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July 2, 2004

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PUBLIC SERVICE  
COMMISSION

Ms. Beth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40602

RE: 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  
KPSC Case No. 2004-00234

Dear Ms. O'Donnell:

Enclosed for filing in the above-captioned case are the original and ten (10) paper copies of BellSouth's Response to the Petition for Arbitration of AT&T Communications of the South Central States, LLC and TCG Ohio, Inc. ("AT&T"). The Joint Issues Matrix is attached to the Response as Exhibit A. Exhibit B to the Response is the interconnection agreement between the parties that reflects both AT&T's and BellSouth's proposed language on each of the remaining unresolved issues and is filed on a CD. Eleven CDs containing Exhibit B are provided to the Commission. A copy of the entire filing is served on each party.

Very truly yours,

  
Dorothy J. Chambers

Enclosures

cc: Parties of Record

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY 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 ) Case No. 20004-00234  
Terms and Conditions of a Proposed Interconnection )  
Agreement with BellSouth Telecommunications, Inc. )  
Pursuant to 47 U.S.C. Section 252 )  
\_\_\_\_\_ )

**BELLSOUTH TELECOMMUNICATIONS, INC.’S  
RESPONSE TO PETITION FOR ARBITRATION**

Pursuant to 47 U.S.C. § 252(b)(3), BellSouth Telecommunications, Inc. (“BellSouth”), responds to the Petition for Arbitration (“Petition”) filed by AT&T Communications of the South Central States, LLC and TCG Ohio, Inc. (collectively “AT&T”) and says:

Sections 251 and 252 of the Telecommunications Act of 1996 (“1996 Act”) encourage negotiation between parties to reach local interconnection agreements. Section 251(c)(1) of the 1996 Act requires incumbent local exchange companies to negotiate the particular terms and conditions of agreements to fulfill the duties described in Sections 251(b) and 251(c)(2)-(6).

As part of the negotiation process, the 1996 Act allows a party to petition a state commission for arbitration of unresolved issues.<sup>1</sup> The petition must identify the issues resulting from the negotiations that are resolved, as well as those that are unresolved.<sup>2</sup> The petitioning party must submit along with its petition “all relevant documentation concerning: (1) the unresolved issues; (2) the position of each of the parties with respect to those issues; and (3) any other issues discussed and resolved by the parties.”<sup>3</sup> A non-petitioning party to a negotiation

<sup>1</sup> 47 U.S.C. § 252(b)(2).

<sup>2</sup> See generally, 47 U.S.C. §§ 252 (b)(2)(A) and 252 (b)(4).

<sup>3</sup> 47 U.S.C. § 252(b)(2).

under this section may respond to the other party's petition and provide such additional information as it wishes within 25 days after a commission receives the petition.<sup>4</sup> The 1996 Act limits a commission's consideration of any petition (and any response thereto) to the unresolved issues set forth in the petition and in the response.<sup>5</sup>

Through the arbitration process, a commission must resolve the unresolved issues ensuring that the requirements of Sections 251 and 252 of the 1996 Act are met. The obligations contained in those sections of the 1996 Act are the obligations that form the basis for negotiation, and if negotiations are unsuccessful, then form the basis for arbitration. Issues or topics not specifically related to these areas are outside the scope of an arbitration proceeding. Once a commission has provided guidance on the unresolved issues, the parties must incorporate those resolutions into a final agreement to be submitted to a commission for approval.<sup>6</sup>

BellSouth and AT&T previously entered into an Interconnection Agreement in Kentucky which will expire on July 19, 2004. Although BellSouth and AT&T negotiated in good faith as to the terms and conditions for a new Agreement, the parties have been unable to reach agreement on some issues and, as a result, AT&T filed this Petition. BellSouth responds below to each of the separately numbered paragraphs of the Petition:

1. BellSouth admits the assertions in Paragraph 1 of the Petition. BellSouth has attached an updated version of the Joint Issues Matrix that contains both AT&T's and BellSouth's positions on each of the remaining unresolved issues (Attachment A). BellSouth has also attached a copy of the Interconnection Agreement between the parties that reflects both AT&T's and BellSouth's proposed language on each of the remaining unresolved issues (Attachment B).

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<sup>4</sup> 47 U.S.C. § 252(b)(3).

<sup>5</sup> 47 U.S.C. § 252(b)(4).

<sup>6</sup> 47 U.S.C. § 252(a).

## **PARTIES**

2. The allegations in Paragraph 2 of the Petition require no response from BellSouth.
3. The allegations in Paragraph 3 of the Petition require no response from BellSouth. However, to the extent a response would be appropriate, BellSouth lacks enough information to form a belief as to the truth of the matter asserted and would, therefore, deny the allegations in Paragraph 3 of the Petition.
4. BellSouth admits the allegations in Paragraph 4 of the Petition.

## **JURISDICTION**

5. BellSouth avers that the referenced provisions of the 1996 Act speak for themselves and require no response from BellSouth. BellSouth admits that the Commission has general jurisdiction over this proceeding pursuant to §252 of the 1996 Act; however, there are some individual issues over which the Commission lacks subject matter jurisdiction and BellSouth will address the Commission's lack of jurisdiction in the Joint Issues Matrix and testimony. BellSouth denies any remaining allegations in Paragraph 5 of the Petition.

## **STANDARD OF REVIEW**

6. BellSouth avers that the referenced provisions of the 1996 Act and the FCC's Rules speak for themselves and require no response from BellSouth. BellSouth denies any remaining allegations in Paragraph 6 of the Petition.
7. BellSouth avers that the referenced provisions of the 1996 Act, FCC's Rules, and state statutes speak for themselves and require no response from BellSouth. BellSouth denies any remaining allegations in Paragraph 7 of the Petition.

## **NEGOTIATIONS AND BACKGROUND**

8. BellSouth admits the allegations in Paragraph 8 of the Petition.
9. BellSouth avers that the referenced provisions of the 1996 Act speak for themselves and require no response from BellSouth. BellSouth admits the remaining allegations in Paragraph 9 of the Petition.
10. BellSouth is without knowledge regarding AT&T's intent, but does not question the veracity of AT&T's statement regarding its intent. BellSouth admits the remaining allegations in Paragraph 10 of the Petition.

## **ISSUES TO BE ARBITRATED**

11. BellSouth admits the allegations in Paragraph 11 of the Petition. Further, BellSouth has attached an updated Joint Issues Matrix (Attachment A) that has refined the issue statements and contains both AT&T's and BellSouth's positions on the issues presented to the Commission for resolution.
12. BellSouth admits that this is the first arbitration between BellSouth and AT&T since BellSouth obtained interLATA relief in Kentucky. BellSouth agrees that national and state telecommunications law and policy is in a state of flux and could potentially impact even those provisions of the parties' Interconnection Agreement that are not currently in dispute. In the event changes and/or clarifications of the law impact the disputed and/or undisputed provisions of the parties' Interconnection Agreement (and the parties are unable to agree on how any such changes and/or clarifications are to be incorporated into the parties' Interconnection Agreement, if at all), BellSouth reserves the right to seek further redress from the Commission or FCC on those issues. BellSouth agrees that the Commission should make a determination, on those issues over which the Commission has jurisdiction in a §252 arbitration proceeding, consistent with the law. The remaining

allegations in Paragraph 12 of the Petition either require no response from BellSouth or are denied.

13. BellSouth avers that AT&T's opinion on the grouping of the arbitration issues into categories requires no response from BellSouth. To the extent a response is required, BellSouth lacks information sufficient to form a belief as to the truth of the matter asserted and, therefore, denies the allegations in paragraph 13 of the Petition.
14. BellSouth avers that AT&T's opinion on the grouping of the arbitration issues into categories requires no response from BellSouth. BellSouth admits, however, that certain issues presented by the parties in this arbitration proceeding will be impacted by both the *TRO* and the D.C. Circuit Court's decision in *USTA II*. BellSouth denies that it is asking the Commission to prognosticate the outcome of the *USTA II* decision; however, it is short-sighted on the part of AT&T to try to avoid any type of operational process to effectuate the ultimate outcome of *USTA II* -- whatever that outcome may be. AT&T should not be permitted to use delay to avoid any application of *USTA II* or the *TRO* that is beneficial to BellSouth. BellSouth agrees with AT&T that any decision by the Commission must be made in accordance with existing law. BellSouth denies the remaining allegations in Paragraph 14 of the Petition.
15. BellSouth avers that AT&T's opinion on the grouping of the arbitration issues into categories requires no response from BellSouth. Contrary to AT&T's assertions, BellSouth has offered to provide AT&T with any interconnection, network element or service that BellSouth is required to provide AT&T under §251 of the 1996 Act. AT&T's demands, however, are often inconsistent with the law and are designed to give AT&T an unfair competitive advantage over other CLECs. Further, AT&T appears to suggest that BellSouth has refused to negotiate a process by which loops would be moved

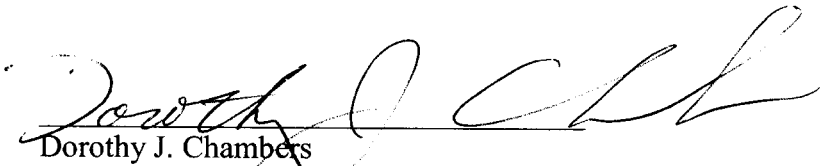
from a BellSouth switch to an AT&T switch – any such suggestion is simply false. AT&T apparently takes the position that if BellSouth does not agree to whatever changes AT&T proposes to BellSouth’s initial language (even when such changes are inconsistent with the law) that BellSouth is somehow not negotiating fairly. AT&T’s position is unwarranted and unreasonable. BellSouth denies the remaining allegations in Paragraph 15 of the Petition.

16. BellSouth avers that AT&T’s opinion on the grouping of the arbitration issues into categories requires no response from BellSouth. The language AT&T seeks is unreasonable and inconsistent with the requirements of §251 of the 1996 Act. BellSouth denies any remaining allegations in Paragraph 16 of the Petition.
17. BellSouth avers that AT&T’s opinion on the grouping of the arbitration issues into categories requires no response from BellSouth. Because the collocation issues are obligations under §251 of the 1996 Act and the Commission does not currently have an ongoing generic collocation docket in which these issues are currently being addressed, BellSouth contends that these collocation issues should be considered in this arbitration proceeding. BellSouth denies any remaining allegations in Paragraph 17 of the Petition.
18. Given AT&T’s frequent threats to pull out of the local market if it is not successful in a proceeding, BellSouth lacks information sufficient to form a belief as to the truth of AT&T’s allegation that the issues in this proceeding are critical to AT&T’s ability to compete. As to the prices and availability of unbundled network elements (“UNEs”), BellSouth seeks only to have obligations imposed upon it that are consistent with the law. BellSouth denies any remaining allegations in Paragraph 18 of the Petition.

**REQUESTED RELIEF**

19. BellSouth agrees that the Commission should establish a procedural schedule for the resolution of the proceeding. As to those issues over which the Commission has subject matter jurisdiction, BellSouth agrees that the Commission should resolve those issues in accordance with §§ 251 and 252 of the 1996 Act. BellSouth agrees that the parties should file, on a date specified by the Commission, an Interconnection Agreement that incorporates the Commission's decisions in this proceeding. Otherwise, BellSouth denies the relief requested by AT&T and affirmatively avers that the Commission should reject AT&T's positions on each and every one of the issues set forth herein and, instead, adopt BellSouth's positions.
20. BellSouth denies each and every allegation in the Petition not expressly admitted herein, and demands strict proof thereof.

Respectfully submitted,



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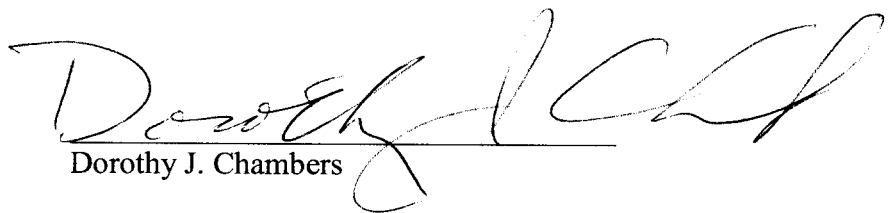
**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the foregoing was served on the following individuals by mailing a copy thereof, this 2nd day of July, 2004.

Hon. C. Kent Hatfield  
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Dorothy J. Chambers

**ATTACHMENT “A”**  
**AT&T / BELLSOUTH JOINT ISSUES MATRIX**<sup>1</sup>  
**DOCKET NO. 2004-00234**

ISSUE NO.	ISSUE DESCRIPTION	AT&T'S POSITION	BELLSOUTH'S POSITION
1	<p>Is it appropriate to include in the Interconnection Agreement (“ICA”) rates, terms and conditions for services BST agrees to provide or is required to provide under authority other than Section 251 of the Act?</p> <p>(GTC § 1.1 and Attachment 2-UNE, §§ 1.2, 3.2.1.1, 5.1.3.6, 5.1.3.7, 5.1.3.8, 5.3.4, 6.2.6, 7.1, 7.2 and OS/DA language-Section 4.10.1.4)</p>	<p>Yes. The ICA should include rates, terms and conditions for items BST agrees to provide or is required to provide pursuant to authority other than Section 251 of the Act.</p> <p>Under the plain language of the Act, each section 271 network element must be offered through interconnection agreements that are subject to the section 252 review process.</p> <p>Likewise, the ICA should reflect state law requirements. This Commission has the authority under state law to order unbundling consistent with the Act. Indeed, the Act explicitly safeguarded this authority. See 47 U.S.C. §§ 251(d)(3), 252(e)(3), 261(c). Accordingly, both section 271</p>	<p>No. BellSouth is not required to provide § 271 network elements through an interconnection agreement, which is strictly a creation of, and limited by the provisions of §§ 251 and 252 of the Act. Moreover, BellSouth has specifically indicated to AT&amp;T that BellSouth is not negotiating the inclusion of non-251 elements in this Agreement, whether under § 271 of the 1996 Act or under independent state statutes, if any.</p> <p>The purpose of an interconnection agreement is to memorialize the manner and method by which an ILEC will fulfill § 251 obligations. Indeed, this purpose is expressly set forth in § 252(c) of the 1996 Act,</p>

<sup>1</sup> BellSouth has modified, from the version of the Issues Matrix filed with AT&T's Arbitration Petition, the wording of the Issue Descriptions on Issues 4, 12, 16 and 31. In addition, BellSouth has added additional arbitration issues that are set forth in Issues 32, 33, 34, and 35. BellSouth will attempt to meet with AT&T in order to try and resolve any discrepancy in the wording of the Issue Descriptions and to obtain AT&T's Position Statements on the newly-articulated Issues. Once that has been worked out, BellSouth and/or AT&T will file an updated Issues Matrix.

ISSUE NO.	ISSUE DESCRIPTION	AT&T'S POSITION	BELLSOUTH'S POSITION
		<p>requirements and state law requirements may be included, and should be included, in an ICA approved under section 252 of the Act.</p>	<p>which provides in part that "In resolving by arbitration under subsection (b) any open issues and imposing conditions upon the parties to the agreement, a State commission shall ... ensure that such resolution and conditions meet the requirements of section 251, including the regulations prescribed by the Commission pursuant to section 251" Nowhere in § 252 of the 1996 Act is the Commission vested with jurisdiction to address obligations of an ILEC that fall outside of §§ 251 and 252 of the 1996 Act.</p>
2	<p>What unbundled network elements and combinations of unbundled network elements is BellSouth required to provide and at what rates, terms and conditions?  (Attachment 2-UNE, §§ 1.7-1.7.5.3, 5.2.6 and 5.3.2)</p>	<p>Consistent with the TRO and well-established precedent, BST should allow AT&amp;T to combine any UNE with any other network element, service or functionality, without restriction. The FCC held, as early as 1996, that "incumbent LECs must provide access to 'unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide' a telecommunications service." First Report and Order, <i>Implementation of the Local Competition Provisions in the Telecommunications Act of 1996</i>,</p>	<p>BellSouth agrees that it remains obligated to provide §251 UNEs and combinations of §251 UNEs. BellSouth has not suggested otherwise, and the rates, terms and conditions related to actual §251 UNEs and combinations thereof, are generally not in dispute. BellSouth is not required, however, to provide access through a §252 interconnection agreement to non-251 network elements and/or combinations that involve non-251 network elements. BellSouth has no obligation under §251 to allow the conversion of</p>

ISSUE NO.	ISSUE DESCRIPTION	AT&T'S POSITION	BELLSOUTH'S POSITION
		<p>CC Docket No. 96-98 (released Aug. 8, 1996) ("Local Competition Order"). In the TRO the FCC stated it intention to "reaffirm" the "existing rules regarding UNE combinations . . . [which] require incumbent LECs to provide UNE combinations upon request and prohibit incumbent LECs from separating UNE combinations that are ordinarily combined except upon request." TRO ¶ 573. Thus, the Local Competition Order and the TRO unambiguously support the adoption of AT&amp;T's proposed language. BST's reluctance to agree to language set out by the FCC reveals BST's intent to limit AT&amp;T's use of UNEs.</p> <p>BST appears to be taking the position that it does not have to provide unbundled local switching if the <i>USTA</i> vacatur stands. This is simply untrue. Even without the Section 251 implementing regulations, BST is still required to provide unbundled local switching under: (1) Section 251 of the Act itself, which requires BST to provide unbundled switching even without the rules implementing it; (2) Section 271 of the Act; and (3) state law. Therefore, BST must provide</p>	<p>services, such as special access, to combinations of §251 UNEs (loops) and non-§251 network elements such as high capacity transport.</p> <p>For the purpose of further addressing this specific issue, it is clear that BellSouth no longer has to provide, at a minimum, switching, high capacity loops and high capacity transport under §251 of the Act. Thus, those elements cannot properly be included in a §252 interconnection agreement or addressed in a §252 arbitration.</p> <p>Moreover, BellSouth has specifically indicated to AT&amp;T that BellSouth is not negotiating the inclusion of non-251 elements in this Agreement, whether under §271 of the 1996 Act or under independent state statutes, if any.</p>

ISSUE NO.	ISSUE DESCRIPTION	AT&T'S POSITION	BELLSOUTH'S POSITION
3	<p>Under what circumstances, if any, can AT&amp;T commingle section 251 Network Elements and Other Services with facilities and services BST otherwise provides or is required to provide? (Attachment 2-UNE, §§ 1.7, 1.8.5, 1.9.1.1, 1.9.1.2, 1.9.2 and 1.9.4)</p>	<p>both and combinations including switching unbundled local switching unless and until the state commission determines otherwise.</p> <p>So long as the requesting carrier certifies that it has met certain eligibility criteria, the TRO permits commingling section 251 Network Elements and Other Services with other facilities and services BST provides. See TRO ¶ 579. In accordance with the TRO, AT&amp;T proposes removing restrictions on commingling. BellSouth has removed such restrictions in recent SGAT filings in Georgia and Alabama.</p> <p>Prior to the issuance of the TRO, the FCC placed certain restrictions on when competitive carriers could commingle "loops or loop-transport combinations with tariffed special access services." <i>Supplemental Order Clarification, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996</i>, ¶ 22 (2000). These combinations of loop-transport are also referred to as Enhanced Extended Links or "EELs." The TRO eliminated the restrictions on</p>	<p>BellSouth's language is in accordance with the commingling requirements set forth in the TRO. Specifically, CLECs can commingle §251 UNEs with BellSouth tariffed services. However, and consistent with the FCC's errata to the TRO, there is no requirement to commingle UNEs or combinations with services, network elements or other offerings made available only pursuant to Section 271 of the Act. See Errata ¶ 27, 30, 31.</p> <p>BellSouth disagrees with AT&amp;T's position that the TRO eliminated restrictions on EELs. The restrictions were significantly modified, but were not eliminated.</p> <p>BellSouth responds to AT&amp;T's proposed inclusions:</p> <p>1) Changes to the requirements on commingling and conversions to EELs should not be effective until the effective date of the new ICA and the</p>

ISSUE NO.	ISSUE DESCRIPTION	AT&T'S POSITION	BELLSOUTH'S POSITION
		<p>EELS and modified the rules to “affirmatively permit requesting carriers to commingle UNEs and combinations of UNEs with services (e.g. switched and special access services offered pursuant to tariff), and to require incumbent LECs to perform the necessary functions to effectuate such commingling upon request.” TRO ¶579. Under the TRO, commingling and conversion must be permitted by BST upon the TRO’s effective date. TRO ¶ 575; Rule 51.318.</p> <p>In accordance with the TRO, AT&amp;T proposes including in the ICA that (1) as of the effective date of the TRO, BST is required to provide commingling and conversions unencumbered by additional processes or requirements (e.g., requests for unessential information) not specified in the TRO (TRO ¶ 579); (2) AT&amp;T is required to self-certify its compliance with any applicable eligibility criteria for high capacity EELS (and may do so by written or electronic request) and to permit an annual audit by BST to confirm its compliance (TRO ¶¶ 623-24); (3) BST’s performance in connection with commingled facilities</p>	<p>Commission should clearly state that AT&amp;T is not entitled to any retroactive financial benefit prior to the time orders have been processed to effectuate any such change on a particular circuit.</p> <p>2) BellSouth agrees with AT&amp;T’s ability to self-certify its compliance with any applicable eligibility criteria for high capacity EELS and to permit an annual audit by BellSouth to confirm AT&amp;T’s compliance with the EEL restrictions.</p> <p>3) BellSouth’s performance with regard to the portions of the commingled circuits offered pursuant to the ICA will be governed by standard provisioning intervals and performance measures of the ICA.</p> <p>4) Nonrecurring charges for a switch-as-is conversion will be TELRIC based and will not include any untariffed termination charges, or any disconnect fees, re-connect fees, or charges associated with establishing a service for the first time.</p>

ISSUE NO.	ISSUE DESCRIPTION	AT&T'S POSITION	BELLSOUTH'S POSITION
4	<p>What language, including specific, language dealing with any required transition of existing Network Elements and Other Services, should be included in the ICA to address (a) the vacature of FCC Rules and Orders by <i>USTA II</i>; and (b) those portions of the TRO and other FCC rules and orders that were unaffected by a final decision in <i>USTA II</i>?</p> <p>(Attachment 2-UNE, §§ 1.6, 1.8, 4.2.2, 4.2.3 and 4.2.4, 2.3.2.5; 2.3.2.7; 2.3.2.8; 2.3.6; 2.3.8; 2.3.9; 2.3.10; 2.3.11; 2.3.12; 2.3.13; 2.8.6 (in its entirety); 4 (in its entirety); 5.2.2; 5.2.3; 5.2.4; 5.2.5 (in its entirety); 5.2.6; 5.3; 6.1.1.2; 6.1.1.3; 6.1.1.3.1; 6.1.3 (in its entirety); 6.2.6; 6.2.8; 6.2.9.2; 6.2.9.3.1; 6.2.9.3.2; 6.2.9.3.3; 6.2.9.3.4; 6.3 (in its entirety); 6.4 (in its entirety); 7 (in its entirety); 8 (in its entirety); 9 (in its entirety); 10 (in its entirety); 12 (in its</p>	<p>must be subject to the interconnection agreement's standard provisioning intervals and performance measures (TRO ¶ 639); and (4) there will be no charges for conversion from wholesale to UNEs or UNE combinations. (TRO ¶ 587, Rule 51.316 (c)).</p> <p>The ICA should not address the potential outcomes of <i>USTA II</i>. Rather, until such time as <i>USTA II</i> is finally resolved, the state commissions should decide whether existing Network Elements and Other Services should be de-listed or re-defined, and the transition period for such changes, in future state proceedings. AT&amp;T's proposed language tracks FCC Rule 51.309(a) and simply states that in the event there are further findings of impairment or non-impairment by the FCC or the Commission within the ongoing TRO impairment proceedings, parties to the ICA should rely on the change of law provisions in those ICAs to make any necessary changes. This is also consistent with the TRO, which requires the parties to follow the Section 252 process to implement the TRO's changes. TRO 701.</p>	<p>BellSouth has proposed, in the Attachment to its Answer, the specific language that should be included to provide for the transition following both the TRO and the vacatur of certain aspects of the TRO. Specifically, the ICA should include language to address the transition of elements that BellSouth is no longer obligated to provide pursuant to the Act or FCC rules. Likewise, where the underlying eligibility criteria for an element has changed (such as the EELs safe harbor criteria), the ICA should establish a means by which AT&amp;T will either certify that it meets the new criteria or transition those elements to a different service. BellSouth's transition plan provides a reasonable process and timetable for AT&amp;T to become compliant with the law.</p>

ISSUE NO.	ISSUE DESCRIPTION	AT&T'S POSITION	BELLSOUTH'S POSITION
	entirety); 13 (in its entirety)	<p> BST's proposed language is inconsistent with the TRO. BST suggests that if the Rules are vacated and AT&amp;T does not "within 16 days" choose an alternate method of transition of services, i.e., commercial agreement or tariffed service, BST "may disconnect" AT&amp;T's UNE customers "without further notice." Such a drastic "threat" is inconsistent with the TRO, which unambiguously calls for a transition period. Moreover, BellSouth's proposed language would impose significant non-recurring charges that are inconsistent with the TRO. </p> <p> Moreover, there are portions of the TRO that were unaffected by the D.C. Circuit's decision in <i>USTA II</i>. The ICA should be consistent with these provisions. For example, there can be no question that BST is required to provide access to unbundled local loops. Accordingly, appropriate parameters for hot cuts must be established. See Issue 26. Moreover, this Commission must determine BellSouth's obligations to provide local switching in density zone 1 of the top 50 MSA's as of January 1, 1999, </p>	



ISSUE NO.	ISSUE DESCRIPTION	AT&T'S POSITION	BELLSOUTH'S POSITION
5	<p>What language, if any, should be in the ICA to address Provisioning and Coordinated Cut-Overs ("Hot Cuts")? (Attachment 2-UNE, § after 2.3.13)</p>	<p>for customers with four or more DSO equivalent lines. See Issue 24.</p> <p>Finally, the TRO eliminated restrictions on EEL's. Accordingly, this Commission also must determine BellSouth's obligations to provide EEL's.</p> <p>AT&amp;T seeks to retain in the proposed ICA, the existing language between the Parties for "hot cuts." There can be no question BellSouth is required to provide non-discriminatory access to unbundled local loops. In order to transition a loop from a BellSouth switch to AT&amp;T's switch, a hot cut is required.</p> <p>A hot cut is a complex, highly manual process. If not performed properly, the customer will experience a service outage that is much longer than the unavoidable outage. Accordingly, the ICA must address the hot cut process.</p> <p>Moreover, the TRO requires, in provisions not impacted by the decision in <i>USTA II</i>, development of a batch hot cut process. BST's proposed language is inconsistent with the "batch order</p>	<p>BellSouth agrees with AT&amp;T's position that BellSouth is required to provide non-discriminatory access to unbundled local loops. In fact, BellSouth has had a hot cut process in place for years that has worked very well among the entire CLEC community. That said, BellSouth does not agree that it is necessary to place BellSouth's actual methods and procedures to perform a hot cut within AT&amp;T's ICA. BellSouth's methods and procedures are not specific to AT&amp;T or any other individual CLEC. BellSouth would agree to post on BellSouth's CLEC Information web site a description of the hot cut process as it applies to all CLECs within the BellSouth region.</p> <p>In addition, the ICA should have provisions that require AT&amp;T to use</p>

ISSUE NO.	ISSUE DESCRIPTION	AT&T'S POSITION	BELLSOUTH'S POSITION
		<p>process” as outlined in the TRO. The TRO states that the Commission “should decide the appropriate volume of loops that should be included in the ‘batch.’” TRO 489. The Commission should also “approve specific processes to be employed when performing a batch cut.” Id. Furthermore, the Commission should “evaluate whether the incumbent LEC is capable of migrating batch cutovers of unbundled loops combined with unbundled local circuit switching to unbundled stand-alone loops for any requesting carrier in a timely manner.” Id. Finally, “if they have not done so already, state commissions should adopt TELRIC rates for the batch cut activities they approve. These rates should reflect the efficiencies associated with batched migration of loops to a competitive LEC’s switch, either through a reduced per-line rate or through volume discounts.” <i>Id.</i></p>	<p>the existing Bulk Migration process if AT&amp;T wants to convert 25 or more circuits (in the same CO on the same day) from UNE-P to UNE-L. This will allow BellSouth to perform these batch hot cuts in an orderly and effective manner. Otherwise, AT&amp;T could flood the ordering and provisioning systems with single line orders which could disrupt other customers who are trying to get service on those days and could unnecessarily cause BellSouth to miss its performance metrics requirements</p>
6	<p>Is BellSouth obligated to unbundle loops that are longer than 18,000 feet from BellSouth’s serving wire center? (Attachment 2-UNE, § 2.4.2.5)</p>	<p>Yes. BellSouth is obligated to provide unbundled access to all loops. Under 47 CFR 51.309(a), BellSouth is prohibited from imposing “limitations, restrictions, or requirements on requests for, or the use of unbundled</p>	<p>It depends. BellSouth will provide copper loops over 18, 000 feet in length; however, consistent with industry standards, those loops will be loaded with, at a minimum, load coils. BellSouth believes that what AT&amp;T</p>

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		<p>local network elements for a service the requesting telecommunications carrier seeks to offer." Therefore, BellSouth is obligated to provide non-discriminatory access to all loops, irrespective of length.</p>	<p>really wants is a non-loaded (load coils removed) copper loop over 18,000 feet. In order to provide AT&amp;T with such a copper loop, BellSouth would be required to perform a network modification to the copper loop. However, BellSouth does not routinely remove load coils from copper loops over 18,000 feet for BellSouth's own customers, thus BellSouth is not required to perform such a network modification for AT&amp;T. (See, <i>TRO</i> at ¶ 643 and CFR 51.319(a)(8)) Further, such a requirement would result in BellSouth providing a "superior" network for the CLECs which is also not required by federal law.</p>
7	<p>Is BellSouth required to provide line conditioning on copper loops longer than 18,000 ft? If so, at what rates, and upon what terms and conditions?  (Attachment 2-UNE, §§ 2.4.2.5 and 2.5.2)</p>	<p>Yes. The TRO establishes provisions for BST to offer unbundled access to stand alone copper loops and subloops for the purposes of narrowband and broadband services. Narrowband services support the low grade frequency portion of the loop and broadband services supports the high frequency portion of the loop. <i>Paragraph 249</i> of the TRO requires BellSouth to provide "all local loops comprised of copper cable, including</p>	<p>No, for the reasons discussed above in Issue 6. As referenced above, Paragraph 643 of the <i>TRO</i> provides that "[l]ine conditioning is properly seen as a routine network modification that incumbent LECs regularly perform in order to provide xDSL services to their own customers. As noted above, incumbent LECs must make the routine adjustments to unbundled loops to deliver services at parity with how incumbent LECs</p>

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		<p>two- and four-wire analog voice-grade loops, digital loops (e.g., DS0s and ISDN lines) and two- and four-wire loops conditioned to transmit the digital signals needed to provide xDSL service."</p> <p>BellSouth seeks to limit the TRO's broad directive by imposing restrictions on what "length" of unbundled copper loops AT&amp;T may access. Significantly, however, the TRO does not draw any distinctions between <i>short</i>, <i>medium</i> or <i>long</i> copper loops; therefore, BST's length-based proposed restrictions on access to copper loops are inappropriate.</p> <p>In addition, FCC Rule 51.319(a) (1) (iii) states "Line conditioning is defined as the removal from a copper loop or copper sub-loop of any device that could diminish the capability of the loop or sub-loop to deliver high-speed switched wireline telecommunications capability, including digital subscriber line service. Such devices include, but are not limited to, bridge taps, load coils, low pass filters, and range extenders."</p>	<p>provision such facilities for themselves." Because BellSouth does not routinely remove load coils on copper loops longer than 18,000 feet, BellSouth is not obligated to provide this type of line conditioning to AT&amp;T.</p>

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8	<p>Is BellSouth required to remove bridged tap on copper loops that are between 0 and 2,500 feet in length? If so, at what rates, terms and conditions?</p> <p>(Attachment 2-UNE, § 2.5.4)</p>	<p>Consistent with this FCC rule, AT&amp;T submits that it is entitled to removal of all bridge taps that could diminish the capability of the loop to provide high-speed service. Nothing in the FCC definition suggests that there is a limit to the length of the loops on which AT&amp;T can seek the removal of bridge taps. BST's threshold seeks to arbitrarily impose a standard on AT&amp;T inconsistent with the FCC's rules.</p> <p>Yes. In accordance with the FCC's definition in 47 CFR 51.319 (a)(1)(iii)(a), BellSouth has an affirmative obligation to remove all bridge taps that could diminish the capability of the loop to provide high-speed service. The obligation is not dependent on the length of the loop.</p> <p>The rates BellSouth may charge for bridged tap removal are contingent on whether the specific line conditioning activity is a routine network modification, as defined by the FCC in 47 CFR 51.319(a)(8). UNE prices already take into account costs associated with routine network maintenance. Moreover, 47 CFR 51.319(a)(8) requires ILECs to</p>	<p>No, for the reasons discussed above in Issue 6. As referenced above, Paragraph 643 of the <i>TRO</i> provides that "[l]ine conditioning is properly seen as a routine network modification that incumbent LECs regularly perform in order to provide xDSL services to their own customers. As noted above, incumbent LECs must make the routine adjustments to unbundled loops to deliver services at parity with how incumbent LECs provision such facilities for themselves." Because BellSouth does not routinely remove bridged tap on copper loops between 0 and 2,500 feet, BellSouth is not obligated to provide this type of line conditioning to AT&amp;T.</p>

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		<p>complete routine network modifications for AT&amp;T and other CLECs in a non-discriminatory manner. Accordingly, BellSouth is not allowed to charge AT&amp;T for routine network modifications where it does not charge its own end users for these activities. BellSouth may charge only if the activity constitutes work beyond what BellSouth regularly takes on for its own customers.</p> <p>Finally, BellSouth should be precluded from imposing on AT&amp;T any line conditioning costs unless BellSouth provides timely and accurate information as part of the loop qualification processes that precede any requested provisioning activities. Hence, if the Commission determines that a loop-conditioning rate is appropriate (<i>i.e.</i>, should be set at anything but zero), such a rate should only be applicable when BellSouth provides AT&amp;T with mechanized or, if requested, manual loop make-up information that puts AT&amp;T on notice that the "inhibiting" condition exists. If, on the other hand, loop make-up information provided by BellSouth to AT&amp;T does not identify the existence</p>	

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9	<p>Is line conditioning limited to a Routine Network Modification that BST regularly undertakes to provide xDSL services to BST's own customers? (Attachment § 2-UNE, 2.5.1)</p>	<p>No. BellSouth proposes to define Line Conditioning as "routine network modifications that BellSouth regularly undertakes to provide xDSL services to its own customers." AT&amp;T, in contrast, relies on the FCC's definition of line conditioning in Rule 51.319(a)(1)(iii) which is not limited to activities BellSouth may perform for its own customers.</p>	<p>Yes. As noted above, Paragraph 643 of the TRO is clear that "[l]ine conditioning is properly seen as a routine network modification that incumbent LECs regularly perform in order to provide xDSL services to their own customers. As noted above, incumbent LECs must make the routine adjustments to unbundled loops to deliver services at parity with how incumbent LECs provision such facilities for themselves." Thus, there is no legitimate debate that line conditioning is a Routine Network Modification.</p>
10	<p>What is the appropriate threshold for the application of Project Management requirements for the provisioning of loops? (Attachment 2-UNE, § 2.1.3)</p>	<p>AT&amp;T submits that <i>all</i> AT&amp;T loop orders submitted to BellSouth, not just orders of 15 lines or less, should be provisioned under normal provisioning intervals, as outlined in BellSouth Products and Services Interval guide, as opposed to costly and time-consuming negotiations pursuant to</p>	<p>Not all requests for services by CLECs are identical. Therefore, it is necessary for BellSouth to define parameters, with respect to the type of services and quantities requested, to distinguish between requests that can utilize BellSouth's standardized procedures and those that cannot.</p>

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		<p>BellSouth's Project Management process. There is no acceptable business justification for deviation from standard processes. As a carrier operating in the highly-competitive telecommunications market, AT&amp;T has varying service order commitment obligations to its customers that in many cases require unique provisioning, including provisioning of more than 15 lines in a day or at specified time frames by the customer. In addition, BellSouth's proposed language also would impose on AT&amp;T unnecessary extra "fees and costs" associated with the "Project Management" of 15 or more lines.</p>	<p>Interjection of a project manager into the provisioning process for the non-standardized requests adds an additional layer of responsibility and accountability for the successful completion of service requests. Additionally, a project manager adds a single point of contact throughout the provisioning process in conjunction with the upfront due date negotiations. The project manager acts as an interface for coordination of work between involved departments along with insuring that critical dates are met as assigned. Having project management should not jeopardize AT&amp;T's due date commitment to its customer or add additional costs to AT&amp;T.</p>
11	<p>What are BST's obligation relating to the retirement of existing copper loops? (Attachment 2-UNE, § 2.1.1.3)</p>	<p>AT&amp;T has proposed inclusion of language in the ICA that provides for an orderly implementation by BellSouth of any process for retirement of existing copper feeder network facilities, consistent with BellSouth's legal obligations to allow AT&amp;T and other CLECs to utilize the high-capacity portion of such facilities in the provision of xDSL and other broadband services. AT&amp;T's proposal</p>	<p>BellSouth complies with the FCC's rules relating to the retirement of existing copper facilities. (See, 47 C.F.R. § 51.319(a)(3)(iii).) In the <i>TRO</i>, the FCC rejected the need to develop "extensive rules" relating to the retirement of copper facilities. The FCC recognized that "incumbent LECs must provide public notice of any network changes that will affect a competing carrier's performance or</p>



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		<p>sets forth specific timeframes for BellSouth to notify AT&amp;T of any planned retirement activities, establishes a framework for the parties to develop alternatives to ensure that existing AT&amp;T customers are not negatively affected by BellSouth's action, and provides for state Commission approval of BellSouth's planned modifications. AT&amp;T's proposed language acknowledges that as part of the copper retirement process, BellSouth is required to comply with all applicable regulations and state Commission authority regarding facility abandonment and withdrawal of service, as well as any applicable state "public interest" statutes governing its service offerings. BellSouth's proposal, on the other hand, would limit its obligations exclusively to those contained in 47 CFR 319(a)(3)(iii).</p>	<p>ability to provide service. Because the retirement of copper loop plant is a network modification that affects the ability of competitive LECs to provide service, [the FCC] clarifies] that incumbent LECs must provide notice of such retirement in accordance to [FCC] rules." <i>TRO</i> ¶281. BellSouth complies with the Network Modification Rules.</p>
12	<p>Should BST be allowed to charge design fees or other NRCs when AT&amp;T orders loops to serve a particular location that BST has chosen to serve via Integrated Digital Loop Carrier ("IDLC")?</p>	<p>No. AT&amp;T is entitled to unbundled access to loops to provide telecommunications services. Specifically, 47 CFR 51.319(a)(9) states: "An incumbent LEC shall not engineer the transmission capabilities of its network in a manner, or engage</p>	<p>Yes. There may be rare circumstances where a CLEC desires access to a UNE loop in a location where all the loop facilities are served on Integrated Digital Loop Carrier ("IDLC") systems (i.e., there are no alternative facilities that can be used to provide</p>

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	(Attachment 2-UNE, § 2.6.2 )	<p>in any policy, practice, or procedure, that disrupts or degrades access to a local loop or subloop...." BellSouth's imposition of "Design Fees" for unbundling DLC or FTTH loops wrongfully imposes expenses on AT&amp;T for reconfiguration of the loop back to an all-cooper or other readily-unbundled facility that would not require incremental work to access. While BellSouth should be encouraged to deploy new technologies to enhance its network, it should not be done in a manner that degrades a CLEC's ability to access existing loops. There is no basis for inappropriately externalizing to its competitors via non-recurring charges (e.g., design fees) costs associated with BellSouth's own capital deployment decisions.</p>	<p>the CLEC with a stand alone loop). This situation could exist because the other alternate facilities such as copper or Universal DLC systems are all being used by other customers. In these situations, the only technically feasible way to "unbundle" a loop is perform a "hairpin" or "side-door" through the switch where the IDLC is connected. In order to successfully provision these alternatives, design work must be performed. These costs, or "design fees" as AT&amp;T calls them, are recovered through the non-recurring charges for the loop itself. BellSouth does not charge additional "design fees" beyond those that are already included in the TELRIC-compliant commission-ordered non-recurring charges for the loop being provisioned.</p> <p>Essentially what this issue involves is the situation where AT&amp;T wants to order an SL1 loop, where no facilities exist to provide that loop, but there are facilities to provide an SL2 loop. When this occurs, AT&amp;T wants the SL2 loop at an SL1 price, which should not be allowed, since that would result in the loop being</p>

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13	<p>Should AT&amp;T have the right to audit BST's billings to AT&amp;T for services provided pursuant to the ICA, and if so, under what terms and conditions should the audit be conducted?</p> <p>(GTC § 12.1.4 and 12.1.5)</p>	<p>Yes. AT&amp;T proposes retention of existing audits rights language, which provides that AT&amp;T must bear the initial costs of any requested audit, and limits AT&amp;T's ability to recover to circumstances where the audit identifies errors or net variances of over 2% in BellSouth's favor over the target period. For the past seven years, the parties have operated under contractual terms allowing for such audits no more than once each calendar year, absent demonstrated errors in the billing process. To AT&amp;T's knowledge, this process has been acceptable to both parties, with no recorded disputes to date regarding the frequency, nature or length of any audit requested by AT&amp;T. This provision reflects reasonable commercial practice and sound public policy.</p>	<p>provided at a below cost rate, even based on TELRIC pricing.</p> <p>BellSouth agrees that AT&amp;T can audit BellSouth's billings to AT&amp;T; however, BellSouth does object to paying for AT&amp;T's costs in conducting such an audit. As a compromise position, BellSouth is willing to pay AT&amp;T's reasonable costs directly related to the audit when the audit determines that there has been a net billing error in BellSouth's favor of more than ten percent (10%) of the calendar year billings from BellSouth to AT&amp;T.</p> <p>Audits should be limited to billing rendered by BellSouth to AT&amp;T pursuant to this current Agreement and shall exclude any data no longer available due to BellSouth's data retention policies.</p>
14	<p>Under what circumstances will AT&amp;T be allowed to move or rearrange BST's facilities while AT&amp;T is performing "Make-Ready" work?</p> <p>(Attachment 8-Right of Way, §§ 6.3</p>	<p>AT&amp;T should be permitted to perform its own Make-Ready work in those limited instances in which BST indicates that it cannot perform the work in time to meet AT&amp;T's requested due date, or within a</p>	<p>AT&amp;T should never be allowed to move or rearrange BellSouth facilities without the express written consent of BellSouth. AT&amp;T is not privy to all of the services being provided over BellSouth facilities, nor is AT&amp;T</p>

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	<p>and 13.1.1)</p>	<p>reasonable timeframe. AT&amp;T should be granted the right to accomplish such Make-Ready work even where the Make-Ready work involves moving, changing, altering or otherwise affecting BST owned facilities. AT&amp;T will arrange for the performance of such work by contractors having similar skills and training as BST's employees who would otherwise perform the work.</p> <p>BellSouth attempts to use collective bargaining agreements voluntarily entered into between BST and its unions to deny AT&amp;T the opportunity to perform Make-Ready work. These agreements, however, only govern the relationship between those two parties. Allowing a third party such as AT&amp;T to perform its own Make-Ready work and place its own attachments is not the same thing as BST performing its own work with non-union labor or contracting out its own work to non-union contractors.</p> <p>BST's attempt to force AT&amp;T to use BST labor to perform Make-Ready work and the placement of attachments that could safely be performed by</p>	<p>always privy to other projects that may be impacting these facilities. Further, the contract between BellSouth and the Communications Workers of America, generally requires BellSouth to use only Company employees on work involving the construction, maintenance, removal and/or repair of all aerial outside plant, underground cable and splicing of buried cable, submarine cable and local and toll central office, TWX, TLX, private line or station equipment.</p>

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15	<p>Is BellSouth required to provide expedites for AT&amp;T service orders? If so, at what rates, and upon what terms and conditions?</p> <p>(Attachment 2-UNE, § 4.3.11 and Exhibit B)</p>	<p>AT&amp;T's own employees or contractors would impose additional costs on AT&amp;T and create unnecessary delays in AT&amp;T's provisioning of service to its end users.</p> <p>Yes. Since BellSouth manages service installation intervals for its own customers, BellSouth is also obligated to (1) "expedite" a service order upon AT&amp;T's request if feasible, and (2) provide non-discriminatory and cost-based support for its charges for providing this service to AT&amp;T.</p> <p>AT&amp;T submits that only Order Coordination (a rate element already approved by the Commission) is required to coordinate dispatched technicians to perform work on a schedule deviating from standard intervals. Physical installation work activity is already recovered in the non-recurring loop rate, another Commission-approved rate.</p>	<p>BellSouth will provide service to AT&amp;T, including expediting orders, based on the parity requirements imposed on BellSouth. There is no requirement, however, that BellSouth provide expedited service on a more favorable basis than it provides to its own subscribers, and there is no requirement that BellSouth provide this service at a TELRIC-based rate.</p>
16	<p>Under what circumstances can BST charge AT&amp;T a secondary service order charge?</p> <p>(GTC § 20.3, Attachment 2)</p>	<p>AT&amp;T's proposed language supports its position that BellSouth should not be permitted to impose a non-recurring secondary service charge when AT&amp;T acquires a customer and issues a service order. BellSouth relies upon its</p>	<p>Contrary to AT&amp;T's position, a secondary service charge applies when an end user is either transferring their service or adding new or additional service. The SSC recovers the costs incurred by BellSouth when</p>

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		<p>General Subscriber Services Tariff ("GSST") for its right to impose this charge. That tariff allows BellSouth to impose a charge on an end user for a "transfer of service" when a new end user willingly assumes "all indebtedness of the previous subscriber and existing financial responsibility for that account..." and there is "no lapse in service." Neither of these criteria are met when a customer moves from BST to AT&amp;T. AT&amp;T does not assume any of the previous indebtedness of its new customer. Moreover, a lapse of service occurs. The Commission should find that when a BST customer moves to AT&amp;T, it is not a "transfer of service" under the GSST. This issue has been previously litigated before the Georgia Public Service Commission in Docket 13014-U. The final Commission order was issued on 4/15/03.</p>	<p>it receives, records, and processes a customer's request to change service, or add new or additional services, which includes the process of transferring the responsible party of record from BellSouth's end user to AT&amp;T.</p>
17	<p>Under what circumstances, if any, should BST be responsible in a Meet Point Billing ("MPB") situation for payment to AT&amp;T when the originating carrier's Operating Company Number ("OCN") or Carrier Identification Code ("CIC") is not forwarded to AT&amp;T by</p>	<p>In order for AT&amp;T to accurately bill originating IXCs and local carriers, BellSouth must provide the CIC or OCN's of the originating carriers. AT&amp;T's systems are only capable of directly billing the originating carrier when BST provides the clear</p>	<p>BellSouth, as the tandem company in a Meet Point Billing ("MPB") situation, should be responsible for payment to AT&amp;T as the terminating company only if the originating company's correct Operating Company Number ("OCN") and/or</p>

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	<p>BST?</p> <p>(Attachment 7-Billing and Recording, § 1.1.5 and 1.3.4)</p>	<p>identification of such originating carrier. Absent BST's forwarding of the CIC or OCN of the originating carrier, AT&amp;T should be allowed to bill BST for the unidentified traffic.</p>	<p>Carrier Identification Code ("CIC") information has been made available to BellSouth by the originating company or other responsible third party and BellSouth has not forwarded the information to AT&amp;T. When correct OCN and/or CIC information has not been made available, BellSouth will work with AT&amp;T in an attempt to identify the responsible third party and obtain the correct OCN and/or CIC information that should be used by AT&amp;T to properly bill the originating company.</p>
18	<p>For what period can a Party be back-billed for network elements and services provided under this agreement?</p> <p>(Attachment 7-Billing and Recording, § 1.2.3)</p>	<p>AT&amp;T seeks to retain in the proposed ICA, the existing terms between the Parties for back-billing. AT&amp;T believes that the existing one year back-billing period is adequate and in cents proper and timely billing. A longer period would undermine the incentive for either Party to initially bill in an accurate and timely manner and may negatively impact either Party's cash flow.</p>	<p>All charges incurred under the agreement should be subject to the state's statute of limitations or applicable Commission rules. Back-billing alone should not be subject to a shorter limitations period than any other claims related to billing under the agreement. However, as a compromise, BellSouth will agree to a 2 year limitation on back billing region-wide.</p>

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19	<p>Is BST obligated to split collocation bills to send Non Recurring and Recurring charges to different billing addresses? If so, subject to what rates, terms and conditions?</p> <p>(Attachment 4-Collocation, §1.9 - 1.9.2)</p>	<p>Yes. AT&amp;T seeks to retain the Parties' current practice to split collocation bills to send Non Recurring and Monthly Recurring charges to different billing addresses. AT&amp;T and BST have been unable to agree upon the proper application of rates used to compensate BST for performing such service for AT&amp;T. AT&amp;T believes that only when an Initial or Subsequent Application contains new recurring and nonrecurring elements, thereby requiring additional work by BellSouth to format the billing, should appropriate initial or subsequent charges apply.</p>	<p>No. There is absolutely no legal obligation that requires BellSouth to manually separate AT&amp;T's collocation bills in the manner requested by AT&amp;T and AT&amp;T has not, and cannot, cite to any such legal obligation on BellSouth's part.</p> <p>That said, if AT&amp;T is willing to pay for BellSouth voluntarily providing this service, then BellSouth is willing to manually separate the collocation charges between the Monthly Recurring Charges (MRCs) and the Nonrecurring Charges (NRCs) by establishing two unique Billing Account Numbers (BANs) for each type of charge and to send separate bills to the location specified by AT&amp;T for each type of charge. BellSouth will provide "split billing" for no more than two (2) BANs per collocation arrangement and will bill the non-recurring charge for the separation of the bill on a per application basis in addition to the collocation Application fee.</p> <p>When AT&amp;T submits an Initial Application, the initial rate for split billing will be applied in addition to</p>



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			<p>the Initial Application fee. When AT&amp;T submits a Subsequent Application that contains new recurring or nonrecurring charges, the subsequent split billing rate will be applied in addition to the appropriate Subsequent Application fee. Since each charge must be manually directed to the designated BAN as either a NRC or an MRC, the appropriate initial or subsequent split billing charge will be applied whenever an Initial or Subsequent Application contains new recurring or nonrecurring charges.</p>
20	<p>What rate can BST charge AT&amp;T when BST is required to dispatch a technician to an end user's location more than once due to incomplete or inaccurate information provided by AT&amp;T? (Attachment 2-UNE, §§ 2.1.5.2 and 2.1.6.4)</p>	<p>BST maintains its own loops and equipment and is therefore obligated to maintain the leased UNEs of CLECs. As the commission-approved rates in Exhibit A of the ICA indicate, a cost-based rate for a Maintenance Dispatch is significantly lower than BST's proposed rate.</p> <p>AT&amp;T agrees that Order Coordination is required to coordinate dispatched technicians, and BST's identified</p>	<p>It is AT&amp;T's responsibility to make sure complete and accurate information is provided to BellSouth. If this does not happen, BellSouth will have unnecessarily wasted time, resources and expenses in an attempt to fulfill AT&amp;T's request. The UNE cost studies assume that complete and accurate information is provided. Therefore, in situations where BellSouth has to dispatch multiple times, BellSouth is under-recovering</p>

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21	<p>When the cost of a Routine Network Modification is not already recovered in the Commission approved Recurring and Nonrecurring charges for the element, can BST require pre-payment of the costs for the Routine Network Modification?</p> <p>(Attachment 2-UNE, §§ 2.3.11, 6.2.8, and 6.4.3)</p>	<p>incremental travel time (average 20 min.) for a dispatched technician is appropriate. However, since the Installation &amp; Maintenance Technician's actual maintenance work activity is already recovered in recurring loop rates, BST's non-cost based rate is inappropriate.</p> <p>No. 47 CFR 51.319(a)(8) stipulates that routine network modifications should be completed by BST in a non-discriminatory manner. This means that the rates, terms and conditions applicable to AT&amp;T must be equal to the rates, terms and conditions for routine network modifications performed for BST's retail customers. BST should not be allowed to charge AT&amp;T for routine network modifications where it does not charge its end users for these routine network modifications. Further, if BST does not require prepayment from its retail customers, then BST should not require prepayment by AT&amp;T.</p>	<p>its cost. The cost causer (AT&amp;T) should pay these costs. Trouble Determination Charges from the applicable BellSouth tariff should apply when multiple dispatches are required because of incorrect or incomplete information provided by the CLEC.</p> <p>Yes. If BellSouth has not anticipated a requested network modification as being a Routine Network Modification and has not recovered the costs of such Routine Network Modifications in the rates set forth in Exhibit A of Attachment 2, then AT&amp;T must pay for the cost to have the work performed. Each request will be handled as a project on an individual case basis.</p> <p>BellSouth will provide a price quote for the request, and upon receipt of payment from AT&amp;T, BellSouth shall perform the requested network modification. This pre-payment of costs is consistent with the terms and conditions that BellSouth imposes on its own customers.</p>
22	<p>Should BellSouth be allowed to charge AT&amp;T a Multiple Tandem Access</p>	<p>No. BST's proposed language is inconsistent with sound public policy.</p>	<p>BellSouth agrees that it should not recover multiple tandem access</p>

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	<p>charge if BellSouth currently recovers its costs through another Commission approved rate element? (Attachment 2-UNE, Exhibit B)</p>	<p>BellSouth's proposed rates contain a separate charge to be applied when multiple tandem offices are used for the transport and termination of traffic, called the "Multiple Tandem Access" charge. Upon review of relevant UNE cost studies, AT&amp;T has ascertained that BellSouth, in fact, has already reflected the use of multiple tandem routing for a percentage of calls employing tandem switching in its cost support for the tandem switching and transport UNE rate elements. Imposition of this charge over and above BellSouth's cost-based transport and termination charges constitutes an over-recovery of these costs. Therefore, BellSouth's MTA should be eliminated.</p>	<p>charges on a single call if the first tandem access charge on the call recovers the cost of switching at any subsequent access tandems. However, BellSouth's tandem access switching rate was not developed, and is not calculated, to recover the cost of switching a single call through multiple access tandems.</p>
23	<p>What are BellSouth's obligations to accurately measure and record traffic usage at a BellSouth Tandem switch before charging for that usage? (Attachment 2-UNE, § 4.3.1.1)</p>	<p>BST has knowingly and wrongfully billed for 100% tandem-routed local calls for well over 2 years. AT&amp;T requests the Commission find that BST be obligated to provide, in a reasonable timeframe, actual recordings of tandem usage. This will alleviate AT&amp;T's concern with BST's current melded tandem factor development, which relies on the potentially inefficient trunk capacity and planning for BST's</p>	<p>In light of the D.C. Circuit's Opinion in <i>USTA II</i> vacating the FCC's unbundling rules for local switching, high capacity transport and high capacity loops, effective June 16, 2004, this issue is no longer appropriate for arbitration because BellSouth no longer has an obligation to offer UNE-P. If the D.C. Circuit had not vacated such FCC Rules, BellSouth's position would be as</p>

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		<p>interoffice network.</p>	<p>follows:</p> <p>BellSouth's network, as well as other RBOC networks, does not record tandem switching usage on interoffice calls originating on the network and terminating on the network or to ICO and FB-CLEC networks. Therefore, on a UNE-P originated call terminating to these three destinations, the use of a tandem is not recorded. In these call scenarios a recording is made at the originating end office; and prior to the mandate of UNE-P, there was no need for tandem switching information on such calls. In these call scenarios originating from a UNE-P line, BellSouth applies a tandem switching rate that is a fraction of the commission ordered tandem switching rate to account for a percentage of use and then bills the rate for each minute. The percentages were developed based on the amount of direct end office and tandem connected trunks in place that transport calls in these scenarios. The amount of tandem connected trunks were divided over the total number of trunks to result in a tandem routed percentage. BellSouth believes this is</p>

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			<p>the most accurate method to approximate the tandem switching usage at issue. BellSouth is willing to continue to utilize this method in AT&amp;T's subsequent agreement and does not believe that it should be obligated to develop the recording capability for these calls in all of its tandem switches. If the commission views otherwise, then BellSouth should be given a reasonable amount of time to develop such capability. Further, BellSouth should be able to recover its costs for such development and increase the tandem switching rate accordingly.</p>
24	<p>Should Collocation Power charges (AC and DC) be based on the amps used by AT&amp;T or based on fused amps installed for AT&amp;T? Under either scenario, what terms and conditions will apply?  (Attachment 4-Collocation, § 8.5.2 - 8.6.4)</p>	<p>Cost-causation, or "amps used" is the appropriate cost-recovery method for AC and DC Collocation Power charges. AT&amp;T proposes specific language to ensure appropriate cost recovery for fused based power charges. In contrast, the existing approach allows BellSouth to over-recover its costs. In its cost studies, BellSouth employed a "usage basis" to quantify its proposed charges for AT&amp;T's use of AC and the DC power plant. After using a "usage basis" for development of the costs, however,</p>	<p>No. BellSouth should not be required to offer an alternative power billing methodology in North Carolina, Mississippi, or Kentucky because those Commissions have already approved the fused amp billing methodologies in their respective states.  In Georgia, however, the Commission has not yet determined the appropriate power usage billing methodology and rate elements for a usage-based approach. Until the Commission</p>

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		<p>BST inappropriately converts its usage costs to a fuse-based recovery methods. This generates a substantial over-charge to CLECs such as AT&amp;T, particularly where a CLEC connects directly to the BST Power Distribution Board.</p> <p>Under AT&amp;T's proposed approach, already approved by the Florida Commission, AT&amp;T would be given the option of providing BST with AT&amp;T's maximum forecast of power that AT&amp;T wishes to draw at any one time. Under this approach, BST retains the right to audit AT&amp;T's power usage at its own expense. The currently ordered fused-amp rate is factored back to a used-amp-based charge for rate application.</p>	<p>issues an order establishing the specific methodology and rates for the usage-based approach, AT&amp;T should continue paying pursuant to the Commission's existing fused amp billing methodology and rates.</p>
25	<p>What is the appropriate charge for transport and termination for inter-office calls originated by a carrier that serves the customer using UNE-P?  (Attachment -2-)</p>	<p>For transport and termination of interoffice calls originated by AT&amp;T using UNE-P, BellSouth should be required to charge the lesser of: (1) the Local Switching Rate or (2) where in existence, the reciprocal compensation arrangement between BellSouth and the third-party carrier to whom the call is terminated. This approach ensures that BellSouth does not receive</p>	<p>In light of the D.C. Circuit's Opinion in <i>USTA II</i> vacating the FCC's unbundling rules for local switching, high capacity transport and high capacity loops, effective June 16, 2004, this issue is no longer appropriate for arbitration, because BellSouth is no longer obligated to provide UNE-P. Subject to this caveat, BellSouth's position would be</p>

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		<p>terminating compensation from an originating UNE-P customer that exceeds its cost to transport and terminate that call. This particularly arises when BellSouth charges AT&amp;T for originating and terminating such calls, even if it has a reciprocal compensation arrangement with the third-party carrier. BellSouth should not be permitted to receive such a windfall, because it incurs no payments to the third-party, yet it charges AT&amp;T for the call termination.</p>	<p>as follows:</p> <p>First to clarify the Issue, according to AT&amp;T's position this issue appears to only apply to UNE-P originated calls that are terminated by a Third Party, such as a FB-CLEC, Wireless Carrier or Independent Company (ICO). In today's environment, these calls appear to the Third Party to be BellSouth retail end user originated calls. Therefore, these calls may be treated by Third Parties as intercarrier compensation eligible calls attributable to BellSouth. BellSouth's position is that the Third Party should not bill BellSouth for such calls and that the UNE-P CLEC should ultimately be responsible for such compensation to the Third Party. Further, BellSouth believes that the UNE-P CLEC should be obligated to establish intercarrier compensation agreements with all Third Parties that may terminate calls for the UNE-P CLEC. BellSouth proposes that upon BellSouth providing call-records to third parties for identifying UNE-P CLEC-originated calls, BellSouth may charge the originator either an end office switching UNE rate element at</p>

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26	<p>How should BST and AT&amp;T compensate each other for calls that originate and terminate in the same LATA, where each party's local calling area is not coterminous with the LATA boundaries?</p> <p>(Attachment 2 – UNE, §§ 4.2.7, 4.2.8 4.2.9 and Attachment 3-Network Interconnection, § 13.2.2, 13.6.2, and 15.1)</p>	<p>AT&amp;T believes that different rates or compensation schemes for local and toll traffic, and /or for voice and data traffic, are not supported by differences in underlying costs of providing these services. Following the principle of "like treatment for like traffic," all calls originating and terminating within a LATA should be subject to the same compensation arrangements without regard to end-user classification or type of traffic. Each carrier within the LATA should assume the full TELRIC of transporting calls originated by their customers to the terminating carrier. IntraLATA toll calls originated by AT&amp;T's customers should not be subject to access payments. BST should route intraLATA toll calls originated by AT&amp;T's customers over their shared transport facilities, so that these calls can be billed in the same manner as the equivalent interswitch</p>	<p>the terminating end office or charge the originator the charges that the terminator charged BellSouth to recoup some or all of the intercarrier compensation paid to the Third Party terminator.</p>
		<p>Unless mutually agreed otherwise, local traffic for purposes of intercarrier compensation should be defined as calls that originate and terminate in the originating party's local calling area as set forth in its tariff, provided that the local calling area is within a single LATA. The current Intercarrier Compensation regime is based upon a "Calling Party's Network Pays" structure in which the calling party's network provider pays the terminating party's network provider for terminating the call. This is based on the principle that the originating party is receiving revenues, either toll or local, from its end user. This regime separates traffic into access charges and reciprocal compensation. The appropriate rate is determined by the jurisdiction of the call, which is based upon the end points of the call. Although the parties can agree otherwise, such</p>	



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		local calls.	jurisdiction is determined by whether or not the end points of the call are located within the same exchange or different exchanges. The calling party's local calling area, as designated by the originating end user's local provider, should be utilized to determine whether the call is "local" for purposes of intercarrier compensation.
27	Should BellSouth be permitted to modify "Call Flow" diagrams that accurately reflect how compensation for the transport and termination of originating and terminating traffic are based subsequent to the execution of the ICA?  (Attachment 2-UNE, § 4.3.1.1)	No. BellSouth should not be permitted to unilaterally modify "Call Flow" diagrams after the execution of the ICA. "Call Flow" diagrams are critical to establishing inter-carrier compensation because they identify the applicable elements that form the basis of the compensation. The parties agree upon the elements for inter-carrier compensation at the time of the execution of the ICA, and refer to these diagrams to resolve billing disputes for UNE-P. Thus, the "Call Flow" diagrams should be included as an attachment to the ICA, and any modifications to the "Call Flow" diagrams should be made as an amendment to the ICA. BellSouth should not be allowed to increase inter-carrier compensation in any manner	BellSouth has proposed to AT&T contract language that describes the substantive intercarrier compensation obligations of the Parties instead of including call flows. (The language can be provided as an attachment.) BellSouth's position is that this approach is more appropriate and clear and requires less interpretation. BellSouth's position renders moot the issue of modification to "Call Flow" diagrams.

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28	<p>What is the definition of non-Information Service Provider ("ISP") "Enhanced (Information) Service Provider ("ESP") traffic," and how should it be compensated, if at all? (Attachment 3--Interconnection, § 13.2.3)</p>	<p>except by agreed-upon amendment to the ICA.</p> <p>Non-ISP ESP traffic should be defined as traffic that is originated by or terminated to an ESP that is located within or has a presence in the same LATA in which the originating (ESP calling party) and terminating (called party) NPA-NXXs are assigned. Transport and termination of such traffic is transport and termination of telecommunications within the meaning of section 251(b)(5) of the Telecommunications Act. Accordingly, the parties should bill each other reciprocal compensation for this type of traffic.</p>	<p>Non-ISP ESP traffic is not 251(b)(5) traffic and should not be subject to reciprocal compensation. Non-ISP ESP traffic is exempt from access charges and reciprocal compensation pursuant to the FCC's ESP Exemption Order.</p>
29	<p>What are the appropriate rates, terms and conditions under which BellSouth can impose the four line limit "carve out" when providing access to unbundled switching to AT&amp;T for those customers with four lines or more in density zone 1 in the top 50 MSAs? (Attachment 2-UNE, §§ 4.2.2 and 5.3.3)</p>	<p>Until the state Commission determines the maximum number of DSOs that CLECs may serve using unbundled local switching and the appropriate rates, term and conditions, status quo must be maintained regarding BellSouth's obligations. In the TRO, the FCC instructed state Commissions to evaluate, as part of their state impairment proceedings, the appropriate line cut-off for a UNE-P carve-out. Recognizing that this cut off could be different from the four-line</p>	<p>AT&amp;T's language is based on their reading of the old TRO order and rules: 1) State Commission determinations were to be made in the context of the 9 month TRO proceedings, which are no longer applicable, and 2) BellSouth is no longer obligated to provide unbundled local switching at TELRIC rates, irrespective of the number of lines serving a particular customer, or whether BellSouth is providing cost-based access to EELs.</p>

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		<p>carve out established in the UNE Remand Order, the FCC was loathe to eliminate it for a temporary period before a new threshold was established. Thus, it maintained the status quo until the states established the new threshold.</p> <p>FCC determined in its UNE Remand Order that AT&amp;T and other CLECs were not impaired without access to unbundled local circuit switching "when they serve customers with four or more lines in density zone 1 in the top 50 metropolitan statistical areas . . . where incumbent LECs have provided nondiscriminatory, cost-based access to the enhanced extended link (EEL) throughout density zone 1." It is AT&amp;T's position that BellSouth must offer nondiscriminatory, cost-based access to EELS before it can impose the four line limit "carve out" as first established in the FCC's UNE Remand Order.</p> <p>Further, even if BellSouth did provide access to EELs such that it can impose the 4 line limit "carve out", the appropriate rate to charge for the first three lines is TELRIC cost based rates.</p>	<p>Notwithstanding the impact of USTA II, the intent of the FCC's four line limit "carve out" was to segment the market between mass market customers and enterprise market customers. Once a customer is defined as an enterprise market customer (i.e., served by four or more lines), CLECs are not impaired in serving all of the lines used to serve that enterprise market customer. As such and contrary to AT&amp;T's assertions, BellSouth is not obligated to provide TELRIC rates for any of the lines serving that enterprise market customer.</p>

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		<p>The appropriate rate for the lines in excess of three should be "just and reasonable" rates as required by applicable state and federal laws. Additionally, those "just and reasonable" rates should be established by this Commission. It is more appropriate for this Commission to address the rates in a generic proceeding since all CLECs would be affected by such rate determinations. However, in the event the Commission does not establish a generic proceeding, AT&amp;T reserves the right to address this issue in this arbitration proceeding.</p>	
30	<p>Does BST have an obligation under section 251/252 to provide a transit function at TELRIC rates for local traffic originating or terminating to AT&amp;T?  (Attachment 3-Network Interconnection, § 13.1, 13.1.2, 13.5.4.2, 13.6.4 and 17.7)</p>	<p>Yes. AT&amp;T proposes existing ICA language which requires BellSouth to provide the transit function at TELRIC rates. The provision of both tandem transit capabilities and call termination by ILECs, such as BellSouth and the independent companies, is required by the 1996 Telecommunications Act. Such capabilities should be provided to competitive local exchange companies (CLECs) and CMRS providers at rates that reflect forward-looking costs or TELRIC.</p>	<p>BellSouth is not obligated to provide a transit function. This issue is not appropriate for arbitration in this proceeding because it involves a request by AT&amp;T that is not encompassed within BellSouth's obligations pursuant to Section 251 of the Act.</p> <p>Of course, AT&amp;T has the right pursuant to the Act to request direct interconnection to other carriers, and, if it can work out a commercially-based transit arrangement with</p>

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		<p>More specifically, Section 251(c)(2)(a) requires ILECs, among other things, to interconnect with requesting carriers for “the transmission and routing of telephone exchange service and exchange access.” Nothing in the statute limits this duty solely to exchanging traffic between the incumbent LEC and the requesting carrier. Moreover, § 251(a)(1) provides CLECS the right to interconnect indirectly with the facilities and equipment of other carriers. Properly read together, §§ 251(c)(2)(a) and 251(a)(1) make clear that incumbent LECs must provide tandem transit to CLECS as part of their interconnection obligations.</p>	<p>BellSouth, it is entitled to interconnect indirectly with such carriers. The fact that a carrier has the right to interconnect indirectly with another carrier, does not impose an absolute right to transit a third carrier’s network without that carrier’s permission, and without compensating the carrier providing the transit function. If there were some obligation on BellSouth’s part to provide such transit function, where the terminating carrier imposes on BellSouth any charges or costs for the delivery of Transit Traffic originated by AT&amp;T, AT&amp;T should reimburse BellSouth for all charges paid by BellSouth in this regard.</p>
31	<p>Is it appropriate for the Commission to consider for inclusion in the ICA in a § 252 arbitration new UNE rates and new collocation fees or should those rates and fees be determined in separate generic proceedings? If considered in this proceeding, what are the appropriate rates and fees.  (Attachment 2-UNE, Exhibit B; Attachment 4-Collocation, § 6.3.1)</p>	<p>It is inappropriate and inefficient for this Commission to consider in the context of individual ICA arbitrations new rates, terms and conditions for collocation. To the extent changes to UNE rates or to collocation rates, terms and conditions will be established, they should be established in a generic docket in which all potentially impacted carriers can participate.</p>	<p>This issue deals first with identifying the situations where a “subsequent application” fee should apply. The Commission has approved a subsequent application fee for use in interconnection agreements. BellSouth has not been applying the subsequent application fee in every instance where such fee should have been applied. In this proceeding, BellSouth has proposed lesser subsequent application fees for different applications requiring</p>

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			<p>different amounts of work. The Commission is authorized under §252(c) to set TELRIC prices in a § 252 arbitration proceeding. BellSouth will provide the rates and cost studies in its testimony.</p> <p>Should the Commission not take up the issue of whether these lesser-priced subsequent application fees should be established in this proceeding, the Commission should identify with specificity all of the situations where the existing subsequent application fee may be applied by BellSouth, which should include all situations where BellSouth provides services in connection with a subsequent application for service, where the costs of dealing with that application are not recovered elsewhere. In those instances, AT&amp;T should pay the subsequent application fee already approved by the Commission.</p>
32	Should BellSouth have the right to audit AT&T's records to verify compliance with the high capacity EEL service eligibility requirement provided pursuant to the ICA, and if so, under		In light of the D.C. Circuit's Opinion in <i>USTA II</i> vacating the FCC's unbundling rules for local switching, high capacity transport and high capacity loops, effective June 16,

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	<p>what terms and conditions should the audit be conducted?</p> <p>(Attachment 2-UNE § 5.2.6)</p>		<p>2004, this issue is no longer appropriate for arbitration because BellSouth no longer has an obligation to offer a high capacity EEL product. If the D.C. Circuit had not vacated such FCC Rules, BellSouth's position would be as follows: BellSouth may, on an annual basis, perform and audit of AT&amp;T's records in order to verify compliance with the qualifying service eligibility criteria.</p>
33	<p>What compensation, if any, is due for the transport of 976 and other information service calls?</p> <p><u>Attachment 7 §1.5.1</u></p>		<p>Subsequent to the filing of its Arbitration Petition, AT&amp;T has raised this issue with BellSouth and BellSouth is uncertain of exactly what the issue means. BellSouth will meet with AT&amp;T to better understand the issue and will amend this position statement at a later date. BellSouth will also address the issue in testimony.</p>
34	<p>Under what circumstances can BellSouth modify SQMs that have been previously approved by the Commission?</p> <p>(Attachment 9)</p>		<p>Upon the Commission's issuance of an Order pertaining to Service Quality Measurements in a proceeding expressly applicable to all CLECs generally, BellSouth should be allowed to implement any such Order as of the date specified by the Commission.</p>

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35	Should AT&T be required to provide BellSouth with reciprocal access to network terminating wire (NTW) installed by, or on behalf of, AT&T?  (Attachment 2)		Yes. In order to ensure that every consumer has access to telephony services, BellSouth should have access to AT&T's NTW on the same terms, conditions and prices that AT&T has access to BellSouth's NTW.



**ATTACHMENT "B"**

**AGREEMENT BETWEEN  
BELLSOUTH TELECOMMUNICATIONS, INC.  
AND  
AT&T COMMUNICATIONS OF THE SOUTHERN  
STATES, INC.**