouth retail customers from March 17, 1997 until April 16, 1997. During that month approximately 10,000 customer trouble reports were successfully processed using a single CLEC TAFI processor.

128. The TAFI maintenance and repair interface has the capacity to support 130 simultaneous users with a volume of 2600 troubles handled per hour for the BellSouth region. A hot spare arrangement also is in place for TAFI. This can be activated almost immediately if necessary, and would increase capacity by an additional 65 users and 1300 troubles per hour, for a combined total of 195 simultaneous users and 3900 troubles handled per hour. The spare arrangement also protects against equipment failure should one of the primary processors fail. This capacity can be readily increased if necessary. Additional processors can be added within 60 days.

129. The current capacity of the CLEC TAFI system far exceeds the usage to date, and TAFI will accommodate additional potential users as well. One hundred ninety-eight (198) users from 18 CLEC companies generated a cumulative combined total of 3463 trouble reports on TAFI for June through September. Over 1000 reports were generated in September. The current capacity of 2600 reports per hour exceeds what is required to support the expected number of repair reports associated with the forecasted volume of CLEC lines. In state regulatory proceedings AT&T has questioned whether this capacity is sufficient given that AT&T alone has approximately 300 repair attendants; however, AT&T also has testified that it has no plans to use TAFI. Instead, it will rely on the interface BellSouth is developing at

AT&T's request, based on AT&T's specifications.

130. BellSouth has engaged in connectivity testing to TAFI with each new CLEC. If the CLEC is using dial-in, it authenticates to the dial-in network, connects to TAFI, and receives a login prompt indicating TAFI connectivity is established. If the CLEC is using a LAN-to-LAN connection, it configures its LAN, clicks on a TAFI icon, and receive a login prompt indicating TAFI connectivity is established.

131. BellSouth has tested its CLEC daily billable usage file. In order to test both the service order process and the new applications for delivery of daily usage data, BellSouth established test accounts for resale in the production environment. Employee accounts and certain official company lines were transferred to an internally-defined reseller for the test. The service order flows were monitored and verified for both residence and business accounts. Usage associated with the test accounts was captured and flowed to the Daily Usage File application to test the process. Since the end-to-end test data contained limited volumes, data was also developed to further test the Daily Usage File functions for higher volumes prior to their deployment more than a year ago.

132. Because the daily billable usage information files are generated through mainframe-based systems with existing spare capacity, BellSouth has not identified any constraints to its capacity to process daily usage files for CLECs. The average daily message volume delivered to the CLECs during June was 33,753 messages per day. The average number of messages sent per day in July was 51,274. In August, the average was 97,289 for the CLECs receiving daily usage files. September's average messages per day was 134,021.

133. BellSouth tested its processes for providing the billing daily usage file. In addition to

the initial testing conducted to validate the process prior to offering the service, BellSouth conducts individual tests with each CLEC before establishing a daily production feed. BellSouth provides a comprehensive test file containing many examples of record types that the CLEC may encounter in the live environment. The test data is delivered in the manner specified by the CLEC, i.e., magnetic tape or data transmission. BellSouth also conducts testing in a Alive@ mode if a CLEC requests it. The CLEC can actually establish Alive@ accounts, such as services involving the CLECs= employees, or friendly users, and place test calls of varying types while keeping manual records of each call. BellSouth delivers the associated billable usage in the production mode, and the CLEC can verify that the daily usage records match the test calls that were made.

134. Exhibit WNS-47 depicts the LCSC=s manual capacity to augment the electronic ordering capacity. The LCSC can process an additional 3325 orders per day, and is handling 1625 orders per day. The LCSC also has contingency plans to increase its manual capacity if needed: it can expand its service representatives= work hours to twelve hours for six days a week (this would be a temporary implementation); it has trained several auxiliary groups in local service orders input, who can almost immediately augment the LCSC=s force by 85 service representatives.

135. BellSouth will manage the capacity of its CLEC interfaces using the same process of monitoring usage and making needed adjustments that is used to manage BellSouth=s other computer systems.

IX. TRAINING, DOCUMENTATION AND OTHER SUPPORT

___136. BellSouth provides CLECs with training and appropriate system user guides and other

information. The most recent of BellSouth's ongoing series of CLEC conferences, which included systems demonstrations and hands-on experience with the systems, was conducted June 24-26, 1997. Additionally, BellSouth publishes to the CLECs advance notice of major release systems changes, as was done in September announcing the October 6, 1997 release of new features. BellSouth also updates the documentation to reflect systems changes.

137. Initial LENS training was held May 13, 1997 at the BellSouth Learning Center in Atlanta. Invitations were sent to all CLECs that had signed interconnection agreements or were in the process of negotiating agreements. During the training the CLEC representatives sat at computer terminals. The BellSouth trainer guided them step by step through pre-ordering inquiries and order processing. As many as eight BellSouth staff members, in addition to the trainer, helped the CLEC representatives as they worked through the exercises.

138. BellSouth also instructs CLEC trainers at a BellSouth lab in Birmingham. CLECs are offered this training as part of the interconnection process. During LENS training the CLECs are provided with a LENS User Guide, which is provided as Exhibit WNS-48 and is available on the Web - updated as of September 20, 1997. BellSouth also has provided technical assistance at CLEC premises.

139. Training on EDI is different, because a CLEC has the option of developing its own systems on its side of the EDI interface. For example, BellSouth has worked extensively with AT&T to develop the EDI ordering interface, and has worked cooperatively with AT&T as AT&T brings its ordering processes on-line. The documentation for BellSouth's EDI interface is contained in the multi-volume Local Exchange Ordering Implementation Guide (Exhibit WNS-49) which is available on the Web. CLECs have criticized BellSouth in state

proceedings for revising and updating this documentation; however, BellSouth began its implementation of EDI before the industry undertook its more detailed work on the standards. As the industry work progressed, the implementation guides have been updated to reflect changes resulting from the standards developed by the OBF. This Implementation Guide also contains the required USOCs/ordering codes and valid combinations that constitute business rules. LCI complained about EDI training, but had also send BellSouth a letter of appreciation on the EDI training they had received in July.

140. For CLECs choosing to use the off-the-shelf, commercially available version of EDI desktop software, EDI-PC, training and documentation is provided by Harbinger, the third party that developed the software package based on BellSouth=s specifications. Training for this software package is covered in the CLEC conferences, and is available directly from Harbinger (Exhibit WNS-50).

141. TAFI training is provided at BellSouth=s Birmingham training lab. CLECs are offered this training as part of the interconnection process. During this training the CLECs are provided with an approximately 350-page TAFI User Guide. A copy of this guide is provided as Exhibit WNS-51 and is available on the Web.

142. BellSouth offers Ahelp desk@ support for CLECs using its interfaces. A help desk is in place to handle LENS and TAFI problems. That desk is staffed from 8:00 a.m. until 5:00 p.m. Central time. After hours assistance is available via pager access. Information on the help desk is included in both the LENS and TAFI user guides. BellSouth=s EDI Central group handles EDI matters for BellSouth=s other EDI applications, such as those involving the exchange of information with BellSouth suppliers. CLECs= EDI problems requiring

BellSouth involvement are handled by BellSouth=s EDI Central group.

143. BellSouth provided generic training on the daily usage file at the CLEC conferences held in December 1996 and April 1997. The Billing Administrators in the BellSouth Customer Billing Services organization serve as initial contacts for CLECs with questions about either their monthly bills from BellSouth or their daily usage files. They involve the appropriate subject matter experts needed to respond to any needs the CLECs may have. In preparation for establishing daily usage file service for each individual CLEC, BellSouth personnel from both Customer Billing Services and Information Technology routinely participate in numerous meetings and conferences with the CLEC to explain the service, respond to questions, review test results, coordinate installation of data transmission capability if needed, and resolve any issues that may arise. General Daily Usage File information is provided in the CLEC Daily Usage File (CDUF) Requirements Document, which is Exhibit A of the contract CLECs sign to obtain this service. (CLEC contracts approved by the Louisiana PSC are included in Appendix B of BellSouth=s application for interLATA relief in that state.)

144. CLECs have indicated during state proceedings that updates to BellSouth=s CLEC interfaces have forced them to train their personnel, undertake development work on their own systems, or make other ongoing adjustments. The implication is that the changes and enhancements are somehow discriminatory. Because ~~As stated above, BellSouth believes that the changes and enhancements are necessary in order for non-discriminatory access to OSS functions to be maintained.~~ BellSouth continuously updates and improves its internal systems, it must continuously must train its personnel; it is reasonable to expect CLECs to do the same

when they use updated and improved systems. For example, BellSouth=s retail service representatives who use RNS are trained with each monthly release. That CLECs must keep pace with similar changes is inevitable and desirable, not discriminatory.

145. Finally, Exhibit WNS-52 is the Local Competition Operational Readiness document, dated October 20, 1997, prepared in response to various questions posed by the DOJ. It contains descriptions and diagrams of the systems, centers, manual processes and process flows for pre-ordering, ordering & provisioning, maintenance & repair, and billing; and a glossary. It is a thorough, comprehensive document intended to provide an overview of all of the process and systems described in both this affidavit and my affidavit describing performance measures, and to assist in understanding the relationships between the various processes, systems and measures.

X. SUMMARY

146. In summary, BellSouth=s interfaces provide CLECs with access to the required information and functions in substantially the same time and manner as BellSouth=s access for its retail customers, and therefore conform to the FCC=s definition of non-discriminatory access.

147. I hereby swear that the foregoing is true and correct to the best of my information and belief.

William N. Stacy
Assistant Vice President
Interconnection Services
BellSouth Telecommunications, Inc.

Subscribed and sworn to before me this 4th
day of November, 1997.

Notary Public

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Application by BellSouth Corporation,) CC Docket No. _____
BellSouth Telecommunications, Inc.,)
and BellSouth Long Distance, Inc., for)
Provision of In-Region, InterLATA)
Services in Louisiana)

AFFIDAVIT OF WILLIAM N. STACY

PERFORMANCE MEASUREMENTS

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William N. Stacy, being duly sworn, deposes and says:

I. PROFESSIONAL EXPERIENCE

1. My name is William N. Stacy. I am employed by BellSouth Telecommunications, Inc. ("BellSouth"). My business address is 675 West Peachtree Street, Atlanta, Georgia 30375. I am the Assistant Vice President - Services for the Interconnection Operations department of BellSouth Telecommunications, Inc. (BST). In this position, I am responsible for development of the procedures used by BST personnel to process Competitive Local Exchange Carrier (CLEC) service requests, and for assisting the service centers in Interconnection Operations in implementing CLEC contracts in a manner consistent with State Commission and Federal Communications Commission (FCC) rules and regulations governing local exchange competition. I have held numerous positions with BST in Network Engineering, Operator Services, Network Planning, and Network Operations.

II. PURPOSE OF AFFIDAVIT

2. This Affidavit addresses how BellSouth has adopted and committed to performance measures with which to compare BellSouth's performance in providing and maintaining services that are provided to both retail and wholesale customers; and to measure performance as a demonstration of compliance with the Commission's "nondiscrimination" and "meaningful opportunity to compete" requirements.

3. BellSouth's existing performance measurement obligations allow the Commission to verify that BellSouth is providing CLECs with facilities and services in accordance with the "non-discrimination" and "meaningful opportunity to compete" requirements. I will address BellSouth's proactive efforts to develop wholesale and retail comparative measurements, and BST's contractual commitments to performance measures through individual CLEC agreements. By way of introduction, I will describe the overall organizational structure and processes BellSouth has put in place to provide services to all CLECs.

III. BELLSOUTH'S CLEC SUPPORT STRUCTURE

4. In order to meet its anticipated statutory and regulatory obligations, BST began development work in May, 1995 to create a process for handling the provisioning, maintenance and repair of interconnection facilities, resold services, and unbundled network elements (UNEs) provided to the CLECs. Since that time, BST has created an entirely new officer-level organization, Interconnection Operations, which is responsible for all operational aspects of provisioning and maintaining services for CLECs. For resale and unbundled network element ordering, two Local Carrier Service Centers

(LCSCs), located in Birmingham and Atlanta, have been established to serve as contact points for CLECs ordering services. The LCSCs offer service 24 hours per day, 7 days per week. The following customers are supported by the Atlanta Center: AT&T, MCI, OPC, Intermedia, Nextlink and Georgia Comm South. All other CLECs are supported by the Birmingham Center. At each center, a Customer Support Manager is assigned to each CLEC served by the center to provide a single liaison point if the CLEC customer has operational issues that are not satisfactorily resolved by the normal center processes.

5. The Birmingham and Atlanta LCSCs are functionally equivalent. This arrangement provides a redundant (back-up) capability to maximize efficiency and minimize volume surge impacts. The centers have the technology and systems support to share work. Each has the same systems access and the ability to handle the various service requests. The training path for Service Representatives is the same for each center. Depending upon the employee's previous background and experience within BellSouth, training time for a Service Representative to handle resale orders could be less than 6 weeks. If the Service Representative will be processing UNE orders, additional complex training is required. Any difference in output between the Birmingham and Atlanta centers is due to Atlanta currently handling primarily resale orders. Birmingham receives more UNE orders from the CLEC group it supports, and UNE orders require more time to handle. More detail regarding LCSC capacity and capability is given in my Operational Support Systems (OSS) affidavit.

6. The centers have also developed contingency plans to handle spikes in ordering volumes. The plan primarily addresses the use of overtime, sharing work between

centers and utilizing other BST personnel who have been previously trained to process CLEC orders.

7. Additionally, due to the complexity of managing services provided to CLECs' large business customers, BST established a group of project management specialists as a separate part of each LCSC to provide project coordination for this type of activity. Finally, BST established two UNE Centers (Birmingham and Atlanta) staffed with highly trained technicians to coordinate the provisioning activities required to install the various UNE products. These groups and centers were staffed with a total of 422 people as of September, 1997, and staffing will increase as market needs dictate.

8. For provisioning of end user services, CLECs can place orders directly through one of the several electronic interfaces which BST has made available, or manually with the LCSC. These are discussed in detail in my OSS affidavit.

9. Provisioning and maintenance of local interconnection trunking is provided by BST's Access Customer Service Centers (ACSCs), which are also part of the Interconnection Operations division. The ACSCs have provided similar services to interexchange carriers (IXCs) for several years. The CLEC local interconnection trunking activity is handled by an ACSC located in Birmingham. BST technicians in the ACSC directly interface with the CLECs to perform turn-up, testing, and repair of interconnection facilities. These technicians must pass a complex technical test to fill these positions. In addition, BST has a customized training curriculum which qualifies technicians to support facility-based CLECs. The CLEC-specific training period for these employees is approximately 29 days, in addition to many months of basic equipment and service training.

10. In the case of maintenance and repair, CLECs can submit trouble reports for resold services, interconnection facilities, and unbundled network elements directly through one of the electronic interfaces or manually to the appropriate repair center.

11. BST is committed to provide all of these operations centers with sufficient resources to meet the demands of the CLECs. Additional managers and support personnel have been added to the existing centers and will continue to be added as needed to support increased CLEC activity. BST has forecasts of expected transaction/order volumes gathered directly from our CLEC customers by the BST account team responsible for each individual CLEC account. This information, and BST's own experience, allows BST to project ordering volumes, provisioning volumes, and trouble reporting volumes from the CLECs. Staffing initiatives, internal and external hiring, and training have been deployed to enable BST to effectively respond to CLEC provisioning and maintenance expectations. More detailed descriptions of the roles, responsibilities, and capacities of each of these centers are included in my OSS affidavit and in the Operational Readiness Report prepared for the U. S. Department of Justice (DOJ), (OSS Affidavit, Exhibit WNS-52).

IV. INTRODUCTION AND USE OF MEASUREMENTS

12. BellSouth realized in early 1996 that the Communications Act would create many challenges in the area of measurements. BellSouth recognized the need to collect and present data which would reflect whether CLECs receive the same quality of service as BST's retail customers.

DATA WAREHOUSE

13. To enable effective ongoing production of measurements which monitor parity and provide meaningful data on a readily available basis, BellSouth has implemented a Data Warehouse. BellSouth's existing OSS run on mainframe computers which are aligned by states in most instances and have multiple processors. An example of this is the Work Force Administration (WFA) system. WFA, which is used for provisioning and maintenance of designed services, has 7 processors. The query systems on the mainframe computers cannot be easily manipulated to produce the measurements required to monitor parity between retail and wholesale customers. The Data Warehouse was developed to meet this type of need.

14. Information in the Data Warehouse is loaded from mainframes and combined into regional databases. Every order processed by BellSouth for both its retail units and its CLEC customers is captured for analysis. Standard Query Language (SQL) queries are written against the databases to produce the measurements. These SQL queries provide the ability to re-create measurements that are currently in place on the mainframe systems and separate the retail and wholesale services results for reporting purposes.

15. BellSouth plans to provide CLECs with access to the Data Warehouse, which will allow them to obtain their CLEC specific results without intervention by BellSouth. All measurements and associated supporting data as described in this Affidavit will be available in the Data Warehouse. BellSouth's target date for CLEC access to the Data Warehouse is no later than end of first quarter, 1998.

REPORTING FORMATS

16. BellSouth has utilized the Data Warehouse to produce reports in two different formats as interconnection negotiations with the CLECs have progressed. These formats are described in this Affidavit and the associated Exhibits as:

Contractual Measurements - Those measurements contractually agreed to thus far with AT&T, Time Warner and US South. CLECs with a contractual performance agreement receive monthly performance reports based on their specific requirements. Aggregate CLEC data is also provided.

Permanent Measurements - A set of generally available measures based on the contractual measurement set with some additions and offered to further demonstrate BellSouth's commitment to performance measures. Exhibit WNS-1 provides a summary of the performance measurement categories BST is utilizing. These measurements have been utilized and presented in numerous regulatory proceedings to demonstrate non discriminatory performance. It should be noted that these measurements do not replace the contractual measurements, nor does the reporting format for permanent measurements displace any CLEC specific formats outlined in contractual agreements.

V. BELLSOUTH'S CONTRACTUAL COMMITMENT TO PERFORMANCE MEASUREMENTS

17. BellSouth has negotiated and arbitrated specific performance measurements with several CLECs. As a result of negotiations, BST and AT&T, on May 9, 1997, reached agreement on performance measurements and filed those measurements with the Georgia Public Service Commission. Those measurements included both the parity measures and measures designed to establish non-discriminatory access to systems and services. This specific agreement was signed in Georgia, but both parties agreed to extend its provisions to all nine states where BST provides services as an ILEC. This agreement was incorporated into the interconnection agreement between BST and AT&T filed with the Louisiana Public Service Commission and approved as effective on October 1, 1997. (Reference: Attachment 12, Paragraph 1.4 of the BellSouth/AT&T Agreement, Exhibit WNS-2 (AT&T agreement) and Exhibit WNS-3 (description of measurements)). BellSouth delivered to AT&T the August results on September 14, 1997, for the initial set of agreed to measurements.

18. In the agreement between BST and AT&T, percentage target performance levels were not provided for some measurements, such as provisioning intervals for UNEs. BST and AT&T agreed to meet to discuss establishment of such targets quarterly, starting no later than ninety (90) days after actual performance occurs.

19. BST continues to negotiate performance measurement obligations with other CLECs. A regional agreement, similar to the AT&T agreement, was reached with Time Warner on September 24, 1997, and a Georgia-only performance agreement was reached with US South on September 18, 1997. These agreements are shown as

Exhibit WNS-4 and Exhibit WNS-5, respectively. BellSouth will produce measurement reports for Time Warner and US South as specified in their contracts.

VI. ESTABLISHMENT OF PERMANENT MEASUREMENTS FOR RESALE SERVICES

20. In addition to the negotiated performance measures described above, BST has, on its own initiative, proposed and adopted the use of statistical process control measures to determine if aggregate CLEC services are being provided at parity with BST aggregate retail. BST performance data historically have variations from month to month due to many factors, such as severe weather, damage to facilities, or other events that could not be anticipated. It is therefore important to study performance results over several months to determine what the acceptable upper and lower limits for various performance measures should be. This is done by plotting the monthly results for BellSouth on a graph or control chart. This creates a picture of the performance. Once data has been collected for a number of months, generally at least six, performance criteria can be established by using this data to calculate the average performance for BellSouth, and the standard deviation for this data. The upper and lower control limits are then calculated using three standard deviations above and below the average. It is widely accepted in numerous industries that stable processes operate within three standard deviations (+ or -) from the mean. Therefore, BellSouth adopted three standard deviations from the average as an appropriate control limit.

21. The proposed reporting format uses the historical and current performance of BST as the standard to establish statistical process control parameters, using the

process control chart format. After BST's performance is used to establish the basic parameters (average, upper control limit, lower control limit) of the control chart, the services BST performs for all CLECs are superimposed on the same control chart. Once control limits are established, a comparison can easily be made between the BST data and the CLEC data. This comparison presumes that if the same processes are being used, the results (for the CLECs and BST) will be within the same control limits. This type of comparison will be made for each agreed to group of resale services where BST provides similar services to its retail customers.

22. BellSouth recognizes that many other formats and methods exist for producing comparisons of this type of data. However, in proposing the use of the SPC methods, BellSouth has sought to use a method that would be adequate to produce comparisons, and at the same time, straightforward enough to easily depict performance comparisons for use by the various commissions at both state and federal levels, without burdensome analyses of the data for each result, each month.

23. When reviewing comparative data (BST compared to CLECs) on a control chart, as long as the monthly performance is within the established upper and lower limits, there generally would not be any concern, unless one of the entities for three consecutive months was higher or lower than the other entity; or a single monthly measure was outside a control limit. This would merit an investigation or a study (referred to as "root cause analysis") to determine the reason for the consistent variation. Once this has been accomplished, a plan for corrective action would be initiated. This method of analyzing data avoids overreacting to insignificant variations and focuses on processes to insure consistent performance.

24. BST's retail operations track service performance results on a company-wide and state-wide basis, for groups of customer services. In general, the groups are separated in two ways: first, by the type of customer (i.e., consumer, small business, or large business); and second, by the type of service provided (i.e., POTS or non-designed services and designed or special services). BST's proposed and negotiated contractual measures for resold services provided to both CLECs and to BST retail units generally follow this pattern.

25. For the provisioning and maintenance measures, the groups of service to be measured and the specific measures to be applied to each group are listed in the table in Exhibit WNS-6. Where the table entry SPC (Statistical Process Control) is shown, sufficient historical data existed to establish statistical process control measures by September, 1997. Where IP (In Process) is shown, sufficient BST data do not exist, and the CLEC results will be produced without direct comparison to BST.

VII. ESTABLISHMENT OF PERMANENT MEASUREMENTS FOR UNBUNDLED NETWORK ELEMENTS THAT BST PROVIDES ONLY TO ITS CLEC CUSTOMERS

26. BST has limited historical data to establish performance measures for UNEs that BellSouth provides only to CLECs. BST has begun data collection for this measurement in an effort to finalize specific targets with the CLECs. The Department of Justice (DOJ) in our 271 filing discussion, suggested that BellSouth investigate the availability of win-back data to assist in comparing UNE performance results between BST and the CLECs. BellSouth has determined, however, that no data are currently available from the retail units for such an analysis.

27. BST has published target intervals for provisioning UNEs (Exhibit WNS-7) and maintenance of UNEs (Exhibit WNS-8). These “interim” target intervals will be used to finalize the UNE provisioning and maintenance intervals for AT&T, Time Warner and US South based on their performance agreement, and will allow BST to begin to generate the data for future SPC measurements.

28. Until sufficient data are collected for each service category, BST proposes using negotiated measures to set estimated values for the average, the upper control limit, and the lower control limit, and to adjust these as additional data becomes available. The time period to accumulate statistically valid data for each category is a function of the CLECs’ ordering volume in each state and in each service category, and cannot be accurately predicted at this time.

VIII. ESTABLISHMENT OF PERMANENT MEASUREMENTS FOR LOCAL INTERCONNECTION TRUNKING SERVICES BELL SOUTH PROVIDES TO ITS CLEC CUSTOMERS

29. In addition to the measurements for resold services and unbundled network elements, BellSouth provides four groups of measurements related to local interconnection trunking. They are:

- % Provisioning Appointments Met
- % Provisioning Troubles, within 30 days of the Installation of New Service
- Maintenance Average Duration (Receipt to Clear)
- Trouble Report Rate

30. The measurements for provisioning and maintaining local interconnection trunks parallel the resold service measurements in the sense that direct comparisons can be

made between services provided to CLECs and those provided for the BST retail units.

31. In addition to these measurements, BellSouth has received questions from various regulatory agencies regarding blocking of the trunking network interconnecting the facility-based CLECs' networks to BellSouth's network. I will discuss this issue later in the Affidavit.

IX. ESTABLISHMENT OF PERMANENT MEASURES FOR OPERATIONAL SUPPORT SYSTEMS (OSS) BELLSOUTH PROVIDES TO ITS CLEC CUSTOMERS

32. BellSouth currently provides three permanent measurements to demonstrate non-discriminatory access to its OSS. These are: System Availability, Response Time and Usage Billing Timeliness.

33. The System Availability measurement provides, for each of BellSouth's electronic interfaces, the OSS' scheduled and actual hours of availability. Measurement results are provided in my OSS Affidavit (Exhibit WNS-35 and Exhibit WNS-36).

34. The OSS Response Time measurement compares response time intervals required for a CLEC using Local Exchange Navigation System ("LENS") to perform certain OSS functions with the response time intervals required for a BST retail transaction using Regional Negotiation System ("RNS") to perform the comparable function. Measurement results are provided in my OSS affidavit, Exhibit WNS-37.

35. The Usage Billing Timeliness measurement provides data to compare the electronic interface for customer billable usage data transfer (Optional Daily Usage File ("ODUF")) with BellSouth's Centralized Message Distribution System ("CMDS"). The

measurement results are provided in my OSS Affidavit, Exhibit WNS-53.

36. BellSouth has one additional data set which is currently being utilized to provide further documentation on OSS and will become the basis for a permanent measurement. "Order Flow Through" provides data on the percentage of orders placed through the electronic interfaces that flow-through without manual intervention. Until manual handling is substantially reduced, particularly by reducing the CLECs' error rate on pre ordering and ordering, this measurement and its resulting output is not considered a fully developed, permanent measurement. Exhibit WNS-41 in my OSS Affidavit provides current flow-through results.

37. Further discussion of these OSS measurements is provided in the text of my OSS affidavit relating to each of the Exhibits listed above.

X. PRODUCTION AND RESULTS ANALYSIS OF PERMANENT MEASUREMENTS

38. February through September permanent measurement SPC results for BST and the CLECs are shown in Exhibit WNS-9. These reports include aggregate data for all CLECs in the state or region. Exhibit WNS-9A provides measurement data definitions, including any measurement exceptions. Examination of Exhibit WNS-9 data reveals that BST is providing, in most instances, services to the CLECs at parity with (or better than) those provided to its retail operations. The isolated exceptions do not indicate any pattern of discriminatory treatment. Rather, CLECs in every instance are receiving a high level of service that allow them to compete effectively. BellSouth is taking appropriate steps to improve CLEC results even further.

39. While the following paragraphs present a general discussion of results, the SPC charts provide actual percentage results for BST retail and the CLECs. Thus, the charts not only provide point-to-point comparative data, but also provide a means to ascertain when corrective action is needed to ensure consistent performance.

XI. RESALE SERVICE MEASUREMENTS CONCLUSIONS

40. Using the SPC data for the last three consecutive months (July, August, and September), of the 28 Resale Service Measurements, 21 measurements met the SPC criteria as outlined in Paragraph 23. And, in fact, for the following 14 measurements (part of the 21 measurements meeting the SPC criteria), CLEC performance results are better than BST retail results:

- % Provisioning Appointments Met - Business Dispatch Out
- Maintenance Average Duration - Residence Dispatch Out
- Maintenance Average Duration - Residence Non Dispatch
- Maintenance Average Duration - Business Non Dispatch
- % Maintenance Repeat Troubles - Residence Dispatch Out
- % Maintenance Repeat Troubles - Business Dispatch Out
- % Maintenance Repeat Troubles - Business Non Dispatch
- % Trouble Report Rate - Residence Non Dispatch
- % Trouble Report Rate - Business Dispatch Out
- % Provisioning Troubles - Residence Dispatch Out
- % Provisioning Troubles - Residence Non Dispatch
- % Provisioning Troubles - Business Dispatch Out

- Out of Service < 24 Hours - Residence Dispatch Out
- Out of Service < 24 Hours - Business Non Dispatch

41. For the remaining measurements, the percentage point differentials are minimal. Nevertheless, BellSouth is currently initiating a root cause analysis effort for those measurements where the SPC criteria was not met. BellSouth will coordinate this effort with the affected CLECs and provide feedback as to the corrective action taken as required.

XII. PERFORMANCE DATA CONCLUSIONS - LOCAL INTERCONNECTION TRUNKING/ UNBUNDLED LOOPS

42. Exhibit WNS-10 provides detailed performance data (February through September) for Louisiana and BellSouth's region for Local Interconnection Trunking and Unbundled Loops. Although state data for purposes of comparison has been provided, the data are insufficient for statistical conclusions. Therefore, the performance measurement conclusions are based on regional data.

43. Exhibit WNS-9B provides SPC charts for Local Interconnection Trunking. Of the four measurements for Local Interconnection Trunking, for the last 3 consecutive months, all were within the SPC control range except % Provisioning Troubles (within 30 days of new service). While the % Provisioning Troubles measurement was out of range in July, CLEC results were better than BellSouth retail results for August and September.

44. Although no SPC comparison to BST retail services is possible, unbundled loops were installed on time at a rate no lower than 86.8% (April and August), and as

high as 99% in March, with 6 of 8 months above the 90% level (Exhibit WNS-10).

XIII. SERVICE ORDER INTERVAL MEASUREMENTS

45. During our Section 271 filing discussions with the Department of Justice (DOJ), the DOJ indicated that it would be useful for their evaluation if BST were to produce data on the actual intervals for provisioning various services. BST has produced this data, and details are shown in Exhibit WNS-11. The data were calculated using the issue date of the service order received from the CLEC (or BST) as the starting point (this is the point in the ordering process where a correct order has been received), and the original due date for the order as the end point. Using these specific points in the ordering process establishes that BellSouth is offering parity of due dates to both groups of customers. When this data is combined with the % Provisioning Appointments Met measurement (shown in Exhibit WNS-9), the use of both sets of data accurately portrays the provisioning service parity comparison for CLEC end users and BST retail end users. This approach provides more meaningful information regarding BellSouth's performance than average service order intervals. Service order intervals reflect end user preferences and sales campaign nuances whereas the interval data, combined with the % Provisioning Appointments Met measurement, reflects BellSouth's actual service performance. BellSouth plans to produce Exhibit WNS-11 on a quarterly basis to support the audit provisions in BST/CLEC contracts.

46. Exhibit WNS-12 provides average service order interval results for BST and the CLECs. Again, overall performance results reflect non-discriminatory performance. Louisiana specific results for September, 1997 are shown in Exhibit WNS-12A for those

service order categories which had activity during the month.

XIV. BST/CLEC TRUNK INTERCONNECTION/BLOCKAGE MEASUREMENTS

47. BST collects traffic performance data on the trunk groups interconnected with the CLECs as well as all other trunk groups in the BST network. The data are processed weekly through a mechanized system which calculates the percent blocking during the time-consistent busy hour (TCBH). The TCBH is defined as the identical hour each day during which, over a number of days, the highest average traffic is measured.

48. From this data, BellSouth has compiled an extensive set of measurements to confirm that calls through the BST network to CLEC customers are carried on a non-discriminatory basis over trunking facilities that are subject to the same design and implementation as the trunking facilities used for traffic to BellSouth's retail end users.

49. BST has provided detailed trunk group blocking information regarding trunks used to carry traffic for CLECs as well as for BellSouth retail customers. Information provided includes percent blocking, size of trunk groups, and busy hour. From the data, one can determine the magnitude of the trunk blockage. While the following paragraphs address the basic trunking concepts and overall performance conclusions, more in-depth explanations are provided in Exhibit WNS-13.

XV. TRUNKING ARCHITECTURES

CLEC TRUNKING ARCHITECTURES

50. In the interest of establishing service with the CLECs as quickly as possible,

BST made a decision to interconnect with the CLECs at the interLATA/intraLATA tier of the trunk network rather than the local tier, even though almost all of the calls are local. The interLATA/intraLATA tier provides several advantages. These include:

- a. Fewer number of calls blocked for the interLATA/intraLATA tier than for the local service tier.
- b. The access tandems and end offices associated with the interLATA/intraLATA tier of the network are equipped to produce a record of the calls for billing purposes. Similar capabilities are not provided for in the local service tier.
- c. Almost all of the tandems in the interLATA/intraLATA tier of the network are newer and provide 64 Clear Channel Capability (64CCC) which is required to process ISDN calls.
- d. Routing information for NXX codes, homing arrangements, switch types, number of digits to outpulse, etc. is readily available in a mechanized database for the interLATA/intraLATA tier of the network. Similar information is not available for the local service tier.

51. CLECs have several trunk interconnection options to BST's network. Those options are:

- a. One or more one-way trunk groups, and one or more two-way trunk groups between the CLEC switch and a BST end office switch or access tandem.
- b. One or more two-way trunk groups between the CLEC switch and a BST end office switch or access tandem.

Depending on the architecture selected by the CLEC, BST may or may not have a

trunk group from its end office switch or access tandem to the CLEC switch.

52. A CLEC can also have its trunk groups carrying local traffic interconnect at the local tandem. This is identical to the two-tier network used by BST for interLATA/intraLATA toll and local service.

53. It should also be noted that a CLEC may have trunk groups to only one access tandem instead of all of the access tandems in the LATA; however, a CLEC choosing this arrangement could decrease its call completion rate due to additional trunk groups involved in completing the call.

54. There are other trunk groups interconnecting BST with the CLECs. These are primarily for E911 and other services requested by the CLEC, such as operator services, directory assistance, intercept, etc. These trunk groups are included in the service performance results discussed later in this document.

BST COMMON TRANSPORT TRUNK GROUPS

55. BST has some trunk groups in the network that are associated with the CLEC trunk options listed above. These are the CTTGs (Common Transport Trunk Groups) which interconnect the BST end office with the access tandem. Although these trunk groups primarily handle interLATA and intraLATA toll traffic, most of the CTTGs have also begun handling local traffic as CLECs interconnected with BST at the access tandem.

XVI. SPECIFIC TRUNKING MEASUREMENTS

CLEC LOCAL SERVICE TRUNK GROUP INTERCONNECTION PERFORMANCE MEASUREMENT

56. The CLEC local service trunk group interconnection measurement contains the service performance results of final trunk groups between the CLEC switch and a BST tandem or end office. It is subdivided into two components: one for trunk groups ordered and administered by BST, and the other for trunk groups ordered and administered by CLECs. Exhibit WNS-14 contains a summary of the monthly results from June, 1997 to September, 1997.

57. Exhibit WNS-14A contains details on the four trunk groups ordered and administered by BST (Reference: 3rd line of "BST ordered" chart). All four groups incurred blocking due to one or more of the following reasons:

- a. the CLECs not advising BST in sufficient time to add trunks to the network
- b. the CLECs not ready to add the trunks as ordered by BST; and/or
- c. the CLECs requiring a very long lead time of several weeks before being able to turn up trunks.

58. Exhibit WNS-14A suggests, for the four trunk groups, that if better communication of anticipated volumes was provided to BST, and/or if quicker turn-up of trunks to BST by the CLECs occurred, the blocking problems would be quickly alleviated. Paragraph 65 discusses BellSouth's efforts to gain CLEC cooperation in this area. BellSouth realizes that there will be tremendous growth in the CLEC interconnection market and BST has met almost all of the CLEC trunk requirements in

the time frames requested by the CLECs. Unfortunately, that is not the case with the CLECs. For example, in one state, BST submitted orders on March 11, 1997 with a due date of April, 1997 for the establishment of 408 trunks in seven trunk groups. As of November 4, 1997, none of the trunks had been established by the CLECs.

59. For the four trunk groups referenced above, the trunks being added were in the hundreds per trunk group. This type of growth is very unusual in the existing BST network; nevertheless, as in this instance, BST strives to add the trunks as quickly as possible. In some locations, trunks cannot be added due to shortage of facilities and/or equipment. Thus, it is vital that the CLECs provide BST with their plans on network expansion. BST will continue to work with the CLECs on this endeavor.

CTTG MEASUREMENT

60. This category contains the service performance results of final trunk groups between the BST end office and BST access tandem. As previously stated, these trunk groups primarily handle interLATA and intraLATA toll traffic; however, most of them began handling local traffic in addition as CLECs interconnected with BST at the access tandem. Exhibit WNS-15 contains the BST CTTG results for the period from January, 1997 through September, 1997. Exhibit WNS-15A contains the details for August and September.

BST LOCAL SERVICE TRUNK GROUP PERFORMANCE MEASUREMENT

61. The BellSouth local service trunk group measurement contains the service performance results of final trunk groups in the BST local service tier of the network. It includes trunk groups between the end office and the local tandem as well as final trunk groups between end offices. These trunk groups carry local service traffic for BST's

retail customers. Exhibit WNS-16 contains a summary of the monthly results from June, 1997 to September, 1997. Exhibits WNS-16A, WNS-16B and WNS-16C contain the details for the months of June, July and August, respectively.

62. Exhibit WNS-16 shows that on a company-wide basis, the BST local trunk service performance for BellSouth's retail customers indicates between 1.7% to 2.7% of the trunk groups experience blocking above a threshold of 3%. This same Exhibit shows Louisiana with a service performance of 2.9%, 2.6%, 1.9%, and 2.1% for June, July, August, and September, respectively. Additional information regarding the rationale for the 3% blocking threshold is provided in Exhibit WNS-13.

XVII. TRUNK SERVICE PERFORMANCE ANALYSES AND CONCLUSIONS FOR CLECs AND BST RETAIL CUSTOMERS

63. Service performance results from Exhibit WNS-14 and Exhibit WNS-15 provide a good assessment of the quality of the service provided on trunk groups carrying traffic to CLECs. Service performance results from the Exhibit WNS-16 provide a good assessment of the quality of service provided on trunk groups carrying local service traffic for BST retail customers.

64. Using the data from August, 1997, and assuming that all of the trunk groups had the same busy hour in the same time period, the trunk blocking for CLECs is 2.9% (2.5% between the tandem and the CLEC switch, plus 0.4% between the tandem and a BST end office). Compared to 4.4% for BST (2.2% for each group to the tandem), the service quality provided to the CLECs is consistent with the service levels BST provides for its retail customers. Moreover, if the four trunk groups with service results

affected by conditions beyond BST's control are discounted, the service quality level for CLEC interconnection trunk groups compares even more favorably to the quality level provided to BST retail customers (1.4% for CLECs as compared to 4.4% for BST retail customers).

65. Summarizing the trunk service performance results from Exhibit WNS-14 (CLEC Trunk Group Service Report Summary), Exhibit WNS-15 (BST CTTG Results Reported to FCC), and Exhibit WNS-16 (Local Network Trunk Group Service Report Summary), interconnection trunking provided to the CLECs is at least equal in quality to that BellSouth provided to itself or any other party, as measured by blockage.

XVIII. TRUNK FORECASTS AND PLANNING MEETINGS

66. BST continues to work with its CLEC customers on trunk forecast and planning meetings. BST has participated in numerous meetings with the CLECs to gather trunking information as well as further improve the trunk forecasting and information process. Some CLECs provide trunk forecasts to BST, but the forecasts are more on a just-in-time basis versus a forecast. For example, one CLEC provided BST with a forecast on July 10, 1997, requesting approximately 10,000 trunks in one city, 6,600 to be ordered by BST and 3,400 by the CLEC. The trunks were to be installed starting August 1, 1997 and continuing through December 1, 1997. This was too short a time frame for provisioning that many trunks. BST does not have 10,000 terminations available for "instant" ordering or use. If a vendor has to add equipment, it could require up to 26 weeks to install a trunk. BST has requested vendors shorten their intervals, and they have, where feasible; but this type of abrupt, unplanned demand

increases the opportunity for blocking.

67. Furthermore, some CLECs do not provide a forecast of their anticipated needs at all. Rather, BellSouth receives the request for additional trunks after the CLEC has committed to the end user. In these instances, trunk group blocking is highly probable. BST had a recent experience like this where the blocking was in excess of 60% due to the unexpected CLEC volume. Although technically the calls were blocked in the BST network, more pre-planning by the CLEC would have alleviated much, if not all, of the blockage.

XIX. SUMMARY

68. BellSouth established a policy early in 1997 that it would not only provide services to its CLEC customers in a non-discriminatory fashion, but also collect all necessary data to demonstrate this fact. In addition to collecting these data and reporting the measurement results, BellSouth has established contractual obligations with three CLECs for specific performance measures.

69. These measures are fully sufficient to demonstrate that BellSouth is providing non-discriminatory access to services in Louisiana and throughout the BellSouth region.

70. I hereby swear that the foregoing is true and correct to the best of my information and belief.

William N. Stacy
Assistant Vice President
Interconnection Services
BellSouth Telecommunications, Inc.

Subscribed and sworn to before me this 6th
day of November, 1997.

Notary Public

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Application by BellSouth Corporation,) CC Docket No. _____
BellSouth Telecommunications, Inc.,)
and BellSouth Long Distance, Inc., for)
Provision of In-Region, InterLATA)
Services in Louisiana)

**Affidavit of Alphonso J. Varner
on Behalf of BellSouth**

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Application by BellSouth Corporation,) CC Docket No. _____
BellSouth Telecommunications, Inc.,)
and BellSouth Long Distance, Inc., for)
Provision of In-Region, InterLATA)
Services in Louisiana)

AFFIDAVIT OF ALPHONSO J. VARNER
ON BEHALF OF BELL SOUTH

STATE OF Georgia
COUNTY OF Fulton

I, Alphonso Varner, being first duly sworn upon oath, do hereby depose and state as follows:

1. My name is Alphonso J. Varner. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375. I am employed by BellSouth Telecommunications, Inc. as Senior Director for Regulatory for the nine-state BellSouth region.

I. PROFESSIONAL EXPERIENCE AND EDUCATION

2. I graduated from Florida State University in 1972 with a Bachelor of Engineering Science degree in systems design engineering. I immediately joined Southern Bell in the division of revenues organization with the responsibility for preparation of all Florida investment separations studies for division of revenues and for reviewing interstate settlements. Subsequently, I accepted an assignment in the

rates and tariffs organization with responsibilities for administering selected rates and tariffs including preparation of tariff filings. In January 1994, I was appointed Senior Director of Pricing for the nine state region. In August 1994, I was named Senior Director of Regulatory.

II. PURPOSE OF AFFIDAVIT

3. The purpose of this affidavit is to discuss the means by which BellSouth has met the requirements of Section 252(f) of the Telecommunications Act of 1996 (“the Act”). Specifically, I address each of the items contained in the 14-point competitive checklist found in Section 271(c)(2)(B) of the Act. For each item I provide: 1) an explanation of the checklist item; 2) the specific offering being made available through BellSouth’s Statement of Generally Available Terms and Conditions (“Statement” or “SGAT”); 3) references to arbitrated and negotiated agreements under which the offering is available; 4) an explanation of the derivation of the rates for applicable checklist items and the cost basis for each rate as determined by the Louisiana Public Service Commission (“LPSC”); and 5) a discussion of how competing local exchange carriers (“CLECs”) are provided these capabilities. Additionally, I provide information demonstrating BellSouth’s compliance with the non-discrimination requirements of Section 272 of the Act.

III. LOUISIANA PUBLIC SERVICE COMMISSION PROCEEDINGS

4. On November 12, 1996, the LPSC issued Order No. U-22020 in the Review and Consideration of BellSouth’s Resale Cost Study (hereinafter referred to as the “Resale Order”). On January 28, 1997, the LPSC issued Order No. U-22145 in the BellSouth/AT&T arbitration docket (hereinafter referred to as the “AT&T

Arbitration Order”). BellSouth incorporated the decisions of the LPSC’s Resale Order and AT&T Arbitration Order into its Statement.

5. The LPSC approved BellSouth’s Statement, subject to certain modifications, on September 5, 1997 in Order No. U-22252-A in Docket No. U-22252 (hereinafter referred to as the “Compliance Order”). The LPSC found that “BellSouth Long Distance’s (‘BSLD’) entry into the interLATA long distance market in Louisiana is in the public interest” (LPSC Order No. U-22252-A, p. 17), and that “BellSouth’s SGAT meets the 14-point competitive checklist in 47 U.S.C. § 271(c)(2)(B), subject to the requirement that within 10 days BellSouth modify the Statement in certain particulars.” (LPSC Order No. U-22252-A, p. 5.) The eight modifications to the Statement ordered by the LPSC were:

- a) To add a provision that states as follows: “The Statement shall be subject to revision to the extent necessary to comply with any legislative, regulatory or judicial orders or rules that affect the rights and obligations created by the Statement.”

- b) To revise the BellSouth Price List in Attachment A to the Statement to provide that the price of any local interconnection established, or of any unbundled network element (UNE) may only be adjusted downward as a result of the true-up process. Any downward adjustment for an interconnection arrangement or UNE in service prior to the true-up shall be adjusted retroactively to the date such UNE was placed in service or the date such interconnection arrangement was established.

- c) To delete the language in the BellSouth Price List in Attachment A to the Statement that the price of unbundled local switching does not include retail services, and that retail services are available at wholesale rates and substitute the following language: “Vertical switching features such as call I.D., call forwarding and call waiting are network elements that are subject to unbundling requirements of the Act.”

- d) To delete the language in Section II.F of the Statement regarding the combining of network elements and to substitute the following language:

“A requesting carrier is entitled to gain access to all of the unbundled elements that, when combined by the requesting carrier, are sufficient to enable the requesting carrier to provide telecommunications service. Requesting carriers will combine the unbundled elements themselves.”

e) ...To modify the language in Sections VI.A.2 and VII.B.3 and VII.C.5 of the Statement to provide that selective routing will be provided through BellSouth’s proposed AIN-based Selective Carrier Routing Service, upon successful completion of the trial of that service; and in the interim through line class codes to any requesting carrier.

f) To revise Section II of the Statement to provide that a CLEC shall have electronic access through BellSouth’s electronic interfaces in the pre-ordering phase to customer service record information, as reflected on the pre-ordering screens demonstrated at the technical demonstration held on August 13, 1997.

g) To add a provision that BellSouth’s Local Interconnection and Facility-Based Ordering Guide, its Resale Ordering Guide, and its Negotiations Handbook for Collocation shall be filed with, and maintained by, the Commission and that any and all changes to these documents shall also be on file with the Commission.

h) To add a provision to Section 1.7 of the Bona Fide Request Process contained in Attachment B to read as follows: “If at any time an agreement cannot be reached as to the terms and conditions or the price of the request, or if BellSouth responds that it cannot or will not offer the requested item in the Bona Fide Request and the CLEC deems the item essential to its business operations, and deems BellSouth’s position to be inconsistent with the Act, the FCC or Commission regulations and/or requirements of this Section, then the CLEC shall have the right to petition the Louisiana Public Service Commission or any other court or agency of competent jurisdiction to resolve the item or items of disagreement.”

(LPSC Order No. U-22252-A, p. 15-16.)

6. BellSouth filed the modified Statement on September 9, 1997, incorporating the required changes detailed in the Compliance Order. BellSouth also filed a revised rate list (Attachment A to the Statement) with the LPSC on September 9. No actual rates were changed from the original Statement. The only two changes were notes which incorporated the provisions of the true-up mechanism ordered by the LPSC on September 5, 1997, as well as the LPSC’s ruling that vertical features are network elements that are subject to unbundling.

7. On October 24, 1997, the LPSC issued Order No. U-22022/22093-A (hereinafter referred to as the "Pricing Order") in the consolidated proceedings held to establish reasonable, non-discriminatory, cost-based rates for interconnection services and UNEs. The LPSC adopted the rates proposed by Commission consultant, Kimberly Dismukes, and stated that "these permanent, cost-based rates shall replace the interim rates in BellSouth's SGAT." (LPSC Order No. U-22022/22093-A, p. 5.)
8. As directed by the LPSC in its Pricing Order, BellSouth filed its revised Statement on October 30, 1997, incorporating the rates as set forth in Attachment "A" of the LPSC's Order. By signing BellSouth's transmittal letter of the same date, the Commission Secretary certified that the revisions made to the Statement complied with the modifications ordered in LPSC Orders No. U-22252-A and No. U-22022/U-22093. BellSouth's Statement is attached to this affidavit as Exhibit AJV-1. BellSouth's price list is Attachment A to the Statement.

IV. INTERCONNECTION AGREEMENTS

9. BellSouth has reached an arbitrated agreement with AT&T Communications of the South Central States, Inc. ("AT&T") which incorporates the LPSC's decisions in the AT&T Arbitration Order. The AT&T agreement was approved by the LPSC on October 1, 1997, with an effective date of July 21, 1997.
10. BellSouth has successfully negotiated agreements with numerous other carriers including PCS carriers such as PrimeCo Personal Communications, L.P. ("PrimeCo"), Sprint Spectrum, L.P. ("Sprint Spectrum") and Meretel Communications, L.P. ("Meretel"). The PrimeCo and Sprint Spectrum agreements were approved by the LPSC on August 27, 1997, with an effective date for both agreements of April 1, 1997. The Meretel agreement was approved by the LPSC on October 26, 1997, with an effective date of July 15, 1997.
11. References will be made to the AT&T, PrimeCo, Sprint Spectrum and Meretel

agreements in the portion of this affidavit that addresses each checklist item.

V. BELLSOUTH'S STATEMENT

A. Overview

12. BellSouth's Statement provides a vehicle for carriers to enter the local market, if they so desire, without having to negotiate the terms of a carrier-specific agreement. The Statement was developed to be as straightforward and simple as possible, while at the same time meeting the requirements of the Act. It includes the capabilities required under the Act for a new entrant to compete with BellSouth. BellSouth believes that its Statement will ease entry, particularly for smaller CLECs who do not wish to negotiate separate agreements. For those CLECs who do wish to negotiate, the Statement provides a simplified "model" agreement for their use to begin the negotiation process.

13. As an alternative to the Statement, CLECs may choose to negotiate specific terms and conditions for certain functions or opt to utilize another CLEC's LPSC-approved agreement. BellSouth's Statement does not provide the option for CLECs to "pick and choose" specific components from various other CLEC agreements. With regard to this issue, in the July 18, 1997 decision of the United States Court of Appeals for the Eighth Circuit (hereinafter referred to as the "Eighth Circuit") in the case of *Iowa Utilities Board v. Federal Communications Commission*, 120 F.3d 753, the Eighth Circuit noted that, "We conclude that the FCC's interpretation [allowing such selection] conflicts with the Act's design to promote negotiated agreements. Thus, we find the FCC's 'pick and choose' rule to be an unreasonable construction of the Act and vacate it for the foregoing

reasons.”

14. Even though the Statement does not provide an option for CLECs to “pick and choose,” CLEC agreements which were negotiated and signed by the parties prior to the Eighth Circuit’s July 18 decision, and include a form of “pick and choose” option, will be honored by BellSouth. BellSouth’s agreements with AT&T, PrimeCo, Sprint Spectrum and Meretel are among the agreements with such “pick and choose” options.
15. All new contracts BellSouth has entered into with CLECs since the Eighth Circuit’s July 18 decision do not include “pick and choose” options. BellSouth will reevaluate the “pick and choose” provision in existing contract agreements once all appeals of the Eighth Circuit’s Order are resolved.

B. Bona Fide Request Process

16. To the extent a competitor desires additional capabilities beyond those contained within the Statement, a Bona Fide Request (“BFR”) process is included (See Attachment B to the Statement). BellSouth developed the BFR process jointly with AT&T as a means to address and respond to CLEC requests for different or additional services, features, capabilities or functionalities. The BFR process addresses procedures and timeframes for requests such that each party fully understands the progress of each request. For example, the process requires BellSouth to acknowledge in writing, within two business days, its receipt of the BFR, and further requires BellSouth to identify a single point of contact for that request. In most cases, BellSouth will provide a preliminary analysis of the request

within 30 days of its receipt. As soon as feasible, but not more than 90 days after it is authorized by the CLEC to proceed with development of the network element BFR quote, BellSouth will provide the requesting CLEC a quote which will include at least a description of the network element, its availability, the applicable rates and the installation intervals. The requesting party then has 30 days to notify BellSouth of its acceptance or rejection of the proposal. Unless a CLEC agrees otherwise, all proposed prices shall be cost-based. As detailed in paragraph 5(h) of this affidavit, the CLEC has recourse to petition the LPSC or any other court or agency of competent jurisdiction in order to resolve any disputes concerning the BFR process.

C. Format of Statement and Resources for Operational and Procedural Matters

17. The Act does not provide for a particular format for its terms and conditions submission under Section 252(f). BellSouth has elected to develop a Statement format that is similar to its negotiated and arbitrated contracts. BellSouth believes this will facilitate review by the LPSC, by the FCC and by the CLECs who may wish to operate under these terms and conditions.

18. BellSouth has included many related operational and procedural matters in separate documents in order to facilitate a new entrant's understanding of the capabilities being offered. These are attached to the affidavits of Mr. Keith Milner and Mr. William Stacy. BellSouth will continue to monitor technology and marketplace developments to keep these resources up-to-date and to provide new entrants with the best road map into BellSouth's access and interconnection arrangements.

19. Exhibit AJV-2, titled Typical Applications, illustrates how each of the checklist items might be used. Included as Exhibit AJV-3 is a matrix which cross-references each checklist item to the Statement reference, this affidavit, and the LPSC's Compliance Order. This matrix will assist the FCC and interested parties in determining that all required elements are available in accordance with the Act.

VI. SOURCES FOR FUNCTIONS INCLUDED IN BELLSOUTH'S STATEMENT

20. BellSouth used a number of sources to determine the actual facilities and services that are included in the Statement. The first source was Sections 251, 252 and 271 of the Act which describe the checklist requirements. Second, the FCC's August 8, 1996 First Report and Order in CC Docket No. 96-98 ("FCC Order") dealt with many aspects of the facilities and services included in the checklist. Finally, decisions of the LPSC in its AT&T Arbitration Order, its Compliance Order and its Pricing Order were incorporated.

21. By using a broad range of inputs, BellSouth constructed a Statement that includes all aspects of the competitive checklist and has included some items that are beyond the checklist requirements. For example, in some instances, if BellSouth's experience in the negotiations process indicated a general need for a particular capability, BellSouth has included this functionality even though it was beyond what may be needed to comply with the checklist requirements.

VII. BELLSOUTH'S PRICING POLICIES FOR INTERCONNECTION, UNES, AND TRANSPORT AND TERMINATION

A. General Requirements for Pricing

22. It is BellSouth's policy to adhere to the pricing rules set forth in the Act. Section 252(d)(1) of the Act states that interconnection and network element charges shall be based on the cost (determined without reference to a rate of return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), nondiscriminatory, and may include a reasonable profit. Section 252(d)(2)(A) of the Act requires that charges for transport and termination of traffic shall be mutual and reciprocal and be based on a reasonable approximation of the additional costs of terminating such calls. For all checklist items, BellSouth provides rates that are cost-based.
23. BellSouth believes that the determination of rates for interconnection and unbundled network elements, transport and termination and the wholesale discount in Louisiana is exclusively within the jurisdiction of the LPSC. In its July 18, 1997 decision, the Eighth Circuit confirmed that Congress clearly granted this authority to the states. Rules promulgated by the FCC to impose pricing standards on the State Commissions with respect to such rates were vacated. The Eighth Circuit stated "[a]fter carefully reading the language of the Act and fully considering and reviewing all of the arguments, we conclude that the FCC exceeded its jurisdiction in promulgating the pricing rules." § II(A).
24. On April 1, 1996, BellSouth filed a tariff introducing interconnection and unbundled network element service together with rates, terms and conditions for such offerings in accordance with the LPSC's directives in Sections 901 and 1001 of its "Regulations for Competition in The Local Telecommunications Market,"

adopted by General Order dated March 15, 1996. Notice of this docketed filing was published in the LPSC's Official Bulletin as Docket No. U-22022. On June 25, 1996, BellSouth filed its supporting cost studies, and a separate docket, No. U-22093, was opened to review these studies. Numerous parties intervened and, on October 30, 1996, the dockets were consolidated at which time a procedural schedule was established which included discovery, pre-filed testimony and a hearing in January, 1997. Pursuant to this schedule, discovery was conducted and all parties pre-filed testimony. At the February 19, 1997 Open Session, the LPSC voted to continue the consolidated proceeding pending the Eighth Circuit's decision. As of the LPSC's March 19, 1997 Open Session, the Eighth Circuit still had not issued its decision, and the LPSC voted to move forward with the proceeding. At a status conference on April 7, 1997, a further procedural schedule was established which included a deadline for filing a revised tariff and revised cost studies. At a status conference held on July 31, 1997, the remainder of the procedural schedule was established which provided for discovery, the filing of revised cost studies by AT&T and MCI, tutorials by BellSouth, AT&T and MCI regarding their cost studies, the filing of testimony by all parties and depositions. Hearings were conducted September 8-17 and 24, 1997, with the parties presenting a total of 35 witnesses. The LPSC issued its decision on replacement rates on October 24, 1997.

25. At the time of filing cost studies in the LPSC proceeding, the FCC's pricing rules were stayed, but the Eighth Circuit had not ruled. The cost studies filed by BellSouth were based on TELRIC principles. BellSouth believed it prudent to develop its cost methodology based on economic cost, i.e., Total Element Long

Run Incremental Cost (“TELRIC”) methodology plus common costs as described in the FCC’s Order in the event the FCC’s pricing rules were upheld. However, it is important to note that although BellSouth developed costs based on TELRIC, it does not believe that prices should necessarily be set equal to any particular cost standard, including TELRIC. Also, the TELRIC methodology should not be adopted as a price floor for rates.

26. TELRIC studies are based on the use of the most efficient telecommunications technology currently available and the lowest cost network configuration, given the existing location of the incumbent LEC’s wire centers. Such an approach reflects a hypothetical network that does not recognize the actual costs which BellSouth, or any other company for that matter, will incur in providing unbundled network elements to CLECs.

B. Interim Rates and the True-Up Process

27. A “true-up” process was established by the LPSC in its Compliance Order. The Order states that “the price of any local interconnection established, or of any unbundled network element (UNE) may only be adjusted downward as a result of the true-up process. Any downward adjustment for an interconnection arrangement or UNE in service prior to the true-up shall be adjusted retroactively to the date such UNE was placed in service or the date such interconnection arrangement was established.” (Order U-22252-A , p.7.)
28. All rates previously filed in BellSouth’s Statement are replaced with the cost-based rates ordered by the LPSC in the Pricing Order.

29. The majority of BellSouth's agreements, such as those with AT&T, PrimeCo, Sprint Spectrum and Meretel, all contain true-up provisions to ensure that BellSouth's LPSC-approved rates are available to these carriers. Any of BellSouth's arbitrated or negotiated agreements that contained a true-up provision will be handled in the following manner. For local interconnection or UNEs placed in service at a rate subject to true-up prior to October 24, 1997, if the LPSC-ordered rate established in the Pricing Order is higher than the interim rate, no additional payment is due to BellSouth from the CLEC. However, if the LPSC-ordered rate is lower than the interim rate, then a retroactive adjustment will be made back to the date such interconnection arrangement was established or such UNE was placed in service. Therefore, retroactive true-up payments for those interim rates that are higher than the LPSC-ordered rates will be provided for CLECs who had ordered those specific items or arrangements prior to October 24, 1997.

30. If any rates determined by the LPSC are higher than the interim rates in the Statement, the higher rates will apply to any items provided to CLECs on or after October 24, 1997. Where a CLEC-specific agreement has been negotiated, any true-up provisions contained in that agreement will govern.

C. Deaveraging

31. In Paragraph 292 of its August 18, 1997, Michigan Order, the FCC stated "[i]n order for us to conclude that sections 271(c)(2)(B)(i) and (ii) are met, rates based on TELRIC principles for interconnection and unbundled network elements must

also be geographically deaveraged to account for different costs of building and maintaining networks in different geographic areas of varying population density.” BellSouth does not offer deaveraged rates for unbundled network elements. The Act does not require that rates for unbundled elements be deaveraged; therefore, the LPSC has the authority to determine whether geographically deaveraged rates should be set as well as the timing for implementation of such rates. Geographical deaveraging has not been ordered by the LPSC; therefore, geographic deaveraging is not required of BellSouth in Louisiana.

32. BellSouth is not categorically opposed to deaveraging local loop prices. However, unbundled loop rates should not be deaveraged until such time as the State Commission can fully evaluate all the implications of such a policy change. These effects would include establishing a universal service fund and rebalancing end user local service rates.
33. It is very important to recognize that unbundled loops will be used to compete with residence and business local exchange services. As such, the pricing implications of deaveraging the loop cannot be divorced from the price of local exchange services.
34. Historically, state regulators have employed pricing practices which served both regulatory and political purposes and incorporated subsidies to ensure affordable basic local service for all customers, both urban and rural. The present rate structure in Louisiana incorporates longstanding policies of purposefully pricing some services markedly above costs in order to price other services at or below

cost such that all Louisiana customers would have access to reasonable and affordable basic local exchange service. Further, basic local exchange rates generally rise with the number of lines in a particular exchange's local calling area – the greater the number of lines in an exchange's local calling area, the higher the price. Deaveraging will create loop prices that vary in the opposite direction from the prices for retail services. Deaveraging loop prices means that in urban areas where retail prices are highest, the retail prices will be higher relative to unbundled loops than they would be if loop prices were not deaveraged. In rural areas, the reverse would be true. In rural areas, however, high unbundled loop prices would be irrelevant since the CLEC could simply resell the low priced retail service to rural customers. As a result, deaveraging, without concomitant rate rebalancing, simply creates another opportunity for CLECs to engage in arbitrage of the pricing schedule. This arbitrage will ultimately lead to higher prices for rural customers as CLECs usurp the contribution to prices in urban areas that make lower rural prices possible.

VIII. OVERVIEW OF THE FOURTEEN-POINT COMPETITIVE CHECKLIST

35. Section 271(d)(4) of the Act states that the FCC may not limit or expand the terms set forth in the competitive checklist. The 14-point checklist is the mechanism by which Congress ensured that, by the time the BOCs provide in-region interLATA services, they will have opened their local market to competitors. The 14 points are as follows:

- (1) Interconnection
- (2) Nondiscriminatory Access to Network Elements
- (3) Nondiscriminatory access to Poles, Ducts, Conduits and Rights of Way

- (4) Unbundled Local Loops
- (5) Unbundled Local Transport
- (6) Unbundled Local Switching
- (7) Nondiscriminatory Access to:
 - a. 911/E911 services
 - b. Directory Assistance
 - c. Operator Call Completion Services
- (8) White Page Directory Listings
- (9) Nondiscriminatory Access to Telephone Numbers
- (10) Nondiscriminatory Access to Databases and Signaling
- (11) Number Portability
- (12) Local Dialing Parity
- (13) Reciprocal Compensation Arrangements
- (14) Resale

36. The remainder of this affidavit details the service offerings and how they are available to CLECs and demonstrates that BellSouth's Statement, as approved by the LPSC, meets the pricing requirements of the competitive checklist. Details and analysis regarding the ordering, provisioning and billing of checklist items are included in the affidavits of Mr. Stacy, Mr. Milner and Mr. David Hollett.

IX. CHECKLIST ITEM NO. 1: INTERCONNECTION IN ACCORDANCE WITH THE REQUIREMENTS OF SECTIONS 251(c)(2) AND 252(d)(1)

A. Requirements for Interconnection

37. *Requirements of the Act*

Section 251(c)(2) of the Act outlines the additional obligations of ILECs regarding interconnection. Specifically, an ILEC, such as BellSouth, has the duty to provide interconnection of requesting telecommunications carriers' facilities and equipment with its network for the purposes of transmission and routing of telephone exchange service and exchange access. This interconnection must be provided at any technically feasible point and must be at least equal in quality to that provided by the ILEC to any other party including any subsidiary or affiliate of the ILEC. Section 252(d)(1) of the Act specifies the pricing standards for such interconnection. In essence, rates are to be considered just and reasonable when they are based on the cost of providing the interconnection, are nondiscriminatory and may include a reasonable profit.

38. *Requirements of the FCC's First Report and Order in CC Docket No. 96-98*
- FCC Rule 51.305 requires that an ILEC, such as BellSouth, must provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the ILEC's network. This interconnection is for the transmission and routing of telephone exchange and exchange access at any technically feasible point within the ILEC's network. The points of interconnection within the ILEC's network will include, at a minimum, the line-side of a local switch, the trunk-side of a local switch, the trunk interconnection points for a tandem switch, central office cross-connect points, out-of-band signaling transfer points and access to call-related databases, and the points of access to unbundled network elements. The interconnection to the ILEC's network will be at a level of quality that is equal to that which the ILEC provides itself, a subsidiary, an affiliate or any other party on terms and conditions that are

nondiscriminatory in accordance with agreements, requirements of Sections 251 and 252 of the Act and the FCC's rules.

B. Methods of Interconnection

39. Interconnection allows for the exchange of local traffic between BellSouth and a CLEC over trunks terminated at specified interconnection points. Such interconnection typically involves the following components in establishing complete and efficient interconnection of networks: 1) trunk termination points; 2) trunk directionality; 3) trunk termination method; and, 4) interconnection billing.
40. Section I of BellSouth's Statement provides for interconnection of networks that satisfies the components identified above. BellSouth's Statement offers reasonable and appropriate interconnection at terms, conditions and prices that are consistent with the Act and with decisions of the LPSC.
41. For trunk termination, BellSouth's Statement offers CLECs interconnection at BellSouth tandems and/or end offices for the reciprocal exchange of local traffic. For trunk directionality, BellSouth offers routing of local and intraLATA traffic over a single trunk group. Access traffic, as well as all other traffic utilizing BellSouth's intermediary tandem switching function, can be routed via a separate trunk group.
42. Reciprocal compensation applies only to local traffic. When traffic other than local is routed on the same facilities as local traffic, each company will report to the

other a Percentage Local Usage (“PLU”), the application of which will determine the amount of local minutes to be billed to the other company. For purposes of developing the PLU, each company shall consider every local call and every long distance call. Effective on the first of January, April, July and October of each year, BellSouth and the CLEC shall update the PLU.

43. PLU is defined as a factor to be applied to intrastate terminating minutes of use. The numerator shall include all “nonintermediary” local minutes of use adjusted for those minutes of use that only apply to local due to Service Provider Number Portability. The denominator is the total intrastate minutes of use including local, intrastate toll, and access, adjusted for Service Provider Number Portability less intrastate Terminating Company Pays minutes of use.
44. For trunk termination, BellSouth offers interconnection of facilities and equipment through: 1) virtual collocation; 2) physical collocation; and 3) interconnection via purchase of facilities from either company by the other company.
45. BellSouth has recognized that a CLEC might need to interconnect with another carrier besides BellSouth through a BellSouth tandem. Although this functionality is not required by the checklist, BellSouth offers intermediary service which provides for local tandem switching and transport services for CLEC connection of its end user to a local end user of another CLEC or an ILEC other than BellSouth.
46. For access billing, BellSouth will bill its rate elements to the interexchange carrier (IXC) on a meet-point basis when BellSouth and a CLEC both provide an access

service connection to an IXC. In such cases, each company will bill its own access services rates to the IXC. Using what is typically referred to as “multi-billed,” meet-point access will assure that the IXC is billed the appropriate rate elements by the two LECs providing the service in a manner similar to the way incumbent LECs perform these functions.

47. To the extent CLECs want another form of interconnection not specified in the Statement, e.g., at a BellSouth tandem switch, the BFR process is available. There are numerous other arrangements that can be negotiated. For example, some companies may prefer a mid-span meet for interconnection in addition to or in lieu of tandem and/or end office interconnection. Other examples of negotiated interconnection arrangements include two-way trunking, Super Groups and Multiple Tandem Access (“MTA”). As explained in Section V(B) above, the details of such arrangements are developed between the parties.

C. Prices for Interconnection Services

48. In its AT&T Arbitration Order, the LPSC ordered the use of a “bill-and-keep” methodology, solely as an interim measure, until such time as a final Order was issued establishing rates. (LPSC Order No. U-22145, p. 51.) The LPSC’s Pricing Order established rates for end office switching and tandem switching. See Attachment A to the Statement for the specific rates.
49. Local transport, which provides for connection of a CLEC location to a BellSouth location or for connection of two BellSouth locations, is discussed in this affidavit under Checklist Item 5 beginning at paragraph 96.

50. In addition to the Statement, many of BellSouth's interconnection agreements with CLECs in Louisiana contain rates, terms and conditions for local interconnection. BellSouth's arbitrated agreement with AT&T provides for interconnection as do the negotiated agreements with PrimeCo, Sprint Spectrum and Merotel. As discussed in paragraph 14, these carriers have a contractual right to opt-in to designated provisions of BellSouth's Statement or of other BellSouth agreements that have been approved by the LPSC or to take the terms of the Statement or of another agreement such as the arbitrated agreement between BellSouth and AT&T in its entirety.

D. Physical and Virtual Collocation

51. While not specifically mentioned as a checklist item, Section 251(c)(6) of the Act charges BellSouth with the duty to provide for physical collocation of equipment necessary for interconnection or access to unbundled network elements at rates, terms and conditions that are just and reasonable. BellSouth will provide for virtual collocation when physical collocation is not practical for technical reasons or because of space limitations. BellSouth's Collocation Handbook is attached to this affidavit as Exhibit AJV-4.

52. BellSouth offers both virtual and physical collocation to new entrants. (Section II (B)(6) of Statement). The rates for physical and virtual collocation as established in the LPSC's Pricing Order are located in Attachment A to the Statement. BellSouth's Statement, as well as its arbitrated agreement with AT&T and numerous negotiated agreements such as those with Sprint Spectrum and

PrimeCo, contain provisions for collocation.

E. BellSouth's Policy Regarding Access Customer Terminal Location ("ACTL") Moves

53. ACSI filed a complaint with the FCC on February 15, 1996, asserting that BellSouth's policies regarding ACTL moves are anticompetitive. ACSI alleged that BellSouth waived Reconfiguration Non-Recurring Charges ("RNRCs") under the Network Optimization Waiver ("NOW") tariff for its (BellSouth's) customers and did not waive those charges for ACSI. ACSI's confusion arises because the NOW tariff did not apply to ACTL moves. An RNRC is always applicable for ACTL moves, whether the activity involves a BellSouth customer or an ACSI customer. ACSI is, in fact, BellSouth's customer in this case.
54. As an example, there is no RNRC applicable for a single non-channelized special access DS3 (because of the LightGate Link architecture). However, because the switched access DS3s are not under the LightGate architecture, RNRCs do apply. These charges apply equally to a BellSouth customer or an ACSI customer. A special access DS3 may or may not be channelized; a switched access DS3 is always channelized to the DS0 level. The charges applicable for each type of service are indeed different, but these charges are applied equally without regard to the type of customer.
55. BellSouth responded to two sets of interrogatories dated June 3, 1996 and July 29, 1996, and two Motions to Compel, both dated August 28, 1996, in ACSI's complaint proceeding before the FCC on this matter in File No. E96-20. In its responses to the interrogatories, BellSouth outlined in detail how the charges are

applied and described the functions to support the costs incurred for the work performed. The responses to the interrogatories are a matter of public record and BellSouth asks the FCC to take administrative notice of the responses. Additionally, this matter has been fully briefed by both sides (ACSI and BellSouth filed their Reply Briefs on May 27, 1997), and the parties are now awaiting a decision by the FCC.

X. CHECKLIST ITEM NO. 2: NONDISCRIMINATORY ACCESS TO NETWORK ELEMENTS IN ACCORDANCE WITH THE REQUIREMENTS OF SECTIONS 251(c)(3) AND 252(d)(1)

A. Requirements for Nondiscriminatory Access to Network Elements

56. *Requirements of the Act*

Section 251(c)(3) charges BellSouth with the duty to provide nondiscriminatory access to network elements on an unbundled basis at any technically feasible point under rates, terms and conditions that are just and reasonable. Further, requesting carriers are allowed to combine elements in order to provide telecommunications services. Section 252(d)(1) of the Act specifies the pricing standard for unbundled network elements. In essence, rates for network elements are considered just and reasonable when they are based on the cost of providing the element, are nondiscriminatory and may include a reasonable profit.

57. Section 251(c)(2)(C) requires incumbent LECs to provide interconnection “that is at least equal in quality to that provided by the local exchange carrier to itself.” BellSouth’s Statement, as well as its arbitrated agreement with AT&T, provides for the required level of access to network elements and interconnection. Numerous agreements negotiated by BellSouth, such as the one with Sprint Spectrum, provide for access to a number of specified unbundled network elements. As discussed earlier, Sprint Spectrum, as well as other carriers such as PrimeCo and Meretel who have negotiated agreements with BellSouth, have terms in their agreements that enable them to opt into provisions of any LPSC-approved BellSouth agreement or of BellSouth’s Statement, or to take the terms of another agreement or of the Statement in its entirety.

58. *Requirements of the FCC's First Report and Order in CC Docket No. 96-98, Taking Into Consideration the Eighth Circuit Court's July 18, 1997 Decision* Rule 51.311 in the FCC's First Order states that the quality of an unbundled network element, as well as the quality of access to the unbundled element, must be the same for all telecommunications carriers and must be at least equal, and, upon request, to the extent that it is technically feasible, superior, to the quality an ILEC provides itself. In its July 18, 1997 decision, the Eighth Circuit struck down the requirement for "superior" quality interconnection, stating that this particular rule "is not supported by the Act's language."

59. Requesting CLECs are entitled to exclusive use of UNEs and to the use of features, functions and capabilities for a set period of time. (47 C.F.R. § 51.309(C)) However, BellSouth retains ownership of the UNEs and is obligated to maintain, repair or replace them.

B. Methods for Providing Nondiscriminatory Access to Network Elements

60. Many of the unbundled network elements BellSouth offers fall under specific items in the 14-point checklist and are discussed with the applicable checklist item. This section addresses a component of nondiscriminatory access to network elements that is not covered elsewhere; specifically, the provision of access to operations support systems ("OSS"). Remaining elements that do not fall under specific checklist items include the BFR process and collocation. Paragraph 16 of this affidavit addresses BFRs, while collocation is covered in paragraphs 51-52.

61. *Provision of Operations Support Systems as Unbundled Elements*

Though not specifically addressed in the Act, the FCC addressed the provision of access to OSS (for example, systems that CLECs will use for pre-ordering, ordering, testing, etc.) in its August 8, 1996 Order. The FCC's Order at paragraph 516 establishes OSS as network elements that must be unbundled upon request of a telecommunications carrier, and interprets that such systems are subject to the nondiscriminatory access duty imposed by sections 251(c)(3) (unbundled access) and 252(c)(4) (resale) of the Act.

62. BellSouth's Statement and its arbitrated agreement with AT&T provide for access to OSS. Other carriers, such as PrimeCo, Sprint Spectrum and Merotel have the right to gain access to these systems by exercising their option to choose portions of other agreements or of BellSouth's Statement, or to take the terms of another agreement or of the Statement in its entirety.

63. BellSouth's OSS are addressed in detail in the affidavit of Mr. Stacy. The LPSC's Pricing Order established rates for OSS as shown on Attachment A to the Statement.

C. CLEC-Combined Network Elements

64. In accordance with the Act and the LPSC, BellSouth's Statement provides that a requesting carrier is entitled to gain access to all of the unbundled elements that, when combined by the requesting carrier, are sufficient to enable the requesting carrier to provide telecommunication service. Requesting carriers will combine the unbundled network elements themselves.

65. BellSouth will physically deliver unbundled network elements, where reasonably possible, as part of the network element offering, at no additional charge. For example, in order to deliver an unbundled loop to the CLEC's collocated space, the UNE rates for unbundled local loop and for the associated cross connect are the only applicable charges.
66. CLECs are not restricted in any manner from obtaining the UNEs they require to provide telecommunications services for their end users. BellSouth is providing all the UNEs that the Act and the regulatory agencies require. The combination of the UNEs and collocation arrangements available to CLECs enable them to provide services to their customers solely by recombining UNEs purchased from BellSouth. [See Mr. Stacy's (paragraph 59) and Mr. Milner's (paragraph 25) affidavits for ordering and provisioning information for combining UNEs using collocation arrangements.] BellSouth is unaware of any additional UNEs that the CLECs require in order to provide telecommunications service. In fact, BellSouth made it clear during the Mississippi Section 271 hearings on October 28-31, 1997 that additional UNEs will be made available, but none have been requested to date. However, if there are other elements the CLEC desires, the BFR process is available to them as is arbitration if the request cannot be negotiated between the parties. Additional services desired by CLECs to assist in their combining or operating BellSouth unbundled network elements are available as negotiated
67. Initial software modifications that are necessary for the proper functioning of CLEC-combined BellSouth unbundled network elements (for example switch

translations) are provided as part of the network element offering at no additional charge. Additional software modifications requested by CLECs for new features or services currently not available and additional services desired by CLECs to assist in their combining or operating BellSouth unbundled network elements may be obtained through the BFR process.

68. If CLECs desire a “switch-as-is” service from BellSouth, this request constitutes the migration of an existing retail service from BellSouth to the CLEC and is, therefore, resale of a BellSouth retail service. In such instances, the service is priced at the existing retail service price minus the applicable wholesale discount, and BellSouth continues to collect access charges as it does for any other resold service.

69. In its Local Competition Order, the FCC determined that, for the provisioning of unbundled local switching that only involves software changes, customers should be changed over in the same interval as LECs currently change over end users between interexchange carriers. BellSouth’s intervals for switch-as-is changes and for primary interexchange carrier (“PIC”) changes are addressed in Mr. Stacy’s affidavit. While BellSouth’s intervals for these two customer requests are very similar, BellSouth does not agree that the switch-as-is change simply constitutes a software change. A switch-as-is change requires BellSouth to establish a new billing account for the customer as well as make changes to numerous downstream systems such as inventory and repair - activities that are not required by a PIC change.

70. AT&T and MCI claim that BellSouth does not provide unbundled local switching as required, i.e., through the network “platform” approach favored by AT&T. However, the platform approach is synonymous with the recombination of UNEs by BellSouth. BellSouth is not required to recombine UNEs for CLECs. AT&T also claims that BellSouth will not cooperate with AT&T on UNE testing in Florida and Kentucky. These claims are inaccurate. BellSouth will honor its commitments to test UNEs, as detailed in agreements signed between BellSouth and AT&T in Florida and Kentucky. Testing is currently being done in both of these states.
71. Some carriers have complained that when UNEs are combined, BellSouth’s non-recurring charges may include duplicate charges and that “unreasonably high” non-recurring charges are a barrier to their competing in certain states. BellSouth’s non-recurring charges for unbundled network elements have been set by the LPSC and are based on costs, as required by the Act. While the Statement does not include optional payment plans for non-recurring charges, a CLEC’s request for such optional payment plans can be addressed through negotiations with BellSouth.
72. The FCC Rules requiring that ILECs recombine unbundled network elements for the CLECs were vacated by the Eighth Circuit because they were contrary to the Act. BellSouth’s Statement reflects the Eighth Circuit’s decisions, the LPSC’s AT&T Arbitration Order and the LPSC’s Compliance Order, which do not require ILECs to combine the unbundled elements for requesting carriers, but do permit CLECs to recombine unbundled network elements in any manner they choose

(Statement § II.F.).

XI. CHECKLIST ITEM NO. 3: NONDISCRIMINATORY ACCESS TO THE POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY OWNED OR CONTROLLED BY THE BELL OPERATING COMPANY AT JUST AND REASONABLE RATES IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 224.

A. Requirements for Access to Poles, Ducts, Conduits and Rights-of-Way

73. *Requirements of the Act*

Section 224 of the Act outlines the jurisdiction over regulation of access to poles, ducts, conduits and rights-of-way and describes the standard for just and reasonable rates for such access.

74. *Requirements of the FCC's First Order in CC Docket No. 96-98*

Under Rule 1.1403, a utility shall provide any carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it. Notwithstanding this obligation, a utility may deny any telecommunications carrier access to its poles, ducts, conduits, or rights-of-way where there is insufficient capacity or for reasons of safety, reliability and generally applicable engineering purposes.

B. Pricing of Poles, Ducts, Conduits and Rights-of-Way

75. In Section III of its Statement, as well as in AT&T's arbitrated agreement and various negotiated agreements such as those with PrimeCo, Sprint Spectrum and Merotel, BellSouth offers access to poles, ducts, conduits and rights-of-way to any CLEC via a Standard License Agreement. This agreement (Attachment D of the

Statement) is pursuant to Section 224, as amended by the Act, and conforms to the LPSC's and the FCC's requirements. In its Pricing Order, the LPSC approved the pole attachment rate of \$4.20 per pole, per year and the conduit occupancy rate of \$0.56 per foot, per year.

XII. CHECKLIST ITEM NO. 4: LOCAL LOOP TRANSMISSION FROM THE CENTRAL OFFICE TO THE CUSTOMER'S PREMISES, UNBUNDLED FROM LOCAL SWITCHING AND OTHER SERVICES

A. Requirements and Definition of the Local Loop as Referenced in Checklist Item No. 4

76. FCC Rule 51.319 requires an ILEC to provide nondiscriminatory access to the following network elements on an unbundled basis: local loop, interoffice facilities and switching capability. The local loop network element is defined as a transmission facility between the distribution frame in an ILEC central office and an end user premises (for example, a cable pair from the customer's premises to the main distribution frame of the serving central office). There are several loop types that CLECs may request under the Statement in order to meet the needs of their customers. These include Service Level 1 ("SL1") and Service Level 2 ("SL2") 2-wire voice grade analog lines, 4-wire voice grade analog lines, 2-wire ISDN digital grade lines, 2-wire Asymmetrical Digital Subscriber Lines ("ADSL"), 2-wire and 4-wire High-bit-rate Digital Subscriber Lines ("HDSL"), 4-wire DS1 digital grade lines and 4-wire 56 or 64 Kbps digital grade lines. BellSouth's Statement describes SL1 and SL2. Basically, SL1 is a non-designed circuit with engineering information documentation available at an additional charge, while SL2 provides a designed circuit with a design layout record.

B. Provision and Pricing of Local Loops

77. In Section IV of its Statement, BellSouth offers all of the loop types identified above to any requesting CLEC. Should a CLEC request loops not covered in the Statement, the BFR process may be employed to pursue such additional loop types. The rates for unbundled loops as ordered by the LPSC in its Pricing Order are shown in Attachment A to the Statement.

78. BellSouth's arbitrated agreement with AT&T contains provisions for access to unbundled loops as does the negotiated agreement with Sprint Spectrum. In addition, other carriers such as PrimeCo and Meretel can opt-in to all or part of an approved agreement or to BellSouth's Statement.

C. BellSouth's Response to Unbundled Loop Issues Raised by CLECs

79. Some CLECs maintain that they cannot provide service to the residential market because BellSouth's retail price for basic residential local exchange service, as set by the LPSC in accordance with its intrastate regulatory policies, is lower than the cost-based price for unbundled loops and associated facilities. The CLECs' claim is not relevant to the proper pricing standards under the Act. Moreover, in making this comparison, the CLECs are ignoring revenues from services such as long distance, access and vertical services, which are other sources of profit in addition to revenues from basic local service.

D. Additional Components of Local Loop Transmission

80. In addition to the unbundled loop, CLECs may request loop feeder, loop

distribution, loop cross connects, loop concentration and channelization, and use of the Network Interface Device (“NID”) as described below.

81. *Loop feeder* provides a transmission path for 2-wire voice grade loops that typically begins at a main distribution frame in a central office and terminates at a feeder distribution interface. If the CLEC were to take loop feeder as an unbundled element, then the CLEC would presumably provide its own distribution facilities to its end user customer.
82. *Loop distribution* provides a transmission path for 2-wire voice grade analog loops between a feeder distribution interface and the NID at the customer’s premises. If the CLEC were to take loop distribution as an unbundled element, then the CLEC would presumably provide its own feeder facilities to its own switch.
83. *Loop cross connects* allow the end-to-end local loop to be extended from the main distribution frame in BellSouth’s central office to a CLEC’s collocated space. BellSouth provides 2-wire and 4-wire voice grade cross connects as well as DS1 and DS3 cross connects.
84. *Loop concentration* enables CLECs to concentrate up to 96 sub-loops on 2 DS1s for the purpose of connecting the sub-loops (at a concentrated level) to BellSouth’s feeder system.
85. *Loop channelization and CO Interface* provides the multiplexing capability to allow a DS1 or collocation cross-connect to be channelized at BellSouth’s central

office. The CO Interface enables the CLEC to activate individual channels on an as-needed basis.

86. The *NID* provides a single line termination device or that portion of a multiple line termination device required to terminate a single line or circuit. The NID, located on the customer's premises, establishes the official network demarcation point between a telecommunications company and its end user customer. The NID used in residential applications also provides a protective ground connection as required in Article 800 of the National Electric Code 1996 (copyright 1995 National Fire Protection Association). Combinations of sub-loop elements that include the NID are available to CLECs; BellSouth will furnish such combinations at the same price the CLEC would pay for the sub-loop elements on an unbundled basis.

87. The rates for these sub-loop elements were ordered by the LPSC in its Pricing Order, and can be found in Attachment A to the Statement.

E. CLEC Requests for Unbundling of Loops "Behind" Integrated Digital Loop Carrier (IDLC)

88. In some states, AT&T has made an issue of its desire for unbundling of loops "behind" integrated digital loop carrier ("IDLC") equipment. The requested network element is a complete contiguous loop from the BellSouth Central Office to the end-user premises, where that loop is provided via IDLC. IDLC comprises loop facilities that include multiple NIDs, distribution media, remote terminal and feeder. The feeder interfaces directly to the digital switch at the DS1 level without the requirement for a central office terminal or other demultiplexing equipment.

89. AT&T desires the ability to utilize single unbundled loops that are integrated into IDLC arrangements. This involves a “splintering” of the integrated loop facilities into discrete (individual) loops and conversion of the digital bitstream (multiple loops) back to analog (individual loops). Such an arrangement would add to the cost of provisioning the unbundled loop. Also, from a voice quality viewpoint, multiple extra conversions from digital to analog and back to digital lower overall transmission quality due to the voice sampling and encoding techniques used. BellSouth cannot provide an unbundled loop through integrated digital loop carrier facilities.
90. Nevertheless, several alternatives have been investigated for those loops served by IDLC. The following describes the two alternatives that BellSouth has found to be technically feasible and will provide:
91. *Alternative 1: Reassign the loop from an integrated carrier system and use a physical copper pair.* This is a technically feasible alternative in cases where sufficient physical copper pair facilities are available. If sufficient physical copper pairs are available, BellSouth will assign the unbundled loop to a physical copper pair. Available facilities are those that are generally available for use rather than those installed for another specific purpose. Unavailable facilities could include, but are not limited to the following: Unloaded pairs in a loaded area reserved for digital services or limited physical copper pairs placed in a Carrier Serving Area for services that cannot be integrated.

92. *Alternative 2: In the case of Next Generation Digital Loop Carrier (“NGDLC”) systems, “groom” the integrated loops to form a virtual Remote Terminal (“RT”) set-up for universal service.* In this context, “groom” means to assign certain loops (in the input stage of the NGDLC) in such a way that discrete combinations of multiplexed loops may be assigned to transmission facilities (in the output stage of the NGDLC). This is a technically feasible alternative in cases where NGDLC facilities are available. Both of the NGDLC systems currently approved for use in the BellSouth network have “grooming” capabilities; however, the availability of this option is limited. Given that NGDLC is still a relatively new technical capability, there is currently an insufficient amount of NGDLC in the BellSouth network to meet AT&T’s expected demand. Indeed, in Louisiana and elsewhere, only a small percentage of lines are served via NGDLC. In fact, in Louisiana, of all loops served via digital loop carrier, less than 5% are served via NGDLC. Since some special service circuits cannot be supported through an integrated system, some NGDLC capacity is normally reserved to support those special service circuits through a universal arrangement based on site-specific forecasts. This option is available only where fully approved NGDLC systems are operating. As in the case of Alternative 1 described above, available facilities are those that are generally spare and available for use rather than those placed to meet other specific needs.

F. BellSouth’s Proposed Policy Regarding Re-use of Customer Loops for Customers Desiring a Change of Service

93. BellSouth’s procedures for reusing customer loops when an end user transfers service from a local service provider (“LEC-A”) to a new local service provider

(“LEC-B”) are described below. These procedures apply irrespective of the local exchange carriers involved (i.e., when LEC-A is BellSouth and LEC-B is a CLEC, when LEC-A is a CLEC and LEC-B is BellSouth or when LEC-A and LEC-B are both CLECs).

94. Procedure:

- ! Disconnect and reconnect orders to transfer the service will be processed and issued with due dates using current interval guidelines.
- ! The serving facility for the retail or resale service, unbundled loop and/or unbundled port will be reused for the same end user at the existing location.
- ! LEC-A (if not BellSouth) will be notified subsequent to the disconnect order being completed.

95. The conditions for the above procedures are that LEC-B clearly indicates in the LSR (local service request for a resale service, unbundled loop and/or unbundled port) that the end-user is transferring the existing local service (exchange or private line) from LEC-A (i.e., the order is not for a new line or an additional line).

G. BellSouth Response to ACSI Complaints

96. ACSI filed complaints with the Georgia Public Service Commission (“GPSC”) on December 23, 1996 and with the FCC on January 6, 1997 alleging that BellSouth has failed “to provision unbundled loops to ACSI on a timely basis.” On January 16, 1997, BellSouth responded to the complaint filed with the GPSC. The GPSC ordered that ACSI’s complaint be held in abeyance pending review and recommendation by the GPSC staff. On June 19, 1997, ACSI withdrew their

complaint, however, ACSI refiled the complaint on July 9, 1997, and BellSouth answered the complaint on August 8, 1997. BellSouth is awaiting GPSC action.

97. On May 23, 1997, BellSouth filed its Opening Brief with the FCC in File No. E-97-09 in response to ACSI's FCC Complaint. BellSouth requests that this Commission take administrative notice of the Brief.

98. In BellSouth's responses to the complaints, BellSouth acknowledged that ACSI has experienced some unintended delays and service interruptions in connection with the initial unbundled loops it ordered from BellSouth. The affidavit of Mr. Milner provides details regarding complaints received from CLECs, including those from ACSI, and the corrective actions taken by BellSouth that have resolved these complaints.

99. ACSI has also complained while BellSouth has established entrances to all office buildings in the business district, ACSI had difficulty gaining access to some buildings due to limited space or financial requirements to enter buildings. It is the owners of those buildings, and not BellSouth, that are charging fees for access to buildings. BellSouth will also be subject to these same access fees when in the future it requests additional access to those buildings.

100. An additional complaint from ACSI is that BellSouth's Property Management Services Agreements are anticompetitive. These agreements are voluntary agreements entered into by BellSouth and property managers. Acting as a type of sales agent, the property manager with whom BellSouth has an agreement

recommends to tenants that BellSouth be each tenant's provider of choice. The Agreement explicitly states that "even though Property Management shall recommend BellSouth as the provider of choice for local telecommunications services to tenants, nothing in this Agreement shall be construed to preclude any building tenant from obtaining telecommunications services from others legally authorized to provide such service." In addition, the Property Management Agreement has a provision that if either party is dissatisfied with the alliance, upon written notice, the contract can be terminated within 30 days and the property manager simply loses incentive credits.

101. CLECs are free to negotiate the same type of agreement with property managers. In Florida, CLECs have entered into similar exclusive arrangements with property owners. In fact, some of these agreements are more restrictive than BellSouth's Property Management Agreement, going so far as to preclude BellSouth from providing service to tenants or even entering the property.

XIII. CHECKLIST ITEM NO. 5: LOCAL TRANSPORT FROM THE TRUNK SIDE
OF A WIRELINE LOCAL EXCHANGE CARRIER SWITCH UNBUNDLED
FROM SWITCHING OR OTHER SERVICES

A. Definition and Requirements of Local Transport

102. Local transport comprises those elements necessary to connect a CLEC location to a BellSouth location or to connect two BellSouth locations. There are two types of local transport; dedicated and common (also called "shared").
103. Dedicated transport is used exclusively by a single carrier for the transmission of

its traffic. Examples of dedicated transport are interoffice transmission facilities that connect a CLEC switch directly to a BellSouth switch and those that connect a BellSouth end office or tandem switch to a serving wire center. BellSouth has offered dedicated transport as an access service for years.

104. BellSouth's "common transport" is an interoffice transmission path between UNEs. Common transport is used to carry the traffic of more than a single company through the public switched network. The FCC's August 18, 1997 Third Order on Reconsideration and Further Notice of Proposed Rulemaking defined shared transport under section 251(c)(3) as "interoffice transmission facilities, shared between the incumbent LEC and one or more requesting carriers or customers, that connect end office switches, end office switches and tandem switches, or tandem switches, in the incumbent LEC's network. We exclude from this definition interoffice transmission facilities that connect an incumbent LEC's switch and a requesting carrier's switch, and those connecting an incumbent LEC's end office switch, or tandem switch, and a serving wire center. This definition of shared transport assumes the interconnection point between the two carriers' networks, pursuant to section 251(c)(2), is at the incumbent LEC's switch. . . ." (FCC's August 18, 1997 Third Order on Reconsideration, Paragraph 40.)

105. BellSouth offers common transport which complies with the FCC's Third Order on Reconsideration in CC Docket Nos. 96-98 and 95-185. BellSouth will offer to provide common transport when a CLEC requests unbundled local switching from BellSouth. In such a case, CLEC traffic follows the identical transmission paths as BellSouth's traffic, in accordance with the routing tables in the BellSouth central

office switches. CLEC traffic will flow according to BellSouth's routing tables and will be based on standard routing utilizing interoffice transmission facilities to connect end-office to end-office switches, end-office to tandem switches, and tandem to tandem switches, as appropriate, for the given call. BellSouth's common transport does not distinguish between CLEC traffic and BellSouth traffic.

106. When a tandem switch is utilized, a charge for tandem switching would apply in addition to the transport rates. This is similar to the application of a tandem switching charge for interconnection at a tandem switch. CLECs choosing common transport are entitled to collect the associated interstate access charges.

B. Provision of Unbundled Local Transport

107. BellSouth offers unbundled local transport in Section V of its Statement (as well as in various agreements) with optional channelization for such local transport from the trunk side of its switch. BellSouth offers both dedicated and common transport for use by CLECs. With regard to dedicated transport, voice grade or DS0 channels might typically be used to transport an unbundled loop to a CLEC's switch. A DS1 could also be used for this purpose and would typically be used in conjunction with central office multiplexing or concentration (discussed under Checklist Item No. 4). DS1 transport can also be used if a CLEC wishes to purchase transport facilities from BellSouth rather than providing its own facilities when interconnecting its switch with BellSouth. Other forms of transport, requiring greater levels of capacity, are also available from BellSouth through the BFR process.

108. In some state 271 proceedings, AT&T has asserted that in Georgia, BellSouth refused to provide AT&T the ability to use existing transport facilities to provide local service to Digital Link customers. As BellSouth understands this configuration, an AT&T end user has a dedicated facility (for example, a DS1) from the end user premises to an AT&T toll switch (i.e., the AT&T point of presence (“POP”). The service in question does not go through a BellSouth switch. When that end user makes or receives calls, the AT&T POP does the switching. If the end user initiates a call, the AT&T switch is in control of the call. If AT&T had an interconnection arrangement with BellSouth, it could switch the call back into the BellSouth network for termination. If the end user was using Digital Link for incoming calls, the telephone number associated with it might be an 800/888 number, or a standard seven digit number.

109. It appears that AT&T really wants an unbundled loop terminated at its POP; however, they insist on purchasing dedicated transport which does not provide the capability they want. In any event, provisioning of any functionality related to this type of arrangement requires two-way trunking. Under AT&T’s agreement, two-way trunks are available via the BFR process. These issues are being addressed consistent with the terms of BellSouth’s agreements with AT&T in each state.

C. Pricing for Local Transport

110. The rates for local transport were ordered by the LPSC in its Pricing Order, and are found in Attachment A to the Statement.

111. The provision and pricing of local transport from the trunk side of a switch as contained in BellSouth's Statement Section V is in full accordance with the Act's checklist and with the LPSC's Orders. Additionally, rates, terms and conditions of dedicated and common transport have been arbitrated with AT&T and successfully negotiated between BellSouth and such companies as Sprint Spectrum. Other carriers, such as PrimeCo and Meretel, have the right to gain access to these elements by exercising their option to choose either all or portions of other agreements or BellSouth's Statement.

XIV. CHECKLIST ITEM NO. 6: LOCAL SWITCHING UNBUNDLED FROM TRANSPORT, LOCAL LOOP TRANSMISSION, OR OTHER SERVICES

A. Definition of Local Switching

112. Local switching is the network element that provides the functionality required to connect the appropriate originating lines or trunks wired to the main distribution frame or to the digital cross connect panel to a desired terminating line or trunk. The most common local switching capability involves the line termination (port) and the line side switching (dialtone) capability in the central office. The functionality includes all of the features, functions, and capabilities provided for the given class of service, including features inherent to the switch and the switch software and includes vertical features, such as Call Waiting. It also provides access to additional capabilities such as common and dedicated transport, out of band signaling, 911, operator services, directory services, repair service, etc.

B. Provision and Pricing of Unbundled Switching

113. In Section VI of its Statement, BellSouth offers a variety of switching ports and

associated usage unbundled from transport, local loop transmission and other services. These include 2-wire and 4-wire analog ports, 2-wire and 4-wire DID ports, 2-wire ISDN digital line side ports, 4-wire ISDN DS1 digital trunk ports and coin ports. Additional port types will be made available under the BFR process.

- 114.* A CLEC can purchase unbundled switching separately from the other unbundled components needed to complete a local call. CLECs choosing unbundled switching are entitled to collect the associated interstate access charges.
- 115.* The rates for unbundled ports and end-office switching were approved by the LPSC in its Pricing Order, and are in Attachment A to the Statement.
- 116.* In its Pricing Order, the LPSC ruled that BellSouth should offer all vertical features associated with the switch to CLECs. The CLEC may purchase a port with no features or a port with all features. The LPSC's Pricing Order specified a rate for all vertical features on any port as shown in Attachment A to the Statement.
- 117.* The AT&T agreement as well as many of BellSouth's negotiated agreements, such as with Sprint Spectrum, include the provision of unbundled switching. Additionally, other carriers such as PrimeCo and Meretel have the contractual right to opt-in to designated provisions of BellSouth's Statement or other LPSC-approved agreements, or to take the terms of another agreement or the Statement in its entirety.

C. Selective Routing

118. The LPSC's Compliance Order modified the Statement to provide that selective routing will be provided through BellSouth's proposed AIN-based Selective Carrier Routing Service, upon successful completion of the trial of that service, and in the interim through line class codes to any requesting carrier. No rates have been established for selective routing via line class codes; therefore, there is no charge to the CLECs for selective routing in the interim. Once the AIN solution is available, BellSouth will provide the LPSC with cost-based rates for consideration.

XV. CHECKLIST ITEM NO. 7: NONDISCRIMINATORY ACCESS TO:

(I) 911 AND E911 SERVICES;

(II) DIRECTORY ASSISTANCE SERVICES TO ALLOW THE OTHER CARRIER'S CUSTOMER TO OBTAIN TELEPHONE NUMBERS; AND

(III) OPERATOR CALL COMPLETION SERVICES

A. FCC Rules Regarding Access to 911/E911 Services, Directory Assistance, and Operator Call Completion

119. The FCC's Rule 51.217 applies to the components under Checklist Item No. 7. This rule states that a LEC that provides operator services, directory assistance services or directory listings to its customers or provides telephone numbers, shall permit competing providers to have nondiscriminatory access to that service or feature with no unreasonable dialing delays. In addition, this rule requires a LEC to permit competing providers to have access to telephone numbers that is identical to the access that the LEC provides itself.

120. Additionally, for access to 911/E911 services, access to directory assistance, and access to operator call completion services, the ILEC shall provide nondiscriminatory access to switching capability including customized routing functions. Paragraph 412 of the FCC's First Report and Order in CC Docket 96-98 states that "it also includes the same capabilities that are available to the incumbent LEC's customers, such as access to 911, operator services and directory assistance." Footnote 914 in the Order further states "we also note that E911 and operator services are further unbundled from local switching."

B. Description of BellSouth's Service Offerings for 911 and Enhanced 911 (E911) Services to Comply with Checklist Item No. 7 (Statement § VII.A)

121. Access to 911 service provides a universal, easy-to-remember number which is recognized nationally as the appropriate number to call in an emergency. BellSouth offers to local exchange providers nondiscriminatory access to 911 and E911 service within its serving territories. BellSouth offers access to these services to facilities-based providers and to resellers. In all situations, a CLEC's customer will be able to dial "911" in the same manner as BellSouth's end user customers, unless a facilities-based CLEC's switch could not recognize these dialed digits. No such situation is known or expected to exist.

122. BellSouth will enable a CLEC's customer to have 911 call routing to the appropriate Public Safety Answering Point ("PSAP"). BellSouth will provide and validate customer information to the PSAP. BellSouth will use its service order process to update and maintain the automatic Location Identification/Database Management System used to support E911/911 services on the same schedule that

it uses for its end users.

123. The Statement contains the terms and conditions that are required to provide this service. For basic 911 service, BellSouth will provide to a CLEC a list consisting of each municipality that subscribes to Basic 911 service. The list will also provide, if known, the conversion date to E911 and, for network routing purposes, a 10-digit directory number representing the appropriate emergency answering position for each municipality subscribing to 911. The CLEC will be required to arrange to accept 911 calls from its end users in municipalities that subscribe to Basic 911 service and translate the 911 call to the appropriate 10-digit number. The CLEC will be required to route that call to BellSouth at the appropriate tandem or end office. The CLEC will not have to pay for the specific 911/E911 functionality because those costs are borne by the municipality purchasing the 911/E911 service. The CLEC will be responsible for the trunks needed to reach the appropriate BellSouth 911 switch.
124. For E911 service, a facilities-based CLEC will be required to install a minimum of two trunks that will connect the trunk side of the CLEC's end office to the BellSouth 911 tandem serving the calling customer's PSAP. The trunks must be capable of carrying Automatic Number Identification ("ANI") to the 911 tandem and must conform to appropriate standards. The trunk interface between the CLEC end office and the BellSouth tandem may be either a 2-wire analog interface or a digital DS1 interface. The CLEC will be required to provide BellSouth with daily updates to the E911 database.

125. If a municipality has converted to E911 service, a CLEC will be required to forward 911 calls to the appropriate E911 tandem, along with the ANI, based upon the current E911 end office-to-tandem homing arrangement. If the E911 tandem trunks are not available, the CLEC will be required to route the call to a designated 7-digit number residing in the appropriate PSAP. This call will be transported over BellSouth's interoffice network and will not carry the ANI of the calling party.
126. Nondiscriminatory access to 911/E911 is provided for in the arbitrated agreement with AT&T as well as in negotiated agreements such as those with PrimeCo and Sprint Spectrum.

C. Description of BellSouth's Offerings for Directory Assistance Services to Comply with Checklist Item No. 7 (Statement § VII.B)

127. Section VII of BellSouth's Statement offers to perform directory assistance services and other number services on behalf of facilities-based CLECs. BellSouth's Directory Assistance is available on a nondiscriminatory basis to CLECs providing local exchange service to end user customers in exchanges served by BellSouth. CLECs have the ability to provide their end users with the same access to BellSouth's Directory Assistance Service as BellSouth's end users by dialing 411 or the appropriate area code and 555-1212.
128. Providing directory assistance from a CLEC's own switch requires that the call be delivered to the Operator Service Switch in a terminating Feature Group D format. The originating call will be delivered to the Number Services Switch over a

dedicated trunk facility. Standard trunk signaling formats will be used to send the originating call to the Operator Services Switch. If the CLEC provides ANI, then additional services such as Directory Assistance Call Completion may be provided.

129. Via the use of line class codes, BellSouth's Statement provides for selective routing to requesting CLECs' directory service platforms. This capability allows CLEC customers' calls to be routed using the same dialing patterns that BellSouth customers use to access directory assistance services. Such selective routing can only be provided when a CLEC leases unbundled local switching or uses BellSouth's resold local exchange service because this capability resides in the switch. BellSouth will offer such selective routing to provide branded or unbranded directory assistance for directory assistance calls, whichever the CLEC chooses. As discussed in paragraph 118, BellSouth will not charge for selective routing using the interim solution of line class codes.
130. BellSouth will include both facilities-based and reseller CLECs' subscriber listings in BellSouth's Directory Assistance databases, and BellSouth will not charge the CLEC to maintain the Directory Assistance database. However, the CLEC must agree to cooperate with BellSouth in formulating appropriate procedures regarding lead time, timeliness, format and content of listing information. Standard procedures are included in the Statement and in agreements with CLECs. The service order process will be used to add, delete or modify listings for the Directory Assistance database in the same manner and within the same intervals that BellSouth end user listings are populated in such databases.

131. Even though they are not required under the checklist, in its Statement BellSouth offers three services to local exchange providers that will provide CLECs with access to BellSouth's Directory Assistance database under the same terms and conditions that are currently offered to other telecommunications providers. These services are: 1) Directory Assistance Access Service ("DAAS"), by which BellSouth currently provides Directory Assistance to IXCs; 2) Direct Access Directory Assistance Service ("DADAS"), which provides direct on-line access to BellSouth's directory assistance database; and 3) Directory Assistance Database Service ("DADS"), which provides a copy of the BellSouth Directory Assistance database. The LPSC established rates for DAAS, DADAS and DADS in its Pricing Order as shown in Attachment A of the Statement.

132. Nondiscriminatory access to directory assistance is provided for in the AT&T agreement. Other carriers such as PrimeCo, Sprint Spectrum and Meretel have the right to gain access to these systems by exercising their option to choose either all or portions of other agreements or BellSouth's Statement.

D. Description of BellSouth's Offerings for Operator Call Completion Services to Comply with Checklist Item No. 7 (Statement § VII.C)

133. BellSouth will make available its operator services to CLECs in the same manner that it provides operator services to its own customers. Additionally, BellSouth will offer Centralized Message Distribution System - Hosting (CMDS-Hosting) and Non-Sent Paid Report System (NSPRS) processing. See paragraph 138 of this affidavit for a description of CMDS and NSPRS. The CMDS-Hosting agreement, which outlines the terms and conditions of the agreement between

BellSouth and a CLEC, is attached to the Statement as Attachment E. Operator Services offerings are described below.

134. *Busy Line Verification (“BLV”) and Busy Line Verification and Emergency Interrupt (“BLVI”)* allow an end user to request the operator to verify that a line is busy or to interrupt a conversation that is in progress. For a discussion of BLV and BLVI on ported telephone numbers, see Mr. Milner’s affidavit.
135. *Operator Call Processing Access Service* provides operator and automated call handling which includes processing and verification of alternative billing information for collect, calling card, and billing to a third number. Unbundled Operator Call Processing Access Service for facility-based carriers also provides customized call handling, dialing instructions, and other operator assistance that the customer may desire.
136. *Operator Services Transport* is used to transport calls from CLEC customers to BellSouth’s operator systems and is provided at the rates established by the LPSC in its Pricing Order as set forth in Attachment A of the Statement. To the extent a CLEC resells BellSouth’s local services or purchases unbundled local switching, the CLEC may also obtain selective routing that would allow an operator call to be routed to a BellSouth operator or to be routed to another operator services provider of the CLEC’s choosing. The call may be branded or left unbranded, whichever the CLEC desires. This capability was addressed in more detail in the discussion of selective routing in paragraph 129.

137. BellSouth offers an intercept service to facilities-based CLECs which is identical to the capability that is used today by BellSouth for its end users. If an end user called the CLEC's end user, the call would be "intercepted" in the event of a number change or disconnect.
138. *Centralized Message Distribution System ("CMDS") Hosting* is the BellCore-administered national system used to exchange Exchange Message Record ("EMR") formatted messages among host companies. All intraLATA and local messages originated and billed in the BellSouth region involving BellSouth CMDS hosted companies will be processed through the NSPRS system. NSPRS includes: 1) a mechanized report system that provides the BellSouth CMDS hosted companies with the BellSouth region information regarding non-sent paid message and revenue occurring on calls originated and billed within the BellSouth region; 2) distribution of BellCore-produced Credit Card and Third Number System ("CATS") reports and administration of associate elements; and 3) distribution of BellCore-produced non-conterminous CATS reports and administration of associate settlements.
139. Nondiscriminatory access to Operator Call Completion Services is provided for in the AT&T agreement. Other carriers such as PrimeCo, Sprint Spectrum and Merotel have the right to gain access to these services by exercising their option to choose either all or portions of other agreements or BellSouth's Statement.
- E. Pricing for 911, E911 Directory Assistance Services and Operator Services
140. For 911 and E911, the CLEC will provide its own trunk facilities or can lease these facilities through Dedicated Transport at the proposed rates in the Statement

or applicable tariffs. The rates for the provision of 911 are be billed to the appropriate municipality or reseller.

141. The rates for Operator Call Completion Services as approved by the LPSC in its Pricing Order are shown in Attachment A to the Statement.

142. The rates for CMDS-Hosting and NSPRS, as ordered by the LPSC in its Pricing Order, are shown on Attachment A to the Statement under the heading of Operations Support Systems, OSS CLEC daily usage file.

XVI. CHECKLIST ITEM NO. 8: WHITE PAGES DIRECTORY LISTINGS FOR CUSTOMERS OF THE OTHER CARRIER'S TELEPHONE EXCHANGE SERVICES

A. Description and Requirements for White Pages Listings (Statement § VIII)

143. This checklist item requires that BellSouth's interconnection offerings include the provision of a directory listing in the White Pages directory for each customer served by a CLEC.

B. Provisioning and Pricing of White Pages Listings

144. BellSouth obtains directory publication services from its affiliate, BellSouth Advertising and Publishing Company (BAPCO). BellSouth will arrange with its directory publisher to make available to any CLEC, for its subscribers, White Pages directory listings which include the subscriber's name, address and telephone number. CLEC subscribers shall receive no less favorable rates, terms and conditions for directory listings than are provided to BellSouth's subscribers; for example, the same information will be included, the same type size will be used and

the geographic coverage will be the same.

145. Listings for a CLEC's residential and business customers will be included in the appropriate White Pages or local alphabetical directories (including foreign language directories as appropriate). These listings will be included with all other LECs' listings without any distinction as to which LEC is providing the local service. BellSouth or its agents will deliver White Pages directories to CLEC subscribers at no charge. BellSouth also offers enhanced White Pages Listings which a CLEC may resell to its customers.

146. It should be noted that the Act only requires provision of "White Pages" listings to meet the checklist. In addition, however, BellSouth's affiliate BAPCO has established that a CLEC's business subscribers' listings shall also be included in the appropriate Yellow Pages or local classified directories. CLECs will also be provided with the necessary publishing information to process subscribers' directory listings requests, such as classified heading information, publishing schedules, processes for obtaining foreign directories, and information about listing the CLEC's customer service information in the Customer Guide pages. BellSouth will provide each CLEC with the proper format for submitting subscriber listings. These procedures are outlined in the CLEC ordering guidelines. Directory listing information will be accorded the same level of confidentiality provided to BellSouth's own directory listing information.

147. Subscriber primary listing information received in the standard format shall be provided in the White Pages at no charge to a CLEC or a CLEC's customer.

Additional listings and optional listings in the White Pages may be provided at rates set forth in BellSouth's intrastate General Subscriber Services Tariffs. If these services are being resold, the 20.72% wholesale discount set by the LPSC would apply.

148. The liability for any errors or omissions in a directory listing for a CLEC or a CLEC's customer is governed by the tariff.

149. Agreements negotiated with resellers and facilities-based carriers (such as PrimeCo, Sprint Spectrum and Merotel) have included arrangements for the provision of directory listings in the White Pages. The arbitrated AT&T agreement also contains provisions for directory listings.

XVII. CHECKLIST ITEM NO. 9: UNTIL THE DATE BY WHICH TELECOMMUNICATIONS NUMBERING ADMINISTRATION GUIDELINES, PLAN, OR RULES ARE ESTABLISHED, NONDISCRIMINATORY ACCESS TO TELEPHONE NUMBERS FOR ASSIGNMENT TO THE OTHER CARRIER'S TELEPHONE EXCHANGE SERVICE CUSTOMERS. AFTER THAT DATE, COMPLIANCE WITH SUCH GUIDELINES, PLAN, OR RULES

A. Offerings of Nondiscriminatory Access to Telephone Numbers (Statement § IX)

150. BellSouth, as the North American Numbering Plan ("NANP") Administrator for its territory, will insure that CLECs have nondiscriminatory access to telephone numbers for assignment to their customers. BellSouth provides numbering resources pursuant to the code administration guidelines published by the Industry Numbering Council. CLECs will be provided numbering plan administration and

central office code (“NPA/NXX”) assignment in the same manner as BellSouth. When BellSouth is operating under code conservation, CLECs and BellSouth will be treated in a nondiscriminatory manner. At such time as BellSouth is no longer the NANP Administrator, BellSouth will comply with the final and non-appealable guidelines, plan or rules adopted pursuant to Section 251(e) of the Act which addresses creation or designation by the FCC of numbering administrator(s). BellSouth does not plan to charge for administering the NANP for as long as it is the NANP Administrator. BellSouth is, therefore, in compliance with both the Act and with the LPSC’s Orders. For more information regarding BellSouth’s role as the NANP Administrator for its territory, see the affidavit of Mr. Milner.

151. In the AT&T agreement, and in each of the negotiated agreements, such as the PrimeCo and Sprint Spectrum agreements, that BellSouth has reached with facilities-based carriers, nondiscriminatory access to number resources has been provided. BellSouth should point out, however, that it will not determine how CLECs deploy NXX codes nor how CLECs adhere to the existing or revised NPA designation.

XVIII. CHECKLIST ITEM NO. 10: NONDISCRIMINATORY ACCESS TO DATABASES AND ASSOCIATED SIGNALING NECESSARY FOR CALL ROUTING AND COMPLETION

A. FCC Rules Regarding Checklist Item No. 10

152. Rule 51.319 requires an ILEC to provide nondiscriminatory access to signaling networks and call-related databases. When a requesting carrier purchases unbundled switching, the ILEC must provide access to its signaling network from

that switch in the same manner in which the ILEC obtains such access itself. The ILEC will provide a carrier having its own switching facilities access to the ILEC's signaling network for each of the carrier's switches in the same manner the ILEC connects one of its own switches. For query and database response, the ILEC will provide access to its call-related databases by means of physical access.

B. Description of Access to Databases and Associated Signaling (Statement § X)

153. ILECs must provide access to their signaling elements necessary for call routing and completion. Signaling elements include: Signaling Links, which are dedicated transmission paths carrying signaling messages between carriers' switches and signaling networks; Signal Transfer Points ("STPs") which are signaling message switches that interconnect signaling links to route signaling messages between switches and databases; and Service Control Points ("SCPs"), which are databases containing customer and/or carrier-specific routing, billing or service instructions.

C. Provision of Signaling Links, STPs and SCPs

154. Signaling Link Transport is a set of two or four dedicated 56 kbps transmission paths between CLEC-designated Signaling Points of Interconnection ("SPOI") that provides appropriate physical diversity and a cross connect at a BellSouth STP site. BellSouth offers Signaling Link Transport, which is a connection between a switch or Service Switching Point (SSP) and a home STP pair, and offers a connection between two STP pairs in different company networks (for example, between two STP pairs for two CLECs).

155. STPs provide the functionality that enables the exchange of Signaling System 7

(SS7) messages between switching elements, database elements and STPs. STPs provide access to other network elements connected to the BellSouth SS7 network including: 1) BellSouth-provided Local Switching or Tandem Switching, 2) BellSouth-provided SCPs/Databases, 3) third-party provided Local Switching or Tandem Switching, and 4) third-party provided SCPs/Databases.

156. SCPs/Databases are the network elements that provide the functionality for storage of, access to, and manipulation of information required to offer a particular service and/or capability. Databases include, but are not limited to: 1) Line Information Database (“LIDB”); 2) Toll Free Number Database; 3) Automatic Location Identification/Data Management System; 4) Advanced Intelligent Network (“AIN”); and, 5) Selective Routing.

1. *Line Information Database (LIDB)*

157. The LIDB is a transaction-oriented database accessible through the SS7 networks which contains records associated with subscriber line numbers and special billing numbers. LIDB accepts queries from other network elements or a CLEC’s network and provides appropriate responses. The queries include functions such as screening billed numbers that provide the ability to accept collect or third number billing calls and validation of telephone line number-based non-proprietary calling cards.

2. *Toll Free Number Database*

158. The Toll Free Number Database is an SCP that provides functionality necessary for toll free (for example, 800 and 888) number services.

3. *Automatic Location Identification/Data Management System (“ALI/DMS”)*

159. The ALI/DMS database contains subscriber information used for determining to which PSAP a call should be routed.

4. *AIN Access and Service Creation Environment/Service Management System (“SCE/SMS”) AIN Access*

160. CLECs will be given the opportunity to develop competitive AIN service applications via unbundled access to BellSouth’s SCE/SMS. Where technically feasible, access to CLEC-created services may be supported from both CLEC and BellSouth local switches.
161. SCE/SMS AIN access provides CLECs the ability to create service applications utilizing BellSouth AIN service creation tools and deploy those applications via the BellSouth SMS to BellSouth’s SCPs. Such capability provides CLECs the same AIN service development opportunities as BellSouth has in utilizing its basic AIN programmable tools.
162. In its AT&T Arbitration Order, the LPSC found that a CLEC’s access to BellSouth’s AIN capabilities should be “mediated.” In this context, mediation refers to computer software designed to protect BellSouth’s network from intentional or unintentional harm that could occur via unmediated access. In other words, mediation devices are required to protect BellSouth’s network from disruption just as virus protection software is used to protect personal computers. Mediation will not hinder a CLEC’s ability to use AIN capabilities but may

simplify the process that they can use to connect their AIN applications as compared to an unmediated situation.

5. Selective Routing

163. A discussion of Selective Routing is included under Checklist Item No. 6.

D. Pricing of Signaling/Database Services

164. The rates for Signaling and Database services in BellSouth's Statement were ordered by the LPSC in its Pricing Order as shown in Attachment A to the Statement.

165. The arbitrated AT&T agreement provides for access to each of the aforementioned signaling elements. As previously discussed, other carriers such as PrimeCo, Sprint Spectrum and Merotel have the right to gain access to these elements by exercising their option to choose either all or portions of other agreements or BellSouth's agreement.

XIX. CHECKLIST ITEM NO. 11: UNTIL THE DATE BY WHICH THE COMMISSION ISSUES REGULATIONS PURSUANT TO SECTION 251 TO REQUIRE NUMBER PORTABILITY, INTERIM TELECOMMUNICATIONS NUMBER PORTABILITY THROUGH REMOTE CALL FORWARDING, DIRECT INWARD DIALING TRUNKS, OR OTHER COMPARABLE ARRANGEMENTS, WITH AS LITTLE IMPAIRMENT OF FUNCTIONING, QUALITY, RELIABILITY, AND CONVENIENCE AS POSSIBLE. AFTER THAT DATE, FULL COMPLIANCE WITH SUCH REGULATIONS

A. Requirements for Number Portability

Requirements of the Act

166. Section 251(b)(2) of the Act lists number portability as an obligation of all LECs. As a LEC, BellSouth has the duty to provide, to the extent technically feasible, number portability according to requirements prescribed by the FCC. Number portability is a service arrangement that allows end user customers to retain, at the same location (or nearby location that is served by the same BellSouth central office), their existing telephone numbers when switching from one telecommunications carrier to another facilities-based CLEC. The Act requires that number portability be provided without impairing quality, reliability, or convenience for the customer.

FCC Rules Regarding Number Portability

167. The FCC issued regulations regarding number portability on July 2, 1996, in the First Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 95-116 (“Order No. 96-286”). Rule 52.7 provides for the deployment of transitional measures for number portability. On an interim basis, LECs may use Remote Call Forwarding (“RCF”) or Direct Inward Dialing (“DID”). RCF and DID were described as the “only methods technically feasible” (FCC Order No. 96-286, paragraph 110). Rule 52.3 provides for the deployment of long-term database methods for number portability by LECs. Long-term number portability must support network services, features and capabilities existing at the time number portability is implemented. It must efficiently use number resources and may not require end users to change their phone numbers or telecommunications carriers to rely on databases or other network facilities or services provided by other telecommunications carriers to route calls to the terminating destination. In

addition, service quality and network reliability should be maintained when number portability is implemented and when customers switch carriers.

B. Offerings for Number Portability (Statement § XI)

168. In its Statement, BellSouth describes interim number portability arrangements that satisfy the components of Checklist Item No. 11, FCC Order No. 96-286, and comply with decisions of the LPSC. BellSouth will provide interim number portability through both RCF and DID. RCF is an existing switch-based BellSouth service that redirects calls within the telephone network by translating the dialed number to a new number. For DID, BellSouth routes the call over a dedicated facility to the CLEC's switch, instead of translating the dialed number to a new number. Other methods of number portability such as Route Index- Portability Hub, Direct Number Route Index, and Local Exchange Routing Guide ("LERG") have been negotiated with AT&T and are available to other carriers through the BFR process. These methods meet the requirements of the Act and the FCC Rules until a permanent long-term number portability capability is fully developed, tested and implemented by the industry.
169. Attachment G of the SGAT provides that in the event either company (BellSouth or the CLEC) determines in its reasonable judgment that the other company will likely impair or is impairing, or interfering with any equipment, facility or service or any of its end users, that company may either refuse to provide Service Provider Number Portability ("SPNP") service or may terminate SPNP service to the other party after providing appropriate notice. This requirement is included in the SGAT to deal with the unlikely emergency situations when a provider cannot be reached.

BellSouth will not unilaterally terminate services without extensive discussion with a carrier.

170. Interim Number Portability is provided for in the AT&T agreement and could be obtained by PrimeCo, Sprint Spectrum, Merotel or other carriers by exercising their option to choose either all or portions of other agreements or BellSouth's Statement.

C. Pricing for Number Portability

171. The LPSC approved the rates in BellSouth's Statement for RCF and DID which are consistent with the pricing requirements in the Act as discussed in paragraphs 22-26. See Attachment A to the Statement for the rates.

D. Long-Term Number Portability

172. A long-term solution to number portability will require standardized methods, procedures and, most importantly, participation among all CLECs and ILECs. The FCC and other industry forums are reviewing various options to implement a national, standardized solution. BellSouth is participating in these national and regional forums. For more information regarding BellSouth's steps to accomplish permanent number portability, please see the affidavit of Mr. Milner.

XX. CHECKLIST ITEM NO. 12: NONDISCRIMINATORY ACCESS TO SUCH SERVICES OR INFORMATION AS ARE NECESSARY TO ALLOW THE REQUESTING CARRIER TO IMPLEMENT LOCAL DIALING PARITY IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 251(b)(3)

A. Requirements for Local Dialing Parity

Requirements of the Act

173. Section 251(b) of the Act outlines the duties or obligations of all LECs. Section 251(b)(3) specifically addresses the responsibility to provide dialing parity by stating that LECs have “The duty to provide dialing parity to competing providers of telephone exchange service . . .”.

FCC Rules Regarding Local Dialing Parity

174. Under Rule 51.205 in the FCC’s Second Order, a LEC shall provide local dialing parity to competing providers with no unreasonable dialing delays. Dialing parity shall be provided for all services that require dialing to route a call. Rule 51.207 states that a LEC shall permit telephone exchange service customers within a local calling area to dial the same number of digits to make a local call notwithstanding the identity of the customer’s or the called party’s telecommunications service provider. Rule 51.217 requires a LEC to permit competing providers to have access to telephone numbers that is identical to the access that the LEC provides itself.

B. Description and Provision of Local Dialing Parity (Statement § XII)

175. The “local dialing parity” covered by this checklist item creates an environment where local service subscribers dial the same number of digits without the use of an access code to place a local call regardless of their choice of local service provider. For example, BellSouth’s customers in the Baton Rouge, Louisiana local calling area, dial a 7-digit number to make local calls. With local dialing

parity, CLEC customers in Baton Rouge will likewise be able to dial a 7-digit number to make local calls. Of course, the CLEC's switch determines how the CLEC's end users dial specific calls. BellSouth, however, will interconnect with the CLEC such that identical 7-digit local dialing is possible.

C. Pricing for Local Dialing Parity

176. There are no explicit charges for dialing parity. Because BellSouth and CLECs can use the same dialing and numbering plans, local dialing parity simply happens as CLECs begin operating. The arbitrated agreement between BellSouth and AT&T provides for local dialing parity.

XXI. CHECKLIST ITEM NO. 13: RECIPROCAL COMPENSATION

ARRANGEMENTS IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 252(d)(2)

A. Requirements for Reciprocal Compensation

177. Section 252(d)(2) of the Act establishes a standard for just and reasonable prices for reciprocal compensation such that each carrier receives mutual and reciprocal recovery of costs associated with the transport and termination on each carrier's facilities of calls that originate on the network facilities of the other carrier. The costs shall be on the basis of a reasonable approximation of the additional costs of terminating such calls.

B. Pricing for Reciprocal Compensation

178. Under Checklist Item No. 1 regarding interconnection, I have addressed not only how interconnection would be accomplished but also the rates established by the

LPSC in its Pricing Order. These rates also apply for reciprocal compensation.

C. Enhanced Service Provider (“ESP”) Traffic

179. The ESP category includes a variety of service providers such as information service providers (“ISPs”), Internet service providers, and others. It is well established that whether a communication is interstate, and thus within the jurisdiction of the FCC, depends on the end-to-end nature of the communication itself. ISP traffic does not terminate on the CLEC’s local facilities; therefore, reciprocal compensation does not apply pursuant to section 252(d)(2) of the Act. For example, Internet end-to-end communications paths are usually interstate in nature, crossing not only state boundaries but often national boundaries as well. Even in the instances where the distant Internet site is within the same state as the originating end of the communication, the network structure and routing of Internet communications make such communications inseparable from the interstate traffic.

180. The FCC has already exercised its jurisdiction over Internet traffic by granting the ESPs an exemption from the payment of interstate access charges. By definition, such traffic was interstate to begin with; otherwise, the FCC would not have had the jurisdiction to grant an exemption. A fact often lost in the CLECs’ rhetoric is that the access charge exemption affects the rate an ILEC may charge an ISP, not the jurisdictional nature of the ISP traffic. In addition, the FCC’s prohibition from applying access charges to ISPs extends only to ILECs. A CLEC is free to charge appropriate rates to compensate it fully for any services it provides to ISPs. Reciprocal compensation applies only to local traffic; thus, BellSouth will neither

pay, nor bill, local interconnection charges for traffic termination to an ESP.

XXII. CHECKLIST ITEM NO. 14: TELECOMMUNICATIONS SERVICES ARE AVAILABLE FOR RESALE IN ACCORDANCE WITH THE REQUIREMENTS OF SECTIONS 251(c)(4) AND 252(d)(3)

A. Requirements for the Resale of Local Telecommunications Services

181. Section 251(c)(4) of the Act describes the duty of an incumbent LEC to offer telecommunications services for resale at wholesale rates and not to prohibit or impose unreasonable or discriminatory conditions or limitations on such resold services. A State Commission, however, can prohibit a reseller from offering a resold service, which is available only to one category of subscribers, to a different category of subscribers. An example is the prohibition against reselling residence basic local exchange service to business customers at the lower residence rate.

182. Section 252(d)(3) of the Act describes the pricing standard for resold services. The Act describes an “avoided cost” standard such that wholesale rates are determined on the basis of retail rates excluding that portion of marketing, billing, collection and other costs that will be avoided by the local exchange carrier.

B. Description of a Retail Service Offered by BellSouth

183. Retail telecommunications services are telecommunications services that BellSouth provides to subscribers who are not telecommunications carriers. Retail services are available to CLECs at wholesale discounts as ordered by the LPSC. Discounts apply to intrastate tariffed service prices, except as noted under Section C below. The tariff in which a retail telecommunications service is offered

contains not only the applicable retail rates for the service, but also the terms and conditions that have been approved by the LPSC.

C. Resale of Retail Services as Addressed in BellSouth's Statement

184. In its Statement, BellSouth offers its tariffed retail telecommunications services for resale to other telecommunications carriers that will, in turn, sell such services to their end user customers. A CLEC may resell BellSouth's tariffed retail telecommunications services subject to the terms and conditions specifically set forth in the Statement. BellSouth's Statement outlines specific terms and conditions on the resale of certain services: (1) Short-term promotions, which are those offered for 90 days or less, are not subject to mandatory resale; (2) grandfathered services may only be resold to subscribers who have already been grandfathered and may not be resold to a different group or a new group of subscribers; and (3) Contract Service Arrangements ("CSAs") entered into after January 28, 1997, are available for resale, but only at the same rates, terms and conditions offered to BellSouth's end users - the wholesale discount will not apply. Each of these restrictions was established by the LPSC in its AT&T Arbitration Order. The LPSC's decision on the issue of short-term promotions was clarified in its June 12, 1997 Order No. U-22145-A.

185. A reseller of BellSouth's retail services is prohibited from cross-class selling. Further, resellers must resell services in compliance with the applicable terms and conditions of the retail service as contained within BellSouth's existing retail tariff. For example, a CLEC is prohibited from furnishing both flat and measured rate business service on the same premises to the same subscribers as stated in Section

A2.3.2.A of BellSouth's General Subscriber Services Tariff for Louisiana. This is but one example of conditions that apply to not only the retail provision of certain services but resale as well.

186. The CLEC will be the customer of record for all retail services purchased from BellSouth and, except as specified in the Statement, BellSouth will take orders from, bill and expect payment from the CLEC for all services. The CLEC will also be BellSouth's single point of contact for all services purchased pursuant to this Statement including all ordering activities and repair calls. As such, BellSouth will accept preferred interexchange carrier ("PIC") changes from the CLEC as the customer of record, but BellSouth will also accept PIC changes directly from the IXC, as it does today.

187. Shared tenant service (STS) is offered through the STS tariff and is usage-based. STS providers are restricted from using flat-rate local exchange service to provide STS. However, STS providers can become certificated as CLECs, thereby making flat-rate local exchange service available to them at wholesale rates.

D. Wholesale Rates for Retail Services

188. In its Statement, BellSouth offers a wholesale discount rate of 20.72% for residential and business services. This rate was established by the LPSC in its Resale Order and was incorporated into the AT&T Arbitration Order. The discount rate applies to all tariffed recurring, nonrecurring and intrastate toll retail offerings except as discussed previously.

189. BellSouth Affiant Mr. Guy Cochran explains in detail the methodology and factual evidence the LPSC used to determine the 20.72% discount rate.

E. Negotiations with CLECs Regarding Resale Discount Rates, Terms and Conditions

190. BellSouth has negotiated numerous resale-only agreements with CLECs and has negotiated resale of services as a part of many facilities-based carrier agreements. Examples of resale only agreements are those negotiated with Unidial Communications and Jetcom Inc. Resale arrangements as part of facilities-based agreements have been reached with such companies as ICI and US LEC. Other carriers such as PrimeCo, Sprint and Merotel can opt-in to the resale provisions of the AT&T agreement or of BellSouth's Statement by exercising their right to choose either all or portions of other agreements or of BellSouth's Statement.

XXIII. IntraLATA Toll Dialing Parity Implementation

191. On April 25, 1996, the LPSC issued its General Order setting forth Regulations for 1+/0+ IntraLATA Equal Access Presubscription. On April 9, 1997, BellSouth filed a tariff with the LPSC which introduced services that will be required for the implementation of intraLATA toll equal access subscription (also referred to as presubscription or toll dialing parity). At the time of filing, an effective date of June 9, 1997 was indicated; however, BellSouth also stated in the filing that it would not begin offering these services until it receives authorization from the appropriate state and federal authorities to provide interLATA service in Louisiana. The LPSC's General Order and BellSouth's tariff as referenced above are attached to this affidavit as Exhibit AJV-5.

192. IntraLATA 1+ Subscription will be implemented using a dual or two-PIC method (one for interLATA and one for intraLATA). This will allow the customer a carrier of choice for the transport of intraLATA toll calls. BellSouth will also equip each end office switch throughout the state with the capability of allowing each end user customer to select “no-PIC” as a valid subscription selection. Customers selecting “no-PIC” as their subscribed carrier will not be able to make intraLATA toll calls on a 1+ or 0+ dialed basis. BellSouth will notify all end users regarding intraLATA subscription implementation.
193. Cost Recovery for the incremental cost of dialing parity will be implemented in a competitively neutral manner over a four-year period across all providers of telephone exchange service and telephone toll service in the area served by BellSouth. The incremental costs include specific switch software, any necessary hardware and signaling system upgrades, and customer education costs that are strictly necessary to implement dialing parity. BellSouth included this rate element in its tariff filed with the LPSC.

XXIV. BELLSOUTH TELECOMMUNICATIONS, INC. (“BST”)

COMPLIANCE WITH SECTION 272 OF THE ACT

194. In the remainder of this affidavit, I will discuss BellSouth’s compliance with Section 272 of the Act following approval of its application for interLATA relief in Louisiana. My comments will demonstrate that BST has prepared to comply with the requirements of Section 272 once it is authorized to engage in such activities. Such Section 272 affiliate is referred to herein as BSLD. The affidavit of Mr.

Cochran covers compliance with sections 272(a) and 272(b) of the Act.

A. BST Complies With the Non-Discrimination Requirements of Section 272(c) of the Act

195. No BST affiliate is currently engaged in manufacturing activities, origination of in-region interLATA services, other than incidental services, or provision of interLATA information services.
196. Section 272(c)(1) of the Act prohibits BST from discriminating between BSLD and any other entity when BSLD provides in-region, interLATA relief. Consistent with this requirement, BST does not and will not discriminate in favor of BSLD in the provision or procurement of goods, services, facilities, and information or in the establishment of standards. Except as specifically permitted by the Act (e.g., section 272(g)(3)) and relevant FCC requirements, BST will make available to unaffiliated entities the same goods, services, facilities and information that BST provides to BSLD at the same rates, terms, and conditions.
197. As long as the duties of section 272 apply, BST will provide unaffiliated entities with the same exchange access, interconnection, collocation, unbundled network elements, and resold services that it provides BSLD. BST will provide telecommunications services and network elements to unaffiliated entities using the same network facilities, systems, and databases, and, where applicable, the same service parameters, interfaces, intervals, standards, procedures, and practices used to serve BSLD.

198. BST will comply with paragraph 266 of the FCC's First Report and Order which prohibits use of BST's official services network to provide almost all interLATA services, with the exception of grandfathered and incidental interLATA services. Paragraph 218 appears to prohibit the transfer of the official services network to any BST long distance affiliate unless "unaffiliated entities have an equal opportunity to obtain ownership of this facility."
199. As described below in connection with BST's implementation of section 272(e), BSLD will receive the same access and information as unaffiliated telecommunications carriers to BST's OSS functions.
200. Services provided by BST to BSLD, including billing and collection services and software support in connection therewith, will be provided on the same terms and conditions to unaffiliated entities for so long as is required under section 272. To the extent BST develops new services for or with BSLD, it will also cooperate with other entities on a nondiscriminatory basis to develop new services, with the exception of joint marketing, so long as BST is required to do so under section 272.
201. For the duration of applicable section 272 requirements, BST will continue to participate in public standards-setting bodies. BST will not discriminate in favor of BSLD in the establishment of any standards, including but not limited to industry-wide standards that affect the interconnection or interoperability of public networks.

202. New local exchange or exchange access services and new interfaces that affect interconnection or interoperability, including any carrier-specific interfaces introduced by BST, will be made available to all carriers at the same time, and on the same terms and conditions, for so long as this duty applies.
203. BST does not and will not, for so long as the requirement applies, discriminate between BSLD and other entities with regard to the dissemination of technical information and interconnection standards related to telephone exchange and exchange access services.
204. Subject to removal of this restriction, BST will continue to provide public notice regarding any network change that will affect a competing telecommunications carrier's performance or ability to provide service, or will affect BST's interoperability with other telecommunications carriers. BST Carrier Notification Letters are distributed by posting them on the BST Interconnection Services web page. Until public notice has been given in accordance with sections 51.325-51.335 of the FCC's rules, BST will not disclose to BSLD, or to any other affiliated or unaffiliated telecommunications carrier, information about planned network changes that are subject to the FCC's network disclosure requirements.
205. BST does not and will not, for so long as the duty adheres, disclose to BSLD, without the consent of the carrier involved, any unaffiliated carrier's proprietary information, including, but not limited to, its network configuration or interconnection arrangements, exchange access usage, customers' interexchange carrier selections, and purchases of telephone exchange services or network

elements from BST. Also, BST will not disclose to BSLD, without the consent of the carrier involved, any unaffiliated carrier's proprietary information that has come into BST's possession as a result of its provision of billing services to that carrier.

206. BST will not disclose any individually identifiable Customer Proprietary Network Information ("CPNI") to BSLD, or any other person, except to the extent such disclosure is consistent with section 222 of the Act and any applicable FCC rules.
207. BST does not and will not, for so long as the restriction is in effect, discriminate between BSLD and unaffiliated interexchange carriers in the processing of PIC change orders. BST has implemented a specialized automated interface for handling PIC changes that provides for the electronic exchange of order information. Through this interface, BST is able to process PIC change orders and update switches and billing and repair records automatically, without human intervention. BST will use this interface for PIC changes for both BSLD and unaffiliated interexchange carriers.
208. Section 272(c)(2) requires a BOC to account for transactions with its section 272 affiliate in accordance with FCC rules. BST will account for all transactions between BSLD and BST in accordance with all applicable requirements of Parts 64 and 32.27 of the FCC's accounting rules, as modified by the rules adopted by the FCC in its Accounting Safeguards Order. This issue is discussed in detail in the affidavit of Mr. Guy L. Cochran.

B. BST Will Fulfill Requests In Accordance With Section 272(e) of the Act

209. Section 272(e)(1) of the Act requires a BOC to fill requests from an unaffiliated entity for installation and maintenance of telephone exchange and exchange access service within a period no longer than the period in which it provides such service to its own affiliates. BST will fulfill these requirements for as long as they are in effect.

210. BST does not and will not discriminate in favor of BSLD or against any unaffiliated carrier in the installation of exchange access services. BSLD will be required to order exchange access services in accordance with the same procedures and on the same terms and conditions as unaffiliated telecommunications carriers, using the industry standard Access Service Request (“ASR”) format. Due date intervals will be assigned on a non-discriminatory basis in accordance with published standards, except that BST (and other carriers) negotiate interval parameters on a nondiscriminatory basis for orders that exceed specified quantities. BSLD will be treated by BST in the same manner as other interexchange carriers in such negotiations.

211. BST does not and will not discriminate in the repair of exchange access services

based on the identity of the interexchange carrier involved. BST uses the same procedures, systems, and personnel to maintain and repair comparable services, regardless of which carrier or customer, including BSLD, is receiving the service. All interexchange carriers, including BSLD, use (or will use) the same centralized repair centers for reporting trouble to BST. In establishing repair commitments, BST accords priority, in accordance with the National Security Emergency Preparedness guidelines, to trouble reports for known critical services, such as hospitals and police and fire departments. Trouble tickets that do not fall into these categories are handled on a first-in, first-out basis, with priority given to total outages. Dispatch of technicians is driven by commitment intervals, not by the identity of the carrier.

212. BST already regularly files nondiscrimination reports and other service quality reports arising from a variety of regulatory proceedings, including ARMIS and ONA reports. For example, the ARMIS 43-05 is an annual report that includes installation and repair reporting intervals for interexchange access and local service, common trunk blockage, total switch downtime and service quality complaints. The ARMIS 43-06 is an annual report summarizing the results of customer satisfaction surveys conducted for residence, as well as small and large business, customers. Quarterly, BellSouth files an ONA Nondiscrimination Installation Report (RF-870) and an ONA Nondiscrimination Maintenance Report (RF-872). Collectively, these reports provide more than adequate information for the FCC and other entities to determine whether BellSouth is properly meeting the service needs of other parties. However, BST also will make available to unaffiliated entities performance measurements for exchange access services it

provides based upon any legally effective requirements the FCC adopts in CC Docket No. 96-149. Further, BST is developing additional reports to demonstrate parity between affiliated and unaffiliated entities. This issue is discussed in the Performance Measurements affidavit of Mr. William Stacy.

213. BST does not and will not, for so long as restrictions apply, discriminate in favor of BSLD or against any unaffiliated carrier in the installation of telephone exchange services. As is more fully described in the affidavit of Mr. William Stacy, BST offers unbundled, nondiscriminatory access to BST's OSS functions via electronic and manual interfaces. Through such access, unaffiliated carriers are able to manage and monitor the installation and maintenance of telephone exchange services they purchase from BST to the same extent as BSLD is able to do so.
214. By using access to BST's OSS functions, unaffiliated telecommunications carriers are able to transfer and receive, on an equivalent basis to BST and BSLD, information necessary for the pre-ordering, ordering, and provisioning of telephone exchange services. BSLD will access BST's OSS functions through the same interfaces and on the same basis as unaffiliated telecommunications carriers. Thus, BSLD will receive access to the pre-ordering, ordering, and billing functions on the same terms and through the same processes as unaffiliated carriers.
215. BST does not and will not discriminate in favor of BSLD or against any unaffiliated carrier in the repair of telephone exchange services. Unaffiliated telecommunications carriers are able to use access to BST's OSS functions to

transfer and receive, on an equivalent basis to BST and BSLD, the data necessary to perform maintenance and repair functions. BSLD and all other requesting telecommunications carriers may transmit to BST a trouble report and receive an initial status and an appointment commitment. This report is submitted through an electronic or manual interface, with no preference given to BSLD regarding the use of manual vs. electronic interfaces. Repair dates are established for all carriers on a nondiscriminatory basis. BST will provide to BSLD (just as to any other requesting telecommunications carrier) an update of the trouble report status, including a completion report, each time the status is updated by BST personnel. Again, BSLD obtains access to these functions through the same interfaces, and on the same basis, as unaffiliated carriers.

216. Section 272(e)(2) forbids a BOC from providing any facilities, services, or information concerning its provision of exchange access to its section 272 affiliate unless it provides such facilities, services or information to competing interLATA providers on the same terms and conditions. So long as this restriction applies, BST will not provide any facilities, services, or information concerning its provision of exchange access to BSLD unless such facilities, services, or information are made available to other providers of interLATA services in that area on the same terms and conditions. Access to information concerning exchange access services will be provided to BSLD only under the terms and conditions discussed in paragraphs 204-205 above.

217. To the extent that BSLD purchases exchange access services from BST, BSLD will purchase such services at tariffed rates, terms, and conditions so long as it is

required to do so. If such services are detariffed at the state or federal level, they will be made available to BSLD on rates, terms and conditions available to other providers of interLATA services, and in a manner consistent with all applicable state and federal regulatory requirements.

218. Section 272(e)(3) requires a BOC to charge an affiliate or impute to itself an amount for access that it provides to that affiliate or itself that is no less than it charges an unaffiliated interexchange carrier. To comply with this requirement, BST will charge BSLD rates for telephone exchange service and exchange access that are no less than the amount that would be charged to any unaffiliated interexchange carrier for such service. Also, where BST uses access for provision of its own services, BST will impute to itself the same amount it would charge an unaffiliated interexchange carrier.
219. If BSLD purchases telecommunications services from BST, BSLD will purchase such services at the same rates, terms, and conditions (including volume and term discounts) as those available to nonaffiliated providers of interLATA telecommunications services, for so long as it is required to do so.
220. Section 272(e)(4) permits a BOC to provide interLATA or intraLATA facilities or services to its section 272 affiliate if such services are available to all carriers at the same rates, terms and conditions, and so long as costs are properly allocated. The FCC has interpreted section 272(e)(4) as a prohibition against discrimination, not an affirmative grant of authority. (Non-Accounting Safeguards Order ¶ 262.) To the extent that BST is permitted to provide interLATA or intraLATA facilities or

services to BSLD, it will make such services or facilities available to all carriers at the same rates and on the same terms and conditions. BST also will record such transactions with BSLD in the manner prescribed by the FCC in its Accounting Safeguards Order.

C. BST Will Comply With The Joint Marketing Requirements Of Section 272(g) of the Act

221. Section 272(g)(1) prohibits a BOC's section 272 affiliate from marketing or selling the BOC's telephone exchange services unless the BOC permits other entities offering the same or similar services as the affiliate to market the BOC's telephone exchange services. To comply with this requirement, BST will not permit BSLD to market or sell its telephone exchange service unless BST permits BSLD's competitors to do so as well.

222. Section 272(g)(2) forbids a BOC from marketing or selling interLATA services of an affiliate in any of its in-region states until it receives interLATA authority under section 271(d). BST has not and will not market or sell BSLD's interLATA services in Louisiana until the FCC grants interLATA authority for that State.

D. BST's Compliance With Equal Access Requirements of the Act

223. Upon FCC approval to offer interLATA services in Louisiana, BST will continue the Equal Access disclosure when discussing PICs and Local Primary Interexchange Carrier ("LPICs") (for intraLATA calls) in the inbound sales channel. After completing the Equal Access disclosure, BST's Consumer Sales Representative will offer BSLD products under the joint marketing agreement.

BST does not use verbatim scripts for such customer contacts. Customer contact representatives would be instructed to advise the customer that a number of companies provide long distance, recommend BSLD and offer to read from a list of available carriers. An example of an acceptable statement is:

“You have many companies to choose from to provide your long distance service. I can read from a list the companies available for selection, however, I’d like to recommend BellSouth Long Distance.”

224. The interexchange carrier names will be read in random order if the customer requests that the list be read. Based on the customer’s response, the order will be completed with the appropriate long distance carrier as requested.

225. BST is seeking reconsideration of the FCC’s Order in CC Docket No. 97-137 with regard to the FCC’s suggestion that Ameritech’s script that mentions only Ameritech Long Distance unless the customer affirmatively requests the names of the providers, violates the equal access requirements of section 251(g) of the Act. BST maintains that the FCC’s guidance in this area contradicts sections 251 and 272 of the Act, as well as FCC precedent.

E. BST’s Policy on Customer “Winback” Campaigns

226. Many of the companies who are BST’s competitors in the new environment are also BST’s customers. BST is committed to encouraging competition and presenting a fair environment in which competition may be fostered.

227. For a period of time beginning in late 1996, BST sent letters to both residential and business customers as confirmation that the customer had chosen a local service

provider other than BST. The letters encouraged customers that had elected to leave BST to consider coming back. Beginning in March 1997, due to a software programming change, these letters were inadvertently sent to customers on a pre-completion basis, meaning that they may have been sent before the order to convert the customer's service was completed. Once it was realized within BST that such letters were being mailed on a pre-completion basis, the mailing of the letters was terminated for all customers as of August 4, 1997.

228. On September 16, 1997, BST resumed sending confirmation letters to residential customers and will resume sending confirmation letters to business customers later this year. Attached as Exhibit AJV-6 is a copy of the letter currently being sent to those customers who have left BST and chosen another local service provider. The current letter contains revised language due to objections expressed by competitive providers. It serves as a confirmation to the customer that BST has received the change request and the change has been processed. Confirmation letters will only be sent to customers on a post-completion basis. BST will not engage in "winback" campaigns for residential customers lost to competitors at least through 1997. When BST implements winback programs for any customers, they will be in compliance with section 222 of the Act and FCC regulations. In no circumstance will BST knowingly misuse confidential and proprietary information to gain a competitive advantage.
229. For large business customers, BST will not engage in proactive discussions with customers about competitive winbacks. However, BST account teams will continue to contact customers regarding both new services and services similar to

those under contract with other local service providers, as well as any subject that would ordinarily be discussed with customers. It is BST's policy that, in these discussions, the account team will not, under any circumstances, suggest nor encourage the customer to breach any contract they may have with a competitor.

F. BST's Policy on the Provision of IntraLATA Toll Service to CLEC Customers

230. When purchasing a circuit from BST, a CLEC purchases the ability to offer intraLATA toll from BST to their end users. CLECs are prohibited from using BST's name in a joint marketing offering that includes BST's intraLATA toll. However, CLECs could route customers to BST's intraLATA toll if desired.

G. BST Will Operate Independently From Its Section 272 Affiliates

231. A BOC and its section 272 affiliate each are precluded from performing operating, installation, and maintenance functions associated with the other's facilities. (Id. ¶163.) BST has not provided and will not provide operating, installation and maintenance services to BSLD in connection with switching and transmission facilities owned by BSLD or leased by BSLD from a provider other than BST, for so long as this restriction applies. Moreover, BST is not currently receiving and, for so long as the restriction applies, will not receive from BSLD operating, installation and maintenance services in connection with BST's switching and transmission facilities, except that BSLD may perform such services for BST for sophisticated equipment purchased from BSLD pursuant to paragraph 164 of the Non-Accounting Safeguards Order.

XXV. CONCLUSION

232. Throughout this affidavit I have described the requirements in the Act and of the FCC with regard to BellSouth's entry into the long distance market. The Act was written both to open the local market to competition and to allow the BOC, in turn, to offer long distance service. I have described the conditions of the Act, including the requirement to meet the 14-point checklist, and have described how BellSouth complies with each of these requirements.
233. The LPSC has been a leader in forging aggressive rules for opening the local telecommunications market. On March 15, 1996, it adopted rules and regulations that comprehensively addressed in detail the ILECs' obligations to unbundle network elements, to resell services and to provide for interconnection. In addition, the LPSC has aggressively pursued dockets to establish the rates, terms and conditions for these new wholesale services. Consumers will benefit if BellSouth is one of the carriers they can choose to provide all of their telecommunications services.
234. BellSouth has satisfied the provisions to open local exchange service to competition. BellSouth has negotiated agreements in good faith with its competitors to offer equitable local interconnection. In addition, the LPSC has approved BellSouth's Statement, which is available to any competitor who wishes to enter the telecommunications market in Louisiana.
235. Once BellSouth has demonstrated compliance with the provisions in section 271,

the Act entitles BellSouth to receive in-region interLATA relief. Within this affidavit, I have sought to provide assurance that BellSouth will compete fairly within the constraints of the law and will maintain open local markets to all interconnectors.

236. This concludes my affidavit.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

CC
Docket No.

In the Matter of

Application by BellSouth Corporation,
BellSouth Telecommunications, Inc., and
BellSouth Long Distance, Inc., for
Provision of In-Region, InterLATA
Services in Louisiana

**AFFIDAVIT OF GLENN A. WOROCH
ON BEHALF OF BELL SOUTH TELECOMMUNICATIONS**

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Glenn A. Woroch, being duly sworn, deposes and says:

1. I am currently Visiting Professor of Economics and Executive Director of the Consortium for Research on Telecommunications Policy at the University of California, Berkeley. I received an M.A. in Statistics and a Ph.D. in Economics from Berkeley. I have taught economics at the University of Rochester and Stanford University as well as at Berkeley. My past research has examined the design of regulatory policy and the viability of competition in network industries, especially the telecommunications and computer industries. For more than six years I was a research economist at GTE Laboratories where I developed and managed several projects investigating the effects of deregulation and emerging competition on local telecommunications markets. In particular, I examined the market and strategic factors determining the incidence and timing of entry by competitive access providers in U.S. cities. My current research explores the structural effects of regulatory pricing rules on network competition and the empirical determinants of competitive entry into local telecommunications markets. On several occasions, I have advised government agencies and private corporations including Regional Bell Operating Companies (ARBOCs) on these matters.

2. I have been asked by counsel for BellSouth Telecommunications (BST) to examine BST's Statement of Generally Available Terms and Conditions for Louisiana (the Statement) to determine its effectiveness to open and keep open the state's local exchange markets to competition. I examined, among other issues, the ability of the Statement to remove strategic entry barriers to all feasible routes into the various local exchange markets. In making this evaluation I took into account the various interconnection and resale agreements (the Agreements) the company has negotiated with competitive local exchange companies (CLECs) and their legal enforcement, as well as market conditions and statutory and regulatory barriers in the state. I also sought to determine whether conditions prevail that prevent BST from reversing the opening of its markets. Along these same lines, I was also asked to evaluate the effectiveness of BST's Statement and Agreements to prevent exclusionary conduct before and after BST's entry into in-region interLATA services in Louisiana.

3. In this affidavit I will not determine the Statement's compliance with each item on the Acompetitive checklist. Before approving BST's Statement, the Louisiana Public Service Commission (ALPSC) verified each of the fourteen items and modified certain provisions it deemed necessary.¹ Nor will I assess the competitive impact of BST's entry on the performance of interLATA markets in Louisiana. Rather, my focus is on economic conditions facing potential entrants into local service markets in Louisiana. In the process I develop reasons for the pattern of facilities-based entry in this state in which wireline carriers serve exclusively business customers whereas wireless carriers are serving residential customers.

4. In performing my analysis I received BST's Statement and the various external documents that it references. I reviewed roughly two dozen interconnection and resale agreements signed by BST with competitive local exchange carriers in Louisiana. I have read various LPSC decisions on matters directly and indirectly related to BST's application to provide in-region interLATA services. Finally, I studied the historical evidence of local exchange competition in Louisiana and throughout BST's nine-state serving area.

5. I conclude that BST's Statement assures that efficient firms can enter local exchange markets in Louisiana and offers them the prospect of financial viability and sustained growth to the extent possible given market conditions in the state. It achieves this objective by creating an expansive array of entry options that give CLECs the freedom to adopt all manner of pricing, service, geographic, technological and structural entry strategies. Such opportunities fulfill the FCC's goal of making available every conceivable commercial opportunity so as to maximize the likelihood that efficient entrants will succeed.

6. The scores of interconnection and resale agreements that BST signed with CLECs in Louisiana and elsewhere in its serving area further confirm the openness of its local exchange markets. These Agreements tailor the engineering and commercial parameters of interconnection and resale to the specific business conditions facing the CLECs. They represent the efforts of the

¹ LPSC Order No. U22252-A, AConsideration and Review of BellSouth Telecommunications, Inc.'s Preapplication Compliance with Section 271 of the Telecommunications Act of 1996, Aug. 20, 1997.

parties to support mutually-beneficial transactions essential to commercial relationships between vertically-related buyers and sellers.

7. Several of the CLECs who signed Agreements with BST currently are providing local services over their own facilities. All of these facilities-based carriers offer business services including unswitched access and exchange services. At this time, however, none of these CLECs have sold exchange services to residential customers. This is likely to change in the near future based on the companies' business plans, but we should not expect construction of landline networks offering full services any time soon. Local loops are prohibitively expensive and time consuming to provision, especially considering the nature of the Louisiana economy and its recent trends. As a result, wireless alternatives represent a far more attractive means to address the residential market. In fact PCS networks have been successfully deployed in Louisiana.

8. While entry into local exchange markets in Louisiana has been limited, BST has experienced significant facilities-based entry elsewhere in its region. This evidence is consistent with local exchange markets that are open to competition. Through their negotiated agreements, competitors have entered BST local exchange markets using unbundled network elements and through resale. Removal of statutory and regulatory barriers at the state and local levels has assisted this entry. Furthermore, BST's Statement and the agreements, in combination with market trends and regulatory safeguards, prevent BST from backsliding on their terms and from engaging in exclusionary conduct that could reverse competitive opportunities.

9. In my professional opinion, the Statement offered by BellSouth along with its interconnection and resale agreements, the market conditions in Louisiana, and state and local laws and regulations ensure that BST's local exchange markets in Louisiana are open to competitors, and will remain open.

I. THE 1996 TELECOM ACT RECOGNIZES BOTH THE POTENTIAL AND THE LIMITATIONS OF ENTRY INTO LOCAL EXCHANGE MARKETS,

ADOPTING MULTILATERAL, REDUNDANT POLICIES TO MAXIMIZE THE LIKELIHOOD OF COMPETITIVE BENEFITS

A. The Act Embraces the Feasibility, Viability and Efficiency of Local Exchange Competition But Rejects a Policy of "Entry for Entry's Sake"

10. The 1996 Telecom Act put its faith in competition as the best means to achieve efficient provision of local services. This conclusion was grounded in the belief that monopoly was no longer necessarily the least-cost structure to provide local exchange services. Multiple facilities-based providers feasibly could serve the same exchange area as a consequence of advances in local service technology. In particular, the developments in optical fiber transmission and wireless access methods greatly reduced the cost of alternative networks. Furthermore, the possibility of unbundling the modern digital network expanded the opportunities for less-than-full-service firms to participate in these markets.

11. The Act correctly sees competition as the source of many economic benefits including lower prices and improved service as well as innovative services and technologies introduced by the incumbent or one of its challengers. It also acknowledges that local exchange competition will offer a safeguard against hypothetical anticompetitive practices that may arise when carriers sell both local and long distance services. To raise the likelihood that these benefits will be realized, the Act takes steps to facilitate entry by facilities-based carriers.

12. At the same time, the Act recognizes that in certain areas construction of duplicate networks could be economically wasteful. Net of the benefits of competition. And even in those areas where facilities-based competition is viable over the long run, entrants may find it impossible to achieve complete coverage or to offer the full range of services necessary for short run viability. Accordingly, the Act requires incumbent local exchange carriers (ILECs) to interconnect with competitors' networks, transport and terminate traffic that they originate and to generally provide them with various network services—either through provision of unbundled network elements (UNEs) or resale. By sharing network facilities, the local exchange realizes

the scale and scope economies of unified production while securing the benefits of competition.

13. Despite these measures, entry at any cost is not a purpose of the Telecom Act. The Act discourages inefficient entry, for example, by insisting that ILECs charge cost-based rates: fees for interconnection and unbundled network elements must cover costs and may include a reasonable profit,¹ and compensation for termination services must recover the additional costs they impose.² Entrants are also required to contribute their fair share toward support of universal service³ and for use of public rights of way.⁴

14. Implicitly and explicitly, the Act accepts that in certain markets a single facilities-based local exchange provider may be the efficient industry structure. Scale and scope economies, sunk network investment and demand-side scale economies rule out the possibility that a large number of small facilities-based providers will serve certain markets efficiently. The tradeoff between efficient production (attained through large scale production) and competition (achieved through entry) is a common occurrence, one embraced by the DOJ-FTC Horizontal Merger Guidelines.⁵ Fragmentation of the local exchange industry in Louisiana and elsewhere by subsidizing inefficient entrants could sacrifice scale economies leading to higher unit production costs and, in turn, higher prices.

15. As an inducement to open their markets to competition in compliance with the Act's standards, the Act offers the RBOCs the carrot of permission to enter in-region interLATA services. But when Congress devised the procedure for RBOC entry, it accepted that facilities-based competition for both business and residential customers might not and should not

² 252(d)(2)(A).

³ 254(b)(4).

⁴ 253(c).

⁵ DOJ-FTC HORIZONTAL MERGER GUIDELINES, Washington, DC, April 2, 1992, especially pp. 47-54. The Guidelines acknowledge the power of competitive entry to counteract potentially anticompetitive behavior of large incumbent firms. They also specifically take into account the possibility that production efficiencies lead to lower prices and improved products not possible with smaller firms. See REVISION TO THE HORIZONTAL MERGER GUIDELINES, April 4, 1997 (replaces Sec. 4 of 1992 version).

materialize in certain areas. It is for this reason, in part, Track B was created to grant interLATA authority in states where no legitimate facilities-based carriers emerged to serve business and residential customers provided the RBOC demonstrates that its local exchange markets are open to efficient competitors.

16. BST entry into Louisiana interLATA markets should also have the effect of increasing entry into the state's local exchange markets. The reason stems from incentives of IXCs to forebear from entering local exchange markets because it does not trigger a Track A opportunity for the BST, delaying BST entry into their home markets. The threat that BST's entry poses to profits of intrastate long distance carriers should cause them to expand into local markets, especially to take advantage of the opportunity to offer bundled services.

B. The Act Seeks to Open Every Possible Option for Efficient Entry into Local Service Markets, But Some Opportunities May Be Closed by Factors Outside the Incumbent's Control

17. The Act devised multilateral, redundant policies to promote local exchange competition recognizing the need for a wide variety of entry paths given the range of unique characteristics that potential entrants possess. Generally, the Act imposes duties on ILECs to open their networks and assigns competitors rights to acquire ILEC services needed for successful entry. Besides a requirement to interconnect with CLECs, ILECs must unbundle their network services and offer them for sale along with retail services for resale. This policy creates three different but often complementary routes for CLECs to enter local exchange markets: facilities-based entry using facilities that are self provided or obtained from another carrier other than the ILEC, facilities-based entry through the purchase of UNEs and resale of retail services.

18. If and when entry occurs in any given local exchange market depends on many factors. Some of those factors are outside the control of the incumbent provider, and by creating Track B, Congress acknowledged that such factors should not determine the openness of local markets. For instance, business and residential demand and production economies together determine the

number of local exchange providers that are viable in any given area. In general, market size and demand growth are known to be positively related, both theoretically and empirically, to the rate of entry into industries.²

19. Other factors affecting local exchange entry are within the ILECs control, yet not all of these are the proper target of the Act's policies. Most importantly, ILECs should not be prevented from competing on the merits in retail markets by offering lower prices and superior services. Strategic behavior by an ILEC would become a concern, however, were its control of bottleneck network services used to discourage entry into downstream markets, especially retail local exchange and long distance services.

20. The Act attacks this kind of strategic behavior on many fronts by, among other provisions, promoting efficient entry into ILEC local exchange markets. We can collect different provisions of the law that have the effect of promoting three broad policies, all of which aim to facilitate efficient firms to enter the market. Table 1 lists these three policies, the enabling provisions of the Act, and the specific provisions of BST's Statement responsive to each.

21. *First*, the Act carves out the three entry paths—facilities-based entry through construction of facilities, lease from nonILECs and purchase of UNEs and through resale—and enables potential entrants to use one or any combination of these means. In particular, sale of network elements and wholesale services nurtures fledgling firms who may aim one day to offer services over their own facilities. Construction of new facilities may not become an attractive option until a CLEC has accumulated sufficient capital and technical expertise and a favorable customer reputation. In this way entry is facilitated by allowing CLEC strategies to evolve rather than forcing them to choose a single, unchanging strategy.⁶ These entry options also allow CLECs to use a mix of strategies at any one time. For example, an entrant might build facilities in low-cost, high-density urban areas at the same time it resells ILEC services in high-cost rural and suburban

⁶ For an analysis of the determinants of cable operators choice among modes to enter telephony see Glenn Woroch, *Turning the Cables: Economic and Strategic Analysis of Cable Entry into Telecommunications*, in *GLOBALISM AND LOCALISM IN TELECOMMUNICATIONS*, edited by Eli Noam, Elsevier Science, 1996.

areas. In general, the multiple entry routes permit a more efficient matching of entrants= unique assets and capabilities with an entry strategy. As an example, cable television operators are in need of unbundled local switching elements to combine with the loops and trunks available on their hybrid fiber-coax networks.

22. *Second*, the Act takes deliberate steps to increase the size and diversity of the pool of potential entrants. It invites cable TV companies by eliminating the cable-telco cross-ownership ban.⁷ Restrictions on electric utility provision of telecommunication services in the Public Utility Holding Company Act of 1935 were also relaxed.⁸ A large, diverse group of potential entrants, with their special capabilities and unique business strategies, should raise the likelihood that efficient entry will occur.⁹ In addition, a broader range of admissible entrants multiplies the potential combinations of different entities that can work together (e.g., through long term relationships or joint ventures), creating new competitive threats. As good example of the latter is the combination of cable television operators and PCS providers: the cable company supplies the local transmission services while the PCS provider brings the switching and wireless loops.

23. *Third*, all local exchange services and all geographic areas should be opened for competition. Entry is an inherently risky prospect, and the possibility of entering multiple services and multiple areas allows new entrants to diversify their business risks and thereby to lower financing costs. Furthermore, challenged on every front, incumbent providers will be unable and unwilling to attempt predation in any single service, even aside from regulatory safeguards. To do so would require financing low prices in one service with high prices in another, with the latter attracting entrants who will undercut the incumbent=s rates and steal its sales.

24. By adopting this multilateral, redundant approach to facilitating entry into local exchange

⁷ ' ' 651-653.

⁸ ' 103.

⁹ It is possible that enlarging the pool of entrants could discourage entry as each potential entrant foresees subsequent entry whittling away its profits. See Roger Sherman and T. Willett, *Potential Entrants Discourage Entry*, JOURNAL OF POLITICAL ECONOMY, v. 75, 1967, pp. 400-403. In these models, potential entrants make their entry decisions ignorant of other firms= decisions, significantly raising the likelihood of duplicate investment and post-entry losses.

markets, Congress has acknowledged its inability, now or in the future, to select the efficient competitors, or to choose the best business strategy or communications technology. However, these entry options invariably require the assistance of the incumbent carrier, and the Act dealt squarely with the crucial question: To what degree should ILECs facilitate competitors using each of the entry options? Generally, the ILEC should provide services to CLECs on terms, conditions and rates that ensure that productively efficient entrants can earn economic profit equal to the superiority of their offering. Which firms are productively efficient is unknown to Congress and the FCC.

25. The intent of Congress was to ensure that, after initial entry, efficient competitors have the opportunity to achieve financial viability and sustained growth consistent with market conditions, and in the more distant future, for new efficient firms to enter local exchange markets. BST=s Statement achieves these goals by offering competitors the opportunity to make tactical adjustments in response to their own growth and to changing market conditions, such as by changing the size and mix of their purchases. More strategic revisions to their business plans are also accommodated, including expansion into new products or geographic areas and the deployment of new technologies.

26. Absence of wireline local exchange service for residential customers in Louisiana is no surprise. Construction of wireline networks complete with local loops is an extremely expensive and time consuming process. This investment requires assurances of substantial revenues flows to justify the expense. As I will show, Louisiana lacks telecom-intensive businesses that support facilities-based network investment, however. Furthermore, the situation is not improving given the steady deterioration in the Louisiana economy in recent years given the decline of the energy business.

27. Wireless residential service appears to be the appropriate entry strategy for Louisiana local exchange markets. Wireless local loops are less expensive than copper especially in medium-size cities with moderate population density typical of Louisiana. Furthermore, the wireline networks are in a position to provide needed transmission services for the wireless Atail@ of the network.

As an example, Sprint Spectrum acquires transmission capacity from Cox Fibernet in New Orleans.

II. BST=s STATEMENT AND AGREEMENTS, IN COMBINATION WITH MARKET AND REGULATORY CONDITIONS, OPEN LOUISIANA LOCAL EXCHANGE MARKETS TO COMPETITION

28. In my evaluation of BST=s Statement and its Agreements, I will assess their ability to promote the three policies identified in the Act: (1) create multiple routes for efficient entrants, with the three identified by the Act and their various combinations being the minimum; (2) expand the size and diversity of the pool of potential entrants; and (3) open all local services and geographic areas to competition. My examination of the Statement will take place in two steps: first identifying novel pro-entry provisions in the Statement, and then examining how it addresses the principal requirements of the Act.

A. BST=s Statement Establishes Conditions That Open Local Exchange Markets to Competition Meeting and Exceeding the Goals of the Act

29. ***The Bona Fide Request Process.*** Many times throughout the Statement, the CLEC is offered the opportunity to use the Bona fide request process.[@] This procedure, developed jointly by BST and AT&T and modified by the LPSC, allows a CLEC to make requests that are outside the scope of the Statement or to modify its current Agreement.³ After the CLEC=s request, BST must respond according to a rapid timetable (*e.g.*, BST must respond in 30 days with a preliminary analysis and rate quote) and obey certain procedural rules. LPSC also gave CLECs the option of petition the commission or any other agency with jurisdiction to settle unresolved disputes.

30. This process reduces entry barriers facing CLECs in a number of ways. First, it expands options available to a CLEC seeking to introduce an innovative service that requires new and unusual unbundled network elements from BST. It would also allow an established CLEC to

adjust its production levels or expand its product line as market information arrives. More generally, the process gives the CLEC flexibility to respond to market uncertainties that are a major source of entry costs, and to create profit opportunities it did not contemplate originally.

31. ***Adoption of Industry Standards.*** On many occasions, the Statement requires BST to adhere to industry technical standards for network interfaces,¹⁰ standard accounting and reporting formats¹¹ and service descriptions.¹² [THERE IS ALSO SOME STANDARDIZED LICENSES.] In most cases, these standards were developed by industry committees and consortia including Bell Communications Research (BellCore), the Alliance for Telecommunications Industry Solutions (ATIS), the Ordering and Billing Forum (OBF) and the American National Standard Institute (ANSI). BST is a member of these organizations which represent a broad cross section of the telecommunications sector including equipment manufacturers and vendors and large users as well as carriers and resellers. Membership is open to all firms with an interest in the standards. Each member has the opportunity to register its preferences either through formal polling with each company having a vote or through discussion that builds to a consensus. Besides publicizing the final standard, the proceedings are usually carefully documented and made public. Lastly, BST publishes all interface specifications so that interconnectors are able to achieve technical compatibility with its network. For all these reasons, it is highly unlikely that the resulting standards could be chosen to favor ILECs= affiliates to the detriment of local exchange competitors.

32. By adhering to industry standards, facilities-based CLECs are spared the expense and delay of purchasing and configuring equipment to be compatible with proprietary specifications. Standardization of operations further reduces CLECs= transaction costs as they attempt to interconnect with BST in multiple locations throughout its nine states as well as with other ILECs who adopt these same standards. In general, standardization of interfaces and procedures have the effect of leveling the playing field for various CLECs as well as the ILEC=s affiliates.

¹⁰ See Sections I.H and XV.B of the Statement. [CHECK]

¹¹ See Sections I.B.6, I.F and XIV.P of the Statement. [CHECK]

¹² See Attachment C of the Statement. [CHECK]

33. **Requirements of Coordination and Cooperation.** On many occasions, the Statement requires BST and the CLECs to work together to address problems that interfere with smooth operation of their relationship. For instance, the parties agree to exchange traffic and engineering information and generally to cooperate so as to aid their respective network planning efforts.¹³ BST is required, in addition, to notify the CLEC of changes in technical specifications, and facilities and equipment upgrades affecting interconnection.¹⁴

34. Terms for mutual provision of access to interexchange carriers also reflects the Statement's cooperative approach to interconnection. Under meet-point trunking, both BST and the CLEC supply access to an IXC. Each collects access fees directly from the long distance company, and they settle up afterwards using a standardized meet-point billing arrangement.¹⁵ A CLEC is able to achieve higher utilization of its network resources especially tandem and other switching resources lowering the capital outlays necessary for entry. Perhaps more importantly, CLECs deal directly with their IXC customers rather than through BST, giving them the opportunity to establish a reputation necessary for entry into other local exchange markets.

35. **Variety of Interconnection Options.** In addition to offering the statutory minimum of interconnection through physical or virtual collocation and at technically feasible network points, the Statement offers CLECs several other interconnection options. For example, BST agrees to provide intermediary tandem switching and transport services¹⁶ which facilitates CLECs working together or with IXCs to offer competitive services. CLECs can request interconnection at additional network points by initiating the bona fide request process.

36. **Supplementary Unbundling and Bundling of Network Elements.** The Statement offers several network elements besides those identified in the Act. These include several subloop elements such as channelization (e.g., multiplexing) and cross connection. Cross connection can

¹³ See Sections I.G, III.B and XV.E of the Statement. [CHECK]

¹⁴ See Sections XV.A of the Statement. [CHECK]

¹⁵ The Statement stipulates use of ATIS's Multiple Exchange Carrier Access Billing System. [NEED REFERENCE.]

¹⁶ See Section I.A.5 of the Statement. [CHECK]

be especially valuable to a CLEC who needs to link up with another CLEC to get a unique or less expensive network services meeting at a BellSouth central office. A Centralized message distribution system¹⁷ is an additional unbundled network element that may assist entrants by permitting easier inter-carrier billing. The Statement also offers Adark fiber¹⁸ which is optical fiber strands without the lasers and detectors necessary for transmission. This unbundling of the electronics has been sought by some CLECs who claim that it aids their entry. Finally, as usual, other elements can be obtained through the bona fide request process.

37. BST will also provide certain combinations of network elements that are likely to be valued by entrants. In particular, BST will offer local loops with NID and also local switching with shared transport. These combinations were made available before they were required by the FCC.¹⁷

38. Pricing of unbundled network elements satisfies the cost proxies proposed in the FCC Order. The charge for local loops at \$19.35 per line is above the \$18.00 ceiling of the FCC default range. However, the per minute charge of 0.214 for local switching is at the bottom of the FCC default range of 0.24 to 0.44 per minute. The rate of 0.084/min for tandem switching is within the FCC default range for this unbundled network element. These rates were computed by an expert hired by the LPSC. They are estimates of the Total Service Long Run Incremental Costs (TSLRIC) of network elements. The methodology used to arrive at these estimates is entirely consistent with the that for TELRIC studies, except that the TSLRIC figures exclude any recover of shared and common costs.

39. ***Resale Opportunities.*** BST offers its retail services to competitors at wholesale rates as required by the Act. These services may be bundled and resold with only those restrictions sanctioned by the Act. In particular, BST requires the reseller to offer the same functions, features and service levels as stipulated in its Louisiana retail tariffs.¹⁸

¹⁷ FCC, Third Report and Order, Local Interconnection.

¹⁸ See Section XIV.C of the Statement. [CHECK]

40. Resellers may purchase business and residential retail services at a discount of 20.728% off retail rates. This discount was selected by the LPSC based on a calculation made by its staff after evaluation of several avoided cost studies submitted by BST, IXC's, CAP's and trade associations. The discount falls within the FCC's 17-25% default range and is higher than the 19.2% discount the FCC suggested for the BST region. In conducting its calculation, the staff not only looked at USOA accounts items but examined the specific job activities and work tasks subsumed by those items to determine whether they were in fact avoidable. While the study adopted avoided cost, not avoidable cost, methodology, it conformed to the FCC approach of allocating a portion of indirect expenses (i.e., general support, common overhead and uncollectables) as avoided cost.

41. ***Favorable Reciprocal Compensation.*** The Statement adopts the Act's requirement for mutual and reciprocal compensation between ILECs and CLECs for transmission and termination of traffic. Furthermore, the Statement accepts the symmetry of charges recommended by the FCC in its Interconnection Order.¹⁹

B. BST's Interconnection and Resale Agreements Open Louisiana Local Exchange Markets to Competition

42. BST has successfully negotiated an extraordinary number of agreements with CLECs for interconnection and resale. The first such Agreement was signed on February 14, 1996, just days after the Telecom Act was signed by President Clinton. The United States Telephone Association reports that, as of July 1, 1997, BST had signed 556 state-level Agreements out of a total of 1,231 nationwide which alone represented over 45% of the RBOC total.⁴

43. In Louisiana, BST has signed ___ agreements with ___ CLECs for interconnection or resale to date. Only BST's agreement with AT&T was arbitrated by the LPSC. At this time, the LPSC has approved agreements between BST and ___ CLECs. Elsewhere in BST territory, state

¹⁹ Implementation of the Local Competition Provisions of the Telecom Act of 1996, CC Docket 96-98, released Aug. 8, 1996 (the AFCC Interconnection Order) at §§ 1085-1093.

commissions have approved approximately 38 agreements in Alabama, 57 in Florida, 55 in Georgia, 25 in Kentucky, 18 in Mississippi, 30 in North Carolina, 67 in South Carolina and 21 in Tennessee.

44. As with the Statement, BST=s various Agreements address each of the checklist items. But as before, my purpose is not to demonstrate that the agreements, either individually or collectively, satisfy all of these requirements. Instead I will identify unique features in the Agreements that go beyond the statutory minimum in promoting competition in Louisiana local exchange markets. Because the Agreements are the product of bilateral negotiations, they reveal the extent to which BST willingly cooperates with individual CLECs now and in the future.

45. One distinguishing characteristic of the company-specific agreements is the fact that they cover all, or nearly all, of BellSouth=s territory. [GIVE EXAMPLES DRAWING ON THE MORE PROMINENT AGREEMENTS FOR LOUISIANA, E.G., AT&T, ACSI, TCG] At a minimum, the multi-state approach reduces negotiating costs and entry delays that can be murder on cash-strapped startups. Perhaps a more important cost saving of a regional agreement is the fact that it allows entrants to conduct region-wide marketing and network planning because of uniform treatment in the nine states. This is especially helpful to CLECs who wish to offer intercity services within BST=s region in their product line because the same conditions will prevail at both ends of a call. By signing region-wide agreements, BellSouth demonstrates that it is not attempting to Acontain@ the scope of competition to specific geographic areas. In fact, no fewer than __ CAPs have five or more fiber networks operating in BST territory: ACSI has __, ICI has __, ICG has __, Time Warner has __, MCImetro has __ and Teleport Communications has __. Most of these companies have interconnected their local networks. Recently, US LEC, a small but fast growing regional CLEC, announced its plans to interconnect its local exchange networks in Georgia, North Carolina and Tennessee.²⁰

46. While the Agreements= (and Statement=s) durationCtypically two yearsCis not remarkable, it deserves mention because it bears upon CLEC entry conditions. A contract that

²⁰ COMMUNICATIONS DAILY, Sept. 11, 1997.

ran very long, say five years or more, could Alock in@ a CLEC by making it difficult for it later to switch to another supplier of exchange services (*e.g.*, a current IXC or cable company). Very short contracts (*e.g.*, a year or less), on the other hand, would deny entrants the assurances regarding interconnection terms and conditions needed to undertake financial and operations planning. Furthermore, when a new CLEC chooses to use an existing negotiated agreement, it applies for a full two-year period.

47. Finally, many BST Agreements allow CLECs to renew their agreement for additional years under the prevailing terms and conditions.²¹ This clause provides successful entrants with protection against renegotiation that would result in new unfavorable terms. Furthermore, there are no contract termination penalties assessed against the CLEC, lowering the cost of exit should the local exchange business fail to meet their original expectations.

48. Aside from satisfying the specific requirements of the Act, the agreements reveal attempts by BST to support robust, productive transactions typical of commercial relationships found in almost any industry. As with any contract, the Agreements attempt to anticipate possible contingencies that threaten benefits of the relationship and stipulate a mutually-agreeable response. In case of future disagreements, Agreements provide for private arbitration,²² private mediation,²³ or both,²⁴ supplementing the Act=s arbitration procedures. The Agreements, as the Statement, provide for coordination and exchange of information that should avert many potential conflicts.

49. The Agreements also protect returns on the parties= private assets. For instance, some Agreements ban disparaging remarks by BST=s repair workers to prevent devaluation of a CLEC=s brand name capital.²⁵ Similarly, other provisions ensure that BST cannot misuse

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²² See AInterconnection Agreement Between ACSI and BellSouth,@ Section XXV.

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proprietary knowledge of CLECs= customer records.²⁶ The Agreements (as well as the Statement) spell out rights of the parties to intellectual property connected with their transactions.²⁷

50. Most of the Agreements adopt a *de minimus* rule which limits disadvantages that an entrant could experience because it originates less traffic, on a *per capita* basis, than BST. Under this rule, no money changes hands for six months, so it is essentially a bill and keep system to begin with as required by the LPSC General Order.²⁸ Gradually over time, net payments between the carriers are allowed to increase. Always, however, the payments are limited by a ceiling equal to 105% of the smaller of the total charges incurred by the two carriers where the charges are calculated using the total number of minutes of traffic each terminates for the other, multiplied by the per minute rate.

51. Equally important, the more favorable provisions clause contained in the various interconnection and resale agreements offer potential entrants a smorgasbord of BST services from which to choose. This clause entitles a party to an existing Agreement to substitute more favorable rates, terms and conditions which become available through any other agreement, arbitration proceeding or change in state or federal laws.

52. This option in existing Agreements creates a rich and expanding set of entry options for potential and actual competitors in BST's South Carolina local exchange markets.²⁹ The standard clause in BST Agreements entitles signatories to service options that are more generous than those specified in ' 252(i) of the Act. Whereas the Act limits this option to choice of interconnection, service or network elements and their terms and conditions, the BST clause makes all provisions of past agreements available to bona fide interconnectors, including the offer of more favorable rates. BST intends to honor this condition even though it exceeds the

²⁶ See, e.g., Intermedia Communications, Inc. Interconnection Agreement, Article XXII (Treatment of Proprietary and Confidential Information).

²⁷ Section XX of the Statement; ACSI Interconnection Agreement, Article XXIV (Nondisclosure).

²⁸ LPSC, General Order on Regulation for Competition in the Local Telecommunications Market.²⁹

requirements of the Act as interpreted by the Eighth Circuit.

C. State and Local Legal and Regulatory Barriers to Local Exchange Entry Have Been Removed

53. Louisiana state laws governing telecommunications effectively eliminate barriers to entry into local exchange markets. The statutes empower the LPSC to certify competitive carriers provided they meet minimum conditions of all exchange service providers and file informational tariffs.⁵ All certified local exchange carriers must interconnect with all other carriers,³⁰ offer their services for resale,³¹ maintain complete coverage in their certified area,³² and arrange for phone number portability.³³ CLECs are not required by LPSC to unbundle their network. [NEED TO CHECK THIS; IN THEORY THEY DO REQUIRE, BUT NOT IN PRACTICE, VIZ., COX FIBERNET WAIVER] At this time the LPSC has certified at least 16 competitive local exchange carriers.³⁴ Consistent with the 1996 Telecom Act, the LPSC has taken a pro-competitive approach to local exchange markets, for instance by streamlining certification and tariffing procedures.³⁵

54. There has been no evidence that municipalities in Louisiana have pursued policies that hinder competition on the local level. To my knowledge, no claims have been filed regarding local taxation of CLECs, restrictions on access to or excessive charges for local public rights of way, or imposition of municipal minimum build-out requirements. I have examined BST=s standard franchise contract used to acquire access to necessary local public rights of way. This contract is nonexclusive and provides for only reasonable restrictions on use of this property and charges for its use.

³⁰ ' 301.K.2

³¹ ' 301.K.3

³² ' 301.K.1

³³ ' 801

³⁴ Up to this time, the LPSC has authorized ___ parties to BST Agreements to provide local services; ___ other carriers who have not signed agreements with BST were also certified. See Gary Wright Affidavit.

³⁵

55. Louisiana=s statutes and its Commission=s policy are designed to counteract possible exclusionary behavior on the part of BellSouth. Louisiana statutes on:

- requirements of interconnection, unbundling, resale
- policies toward cross subsidization and predation, e.g., imputation, accounting rules

56. Describe the terms and effects of LPSC=s pure price cap plan:

- replaced an incentive plan with sharing which as in effect 1992-96
- effective for 6 years beginning 4/1/96, reviewed after 3 years
- CLECs and small ILECs exempted
- after initial reduction in BST rates, three service categories capped at inflation rate, up to maximum of 5% per year
- beginning in sixth year, there is a 2.5% productivity offset
- rates frozen for Basic Service category for 5 years, thereafter individual elements capped at 10% per year
- no connection with costs, except possibly at the review

57. Describe the effects of the price cap plan

- strong disincentives to misclassify costs
- strong incentives to reduce costs, innovate

III. BST=s STATEMENT AND AGREEMENTS, IN COMBINATION WITH MARKET TRENDS AND REGULATORY SAFEGUARDS, PREVENT BST FROM REVERSING COMPETITIVE OPPORTUNITIES

58. As stated above, the mere fact that a competitor has accepted BST=s invitation to enter its local exchange markets is not alone sufficient to ensure those markets will remain open to competition in the future. We could wait to see if CLECs were ultimately viable before concluding this opportunity remained open. However, the social cost of such a delay is

prohibitive. Furthermore, ascertaining whether the CLECs were in fact efficient may be impossible for regulators. In this section I will demonstrate that the provisions contained in the Statement and Agreements prevent BST from closing its Louisiana local exchange markets.

59. A perennial fear of telecommunications regulators is the possibility that a local exchange carrier could use its ownership of exchange facilities to exclude competitors. This fear is addressed repeatedly throughout the new Telecom Act, and not just with regard to RBOC entry into interLATA services. It is important to remember, moreover, that a dominant market share does not imply abuse of market power. What matters is any residual monopoly power, given competitive forces in the market and after enforcement of the Statement and the Agreements and statutory and regulatory safeguards.

60. There are several potential anticompetitive practices which an integrated ILEC such as BellSouth might theoretically undertake. For any anticompetitive practice to be successful, (1) the ILEC must necessarily possess nontrivial market power in the relevant exchange markets, and (2) existing regulatory or legal safeguards must be ineffective in containing this market power. In each case, the Statement and Agreements work to neutralize BST's ability and incentive to carry out such practices. Table 2 collects together specific terms found in the Statement that counteract any attempt to undertake any of these practices along with the relevant provisions in the Act.

61. ***Nonprice Foreclosure.*** An extreme expression of a network's market power is the simple refusal to deal with competitors. By *Aforeclosing@* a rival, the incumbent trades off the gain in sales of intermediate services against the loss of revenue as some final consumers migrate to rivals. The Act, however, mandates that BST and other ILECs interconnect their networks with rivals and provide some form of collocation. They must also provide nondiscriminatory access to exchange infrastructure such as conduits, poles, and rights of way. The FCC has, in addition, begun to take steps to ensure public infrastructure is open to all carriers.⁶

62. More fundamentally, the presence of actual and potential competitors who could supply substitute services on short notice contradicts claims of market power. High-capacity local access and transport services are available from alternative suppliers in major cities in BST's region

including Louisiana as explained in the Gary Wright affidavit. Switching services can be self supplied using a PBX, or alternatively, by turning to an IXC or a Commercial Mobile Radio Service (ACMRS@) who has substantial local switching capacity. Vertical services such as voice mail, operator services and yellow pages directories are all competitively supplied. In comparison, competitive supply of residential access and switching services is in an embryonic stage. Each day, however, brings additional competitive exchange services to residential customers with the deployment of cable telephony and wireless access alternatives.

63. The new Telecom Act does not tolerate refusals to interconnect, and is vigilant against more subtle strategies such as inferior interconnection or discriminatory pricing of network elements. Not only do BST=s interconnection agreements conform to these provisions, they go to great lengths to coordinate the engineering decisions between BST and the CLECs.

64. ***Unequal Access.*** A less drastic tactic to discourage competition is the provision of inferior network services to less-than-full-service entrants. Such services may have fewer features, be less reliable, or be provisioned with a longer delay. The Statement and Agreements take several steps to ensure equal access by CLECs. *First*, the Agreements repeatedly demand that CLECs receive service of equal quality³⁶ and with equal ordering and provisioning³⁷ when compared to BST=s affiliate. *Second*, by adopting industry standards for technical interfaces, uniformity is assured or at least departures from the standards are easily detected. *Third*, the agreements establish arrangements to monitor quality of the interconnection and network elements that are supplied. *Fourth*, BST also agrees to notify CLECs well in advance of any change in the interconnection configuration or the equipment it uses.³⁸

65. ***Price Squeeze.*** An incumbent might, in theory, discourage or forestall competitors by

³⁶ See Statement, Sections I.I, II.F, IV.D, V.C, VI.C and X.D for interconnection, network elements, local loops, local transport, local switching, and signaling/signaling databases, respectively. [CHECK]

³⁷ See Statement, Sections I.J, II.I, IV.E, V.D, VI.D, VII.B.5, VII.C.7 and X.C for interconnection, network elements, local loops, local transport, local switching, directory assistance, operator call completion and signaling/signaling databases, respectively. [CHECK]

raising the price of some essential input (*e.g.*, local loops or local switching) sold to its downstream competitors. In that case a CLEC will operate at a cost disadvantage relative to the ILEC's downstream affiliate. First of all, this strategy is ineffective when the CLECs have alternative sources should they suspect they are the victim of a squeeze.³⁸ This is currently true for high-capacity access purchased by large business customers and will increasingly be the case for lower-volume customers.

66. When no close substitute exists for ILEC's services, detailed regulations are nevertheless in place to prevent the incumbent from disadvantaging rivals. Most significantly, the new Act imposes various forms of imputation³⁹ on an ILEC's rates, in which case an ILEC charges its competitors no more than it charges itself implicitly. Under the Act, imputation is applied to transport and termination services and to wholesale purchases for resale.

67. BST's Statement and Agreements conform to the Act's application of imputation rules. As discussed above, provisions for resale adhere to the avoided cost rule, and parties agree to accept any interpretation of avoided costs decided by regulators or the courts. Furthermore, pricing of interconnection is required to be nondiscriminatory between internal operations and competitive carriers. Finally, attempts at a price squeeze are easily detected especially given CLECs' rights to undertake an audit of BST's operation under the Statement and the Agreements.³⁹

68. ***Tying and Bundling.*** Another way an ILEC could theoretically disadvantage its rivals is by conditioning the availability of a service over which it has market power (*e.g.*, residential exchange access) on the purchase of a competitive service (*e.g.*, voice mail). The LPSC specifically bans tying by BST and other ILECs in its General Order.⁴⁰

69. The BST Statement and Agreements take pains to ensure that network services are unbundled in conformance with the Act, in most cases incorporating the exact wording of the law.

³⁹

⁴⁰ 701.G.10

In addition, as mentioned above, the Statement and Agreements unbundle network services beyond what is required by the Act. A CLEC can always request additional elements through the Bona Fide Request Process.

70. ***Cost Shifting.*** When firms participate in both regulated and unregulated markets, there may be an opportunity to report costs that are caused by unregulated activities as if they were incurred in supply of regulated services. Under cost-based regulation, the dominant carrier is able to subsidize activities in unregulated markets using revenues from protected local exchange services.

71. To be effective, this practice requires, among other conditions, that the higher reported costs result in higher prices for the regulated services. In certain exchange markets such as high-capacity business access, attempts to raise rates will be met with losses in market share to competing carriers. The Act limits the ability to cross subsidize by banning rate of return regulation of charges for network elements and for transport and termination. Additionally, the Act prescribes accounting procedures to prevent misallocation of costs, and separates local and long distance divisions to minimize the possibility of cost shifting. Perhaps more important of all, BST has adopted price cap regulation of basic local services and interconnection services in Louisiana as well as for interstate services at the federal level. This scheme effectively eliminates the company=s ability and desire to engage in cost shifting.

72. BST=s Statement and Agreements often set rates based on its intrastate or interstate tariffs. To the extent that LPSC and FCC proceedings have purged unattributable costs from these rates, and incentive regulation reduces the desire to cost shift, BST=s competitors will not subsidize its competitive ventures. In addition, the Agreements give CLECs the right to conduct an audit of BST accounts which could expose cost shifting. Several agreements also adopt a transparent accounting system.⁴¹

73. ***Misappropriation of Proprietary Information.*** The close working relationship between

incumbent and entrant local exchange carriers creates the potential for misuse of critical business information, especially information about current or prospective customers. The BST Statement and Agreements specifically address the proper use of confidential information by the parties including directory information and service change requests. They also ensure that BST does not withhold critical engineering and customer information from its competitors. Recently, the FCC has opened a docket examining appropriate policy towards customer network proprietary information, and a similar proceeding with respect to carrier proprietary information will follow.⁴²

74. More generally, the Statement and Agreements impose little in the way of restrictions on how CLECs conduct their business. Resale of retail services are unencumbered by limitations, aside from the nonprice conditions of the offering specified in BST=s tariff. No requirement of exclusivity is made or obstruction in CLECs dealings with other carriers or equipment suppliers. They explicitly permit CLECs to purchase network elements from third parties in addition to BellSouth, and so no implication of an exclusive relationship is warranted. Generally, a CLEC has access to the full array of entry options even while, at least initially, it plans to use only one. This freedom gives it the option of adjusting its strategic approach without the need to renegotiate another agreement.

IV. THE PATTERN OF LOCAL EXCHANGE ENTRY THROUGHOUT BST=s SERVING AREA IS CONSISTENT WITH LOUISIANA=s LOCAL EXCHANGE MARKETS BEING OPEN TO COMPETITION

A. Entry Has Been Early, Extensive and Persistent in BST=s Serving Area

75. Many different companies are providing local exchange services of some kind in BST=s serving area or are in the process of building their network or starting a business. The variety of the kinds of companies attracted to these markets, the different services and service areas they

⁴² Notice of Proposed Rulemaking, ACarrier Use of Customer Proprietary Network Information,@ FCC Docket 96-115, released Feb. 20, 1997.

offer, the array of entry strategies they have employed and the different technologies they have deployed confirms that BST has opened a wide range of entry options into their local exchange markets.

76. Entrants into the BST region take on all characteristics. Several are startup companies responding to the opportunities created by the Telecom Act and by new technologies (*e.g.*, Hart Communications). Many others are established firms in neighboring communications industries who have chosen to diversify into local exchange services. These include in-region and out-of-region LECs (*e.g.*, ALLTEL in Charlotte, NC⁷ and US West=s MediaOne in Atlanta, GA, respectively), long distance retailers and wholesalers (*e.g.*, MCI and Intermedia Communications, respectively), competitive access providers (*e.g.*, Brooks Fiber and American Communications Services, Inc.), cable operators (*e.g.*, Time Warner and Hyperion), cellular/wireless operators (*e.g.*, Bell Atlantic/NYNEX Mobile, GTE Mobilnet), pay phone operators (*e.g.*, Payphone Consultants) and paging companies (*e.g.*, _____). Some plan to offer services as pure resellers (*e.g.*, Georgia Comm South), others are entirely facilities-based (*e.g.*, Time Warner Communications in North Carolina), and some intend to employ a mixture of facilities, UNEs and resale (*e.g.*, AT&T). The CLECs vary in terms of the territory they serve or intend to serve. Some have targeted specific metropolitan areas (*e.g.*, US West=s MediaOne in Atlanta, GA) or the southeastern region (*e.g.*, Intermedia Communications, Inc. (AICI@))

77. In addition to purchasing unbundled network elements and reselling BST retail services, the CLECs are deploying a wide variety of telecommunications technologies. They include the standard landline networks made up of copper and optical fiber cable as well as new technologies putting two-way voice over existing coaxial cable networks (*e.g.*, Time Warner AxS). Traditional wireless technologies such as cellular are also being deployed (*e.g.*, 360 Comm) as well as new digital personal communications networks (*e.g.*, Sprint Spectrum and PCS PrimeCo) and Awireless fiber@ (*e.g.*, Advanced Radio Telecom and WinStar Communications).

78. Facilities-based Competitive Access Providers long ago entered the BST region to provide access services to business customers. Table 3 documents entry of wireline CAPs by each of the

nine BST states, including both wireline and wireless competitive access providers. Among the access services CAPs provide are high-capacity dedicated and switched access, private line, PBX trunks and internet access. In terms of exchange services, business customers have available Centrex, ISDN and direct inward dialing.

79. To my knowledge, the first competitive facilities-based entry into BST territory occurred in 1988 when Intermedia Communications, Inc. (ICI) built its first fiber ring in Orlando, FL. Since then, at a minimum, ___ CAPs have built a total of ___ urban networks in ___ cities in BST=s territory. (See Table 3.) Much of this entry occurred before passage of the Telecom Act and so was motivated by market and regulatory conditions that prevailed at the time. Over time the pace of CAP entry has accelerated in the southeast region. The recent surge is due in part to the opportunities created by the Telecom Act but also to efforts by CAPs to serve small and medium business customers and to venture into smaller cities.

80. This facilities-based entry has been persistent over time. There has been no reported case of exit in BST territory that resulted in scrapping the network. Several networks have been built and then sold to subsequent entrants who went on to expand their coverage and capabilities. This exit rate is exceptionally low for facilities-based entrants when compared, for instance, against the high exit rate among cable television entrants. AOverbuilds@ in the cable industry are rare but when they occur in an overwhelming majority of the cases they result in bankruptcy or merger with the incumbent franchise.⁴³ [NEED TO SAY SOMETHING ABOUT WIRELESS CABLE; RELATE TO DURABILITY OF ENTRY BY PCS IN LOUISIANA.]

B. Competition in Louisiana=s Local Exchange Markets Has Been More Limited

81. Entry into Louisiana local markets has been neither early nor extensive when compared to

⁴³ In 1989, a mere 55 communities out of the roughly 11,000 franchise territories in the U.S. were identified in the TELEVISION AND CABLE FACTBOOK (Vol. 58, Washington, DC: Warren Publishing, 1990) as having overlapping and competing cable firms. See Paul Kagan & Associates, CABLE TELEVISION FRANCHISING, Roundup Edition, Oct. 31, 1989.

some of the other states in BST=s territory or other regions of the country. In particular, it appears that facilities-based entry has occurred in LouisianaCbut only in Alarger@ cities and only for business services, especially exchange access. [INSERT HISTORY OF CAP ENTRY INTO LOUISIANA DRAWING ON WRIGHT AFFIDAVIT.]

82. Non-facilities-based entry has occurred throughout BST=s region, but to a lesser extent in its Louisiana local exchange markets. [FILL OUT FOLLOWING TABLE]

Network Element	Date	All Nine States	Louisiana
unbundled local loops	6/1/97	2,654	
dedicated trunks	6/1/97	716	
physical collocation	5/31/97	56	
virtual collocation	5/31/97	133	
resold services	5/15/97	88,000	
activated NPA/NXX codes	6/23/97	496	
Source: SCPSC Order No. 97-640, AOrder Addressing Statement and Compliance with Section 271 of the Telecom Act of 1996,@ July 31, 1997.			

C. Economic and Demographic Conditions in Louisiana Do Not Support Early, Extensive Entry into its Local Exchange Markets

83. As discussed above, the incidence of local exchange entry depends on market conditions, legal and regulatory rules, and behavior of the incumbent provider. My earlier discussion establishes that the latter two are not determinative of current and future competition in Louisiana: BST has taken steps open its local markets to competition while statutory and regulatory barriers to entry have been removed. Instead, we find past and current conditions of demand and supply in Louisiana local exchange markets simply are not conducive to facilities-based entry.

84. On the demand side, entrants must anticipate healthy profit margins on the customers and the lines they attract away from the incumbent. Rapid growth in the number of lines and line usage makes entry even more attractive since, upon entering, traffic will be shared among more carriers. Louisiana demographics do not indicate either the level or growth of telecommunications demand in either the business or residential segment is attractive. Importantly, current demographic conditions in Louisiana are not likely to support multiple, facilities-based carriers in many areas.

85. A robust local exchange industry thrives on rapid population growth and large, densely populated areas. Louisiana's 1994 state population was 4,315,000 and had grown by only 2.2% since 1990, far below the country's growth rate for this period of 4.7%.⁸ The 1990 Census classified 68.1% of population as urban compared with 75.2% nationwide. [DISCUSS CONCENTRATION IN THREE LARGEST CITIES; GET F.I.R.E. DATA FOR METRO AREAS.]

86. Residential telephone business in Louisiana does not represent a particularly lucrative opportunity. First, the telephone penetration rate in the state has been low historically: in 1995 it was 91.1% compared with the national average of 93.9%.⁴⁴ Only five other states have lower penetration. Line usage in Louisiana tends to be below average: ___ local dial-equipment minutes per switched access line in 1996 compared with 14,470 for all U.S. local carriers.⁴⁵

87. Louisiana lagged significantly in broad measures of economic activity. In 1994, the state had a per capita state gross product of \$22,483, well below the U.S. average of \$25,004 and placing it 33rd out of the 50 states and District of Columbia. Between 1990 and 1994, Louisiana's gross state product grew by a mere 3%, far below the national average of 9% over this period and giving it a rank of ___ out of 51.⁴⁶

⁴⁴ Trends in Telephone Service, @ op. cit., Table 2.

⁴⁵ Data for 1995 from MONITORING REPORT, FCC, July 1997.

⁴⁶ U.S. Department of Commerce, Bureau of Economic Analysis, GROSS STATE PRODUCT BY INDUSTRY, 1977-1994, June 1997.

88. The customers who have been the primary engines of competitive entry into urban markets elsewhere in the country are missing in Louisiana. Of 2,011,357 switched access lines in the state, 25% are purchased by business customers compared to an average of 32% nationally.⁴⁷

89. More importantly, the composition of Louisiana business lacks characteristics that have supported facilities-based entry in cities across the country. Elsewhere, it has been large business users with huge data demands that justify facilities-based entry. These businesses come disproportionately from the Financial, Insurance and Real Estate (F.I.R.E.) sector which includes depository and nondepository institutions, security brokers, insurance carriers and agents and real estate. Two other sectors which historically have been telecommunications-intensive are Services and Business Services. Figure 1 displays per-capita gross state products of these sectors for Louisiana and selected other states.⁴⁸ I chose California, Illinois and New York for comparison because these states have led the nation in terms of facilities-based local exchange competition. I also chose Florida because it stands out in BST territory in terms of early and extensive facilities-based entry. While these other highly competitive states rank in the top third in these sectors, Louisiana falls in the bottom quartile. Furthermore, in the crucial F.I.R.E. sector, Louisiana experienced a 1.65% growth rate between 1990 and 1994, well below the 7.57% national average and placing it 44th out of 51.⁴⁹

90. On the cost side, some of the same demographic factors that resulted in low revenues tend to also raise costs of entering Louisiana local exchange markets. As is well known, low population density leads to long loop lengths raising the cost of facilities-based entry,⁵⁰ and is a significant explanatory variable in most models of local exchange costs.⁵¹ One indicator of loop length that can be computed from available data is sheath feet of copper cable per switched access

⁴⁷ FCC=s MONITORING REPORT, op. cit. and STATISTICS OF COMMUNICATIONS COMMON CARRIERS, *Preliminary 1996 Edition*, Table 2.5.

⁴⁸ Nearly identical orderings were obtained when gross state products were expressed on a per access line basis.

⁴⁹ Bureau of Economic Analysis, op. cit.

⁵⁰ Hatfield (199_)

⁵¹ Shin and Ying (1992). GET THEIR COEFFICIENT ON LOOP LENGTH, AVERAGE LOOP LENGTH, AND STANDARD DEVIATION.

line: the average for the state of Louisiana is 158.8 compared with 123.6 nationwide.⁵² This represents a 28% increase above the national average in the length of lines. It is possible, of course, that the number of copper wires per sheath in Louisiana is much smaller than the national average, explaining this discrepancy. Computing the length of copper wire per switched access line leads to a similar conclusion: there were 22.75 kilometers of copper wire per switched access line in Louisiana as compare to 16.329 for the entire country, a 39.4% difference. [NEED TO GET A BETTER ESTIMATE OF LOOP LENGTH]

91. Long loop lengths and other factors favor wireless entry as we have witnessed in Louisiana.

- wireless advantages in medium-density mid size urban areas
- combinations with landline transmission networks

92. In sum, Louisiana offers facilities-based entrants relatively thin profit margins given the meager revenues and relatively high costs per line particularly for residential services. Entry becomes a nonstarter because it is profitable large business services that underwrite the initial entry that later justifies entry into other local exchange services. Repeatedly throughout the U.S., facilities-based carriers have successfully penetrated high-end business services before expanding into adjacent markets such as switched services for smaller businesses and exchange service for residential customers. Through this strategy they take advantage of the scope economies between fiber networks and local exchange services as well as the significant learning that occurs while entering these markets. In addition, the presence of CAPs has facilitated entry by other carriers especially long distance carriers and PCS providers who seek transmission capacity or dark fiber to complete their service offering.

V. CONCLUSION

⁵² Sheath kilometers and total switched access lines were taken from Tables 2.2 and 2.5, respectively, in the FCC's STATISTICS OF COMMUNICATIONS COMMON CARRIERS, Preliminary 1997 edition.

93. The Telecom Act takes a shotgun approach to achieving its goal of creating competition in the country's local exchange markets. It creates multiple entry routes for entrants, expands the size and diversity of the entrant pool, and opens all services and geographic markets to potential competitors. The purpose of these policies is to maximize the likelihood that efficient entry will take place, whether facility based or otherwise, and that the corresponding benefits of competition will be realized. In fact, market and demographic conditions in Louisiana local exchanges are not conducive to early, extensive entry by facilities-based carriers into business and residential services.

94. The fact that facilities-based carriers have been slow and selective in their entry into BST's local markets in Louisiana is a product of the state's market and demographic conditions. The Statement gives efficient entrants every opportunity to enter these local exchange markets and to achieve viability and sustained growth. The rich variety that characterizes entrants and entry strategies in BST region attests to the wide range of entry opportunities offered to them. Along with BST's interconnection and resale Agreements, the state's market conditions and state and local laws and regulations, the Statement prevents BST from withdrawing these competitive opportunities now or in the future.

Table 1: Policies for Opening Local Exchange Markets under the Telecom Act and BST=s Statement in Louisiana

POLICY	PROVISIONS OF THE ACT & FCC=s IMPLEMENTATION	PRO-ENTRY EFFECTS	TERMS OF BST=s LOUISIANA STATEMENT
Create Multiple Entry Routes	<ul style="list-style-type: none"> - Interconnection at technically feasible points [' 251(c)(2)] - Physical and virtual collocation [' 251(c)(6)] - Sale of UNEs at technically feasible points [' 251(c)(3)] - Resale of retail services [' 251(c)(4)] - Combine UNEs [' 251(c)(3), 47 CFR ' 51.315] 	<ul style="list-style-type: none"> - Allows facilities-based entry in dense markets, resale elsewhere - Permits entrants to follow evolutionary growth path. - Accommodates entrants having different initial strategic assets. 	<ul style="list-style-type: none"> - Interconnect at technically feasible points [I.A.1] - Additional interconnection points provided if technically feasible [I.A.2] - additional elements via bona fide request [II.A] - Offer local loop transmission, local transport, local switching, signaling, operating support systems, dark fiber [II.B] - Unbundle local loops [IV.A] and subloops [IV.B] - Three transport elements plus requests for additional elements [V] - Three local switching options, plus requests for additional options and Aselective routing@ [VI.A]
Increase Size and Diversity of Entrant Pool	<ul style="list-style-type: none"> - Removal of cable-telco cross-ownership ban [' ' 651-653] - Relax restrictions on electric utility provision of phone service [' 103] 	<ul style="list-style-type: none"> - Raises likelihood of inviting efficient entrants. - Increases entry threats through joint ventures and alliances. - Broader range of entrants= capabilities increases chance of success. 	<ul style="list-style-type: none"> - Available to any CLEC certified by LPSC to offer local exchange service in Louisiana [Sec. 0.A] - Negotiated agreements may be utilized by other parties [Preamble]

Table 1: Policies for Opening Local Exchange Markets under the Telecom Act and BST=s Statement in Louisiana

<p>Open All Services and Areas</p>	<ul style="list-style-type: none"> - No unreasonable limitations on resale [' 251(c)(4)(B)] - Branded or unbranded resold services [47 CFR ' 51.613(c)] and for 911, call completion and directory assistance [47 CFR ' 51.217(d)] - No restrictions that would impair CLEC ability to serve [47 CFR ' 51.309(a)] - All switching capabilities [' 251(c)24)(B)(iv)] - All tandem switching capabilities [47 CFR ' 51.319(c)(2)] 	<ul style="list-style-type: none"> - Assists entrants in differentiating their services and evolving their product line over time. - Reduces entry risk by permitting geographic specialization and product diversification. - Counteracts attempts at ILEC cross-subsidization. 	<ul style="list-style-type: none"> - Additional elements and subelements via bona fide request process [II.A] - BST=s UNEs may be combined in any manner [II.G] - Nondiscriminatory access to 911/E911 services [VII.A.2] - CLEC subscribers listed at no charge [VII.B.1] - Unbranded directory assistance [VII.B.2] - selective routing to CLEC directory assistance [VII.B.3] - Operator services to CLEC equal to BST=s [VII.C] - Listing of CLEC business and residential customers in BST white pages at no charge [VIII.A] - Directory assistance listing at no charge [VIII.E] - Delivery of directories at no charge [VIII.H] - Offers unbundled signaling links and STPs [X.A.1] - Offers SCP databases on unbundled basis plus selective routing [X.A.3]
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Table 2: Safeguards Against Exclusionary Conduct Found in the Telecom Act and BST=s Statement

EXCLUSIONARY PRACTICE(S)	PROVISIONS IN THE ACT	TERMS OF BST=s STATEMENT
<p>Nonprice Foreclosure</p>	<ul style="list-style-type: none"> - Mandatory direct or indirect interconnection [251(a)(1)] for access or exchange services [251(c)(2)(A)] at technically feasible points [251(c)(2)(C)] - Provide physical collocation, or virtual if no space [251(c)(6)] - Provide access to poles, ducts, conduits, ROWs under rates, terms, conditions [251(b)(4)] - Offer retail services for resale [251(c)(4)(A)] 	<ul style="list-style-type: none"> - Interconnect at 5 different network points [I.A.1] and additional interconnection points provided if technically feasible [I.A.2] - Interconnect two CLECs at common tandem [I.A.5] - Physical or virtual collocation or purchase of facilities [I.C] - Nondiscriminatory access to any pole, duct, conduit or right of way owned or controlled by BST [Att. D]
<p>Unequal Access</p>	<ul style="list-style-type: none"> - Equal quality of interconnection to a rival and affiliate [' 251(c)(2)(C)] - Collocation arrangements must be nondiscriminatory [' 251(c)(6)] - Industry technical standards for interconnection specifications [' 251(a)(2)] - Give notice of change of interconnection conditions [251(c)(5)] - Nondiscriminating access to operator services and directory assistance [251(b)(3)]; 911/E911, directory assistance, operator call completion services [271(c)(2)(B)(vii)]; directory listings [251(b)(3)]; white pages [271(c)(2)(B)(viii)]; phone numbers [251(b)(3)]; databases and associated signaling information [271(c)(2)(B)(x)] - Duty to provide dialing parity for both exchange and toll [251(b)(3)] and nondiscriminatory access to services/info needed to provide dialing parity [271(c)(2)(B)(xii)] - Biennial federal/state audit [252(d)(1)] 	<ul style="list-style-type: none"> - Adhere to industry technical standards [I.H] - Advanced notice of change of service - Quality at least equal to BST=s for interconnection [I.I], network elements [II.E], local loops [IV.D], transport [V.C], switching [VI.D], signaling databases [X.C] - Parity in treatment of reseller=s and BST customers [XIV.F] - BST provides engineering information [III.B] - Number portability with minimum impairment of service to CLEC customer [XI.C] - BST accepts industry/national standards for transmission and traffic blocking [XV.B] - Parity in treatment of CLEC and BST customers [XIV.F]

Table 2: Safeguards Against Exclusionary Conduct Found in the Telecom Act and BST=s Statement

EXCLUSIONARY PRACTICE(S)	PROVISIONS IN THE ACT	TERMS OF BST=s STATEMENT
Price Squeeze	<ul style="list-style-type: none"> - Nondiscriminatory charges for interconnection [' 252(d)(1)(A)(ii)] - Imputation by RBOCs for pricing interLATA origination and information services sold to competitors and affiliates [' 272(e)(3)] - Wholesale rates for resold services equal retail rates less avoided retailing [' 252(d)(3)]d - Biennial federal/state audit [252(d)(1)] 	<ul style="list-style-type: none"> - Uniform, nondiscriminatory rates for local loops [IV.C], local transport [V.B], local switching [VI.B]
Tying and Bundling	<ul style="list-style-type: none"> - Nondiscriminatory access to unbundled network elements at technically feasible points; able to combine for use [251(c)(3)] - Not prohibit and not impose unreasonable, discriminatory conditions on resale [251(b)(1)] 	<ul style="list-style-type: none"> - All required UNEs [II.B] - Additional UNEs via bona fide request process [II.D]
Cost Shifting	<ul style="list-style-type: none"> - Adopts accounting methods to prevent subsidies [' 254(k)] - Separate books, people and credit, plus arms= length transactions [' 272(b)] - Prohibits rates for network elements based on an ILEC=s rate of return [' 252(d)(1)] - Prohibits use of a rate regulation proceeding to assess the level of mutual transport and termination charges [' 252(d)(2)] 	
Misappropriation of Proprietary Information	<ul style="list-style-type: none"> - Confidentiality of carrier proprietary information required [' 222(b)] - Maintain privacy of customer proprietary network information [' 222(c)] 	<ul style="list-style-type: none"> - BST has limited contact with CLEC resale customers [XIV.L] - Proper treatment of confidential and proprietary information required [XX.A]

Table 3: Facilities-based, Wireline Entry by Competitive Access Providers in BST=s Nine-State Region

STATE	YEAR OF FIRST ENTRY	NUMBER OF NETWORKS	NETWORKS WITH SWITCHES	CITIES SERVED	NETWORKS UNDER CONSTRUCTION
Alabama	1991	7	3	4	1
Florida	1988	23	13	8	2
Georgia	1990	5	4	2	2
Kentucky	1989	6	2	2	0
Louisiana	1995	7	2.00	3	3
Mississippi	1996	2	1	1	0
North Carolina	1991	11	7	6	2
South Carolina	1994	4	0	4	0
Tennessee	1993	8	5	4	3
TOTALS		68	35	33	13

¹ 252(d)(1).

² See Paul Geroski, Richard Gilbert and Alexis Jacquemin, *BARRIERS TO ENTRY AND STRATEGIC COMPETITION*, Chur, Switzerland: Harwood Academic Publishers, 1990, p. 70.

³ See Attachment B of the Statement. [CHECK]

⁴ See *COMPETITION REPORT: INTERCONNECTION AGREEMENTS BY STATE*, United States Telephone Association, July 1, 1997.

⁶ FCC Local and State Advisory Committee, *APolicy Statement on State and Local Rights of Way and Telecommunications Services Competition*, @ June 27, 1997.

⁷ *ALLTEL to Offer Fiber to Charlotte*, *FIBER OPTIC NEWS*, 17:37, Sept. 22, 1997.

⁸ Population figures taken from the *STATISTICAL ABSTRACT OF THE U.S.*, 1995, Washington, DC: Government Printing Office.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Application of BellSouth) Docket No. _____
Corporation to Provide)
In-Region, InterLATA Long)
Distance Services Under)
Section 271 of the)
Telecommunications Act of 1996)

AFFIDAVIT OF Gary M. Wright

I, GARY M. WRIGHT, being of lawful age and duly sworn upon my oath, depose and state:

My name is Gary M. Wright. I am employed by BellSouth Telecommunications, Inc. (BST) as a Manager- Regulatory Competitive Analysis in the Federal Regulatory Department. My business address is 675 West Peachtree Street, Room 38L64, Atlanta, Georgia 30375.

I started employment with South Central Bell in 1982 in the Business Marketing Department. From 1983 to 1987, I worked in National Accounts Marketing for AT&T. During 1987 and 1988 I worked as an associate for Callahan & Associates, Inc., an independent telecommunications consulting firm primarily serving large banking, health care and governmental institutions. I joined BellSouth Advanced Systems, Inc. in 1988 as a National Account Manager serving the aerospace industry. In 1990 I returned to South Central Bell's staff in the Marketing Technical Support Department as competitive analyst in the Special Bids Support Group. My work at BellSouth has continued to focus on the field of competitive intelligence and analysis since 1990 in various marketing and regulatory positions. I have a Bachelor of Arts degree from Birmingham Southern College in Birmingham, Alabama where I double-majored in Political Science and Analytic Philosophy. I completed one year of post-graduate study at the University of Alabama in Birmingham in the field of Computer Science and Mathematics and have completed numerous corporate-sponsored management and technical education programs including work in technical marketing management at the Massachusetts Institute of Technology's Sloan School of Business and telecommunications technology at the University of Pittsburgh.

My current assignment, Manager-Regulatory Competitive Analysis, began in 1992. My primary responsibilities include monitoring and analyzing the activities of BellSouth's competitors including Competitive Access Providers (CAPs) and Competitive Local

Exchange Companies (CLECs) within the BellSouth region in support of BellSouth Telecommunications Inc.'s (BST's) regulatory and public policy activities. In carrying out this responsibility I have documented the progress of BST's facility-based competitors in deploying their networks in BST's region and developed maps which document the known fiber routes of wireline facility-based competitors in selected markets throughout BST's region. I also have developed mapping studies which document the proximity of wireline fiber optic competitor networks to current BST customers and have calculated an approximation of BST customer revenues which are at risk.

The purpose of my affidavit is first to document the current status of local exchange service and access competition within BST's Louisiana serving area. In support of this purpose I will document current CLEC activity within Louisiana to the extent that it can be identified through reasonable investigation as of October 1997. Secondly, information is presented to illustrate the degree to which BST business and residence accounts and their associated local exchange service revenues are within the easy reach of, and are therefore at the greatest risk of loss to, wireline facility-based CLECs in selected Louisiana markets. BST customers located within 3000 feet of selected Louisiana CLEC fiber optic networks have been selected for this analysis. I also provide information concerning the future plans and market entry schedules for CLECs which have announced their intent to participate in the competitive local exchange service market in Louisiana.

Information concerning current competitive activities and the future plans of competitive entrants is provided to support BST's position that as of October 1997 qualifying wireless service providers were serving both residential and business local exchange customers in Louisiana utilizing PCS spectrum and to substantiate the fact that as of October 1997 a number of wireline facility-based CLECs are on the verge of providing local exchange services.

The Confidential Exhibit, provided as part of this affidavit, includes information which describes the wire-line facility-based networks of current and potential CLECs in Louisiana. Additional information is also presented which indicates the relative concentration of BST revenue streams across its Louisiana serving area and the proximity of these revenues to BST-identified competitive facilities. This information was developed at considerable expense by BST, utilizing in-house and third-party research, and presents highly sensitive proprietary information affecting BST's Louisiana operations. The Confidential Exhibit also includes information which describes in detail the current activity of both wireline and wireless CLECs in Louisiana with regards to interconnection, unbundling, and resale activities. For these reasons the Confidential Exhibits, and all attachments

provided therein, are being filed under seal with a request for confidential treatment.

As of October 31, 1997 BST had signed local exchange interconnection and resale agreements with 88 different Louisiana telecommunications service providers. The Louisiana Public Service Commission (LPSC) had reviewed and approved, or allowed to take effect as approved, a total of 68 agreements with these providers. Attachment WLPE-A, included in the Public Exhibit of this affidavit, provides further details concerning Louisiana interconnection and resale contract activity including the original contract signing and approval dates of all negotiated and/or arbitrated agreements as of October 31, 1997. As shown in Attachment WLPE-A, 26 of the wireline CLECs which have signed interconnection agreements with BST in Louisiana indicated in their interconnection negotiations their intent to provide competitive local exchange services in whole or in part over their own facility-based wireline networks. These 26 potential wireline facility-based Louisiana CLECs with signed BST agreements are : ACSI, ALEC Inc., American MetroComm, AT&T, AXSYS Inc., Competitive Communications Inc. (CCI), Comm Depot, Cybernet Group, ITC DeltaCom, Fiber South, GNET, Hart Communications, Intermedia (ICI), IntelCom Group, Interstate Telephone, J & D Trucking, KMC Telecom, MCImetro, National Tel, Shell Offshore Services, Southeast Telephone, Teleport Communications Group (TCG), Time Warner Communications (TWC), Tricomm, US LEC, and Winstar Communications. Each of these 26 wireline companies included in their respective agreements with BST terms and conditions for local exchange interconnection and the unbundling of BST network elements. These interconnection and unbundling services are readily available from BST for use by these CLECs, in conjunction with their own facilities, to provide wireline facility-based local exchange services to Louisiana customers.

As of October 31, 1997 only ACSI had BST-provided local exchange interconnection services installed and in service in Louisiana and was providing wireline facility-based local exchange services. However, at least three additional wireline providers have placed firm orders with BST for provisioning of local interconnection services in Louisiana. The three wireline CLECs with pending firm orders for local interconnection services are American MetroComm, KMC Telecom, and Shell Offshore Services Company (SOSCo).

As of October 31, 1997 10 current and potential Louisiana wireless service providers had signed interconnection agreements with BST establishing terms and conditions for the interconnection of networks and the exchange of traffic between networks. Of these 10 Louisiana wireless facility-based providers, three are currently providing wireless services to both business and residence customers utilizing PCS spectrum licenses granted by the FCC. PrimeCo Personal Communications,

Sprint PCS (Sprint Spectrum), and MereTel Communications are currently active Louisiana wireless PCS providers. Both Sprint PCS and PrimeCo are facility-based PCS providers who have constructed their own PCS wireless and wireline networks in the New Orleans MTA. MereTel is currently providing PCS wireless communications in the Baton Rouge BTA. Each of these PCS networks is currently interconnected with BST's Louisiana public network facilities pursuant to negotiated agreements which have been filed with the Louisiana Public Service Commission (LPSC).

Additionally as illustrated in the Attachment WLPE-B of this affidavit, as of October 31, 1997 76 potential wireline CLECs and 4 additional wireless service providers had begun official negotiations with BST that have not yet resulted in finalized Louisiana agreements. Another 93 competitive service providers have contacted BST informally (Unofficial Requests) to inquire about negotiations which may result in other Louisiana interconnection agreements in the near future.

To the best of BST's knowledge, as confirmed by USTA's Competition tracking team, no other incumbent local exchange company (ILEC) in the country has currently signed as many interconnection agreements with competitive providers as has BST. BST is not aware of any ILEC who has successfully gained more required approvals from State Regulatory agencies than BST nor who has the current level of ongoing negotiations activity as BST.

As shown in Attachment WLPE-A, a total of 61 wireline CLECs and wireless service providers had requested certification from the LPSC seeking authority to provide competitive local exchange services within the state as of October 31, 1997. Of the total 61 wireline providers seeking CLEC certification, 13 had signed agreements with BST which included terms and conditions for the provisioning by BST of services to serve Louisiana customers on a facility-based basis. These 13 potential wireline facility-based local exchange service providers are: ACSI, AXSYS, AT&T, American MetroComm, GNET Telecom, Hart Communications, ITC DeltaCom, Intermedia Communications (ICI), Kamine Multimedia Corp. (KMC), MCI Metro, Shell Offshore Services, Sprint, and WinStar Communications. All 8 of the wireless service providers seeking certification had signed interconnection agreements with BST which have been filed with the LPSC as of October 31, 1997. Of these wireless providers, 6 currently hold PCS licenses issued by the FCC which include Louisiana service areas.

The Louisiana Public Service Commission requires that any company seeking to be certified as a Competitive Local Exchange Company within the state offer local exchange services to both business and residential customers.

In the following sections of this affidavit I will focus on the activities of those wireline and wireless facility-based local

exchange service competitors who are currently serving the Louisiana market or who are expected by BST to begin providing facility-based services in the near future. Emphasis in this analysis is placed on those providers with current network infrastructure in place and now operating in Louisiana. BST is well aware that a significant number of other potential facility-based providers have announced their intent in various forums to provide facility-based services to Louisiana customers at some future date,. However, where such announcements have not yet resulted in identifiable facilities deployment schedules or activity they are ignored for purposes of this affidavit.

BST recognizes the critical importance of resale local exchange competition in providing CLECs with early market entry without large capital outlays and fostering the availability of consumer options in the Louisiana local exchange service market. Resellers and their current activities in the Louisiana local exchange market shall be addressed in this affidavit as an important participating CLEC industry group rather than on an individual basis, except where current resale activities are clearly linked to identified facility-based market entry plans.

Current Wireline Facility-based CLECs

This section of the affidavit and referenced Attachments in both the Public Exhibit and the Confidential Exhibit discuss the activities of wireline CLECs with currently operational facilities serving Louisiana telecommunications customers.

ACSI

(New Orleans, Baton Rouge, and Shreveport)

ACSI requested authority to provide local exchange services in Louisiana on May 31, 1996. This request was approved by the LPSC and a certificate was granted on March 24, 1997. ACSI signed an interconnection agreement with BellSouth on July 25, 1996 which establishes negotiated terms and conditions for the interconnection of networks, the mutual exchange of local traffic, the unbundling of network elements, and resale of BST's network facilities and services in Louisiana. This negotiated contract was approved by the LPSC on November 4, 1996. A resale agreement was signed by ACSI and BST on December 26, 1996 and approved by the LPSC on March 19, 1997.

ACSI currently provides non-switched dedicated services, including special access, data services, and private line services over its own fiber optic facilities in New Orleans, Baton Rouge, and Shreveport. ACSI began providing competitive local exchange services on a resale-basis in these three Louisiana markets on April 1, 1997 and introduced facility-based competitive local exchange services to the New Orleans market on July 30, 1997.

ACSI filed a local exchange service tariff in Louisiana which was approved by the LPSC in April 1997. ACSI's tariff includes terms and conditions for basic local exchange line service, PBX services, and other enhanced telecommunications services and features in the markets. ACSI's tariff terms and conditions and pricing structure do not distinguish customers by class of service for its basic local exchange line service offering. ACSI's tariff offerings do not distinguish facility-based services from services provided on a resold-basis. However, the ACSI basic local exchange line offering is priced to compete with BST's tariffed basic business local exchange service in each of the three Louisiana markets where it is offered. Presumably any residential customer willing to pay the higher rates paid by ACSI's business customers could obtain "Basic Exchange Line Service" from ACSI in New Orleans, Baton Rouge, and Shreveport. A copy of the ACSI Louisiana local exchange service tariff is included as Attachment WLPE-C of this affidavit.

Despite the LPSC's requirement that CLECs serve both residential and business local exchange service customers, BST does not expect ACSI to actively market residential local exchange

services in Louisiana either on a resold or facility-based basis at any time in the foreseeable future. ACSI has traditionally targeted business customers of all sizes for its switched service offerings including local exchange services. ACSI's three networks in Louisiana serve the central business districts located in the downtown areas of the respective cities. ACSI has previously stated that it does not plan to offer facility-based residential local exchange service in any market were it is currently active in the BellSouth region.

ACSI began offering business local exchange services in the BST region during the fourth quarter of 1996 in Columbus, GA on a resold and a facility-based basis and has offered resold business local exchange services in Louisiana as well as 11 other markets in 8 states across BST's region since April 1, 1997. ACSI has yet to market residential local exchange service in any BST market were it currently operates as a CLEC on either a facility-based or resold basis. ACSI's advertising and press releases make no mention of services to residential customers but clearly focus attention on their business service offerings. Examples of ACSI's Louisiana advertising and press releases are included in Attachment WLPE-D.

ACSI, however, has stated in its recently filed comments in opposition to BST's Federal application for the provision of in-region interLATA services in South Carolina (CC Docket No. 97-208) that it believes itself to be a "**potential** provider of telephone exchange serve to residential and business subscribers". While admitting that its business strategy "focuses primarily on business customers", ACSI maintains that it "also will provide facilities-based service to residential callers through MDUs and STS providers where it makes economic sense". In fact ACSI, maintains it is currently providing such "residential" services to an STS property in Birmingham, Alabama. [ACSI Opposition, BellSouth-South Carolina, CC Docket No. 97-208, Pg. 14] Additionally, ACSI stated that it has recently entered an agreement to lease network capacity to another CLEC in one of its South Carolina markets and maintains the other CLEC may migrate its current base of resale residential customers to ACSI-provided facilities at a later date. [Id., 15]

ACSI since its creation has leveraged strategic relationships with Interexchange carriers (IXCs), CATV providers, and electric utilities to construct and operate its networks. On March 6, 1997 ACSI announced a 5-year agreement with MCI Metro that names ACSI as MCI's preferred local provider for dedicated access and transport services in 21 ACSI markets including Louisiana. The agreement allows MCI to purchase loop transport services from ACSI in markets where ACSI is collocated with the Incumbent Local Exchange Carrier (ILEC) and where MCI has deployed its own local switching facilities. The agreement also establishes terms and conditions whereby MCI Metro will resell ACSI facility-based

local switched services under its own brand name. MCI Metro has contracted with ACSI to assist in the construction of ACSI's fiber networks and owns warrants to purchase 620,000 shares of ACSI common stock at a fixed price of \$9.86 per share (ACSI had 6.096 million shares outstanding as of June 30, 1996). ACSI also has "preferred provider" agreements with AT&T and other IXCs.

Descriptions and analyses of ACSI's current Louisiana facility-based operations are included in Attachment WLCE-A in the Confidential Exhibit of this affidavit. In addition to the maps and addressable revenue analysis prepared by BST, I have included in Attachment WLCE-A a copy of a study performed by the political economic analysis research firm InContext, Inc. InContext's study of ACSI's fiber deployment and marketing strategies in the New Orleans market, as well as the Greenville, Spartanburg, and Charleston markets in South Carolina, concluded that ACSI and possibly other potential facility-based providers, were withholding local telephone services from residential multi-dwelling units (MDUs) for non-economic reasons in New Orleans as well as South Carolina. Indeed InContext quotes a local ACSI representative as stating "We provide dial tone service to businesses only. We are not providing service to residences and I am not aware of any plans to do so in the future."

Also included in WLCE-A is a faxed copy of a proposal made to a New Orleans area business by Group Purchasing Association (GPA), an authorized sales representative for ACSI services and member of ACSI's Select Partner Program. When the business owner inquired about utilizing ACSI services at his residence he was informed by the GPA representative that "We are not able to sell service to residential. It is an FCC issue."

BST has also provided, as Attachment WLPE-I in the Public Exhibit to this affidavit, a copy of a preliminary study released on October 17, 1997, by the Keep America Connected coalition which further examines the current and future status of residential local exchange offerings by a number of competitors including ACSI. In its preliminary report, *Request Denied*, Keep America Connected states that, in the New Orleans market, an ACSI representative told consumers inquiring about the availability of residential services that ACSI offers local business services but was up front in stating that they do not plan to offer residential services.

As is clearly demonstrated by BST's revenue at risk analysis in Attachment WLCE-A, sufficient revenue opportunities exist to sustain facility-based local exchange competition for both business and residential customers in the Louisiana markets currently served directly by ACSI's facility-based operations. However, as of October 31, 1997, ACSI had made no identifiable effort to provide facility-based local exchange services to residential customers in Louisiana.

It bears repeating that BST does not expect ACSI to market its facility-based local exchange services to residential customers, at least not under its own brand name, despite the fact that it possesses "the technical capability to provide facilities-based local exchange telephone services to both business and residential customers" [Id., 15] currently in the New Orleans market. However, ACSI's close strategic relationships with AT&T and MCI, as well as other facility-based IXCs, almost certainly will result in the wholesale provision of ACSI's Louisiana network facilities to these strategic IXC customers/partners to support their own facility-based residential market entry efforts when market conditions force them to provide service to these customers. ACSI has also reportedly discussed possible joint use arrangements with other potential facility-based Louisiana CLECs including Shell and American MetroComm, who may well utilize ACSI network facilities in a fashion similar to ACSI's cited CLEC agreement in South Carolina [Id., 15], in conjunction with their own to provide facility-based services to both residential and business customers.

ACSI's wireline facility-based entry into Louisiana's competitive local exchange market in New Orleans was a watershed event for local exchange telecommunications competition in the state. ACSI's preparations for imminent local exchange market entry across its Louisiana networks as documented in Attachment WLCE-A poses significant competition for BST's local exchange revenues within the state. Additionally, ACSI's current Louisiana infrastructure for the providing of facility-based local exchange services may well be utilized as a resource by other potential wire-line CLECs, including AT&T and MCI, when changing competitive market conditions, such as BST's entry into the Louisiana interLATA services market, force such facility-based market entry.

American MetroComm **(New Orleans and Baton Rouge)**

American MetroComm (AMC) is a partnership of four companies with plans to develop networks along the Gulf Coast. The four original partners are Crescent City Networks, LeveeComm, Infohighway Management, and Mississippi Fiber Group. Crescent City Networks developed and operated a fiber optic network in the central business district of New Orleans. LeveeComm has a contract to build a fiber optic network along the levees surrounding New Orleans. Infohighway Management has a franchise to build a network in Kenner, Louisiana in the greater New Orleans metropolitan area. Mississippi Fiber Group has begun development of a fiber network in Jackson, Mississippi.

American MetroComm requested certification from the LPSC as a facility-based CLEC on November 25, 1996 and was approved and certificated on July 9, 1997. AMC signed a negotiated

interconnection agreement with BST on July 9, 1996 which was approved by the LPSC on October 8, 1996. The AMC/BST agreement provides for interconnection of networks, exchange of traffic, unbundling of BST network services and functions, and the resale of BST's retail service offerings in Louisiana. AMC's Louisiana local exchange service tariff was approved by the LPSC in July 1997. The AMC tariff includes terms and conditions for basic local exchange line service, PBX services, and other enhanced telecommunications services and features in the markets. AMC's local exchange service tariff, in a fashion similar to ACSI, does not distinguish between residential and business local exchange service offerings. Section 5 of the AMC tariff offers a facility-based Basic Line Service which is priced to compete with BST's tariffed business local exchange line services. Section 7 of the AMC tariff offers Louisiana customers a resold Basic Exchange Line Service which is also priced to compete with BST's business lines.

AMC currently operates a fiber optic CAP network in the New Orleans metropolitan area and has installed a NorTel DMS Central Office switch as part of the AMC New Orleans network. AMC also operates fiber facilities in the Baton Rouge market. A detailed description and BST analysis of AMC's current Louisiana facility-based operations and activity are included in Attachment WLCE-B in the Confidential Exhibit of this affidavit. Attachment WLCE-B clearly illustrates that significant BST local exchange and access revenues are at immediate risk to AMC's impending facility-based local exchange market entry.

AMC has been providing competitive resold local exchange services to both business and residence customers in Louisiana since July 1997. AMC may well begin serving the New Orleans local exchange services market as a facility-based CLEC during November 1997. AMC is expected to begin rollout of facility-based local exchange services in Baton Rouge by late 1997 or early 1998.

AMC currently provides significant numbers of business local exchange access lines to Louisiana customers on a resold basis and also provides resold competitive local exchange services to Louisiana residential customers. AMC has established a significant local exchange market presence in Louisiana. As demonstrated in Attachment WLCE-B, an incomplete estimate of AMC's immediately addressable revenue opportunities as a facility-based CLEC in New Orleans and Baton Rouge poses very significant risks to BST Louisiana revenue streams in these markets.

Upon entry into the New Orleans market as a facility-based provider of local exchange services, AMC will be providing local exchange services to both business and residential customers in Louisiana. AMC will provide these local exchange services predominantly, if not exclusively, over its own facilities.

KMC TeleCom **(Baton Rouge and Shreveport)**

KMC Telecom, Inc.(KMC) is a wholly owned subsidiary of Kamine Multimedia Corporation, which is an affiliate of Kamine Development Corporation. KMC filed a CLEC certification request with the LPSC on June 19, 1996 seeking authority to provide facility-based local exchange services in the Baton Rouge and Shreveport markets. KMC CLEC authority was granted by the LPSC on January 31, 1997. KMC signed a negotiated interconnection, unbundling, and resale agreement with BST on March 4, 1997 which was reviewed by the LPSC and approved on June 10, 1997.

KMC's Louisiana local exchange service tariff was approved by the LPSC in June 1997. The KMC tariff offers basic local exchange line service, PBX services, and other enhanced telecommunications services and features to customers in the Baton Rouge and Shreveport markets. KMC's local exchange service tariff does not distinguish between residential and business basic local exchange service offerings which are priced to compete with BST's tariffed business local exchange line services. KMC's Tariff also does not distinguish between basic local exchange services provided over KMC owned and operated facilities and those provided on a resold basis. A copy of the KMC Louisiana local exchange service tariff is included for your reference as Attachment WLPE-E of this affidavit.

KMC has constructed and currently operates fiber optic networks in both Baton Rouge and Shreveport and has installed local exchange switching facilities in both cities. A detailed description of KMC's current Louisiana facility-based operations is included as Attachment WLCE-C of the Confidential Exhibit of this affidavit.

KMC currently provides significant numbers of business local exchange access lines to Louisiana customers on a resold basis and also provides resold competitive local exchange services to residential customers within the state. KMC has successfully established a significant local exchange market presence in Louisiana during the first four months of active marketing. As is clearly demonstrated in Attachment WLCE-C, a conservative estimate of KMC's immediately addressable revenue opportunities as a facility-based CLEC in Baton Rouge and Shreveport place significant current BST Louisiana revenue streams at risk.

As of October 31, 1997 BST fully expects KMC to begin providing facility-based local exchange services to the Baton Rouge market by the middle of November 1997 with facility-based local exchange market entry in Shreveport during early December 1997.

Upon entry into the Baton Rouge market as a facility-based provider of local exchange services, KMC will be providing local exchange services to both business and residential customers in

Louisiana. KMC will provide these local exchange services predominantly, if not exclusively, over its own facilities.

SHELL Offshore Services Company (SOSCo)
(New Orleans)

SOSCo, hereafter referred to as Shell in this affidavit, is a wholly owned subsidiary of Shell Exploration and Production Company (SEPCO), and SEPCO is a wholly owned subsidiary of Shell Oil Company. Shell filed a CLEC certification request with the LPSC on April 17, 1997 seeking authority to provide facility-based local exchange services throughout the entire state of Louisiana. Shell CLEC authority was granted by the LPSC on July 1, 1997. Shell signed a negotiated interconnection, unbundling, and resale agreement with BST on May 21, 1997 which was reviewed by the LPSC and approved on August 28, 1997.

Shell's Louisiana local exchange service tariff was approved by the LPSC in July 1997. The Shell tariff offers basic local exchange line service, PBX services, access services, private line, long distance, and other enhanced telecommunications services and features to Louisiana customers statewide. Shell's basic local exchange service offering distinguishes between residential and business basic local exchange service offerings and expressly offers both. It also offers separate terms and rates for the provisioning of local exchange offerings over Shell facilities versus those provided on a resold basis.

Shell's facility-based basic local exchange offerings entail a flat monthly rate with applicable usage charges. Usage charges are dependent upon traffic within and between Shell's defined Local Calling Zones (LCZs) and Local Calling Areas (LCAs). Shell has established three LCZs which cover the entire state of Louisiana and within each LCZ two or more LCAs have been defined. The three LCZs are New Orleans/Baton Rouge, Lafayette/Lake Charles, and Shreveport/Alexandria. Complete descriptions and maps of Shell's proposed LCZ and LCA boundaries with accompanying maps are included in Attachment WLCE-D of the Confidential Exhibit. Residence and business facility-based service customers are subject to different rate structures for the flat monthly fee as well as usage charges and are offered different usage allowances as part of the monthly flat fee.

Business and residence basic local exchange service customers served by Shell on a resale basis are offered both flat rate and usage base service options with calling areas mirroring those described in BST's Louisiana General Subscriber Services Tariff (GSST).

A copy of the Shell Louisiana local exchange service tariff is included for your reference as Attachment WLPE-F of this affidavit.

A detailed description of Shell's Louisiana network operations is included as Attachment WLCE-D of the Confidential Exhibit. A review of Shell's current Gulfnet 6000 network facilities, including the currently operational Shell local and tandem switching facilities as described in WLCE-D, clearly demonstrates Shell's capability to provide a wide range of telecommunications services to almost every customer in BST's Louisiana serving area utilizing its own facility-based network in whole or in part.

BST fully expects Shell to introduce facility-based local exchange services beginning in its proposed New Orleans/Baton Rouge LCZ by the end of 1997 with service offerings expanded to the entire state by mid-1998.

COX FIBERNET **(New Orleans)**

Cox Fibernet, a totally owned subsidiary of Cox Communications, has operated a fiber optic network in the New Orleans metropolitan area since the second quarter, 1995. Cox filed for CLEC certification with the LPSC on July 17, 1997 and its application was approved by the LPSC on October 22, 1997.

The Cox network consists of over 300 fiber miles and more than 3200 coax cable miles. The current network extends throughout metropolitan New Orleans. Operating currently as a Competitive Access Provider (CAP), Cox serves the Downtown New Orleans Central Business District, Orleans Parish, Gretna, West End, Metairie, Kenner, Briarwood, Jefferson Parrish, and St. Charles areas. Cox Fibernet has continued to expand its fiber optic backbone during late 1996 and the first half of 1997 at a rate of over 50 route miles per month and has recently completed facilities to serve the New Orleans International Airport.

The network currently provides DS0 through DS3 dedicated access services, Wide Area Network (WAN) services, Internet Access, and private line services. Cox Fibernet is installing an Ericsson AXE central office switch and has announced plans to begin offering wireline facility-based local exchange services to both residential and business customers by the end of 1997 or early 1998.

Cox has publicly stated its intent to serve residential as well as business customers in the New Orleans market using its own wireline hybrid coax/fiber facilities. The Cox network passes over 428,000 homes in the New Orleans area and currently has approximately 275,000 CATV subscribers. Cox has recently completed successful trials of its telephony over cable services in the Hampton Roads, Virginia and Orange County, California areas. With the success of these test markets Cox has announced the immediate commercial availability of facility-based local exchange services in these markets and an accelerated rollout of these services to other larger Cox systems including New Orleans.

During 1996, Cox began a television, radio, and print advertisement campaign in its major markets including New Orleans. The advertisements focused consumer attention on sweeping changes within Cox Communications and the communications industry as a whole. The Cox advertisements told Louisiana consumers that television, computers, and telephone service are converging through Cox's fiber optic broadband network. Additional Cox advertising campaigns in New Orleans focused on reliability, customer service and technology. Cox has won several awards in the cable industry for customer service, and the CATV industry market research indicates that Cox's customer service compares favorably with the incumbent local exchange carrier in several markets. Cox has told its shareholders that its customer service reputation will help it compete for telephony service in its major markets including New Orleans.

Cox is franchised to provide CATV services in the following Louisiana areas : Jefferson Parish, Orleans Parish, St. Charles Parish, Kenner, Gretna, Harahan, Lafitte, Westwego, LaFourche Parish, and Plaquemines Parish.

As can be seen by the press releases provided in Attachment WLPE-G included in the Public Exhibit of this affidavit, Cox is preparing rapidly for an accelerated rollout of facility-based local exchange services to both businesses and residences nationwide beginning with its largest current CATV market clusters. New Orleans is currently among Cox's top national market clusters.

Cox Fibernet has a national affiliation with Teleport Communications Group (TCG). Cox currently partners with TCG in a number of markets including BST's South Florida serving area. Cox Communications, the parent company of Cox Fibernet, is a majority partner with a 30% equity stake in TCG. TCG signed a negotiated interconnection agreement with BellSouth which provides for interconnection with and the unbundling and resale of BellSouth facilities and services in Louisiana on July 15, 1996 which was reviewed and approved by the LPSC on August 27, 1997.

Another TCG equity partner, TCI owns and operates a subsidiary, Digital Direct, which was certified by the LPSC on August 20, 1996 to provide CAP services. Digital Direct currently provides private line services in the Baton Rouge market and has indicated it will offer CAP services in Lake Charles.

Cox is an equity partner in Sprint Spectrum, a joint venture with Sprint, TCI, and Comcast to provide personal communications services (PCS) and local telecommunications services on a national basis using the facilities of the cable companies. On January 31, 1996, the local service agreements were revised and

local offerings in each market are now subject to individual joint ventures to be negotiated between Sprint and the applicable cable company partners or affiliated cable companies. The Sprint Spectrum joint venture will have access to more than 30 million customers, or one-third of American households. The cable partners already serve over 20 million customers and will be signing affiliation agreements with other cable companies to reach even more. The joint venture will cover 48 states and the 50 largest markets in the country.

Cox has a 15 percent stake in TeleWest, the largest cable television and cable telephony provider in the U.K. TeleWest has approximately 475,000 cable subscribers, 500,000 residential telephony customers, and 16,000 business subscribers (50,000 business lines) in mid-1996. TeleWest had achieved over 25% penetration in the residential telephony market in the U.K. by the end of 1996. This U.K. marketing experience will be utilized in its domestic facility-based local exchange rollout. Cox also has an interest in StarSight, an on-screen programming guide; Syntellect, a supplier of cable information systems technology; PRIMESTAR satellite; and equity stakes in several cable television programming channels.

In addition to Cox's wireline facility-based capabilities in the New Orleans area and those of its Louisiana partners, Cox Communications is an equity partner in the Sprint Spectrum PCS venture, along with TCI and Comcast, which currently offers wireless PCS services to both residential and business customers in the New Orleans market. Sprint Spectrum operates under the name of Sprint PCS in New Orleans and is currently using Cox wireline facilities to accelerate the expansion of its New Orleans PCS network infrastructure.

Cox began marketing long distance services to its New Orleans residential subscribers during the first half of 1997 in partnership with Frontier Corporation. With the continued expansion and enhancement of Cox's current New Orleans fiber/coax wireline facilities and the potential ability to bundle wireline and wireless communications services along with CATV and Internet access services as attractive consumer service packages, the New Orleans market appears to be a likely target market for Cox's announced "one-stop shopping " strategy as outlined in the information provided in Attachment WLPE-G of his affidavit.

A detailed description of Cox's New Orleans current fiber network operations is included as Attachment WLCE-E of the Confidential Exhibit. The current revenue opportunities clearly addressable within a 3000 foot buffer of Cox's New Orleans fiber network should assist in understanding the current level of increased activity on the part of Cox, and its partners TCG and Sprint PCS, to rapidly enter the wireline local exchange market in New Orleans by early 1998. Indeed one Cox representative in New

Orleans contacted by Keep America Connected stated that residential services would be indeed offered after January 1, 1998. [*Request Denied*, Pg. 5 (Attachment WLPE-I of the Public Exhibit)].

Entergy/Hyperion **(New Orleans and Baton Rouge)**

Entergy Corporation, headquartered in New Orleans, LA, is an energy company with worldwide power production and diversified electric service operations. Entergy Technology Company (ETC), an unregulated subsidiary of Energy Corporation operates Entergy Corporation's backbone fiber optic network and directly markets to long haul telephone carriers and other large corporate users.

Entergy's backbone telecommunications system currently consists of approximately 700 miles of fiber optic and microwave links running from New Orleans through Jackson, Mississippi to Pine Bluff and Little Rock, Arkansas. Entergy indicates that by the end of 1997 an additional 500 miles of fiber backbone will extend from New Orleans through Baton Rouge and Lake Charles, Louisiana to Beaumont and Bryan, Texas.

In Louisiana Entergy formed a partnership with Hyperion Telecommunications to construct and operate fiber optic networks in Baton Rouge and New Orleans with the intent of marketing telecom services including local exchange services directly to end users. The partnership was established as an Arkansas Limited Liability Company on April 15, 1997 under the name Entergy Hyperion Telecommunications of Louisiana, L.L.C., which in this affidavit will be referred to as Entergy/Hyperion.

Hyperion Telecommunications is an 89% owned subsidiary of Adelphia Communications Corporation. Hyperion designs, builds, operates, and manages fiber optic networks nationwide in conjunction with AT&T, MCI, Sprint, and WorldCom. In its Registration Statement with the SEC, dated December 27, 1996, Hyperion states that it "believes it is the third largest competitive local exchange carrier in the United States based upon publicly available data on route miles". In Louisiana, Hyperion will manage Entergy's statewide fiber network and market the network's capacity to other carriers and directly to end-users.

Hyperion's stated national strategy for local market entry as stated in its S-1 filing is:

- Develop a rapid entry/low cost approach with local partners
- Create additional partnerships with utility companies
- Build broad network coverage in markets
- Expand through development of network clusters by growing existing networks to nearby markets and constructing new networks near existing facilities
- Leverage strategic relationships with IXCs
- Expand Enhanced Service Offerings (frame relay, ATM, etc.)

Within the BST region, Hyperion's actions have followed this stated plan. In Jacksonville, Florida it has partnered with US West Media Group's Continental Cablevision; in Louisville, Kentucky with TKR Cable; in Nashville, Tennessee with InterMedia Partners, and in Louisiana and Mississippi with Entergy. In South Florida it has sold its equity interest in TCG of South Florida to allow it to expand into the market independently. In Kentucky it is expanding to serve Lexington. In Tennessee it is planning network expansions off its Nashville base into nearby cities. In several of its national markets including Jacksonville, FL and Louisville, KY, Hyperion has partnered with the US West Enterprise subsidiary to deliver advanced data networking services to business customers. In Louisiana and Mississippi, its switching facilities in Baton Rouge and Jackson will allow it to provide local exchange services to other cities using Entergy's extensive fiber routes throughout the adjoining states.

Entergy/Hyperion Telecommunications applied for facility-based CLEC certification in Louisiana on May 19, 1997. The LPSC approved the application and issued a certificate on August 21, 1997. Entergy/Hyperion is currently in the process of finalizing an interconnection agreement with BST to provide for interconnection with BST's Louisiana network as well as the unbundling and resale of BST's current network services, features, and functions.

The LPSC approved Entergy/Hyperion's local exchange service tariff in August 1997. The tariff offers a full range of local and intrastate telecommunications services to both residential and business customers. Section 6 of the tariff contains descriptions and terms and conditions for Entergy/Hyperion's planned "Residential Network Switched Services" while the rate schedule for these services is included in Section 12 of the tariff. Entergy/Hyperion offers residential customers a measured-rate facility-based service offering while business customers served over Entergy/Hyperion's network may select from both measured and flat-rate service options. A copy of

Entergy/Hyperion's tariff is included as Attachment WLPE-H of the Public Exhibit provided as part of this affidavit.

Attachment WLCE-F in the Confidential Exhibit offers a detailed description of Entergy/Hyperion's current network operations in the state of Louisiana as well as maps of Entergy/Hyperion's New Orleans and Baton Rouge fiber locations.

Entergy is a well known and respected utility company in the Louisiana electric power market, and Hyperion is a well qualified and experienced provider of facility-based telecommunications services with approximately 400,000 voice grade equivalent (VGE) circuits in service nationwide. This partnership with its strong potential for adding additional Louisiana partners poses a significant competitive threat to BST's current local revenue streams within Louisiana.

Entergy/Hyperion has publicly stated that its initial focus for facility-based local exchange marketing will be the business end-user. BST's historical experience with Hyperion in the other markets where it is operational within the BST region would confirm Hyperion's stated intentions. However, clearly the Entergy/Hyperion partnership in Louisiana will serve residential local exchange service customers utilizing their own facilities. Entergy/Hyperion has publicly announced a goal of serving Baton Rouge area local exchange customers on a facility-based basis by the end of 1997 and as shown in Attachment WLCE-F Entergy/Hyperion will have the capabilities to achieve that goal well before the end of the year.

ITC DeltaCom

ITC DeltaCom is a subsidiary of Georgia-based ITC Holding Co. and is a regional long-distance company in the southeast that has traditionally focused on the business market. ITC DeltaCom's regional fiber-optic network extends throughout 8 of the 9 states in the BST region. ITC DeltaCom also offers Internet access through MindSpring Enterprises Inc., another subsidiary of ITC, and Viper, a leading Internet access provider in the Southeast, that ITC DeltaCom acquired in June 1996. The current ITC DeltaCom network currently comprises over 5000 miles of fiber-optic cable and spans the Carolinas, Georgia, Florida, Alabama, Mississippi, Louisiana, and parts of Texas and has announced that it will complete another 1200 miles of fiber deployment during 1997 and 1998.

ITC DeltaCom has constructed a series of SONET-rings along its fiber routes in order to provide self-healing HICAP access and transport services. Eventually, the company plans to offer access services to all 44 LATAS in the BellSouth region. The regional fiber network delivers digital telecommunications long haul transport at DS3 bandwidths and above to other carriers and large corporate customers. Its dedicated access offerings are

delivered in a variety of options from DS1 to OC-3. The company has also installed 64-port Signal Transfer Point (STP) systems in mated pairs within the company's network, which allow customers to have access to Signaling System 7 (SS7) functionality. ITC DeltaCom offers interLATA and intraLATA long distance and private line services throughout its network and operator services through its subsidiary, InterQuest Inc. InterQuest markets a wide range of automated and live operator services to interexchange carriers (IXCs), independent Telcos, coin-operated and customer-owned (COCOT) providers, hotels/motels, and cellular companies.

ITC DeltaCom's parent, ITC Holdings, also owns interests in several other BellSouth competitors including InterCel, a wireless provider with licenses throughout the BellSouth region including Louisiana, and Cybernet Holding Company, which owns and operates CATV properties in Columbus, GA and Montgomery, AL.

InterCel provides wireless services utilizing PCS spectrum licenses under the name PowerTel, which currently owns licenses extending into Louisiana. PowerTel signed an interconnection agreement with BST on April 1, 1997 and the agreement was approved by the LPSC on June 10, 1997.

Cybernet Holding Company owns and operates Montgomery CableVision in Montgomery, AL which has been offering Montgomery residences discounted cable services when they purchase ITC DeltaCom long distance and/or select MindSpring as their ISP. Cybernet also operates CATV properties in Columbus, GA and has stated its intent to expand its CATV properties throughout the southeast. Cybernet signed a separate interconnection agreement with BST for interconnection, unbundling, and resale services in Louisiana on May 1, 1997 which was approved by the LPSC on August 28, 1997. Cybernet has announced its intentions to offer its residential CATV customers a bundled package of CATV, Internet access, access to long distance services, and local exchange telephone services. As of October 31, 1997 BST had not been able to determine the current serving areas of Cybernet-owned CATV properties currently operating in Louisiana.

ITC DeltaCom currently maintains access nodes and points of presence (POPs) in New Orleans, Baton Rouge, Lafayette, Lake Charles, Monroe, and Shreveport. Its affiliated ISP, MindSpring, maintains Internet access POPs in New Orleans, Baton Rouge, Lafayette, and Shreveport. ITC DeltaCom's Louisiana fiber routes are constructed along Entergy Corporation's electric utility rights-of-way and portions of its fiber are actually contained within the static wire attached at the top of Entergy's high power transmission lines along with Entergy's own fiber optic lines. As a result of this cooperative agreement, ITC DeltaCom's intercity fiber routes in Louisiana closely mirror those owned and operated by Entergy.

ITC DeltaCom publicly announced its intention to offer local exchange service throughout its service area during the second quarter of 1997. ITC DeltaCom initiated both resold and facility-based business local exchange service offerings on a limited basis in selected Alabama markets during June 1997. ITC DeltaCom's current core long distance business focuses on the business market and BST anticipates that business customers will remain the primary target of any future local exchange service marketing efforts. Business customers have clearly remained the focus of its early local exchange market entry efforts in Birmingham and Montgomery, Alabama.

ITC DeltaCom's market entry timetable for the provision of local exchange services in Louisiana has not yet been publicly announced. ITC DeltaCom signed a negotiated interconnection, unbundling, and resale agreement with BST on March 12, 1997 which was approved by the LPSC on June 10, 1997. ITC DeltaCom requested LPSC certification as a facility-based CLEC on October 11, 1996 which was approved by the LPSC on August 21, 1997. The ITC DeltaCom local exchange service tariff filing was approved by the LPSC in August 1997. As of October 31, 1997 BST competitive research efforts have been unable to determine if ITC DeltaCom will initially provide Louisiana business and residential wireline local exchange services on a facility-based basis only, on a resold basis only, and/or a combination of both provisioning methods.

ITC DeltaCom indicated in its public comments on BST's South Carolina Section 271 application (CC Docket 97-208), which were included as part of the ALTS comments, that its Confidential South Carolina Business Plan calls for the provisioning of wireline facility-based local exchange services to both residential and business customers within the state at some point in the future.[Affidavit of Steven D. Moses on Behalf of ITC DeltaCom, Inc., ALTS Comments in Docket 97-208, Attachment C, Pg. 10, Paragraph 21-22]. ITC DeltaCom cites as public evidence of its intentions a number of actions in South Carolina, which it has also taken in the Louisiana market, including signing and gaining PSC approval of its interconnection agreement with BST and its public announcements to provide local exchange services throughout its serving area.[Id.] The ALTS Docket 97-208 comments include as further public evidence of ITC DeltaCom's financial commitment to provide "wireline residential and business local exchange services" its approved CLEC certification request, negotiated collocation agreement with BST, and its local exchange tariff filing.

While the ALTS comments and Mr. Moses' affidavit were filed with the Commission in opposition to BST's South Carolina 271 application BST assumes that ITC DeltaCom will maintain that it indeed plans to provide facility-based wireline local exchange

services to both business and residences in Louisiana at some point in the foreseeable future. In support of this affirmation, ITC DeltaCom, and presumably ALTS, will likely cite similar events such as certification, signed agreements, and filed tariffs relevant to Louisiana market entry. These occurrences have been documented by BST in this affidavit with respect to ITC DeltaCom's current level of activity in Louisiana.

BST regulatory competitive research did not have access to, and still does not have access to, ITC DeltaCom's Confidential Business Plan for local exchange market entry in South Carolina. The BST statements concerning ITC DeltaCom's market entry plans in South Carolina, which were included in my South Carolina affidavit and BST's South Carolina Brief, were based solely on BST's knowledge of ITC DeltaCom's actual marketing focus and in-service provisioning methods in those BST markets where it is currently an active, as opposed to potential, provider of facility-based local exchange services. Similarly BST has asserted in this affidavit that it fully expects ITC DeltaCom to focus its initial facility-based market entry in the Louisiana local exchange market on the business customer.

BST has subsequently been made aware of ITC DeltaCom's publicly stated local exchange market entry strategies in much greater detail than was previously available to BST, or to the South Carolina Public Service Commission, with respect to ITC DeltaCom's business plans in South Carolina. BST also assumes that ITC DeltaCom will maintain a similar, if not identical position, with respect to its potential to be a facility-based provider in Louisiana at some point in the future. BST does not in any manner dispute the fact that ITC DeltaCom may indeed enter the Louisiana local exchange market at some point in the future, as well as ITC DeltaCom markets throughout the BST region including South Carolina, as a financially and technologically capable provider of facility-based local exchange services to all customers. BST does, however, firmly assert that the market entry and market expansion plans of many potential facility-based providers, such as ITC DeltaCom, AT&T, MCI, and others, will only be accelerated, expanded, and implemented to the fullest extent possible once market conditions such as BST's entry into interLATA services force an economic commitment to serve all customers both residence and business.

Other Potential Wireline Facility-based CLECs

This section of the affidavit briefly discusses the activities of selected wireline CLECs which have announced their intentions to construct and operate network facilities for providing facility-based local exchange services to Louisiana telecommunications customers in the future. It is not the intention of this section to discuss each and every potential Louisiana wireline facility-

based competitor in detail, but rather to briefly outline the announced plans and current progress of some of the more nationally known potential CLECs in the Louisiana market as well as some of the more recognized local Louisiana potential wireline CLECs.

Advanced Tel (EATEL)

Advanced Tel is a wholly owned subsidiary of EatelCorp, Inc. EatelCorp is the holding company for East Ascension Telephone Company, an independent telephone company headquartered in Gonzales, LA. which provides local exchange services in Ascension and Livingston Parishes, Louisiana. EatelCorp also owns a 24.3% interest in MereTel Communications, L.P., a licensed PCS provider in Louisiana. MereTel is licensed by the FCC to construct and operate a wireless facility-based PCS system utilizing Block C frequencies in the Baton Rouge and Lafayette MTAs. A more detailed discussion of MereTel's Louisiana operations is included later in this affidavit as part of an examination of current wireless PCS operations throughout Louisiana.

Advanced Tel applied for CLEC certification on October 22, 1996 and was approved and certificated by the LPSC on February 4, 1997. Advanced Tel signed a resale agreement with BST on February 18, 1997 which was approved by the LPSC on March 19, 1997.

Prior to its CLEC certification, Advanced Tel had been certified by the LPSC as a long distance service provider, operator service provider, long distance reseller, and public pay telephone service provider. Advanced Tel also provides paging, answering and directory assistance services in Louisiana. On July 28, 1997 Advanced Tel filed a Wireless Communications Service Tariff and registration with the LPSC declaring its intent to provide wireless PCS in the Baton Rouge and Lafayette BTAs. Advanced Tel will operate its PCS, CLEC, long distance, and pay phone services under the same name. Advanced Tel's PCS offering will apparently be provided through resale of its affiliate's, MereTel, facility-based PCS offerings. Although currently offering wireline local exchange services to both business and residence customers only on a resold basis, BST expects EATEL to enter the wireline local exchange service market outside its currently franchised Louisiana serving area during 1998.

EatelCorp, and its ILEC operating company East Ascension Telephone Company, are now, and have been for many years, well established and respected participants in the local exchange service market in Louisiana. EATEL's current independent company serving area has provided it with a wealth of knowledge and experience concerning the expanding local exchange service market in Louisiana and should serve as a valuable base for both wireline and wireless expansion into new geographic markets within the state. EATEL's ability to bundle its wireline and

wireless with local and long distance offerings should serve to offer Louisiana local exchange business and residential customers an attractive competitive choice for telecommunications services from an established provider.

Metropolitan Fiber Systems (MFS)/ WorldCom

Metropolitan Fiber Systems (MFS) is one of the world's largest and most successful CAPs. In December 1996, MFS merged with LDDS/WorldCom, the fourth largest long distance carrier in the U.S. and UUNET Technologies, which it had recently acquired. UUNET is the world's leading facility-based Internet service provider. As a result of the merger of these three companies, WorldCom combined more than 50 local metropolitan networks in the US and Europe with UUNET's global Internet backbone and over 1000 points-of-presence worldwide.

WorldCom's combination of local, long distance, and Internet backbone facilities offers uniquely extensive local coverage capabilities which exceed those of almost all its competitors including AT&T and MCI. In recent weeks, WorldCom added the Internet facilities of Compuserve and the business customers of America On-Line (AOL) and is currently finalizing an agreement to acquire the customers and facilities of Brooks Fiber Properties, a major CAP/CLEC market participant in BST's region. In addition to these recent mergers, WorldCom is currently in the process of attempting to acquire MCI, the nation's second largest long distance provider, which when finalized would add the long distance and Internet service facilities and POPs of MCI and the local networks of MCI Metro to its current network and switching infrastructure. One possible offer under consideration in a WorldCom and MCI merger would result in WorldCom/MCI retaining a partnership and strategic alliance with British Telecom, an major international carrier with well published desires to enter the United States' local and long distance market.

MFS has previously stated its plans to enter the New Orleans local market and filed an application with the LPSC to provide intrastate access and private line services statewide as a CAP on August 4, 1994 and requested CLEC authority and certification on February 20, 1997. The LPSC had not approved either application as of October 31, 1997. MFS has not yet signed an interconnection agreement with BST for Louisiana.

Brooks Fiber had publicly announced plans for construction and operation of a fiber optic network in Baton Rouge and reportedly began negotiations to secure rights-of-way within the city's central business district. However, as of October 31, 1997 Brooks Fiber had not requested CLEC authority from the LPSC nor has it sought to expand its current interconnection agreements with BST to include the state of Louisiana.

UUNET currently operates a Regional SuperNode in New Orleans as

part of its national fiber-based Internet backbone, and both Compuserve and AOL operate numerous Internet access POPs within the state.

There has been much speculation on Wall Street, and in the telecommunications industry trade press, as to the implications of WorldCom's recent acquisition upon the telecommunications market within the US. Suggestions have been made that AOL may at some point utilize its Internet brand name to market competitive local exchange services to its subscribers. Significant portions of this local exchange traffic would be delivered in Louisiana utilizing network infrastructure currently owned and/or operated by WorldCom.

It has been estimated by market researchers that approximately 70% of WorldCom's current revenues are attributable to business customers. MFS and Brooks Fiber have clearly focused their current facility-based CLEC marketing efforts on the business customer throughout their active markets in the BST region as has MCI Metro. With this in mind, BST expects WorldCom's initial CLEC expansion into Louisiana's competitive local exchange market to focus primarily on business accounts.

With WorldCom's management team currently focused on further expansion by acquisition, as well as consolidating and leveraging the natural synergies of its present holdings, BST does not expect WorldCom to actively enter the Louisiana CLEC market as a facility-based provider prior to the middle of 1998. Clearly upon entering the Louisiana market on a facility-based basis, WorldCom will be a powerful and well positioned local exchange market participant throughout the state.

MCI Metro

(New Orleans and Baton Rouge)

MCI Metro filed with the LPSC for facility-based CLEC authority on January 30, 1997 and was approved on August 29, 1997. MCI had previously announced its intentions to construct and operate networks in both the New Orleans and Baton Rouge metropolitan areas. As of October 31, 1997 BST had been unable to identify any MCI Metro construction efforts in either market, apart from its assistance of ACSI during the construction phase of ACSI's three Louisiana networks. MCI Metro's proposed fiber routes in the New Orleans area closely align with ACSI's current operational network in New Orleans.

In light of MCI's recently reported financial difficulties in deploying its own local network facilities in other markets, BST anticipates that MCI Metro will utilize its strong working partnership with ACSI to expedite its planned facility-based local exchange market entry in Louisiana. As previously discussed, ACSI is currently operational in Louisiana's three largest telecommunications markets. ACSI's operational networks in New

Orleans, Baton Rouge, and Shreveport possess sufficient local transport capacity to support significant local exchange market penetration in each city. The ACSI network routes are particularly suited to serving business customers in each of the markets and business customers have historically been the sole target of MCI Metro's facility-based local exchange marketing efforts in Atlanta, Memphis, North Carolina, and Florida.

MCI Metro signed a Louisiana interconnection, unbundling, and resale agreement with BST on August 7, 1997 which was pending LPSC approval as of October 31, 1997. BST expects MCI Metro to enter the Louisiana local exchange market immediately upon obtaining the required LPSC approvals. MCI Metro will begin serving Louisiana customers on a resold basis by early 1998 and BST expects these customers to be migrated to MCI's facility-based services by the end of next year.

AT&T

AT&T originally filed for CLEC authority with the LPSC on February 29, 1996. AT&T's application was approved and a certificate was issued on November 1, 1996. AT&T signed an interconnection agreement with BST on July 17, 1997 which was approved by the LPSC on October 22, 1997.

In June 1996, AT&T's Chairman Robert Allen announced an aggressive plan for AT&T entry into the local exchange services market by stating that the company would have "20% of the market by the year 2000," and eventually have one-third of the local traffic. AT&T talked of plans to offer a "bundled service package" of local, long-distance, PCS, cellular, Internet access, and DBS entertainment services. AT&T reportedly was considering a number of options to facilitate rapid market entry including resale of ILEC services, building its own facilities, using its wireless facilities, partnering with CAPs, and partnering with CATV companies.

Within Louisiana, as it has throughout the BST region and the nation, AT&T's local exchange market efforts have focused almost entirely on media relations, marketing "tests", lobbying state and federal regulatory agencies, and occasional legal challenges. AT&T's current participation in the local exchange market place within BST's region is limited to the resale of BST's local services in two Tier III markets in Georgia, Augusta and Macon. AT&T has not matched other smaller carriers in actually taking concrete steps to do business as a local exchange service provider. As a result, AT&T has not disclosed any specific plans or proposed schedule for offering competitive local exchange service in Louisiana.

In its CLEC application to the LPSC, AT&T stated that it intended to provide competitive local exchange services in Louisiana initially through the resale of BST's retail service offerings with

facility-based service offerings to made available at a later date. AT&T stated its facility-based services would be provided utilizing its own facilities as well as those acquired from other facility-based providers including the use of unbundled network elements provided by the incumbent LEC. During the first half of 1996, AT&T announced agreements with ACSI, Brooks Fiber, Hyperion Telecommunications, ICG, and Time Warner Communications, to resale facility-based local services and to utilize their networks for delivery of AT&T local services in 70 major markets nationwide. New Orleans, Baton Rouge, and Shreveport are included in the markets covered by these agreements.

In August 1996, AT&T announced plans to build a 350-route mile network in the Chicago metropolitan area for the provisioning of facility-based local exchange services. The Chicago plan called for installation of three switches in Chicago, one in downtown and two in the suburbs. AT&T also announced that it would build networks in additional major markets, but would name the specific markets at a later date. Over one year has passed and little has been done in the Chicago trial and no additional major markets have been specified.

For these reasons, BST does not expect AT&T to make any serious attempt to enter the competitive local exchange market in Louisiana or elsewhere in the BST region until forced to by market conditions brought about by BST's entry into the interLATA market for telecommunications services. Until this occurs, BST expects AT&T will continue to "test" its local exchange delivery systems along with the patience of consumers and regulators alike.

Others

ALEC Inc., AXSYS Inc., Competitive Communications Inc. (CCI), Comm Depot, Cybernet Group, Fiber South, GNET, Hart Communications, Intermedia (ICI), IntelCom Group (ICG), Interstate Telephone, National Telephone, Southeast Telephone, Sprint, Teleport Communications Group (TCG), Time Warner Communications (TWC), Tricomm, and US LEC have all announced plans to enter the Louisiana local exchange market on a facility-based basis at some point in the future. Many of these potential Louisiana providers currently operate facility-based local exchange networks in other BST states. Fiber South, ICI, National Telephone, Sprint, TCG, TWC, and US LEC are vibrant facility-based competitors in other BST markets. Cybernet and Interstate Telephone are affiliates of ITC DeltaCom which operates networks throughout the BST region including Louisiana.

BST anticipates that during 1998 a significant number of these potential facility-based CLECs will indeed begin offering competitive local exchange choices to tens of thousands of Louisiana customers. However, as of October 31, 1997 the specific Louisiana market entry plans of these CLECs have not yet been verified by BST research efforts.

Current Wireless PCS Providers

Sprint PCS (New Orleans)

Sprint PCS signed a local interconnection agreement with BST on April 14, 1997 which approved by the LPSC on August 27, 1997. This Sprint Spectrum company registered with the LPSC and filed a Louisiana wireless PCS tariff under the name of Wireless Co., but has operated its network in the New Orleans market since May 1997 under the Sprint PCS brand name.

Sprint PCS, also known as Wireless Co. and Sprint Spectrum LP, is a joint venture between Sprint Corp. (40%), Tele-Communications Inc. (TCI, 30%), Cox Communications (15%), and Comcast. In March 1995, Sprint PCS won 29 MTA licenses in the FCC's Block A and Block B PCS auctions, the most of any single bidder. The joint venture gained affiliate rights to an additional 139 licenses acquired by Sprint Com, a wholly owned subsidiary of Sprint Corp., in the recent D and E block auctions. The total licensed coverage for Sprint PCS services is currently estimated at over 260 million people in the U.S. and its territories.

The Sprint PCS basic New Orleans market service package includes voicemail, caller ID, call waiting, three-way calling and detailed billing as standard features. There is no service activation fee, no separate interconnection charges, and no long-term service contract requirements. The first minute of each incoming call in the New Orleans Home Service Area is free. Outside the New Orleans service area, customers pay a flat per minute "traveling rate" for all calls with no domestic long distance or roaming charges. The New Orleans Sprint PCS basic service package is priced at approximately 10% below conventional cellular service, and competes with traditional wireline basic local exchange service offerings for a significant number of low-use Sprint PCS residential and business customers. As previously stated in this affidavit, Sprint PCS is closely affiliated with the wireline CLEC, Cox Fibernet, in the New Orleans market.

PrimeCo

(New Orleans)

PrimeCo Personal Communications, L.P., a partnership between AirTouch, NYNEX, Bell Atlantic, and the US WEST Media Group, currently provides wireless communications services to both residence and business customers in the New Orleans area utilizing PCS spectrum and technologies. PrimeCo's current New Orleans service area includes the Central Business District, French Quarter, Uptown, Gretna, Timberlane, Arabi, Jefferson, Metairie, Kenner, and the New Orleans International Airport area.

PrimeCo's PCS service was introduced in the New Orleans market in November 1996 and has continued to experience successful subscriber

growth via partnerships with local and regional retailers including Wolf Camera, Video Plus, and Mobile One Communications. PrimeCo signed a negotiated interconnection agreement for the exchange of local traffic with BST on April 15, 1997 which was approved by the LPSC on August 27, 1997.

The PrimeCo New Orleans service package is very similar in design and pricing to that offered by Sprint PCS. It competes very favorably with traditional cellular service offerings, as well as wireline basic local exchange service offerings, for a number of New Orleans business and residential customers.

MereTel

MereTel Communications, L.P., currently operates as a licensed PCS provider in Baton Rouge, Louisiana. MereTel is licensed by the FCC to construct and operate a wireless facility-based PCS system utilizing Block C frequencies in the Baton Rouge and Lafayette BTAs. EatelCorp, which operates as a Louisiana wireline CLEC under the name Advanced Tel, owns a 24.3% interest in MereTel.

MereTel currently markets its PCS wireless services as EATEL PCS in Baton Rouge and Lafayette. Advanced Tel will also market MereTel's PCS along with its own wireline CLEC services, long distance, and pay phone services under the Advanced Tel brand name.

MereTel signed a BST interconnection agreement on July 14, 1997 which will soon be allowed to take effect. MereTel's Mobile Telephone Switching Office (MTSO) in Baton Rouge is currently operational and interconnected with BST's Local/LATA tandem in Baton Rouge. MereTel and BST are currently in the process of establishing interconnection services with MereTel's MTSOs in Lafayette and Lake Charles which should be completed during November 1997.

MereTel provided PCS services currently compete with traditional wireless services as well as wireline local exchange services in Baton Rouge, and will be available in Lafayette and Lake Charles by the end of 1997. Hammond, LA and other cities within the MereTel licensed coverage area are expected to be introduced to MereTel PCS during 1998.

Other Potential Wireless PCS Providers

Mercury PCS II has installed a MTSO in Lafayette and signed a negotiated interconnection agreement with BST on September 16, 1997 which is currently pending LPSC approval. AT&T Wireless signed a negotiated interconnection agreement with BST on March 17, 1997 which was approved by the LPSC on June 20, 1997. BST expects both these licensed wireless PCS providers to begin rollout of PCS wireless during 1998.

LOUISIANA LOCAL EXCHANGE RESALE PROVIDERS

The resale of BST local exchange services by CLECs allows immediate market entry without large capital outlays. Resale fosters the availability of consumer options in the Louisiana local exchange service market. The resale of BST local exchange services began in Louisiana in April 1997 with a total of 33 resold business access lines in service as of April 30, 1997. As of October 1, 1997 over a dozen Louisiana CLECs were providing over 7000 resold lines almost equally split between business and residence customers. A breakdown of current resale activity via approved resale agreements with BST is provided in Attachment WLCE-J of the Confidential Exhibit to this affidavit.

BST expects resold services to continue to remain a vibrant segment of the Louisiana CLEC industry in the future. The resale of BST services by emerging facility-based carriers will also continue to grow as these CLECs complete planned expansions to their own local network infrastructure.

BST Louisiana Revenues

The high concentration of BST business revenues in select Louisiana metropolitan areas makes the Louisiana market extremely attractive to a wide variety of both wireline and wireless access and local exchange service competitors.

Approximately 30% of all BST business revenues in Louisiana are concentrated in approximately 2.0% of BST's total geographic serving area. This geographic area is currently served by only 7 wire centers while some 118 of BST's Louisiana rural wire centers generate only 5% of the state's business revenue stream. While Louisiana wireline and wireless competitive local exchange service providers are clearly in the expansion stage of participation in the Louisiana facility-based local services market, the vulnerability of BST's highly concentrated Louisiana local exchange and access revenues will be exploited to a much greater degree as major facilities-based CLECs gain greater experience in the marketing and delivery of local exchange services and continue to expand their addressable markets. These CLECs have already developed a strong market presence with medium and large businesses in state's key markets Baton Rouge, Shreveport, and the Greater New Orleans area. Competitor's network facilities are currently in-service or nearing completion throughout the state to support rapid expansion of both wireless and wireline facility-based competition in metro areas statewide by the end of 1997. Wireline facility-based CLECs have made and are continuing to make large investments in Louisiana's key telecommunications markets and wireless local service competitors utilizing PCS spectrum and technologies are currently thriving in the state's largest market, New Orleans and are now expanding to local service markets statewide.

Conclusion

The market entry of additional facility-based competitors including AT&T, MCI, Sprint, and WorldCom is not likely to occur until sometime in 1998. Although in 1996, BST predicted market entry in early 1997. Dozens of other potential facility-based competitors including Brooks Fiber, Fiber South, ICI, ICG, and TCG have indicated their intentions to enter Louisiana's competitive local exchange market in the coming months. Clearly American MetroComm, KMC Telecom, Entergy/Hyperion, Shell Offshore Services, and Cox FiberNet will be offering wireline facility-based local exchange services by the end of 1997 or very early in 1998. Sprint Spectrum, PrimeCo, and MereTel currently provide wireless PCS to thousands of Louisiana business and residence customers. ACSI has been serving business local exchange customers in New Orleans on a facility-based basis since August 1997.

Louisiana's local exchange market is currently open to local exchange service competition on a facility-based and resale basis to both wireline and wireless competitors.

This affidavit clearly demonstrates the early successes achieved by the Louisiana Public Service Commission, BellSouth, the FCC, and the CLEC industry in bringing competitive choices to the people of Louisiana. A strong statewide alternative infrastructure is in place. Multiple local networks are in operation in Louisiana's major business centers. CLECs have invested tens of millions of dollars in their own facilities as well as teaming, cooperating, and sharing network infrastructure and capacity to assure their combined success. Microwave, fiber, PCS, coaxial cable, and other technologies in use by dozens of CLECs and potential CLECs are combining to allow statewide facility-based coverage to almost every Louisiana local exchange customer. BST has clearly offered its statewide network facilities and functions to all CLECs to assist in this combination and facilitate service delivery throughout the state.

The competitive market must now dictate the future course of competition in the local Louisiana telecommunications industry. BST can conceive of no greater, or more easily implemented, market incentive to encourage and expedite even greater availability of competitive choices for all Louisiana customers than to grant BellSouth's application to enter the interLATA services market in Louisiana.