

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of)	
)	
Petition by SouthEast Telephone, Inc.)	
for Arbitration of Certain Terms and)	CASE NO. 2001-045
Conditions of a Proposed Agreement)	
with BellSouth Telecommunications, Inc.)	
Pursuant to 47 U.S.C. § 252)	
_____)	

RESPONSE OF BELL SOUTH TELECOMMUNICATIONS, INC.
TO PETITION BY SOUTHEAST TELEPHONE FOR ARBITRATION

BellSouth Telecommunications, Inc. (“BellSouth”) hereby respectfully files its Response to the Petition by SouthEast Telephone, Inc. (“SouthEast”) for Arbitration under the Telecommunications Act of 1996, and states the following:

1. As to the allegations of Paragraph 1, BellSouth admits that the documents referred to therein are attached to the Petition.

2. BellSouth is without knowledge of the allegations contained in Paragraph 2. Therefore, they are deemed to be denied.

3. BellSouth admits the allegations of Paragraph 3.

4. BellSouth admits the allegations of Paragraph 4.

5. Paragraph 5 of the Petition sets forth legal conclusions, rather than a statement of facts to which a response is required. Nevertheless, BellSouth admits that Paragraph 5 contains a generally correct statement of the law.

6. Paragraph 6 of the Petition contains legal conclusions, rather than a statement of facts to which a response is required. Nevertheless, BellSouth admits that Paragraph 6 contains a generally correct statement of the law.

7. BellSouth admits the allegations of Paragraph 7.

8. To the extent Paragraph 8 is intended to imply that BellSouth has not offered SouthEast interconnection at fair and reasonable rates, terms and conditions, BellSouth denies this allegation. All other allegations of Paragraph 8 are admitted.

9. BellSouth admits the allegations of Paragraph 9.

10. BellSouth admits the allegations of Paragraph 10.

11. BellSouth admits that Paragraph 11 (including subparts 1-5) sets forth a generally accurate statement of the issues that remain in dispute between the parties. BellSouth takes exception, however, to the manner in which SouthEast has stated some of these issues. Moreover, BellSouth denies that the matrix attached to the Petition sets forth a complete and accurate representation of BellSouth's position on these various issues. Accordingly, BellSouth has set forth below a more appropriate statement of each of the five issues, and an accurate statement of BellSouth's position:

Issue 1: Should BellSouth provide local number portability to SouthEast via remote call forwarding?

BellSouth's Position: No. The FCC has specifically ruled that "LECs must discontinue using transitional number portability measures in areas where a long-term number portability method has been implemented" (47 C.F.R. § 52.27(d)). Remote call forwarding ("RCF"), which SouthEast requests on a permanent basis, is specifically identified in 47 C.F.R. § 52.21(q) as a transitional measure. Thus, in the areas in which

permanent number portability measures have been implemented in Kentucky, the FCC rules prohibit the relief that SouthEast seeks, i.e., the permanent provision of local number portability by way of remote call forwarding.

Issue 2: Should SouthEast be able to purchase digital subscriber line (“DSL”) service from BellSouth pursuant to an intrastate tariff filed with the Commission?

BellSouth’s Position: No. BellSouth currently has no intrastate tariff for ADSL. BellSouth’s current ADSL service offering is filed exclusively in the federal interstate tariffs. An ADSL service offering that permits Internet Service Providers to provide its end-user customers with a high-speed dedicated connection to the Internet is an interstate service and is properly tariffed at the federal level. BellSouth’s ADSL service offering is a dedicated connection designed for high speed access to the Internet. It is, thus, an interstate service offering properly tariffed at the federal level.

This matter is currently before the Commission in the case styled, *In the Matter of: Iglou Internet Services, Inc. v. BellSouth Telecommunications, Inc.*, Case No. 99-484. This issue will be resolved in the context of the *Iglou* Complaint. Accordingly, there is no need to litigate the issue a second time in the context of this proceeding. Instead, the Commission’s ultimate decision in *Iglou* should simply be implemented in this matter.

Issue 3: Should BellSouth offer SouthEast DSL service at a wholesale discount?

BellSouth’s Position: No. Pursuant to Section 251(c)(4), BellSouth is obligated “to offer for resale at wholesale rates any telecommunications service [it] provides at retail to subscribers who are not telecommunications carriers.” (Emphasis added.) BellSouth provides its federally tariffed DSL service as a wholesale offering to Internet Service

Providers. BellSouth's tariffed DSL service is not a retail offering to end-user subscribers. BellSouth is thus not obligated to make DSL available for resale at the wholesale discount.

Issue 4: Are the BellSouth proposed charges of \$3.50 and \$19.99 for electronic and manual LSR processing and the proposed \$20.00 secondary service charge unreasonable, discriminatory, and/or anti-competitive?

BellSouth's Position: No. The charges BellSouth proposes for electronic and manual LSR processing are reasonable and non-discriminatory. Likewise, it is reasonable and non-discriminatory to apply a secondary service charge of \$20.00 (minus the applicable discount) to resale orders. These charges have no anticompetitive effect.

Issue 4 is essentially a cost issue, which will be considered by this Commission in the context of the case styled, An Inquiry Into The Development of Deaveraged Rates For Unbundled Network Elements (Administrative Case No. 382). BellSouth submits that the resolution of these issues should be deferred to that docket.

Issue 5: When BellSouth transfers a SouthEast local customer to BellSouth, (1) what notification, if any, should be provided to SouthEast, and (2) what charges, if any, are appropriate?

BellSouth's Position: Although SouthEast couches its demand as a plea for reciprocity, the fact is that BellSouth treats itself and SouthEast exactly the same, except in situations in which different circumstances support different treatment. SouthEast is notified by way of a report posted on BellSouth's website when SouthEast customers switch to BellSouth. However, SouthEast requests that it be notified of any such switch before the fact so that it can attempt to verify that the customer "actually meant to transfer its

service” (Petition, Attachment B). BellSouth does not require notification from SouthEast for this purpose. Instead, SouthEast notifies BellSouth when a BellSouth customer wishes to switch to SouthEast only because the process necessary to implement the switch is performed by BellSouth. Also, the charges described above in Issue 4 are to compensate BellSouth for work actually performed to implement SouthEast’s request. No comparable work is performed by SouthEast, so there can be no comparable, reciprocal charge. BellSouth recovers costs related to service disconnection from the end-user customer requesting disconnection. SouthEast should do the same.

12. In response to Paragraph 13, BellSouth states that this paragraph contains a plea for relief rather than factual allegations, and no response is necessary.

Respectfully Submitted,

Creighton E. Mershon, Sr.
601 W. Chestnut Street, Room 407
P. O. Box 32410
Louisville, KY 40232
(502) 582-8219

R. Douglas Lackey
J. Phillip Carver
4300 BellSouth Center
675 W. Peachtree Street, N.E.
Atlanta, GA 30375
(404) 335-0710

COUNSEL FOR BELL SOUTH
TELECOMMUNICATIONS, INC.