

S T O L L

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August 15, 2005

Ms. Elizabeth O'Donnell  
Kentucky Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, Kentucky 40601

RECEIVED

AUG 15 2005

PUBLIC SERVICE  
COMMISSION

**RE: Case No. 2004-00234**

Dear Ms. O'Donnell:

Enclosed for filing in the above-referenced case are the original and six (6) copies of the Direct Testimony of Richard T. Guepe on behalf of AT&T Communications of the South Central States, Inc. Please indicate receipt of this filing by your office by placing a file stamp on the extra copy and returning to me the enclosed, self-addressed stamped envelope.

Sincerely,



C. Kent Hatfield  
Counsel for AT&T of the  
South Central States, Inc.

CKH:jms

enc.

cc: Parties of Record

**BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION**  
Frankfort, Kentucky

RECEIVED

AUG 15 2005

PUBLIC SERVICE  
COMMISSION

In the Matter of: )  
Petition by AT&T Communications of the )  
South Central States, LLC and TCG Ohio, Inc. )  
for Arbitration of Certain Terms )  
and Conditions of a Proposed )  
Interconnection Agreement with )  
BellSouth Telecommunications, Inc. )  
Pursuant to 47 U.S.C. Section 252 )  
\_\_\_\_\_ )

Case No. 2004-00234

**DIRECT TESTIMONY OF  
RICHARD T. GUEPE**

**ON BEHALF OF  
AT&T COMMUNICATIONS OF THE SOUTH CENTRAL STATES, LLC and  
TCG OHIO, INC.**

**AUGUST 15, 2005**

1 **Q. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.**

2 A. My name is Richard T. Guepe. My business address is 1230 Peachtree Street,  
3 Atlanta, Georgia, 30309.

4

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am employed by AT&T Corp. as a District Manager in its Law & Government  
7 Affairs organization, providing support for AT&T's regulatory advocacy related  
8 to AT&T's intrastate telecommunications services.

9

10 **Q. BRIEFLY OUTLINE YOUR EDUCATIONAL BACKGROUND AND**

11 **BUSINESS EXPERIENCE IN THE TELECOMMUNICATIONS**

12 **INDUSTRY.**

13 A. I received a Bachelor of Science Degree in Metallurgical Engineering from the  
14 University of Notre Dame in South Bend, Indiana. I received a Masters of  
15 Business Administration Degree from the University of Tennessee in Knoxville,  
16 Tennessee. My telecommunications career began in 1973 with South Central Bell  
17 Telephone Company in Maryville, Tennessee, as an outside plant engineer.

18 During my tenure with South Central Bell, I held various assignments in outside  
19 plant engineering, buildings, and real estate, investment separations and division  
20 of revenues. At divestiture (1/1/84), I transferred to AT&T where I have held  
21 numerous management positions in Atlanta, Georgia, and Basking Ridge, New  
22 Jersey, with responsibilities for investment separations, analysis of access charges  
23 and tariffs, training development, financial analysis and budgeting, strategic

1 planning, regulatory issue management, product implementation, strategic  
2 pricing, docket management activities, unbundled network element cost case  
3 support and support for interconnection agreements.  
4

5 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY STATE PUBLIC**  
6 **SERVICE COMMISSION?**

7 A. Yes, I have testified on behalf of AT&T in Alabama, Florida, Georgia, Kansas,  
8 Missouri, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and  
9 Texas on product implementation issues, access and pricing issues, and policy  
10 issues.  
11

12 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

13 A. The purpose of my testimony is to provide the Kentucky Public Service  
14 Commission (“Commission”) with AT&T’s position and recommendation with  
15 respect to the remaining disputed interconnection issue in this arbitration.  
16 Specifically I address the following issue:

17  
18 Issue #30 Does BST have an obligation under section 251/252 to provide a  
19 transit function at TELRIC rates for local traffic originating or  
20 terminating to AT&T?

21 In the remainder of my testimony, I will first summarize AT&T’s position and  
22 explain why this Commission should approve AT&T’s position in the  
23 Interconnection Agreement (“ICA”).  
24

1           **Issue #30            Does BST have an obligation under section 251/252 to provide**  
2           **a transit function at TELRIC rates for local traffic originating or terminating**  
3           **to AT&T?**  
4

5   **Q.    PLEASE SUMMARIZE AT&T’S POSITION ON THIS ISSUE.**

6   A.   BellSouth does have an obligation under section 251/252 to provide the transit  
7       function at TELRIC rates. AT&T proposes ICA language that requires BellSouth  
8       to provide the transit function at TELRIC rates. The provision of tandem transit  
9       capabilities by ILECs, such as BellSouth, is required by the 1996  
10       Telecommunications Act. Such capabilities should be provided to competitive  
11       local exchange companies (“CLECs”) at rates that reflect forward-looking costs or  
12       TELRIC. As there are legal questions associated with this issue, I have sought  
13       legal assistance in my responses on this issue.

15   **Q.    WHAT IS TRANSIT TRAFFIC SERVICE AND WHY IS IT IMPORTANT**  
16   **TO CONSUMERS OF KENTUCKY?**

17   A.   Transit traffic is traffic originating on a local exchange carrier’s or CMRS  
18       provider’s network, such as AT&T’s CLEC network, that is switched and/or  
19       transported by another telecommunications service provider, such as BellSouth,  
20       and delivered to another local exchange carrier’s or CMRS provider’s network  
21       within the same LATA<sup>1</sup>. Transit traffic service is the provision of the switching  
22       and transport by the carrier in the “middle” of the call. Without this service,

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<sup>1</sup> Local exchange carriers having access tandems provide a comparable service under switched access tariffs to provide connectivity of local exchange carriers or CMRS providers to interexchange carriers. This arrangement is frequently referred to as meet point billing and is not at issue in this proceeding.

1           which as the North Carolina Utilities Commission has observed is not a new  
2           service<sup>2</sup>; many calls between Kentucky consumers could not be completed.

3

4   **Q.   HOW IS TRANSIT SERVICE RELATED TO INTERCONNECTION?**

5   **A.**   The ability to exchange traffic among multiple telecommunications networks and  
6           the attendant financial arrangements between and among carriers is an important  
7           element in a competitive, multi-carrier telecommunications marketplace. From  
8           the perspective of Kentucky’s consumers, there should only be one seamless  
9           “public” telecommunications network connecting all users.

10

11           Therefore, this Commission must ensure that the “network-of-networks”,  
12           including the provision of transit traffic, operates as one seamless “public”  
13           network in Kentucky. It is through transit service that “indirect interconnection”,  
14           which is a critical piece of the seamless public network, is achieved.

15

16   **Q.   DOES THE TELECOMMUNICATIONS ACT PROVIDE CLECs THE**  
17   **ABILITY TO CONNECT INDIRECTLY WITH OTHER CARRIERS?**

18   **A.**   Yes. Section 251(a)(1) specifically provides that a CLEC has the right to  
19           interconnect indirectly with the facilities and equipment of other carriers. This  
20           section states in part:

21                           251(a) GENERAL DUTY OF TELECOMMUNICATIONS CARRIERS.

22           –                   Each telecommunications carrier has the duty –

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<sup>2</sup> In its Order on transit traffic dated 9/22/2003, the NCUC stated “The fact of the matter is that transit traffic is not a new thing. It has been around since “ancient” times in telecommunications terms.” Docket No. P-19, SUB 454, P. 6.

1 (1) to interconnect directly or indirectly with the facilities and equipment  
2 of other telecommunications carriers.

3  
4 Indirect interconnection can be achieved with another carrier via transit service  
5 provided by a carrier whose end users are not involved in the call. Since ILEC's  
6 networks are generally directly connected with all other carriers, ILEC's transit  
7 service is the primary means to achieve indirect interconnection with non-ILEC  
8 carriers.

9

10 **Q. DO INCUMBENT LOCAL EXCHANGE CARRIERS HAVE UNIQUE**  
11 **ADDITIONAL OBLIGATIONS UNDER THE 1996 ACT?**

12 A. Yes. Section 251(c) imposes a number of unique additional obligations on  
13 incumbent local exchange carriers, or those local exchange carriers which  
14 provided such services on the date of the enactment of the 1996 Act. In  
15 Kentucky, BellSouth and the independent companies are ILECs. Section 251  
16 (c)(2)(a) is relevant to this issue as discussed below.

17

18 **Q. WHAT ARE THOSE UNIQUE ADDITIONAL OBLIGATIONS AS**  
19 **OUTLINED IN SECTION 251(c)(2)(a) of the ACT?**

20 A. ILECS are required to provide tandem transit capabilities and termination of calls  
21 at TELRIC based rates. More specifically, Section 251(c)(2)(a) requires ILECs –  
22 among other things – to interconnect with requesting carriers for “the  
23 transmission and routing of telephone exchange service and exchange access.”  
24 Nothing in the statute limits this duty solely to exchanging traffic between the  
25 incumbent LEC and the requesting carrier. Thus ILEC's have a 251(c)(2)(a)

1 obligation to allow a CLEC to interconnect with the ILEC's network to achieve  
2 indirect interconnection with another carrier. Moreover, § 251(a)(1) provides  
3 CLECs the right to interconnect indirectly with the facilities and equipment of  
4 other carriers. Properly read together, §§ 251(a)(1) and 251(c)(2)(a) make clear  
5 that incumbent LECs, as part of their interconnection obligations, must provide  
6 tandem transit to CLECs so that CLECs can achieve indirect interconnection with  
7 other carriers.

8  
9 These capabilities should be provided to CLECs<sup>3</sup> at rates that reflect forward –  
10 looking costs. Since transit service is an obligation imposed on BellSouth pursuant  
11 to Section 251(c)(2) of the Act, the applicable pricing standard is TELRIC. The  
12 FCC pricing rules make clear that TELRIC pricing applies to interconnection.<sup>4</sup>

13  
14 **Q. HAS THE FCC RECENTLY REAFFIRMED THE PRICING OF**  
15 **INTERCONNECTION FACILITIES AT COST BASED RATES?**

16 **A.** Yes, in its Triennial Review Order on Remand<sup>5</sup> the FCC states:

17 We note in addition that our finding of non-impairment with respect to entrance  
18 facilities does not alter the right of competitive LECs to obtain interconnection  
19 facilities pursuant to section 251(c)(2) for the transmission and routing of telephone  
20 exchange service and exchange access service.<sup>6</sup> Thus, competitive LECs will have  
21 access to these facilities at cost-based rates to the extent that they require them to  
22 interconnect with the incumbent LEC's network.

23 The FCC again makes it clear that the interconnection facilities are to be priced at  
24 (TELRIC). The facilities used for transit traffic are just such facilities.

25  

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<sup>3</sup> Transit function must also be provided to CMRS providers and ILECs.

<sup>4</sup> 47 C.F.R. §§ 51.501 and 51.503(b)(1).

<sup>5</sup> CC Docket No. 01-338 released February 4, 2005, ¶140.



1 **Q. HAVE ANY COMMISSIONS IN BELLSOUTH'S SERVING AREA**  
2 **ISSUED ANY FINAL DECISIONS ON WHETHER ILECS HAVE AN**  
3 **OBLIGATION TO PROVIDE THE TANDEM TRANSIT FUNCTION FOR**  
4 **THIRD PARTY TRAFFIC?**

5 **A.** Yes. In North Carolina, Verizon petitioned the North Carolina Utilities  
6 Commission ("NCUC") for a Declaratory Ruling that Verizon was not required to  
7 transit certain traffic between third party carriers.<sup>7</sup> In an order released September  
8 22, 2003, the NCUC denied Verizon's Petition and determined that there is a legal  
9 obligation for the ILECs to provide a transit service:

10 After careful consideration, the Commission concludes that good cause  
11 exists to find that Verizon is obligated to provide the transit service as a  
12 matter of law for the reasons as generally set forth by the Proponents.  
13 Accordingly, Verizon's Petition for Declaratory Ruling is denied.

14 \*\*\*

15  
16  
17 The Commission is persuaded that a transit obligation can well be supported  
18 under both state and federal law.

19  
20 In a recently released Recommended Arbitration Order<sup>8</sup> the NCUC affirmed this  
21 decision stating "The tandem transit function is a Section 251 obligation, and  
22 BellSouth must charge TELRIC rates for it."

23  
24 **Q. ARE THERE ANY KENTUCKY STATE STATUTES THAT SUPPORT**  
25 **THE OBLIGATION OF BELLSOUTH TO PROVIDE THE TRANSIT**  
26 **FUNCTION?**

27 **A.** Yes. KRS 278.512 (1) (c) states "The public interest requires that the Public  
28 Service Commission be authorized and encouraged to formulate and adopt rules

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<sup>6</sup> *Triennial Review Order*, 18 FCC Rcd at 17204, para. 366.

<sup>7</sup> Verizon Petition to NCUC dated December 9, 2002

<sup>8</sup> In the Matter of Joint Petition of NewSouth Communications Corp. et. al. for Arbitration with BellSouth Telecommunications, Inc. July 26, 2005

1 and policies that will permit the commission, in the exercise of its expertise, to  
2 regulate and control the provision of telecommunications services to the public in a  
3 changing environment, giving due regard to the interests of consumers, the public,  
4 the providers of the telecommunications services, and the continued availability of  
5 good telecommunications service.” KRS 278.280 (2) states “The commission shall  
6 prescribe rules for the performance of any service or the furnishing of any  
7 commodity of the character furnished or supplied by the utility, and, on proper  
8 demand and tender of rates, the utility shall furnish the commodity or render the  
9 service within the time and upon the conditions provided in the rules.” A transit  
10 obligation can clearly be supported under Kentucky statutes. The Commission is  
11 fully empowered under state law to require BellSouth to provide the transit  
12 function.

13

14 **Q. ARE THERE ANY OTHER ARGUMENTS SUPPORTING THE**  
15 **OBLIGATION OF ILECS TO PROVIDE THE TRANSIT FUNCTION**  
16 **FOR THIRD PARTY TRAFFIC AT TELRIC PRICES?**

17 A. Yes. There are sound policy and public interest reasons justifying transit tandem  
18 interconnection at TELRIC prices. Use of the incumbent LEC’s local tandem is  
19 essential to both CLECs’ and CMRS providers’ ability to exchange traffic with  
20 other LECs (e.g., small independent companies, rural companies, wireless  
21 companies, and other CLECs) where direct interconnection of facilities is  
22 uneconomical or otherwise impractical. If CLECs or CMRS providers could not  
23 use the incumbent LECs’ existing local tandems to transmit calls to and from  
24 carriers already receiving ILEC traffic through those tandems, the only  
25 alternative, and not a viable one, to allow for delivery and receipt of calls from

1 customers would be for all carriers – ILECs, CLECs, CMRS providers – to  
2 directly connect with one another; a very inefficient and uneconomical solution.  
3 This inability to provide a complete calling package, that is, the inability to  
4 complete calls that the ILEC can complete; would place CLECs and CMRS  
5 providers at an additional competitive disadvantage relative to the incumbents.  
6 This would inhibit the development of local competition. Such a result clearly  
7 was not intended by Congress when it passed the 1996 Act in order to bring the  
8 benefits of local exchange competition to all Americans. This Commission  
9 should affirm the obligation of ILECs to provide transit for third party traffic at  
10 TELRIC rates.

11  
12 **Q. WHAT WOULD BE THE CONSEQUENCES IF THIS COMMISSION**  
13 **ACCEPTED BELL SOUTH'S POSITION THAT IT HAS NO**  
14 **OBLIGATION TO PROVIDE TRANSIT TRAFFIC?**

15 A. The end result of such a decision would lead to a number of undesirable, even  
16 absurd, results. If the provision of transit traffic by BellSouth were optional,  
17 BellSouth would be in the position to exert undue control over the traffic from  
18 other carriers, both competitors, CMRS providers, and independent companies.  
19 The system of ubiquitous interconnection and seamless telecommunications  
20 network could be compromised without the obligation to provide transit traffic.  
21 Although BellSouth says it is willing to provide the transit function, it would be in  
22 the position to discontinue providing the transit function if it saw fit, or  
23 continually to increase the “market rates” it seeks to charge. The overall impact  
24 would be a tendency to stifle competition by the imposition of uneconomic costs  
25 on other carriers, either by charging non cost based rates or forcing the

1 construction of redundant facilities. For all practical purposes, the elimination of  
2 the requirement to provide transit service at cost based rates would render  
3 BellSouth's transit service inoperable from a CLEC perspective. To the extent  
4 that excessive rates are allowed, they will have to be reflected in higher retail  
5 rates that are ultimately borne by Kentucky's consumers. In the alternative,  
6 carriers would be forced into inefficient network arrangements – also resulting in  
7 increased, if not prohibitive, retail rates. The real losers in such a scenario are the  
8 consumers of Kentucky.

9  
10 **Q. HAS BELL SOUTH ACQUIRED ANY ADDITIONAL OBLIGATIONS TO**  
11 **PROVIDE TRANSIT TRAFFIC?**

12 A. Yes. As part of its "271 bargain," that is where BellSouth was authorized to  
13 provide in-region interLATA long distance service in exchange for opening its  
14 local market to competition, BellSouth agreed to provide the transit traffic  
15 function for CLECs. In its Statement of Generally Available Terms and  
16 Conditions for interconnection ("SGAT") filed with the FCC as part of its 271  
17 application, BellSouth states:

18 BellSouth shall provide tandem switching and transport services for the  
19 CLEC's transit traffic. Transit traffic is traffic originating on the CLEC's  
20 network that is switched and/or transported by BellSouth and delivered to  
21 a third party's network, or traffic originating on a third Party's network  
22 that is switched and/or transported by BellSouth and delivered to the  
23 CLEC's network. Rates for local transit traffic shall be applicable to call  
24 transport and termination charges as set forth in Attachment A to this  
25 Statement.<sup>9</sup>  
26

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<sup>9</sup> P.3 Kentucky SGAT 6/18/2002, Ruscilli-Cox Exhibit JAR-CKC-02

1 The rates referenced in SGAT Attachment A are the TELRIC rates for switching  
2 and transport approved by this Commission, not monopoly based “market rates”  
3 as BellSouth is advocating in this arbitration proceeding.  
4

5 **Q. SO, BELLSOUTH IS RENEGING ON ITS 271 AGREEMENT?**

6 A. In my opinion, yes.

7 **Q. BELLSOUTH PROPOSES LANGUAGE THAT SEEKS TO ELIMINATE**  
8 **ANY COMPENSATION RESPONSIBILITY IT MAY HAVE WHEN IT**  
9 **PROVIDES THE TRANSIT FUNCTION (ICA ATTACHMENT 3,**  
10 **SECTION 19.1). WHY DOES AT&T OBJECT TO BELLSOUTH’S**  
11 **PROPOSED LANGUAGE?**

12 A. BellSouth proposes the following language be included in the ICA:

13 BellSouth will not be liable for any compensation to the terminating  
14 carrier or to AT&T. In the event that the terminating third party carrier  
15 imposes on BellSouth any charges or costs for the delivery of Transit  
16 Traffic, AT&T shall reimburse BellSouth for such costs. The terminating  
17 Party shall not charge the transiting party for any third party originated  
18 traffic delivered to the terminating Party by the transiting party. The  
19 delivery of traffic that transits the BellSouth network and is transported to  
20 another carrier’s network is excluded from any BellSouth billing  
21 guarantees. Billing associated with all Transit Traffic shall be pursuant to  
22 MECAB guidelines.

23 AT&T agrees with the first sentence of BellSouth’s proposed language - that  
24 BellSouth should not be liable to pay terminating compensation either when (1)  
25 AT&T (CLEC A) originates a call that “transits” BellSouth’s network and  
26 terminates to a third-party telecommunications provider (CLEC C) or (2) when a  
27 third-party telecommunications provider (CLEC C) originates a call that transits  
28 BellSouth’s network and terminates to AT&T.  
29

1 In each of these cases, in accordance with Section 251 (b)(5) of the  
2 Telecommunications Act, AT&T and CLEC C have the responsibility to establish  
3 reciprocal compensation arrangements.  
4

5 AT&T's problem is with the second sentence of BellSouth's proposed language –  
6 “In the event that the terminating third party carrier imposes on BellSouth any  
7 charges or costs for the delivery of Transit Traffic, AT&T shall reimburse  
8 BellSouth for such costs”. As an initial matter, BellSouth should be passing the  
9 appropriate information in the call detail to the third party (CLEC C) so that  
10 CLEC C can bill AT&T, assuming such a billing relationship has been  
11 established. In the event that CLEC C bills BellSouth for AT&T's terminating  
12 traffic, BellSouth should advise CLEC C that they have billed the wrong party  
13 and that they have the appropriate call detail to bill the correct party. In the event  
14 CLEC C is billing BellSouth because it has not received the necessary billing  
15 information from BellSouth, AT&T certainly should not be contractually  
16 obligated to reimburse BellSouth for BellSouth's mistake.  
17

18 If CLEC C is terminating traffic that is originated by AT&T, it is likely that  
19 AT&T is also terminating traffic that is originated by CLEC C. AT&T and CLEC  
20 C need to come to an agreement as to how that traffic is to be exchanged.  
21 pursuant to their Section 251(b)(5) obligations. In most cases it has been industry  
22 practice to exchange such traffic on a “bill and keep” basis. If CLEC C is able to  
23 bill BellSouth and AT&T is contractually obligated to reimburse BellSouth

1           whatever charge CLEC C decides to impose, without the need for AT&T  
2           agreement, CLEC C has no incentive to establish an arrangement with AT&T .  
3           In addition, BellSouth has neither the incentive nor the capability to audit the bills  
4           from CLEC C if it is to be made whole by AT&T for any compensation it pays.  
5           BellSouth obviously has no incentive since its contractual language would require  
6           AT&T to reimburse it for compensation paid to CLEC C. In addition, BellSouth  
7           would have no ability to review the originating call records to determine whether  
8           the calls for which CLEC C seeks compensation actually originated on AT&T's  
9           network.

10  
11           The language proposed by BellSouth in Attachment 3, Section 19.1 is satisfactory  
12           to AT&T so long as the second sentence - "In the event that the terminating third  
13           party carrier imposes on BellSouth any charges or costs for the delivery of Transit  
14           Traffic, AT&T shall reimburse BellSouth for such costs" – is stricken.

15  
16   **Q.    HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

17   A.    AT&T respectfully requests that the Commission adopt the AT&T proposed  
18           language and reject the BellSouth proposed language.

19  
20   **Q.    DOES THIS CONCLUDE YOUR TESTIMONY?**

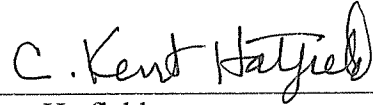
21   A.    Yes.

22

23

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Direct Testimony of Richard T. Guepe filed on behalf of AT&T Communications of the Southern States, LLC, was served upon all parties of record this 15<sup>th</sup> day of August, 2005.



\_\_\_\_\_  
C. Kent Hatfield

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