

Cheryl R. Winn
Attorney At Law

March 28, 2006

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PUBLIC SERVICE
COMMISSION


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

Re: Dialog Telecommunications Petition for Arbitration of Certain Terms and
Conditions of Proposed Agreement with BellSouth Telecommunications,
Inc. Concerning Interconnection Under the Telecommunications Act of
1996
KPSC 2006-00099

Dear Ms. O'Donnell:

Enclosed for filing in the above-captioned case are the original and ten (10) copies of
BellSouth Telecommunications, Inc.'s Response to the Petition for Arbitration of Dialog
Telecommunications, Inc.

Very truly yours,


Cheryl R. Winn

Enclosures

cc: Parties of Record

627945

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

Petition of:)	
Dialog Telecommunications for)	
Arbitration of Certain Terms and)	Case No. 2006-00099
Conditions of Proposed Agreement with)	
BellSouth Telecommunications, Inc.)	Filed: March 28, 2006
Concerning Interconnection Under The)	
Telecommunications Act of 1996)	

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

Pursuant to 47 U.S.C. § 252(b)(3), BellSouth Telecommunications, Inc. (“BellSouth”), responds to the Petition for Arbitration (“Petition”) filed by Dialog Telecommunications, Inc. (“Dialog”) and states the following:

1. 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).

2. 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

¹ 47 U.S.C. § 252(b)(2).

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

parties with respect to those issues; and (3) any 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

3. 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

4. BellSouth and Dialog previously entered into an interconnection agreement in Kentucky that has now expired. Although BellSouth and Dialog negotiated in good faith as to the terms and conditions for a new interconnection agreement, the parties have been unable to reach agreement on some issues and, as a result, Dialog filed its Petition. BellSouth responds below to each of the separately numbered paragraphs of the Petition:

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).

5. BellSouth lacks information sufficient to either admit or deny the allegations in Paragraph 1 of the Petition. These allegations, therefore, are denied.

6. The allegations in Paragraph 2 of the Petition require no response from BellSouth.

7. The allegations in Paragraph 3 of the Petition are admitted.

8. Responding to the allegations in Paragraph 4 of the Petition, BellSouth admits only that the Kentucky Public Service Commission (“Commission”) has the authority to resolve -- in accordance with Section 252 of the 1996 Act -- the unresolved issues specifically identified in the Petition.

9. The allegations in Paragraph 5 of the Petition are admitted.

10. The allegations in Paragraph 6 of the Petition require no response from BellSouth.

11. Responding to the allegations in the “STATEMENT OF UNRESOLVED ISSUES” portion of the Petition, BellSouth denies that Dialog has a right to amend its Petition to add additional arbitration issues. Regarding the parties’ discussion regarding: (i) the application of the Commission’s rulings in Case No. 2004-00427 (“*Change of Law Proceeding*”); and (ii) the inclusion of certain issues arbitrated in Case No. 2004-00044 (“*Joint CLEC Arbitration*”); BellSouth’s position is set forth below in connection with Issues 3, 4, and 5.⁷

⁷ BellSouth’s position on all unresolved issues will be further explained in future pleadings, including the testimony BellSouth will file in this arbitration. As such, in this Response, BellSouth will not address, and does not necessarily agree with, the Petition’s summations of various state/federal orders and/or statutes, and its characterization of negotiations between Dialog and BellSouth.

UNRESOLVED ISSUES

Prior to the filing of the Petition, the parties did not have an opportunity to discuss the framing of arbitration issues. As such, BellSouth disagrees with Dialog's framing of certain issues identified in the Petition. In such instances, BellSouth's Issue Statement is set forth below. BellSouth will continue to negotiate with Dialog in an attempt to both resolve issues and to reach agreement on the framing of all issues that remain unresolved.

ISSUE 1: What is the appropriate TELRIC rate for batch or bulk migrations when Dialog requests conversion from a UNE-P loop and port combination to a UNE loop configuration?

BellSouth's Position

The Commission's previously established rates for provisioning unbundled network elements ("UNEs") are applicable and should be applied to UNE-P to UNE-L conversions. To provide Dialog with the efficiencies (if any) associated with bulk migration conversion order(s), BellSouth will provide an approximate ten percent (10%) discount off the otherwise applicable UNE loop non-recurring charges for all properly submitted bulk migration conversion order(s) for UVL-SL1, UVL-SL2 and UCL-ND loop types.

ISSUE 2 (DIALOG VERSION) : Should the rate established by the Commission for batch or bulk migrations from UNE-P to UNE-L be applied to Dialog's conversions which were required by the TRRO to be submitted by March 11, 2006?

ISSUE 2 (BELLSOUTH VERSION) : If a rate is established by the Commission for batch or bulk migrations from UNE-P to UNE-L, should such rate be applied retroactively to Dialog's conversions which were submitted on or before March 11, 2006?

BellSouth's Position

As stated in BellSouth's position for Issue 1, there is no need for the Commission to establish new UNE rates for bulk migrations from UNE-P to UNE-L. That said, any rate the Commission establishes, should be applied on a prospective basis only.

ISSUE 3 (a): How should line conditioning be defined and what should BellSouth's obligations be with respect to line conditioning?

ISSUE 3 (b): Should the interconnection agreement contain specific provisions limiting the availability of line conditioning to copper loops of 18,000 feet or less?

ISSUE 3 (c): Under what rates terms and conditions should BellSouth be required to perform line conditioning to remove bridged taps to do so?

BellSouth's Position

Issue 3 is identical to certain issues pending in the *Joint CLEC Arbitration* (Issues 36-38).⁸ Since the filing of the Petition, the parties have reached agreement on language that will incorporate into Dialog's interconnection agreement the applicable Commission ruling(s) in the *Joint CLEC Arbitration*. Accordingly, BellSouth considers this issue resolved.

ISSUE 4: Should BellSouth be allowed to charge Dialog a Transit Intermediary Charge (TIC) for the transport and termination of local traffic and ISP-bound traffic?

BellSouth's Position

Issue 4 is identical to Issue 65 pending in the *Joint CLEC Arbitration*.⁹ Since the filing of the Petition, the parties have reached agreement on language that will

⁸ The Commission's Orders in the *Joint CLEC Arbitration* speaks for themselves and require no response from BellSouth. BellSouth's position on this issue has been fully briefed in the *Joint CLEC Arbitration* and, to the extent necessary, is incorporated herein by reference.

⁹ The Commission's Orders in the *Joint CLEC Arbitration* speaks for themselves and require no response from BellSouth. BellSouth's position on this issue has been fully briefed in the *Joint CLEC Arbitration* and, to the extent necessary, is incorporated herein by reference.

incorporate into Dialog's interconnection agreement the applicable Commission ruling(s) in the *Joint CLEC Arbitration*. Accordingly, BellSouth considers this issue resolved.

ISSUE 5: How should the Commission's decision in Case No 2004-00427, Petition to Establish a Generic Docket to Consider Amendments to Interconnection Agreements resulting from Changes of Law, be incorporated into the parties' interconnection agreement?

BellSouth's Position

The parties have agreed to incorporate the applicable Commission rulings in the *Change of Law Proceeding* into Dialog's interconnection agreement. To the extent necessary, BellSouth incorporates herein by reference its positions in the *Change of Law Proceeding*.

ISSUE 6: Under what conditions can BellSouth require Dialog to establish direct interconnection trunking to BellSouth's end offices?

BellSouth's Position

To address potential tandem exhaust issues, once traffic volumes to a BellSouth end office switch exceed, or are forecasted to exceed, a single DS1 level of traffic per month, then direct trunking to such switch should be required.

ISSUE 7: Should BellSouth have the ability to modify unilaterally the terms of this agreement based upon changes in "other legal requirements"? (General Terms & Conditions, Section 31.3)

BellSouth's Position

Since the filing of the Petition, this Issue has been resolved. To the extent Dialog disagrees, BellSouth will amend this Response accordingly.

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

13. Responding to the "REQUEST FOR RELIEF" portion of the Petition, BellSouth denies that Dialog is entitled to the requested relief. BellSouth further states that the Commission should reject Dialog's position on each and every issue set forth in the Petition and should adopt BellSouth's position on each and every issue.

Respectfully submitted, this 28th day of March, 2006.

Respectfully submitted,



CHERYL R. WINN
601 W. Chestnut Street, Room 407
P.O. Box 32410
Louisville, KY 40232
(502)582-1475

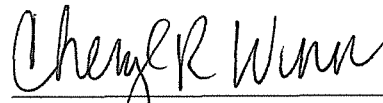
Robert A. Culpepper
Suite 4300, BellSouth Center
675 W. Peachtree St., NE
Atlanta, GA 30375
(404) 335-0841

COUNSEL FOR BELLSOUTH
TELECOMMUNICATIONS, INC.

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing was served on the following individual by mailing a copy thereof, this 28th day of March, 2006.

Hon. Douglas F. Brent
Attorney at Law
Stoll Keenon Ogden, PLLC
2650 AEGON Center
400 West Market Street
Louisville, KY 40202
brent@skp.com


Cheryl R. Winn