



BellSouth Telecommunications, Inc.

601 W. Chestnut Street
Room 407
Louisville, KY 40203

Dorothy.Chambers@BellSouth.com

Dorothy J. Chambers

General Counsel/Kentucky

502 582 8219
Fax 502 582 1573

March 16, 2004

Mr. Thomas M. Dorman
Executive Director
Public Service Commission
211 Sower Boulevard
P. O. Box 615
Frankfort, KY 40602

RECEIVED

MAR 16 2004

PUBLIC SERVICE
COMMISSION

Re: Petition of Level 3 Communications, LLC, for
Arbitration Pursuant to Section 252(b) of the
Communications Act of 1934, As Amended By The
Telecommunications Act of 1996, For Rates, Terms and
Conditions of Its Interconnection Agreement with
BellSouth Telecommunications, Inc.
PSC 2004-00055

Dear Mr. Dorman:

Enclosed for filing in the above-captioned case are the original and ten (10) paper copies of BellSouth's Response to the Petition of Level 3 for Arbitration. The Response includes a Matrix of Resolved/Unresolved Issues and is attached to the Response as Exhibit B. Exhibit A to the Response is the marked up Interconnection Agreement which reflects the resolved and unresolved provisions of the Agreement. Eleven CDs containing the Agreement are provided to the Commission. A copy of the entire filing is served via electronic mail on each party.

Very truly yours,



Dorothy J. Chambers

Enclosures

cc: Parties of Record

531197

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

MAR 16 2004

PUBLIC SERVICE
COMMISSION

In the Matter of:

PETITION OF LEVEL 3 COMMUNICATIONS, LLC)
FOR ARBITRATION PURSUANT TO SECTION 252(B))
OF THE COMMUNICATIONS ACT OF 1934, AS)
AMENDED BY THE TELECOMMUNICATIONS ACT)
OF 1996, FOR RATES, TERMS AND CONDITIONS OF)
ITS INTERCONNECTION AGREEMENT)
WITH BELLSOUTH TELECOMMUNICATIONS, INC.)

CASE NO. 2004-00055

**BELLSOUTH TELECOMMUNICATIONS, INC.'S RESPONSE TO
LEVEL 3 COMMUNICATIONS, LLC'S 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 Level 3 Communications, LLC ("Level 3") and says:

Sections 251 and 252 of the Telecommunications Act of 1996 ("1996 Act") encourage negotiations 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.¹ The petition must identify the issues resulting from the negotiations that are resolved, as well as those that are unresolved.² 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

¹ 47 U.S.C. § 252(b)(2).

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

other issues discussed and resolved by the parties.”³ A non-petitioning party to a negotiation 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.⁴ 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.⁵

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.⁶

BellSouth and Level 3 previously entered into an Interconnection Agreement (“Agreement”) in Kentucky which expired on December 31, 2003. Although BellSouth and Level 3 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, Level 3 filed this Petition. BellSouth responds below to each of the separately numbered paragraphs of Level 3’s Petition:

I. THE PARTIES

1. BellSouth avers that the referenced Order of the Kentucky Public Service Commission (“Commission”) speaks for itself and requires no response from BellSouth. BellSouth lacks information sufficient to form a belief as to the remaining allegations in Paragraph 1 of the Petition. Those remaining allegations, therefore, are denied.

³ 47 U.S.C. § 252(b)(2).

⁴ 47 U.S.C. § 252(b)(3).

⁵ 47 U.S.C. § 252(b)(4).

⁶ 47 U.S.C. § 252(a).

2. The allegations in Paragraph 2 of the Petition require no response from BellSouth.
3. BellSouth admits the allegations in Paragraph 3 of the Petition.
4. BellSouth admits the allegations in Paragraph 4 of the Petition.

II. THE INTERCONNECTION NEGOTIATIONS AND RESOLVED ISSUES

5. BellSouth admits that the Petition was timely filed. BellSouth agrees that the parties have been engaged in good faith negotiations over many sessions and have resolved a significant number of issues. If requested by the Commission, BellSouth will participate in a Commission-sponsored negotiation session with Level 3. BellSouth denies any remaining allegations in Paragraph 5 of the Petition.

6. BellSouth denies the allegations in Paragraph 6 of the Petition to the extent that Level 3 asks the Commission to approve the proposed interconnection agreement attached to Level 3's Petition. Throughout negotiations, BellSouth has maintained the official copy of the Interconnection Agreement and, in furtherance of that responsibility, attaches as Exhibit "A" the official copy of the Interconnection Agreement reflecting the resolved and unresolved issues for the Commission to consider. BellSouth denies any remaining allegations in Paragraph 6 of the Petition.

7. BellSouth admits that a significant number of issues have been resolved through good-faith negotiations between the Parties, including entire attachments of the Interconnection Agreement. The resolved and unresolved provisions of the Interconnection Agreement are accurately reflected in Exhibit "A" hereto. BellSouth denies any remaining allegations in Paragraph 7 of the Petition.

III. JURISDICTION

8. BellSouth avers that the referenced provisions of the 1996 Act speak for themselves and require no response from BellSouth. BellSouth agrees with the deadlines for the filing of the Petition (February 20, 2004) and for the decision by the Commission (June 13, 2004). BellSouth denies any remaining allegations in Paragraph 8 of the Petition.

IV. APPLICABLE LEGAL STANDARDS

9. BellSouth avers that the referenced provisions of the 1996 Act and Rules/Orders of the Commission speak for themselves and require no response from BellSouth. BellSouth denies any remaining allegations in Paragraph 9 of the Petition.

10. BellSouth admits that the ultimate decision of the Commission must be consistent with the requirements of the 1996 Act. BellSouth denies any remaining allegations in Paragraph 10 of the Petition.

V. UNRESOLVED ISSUES

11. Although not reflected in separately numbered paragraphs, pages 6 through 48 of the Petition set forth the unresolved issues and the Parties' positions, as understood by Level 3, on those unresolved issues. BellSouth denies that pages 6 through 48 of the Petition set forth BellSouth's positions in a complete or accurate manner. Consistent with § 252(b)(3) of the 1996 Act, BellSouth prepared an Issues Matrix, attached hereto as Exhibit "B," which sets forth a neutral wording of the issue to be decided by the Commission and a summary of BellSouth's positions on each of the unresolved issues identified in the Petition. BellSouth denies any remaining allegations in pages 6 through 48 of the Petition.

VI. CONCLUSION AND PRAYER

12. BellSouth denies the allegations in the Conclusion and Prayer section of the Petition (page 48). BellSouth affirmatively avers that the Commission should reject Level 3's

positions on each and every one of the issues set forth herein and, instead, adopt BellSouth's positions on each and every issue set forth herein.

13. BellSouth notes 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), BellSouth reserves the right to seek further redress from the Commission on those issues.

14. BellSouth denies each and every allegation in the Petition not expressly admitted herein, and demands strict proof thereof.

Respectfully submitted, this 16th day of March 2004.



DOROTHY J. CHAMBERS
601 W. Chestnut Street, Room 407
P. O. Box 32410
Louisville, KY 40232
(502) 582-8219

R. DOUGLAS LACKEY
E. EARL EDENFIELD JR.
BellSouth Center – Suite 4300
675 West Peachtree Street, N.E.
Atlanta, Georgia 30375
(404) 335-0763

COUNSEL FOR BELL SOUTH
TELECOMMUNICATIONS, INC.



LEVEL 3 / BELLSOUTH ARBITRATION ISSUES MATRIX
KPSC DOCKET NO 2004-00055

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
1	<p>Is each Party required to bear financial responsibility for delivering its originating traffic to the interconnection point selected by Level 3? (Attachment 3, §§ 3.3.3, 4.3, 4.8, 7.1.2, 7.2)</p>	<p>SEE THE LEVEL 3 PETITION</p>	<p>Each party will bear the financial responsibility for delivering its originating traffic to the interconnection point that connects each party's network to the other party's network. When ordering two-way trunks from BellSouth, Level 3 should be required to pay the Commission's approved rates for such trunks.</p>
2	<p>What type of inter-carrier compensation, if any, is due for the exchange of Voice over Internet Protocol (VoIP) traffic (which Level 3 describes as Enhanced Applications Traffic)? (Attachment 3, §§ 7.2, 7.2.3.2.1, 7.4.1)</p>	<p>SEE THE LEVEL 3 PETITION</p>	<p>VoIP is currently being discussed in various outstanding FCC petitions including, but not limited to, Level 3's Forbearance Petition. Further, the FCC recently issued a ruling in the Petition for Declaratory Ruling that Pulver.com's Free World Dialup is neither telecommunications nor a telecommunications service and that the VoIP service provided in that petition is an interstate service not subject to state jurisdiction. BellSouth does not believe that the Commission is the appropriate forum to decide any issues at this time with respect to VoIP. In the event the Commission decides that this issue is ripe for arbitration in a §252 proceeding, the Commission should treat VoIP traffic like any other call for inter-carrier compensation purposes. As such, if VoIP traffic touches the Public Switched Telephone Network ("PSTN"), the traffic should be billed and treated like any other call that is carried on the PSTN (i.e., interLATA and intraLATA switched access charges apply as appropriate or local inter-carrier compensation rates apply).</p>

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
3	Does the FCC's <i>ISP Remand Order</i> establish compensation for all locally-dialed (7 and 10 digit dialing) Internet Service Provider (ISP) traffic, even if the local number dialed has a virtual NXX and, if so, what is that rate? (Attachment 3, §§ 7.1.2, 7.2, 7.2.2.2)	SEE THE LEVEL 3 PETITION	Yes. Compensation for ISP traffic has been litigated thoroughly by both state commissions and the FCC. More importantly, the FCC has specifically addressed compensation for this traffic in its <i>ISP Remand Order</i> which still governs the compensation between LECs for ISP traffic. The FCC's <i>ISP Remand Order</i> (paragraph 13) specifically addresses the issue raised by Level 3 and defines ISP traffic as "delivery of calls from one LEC's end-user customer to an ISP in the same local calling area that is served by a competing LEC."
4	What rate for ISP Traffic should apply, if any, under the Parties' January 1, 2001 Interconnection Agreement, including any amendments thereto, beginning January 1, 2004?	SEE THE LEVEL 3 PETITION	This issue is not appropriate for a §252 arbitration as Level 3 seeks relief and or an advisory opinion under the terms of the <i>prior</i> Interconnection Agreement. To the extent the Commission decides to address this issue, either bill-and-keep or \$0.0007, with growth caps continued and effective on ISP traffic from the initial 2001 caps, would be the appropriate rate.
5	Does the FCC's <i>ISP Remand Order</i> impose a growth cap on the total Minutes of Use (MOU) of ISP Traffic for which inter-carrier compensation is due for the year 2004 and subsequent years? (Attachment 3, §§ 7.2.2, 7.2.2.2)	SEE THE LEVEL 3 PETITION	Yes. The FCC's <i>ISP Remand Order</i> sets forth 10% growth caps for usage during years 2001 and 2002. The caps are then left at a ceiling equal to year 2002 growth in order to ensure that growth does not undermine the FCC's goal of limiting inter-carrier compensation and beginning a transition toward bill-and-keep.
6	Where a Party provides elements of its own SS7 network (or leases elements from a third party provider), can the other Party charge for SS7 signal messages and, if so, at what rate? (Attachment 3, § 5.2)	SEE THE LEVEL 3 PETITION	Yes. BellSouth should be compensated for Level 3's use of BellSouth's CCS7 network for non-local intrastate calls pursuant to BellSouth's Intrastate CCS7 Access Tariff. Such tariffs were filed and approved by the Commission.

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
7	Should BellSouth establish standard processes and rates for all routine network modifications, including at a minimum those routine network modifications listed in the FCC's <i>Triennial Review Order</i> that BellSouth performs for any carrier or itself?	RESOLVED	RESOLVED
8	Should Level 3 be required to bring all non-billing disputes solely to the Commission for resolution or should other competent forums remain available? (GT&C, §§ 10.1, 10.3, 10.1.2, 10.5)	SEE THE LEVEL 3 PETITION	BellSouth has had experience with commercial arbitration in the resolution of disputes under interconnection agreements negotiated pursuant to 47 USC §252 and has found such arbitration to be expensive, unduly lengthy in nature, and ultimately inconsistent with state regulatory policies. The 8 th Circuit Court of Appeals, in <i>Iowa Utilities Bd.</i> ruled that the Commission is charged with the authority to resolve disputes relating to interconnection agreements and BellSouth should not be forced to waive its right to seek resolution of such issues before the Commission.
9	If Level 3 consists of two or more separate affiliates, should each of those affiliates be jointly and severally liable for obligations under the Agreement if the affiliate(s) will not provide services and will not order any services under the interconnection agreement?	RESOLVED	RESOLVED

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
10(a)	Should the Agreement provide that it is "indivisible and non-severable" such that all of the provisions of the Agreement must be valid or the entire Agreement is invalid? (GT&C, § 16)	SEE THE LEVEL 3 PETITION	Yes. The Interconnection Agreement is negotiated in separate attachments that govern the various rates, terms, and conditions for the services and products offered under the Agreement, all of which are referenced and governed by the general terms and conditions of the Agreement. Therefore, no one attachment is a separate agreement and should be considered a part of the whole and not severable from the remainder of the Agreement. However, if a section or attachment of the Agreement becomes unlawful by its terms, then that section or attachment can be amended, by mutual consent of the Parties, to make it lawful. Severability does not impact adoptions under §252(i) and FCC Rule 51.809.
10(b)	How does severability impact adoptions under §252(i) of the 1996 Act. (GT&C, § 16)	SEE THE LEVEL 3 PETITION	
11	Are BellSouth's deposit policies discriminatory or anticompetitive? (Attachment 7, §§ 1.8, 1.8.1, 1.8.2, 1.8.3, 1.8.4, 1.8.5)	SEE THE LEVEL 3 PETITION	No. BellSouth's deposit policies are neither discriminatory nor anti-competitive. BellSouth's deposit policies are consistent with sound business practices and are at parity among CLECs and with BellSouth's retail deposit policies.
12	(GT-1) When a definition in the Agreement is modified as a result of a change in the law, should the definition be deemed amended automatically, or should the Parties follow the change of law provisions in modifying the Agreement?	RESOLVED	RESOLVED
13	(1-1) What language, if any, should govern the use of Customer Proprietary Network Information (CPNI)?	RESOLVED	RESOLVED
14	(1-2) Does either Party have a proprietary right in a telephone number and, if so, is that right reciprocal?	RESOLVED	RESOLVED

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
15	(1-3) Should BellSouth be permitted a reservation of rights to change a telephone number when BellSouth deems it necessary?	RESOLVED	RESOLVED
16	(1-4) What language should apply, if any, to the unauthorized use of resold services? (Attachment 1, § 3.13)	RESOLVED	RESOLVED
17	(1-5) What restrictions should apply, if any, to the Parties marketing of customers during a service call.	RESOLVED	RESOLVED
18	(2-1) In the event the FCC, a court of competent jurisdiction, or Commission determines that BellSouth is no longer required to provide a specific UNE, what transition period or process, if any, should apply before BellSouth can rearrange or disconnect an affected service? (Attachment 2, § 1.8)	SEE THE LEVEL 3 PETITION	The TRO has set forth new rules and regulations with respect to BellSouth's obligations under the Act to unbundle certain elements in accordance with Section 251 of the Act. BellSouth has proposed language that permits BellSouth, while acting in accordance with the new rules set forth in the TRO, to immediately discontinue providing service at UNE pricing for those elements no longer required to be unbundled under section 251 of the Act. Therefore, BellSouth is entitled to immediately stop offering UNE pricing for elements where CLECs are no longer impaired.
19	(2-2) In the event of a conflict between laws, which law controls?	RESOLVED	RESOLVED
20	(2-3) Is BellSouth obligated to provide access to loops in fiber-to-the-home (FTTH) overbuild areas and, if so, should BellSouth's standard provisioning intervals apply? (Attachment 2, § 2.1.1.4)	SEE THE LEVEL 3 PETITION	The Act and FCC Rules, as amended by the TRO speak for themselves. BellSouth has implemented the TRO with respect to FTTH overbuilds and in doing so, BellSouth is not obligated to provide unbundled access pursuant to Section 251 to certain elements in an FTTH overbuild situation. For those same reasons, standard provisioning intervals should not apply and the Parties should negotiate a provisioning interval based on the specific circumstances of the project.

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
21	(2-4) Is BellSouth obligated to provide access to loop test points for UNEs on a non-discriminatory basis?	RESOLVED	RESOLVED
22	(2-5) Is BellSouth obligated to provide unbundled DS3 transport over fiber-optic facilities?	RESOLVED	RESOLVED
23	(2-6) Should the rates charged by BellSouth for performing line conditioning be cost-based under Section 252(d)(1) of the Act? (Attachment 2, § 2.5.1, 2.5.4)	SEE THE LEVEL 3 PETITION	Any copper loop being ordered by a CLEC that has over 6,000 feet of combined bridged tap will be modified, upon request from the CLEC, so that the loop will have a maximum of 6,000 feet of bridged tap. This modification will be performed at no additional charge to CLEC. Line conditioning requests for the removal of bridged tap on a copper loop, where the removal serves no network design purpose and will result in a combined level of bridged tap between 2,500 and 6,000 feet, will be performed at the rates set forth in Exhibit A of Attachment 2. A CLEC may request removal of any unnecessary and non-excessive bridged tap (bridged tap between 0 and 2,500 feet that serves no network design purpose), at rates pursuant to BellSouth's Special Construction Process contained in BellSouth's FCC No. 2 as mutually agreed to by the Parties. BellSouth is only required to perform line conditioning that it performs for its own xDSL customers and is not required to create a superior network for CLECs. To the extent that BellSouth is not required to perform the requested line conditioning, the applicable rates should not be subject to this arbitration as the service is not a §251 requirement.
24	(2-7) Is BellSouth required to remove load coils on copper loops or sub-loops that are more than 18,000 feet from BellSouth's central office?	RESOLVED	RESOLVED

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
25	(2-8) Should the rates charged by BellSouth for removing bridged tap be cost-based under Section 252(d)(1) of the Act?	COMBINED WITH ISSUE 23	COMBINED WITH ISSUE 23
26(a)	(2-9) What are the Parties' obligations regarding unbundled sub-loops in multi-tenant environments and multi-unit premises?	RESOLVED	RESOLVED
26(b)	(2-9) What are the Parties' obligations regarding unbundled intra-building cabling in multi-tenant environments and multi-unit premises?	RESOLVED	RESOLVED
27	(2-10) Is BellSouth obligated to provide unbundled access to network terminating wire and, if so, is that obligation reciprocal?	RESOLVED	RESOLVED
28(a)	(2-11) What limits, if any, should be placed on the amount of dark fiber loops that BellSouth can reserve for its own use?	RESOLVED	RESOLVED
28(b)	(2-11) What limits, if any, should be placed on the amount of dark fiber transport that BellSouth can reserve for its own use?	RESOLVED	RESOLVED
29	(2-12) Should a dispute regarding whether Level 3's advanced services equipment significantly degrades other services be resolved in accordance with governing FCC rules, including rule 51.233?	RESOLVED	RESOLVED
30	(2-13) In the event an audit reveals Level 3's enhanced extended links (EELs) are in non-compliance with the Agreement, is Level 3 responsible for the total cost associated with the audit?	RESOLVED	RESOLVED

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
31	(2-14) Are all network elements provided under the terms of the Agreement subject to the pricing standards of §252(d)(1) of the 1996 Act? (Attachment 2, §§ 5.4.1, 5.4.2)	SEE THE LEVEL 3 PETITION	All services provided under this Agreement are pursuant to the rates, terms, and conditions in this Agreement. Level 3's requested language is overly broad and could be read to imply that rates for elements provided are deemed automatically changed if a state commission issues new rates on services pursuant to §252(d)(1) of the 1996 Act.
32	(2-15) Is BellSouth required to terminate its dedicated transport facilities to a reverse collocation arrangement within the same LATA?	RESOLVED	RESOLVED
33	(2-16) Should BellSouth be required to provide Level 3 with information in addition to the rejection notice when BellSouth rejects an order from Level 3 for dark fiber transport and, if so, what additional information should BellSouth be required to provide?	RESOLVED	RESOLVED
34	(2-17) Is BellSouth required to provide non-discriminatory access to its 911 and E911 databases on an unbundled basis?	RESOLVED	RESOLVED
35	(2-1) Should the language regarding Level 3's routing of Toll Free calls be reciprocal?	RESOLVED	RESOLVED
36	(7-1) What requirements should apply when Level 3 establishes a Master Account? (Attachment 7, § 1.2)	SEE THE LEVEL 3 PETITION	The requirements to establish a Master Account are outlined in the CLEC Start-Up Guide, which has been provided to Level 3. This guide sets forth the CLECs' requirements for establishing a Master Account in a non-discriminatory manner. Level 3 should be required the same procedures as all other CLECs.
37(a)	(7-2) Should Level 3 be required to pay BellSouth both disputed and non-disputed charges, even in those instances where Level 3 disputes charges?	RESOLVED	RESOLVED

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
37(b)	(7-2) Should language regarding payment responsibilities be reciprocal?	RESOLVED	RESOLVED
38	(7-3) Should language regarding verification of tax exemption status be reciprocal?	RESOLVED	RESOLVED
39(a)	(7-4) What rates apply to late payments under the Agreement and do those charges apply only to undisputed portions of the bill?	RESOLVED	RESOLVED
39(b)	(7-4) Should language regarding late payments under the Agreement be reciprocal?	RESOLVED	RESOLVED
40	(7-5) Is BellSouth entitled to terminate or suspend, without prior notice and an opportunity to cure, Level 3's service for improper or illegal use of BellSouth's facilities? (Attachment 7, § 1.7.1)	SEE THE LEVEL 3 PETITION	Each Party should have the right to suspend or terminate service in the event it believes the other party is engaging in improper or illegal use of the other Parties facilities. Given the nature of the abuse (improper or illegal use) the suspension should be immediate.
41(a)	(7-6) How much notice is BellSouth required to give Level 3 when BellSouth is suspending, or terminating, Level 3's service for non-payment and under what circumstances, if any, can Level 3 avoid suspension, or termination, once such notice is given?	RESOLVED	RESOLVED
41(b)	(7-6) After BellSouth rejects a billing dispute made by Level 3, can BellSouth suspend Level 3's service for Level 3's failure to pay the disputed amounts?	RESOLVED	RESOLVED
42	(7-7) Can a Party withhold disputed amounts during the pendency of a dispute, even after the dispute has been rejected by the other Party, and, if so, is the Party absolved of any late payment charges if the dispute is ultimately resolved in that Party's favor? (Attachment 7, § 2.2)	SEE THE LEVEL 3 PETITION	If, after fully investigating a dispute, BellSouth determines that the dispute was improper, then BellSouth considers those amounts to be undisputed and payment would be owed immediately. In that circumstance, Level 3 could continue to withhold amounts due only as provided in the dispute resolution provisions of the Agreement. If the dispute is ultimately resolved in Level 3's favor, then no LPCs would apply.

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
43	(7-8) What rates apply to late payment charges under the Agreement and can a Party assess interest on those late charges or on disputed amounts resolved in that Party's favor?	RESOLVED	RESOLVED
44	(7-9) What timeframe should apply to a Party providing information necessary to establish a unique hosted RAO code? (Attachment 7, § 3.4)	SEE THE LEVEL 3 PETITION	BellSouth does not serve as an RAO host for Level 3; thus the language in Attachment 7, Section 3.4 of the Agreement does not currently apply to Level 3. Nevertheless, BellSouth's position is that a minimum of eight weeks is necessary to establish a unique hosted RAO code. This position is consistent with Telcordia's 60 calendar day requirement for RAO code assignments, which is found in Section 6, page 12 of Telcordia's RAO Code Guidelines.
45	(7-10) Is BellSouth required to process the conforming portion of EMI data in the event some of the data cannot be processed due to uncorrectable errors? (Attachment 7, § 3.15)	SEE THE LEVEL 3 PETITION	BellSouth does not serve as an RAO host for Level 3; thus the language in Attachment 7, Section 3.15 of the Agreement does not currently apply to Level 3. Nevertheless, BellSouth's position is that BellSouth should not be required to process the conforming portion of EMI data in the event some of the data cannot be processed due to uncorrectable errors. As an RAO host for another company, BellSouth may receive data packs destined to BellSouth as well as data packs destined to other companies. BellSouth must comply with Telcordia standards or these messages will never reach the intended recipient company. Telcordia rejects an entire pack even if only one record does not pass all of their edits. Therefore, BellSouth's incoming jobs must meet the same standards as Telcordia's.
46	(7-11) Under what circumstances, if any, should BellSouth be required to assist Level 3 in determining the source of error messages on usage files?	RESOLVED	RESOLVED

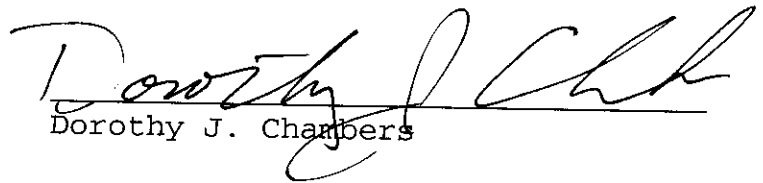
ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
47	<p>(11-1) Is the bona fide request (BFR) process required if BellSouth has provided or is required to provide a network element, interconnection option, or service option not covered under the agreement and is BellSouth required to utilize previous BFR information to expedite a response to a BFR?</p> <p>(Attachment 11, §§ 1.1, 1.1.1, 1.1.2, 1.2, 1.9)</p>	SEE THE LEVEL 3 PETITION	<p>Yes. A BFR is to be used when Level 3 makes a request of BellSouth to provide a new or modified UNE, interconnection option, or other service option pursuant to the Act that was not previously included in the Agreement. Depending on the circumstances, prior BFR information may, or may not, be used.</p>
48	<p>(11-2) Is BellSouth required to confer with Level 3 on a BFR submission and inform Level 3 of prior, similar BFR requests?</p> <p>(Attachment 11, § 1.3)</p>	SEE THE LEVEL 3 PETITION	<p>BellSouth has absolutely no objection to meeting with Level 3 regarding any BFR submission by Level 3. However, other CLEC's BFR submissions are proprietary (and possibly CPNI), thus BellSouth will not discuss that information with Level 3. That said, a BFR request by another CLEC that results in a service being offered to that CLEC will generally be made a part of the BellSouth/CLEC interconnection agreement (usually as an amendment). Thus, the rates, terms, and conditions are filed with the Commission and available publicly for review by Level 3. Thus Level 3's proposal is improper and unnecessary.</p>
49	<p>(11-3) If BellSouth has provided or is required to provide a network element, interconnection option, or service option not available under this Agreement, may BellSouth provide a preliminary analysis and, if so, how much time does BellSouth have to provide said preliminary analysis?</p> <p>(Attachment 11, §§ 1.5, 1.6, 1.10)</p>	SEE THE LEVEL 3 PETITION	<p>Yes. A BFR is to be used when Level 3 makes a request of BellSouth to provide a new or modified UNE, interconnection option, or other service option pursuant to the Act that was not previously included in the Agreement. Part of the BFR process includes a preliminary analysis, and the BellSouth provided language specifies the appropriate intervals for such preliminary analysis.</p>

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
50	<p>(11-4) Under what circumstances will BellSouth provide a firm rate and implementation plan to Level 3 regarding a BFR?</p> <p>(Attachment 11, § 1.9)</p>	SEE THE LEVEL 3 PETITION	<p>If BellSouth has performed a preliminary analysis in accordance with the terms of the agreement, BellSouth shall propose a firm rate and implementation plan to Level 3 within ten (10) business days of receipt of Level 3's acceptance of the preliminary analysis for a network element, interconnection option or service option that is operational at the time of the request; within thirty (30) business days of receipt of Level 3's acceptance of the preliminary analysis for a new or modified network element, interconnection option or service option ordered by the FCC or Commission; and within sixty (60) business days of receipt of Level 3's acceptance of the preliminary analysis for a new or modified network element, interconnection option or service option not ordered by the FCC or Commission or not operational at the time of the request. If a preliminary analysis was not appropriate pursuant to the terms of the attachment, such timeframes above shall be from the receipt of an accurate BFR application instead of from Level 3's acceptance of the preliminary analysis.</p>
51	<p>(11-5) Do the dispute resolution procedures in the Agreement apply to the BFR process or BFR results and, if so, is BellSouth required to continue processing a BFR during the pendency of such a dispute?</p>	RESOLVED	RESOLVED

530777

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the individuals on the attached Service List by electronically mailing a copy thereof, this 16th day of March 2004.


Dorothy J. Chambers

SERVICE LIST - PSC 2004-00055

Honorable Roger A. Briney
Davis Wright Tremaine, LLP
1500 K Street, NW
Suite 450
Washington, DC 20005
rogerbriney@dwt.com

Honorable Holland N. McTyeire, V
Attorney at Law
Greenebaum Doll & McDonald PLLC
3300 National City Tower
101 South Fifth Street
Louisville, KY 40202-3197
hnm@gdm.com

Richard E. Thayer
Victoria Mandell
Level 3 Communications, LLC
1025 Eldorado Boulevard
Broomfield, CO 80021
rick.thayer@level3.com
victoria.mandell@level3.com