

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554**

In the Matter of)
)
Joint Application by BellSouth Corporation,)
BellSouth Telecommunications, Inc.,) CC Docket No. 02-35
and BellSouth Long Distance, Inc. for)
Provision of In-Region, InterLATA Services)
in Georgia and Louisiana)

SUPPLEMENTAL REPLY AFFIDAVIT OF ERIC FOGLE

I, Eric Fogle, being of lawful age and duly sworn upon my oath, depose and state:

I. PROFESSIONAL EXPERIENCE

1. My name is Eric Fogle. I am employed by BellSouth Telecommunications, Inc. (“BST”). My business address is 675 West Peachtree Street, Atlanta, Georgia 30375. I am the Director of Wholesale Broadband Marketing. In this position, I am responsible for, among other things, the creation, oversight and implementation of marketing for BST’s wholesale digital subscriber line (“DSL”) products. I have held this position since August of 2000. I have four years of service at BellSouth with experience in new product development, project management, and business development. I have a Masters degree in Business Administration from Emory University and a Masters of Science degree in Electrical Engineering from the University of Missouri.

II. PURPOSE OF SUPPLEMENTAL REPLY AFFIDAVIT

2. The purpose of this affidavit is to address the following three issues: (1) DSL over UNE-P; (2) the presence of a DSL Uniform Service Order Code (USOC) on Customer Service Records (CSRs); and (3) putting DSL on the end-user’s primary line.

III. AFFIDAVIT

DSL over UNE-P

3. In its comments, Comptel states that “[i]t is BellSouth’s undisputed corporate practice to condition the terms and availability of its DSL service on the concurrent purchase of BellSouth local exchange service. Thus, although it is technically feasible to provision separate DSL and local voice products, BellSouth refuses to provide DSL services on UNE loops, including the UNE platform.”¹ This issue was previously addressed in my Reply Affidavit dated November 13, 2001. The BellSouth “policy” about which Comptel complains is completely consistent with prior rulings of this Commission. As this Commission has recognized, when a CLEC purchases an unbundled loop (alone or as part of the UNE-P), the CLEC owns all the features, functions, and capabilities of that loop; thus BellSouth does not have access to the high frequency spectrum on unbundled loops for purposes of continuing to provide DSL service. Furthermore, BellSouth’s policy not to provide DSL over UNE-P lines is consistent with BellSouth’s tariff, which requires that “[t]he designated end-user premises location must be served by an existing, in-service, Telephone Company provided exchange line facility. . . .”² This facility can either be a BellSouth retail telephone facility or a BellSouth provided resold facility.

DSL USOC on CSRs

4. There is no merit to the allegation by KMC that BellSouth is “pre-qualifying customer lines for DSL service and indicating such qualification with an ADSL USOC,” which, according to KMC, “prevents competitors from serving those customers (orders will

¹ Comptel Comments at 6.

² BellSouth Tariff F.C.C. No. 1, Section 7.2.17(A).

apparently be rejected),” and which KMC alleges “BellSouth will not even recognize the competitor’s authority to remove. . . .”³ Contrary to KMC’s allegations, BellSouth places the ADSL USOC on the end-users line at the request of a network service provider (NSP). This process is initiated via an order in the BellSouth Service Order Entry Gateway (SOEG), and is completed with the billing of the NSP for the tariffed DSL service. BellSouth’s process for provisioning of ADSL USOCs is as follows: first, the end user requests DSL service from the NSP; second, if the number qualifies for DSL service, the NSP places an order in SOEG for DSL service; third, the SOEG order activates the provisioning process, during which network facilities are assigned, and the provisioning USOC is placed on the CSR.

5. BellSouth started selling DSL service in 1998. From that time through November 3, 2001, when a Local Service Request (LSR) was received to convert the end-user’s voice line to a UNE-P, BellSouth would strip the DSL USOC from the CSR while processing the LSR. This was done without notifying the NSP, CLEC, or end-user. Unfortunately, this process caused some end-users to unintentionally lose DSL service, thereby creating customer service problems for the CLEC, the NSP, and BellSouth.
6. Because this process resulted in some customers losing DSL service without their prior knowledge, WorldCom submitted change request CR0399 on May 14, 2001 under which BellSouth would not strip the DSL service from the line that the CLEC seeks to convert to UNE-P, but instead would clarify the order back to the CLEC. On November 3, 2001, BellSouth implemented the proposal submitted by WorldCom in its Change Request. Under the procedures developed in response to WorldCom’s request, after an order is

³ KMC Telecom Comments at 15.

clarified back to the CLEC, the CLEC is responsible for contacting the end-user so that the end-user may cancel DSL service with the NSP. The NSP then sends a disconnect order to BellSouth. BellSouth then stops providing DSL service over the line, and the CLEC can then resubmit the LSR to complete the UNE-P conversion.

7. Network Telephone's claim that BellSouth has a "practice" of refusing a CLEC request to transfer a customer even when the CLEC has a signed Letter of Authorization "LOA" from the customer is misleading.⁴ The process of using the LOA was inconsistent with BellSouth's published methods and procedures (which were based on WorldCom's proposal), and therefore could not be implemented effectively without CLEC input.
8. In an effort to address the recent issues created by the November 3, 2001 process change, DSL maintenance personnel offered the NSP support telephone number to try and assist CLECs in resolving DSL USOCs on CSRs where the end-user claims to not have DSL service. Because of legal and administrative issues, this proposed process was discontinued until an appropriate process could be developed and offered to all CLECs. A description of the new process for CLECs (started on March 20, 2002) is included in Paragraph 14.
9. Contrary to allegations by several CLECs, BellSouth does not place inappropriate DSL USOCs on customer records. The DSL USOC is not put on a CSR unless the NSP requests an order to be processed (in SOEG). Because the high speed Internet access service is provided by the NSP, time delays and gaps can be created between organizations and companies as a result of the multiple connections and disconnections that must be accomplished.

⁴ Network Telephone Comments at 10-11.

10. There are two typical scenarios where the DSL USOC might appear on the end user's CSR, but no DSL based Internet access service is being provided to the end-user. The first scenario is where BellSouth has provisioned the tariffed DSL service to the NSP, but the end-user service has not been completed by the NSP (including BellSouth's own FastAccess® Service).⁵ The second scenario is where the end-user has disconnected his or her Internet access service with the NSP, but the NSP, or BellSouth, has not completed the subsequent disconnect of the tariffed DSL service. Ultimately, either situation could lead to a DSL USOC being present on the CSR and result in a clarification back to the CLEC, even though the end-user in either instance may say that he or she does not have DSL service on his or her line.
11. In order to assess the impact of this issue, BellSouth has reviewed its DSL service records and the clarifications returned to CLECs for DSL USOCs on the end-user's CSR. This analysis shows that the situation where the CLEC order is clarified and the end-user is not actively using or provisioning DSL (new orders or disconnects) rarely occurs.
12. In January of 2002, 434,840 non-LNP LSRs were electronically submitted by CLECs, of which 67,914 involved UNE-P conversions. Of these LSRs submitted in January 2002, only 49,661 were auto-clarified for all reasons (including the DSL USOC on the end-user line). Of the 49,661 that were auto-clarified, 1,069 were auto-clarified for DSL service on the end-user line – which equates to just over 2% of the total orders auto-clarified and

⁵ For example, under its current provisioning process BellSouth activates its FastAccess service automatically after the end-user receives the DSL modem. This activation could occur several days after BellSouth equips the line with tariffed DSL service and places the DSL USOC on the end-user's CSR. Under procedures that were discontinued in October 2001, BellSouth did not activate its FastAccess service until the end user "registered" through successful installation and activation of the DSL modem. If the end-user was not successful in attempts to install and activate the modem, BellSouth would not have initiated the FastAccess service. In some instances this condition did occur but was not immediately recognized by BellSouth, resulting in its failure to pass a subsequent order disconnecting the tariffed DSL service and removing the USOC for the tariffed DSL service from the line.

less than 1.58% of UNE-P conversions. Of the 1,069 DSL clarified orders, only 251 were auto-clarified for DSL service on the end-user's line when the end-user either did not have working high speed Internet access service, or was actively involved in adding or disconnecting the DSL service, which equates to approximately 0.37% of total UNE-P conversions for the month of January 2002. Thus, the problem about which the CLECs complain is not significant.

13. Nevertheless, BellSouth and the CLECs recognize that the current process of clarifying back LSRs to the CLEC can be cumbersome given the involvement of the end-user and the NSP. As a result, Birch submitted change request CR0625 on January 24, 2002, which should be prioritized sometime in April 2002. This request was submitted with the intent of having the DSL USOC removed without clarification, using a specially designed LSR that specifies the DSL removal as part of the conversion process. Once detailed requirements have been worked out to implement this change request, and assuming it is assigned a high priority by the CLECs, BellSouth will work promptly to develop this solution.
14. In the interim, BellSouth began a trial on March 20, 2002 using a manual process with a dedicated LCSC (Local Carrier Servicing Center) group to remove the DSL USOCs from lines that no longer have active DSL accounts. To date, the trial has been successful. As a result, BellSouth announced at the CLEC UNE-P User Group meeting on March 26, 2002 that the interim process solution would be made available to all CLECs on April 1, 2002. In addition, the methods and procedures for the interim process were distributed to the CLECs. The methods and procedures provided to the CLECs are attached as Supplemental Reply Exhibit EF-1.

Installing DSL on a Primary Line

15. CLECs also allege that BellSouth has a “policy” of placing its FastAccess service on the customer’s main billing telephone line, or the main line of a hunt group.⁶ This allegation is not true. In fact, BellSouth policy permits the end-user to place DSL service on any customer requested line that currently qualifies. Thus, the sales training used by BellSouth FastAccess sales agents prompts the agent to ask the customer which phone number the customer would like to use for its service. If the telephone number provided by the customer qualifies for DSL, then the agent is instructed to place the DSL order on the line requested by the customer. Moreover, if the first choice of the customer does not currently qualify for DSL service, the sales agent usually will recommend provisioning the DSL service on the customer’s fax line (assuming that the fax line qualifies for DSL service). Because of the concern about this issue, however, BellSouth has recently sent additional information re-iterating its policy to the BellSouth business sales offices. Of course, BellSouth has no knowledge or control over the sales practices of other NSPs that purchase BellSouth’s tariffed DSL service.
16. Furthermore, when a customer chooses to use a facilities-based CLEC but still wants BellSouth to provide DSL service, the end-user can keep all but one line with the facilities-based CLEC. The remaining line needed for BellSouth DSL service must be a CLEC resold line, or a BellSouth voice line. BellSouth does not stipulate which line is required for DSL service, but simply uses the line the customer or the CLEC chooses.

III. CONCLUSION

17. This concludes my affidavit.

⁶ Comptel Comments at 7; KMC Comments at 12-13; Birch Comments at 31-32.