

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF BELLSOUTH )  
TELECOMMUNICATIONS, INC. TO ESTABLISH )  
GENERIC DOCKET TO CONSIDER AMENDMENTS ) CASE NO. 2004-00427  
TO INTERCONNECTION AGREEMENTS )  
RESULTING FROM CHANGES OF LAW )

**BELLSOUTH TELECOMMUNICATIONS INC.'S  
RESPONSE TO CINERGY COMMUNICATIONS COMPANY'S COMPLAINT  
AND MOTION FOR EMERGENCY ORDER PRESERVING STATUS QUO**

BellSouth Telecommunications, Inc. ("BellSouth") respectfully requests that the Kentucky Public Service Commission ("Commission") deny Cinergy Communications Company's ("Cinergy") Complaint and Motion for Emergency Order Preserving Status Quo Concerning UNE-P Orders ("Motion") filed on February 28, 2005. Cinergy's motion misreads binding federal rules and this Commission should reject it. Without waiving BellSouth's position, because of the delay in the filing of emergency motions by certain CLECs, and to allow the Kentucky and other Commissions to have a full and adequate opportunity to consider the FCC's ruling in the Triennial Review Remand Order ("TRRO"), as described further herein, BellSouth today has issued carrier notification letter SN91085061, which addresses issues raised in Cinergy's motion.

**BACKGROUND**

On February 4, 2005, the Federal Communications Commission ("FCC") released its permanent unbundling rules in the Triennial Review Remand Order ("TRRO"). The *TRRO* identified a number of former Unbundled Network Elements ("UNEs"), such as switching, for

which there is no section 251 unbundling obligation.<sup>1</sup> In addition to switching, former UNEs include high capacity loops in specified central offices,<sup>2</sup> dedicated transport between a number of central offices having certain characteristics,<sup>3</sup> entrance facilities,<sup>4</sup> and dark fiber.<sup>5</sup> The FCC, recognizing that it removed significant unbundling obligations formerly placed on incumbent local exchange carriers, adopted transition plans to move the embedded base of these former UNEs to alternative serving arrangements.<sup>6</sup> In each instance, the FCC unequivocally stated that the transition period for each of these former UNEs -- loops, transport, and switching -- would commence on March 11, 2005.<sup>7</sup>

While the FCC explicitly addressed how to transition the embedded base of these former UNEs through change of law provisions in existing interconnection agreements, the FCC took a different direction with regard to the issue of “new adds.” For new adds, the FCC’s belief “that the impairment framework we adopt is self-effectuating” controls.<sup>8</sup> Instead of requiring that the ILECs continue to allow CLECs to order more of the former UNEs during the transition period, the FCC provided that no “new adds” would be allowed. For example, with regard to switching the FCC explained “[t]his transition period shall apply only to the embedded customer base, and does not permit competitive LECs to add new customers using unbundled access to local circuit

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<sup>1</sup> *TRRO*, ¶ 199 (“Applying the court’s guidance to the record before us, we impose no section 251 unbundling requirement for mass market local circuit switching nationwide.” (footnote omitted).

<sup>2</sup> *TRRO*, ¶¶ 174 (DS3 loops), 178 (DS1 loops).

<sup>3</sup> *TRRO*, ¶¶ 126 (DS1 transport), 129 (DS3 transport).

<sup>4</sup> *TRRO*, ¶ 137 (entrance facilities).

<sup>5</sup> *TRRO*, ¶¶ 133 (dark fiber transport), 182 (dark fiber loops).

<sup>6</sup> *TRRO*, ¶¶ 142 (transport), 195 (loops), 226 (switching).

<sup>7</sup> *TRRO*, ¶¶ 143 (transport), 196 (loops) 227 (switching).

<sup>8</sup> *TRRO*, ¶3.

switching.”<sup>9</sup> The FCC made similar findings concerning certain transport routes and certain high capacity loops.<sup>10</sup> The FCC specifically found: “[t]his transition period shall apply only to the embedded customer base, and does not permit competitive LECs to add new UNE-P arrangements using unbundled access to local circuit switching pursuant to section 251 (c)(3) except as otherwise specified in this Order.”<sup>11</sup>

The FCC clearly intended these provisions regarding “new adds” to be self-effectuating. First, the FCC specifically stated that “[g]iven the need for prompt action, the requirements set forth herein shall take effect on March 11, 2005 ....”<sup>12</sup> Second, the FCC expressly stated its order would not “... supersede any alternative arrangements that carriers voluntarily have negotiated on a commercial basis ...”<sup>13</sup> conspicuously omitting any similar intent not to supercede conflicting provisions of existing interconnection agreements. Consequently, in order to have any meaning the *TRRO*’s provisions precluding the ordering of “new adds” have to have effect as of March 11, 2005.

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<sup>9</sup> *TRRO*, ¶ 199; *see also* 47 C.F.R. § 51.319(d)(2)(iii) (“[r]equesting carrier may not obtain new local switching as an unbundled network element.”). The new local switching rule makes clear that the prohibition against new UNE-Ps applies to new lines. Switching is defined to include line-side facilities, trunk side facilities, and all the features, functionalities and capabilities of the local switch. *TRRO*, ¶ 200. When a requesting carrier purchases the unbundled local switching element, it obtains all switching features in a single element on a per-line basis. *TRO*, at 433; the *TRRO* retained this definition (*TRRO*, n. 529). Thus, the switching UNE means the port and functionalities on a per-line basis and the prohibition against new adds applies to the *element* itself – thus, the federal rule applies to lines.

<sup>10</sup> *TRRO*, ¶ 142, 195; *see also* 47 C.F.R. § 51.319 (e)(2)(i), (ii), (iii), and (iv) (ILEC is not required to provide unbundled access to entrance facilities; requesting carrier may not obtain new DS1, DS3, and dark fiber transport as unbundled network elements); *and* 47 C.F.R. § 51.319 (a)(4)(iii), (a)(5)(iii), and (a)(6) (requesting carrier may not obtain new DS1, DS3, and dark fiber transport as unbundled network elements). Cinergy suggests that BellSouth has unilaterally determined which central offices qualify for unbundling relief pursuant to the *TRRO*. Cinergy is wrong. Attached as Exhibit 1 is BellSouth’s letter to the FCC in which it specifies the nonimpairment wire centers. BellSouth stated plainly that “[t]o the extent any party is concerned about the methodology BellSouth has employed or the wire centers identified on the enclosed list in which the nonimpairment thresholds have been met, it should bring that concern to the [FCC’s] attention.” Thus, BellSouth is not seeking “unilaterally” to determine where no obligation to unbundle high-capacity loops, transport, and dark fiber exists.

<sup>11</sup> *TRRO*, ¶ 227 (footnote omitted).

<sup>12</sup> *TRRO*, ¶ 235.

<sup>13</sup> *TRRO*, ¶ 199. *Also* ¶¶ 148, 198.

Cinergy cannot circumvent the FCC's intention by relying on paragraphs 227 and 233 of the *TRRO*. Cinergy acknowledges that paragraph 227 provides that “[t]he transition period shall apply only to the embedded customer base, and does not permit competitive LECs to add new UNE-P arrangements using unbundled access to local circuit switching pursuant to section 251(c)(3) except as otherwise specified in this Order.” Cinergy then cites to paragraph 233 of the *TRRO*, which addresses changes to interconnection agreements. Cinergy's attempt to bootstrap paragraph 233 onto paragraph 227 fails.

In citing paragraph 227, Cinergy ignored footnote 627, which modifies the “except as otherwise specified” clause. Footnote 627 makes clear that when the FCC stated “except as otherwise specified in the Order” it was referring to continued access to shared transport, signaling and call-related databases and was not making an implicit reference to the change of law process.

In addition, the clear meaning of the “except as otherwise specified” language in paragraph 227 is obvious from the very next paragraph of the *TRRO*. In paragraph 228, the FCC held that the “transition mechanism adopted here is simply a default process, and pursuant to section 252(a)(1), carriers remain free to negotiate alternative arrangements superseding this transition period.” The availability of voluntarily negotiated interconnection agreements for interested carriers is also “otherwise specified in the Order” but has no impact on the prohibition against new adds. Consequently, if a CLEC and an ILEC had voluntarily negotiated an agreement pursuant to which the ILEC voluntarily agreed to provide UNE-P or switching, the FCC did not intend to interfere with that voluntarily adopted obligation. For instance, BellSouth has agreed to provide switching to customers with four lines or more in certain Metropolitan Statistical Areas (e.g., enterprise customers) at a market rate of \$14. By including the “except as

otherwise specified” in paragraph 227 and acknowledging carriers’ ability to freely negotiate alternative arrangements in paragraph 228, the FCC made clear that it did not intend to override those provisions.

Likewise, Cinergy’s focus on the interconnection agreement portion of the sentence in paragraph 233, ignores the “consistent with our conclusions in this Order” clause. To be consistent with the conclusions in the Order, the transition plan for the embedded base of UNE-Ps will be implemented via the change of law process, but the prohibition against new UNE-Ps is self-effectuating. The first two sentences of paragraph 233 simply confirm that changes to the interconnection agreement should be consistent with the framework established in the *TRRO*, whether self-effectuating or via change of law.

Thus, by filing its Motion, Cinergy has ignored the FCC’s clear statement of intent and its complaint concerning BellSouth’s announced intent to reject orders for these former UNEs on March 11, 2005 is meritless. Cinergy’s Motion raises two arguments. First, Cinergy argues that BellSouth has an obligation under the parties’ existing interconnection agreement to continue to accept orders for these former UNEs until those interconnection agreements are changed. Second, Cinergy contends BellSouth has a continuing responsibility under section 271 of the 1996 Telecommunications Act to continue to provide these UNEs. Neither argument is correct.

Despite BellSouth’s posting of its Carrier Notification letter on February 11, 2005, various CLECs<sup>14</sup> have delayed in filing requests with this and other Commissions for “emergency relief.” In order to give this Commission adequate opportunity to consider the

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<sup>14</sup> Cinergy’s Emergency Motion was filed in this proceeding on February 28, 2005. The Joint Petitioners’, Newsouth Communications Corp., Nuvox Communications, Inc., KMC Telecom III LLC, and Xspedius [Affiliates], Emergency Motion was filed March 1, 2005 in Case No. 2004-00044. An additional emergency petition was filed by AmeriMex Communications Corp. (“AmeriMex”) on or about March 7, 2005, also seeking emergency relief.

important issue of whether the FCC language in the TRRO actually means what it says, that is, that there are to be no “new adds,” BellSouth has issued Carrier Notification SN91085061.<sup>15</sup>

### ARGUMENT

#### **A. The FCC’s Bar On “New Adds” Is Self-Effectuating And Relieves BellSouth Of Any Obligation Under Its Interconnection Agreements To Provide These Former UNEs To Cinergy.**

BellSouth does not dispute that the parties are operating under an interconnection agreement that contains change of law provisions. Despite Cinergy’s focus on the contractual language in that agreement, that is not the issue here.<sup>16</sup> If the FCC had held that Cinergy could continue to add more former UNEs until the interconnection agreements were changed pursuant to the change of law provisions found in interconnection agreements, or even if it had been silent on the question of “new adds,” then presumably no dispute would exist between Cinergy and BellSouth. Neither situation is the case here, however, and Cinergy’s motion disregards what the FCC actually said in the *TRRO*.

The new rules unequivocally state carriers may not obtain new UNEs, and the FCC said unequivocally that there would be a transition period for embedded UNEs that would begin on March 11, 2005 and that would last 12 months: “we adopt a transition plan that requires competitive LECs to submit orders to convert their UNE-P customers to alternative arrangements within twelve months of the effective date of this order.”<sup>17</sup> The FCC made almost identical

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<sup>15</sup> See, <http://interconnection.bellsouth.com/notifications/carrier/index.html>.

<sup>16</sup> Likewise Cinergy’s suggestion that its petition arose from an earlier petition seeking to establish a generic proceeding filed by BellSouth cannot stand. Cinergy conveniently ignores that, prior to the issuance of the *TRRO*, the FCC issued its *Interim Rules Order* and that BellSouth’s generic petition was filed shortly thereafter, specifically referencing that order. With the issuance of the *TRRO*, the FCC expressly supplanted its interim unbundling requirements. *TRRO*, ¶ 236. Consequently, Cinergy’s suggestion that BellSouth has somehow evidenced some “understanding” that all changes in law, including self-effectuating changes wrought by the FCC, must be implemented through negotiation, is without merit.

<sup>17</sup> *TRRO*, ¶199.

findings with respect to high-capacity loops and transport, holding that its transition rules “do not permit competitive LECs to add new [high capacity loops and transport on an unbundled basis] . . . where the Commission has determined that no section 251(c)(3) unbundling requirement exists.”<sup>18</sup> The FCC also said unequivocally that this “transition period shall apply only to the embedded customer base, and does not permit competitive LECs to add new customers using unbundled access to local circuit switching.”<sup>19</sup> The FCC’s determination is straightforward and clear.

Cinergy contends that notwithstanding the clear language of the *TRRO* -- there will be a transition period, it will begin on March 11, 2005, and there will be no “new adds” during that transition period -- the FCC really didn’t mean what it said. Evidently Cinergy believes that BellSouth is obligated to continue to provide new UNE-Ps until its contract with BellSouth is amended pursuant to change of law provisions therein. Cinergy’s belief is wholly inconsistent with the language of the *TRRO* and is flatly contradicted by the federal rules.<sup>20</sup>

First, the FCC understood that existing interconnection agreements often contained “change of law” provisions. For instance, the FCC specifically contemplated that the contract provisions for the transition of the embedded base of former UNEs would be effectuated through the change of law process. Further, the FCC provided that throughout the 12-month transition period (during which the FCC clearly said there would be no “new adds”) CLECs would continue to have access to the embedded UNE-Ps during the transition period, but at the commission-approved TELRIC rate “plus one dollar”, until the migration of the embedded base

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<sup>18</sup> *TRRO*, ¶ 142, 195; *see also* 47 C.F.R. § 51.319 (e)(2)(i), (ii), (iii), and (iv) (ILEC is not require to provide unbundled access to entrance facilities; requesting carrier may not obtain new DS1, DS3, and dark fiber transport as unbundled network elements); *and* 47 C.F.R. § 51.319 (a)(4)(iii), (a)(5)(iii), and (a)(6) (requesting carrier may not obtain new DS1, DS3, and dark fiber transport as unbundled network elements).

<sup>19</sup> *Id.*

<sup>20</sup> Notably, Cinergy’s Motion is devoid of a single reference to the *rules*.

was complete.<sup>21</sup> Finally, the FCC made the increase in the rates of the former UNEs retroactive to the effective date of the order to preclude gaming by the CLECs during the negotiation process.<sup>22</sup>

The FCC's obvious reason for making the increased rates retroactive is to keep CLECs from unnecessarily delaying the amendment process and gaming the system by postponing the date for the higher rates applicable to the embedded base of UNE-Ps. It is equally clear that the FCC did not directly address amending existing interconnection agreements to eliminate any requirement that incumbent local exchange carriers ("ILECs") provide new UNE-Ps. If the FCC had intended to allow CLECs to continue to add new UNE-Ps until the interconnection agreements were amended, it could have easily said so. It did not. Instead, it made specific provision that the transition period did not authorize new adds.<sup>23</sup> The only reasonable, logical and legally sound conclusion is that the provisions prohibiting new adds was intended by the FCC to be self-effectuating.

There is no question that the FCC has the legal authority to create a self-effectuating change to existing interconnection agreements as it has done here. Indeed, in the TRO, the FCC decided not to make its decisions self-executing. *See TRO*, ¶ 700 ("many of our decisions in this order will not be self-executing"). The FCC's authority to make self-effectuating changes exists under the *Mobile-Sierra* doctrine, which allows the FCC to negate any contract terms of

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<sup>21</sup> *Id.*

<sup>22</sup> *TRRO*, n. 630. Thus, if Cinergy ultimately executed a interconnection agreement amendment on May 11, 2005, the transition period rates would apply as of March 11, 2005 and Cinergy would need to make a true-up payment to BellSouth.

<sup>23</sup> Cinergy professes confusion about whether it can make changes to services provided to its existing base of customers. Motion, ¶ 16. BellSouth will permit feature changes on the embedded base; however, the FCC was clear that CLECs could not continue to *increase* its embedded base. *See* 51.319(d)(2)(iii).



regulated carriers so long as the FCC makes adequate public interest findings.<sup>24</sup> Thus, “[f]or all contracts filed with the FCC, it is well-established that ‘the Commission has the power to prescribe a change in contract rates when it finds them to be unlawful and to modify other provisions of private contracts when necessary to serve the public interest.’” *Cable & Wireless, P.L.C. v. FCC*, 166 F.3d 1224, 1231-32 (D.C. Cir. 1999) (quoting *Western Union Tel. Co. v. FCC*, 815 F.2d 1495, 1501 (D.C. Cir. 1987)).<sup>25</sup>

The FCC was very clear in the *TRRO* that access to UNEs without impairment was contrary to the public interest and must stop. Notably, the FCC held that “it is now clear . . . that, in many areas, UNE-P has been a disincentive to competitive LECs’ infrastructure investment.”<sup>26</sup> Also, the FCC held “we bar unbundling to the extent there is any impairment where – as here – unbundling would seriously undermine infrastructure investment and hinder the development of genuine facilities-based competition.”<sup>27</sup> Likewise, the FCC held that “the continued availability of unbundled mass market switching would impose significant costs in the form of decreased investment incentives.”<sup>28</sup>

The FCC has applied *Mobile-Sierra* to require a fresh look at contracts between ILECs and CMRS providers executed before the 1996 Telecommunications Act in light of the reciprocal compensation provisions of §251(b)(5) of the Act. In relevant part, citing *Western*

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<sup>24</sup> Because the FCC has the power to make contracts self-effectuating, Cinergy’s reliance on this Commission’s decisions in Case No. 2001-224 and 2001-261 cannot stand. The cases that Cinergy relies upon were arbitration decisions in which this Commission decided which parties’ proposed language would apply in agreements that had not yet been executed, and are clearly distinguishable from the facts presented here, where the FCC has – after eight years of an unlawful unbundling regime – ordered that unlawful regime cease.

<sup>25</sup> Citing, in turn, *FPC v. Sierra Pac. Power Co.*, 350 U.S. 348, 353-55 (1956) and *United Gas Co. v. Mobile Gas Corp.*, 350 U.S. 332, 344 (1956) (the FCC has the power to set aside any contract which it determines to be “unjust, unreasonable, unduly discriminatory, or preferential.”).

<sup>26</sup> *TRRO*, ¶ 218.

<sup>27</sup> *TRRO*, ¶ 218.

<sup>28</sup> *TRRO*, ¶ 199.

*Union Tel. Co. v. FCC*, the FCC explained that “[c]ourts have held the Commission has the power ... to modify ... provisions of private contracts when necessary to serve the public interest.” *First Report and Order*, 11 FCC Rcd 15499, ¶ 1095 (1996) (additional citations omitted).<sup>29</sup>

That these interconnection agreements are filed with and approved by the state commissions, rather than the FCC, has no impact on the FCC’s ability to change these contracts when it is in the public interest to do so. While *Cable & Wireless P.L.C. v. FCC* applied to “all contracts filed with the FCC,”<sup>30</sup> the reference to “filing” means that decision applies to all contracts and other agreements *that are subject to the FCC’s authority not just contracts actually filed with the FCC*. See *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 380, 381 (1999). Thus, as the Supreme Court made clear in *Iowa Utilities Bd.*, state commissions perform their functions subject to FCC rules designed to implement the statute and establish the public interest. The FCC has enacted new rules designed to further the public interest by finding “the continued availability of unbundled mass market switching would impose significant costs in the form of decreased investment incentives”<sup>31</sup>. As a matter of national public policy, unbundled switching adversely impacts the public by creating disincentives for the creation of facilities-based competition – which competition has been found to be the fundamental objective of the Act. The FCC has spoken – and Cinergy cannot ignore its message.

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<sup>29</sup> In the *Local Competition Order*, the FCC modified pre-existing agreements as of the effective dates of its new rules – just as it did in the *TRRO*.

<sup>30</sup> *Cable & Wireless*, 166 F.3d at 1231.

<sup>31</sup> See n. 16, *IBD Mobile Communications, Inc. v. COMSAT Corp*, Memorandum Opinion and Order, 16 FCC Rcd 11474, ¶ 16 n. 50 (2001). (The FCC explained that “Sierra-Mobile analysis does not apply to interconnection agreements.” This simply cannot apply, particularly where the FCC’s current order, by its own terms, appears to dictate a different requirement).

The FCC has full authority to issue a self-effectuating order that eliminated CLECs' ability to add new UNE-P customers after March 11, 2005. That existing interconnection agreements have not been formally modified to implement that finding is irrelevant. Through the *TRRO* the FCC has exercised its authority in a manner that trumps Cinergy's individual contract and BellSouth has no obligation to provide new UNE-Ps to Cinergy on or after March 11, 2005.

**B. Cinergy Is Not Entitled To UNE-P Under Section 271.**

Cinergy also alleges that the Commission should perpetuate the UNE-P because "section 271 of the Federal Act independently supports Cinergy's right to obtain UNE-P from BellSouth ...." *Cinergy Complaint*, at 24. This argument also misses the mark. While BellSouth is obligated to continue to provide unbundled local switching under section 271, section 271 switching (1) is not combined with a loop; (2) is subject to the exclusive jurisdiction of the FCC; and (3) is not provided via interconnection agreements. Thus, Cinergy is not entitled to new UNE-P orders after March 11, 2005 under section 271 of the Act.

1. BellSouth is not obligated to combine Section 251 and Section 271 elements.

The most fundamental fallacy in Cinergy's section 271 argument is that Cinergy wants to buy UNE-P - (a loop combined with local switching) despite the fact that BellSouth is not obligated to combine either section 271 elements with other section 271 elements, or section 271 elements with section 251 UNEs.

With respect to combining 271 elements, the FCC held in the TRO that "[w]e decline to require BOCs, pursuant to section 271, to combine network elements that no longer are required to be unbundled under Section 251." *TRO*, at fn. 1990. The FCC went on to hold that "[u]nlike Section 251(c)(3), items 4 – 6 and 10 of section 271's competitive checklist contain no mention

of ‘combining’ and, as noted above, does not refer back to the combination requirement set forth in section 251(c)(3).” *Id.*

Likewise, the FCC has held that BOCs are not obligated to combine 271 and 251 elements. In the errata to the TRO, the FCC explicitly removed any requirement to combine 271 elements with non-271 elements by removing the clause “any network elements unbundled pursuant to Section 271” from paragraph 584. *Errata*, at ¶ 27. Cinergy recognizes that it is not entitled to a combination of 271 and 251 elements in its own Complaint. *Cinergy Complaint*, at ¶ 26 (“although the FCC in the TRO declined to require Bellsouth to combine section 271 local switching with other UNEs pursuant to section 251(c)(3) ....”).

For these reasons, Cinergy’s claim that it is entitled to UNE-P under section 271 has no merit. While BellSouth is obligated under 271 to provide local switching, it has no obligation to provide a UNE-P combination.

2. BellSouth is not obligated to provide elements at TELRIC under 271.

Cinergy claims that not only is it entitled to UNE-P under section 271, but that it is entitled to new UNE-P orders at the TELRIC rates set forth in the interconnection agreements. *Cinergy Complaint*, at ¶ 27. Cinergy bases this claim on an alleged finding by the Commission that the TELRIC rates are “just and reasonable” under Kentucky law. This argument is fatally flawed because it mixes apples and oranges. The FCC and the D.C. Circuit clearly held that the 251(d) pricing rules do not apply to section 271 elements. *See TRO*, at ¶ 656-657; *USTA II*, at 52-53. Rather, 271 elements are priced under the *federal* section 202 pricing standard of “just and reasonable.” Section 271 elements, therefore, are not priced at TELRIC. *USTA II*, at 52-53. To the extent Cinergy argues that “just and reasonable” under state law equates with TELRIC, that finding would be pre-empted under federal law. In short, there is no authority under which

the Commission can require BellSouth to provide new UNE-P circuits at TELRIC rates after March 11, 2005.

3. Section 271 elements fall within the exclusive jurisdiction of the FCC.

Lastly, the Commission does not have authority to enforce obligations under section 271. Section 271 enforcement rests solely with the FCC. Section 271(d)(6). Consequently, even were BellSouth obligated to provide new UNE-P orders under Section 271 (which it is not), such a claim must be made to the FCC and not to a state commission. This Commission has no jurisdiction to order performance under Section 271.<sup>32</sup>

**C. If BellSouth Is Ordered To Provide New UNE-P Circuits After March 11, 2005, It Is Entitled To A Retroactive True-Up To An Appropriate Rate.**

For all the reasons set forth in this pleading, BellSouth is not obligated to provide new UNE-P circuits after March 11, 2005. If, however, Cinergy is granted any emergency relief to which it is not entitled or Cinergy or other CLECs place orders for “new adds” after March 11, 2005, BellSouth should be allowed to recover the revenues it loses as a result of the placement of these unlawful orders. This Commission should explicitly direct that in the event Cinergy or other CLECs order new UNEs on or after March 11, 2005, and BellSouth ultimately prevails in its legal claim, Cinergy must compensate BellSouth for those UNE-P orders at an appropriate rate retroactive to March 11, 2005.

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<sup>32</sup> Cinergy suggests that “there is a tangible basis for negotiation . . . regarding BellSouth’s continuing obligation to provide Section 271.” This suggestion is without basis. The Act “lists only a limited number of issues on which incumbents are mandated to negotiate [under Section 251 (b)(c)].” *MCI Telecommunications, Corp. v. BellSouth Telecommunications, Inc.*, 298 F.3d 1269, 1274 (11<sup>th</sup> Cir. 2002). Cinergy cannot force BellSouth involuntarily to negotiate issues concerning Section 271 for inclusion in a Section 252 interconnection agreement, which BellSouth has not and does not agree to negotiate. *See also Coserv Limited Liab. Corp. v. Southwestern Bell Telephone*, 350 F.3d 482, 487 (5<sup>th</sup> Cir. 2003) (“[a]n ILEC is clearly free to refuse to negotiate any issue other than those it has to duty to negotiate under the Act when a CLEC requests negotiation pursuant to §§ 251 and 252.”).

The retroactive payment is important not only as a legal matter but as a policy matter. The FCC was unequivocal in its holding that no CLEC is entitled to new UNE-P circuits after March 11, 2005. Short of an order denying Cinergy's complaint, the *only* way for the Commission to comply with the FCC's order is to require Cinergy to pay BellSouth the difference between the UNE-P rate and an appropriate rate back to March 11, 2005. Other states have adopted true-ups. For instance, the Texas Commission adopted an interim agreement that does not require SBC to add new UNE-P orders and includes a true-up provision.<sup>33</sup> The Michigan Commission has decided to complete expedited proceedings in 45 days, during which new orders can apparently be issued subject to a true-up.<sup>34</sup> A true-up is the only way to equalize the risk between the parties – if ordered to provision new UNEs after March 11, BellSouth unquestionably is bearing the risk associated with the continuation of an unlawful unbundling regime. Cinergy should bear the risk of a true-up if its position is determined to be wrong.

A true-up is also necessary in the interests of fairness. The FCC has also been clear that commercial negotiations can produce pro-competitive and pro-consumer outcomes.<sup>35</sup> BellSouth has successfully negotiated, to date, 48 commercial agreements with CLECs for the purchase of a wholesale local voice platform service, which agreements cover in excess of 310,000 access

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<sup>33</sup> See Exhibit 2 for orders from the Texas PUC. The orders from the Texas Commission appear to diverge from action taken by the Georgia Commission, which, in addressing a motion similar to the one filed by Cinergy, ruled against BellSouth. The Georgia Commission has not yet released a written order. The Alabama Commission has required BellSouth to provide MCI with access to new UNE-Ps until it can address this matter at its April 2005 meeting.

<sup>34</sup> See Exhibit 3 for an order from the Michigan Commission.

<sup>35</sup> Press Statement of Chairman Michael K. Powell and Commissioners Kathleen Q. Abernathy, Michael J. Copps, Kevin J. Martin and Jonathan S. Adelstein On Triennial Review Next Steps, March 31, 2004; see also FCC Chairman Michael K. Powell's Comments on SBC's Commercial Agreement With Sage Telecom Concerning The Access To Unbundled Network Elements, April 5, 2004 (expressing hope "for further negotiations and contracts - so that America's telephone consumers have the certainty they deserve"); FCC Chairman Michael K. Powell Announces Plans For Local Telephone Competition Rules, June 14, 2004 (strongly encouraging "carriers to find common ground through negotiation" because "[c]ommercial agreements remain the best way for all parties to control their destiny").

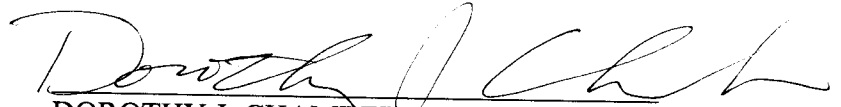
lines. If this Commission disregards the self-effectuating portion of the *TRRO*, the progress BellSouth has achieved in reaching commercial agreements could come to a halt, at least in the near term. If CLECs know that they can continue adding new unbundled network elements at TELRIC rates until the amendment and arbitration process is completed, which can take up to twelve months under the *TRRO*, they will have no reason to pay more than TELRIC by entering into a commercial agreement at this juncture. Significantly, allowing CLECs to continue adding unbundled network elements until the amendment and arbitration process has been completed, even though they are not impaired, unfairly prejudices those carriers that have entered into commercial agreements. Carriers that entered into commercial agreements will be forced to compete for new customers against CLECs that can undercut their prices solely by virtue of these CLECs getting to pay TELRIC rates, unless this Commission requires a true-up.

### **CONCLUSION**

For the reasons set forth therein, the Commission, in accordance with the Final Rules, should not order BellSouth to provide new UNE-P circuits after March 11, 2005. If, however, this Commission requires new UNEs after March 11, 2005, or CLECs place orders for “new adds” after March 11, 2005, in accordance with BellSouth’s Carrier Notification SN91085061

issued March 7, 2005, this Commission should order a retroactive true-up back to March 11, 2005.

Respectfully submitted, this 7th day of March 2005.



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February 18, 2005

Jeffrey J. Carlisle  
Chief, Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: *Unbundled Access to Network Elements*, WC Docket No. 04-313;

*Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338

Dear Mr. Carlisle:

Pursuant to your letter to Mr. Herschel Abbott, dated February 4, 2005, enclosed please find a list by Common Language Location Identifier ("CLLI") code of those BellSouth wire centers that satisfy the Tier 1, Tier 2, and Tier 3 criteria for dedicated transport and dark fiber as well as the CLLI code for the BellSouth wire centers that satisfy the nonimpairment thresholds for DS-1 and DS-3 loops.

In compiling this list, BellSouth applied the Commission's definition of a "business line" as set forth in Section 51.5 of the revised rules adopted in the Commission's *Triennial Review Remand Order*.<sup>1</sup> In particular, BellSouth counted all ISDN and other switched digital access lines in each wire center on a per 64 kbps-equivalent basis as required by the rule. In addition, in determining the number of fiber-based collocators in each particular wire center, BellSouth reviewed its records to verify the existence of an "active electrical power supply" to the particular collocation arrangement as required by Section 51.5. When the Commission requested that BellSouth submit wire center data in December 2004, the Commission did not specify any particular methodology, and thus BellSouth did not use the 64 kbps-equivalent approach or attempt to verify an active electrical power supply.

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<sup>1</sup> *Unbundled Access to Network Elements, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338, Order on Remand (Feb. 4, 2005) ("*Triennial Review Remand Order*").

BellSouth shares the Commission's desire, as indicated in your letter, "to facilitate prompt implementation of its revised rules, and to minimize disputes regarding the scope of incumbent LEC's unbundling obligations in any particular case." Although we disagree with certain aspects of the Commission's *Triennial Review Remand Order*, "certainty" regarding the scope of unbundling obligations is important to the entire industry, as your letter notes. In that regard, BellSouth will be posting the enclosed list on its interconnection website (<http://interconnection.bellsouth.com/notifications/carrier/index.html>) so that all requesting carriers will be aware of the particular wire centers in which the nonimpairment thresholds have been met and in or between which new high-capacity loops and transport will no longer be available on an unbundled basis as of March 11, 2005. With dissemination of this information, a carrier that subsequently requests new high-capacity loops and transport on an unbundled basis in or between these affected wire centers will be unable to self-certify based upon a "reasonably diligent inquiry" that its request is consistent with the Commission's unbundling requirements, as required by the *Triennial Review Remand Order*.<sup>2</sup>

To the extent any party is concerned about the methodology BellSouth has employed or the wire centers identified on the enclosed list in which the nonimpairment thresholds have been met, it should bring that concern to the Commission's attention. As the *Triennial Review Remand Order* makes clear, it is for the Commission to determine where "no section 251(c) unbundling requirement exists,"<sup>3</sup> and thus any dispute about whether an incumbent has been relieved of its section 251(c) unbundling obligations in a particular wire center must be resolved by the Commission.

The Commission's *Triennial Review Remand Order* cannot and should not be read to suggest that the state public service commissions have any role in establishing the wire centers in which the Commission's nonimpairment thresholds are currently met.<sup>4</sup> To do otherwise effectively would result in the delegation of impairment decisions with regard to high-capacity loops and transport to 50 state public service commissions in clear violation of *USTA II*.<sup>5</sup> Just as it was unlawful to delegate to the state commissions the authority to determine whether the Commission's "competitive triggers" had been met for purposes of determining where switching and high-capacity loops and transport should be unbundled under the *Triennial Review Order*, it would be equally unlawful to allow state public service commissions to determine where the Commission's new nonimpairment thresholds for high-capacity loops and transport are currently

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<sup>2</sup> *Triennial Review Remand Order*, ¶ 234.

<sup>3</sup> *Id.* ¶ 142

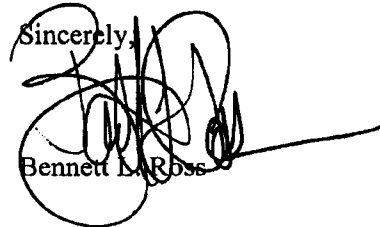
<sup>4</sup> The Commission directed parties to negotiate pursuant to the section 252 process the "appropriate transition mechanisms" for those high-capacity facilities "not currently subject to the nonimpairment thresholds" established in the *Triennial Review Remand Order* that subsequently "may meet those thresholds in the future." *Id.* ¶ 142, n.399. However, the Commission did not require the parties to negotiate, let alone for 50 state public service commissions to arbitrate, the wire centers in which the nonimpairment thresholds are currently met.

<sup>5</sup> *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) ("*USTA II*"), *cert. denied*, *NARUC v. United States Telecom. Ass'n*, 04-12, 04-15 & 04-18 (U.S. Oct. 12, 2004).

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met under the *Triennial Review Remand Order*. The Telecommunications Act of 1996 requires a uniform methodology and application of the Commission's unbundling rules, which cannot occur if unbundling determinations are left to the state commissions.<sup>6</sup>

BellSouth believes that its determinations concerning the wire centers in which the Commission's nonimpairment thresholds for high-capacity loops, transport, and dark fiber are completely consistent with the Commission's revised rules. The same is true for BellSouth's approach to implementation of those rules as set forth above, which should minimize disputes and facilitate the certainty the industry requires. BellSouth will assume the Commission agrees unless the Commission advises otherwise.

Sincerely,  
  
Bennett L. Ross

BLR:kjw

cc: Christopher Libertelli  
Matthew Brill  
Jessica Rosenworcel  
Daniel Gonzalez  
Scott Bergmann  
Michelle Carey  
Thomas Navin  
Austin Schlick  
John Stanley  
Jeremy Marcus  
Pamela Arluk

#572871

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<sup>6</sup> Although *USTA II* recognized certain situations when input from an outside party into an agency's decision making processes might be appropriate, none of those situations applies here. In particular, there is no need for the Commission to rely upon "factual information" or "advice and policy recommendations" from a state public service commission in determining where the Commission's nonimpairment thresholds have been satisfied. *USTA II*, 359 F.2d at 558. Indeed, the Commission's rationale for establishing such thresholds was because they were based upon data that are "objective and readily available," which obviates the need for any input from state public service commissions. *Triennial Review Remand Order* ¶ 161.

# Exhibit 1

## Wirecenter Listings for Non-Impairment Thresholds

FCC WC Docket No. 04-313.  
BellSouth Telecommunications, Inc.  
Filing Date: 02-18-05

WC CLLI	WC Name	Interoffice Transport			High Capacity Loops	
		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
ABRDMSES	Aberdeen			X		
ABVLLAMA	Abbeville			X		
ACHLTNMT	Adams-Cedar Hill			X		
ACMENCMA	Acme			X		
ACWOGAMA	Acworth			X		
AGSTGAAU	Augusta Martinez			X		
AGSTGAFL	Augusta Fleming			X		
AGSTGAMT	Augusta Main		X			
AGSTGATH	Augusta Hill			X		
AHVLNCBI	Biltmore			X		
AHVLNCOH	O'Henry		X			
AHVLNCOT	Oteen			X		
AIKNSCMA	Alken			X		
AIVLGAMA	Adairsville			X		
ALBSALMA	Alabaster			X		
ALBYGAMA	Albany	X				
ALBYLAMA	Albany			X		
ALCYALMT	Alexander City			X		
ALDLSCMA	Allendale			X		
ALLNKYMA	Allen			X		
ALPRGAMA	Alpharetta	X			X	X
ALVLALMA	Albertville-Main			X		
ALXNLADV	Alexandria-Deville			X		
ALXNLAMA	Alexandria-Main		X			
ALXNLATG	Alexandria-Tioga			X		
AMITLAMA	Amite			X		
AMRCGAMA	Americus			X		
AMRYMSMA	Amory			X		
ANGILAMA	Angle			X		
ANTNALLE	Anniston-Lenlock			X		
ANTNALMT	Anniston-Main&Toll			X		
ANTNALOX	Anniston-Oxford			X		
APEXNCCE	Apex			X		
APNGGAES	Appling			X		
ARCDLABW	Arcadia-Bienville			X		
ARCDLAMA	Arcadia-Main			X		
ARCHFLMA	Archer			X		
ARDNNCCE	Arden			X		
ARSNNCMA	Anderson			X		
ARSNSCAH	Abbeville			X		
ARSNSCMA	Anderson			X		
ARSNSCTV	Townville			X		
ARTNGAES	Arlington			X		
ARTNTNMT	Arlington			X		
ASCYTMA	Ashland City			X		
ASLDMAMA	Ashland			X		
ASTLGAMA	Austell			X		
ATHNALER	Athens-Elk River			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
ATHNALMA	Athens-Main			X		
ATHNGAMA	Athens	X				
ATHNTNMA	Athens			X		
ATLNGAAD	Adamsville			X		
ATLNGABH	Ben Hill			X		
ATLNGABU	Buckhead	X			X	X
ATLNGACD	Columbia Drive			X		
ATLNGACS	Courtland Street	X			X	X
ATLNGAEL	Decatur			X		
ATLNGAEP	East Point	X			X	
ATLNGAFP	Forest Park			X		
ATLNGAGR	Gresham			X		
ATLNGAHR	Hollywood Road			X		
ATLNGAIC	Indian Creek			X		
ATLNGALA	Lakewood			X		
ATLNGAPP	Peachtree Place	X			X	X
ATLNGASS	Sandy Springs	X			X	
ATLNGATH	Toco Hills	X			X	
ATLNGAWD	Woodland			X		
ATLNGAWE	West End			X		
ATSNNCMA	Atkinson			X		
ATTLALNM	Aitalla-Main			X		
AUBNALMA	Auburn-Main&Toll			X		
AURRKYMA	Aurora			X		
BATHSCMA	Bath			X		
BAVLSCMA	Blackville			X		
BCHNGAES	Buchanan			X		
BCMTNCCE	Black Mountain			X		
BCRTFLBT	Boca Teeca		X			
BCRTFLMA	Boca Raton	X			X	
BCRTFLSA	Sandalfoot			X		
BCTNGAMA	Baconton			X		
BCTNMSMA	Buckatunna			X		
BDFRKYMA	Bedford			X		
BENTMSMA	Blue Mountain			X		
BENTMSSU	Bentonla			X		
BERNLAMA	Bernice-Main			X		
BERNLASP	Bernice-Spearsville			X		
BETNSCMA	Belton			X		
BEVLSCMA	Bennettsville			X		
BGCHMSSU	Bogue Chitto			X		
BGDDKYMA	Bagdad			X		
BGLSLAMA	Bogalusa			X		
BGPIFLMA	Big Pine			X		
BGRTGAMA	Bogart Statham			X		
BGSNTNMA	Big Sandy			X		
BHISSCMA	Beech Island			X		
BILXMSDI	Biloxi-Diberville			X		

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WC-CLLI	WC-Name	Interoffice Transport			High Capacity Loops	
		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
BILXMSED	Edgewater			X		
BILXMSMA	Biloxi-Howard Ave			X		
BKVLFLJF	Brooksville			X		
BKVLMSU	Brooksville			X		
BLBGSCMA	Blacksburg			X		
BLCGSAES	Blackshear			X		
BLDWFLMA	Baldwin			X		
BLDWLAMA	Baldwin			X		
BLDWMSMF	Baldwyn			X		
BLFDKYMA	Bloomfield			X		
BLFNALMA	Bell Fontaine			X		
BLGLFLMA	Belle Glade			X		
BLGPTNMA	Bulls Gap			X		
BLLSTNMA	Bells			X		
BLMTMSMA	Belmont			X		
BLMTNCE	Belmont			X		
BLNCLAMA	Blanchard			X		
BLNCTNMT	Blanche			X		
BLNHSCMA	Blenheim			X		
BLRGSCMA	Blue Ridge			X		
BLRKNCCE	Blowing Rock			X		
BLSPKYMA	Bluff Springs			X		
BLVRTNMA	Bolivar			X		
BLZNMSMA	Belzoni			X		
BMBRSCMA	Bamberg			X		
BNBRGAMA	Bainbridge			X		
BNITMSMA	Benoit			X		
BNLYKYMA	Benham Lynch			X		
BNNLFLMA	Bunnell			X		
BNTNKYMA	Benton			X		
BNTNLAMA	Benton			X		
BNTNMSSU	Benton			X		
BNTNTNMT	Benton			X		
BNVLSMA	Booneville			X		
BOAZALMA	Boaz-Main			X		
BOONNCKI	Boone			X		
BOTNMSMA	Bolton			X		
BOYCLAMA	Boyce			X		
BRGNKYMA	Burgin			X		
BRGWNCMA	Burgaw			X		
BRHMALCH	Birmingham-Cahaba Heights			X		
BRHMALCP	Birmingham-Centerpoint			X		
BRHMALEL	Birmingham-East Lake			X		
BRHMALEN	Birmingham-Ensley			X		
BRHMALEW	Birmingham-Eastwood			X		
BRHMALFO	Birmingham-Forestdale			X		
BRHMALFS	Birmingham-Five Points South			X		
BRHMALHW	Birmingham-Homewood			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
BRHMALMT	Birmingham-Main & Toll	X			X	X
BRHMALOM	Birmingham-Oak Mountain			X		
BRHMALOX	Birmingham-Oxmoor		X			
BRHMALRC	Birmingham-Riverchase	X				
BRHMALTA	Birmingham-Tarrant			X		
BRHMALVA	Birmingham-Valley			X		
BRHMALWE	Birmingham-West End			X		
BRHMALWL	Birmingham-Woodlawn			X		
BRHNMSMA	Brookhaven			X		
BRMNGAES	Bremen			X		
BRMNKYMA	Bremen			X		
BRNDMSES	Brandon			X		
BRPTALMA	Bridgeport-Main			X		
BRSNFLMA	Bronson			X		
BRSSLAMA	Broussard			X		
BRTOALMA	Brewton			X		
BRTWKYES	Bardstown			X		
BRVIGAMA	Barnesville			X		
BRVLSMA	Burnsville			X		
BRWDMMSMA	Briarwood			X		
BRWKGAMA	Brunswick			X		
BRWLSCBE	Barnwell			X		
BSCYNCMA	Bessemer City			X		
BSLSMSMA	Bay St Louis			X		
BSMRALBP	Bessemer-Birmingham			X		
BSMRALBU	Bessemer-Bucksville			X		
BSMRALHT	Bessemer-Hueytown			X		
BSMRALMA	Bessemer-Main			X		
BSTRLAMA	Bastrop			X		
BTBGSCMA	Batesburg			X		
BTRGLABK	Br-Baker			X		
BTRGLABS	Br-Brusly			X		
BTRGLAGW	Br-Goodwood	X			X	
BTRGLAHR	Br-Hooper			X		
BTRGLAIS	Br-Istrouma			X		
BTRGLAMA	Br-Main	X			X	
BTRGLAOH	Br-Oak Hills			X		
BTRGLASB	Br-Suburban		X			
BTRGLASW	Br-Sherwood			X		
BTRGLAWN	Br-Woodlawn			X		
BTSPTNMA	Bethel Springs			X		
BTVLMDS	Batesville			X		
BUFRGABH	Buford			X		
BUMTMSMA	Beaumont			X		
BUNKLAMA	Bunkie			X		
BURLNCDA	Davis Street		X			
BURLNCEL	Elon			X		
BURLNCHA	Haw River			X		



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WC CLLI	WC Name	Interoffice Transport			High Capacity Loops	
		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
BURSLAMA	Buras			X		
BUSHLAMA	Bush			X		
BVDMKYMA	Beaver Dam			X		
BWDNGAMA	Bowdon			X		
BWLGKYMA	Bowling Green State Street			X		
BWLGKYRV	Bowling Green Richardsville			X		
BWVLTNMA	Brownsville			X		
BXLYGAES	Baxley			X		
BYBHFLMA	Boynton Beach		X			
BYMNALMA	Bay Minette			X		
BYVLKYMA	Beattyville			X		
CADZKYMA	Cadiz			X		
CAFBSMA	Columbus Afb			X		
CALRALMA	Calera			X		
CARYNCCE	Cary	X				
CARYNCWS	Cary Weston			X		
CASTLAMA	Castor			X		
CCBHFLAF	Cobch Cape Canaveral W. C.			X		
CCBHFLMA	Cocoa Beach			X		
CCHRGAMA	Cochran			X		
CDKYFLMA	Cedar Key			X		
CDTWGAMA	Cedartown			X		
CDWRMSMA	Coldwater			X		
CENTSCWS	Central			X		
CFLDFLMA	Chiefland			X		
CFVLSMA	Coffeeville			X		
CHAPSCCL	Chapin-Little Mtn.			X		
CHBGALMA	Childersburg			X		
CHBYLAMA	Chackbay			X		
CHLSALMA	Chelsea			X		
CHMBGAMA	Chamblee	X			X	
CHNKMSSU	Chunky			X		
CHPLFLJA	ChIPLEY			X		
CHPLKYMA	Chaplin			X		
CHRLNCBO	South Blvd.	X				
CHRLNCCA	Caldwell Street	X			X	X
CHRLNCCE	Central Avenue			X		
CHRLNCCR	Carmel			X		
CHRLNCDE	Derita	X				
CHRLNCER	Erwin Road			X		
CHRLNCLP	Lake Pointe	X				
CHRLNCMI	Mint Hill			X		
CHRLNCOD	Charlotte-Douglas			X		
CHRLNCRE	Reid	X				
CHRLNCNH	Sharon Amity	X				
CHRLNCTH	Thomasboro			X		
CHRLNCUN	University Park	X				
CHRLTNMT	Charlotte			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
CHRWSCES	Cheraw			X		
CHTGTNBR	Chattanooga-Brainerd		X			
CHTGTNDT	Chattanooga-Dodds Ave		X			
CHTGTNHT	Chattanooga-Harrison			X		
CHTGTNMV	Chattanooga-Middle Valley			X		
CHTGTNNS	Chattanooga-Nlinst Street	X				
CHTGTNRB	Chattanooga-Redbank			X		
CHTGTNRO	Chattanooga-Rossville			X		
CHTGTNSE	Chattanooga-St Elmo			X		
CHTGTNSM	Chattanooga-Signal Mountain			X		
CHTNMSMA	Charleston			X		
CHTNSCDP	Deer Park			X		
CHTNSCDT	Charleston	X				
CHTNSCJM	James Island			X		
CHTNSCJN	Johns Island			X		
CHTNSCLB	Lambs			X		
CHTNSCNO	Charleston North		X			
CHTNSCWA	West Ashley			X		
CHTNTNMT	Charleston			X		
CHVLCNCE	Cherryville			X		
CLANALMA	Clanton			X		
CLAYKYMA	Clay			X		
CLDGTNMA	Cumberland Gap			X		
CLDNMSMA	Caledonia			X		
CLEVMSMA	Cleveland			X		
CLEVNCMA	Cleveland			X		
CLEVTNMA	Cleveland			X		
CLFXLAMA	Colfax			X		
CLHNGAES	Calhoun			X		
CLHNKYMA	Calhoun			X		
CLHNLAMA	Calhoun			X		
CLIOSCMA	Clio			X		
CLMALAMA	Columbia			X		
CLMAMSMA	Columbia			X		
CLMASCAR	Arden			X		
CLMASCBQ	Beckman Rd.			X		
CLMASCCH	Camden Highway			X		
CLMASCDF	Dutch Fork			X		
CLMASCPA	Parklane Remote			X		
CLMASCSCA	St. Andrews	X				
CLMASCSC	South Congaree			X		
CLMASCCH	Sumter Highway			X		
CLMASCSCN	Senate Street	X			X	X
CLMASCSCU	Sunset			X		
CLMASCSCW	Swift			X		
CLMATNMA	Columbia Main			X		
CLMBALMA	Columbiana			X		
CLMBGABV	Baker Village			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
CLMBGAMT	Columbus Main	X				
CLMBGAMW	Meadow Wood			X		
CLMBMSMA	Columbus			X		
CLMNALFA	Cullman-Fairview			X		
CLMNALJC	Cullman-Jones Chapel			X		
CLMNALMA	Cullman-Main			X		
CLMTGAMA	Clermont			X		
CLMTNCMA	Claremont			X		
CLNSMSMA	Collins			X		
CLPTKYMA	Cloverport			X		
CLQTGAES	Colquitt			X		
CLSNSCMA	Clemson			X		
CLTNKYES	Clinton			X		
CLTNLAMA	Clinton			X		
CLTNSCMA	Clinton			X		
CLTNTNMA	Clinton			X		
CLVLTNMA	Clarksville Main			X		
CLVRSCES	Clover			X		
CLYDNCMA	Clyde			X		
CMBGKYMA	Campbellsburg			X		
CMCYTNMT	Cumberland City			X		
CMDNSCLG	Lugoff			X		
CMDNSCMA	Camden			X		
CMDNTNMA	Camden			X		
CMLLGAMA	Camilla			X		
CMNGGAMA	Cumming			X		
CNCRGAMA	Concord			X		
CNCYKYMA	Central City			X		
CNHMTNMA	Cunningham			X		
CNTMFLLE	Cantonment			X		
CNTNKYMA	Canton			X		
CNTNMSMA	Canton			X		
CNTNNCMA	Canton Main			X		
CNTWKYMA	Centertown			X		
CNVIALMA	Centreville			X		
CNVIMSMA	Centreville			X		
CNVLLAMA	Centerville			X		
CNVLTNMA	Centerville			X		
CNVNLAMA	Convent			X		
CNVRLAMA	Converse			X		
CNYRGAMA	Conyers			X		
COCOFLMA	Cocoa Main	X				
COCOFLME	Merritt Island			X		
COMOMSMA	Como			X		
CORDGAMA	Cordele			X		
COTNKYMA	Crofton			X		
COVLMSSU	Collinsville			X		
CPHLNCRO	Rosemary	X			X	

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WC CLLI	WC Name	Interoffice Transport			High Capacity Loops	
		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
CRBHNCCE	Carolina Beach			X		
CRBNKYMA	Corbin			X		
CRBOKYMA	Crab Orchard			X		
CRDVALMA	Cordova			X		
CRHLALNM	Carbon Hill			X		
CRHLTNCB	Copper Hill			X		
CRLDALMA	Courtland			X		
CRLNNCMA	Caroleen			X		
CRLSKYMA	Carlisle			X		
CRNCLAMA	Carencro			X		
CRNSMSMA	Crenshaw			X		
CRNTMSMA	Corinth			X		
CRPLTNMA	Cross Plains-Orlinda			X		
CRSPMSMA	Crystal Springs			X		
GRTHMSMA	Carthage			X		
CRTHTNMA	Carthage			X		
CRTNGAMA	Carrollton			X		
CRTNKYMA	Carrollton			X		
CRTNMSMA	Carrollton			X		
CRVLGAMA	Cartersville			X		
CRVLTNMA	Collierville			X		
CRWYLAMA	Crowley			X		
CSCYFLBA	Cross City			X		
CSDLMSMA	Clarksdale			X		
CSHTLAMA	Coushatta			X		
CSHYNCMA	Castle Hayne			X		
CSSTGAMA	Cusseta			X		
CSVLMSSU	Causeyville			X		
CTRNLNM	Citronelle			X		
CULKTNMA	Culleoka			X		
CVSPGAMA	Cave Spring			X		
CVTNGAMT	Covington			X		
CVTNLAMA	Covington			X		
CVTNTNMT	Covington			X		
CWPNSCMA	Cowpens			X		
CWVLLAMA	Crowville			X		
CXTNGAMA	Claxton			X		
CYDNKYMA	Corydon			X		
CYNTKYMA	Cynthiana			X		
CYTNALMA	Clayton			X		
DAVLKYMA	Danville			X		
DBCHLAMA	Dubach			X		
DBLNGAMA	Dublin			X		
DBRYFLDL	Deltona			X		
DBRYFLMA	Debary Main			X		
DCHLMSMA	Duck Hill			X		
DCTRALMT	Decatur-Main&Toll			X		
DCTRNTMT	Decatur			X		

# Exhibit 1

## Wirecenter Listings for Non-Impairment Thresholds

FCC WC Docket No. 04-313.  
BellSouth Telecommunications, Inc.  
Filing Date: 02-18-05

WC CLLI	WC Name	Interoffice Transport			High Capacity Loops	
		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
DDVLALMA	Dadeville			X		
DELDFLMA	Deland			X		
DELHLAMA	Delhi			X		
DFFEMSMA	Duffee			X		
DGVLGAMA	Douglasville			X		
DIXNKYMA	Dixon			X		
DKLBMSMA	Dekalb			X		
DKSNTNMT	Dickson			X		
DLBHFLKP	Kings Point			X		
DLBHFLMA	Delray Beach		X			
DLCXLAMA	Delacroix			X		
DLLNSCMA	Dillon			X		
DLLSGAES	Dallas			X		
DLSPFLMA	Deleon Springs			X		
DLTHGAHS	Duluth	X				
DMPLALMA	Demopolis			X		
DNCNMSMA	Duncan			X		
DNLNFLWM	Dunnellon			X		
DNMKSCES	Denmark			X		
DNRGTNMA	Dandridge			X		
DNSPLAMA	Denham Springs			X		
DNVLLAMA	Donaldsonville			X		
DNVRNCMA	Denver			X		
DNWDGAMA	Dunwoody	X			X	X
DORAALMA	Dora			X		
DOVRTNMT	Dover			X		
DRBHFLMA	Deerfield Beach		X			
DRBOKYES	Drakesboro			X		
DRDRLAMA	Deridder			X		
DREWMSMA	Drew			X		
DRNTMSMA	Durant			X		
DRPGLAMA	Ory Prong			X		
DRTNSCMA	Darlington			X		
DULCLAMA	Dulac			X		
DUSNLAMA	Duson			X		
DVSNNCPO	Davidson			X		
DWSPKYES	Dawson Springs			X		
DYBGTNMA	Dyersburg			X		
DYBHFLFN	Fentress			X		
DYBHFLMA	Daytona Beach Main	X			X	
DYBHFLMB	Ormond Beach			X		
DYBHFLMS	Ocean Shores			X		
DYBHFLPO	Port Orange			X		
DYERTNMT	Dyer			X		
DYLNALMA	Doyline			X		
DYTNTNMA	Dayton			X		
EAVLTNMA	Eagleville			X		
EBTNGAMA	Elberton			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
EDBHSCMA	Edisto Island			X		
EDFDSCMA	Edgefield			X		
EDGRLAMA	Edgard			X		
EDVLKYMA	Eddyville			X		
EDWRMSDS	Edwards			X		
EGLLFLBG	Bowes Gardens			X		
EGLLFLIH	Indian Harbor Beach W. C.			X		
EKTNKYMA	Elkton			X		
ELBONCMA	Ellenboro			X		
ELCYKYES	Elkhorn City			X		
ELVLSMA	Ellisville			X		
EMNKNYES	Eminence			X		
EMNKNYPL	Eminence-Pleasureville			X		
ENKANCMA	Enka			X		
ENSRKYMA	Ensor			X		
ENTRMSMA	Enterprise			X		
EORNFLMA	East Orange			X		
EOVRSCMA	Eastover			X		
EPPSLAMA	Epps			X		
ERTHLAMA	Erath			X		
ERTNKYMA	Earlington			X		
ESLYSCMA	Easley			X		
ESMNGAES	Eastman			X		
ETHLMSMA	Ethel			X		
ETTNGAES	Eaton			X		
ETWHTNMT	Etowah			X		
EUFLALMA	Eufaula			X		
EUNCLAMA	Eunice			X		
EUPRMSFA	Eupora			X		
EUTWALBO	Eutaw-Boligee			X		
EUTWALMA	Eutaw-Main			X		
EVRGALMA	Evergreen			X		
FAMTNCMA	Fairmont			X		
FDCKKYES	Feds creek			X		
FDVLKYMA	Fordsville			X		
FEBRKYMA	Freeburn			X		
FIVLTNMA	Maryville-Friendsville			X		
FKLNGAMA	Franklin			X		
FKLNKYMA	Franklin			X		
FKLNLAMA	Franklin			X		
FKLNTNCC	Cool Springs			X		
FKLNTNMA	Franklin		X			
FKTNLAMA	Franklinton			X		
FLBHFLMA	Flagler Beach			X		
FLBHSCMA	Folly Beach			X		
FLBRGAMA	Flowery Branch			X		
FLORMSMA	Flora			X		
FLRNALMA	Florence-Main			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
FLRNLAMA	Florien			X		
FLRNSCMA	Florence		X			
FLSMLAMA	Folsom			X		
FLTNYMA	Fulton			X		
FLVLTNMA	Flintville			X		
FMTNALMT	Flomaton			X		
FNINSCES	Fountain Inn			X		
FNVLYMA	Finchville			X		
FNVLSCMA	Fingerville			X		
FORDKYMA	Ford			X		
FORSMSMA	Forest			X		
FRBHFLFP	Fernandina Beach			X		
FRBNGAEB	Fairburn			X		
FRCYNCCE	Forest City			X		
FRDNKYMA	Fredonia			X		
FRDNTNMA	Fredonia			X		
FRDYLAMA	Ferriday			X		
FRFTKYES	Frankfort East			X		
FRFTKYMA	Frankfort Main			X		
FRHPALMA	Fairhope			X		
FRPNMSMA	Friars Point			X		
FRSYGAMA	Forsyth			X		
FRVLLADV	Farmerville-Downsville			X		
FRVLLAMA	Farmerville-Main			X		
FRVWNCMA	Fairview			X		
FRVWTNMT	Fairview			X		
FTDPALMA	Fort Deposit			X		
FTGRFLMA	Ft. George			X		
FTLDLAP	Ft. Ldl. Airport Remote			X		
FTLDFLCR	Coral Ridge	X				
FTLDFLCY	Cypress	X				
FTLDFLJA	Jacaranda	X				
FTLDFLMR	Ft. Laud. Main	X			X	X
FTLDFLOA	Oakland	X				
FTLDFLPL	Plantation	X				
FTLDFLSG	Sawgrass			X		
FTLDFLSU	Sunrise			X		
FTLDFLWN	Weston			X		
FTNCLAMA	Fort Necessity			X		
FTPRFLMA	Fort Pierce		X			
FTPYALMA	Fort Payne-Main			X		
FTVYGAMA	Ft. Valley			X		
FYTTMSMA	Fayette			X		
FYVLGASG	Fayetteville			X		
FYVLTNMA	Fayetteville			X		
GALLTNMA	Gallatin			X		
GAY-GAMA	Gay			X		
GBLDLAMN	Gibbsland			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
GBSNGAES	Gibson			X		
GBSNLAMA	Gibson			X		
GBSNNCMA	Gibson			X		
GBSNTNMT	Gibson			X		
GBVLKYMA	Gilbertsville			X		
GCSPFLCN	Green Cove Springs			X		
GCVLFLMA	Graceville			X		
GDJTTNMA	Grand Junction			X		
GDMNMSMA	Goodman			X		
GDS DALHS	Gadsden-Hillside			X		
GDS DALMT	Gadsden-Main&Toll			X		
GDS DALRD	Gadsden-Rainbow Drive			X		
GDVLTNMA	Goodlettsville			X		
GDWRALMA	Goodwater			X		
GENVFLMA	Geneva			X		
GFNYSCMA	Gaffney			X		
GHNTKYMA	Ghent			X		
GIVLSCMA	Graniteville			X		
GLBONCAD	Adamsville			X		
GLBONCMA	N. William			X		
GLBRFLMC	Gulf Breeze			X		
GLPTMSLY	Gulfport-Lyman			X		
GLPTMSTS	Gulfport-22Nd Ave			X		
GLSNTNMA	Gleason			X		
GLSTMSMA	Gloster			X		
GNBOALMA	Greensboro			X		
GNBOGAES	Greensboro			X		
GNBONCAP	Airport			X		
GNBONCAS	Asheland	X			X	
GNBONCEU	Eugene St.	X			X	X
GNBONCHO	Mt. Hope Church			X		
GNBONCLA	Lawndale			X		
GNBONCMC	Mcknight			X		
GNBONCPG	Pleasant Garden			X		
GNBRTNMA	Greenbrier			X		
GNFDTNMT	Greenfield			X		
GNHMNCMA	Grantham			X		
GNSNMSMA	Gunnison			X		
GNVLGAMA	Greenville			X		
GNVLKYMA	Greenville			X		
GNVLSMA	Greenville			X		
GNVLSBE	Berea			X		
GNVLSCH	Churchill			X		
GNVLSCCR	Crestwood			X		
GNVLSCDT	Greenville	X			X	X
GNVLSWE	Greenville West			X		
GNVLSWP	Ware Place			X		
GNVLSWR	Woodruff		X			



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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
GNWDLAMA	Greenwood			X		
GNWDMAMA	Greenwood			X		
GRACKYMA	Gracey			X		
GRCNLAMA	Grand Cane			X		
GRDLALNM	Gardendale			X		
GRERSCMA	Greer			X		
GRFNGAMA	Griffin			X		
GRLYALMA	Gurley-Main			X		
GRNBTNMA	Greenback			X		
GRNDMSMA	Grenada			X		
GRNGLAMA	Grambling			X		
GRTWKYMA	Georgetown			X		
GRTWLAMA	Georgetown			X		
GRVRNCMA	Grover			X		
GSTANCSO	Dallas			X		
GSTANCSO	South St.			X		
GSVLFLMA	Gainesville Main	X	X		X	X
GSVLFLNW	Gainesville Nw			X		
GSVLGAMA	Gainesville		X			
GTBGTNMT	Gatlinburg			X		
GTHRKYMA	Guthrie			X		
GTVLALNM	Guntersville-Main			X		
GTVLGAMA	Grantville			X		
GTWDNCMA	Gatewood			X		
GTWSTNSW	Memphis-Southwind			X		
GYDNLAMA	Gueydan			X		
GYVLALNM	Graysville			X		
HABTKYMA	Habit			X		
HANSKYMA	Hanson			X		
HAVNFLMA	Havana			X		
HBSDLMA	Hobe Sound			X		
HBVLKYMA	Hebbardsville			X		
HCGVSCMA	Hickory Grove			X		
HCMNKYMA	Hickman			X		
HDBGKYMA	Harrodsburg			X		
HDLBMSMA	Heidelberg			X		
HDVLTNMA	Hendersonville			X		
HGTNLAKN	Haughton-Koran			X		
HGTNLAMA	Haughton-Main			X		
HGVLGAMA	Hogansville			X		
HHNWTNMA	Hohenwald			X		
HIMNTNMA	Harriman			X		
HLLSTNMT	Halls			X		
HLNVFLMA	Holly Navarre			X		
HLSPMSMA	Holly Springs			X		
HLVIALMA	Holtville			X		
HLWDFLHA	Hallandale			X		
HLWDFLMA	Hollywood Main		X			

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
HLWDFLPE	Pembroke-431 Hw	X			X	
HLWDFLWH	West Hollywood	X				
HMBLTNMA	Humboldt			X		
HMLTNCMA	Hamlet			X		
HMNDLAMA	Hammond			X		
HMPNGAJW	Hampton			X		
HMPSTNMA	Hampshire			X		
HMSTFLEA	Villages Homestead			X		
HMSTFLHM	Homestead			X		
HMSTFLNA	Naranja			X		
HMTNGAMA	Hamiltn			X		
HMTNMSSU	Hamilton			X		
HNLDTNMA	Huntland			X		
HNNGTNMA	Henning			X		
HNPHSCMA	Honea Path			X		
HNSNKYMA	Henderson			X		
HNSNTNMT	Henderson			X		
HNTGTNMA	Huntingdon			X		
HNVIALLW	Huntsville-Lakewood			X		
HNVIALMT	Huntsville-Main&Toil		X			
HNVIALPW	Huntsville-Parkway			X		
HNVIALRA	Huntsville-Redstone Arsenal		X			
HNVIALRW	Huntsville Research West			X		
HNVIALUN	Huntsville-University			X		
HNVLALBR	Hanceville-Bremen			X		
HNVLALNM	Hanceville-Main			X		
HNVLNCCH	North Church			X		
HNVLNCED	Edneyville			X		
HNVLNCMI	Mills River			X		
HODLMSMA	Hollandale			X		
HOMRLAMA	Homer			X		
HOURLAMA	Houma			X		
HPHZGAES	Hepzibah			X		
HPVLKYMA	Hopkinsville			X		
HPVLMSSU	Harperville			X		
HRBGKYES	Hardinsburg			X		
HRBGLAMA	Harrisonburg			X		
HRBOALOM	Hurtsboro			X		
HRFRKYMA	Hartford			X		
HRFRTNMA	Newport-Hartford			X		
HRLMGAMA	Hartem			X		
HRLNKYMA	Hartan			X		
HRLYMSMA	Hurley			X		
HRNBLAMA	Hornbeck			X		
HRNBTNMT	Hornbeak			X		
HRNNMSDS	Hernando			X		
HRTSALNM	Hartselle-Main			X		
HRTSALPE	Hartselle-Pence			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
HSTNMSMA	Houston			X		
HSVLCCE	Huntersville			X		
HTBGMSMA	Hattiesburg-Main		X			
HTBGMSWE	Hattiesburg-West			X		
HTISFLMA	Hutch Is-Jen Bch-225,334			X		
HTVLSCMA	Hartsville			X		
HTVLTNMA	Hartsville			X		
HWTHFLMA	Hawthorne			X		
HWVLKYMA	Hawesville			X		
HYVLLAMA	Haynesville			X		
HZGRALMA	Hazel Green-Main			X		
HZLHGAMA	Hazelhurst			X		
HZLHMSMA	Hazelhurst			X		
INDNMSMA	Indianola			X		
INDPLAMA	Independence			X		
INDPMSSU	Independence			X		
INEZKYMA	Inez			X		
INVRMSMA	Inverness			X		
ISLDKYMA	Island			X		
ISLMFLMA	Islamorada			X		
ISPLSCIS	Isle Of Palms			X		
ITBNMSMA	Itta Bena			X		
IUKAMSES	Iuka			X		
JAY-FLMA	Jay			X		
JCBHFLAB	Jax Beach Atlantic			X		
JCBHFLMA	Jkvl. Beach			X		
JCBHFLSP	Jax Beach San Pablo			X		
JCSNALNM	Jackson			X		
JCSNGAMA	Jackson			X		
JCSNKYMA	Jackson			X		
JCSNLAMA	Jackson			X		
JCSNMSBL	Jackson-Belvedere			X		
JCSNMSCB	Clinton - Clinton Boulevard			X		
JCSNMSCP	Jackson-Capitol Pearl	X			X	X
JCSNMSMB	Jackson-Meadowbrook		X			
JCSNMSNR	Jackson-North Rankin			X		
JCSNMSPC	Jackson-Pearl City			X		
JCSNMSRW	Jackson-Rdgewood Road			X		
JCSNTNMA	Jackson-Main			X		
JCSNTNNS	Jackson-Northside			X		
JCVLALMA	Jacksonville-Main			X		
JCVLFLAR	Arlington	X				
JCVLFLBW	Beachwood		X			
JCVLFLCL	Clay	X			X	X
JCVLFLFC	Fort Caroline			X		
JCVLFLIA	Airport Rsc			X		
JCVLFLJT	South Point Rsm			X		
JCVLFLLF	Lake Forest			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
JCVLFLNO	Normandy			X		
JCVLFLOW	Oceanway			X		
JCVLFLRV	Riverside			X		
JCVFLFSJ	San Jose	X				
JCVLFLSM	San Marco	X				
JCVLFLWC	Wesconnett			X		
JESPGAES	Jesup			X		
JFCYTNMA	Jefferson City			X		
JHCRGAES	Johnson Corner			X		
JHTNSCMA	Johnston			X		
JKISGAMA	Jekyll Island			X		
JLLCTNMA	Jellico			X		
JNBOGAMA	Jonesboro			X		
JNBOLAMA	Jonesboro			X		
JNCYKYMA	Junction City			X		
JNGSLAMA	Jennings			X		
JNRTLAMA	Jeanerette			X		
JNTWMSMA	Jonestown			X		
JNVLLAMA	Jonesville			X		
JNVLSCMA	Jonesville			X		
JONNSCES	Joanna			X		
JPTRFLMA	Jupiter			X		
JSBNLAMA	Jesuit Bend			X		
JSPRALMT	Jasper			X		
JSPRTNMT	Jasper			X		
JULNNCMA	Julian			X		
KGMTNCMA	Kings Mountain			X		
KGTNGAMA	Kingston			X		
KGTNTNMT	Kingston			X		
KKVLKYMA	Kirksville			X		
KLLNALMA	Killen			X		
KLMCMSMA	Kilmichael			X		
KNDLNCCE	Knightdale			X		
KNNRLABR	Kenner-Briarwood		X			
KNNRLAHN	Kenner-Harahan			X		
KNTNTNMA	Kenton			X		
KNVLTNBE	Knoxville-Bearden			X		
KNVLTNFC	Knoxville-Fountain City			X		
KNVLTNMA	Knoxville-Main	X			X	
KNVLTNWH	Knoxville-West Hills			X		
KNVLTNYH	Knoxville-Young High			X		
KNWDLAMA	Kentwood			X		
KRSPLAMA	Krotz Springs			X		
KSCSMSMA	Kosciusko			X		
KTCHLAMA	Keatchie			X		
KTVLLAMA	Keithville			X		
KYHGFLMA	Keystone			X		
KYLRFLLS	Largo Sound			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
KYLRFLMA	Key Largo			X		
KYWSFLMA	Key West			X		
LAKEMSMA	Lake			X		
LARLMSMA	Laurel			X		
LATTSCLS	Latta			X		
LBJTKYMA	Lebanon Junction			X		
LBNNTNMA	Lebanon			X		
LBRTMSMA	Liberty			X		
LBRTSCMA	Liberty			X		
LBVLLAMA	Labadiville			X		
LCDLMSMA	Lucedale			X		
LCMBLAMA	Lacombe			X		
LCMPLAMA	Lecompte			X		
LCPTLAMA	Lockport			X		
LCSRNCMA	Leicester			X		
LCSTNCMA	Locust			X		
LELDMSMA	Leland			X		
LENAMSSU	Lena			X		
LENRNCHA	Harper Avenue			X		
LENRNCHU	Hudson			X		
LERYGAMA	Leary			X		
LEVLLABF	Leesville Burr Ferry			X		
LEVLLAFP	Leesville Fort Polk			X		
LEVLLAMA	Leesville Main			X		
LEVLLASN	Leesville Simpson			X		
LFLTNNMA	Lafollette			X		
LFTTLAMA	Lafitte			X		
LFYTALRS	Lafayette			X		
LFYTKYMA	Lafayette			X		
LFYTLAMA	Lafayette Main	X				
LFYTLAVM	Lafayette Vermillion			X		
LGPTLAMA	Logansport			X		
LGRNGAMA	Lagrange			X		
LGRNKYES	Lagrange			X		
LGTNALMA	Leighton			X		
LGVLGACS	Loganville			X		
LKARLAMA	Lake Arthur			X		
LKCHLADT	Lake Charles Main		X			
LKCHLAMB	Lake Charles Moss Bluff			X		
LKCHLAMW	Lake Charles - Maplewood			X		
LKCHLAUN	Lake Charles University			X		
LKCTLAMA	Lake Catherine			X		
LKCYFLMA	Lake City			X		
LKCYTNMA	Lake City			X		
LKLRNCCE	Lake Lure			X		
LKMRFLHE	Lake Mary			X		
LKPKGAMA	Lake Park			X		
LKPRLAAL	Lake Providence-Alsatia			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
LKPRLAMA	Lake Providence-Main			X		
LKVWSCMA	Lake View			X		
LKWLSCRS	Lake Wylie			X		
LLBNGAMA	Liburn		X			
LLNGLABU	Luling-Boutte			X		
LLNGLAHV	Luling-Hahnville			X		
LMCYGAMA	Lumber City			X		
LMKNGAMA	Lumpkin			X		
LMTNMSSS	Lumberton			X		
LMTNNCMA	Lumberton			X		
LNBNHCMA	Long Bch.			X		
LNCYTNMA	Lenoir City			X		
LNDNALMA	Linden			X		
LNTNNCMA	Lincolnton Main			X		
LNTNNCVA	Lincolnton Vale			X		
LODNTNMA	Loudon			X		
LOUSKYES	Louisa			X		
LOVLLAMA	Leonville			X		
LPLCLAMA	Laplace			X		
LRBGKYMA	Lawrenceburg			X		
LRBGNCMA	Laurinburg			X		
LRBGTNMA	Lawrenceburg			X		
LRVLGAOS	Lawrenceville		X			
LRVLLAMA	Loreauville			X		
LSBGGAMA	Leesburg			X		
LSBNLAMA	Lisbon			X		
LSVLGAMA	Louisville			X		
LSVLKY26	26Th Street			X		
LSVLKYAN	Anchorage			X		
LSVLKYAP	Chestnut Street	X			X	X
LSVLKYBE	Beechmont			X		
LSVLKYBR	Bardstown Road		X			
LSVLKYCW	Crestwood			X		
LSVLKYFC	Fern Creek			X		
LSVLKYHA	Harrods Creek			X		
LSVLKYJT	Jeffersontown			X		
LSVLKYOA	Okolona			X		
LSVLKYSH	Shively			X		
LSVLKYSL	Six Mile Lane			X		
LSVLKYSM	St Matthews			X		
LSVLKYTS	Third Street			X		
LSVLKYVS	Valley Station			X		
LSVLKYWE	Westport Road		X			
LSVLMAMA	Louisville			X		
LTCHLAMA	Lutcher			X		
LTHNGAJS	Lithonia			X		
LTMRNCCE	Lattimore			X		
LTVLGACS	Luthersville			X		

# Exhibit 1

## Wirecenter Listings for Non-Impairment Thresholds

FCC WC Docket No. 04-313.  
BellSouth Telecommunications, Inc.  
Filing Date: 02-18-05

WC CLLI	WC Name	Interoffice Transport			High Capacity Loops	
		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
LULAGAMA	Lula			X		
LULAMSMA	Lula			X		
LVMRKYMA	Livermore			X		
LVTNALLA	Livingston			X		
LVTNLAMA	Livingston			X		
LWBGTNMA	Lewisburg			X		
LWDLNCE	Lawndale			X		
LWLLNCMA	Lowell			X		
LWTLLAMA	Lawtell			X		
LXTNALMA	Lexington			X		
LXTNMSMA	Lexington			X		
LXTNTNMA	Lexington			X		
LYBGTNMT	Lynchburg			X		
LYHNFLOH	Lynn Haven			X		
LYLSTNMA	Lyles			X		
LYMNSCES	Lyman			X		
LYNSGAMA	Lyons			X		
LYVLSMA	Lynville			X		
LYVLTNMA	Lynnville			X		
MABNMSMA	Maben			X		
MACEKYMA	Maceo			X		
MACNGAGP	Guy Payne			X		
MACNGAMT	Macon Main	X				
MACNGAVN	Vineville			X		
MACNMSMA	Macon			X		
MADNNCE	Maiden			X		
MAGEMMSMA	Magee			X		
MANYLAMA	Many			X		
MARNALNM	Marion			X		
MARNKYMA	Marion			X		
MARNSCBN	Brittons Neck			X		
MARNSCMA	Marion			X		
MARTKYMA	Martin			X		
MAVLTNMA	Maryville-Main			X		
MCCLMSMA	Mccool			X		
MCCLSCMA	Mccoll			X		
MCCMMSMA	Mccomb			X		
MCCMMSSM	Summit			X		
MCDNGAGS	Mcdonough			X		
MCDNKYMA	Mcdaniels			X		
MCINALMA	Mcintosh			X		
MCKNTNMA	Mckenzie			X		
MCLNMSMA	Mclain			X		
MCNPFLMA	Micanopy			X		
MCWLKYMA	Mcdowell			X		
MCWNTNMT	Mcewen			X		
MDBGFLPM	Middleburg			X		
MDBOKYMA	Middlesboro			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
MDSNALNM	Madison-Main			X		
MDSNGAMA	Madison			X		
MDSNMSES	Madison			X		
MDTNTNMA	Middleton			X		
MDVIKYMA	Madisonville			X		
MDVILAMA	Madisonville			X		
MDVITNMT	Madisonville			X		
MEDNTNMA	Medina			X		
MEVLLAMA	Meville			X		
MGFDKYMA	Morganfield			X		
MGNLMSMA	Magnolia			X		
MGTNNCGL	Glen Alpine			X		
MGTNNCGR	Morganton South Green St.			X		
MGTWKYMA	Morgantown			X		
MGVANCCE	Maggie Valley			X		
MIAMFLAE	Alhambra	X			X	
MIAMFLAL	Allapattah			X		
MIAMFLAP	Miami Airport			X		
MIAMFLBA	Bayshore		X			
MIAMFLBC	Biscayne			X		
MIAMFLBR	Miami Beach		X			
MIAMFLCA	Canal	X				
MIAMFLDB	Dadeland			X		
MIAMFLFL	Flagler			X		
MIAMFLGR	Grande	X			X	X
MIAMFLHL	Hialeah	X			X	
MIAMFLIC	Indian Creek			X		
MIAMFLKE	Key Biscayne			X		
MIAMFLME	Miami Metro			X		
MIAMFLNM	North Miami			X		
MIAMFLNS	Northside			X		
MIAMFLOL	Opa Locka			X		
MIAMFLPB	Poinciana	X				
MIAMFLPL	Palmetto	X			X	X
MIAMFLRR	Red Road	X				
MIAMFLSH	Miami Shores			X		
MIAMFLSO	Silver Oaks	X				
MIAMFLWD	West Dade			X		
MIAMFLWM	West Miami	X				
MICCFLLB	Barefoot Bay			X		
MILNTNMA	Milan			X		
MINDLAMA	Minden			X		
MIZEMSMA	Mize			X		
MKVLLAHM	Marksville-Hessmer			X		
MKVLLAMN	Marksville-Main			X		
MLBGKYMA	Millersburg			X		
MLBRFLMA	Melbourne Main	X			X	
MLLNGAMA	Millen			X		



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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
MLNSSCWP	Mullins			X		
MLTNFLRA	Milton			X		
MLTNKYMA	Milton			X		
MLTNNCMA	Milton			X		
MMPHTNBA	Memphis-Bartlett	X				
MMPHTNCK	Memphis-Cherokee			X		
MMPHTNCT	Memphis-Chickasaw	X				
MMPHTNEL	Memphis-Eastland	X				
MMPHTNFR	Memphis-Frayser			X		
MMPHTNGT	Memphis-Germantown	X				
MMPHTNHP	Memphis-Humphreys			X		
MMPHTNMA	Memphis-Main	X				
MMPHTNMT	Memphis-Midtown	X				
MMPHTNOA	Memphis-Oakville	X			X	
MMPHTNSL	Memphis-Southland	X				
MMPHTNST	Memphis-Southside			X		
MMPHTNWW	Memphis-Westwood			X		
MNASMSMA	Meridian Naval Air Sta			X		
MNCHTNMA	Manchester			X		
MNDNMSMA	Mendenhall			X		
MNDRFLAV	The Avenues		X			
MNDRFLLO	Mandarin	X				
MNDRFLLW	Lemonwood			X		
MNFDALMA	Munford-Main			X		
MNFDLAMA	Mansfield			X		
MNPLSCES	Mt. Pleasant		X			
MNPLTNMA	Mount Pleasant			X		
MNSNFLMA	Munson			X		
MNTIGAMA	Monticello			X		
MNTIMSMA	Monticello			X		
MNTINCMA	Monticello			X		
MNTVALNM	Montevallo			X		
MNVLLAMA	Mandeville			X		
MOBLALAP	Mobile-Airport			X		
MOBLALAZ	Mobile-Azalea	X				
MOBLALBF	Mobile Bayfront			X		
MOBLALOS	Mobile-Old Shell			X		
MOBLALPR	Mobile-Prichard			X		
MOBLALSA	Mobile-Saraland			X		
MOBLALSE	Mobile-Semmes			X		
MOBLALSF	Mobile-Spanish Fort			X		
MOBLALSH	Mobile-Spring Hill			X		
MOBLALSK	Mobile-Skyline			X		
MOBLALTH	Mobile-Theodore			X		
MOLTALNM	Moulton			X		
MONRLADS	Monroe-Desiard			X		
MONRLAMA	Monroe-Main	X				
MONRLAWM	Monroe-West Monroe			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
MPVLALMA	Maplesville			X		
MRBOTNMA	Murfreesboro		X			
MRCYLAAM	Mc Amelia			X		
MRCYLAIN	Mc Inglewood			X		
MRDNMSTL	Meridian			X		
MRGPKYMA	Mortons Gap			X		
MRGZLAMA	Morganza			X		
MRHDSMA	Moorhead			X		
MRKSMSHW	Marks			X		
MRRGLAMA	Mer Rouge			X		
MRRWGAMA	Morrow			X		
MRRYKYMA	Murray			X		
MRTHFLVE	Vaca Key			X		
MRTNMSMA	Morton			X		
MRTTGAEA	Marietta East			X		
MRTTGAMA	Marietta Main	X			X	X
MRTTSCMA	Slater Marietta			X		
MRTWTNMA	Morristown			X		
MSCTTNMT	Mascot			X		
MSCWTNMA	Moscow			X		
MSPNMSMA	Moss Point			X		
MSTFMSCU	Stennis Center			X		
MTEDKYMA	Mt Eden			X		
MTGMALDA	Montgomery-Dalraida		X			
MTGMALMB	Montgomery-Millbrook			X		
MTGMALMT	Montgomery-Main&Toll	X				
MTGMALNO	Montgomery-Normandale			X		
MTGMLAMA	Montgomery			X		
MTGTLAMA	Montegut			X		
MTHLNCMA	Mount Holly			X		
MTHRLAMA	Mt Hermon			X		
MTOLMSMA	Mount Olive			X		
MTOLNCCE	Mt. Olive			X		
MTRYLAMA	Monterey			X		
MTSTKYMA	Mt Sterling			X		
MTVRALMA	Mt Vernon			X		
MXVFLMA	Maxville			X		
MYFDKYMA	Mayfield			X		
MYVLKYMA	Maysville			X		
MYVLLAMA	Merryville			X		
MYVLTNMA	Maynardville			X		
NAGSSCMA	North Augusta			X		
NDADFLAC	Arch Creek			X		
NDADFLBR	Brentwood			X		
NDADFLGG	Golden Glades	X				
NDADFLOL	Oleta		X			
NEBOKYMA	Nebo			X		
NEONKYES	Neon			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
NKLRFLMA	No. Key Largo			X		
NORCLAMN	Norco			X		
NPVLLAMA	Napoleonville			X		
NRCRGAMA	Norcross	X			X	X
NRRSTNMA	Norris			X		
NRVLKYMA	Nortonville			X		
NSBHFLMA	New Smyrna Beach			X		
NSVLTNAA	Nashville-Airport Authority			X		
NSVLTNAP	Nashville-Airport			X		
NSVLTNBH	Nashville-Burton Hills			X		
NSVLTNBV	Nashville-Bellevue			X		
NSVLTNBW	Nashville-Brentwood		X			
NSVLTNCD	Nashville-Cockrill Bend			X		
NSVLTNCH	Nashville-Crieve Hall	X				
NSVLTNDO	Nashville-Donelson		X			
NSVLTNHH	Nashville-Hickory Hollow			X		
NSVLTNIN	Nashville-Inglewood			X		
NSVLTNMC	Nashville-Madison			X		
NSVLTNMT	Nashville-Main	X			X	X
NSVLTNST	Nashville-Sharondale		X			
NSVLTNUN	Nashville-University	X				
NSVLTNWC	Nashville-Whites Creek			X		
NSVLTNWM	Nashville-Westmeade			X		
NTCHLACR	Natchitoches-Cane River			X		
NTCHLAMA	Natchitoches-Main			X		
NTCHMSMA	Natchez			X		
NTTNMSMA	Nettleton			X		
NWALMSMA	New Albany			X		
NWBRTNMA	Newbern			X		
NWBYFLMA	Newberry			X		
NWBYSCMA	Newberry			X		
NWELSCMA	New Ellenton			X		
NWHNKYMA	New Haven			X		
NWIBLAMA	New Iberia			X		
NWLDNCCE	Newland			X		
NWNINGAMA	Newnan			X		
NWORLAAR	No-Aurora			X		
NWORLAAV	No-Avondale			X		
NWORLABM	No-Broadmoor			X		
NWORLACA	No-Carrollton			X		
NWORLACM	No-Chalmette			X		
NWORLAFR	No-Franklin			X		
NWORLALK	No-Lake			X		
NWORLAMA	No Main	X			X	X
NWORLAMC	No-Mid City			X		
NWORLAMR	No-Marrero			X		
NWORLAMT	No-Metalrie	X				
NWORLAMU	No-Michoud			X		

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WC CLLI	WC Name	Interoffice Transport			High Capacity Loops	
		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
NWORLARV	No-Riverside			X		
NWORLASC	No-St Charles			X		
NWORLASK	No-Seabrook			X		
NWORLASW	No-Shrewsbury			X		
NWPTTNMT	Newport-Main			X		
NWRDLAMA	New Roads			X		
NWTNGAMA	Newton			X		
NWTNLAMA	Newellton			X		
NWTNMSHC	Hickory			X		
NWTNMSMA	Newton			X		
NWTNMCMA	Newton			X		
OBDHMSMA	Obadiah			X		
OCSPMGO	Ocean Springs			X		
OHTCALMA	Ohatchee-Main			X		
OKDLLAMA	Oakdale			X		
OKGVKYES	Oak Grove			X		
OKGVLAMA	Oak Grove			X		
OKHLFLMA	Oak Hill			X		
OKLMSMA	Oakland			X		
OKLNMSMA	Okolona			X		
OKRGTNMT	Oak Ridge			X		
OLCYLAMA	Oil City			X		
OLHCTNMA	Old Hickory			X		
OLSPTNMA	Oliver Springs			X		
OLTWFLN	Old Town			X		
OPLKALMT	Opelika			X		
OPLSLATL	Opelousas			X		
ORBGSCMA	Orangeburg			X		
ORLDFLAP	Azalea Park	X				
ORLDFLCL	Colonial	X				
ORLDFLMA	Orlando Main	X			X	X
ORLDFLPC	Pinecastle	X			X	
ORLDFLPH	Pine Hills	X				
ORLDFLSA	Sand Lake	X				
ORPKFLMA	Orange Park Main			X		
ORPKFLRW	Orpk Ridgewood			X		
OSYKMSMA	Osyka			X		
OVIDFLCA	Oviedo Main			X		
OWBOKYMA	Owensboro			X		
OWTNKYMA	Owenton			X		
OXFRMSMA	Oxford			X		
PACEFLPV	Pace			X		
PACEMSMA	Pace			X		
PAHKFLMA	Pahokee			X		
PANLGAMA	Panola			X		
PARSKYMA	Paris			X		
PARSTNMA	Paris			X		
PASNLAMN	Patterson			X		

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WC CLLI	WC Name	Interoffice Transport			High Capacity Loops	
		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
PCBHFLNT	Panama City Beach			X		
PCKNMSMA	Pickens			X		
PCKNSCES	Pickens			X		
PCLTSCMA	Pacolet			X		
PCYNMSMA	Picayune			X		
PDCHKYIP	Paducah Information Park			X		
PDCHKYLO	Paducah Lone Oak			X		
PDCHKYMA	Paducah Kentucky Street			X		
PDCHKYRL	Paducah Reiland			X		
PDMTALMA	Piedmont-Main			X		
PDMTSCES	Piedmont			X		
PGSNMSMA	Port Gibson			X		
PHCYALFM	Fort Mitchell			X		
PHCYALMA	Phenix City			X		
PHLAM SMA	Philadelphia			X		
PINELAMA	Pine			X		
PIVLKYMA	Pineville			X		
PKVLKYMA	Pikeville			X		
PKVLKYMT	Pikeville Meta			X		
PLCSFLMA	Palm Coast			X		
PLHMGAMA	Pelham			X		
PLHTMSMA	Pelahatchie			X		
PLLCLAMA	Pollock			X		
PLMTGAMA	Palmetto			X		
PLMYTNMA	Palmyra			X		
PLQMLACR	Crescent			X		
PLQMLAMA	Plaquemine			X		
PLRGKYMA	Pleasant Ridge			X		
PLSKTNMA	Pulaski			X		
PLTKFLMA	Palatka			X		
PLTNMSMA	Pearlington			X		
PMBHFLCS	Coral Springs		X			
PMBHFLFE	Federal	X				
PMBHFLMA	Margate	X				
PMBHFLTA	Tamarac			X		
PMBRKYMA	Pembroke			X		
PMBRNCCE	Pembroke			X		
PMPKFLMA	Pomona Park			X		
PNALLAMA	Pt A La Hache			X		
PNCHLAMA	Ponchatoula			X		
PNCYFLCA	Callaway			X		
PNCYFLMA	Panama City Main		X			
PNMTGAMA	Pine Mountain			X		
PNSCFLBL	Belmont	X				
PNSCFLFP	Ferry Pass		X			
PNSCFLHC	Hillcrest			X		
PNSCFLPB	Perdido Bay			X		
PNSCFLWA	Warrington			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
PNSNALMA	Pinson			X		
PNTHKYMA	Panther			X		
PNTNSCMA	Pendleton			X		
PNTTMSMA	Pontotoc			X		
PNVDFLMA	Ponte Vedra Beach			X		
PNVLKYMA	Paintsville			X		
POLRGAMA	Pooler			X		
PPVLSMA	Poplarville			X		
PRBGKYES	Prestonsburg			X		
PRDSLAMA	Paradis			X		
PRPRLAMA	Pierre Part			X		
PRRNFLMA	Perrine	X			X	
PRRVLAMA	Pearl River			X		
PRSHALNM	Parrish			X		
PRSNFLFD	Pierson			X		
PRSRSCMA	Prosperity			X		
PRTNKYES	Princeton			X		
PRVDKYMA	Providence			X		
PRVLALMA	Prattville			X		
PRVLKYMA	Perryville			X		
PRVMSMA	Purvis			X		
PSCGMSGGA	Pascagoula-Gautier			X		
PSCGMSMA	Pascagoula-Main			X		
PSCHMSLT	Pass Christian-Bayou Laterre			X		
PSCHMSMA	Pass Christian-Main			X		
PSVWTNMT	Pleasant View			X		
PTBGTNMA	Petersburg			X		
PTBRLAMA	Port Barre			X		
PTCMMSSU	Potts Camp			X		
PTCYGAMA	Peachtree City			X		
PTLDTNMA	Portland			X		
PTRYKYMA	Port Royal			X		
PTSLFLMA	North Port-St. Lucie W. C.			X		
PTSLFLSO	South Port-St. Lucie-335 W. C.			X		
PTSLLAMA	Port Sulphur			X		
PWSPGAAS	Powder Springs			X		
QTMNMSMA	Quitman			X		
RAYNLAMA	Rayne			X		
RBLNLAMA	Robeline			X		
RBRDKYMA	Robards			X		
RCHMNCMA	Rockingham			X		
RCKMGAES	Rockmart			X		
RCLDGAMA	Richland			X		
RCLDLAMA	Raceland			X		
RCMDKYMA	Richmond			X		
RCTNMSMA	Richton			X		
RDBAALMA	Red Bay			X		
RDGLTNMA	Ridgely			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
RDVLNCMA	Reidsville			X		
RDVLNCSI	Simpsonville			X		
RFFNNCMA	Ruffin			X		
RKWDTNMA	Rockwood			X		
RLFKMSMA	Rolling Fork			X		
RLGHMSMA	Raleigh			X		
RLGHNCDU	Raleigh-Durham Airport W. C.			X		
RLGHNCGA	Garner			X		
RLGHNCGL	Glenwood Avenue	X				
RLGHNCHO	New Hope	X				
RLGHNCJO	Jones Franklin			X		
RLGHNCMO	Morgan St.	X			X	X
RLGHNCSB	Sunnybrook			X		
RLGHNCSI	Six Forks			X		
RLVLALMA	Russellville			X		
RLVLKYMA	Russellville			X		
RLVLSMA	Ruleville			X		
ROGNLAMA	Rougon			X		
ROMEGATL	Rome East			X		
ROXIMSMA	Roxie			X		
RPLYMSMA	Ripley			X		
RPLYTNMA	Ripley			X		
RPVLGAMA	Roopville			X		
RRVLALMA	Rogersville			X		
RRVLTNMA	Rogersville			X		
RSDLMSMA	Rosedale			X		
RSTNLAMA	Ruston			X		
RSTRKYES	Rose Terrace			X		
RSWLGAMA	Roswell	X			X	
RTLGGAMA	Rutledge			X		
RTTNCCCE	Rutherfordton			X		
RVDLGAMA	Riverdale			X		
RWLDNCMA	Rowland			X		
RYMNMSDS	Raymond			X		
RYTNGAMA	Royston			X		
RYVLLAMA	Rayville			X		
SALMSCMA	Salem			X		
SALNLAMA	Saline			X		
SANGTNMT	Sango			X		
SBRKSCSK	Seabrook Island			X		
SBSTFLFE	Fellsmere			X		
SBSTFLMA	Sebastian			X		
SCCRGAMA	Social Circle			X		
SCHLNCHA	Hampstead			X		
SCHLNCMA	Scotts Hill			X		
SCHLSCES	Society Hill			X		
SCISLAMA	Sicity Island			X		
SCOBMSMA	Scooba			X		

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		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
SCRMKYMA	Sacramento			X		
SDDSTNMA	Soddy Daisy			X		
SDVLKYMA	Sadieville			X		
SEBRKYMA	Sebree			X		
SELMALMT	Selma			X		
SELMNCMA	Selma			X		
SENCSCMA	Seneca			X		
SENOGAMA	Senoia			X		
SEWNTNMW	Sewanee			X		
SFVLLAMA	St Francisville			X		
SGKYFLMA	Sugarloaf			X		
SHAWMSES	Shaw			X		
SHBTMSMA	Shubuta			X		
SHFDALMT	Sheffield-Main&Toll			X		
SHGVKYMA	Sharon Grove			X		
SHLBMSDS	Shelby			X		
SHLBNCA	Shelby			X		
SHNNMSMA	Shannon			X		
SHPTLABS	Shreveport-Bossier			X		
SHPTLAQL	Shreveport-College			X		
SHPTLAHD	Shreveport-South Highlands			X		
SHPTLAMA	Shreveport-Main	X			X	
SHPTLAQB	Shreveport-Queensboro			X		
SHPTLASG	Shreveport-Summer Grove			X		
SHQLMSMA	Shuqualak			X		
SHRNSCMA	Sharon			X		
SHVLKYMA	Shelbyville			X		
SHVLTNMA	Shelbyville			X		
SKVLMMSMA	Starkville			X		
SLBRNCMA	Salisbury		X			
SLCKMSMA	Silver Creek			X		
SLGHKYMA	Slaughters			X		
SLIDLAMA	Slidell			X		
SLMRTNMT	Selmer			X		
SLPHKYMA	Sulphur			X		
SLPHLAMA	Sulphur Main			X		
SLTLMSSU	Sattilo			X		
SLVSKYMA	Salvisa			X		
SMDLMSSU	Smithdale			X		
SMNRMSMA	Sumner			X		
SMRLMSMA	Sumrall			X		
SMTWTNMA	Summertown			X		
SMVLGAMA	Smithsville			X		
SMVLLAMA	St. Martinville			X		
SMYRGAMA	Smyrna	X				
SMYRGAPF	Powers Ferry	X			X	X
SMYRTNMA	Smyrna			X		
SNFRFLMA	Sanford Main	X				



# Exhibit 1

## Wirecenter Listings for Non-Impairment Thresholds

FCC WC Docket No. 04-313.  
BellSouth Telecommunications, Inc.  
Filing Date: 02-18-05

WC CLLI	WC Name	Interoffice Transport			High Capacity Loops	
		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
SNLVGAMA	Snellville			X		
SNMTGALR	Stone Mountain			X		
SNRYMSMA	Seminary			X		
SNSDMSSU	Sunnyside			X		
SNTBMSPS	Senatobia			X		
SNTFTNMA	Santa Fe			X		
SNTNKYMA	Stanton			X		
SNVLGAES	Sandersville-Tennille W. C.			X		
SNVLTNMA	Sneedville			X		
SOHNMSDC	Memphis-Southaven			X		
SOPTNCCE	Southport			X		
SOVLTNMT	Somerville			X		
SPBGSCBS	Bolling Springs			X		
SPBGSCCV	Converse			X		
SPBGSCHW	University Way			X		
SPBGSCMA	Spartanburg		X			
SPBGSCWV	Westview			X		
SPBGTNMA	South Pittsburg			X		
SPCYTNMT	Spring City			X		
SPFDKYMA	Springfield			X		
SPFDLAMA	Springfield			X		
SPFDSCMA	Springfield-Salley			X		
SPFDTNMA	Springfield			X		
SPHLTNMT	Spring Hill			X		
SPPNNCMA	Spruce Pine			X		
SPRKGAMA	Sparks			X		
SPRTGAMA	Sparta			X		
SRDSGAES	Sardis			X		
SRDSMSMA	Sardis			X		
SRFDNCCE	Summerfield			X		
SRGHKYMA	Sorgho			X		
SRISMSMA	Singing River			X		
SRVLTNMA	Surgoinsville			X		
SSISGAES	St. Simons			X		
SSVLKYMA	Simpsonville			X		
SSVLNCJE	Jennings Road			X		
SSVLNCMA	Statesville Main			X		
STAGFLBS	St. Aug. Beachside			X		
STAGFLMA	St. Aug. Main	X				
STAGFLSH	St. Aug. Shores			X		
STAGFLWG	St. Johns World Golf Village			X		
STBRGANH	Stockbridge			X		
STBRLAMA	St Bernard			X		
STCHKYMA	St Charles			X		
STFRKYMA	Stanford			X		
STGBLAMA	St Gabriel			X		
STGRKYMA	Stamping Ground			X		
STGRSCMA	St. George			X		

# Exhibit 1

## Wirecenter Listings for Non-Impairment Thresholds

FCC WC Docket No. 04-313.  
BellSouth Telecommunications, Inc.  
Filing Date: 02-18-05

WC CLLI	WC Name	Interoffice Transport			High Capacity Loops	
		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
STJSLAMA	St Joseph			X		
STLNLAMA	St Landry			X		
STNLKYMA	Stanley			X		
STNLNCCE	Stanley			X		
STONKYMA	Stone			X		
STPNNCMA	Stony Point			X		
STRGKYMA	Sturgis			X		
STRGMSSU	Sturgis			X		
STRNFLMA	Stuart		X			
STSNALMA	Stevenson-Main			X		
STTNLAMA	Sterlington			X		
SUVLSCMA	Summerville			X		
SVNHGABS	Savannah Main	X			X	
SVNHGADE	Derenne			X		
SVNHGAGC	Garden City			X		
SVNHGASI	Skidaway Island			X		
SVNHGAWB	Whitebluff			X		
SVNHGAWI	Wilmington Isle			X		
SVNHTNMT	Savannah			X		
SVVLTNMT	Sevierville			X		
SWBOGAES	Swainsboro			X		
SWLKLAMA	Sweetlake			X		
SWNNNCMA	Swannanoa			X		
SWSNKYMA	South Williamson			X		
SWTWTNMT	Sweetwater			X		
SXMLSCMA	Six Mile			X		
SXPHNCMA	Saxapahaw			X		
SYHSFLCC	Sunny Hills			X		
SYLCALMT	Sylacauga			X		
SYLVGAES	Sylvester			X		
TBISGAMA	Tybee Island			X		
TCHLMSMA	Tchula			X		
TFTNGAMA	Tifton			X		
THBDLAMA	Thibodaux			X		
THSNGAMA	Thomson			X		
THVLALMA	Thomasville			X		
THVLGAMA	Thomasville			X		
TKNASCST	Tokeena Crossroads			X		
TLDGALMA	Talladega-Main			X		
TLDGALRF	Renfro			X		
TLLHLAMA	Tallahah			X		
TLLHTNMA	Tallahoma			X		
TLLPGAES	Tallapoosa			X		
TMPLGAMA	Temple			X		
TMSBMSMA	Toomsaba			X		
TMVLSCMA	Timmons ville			X		
TPVLTNMA	Tiptonville			X		
TRENFLMA	Trenton			X		

# Exhibit 1

## Wirecenter Listings for Non-Impairment Thresholds

FCC WC Docket No. 04-313.  
BellSouth Telecommunications, Inc.  
Filing Date: 02-18-05

WC CLLI	WC Name	Interoffice Transport			High Capacity Loops	
		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
TREKYMA	Trenton			X		
TRINTNMA	Triune			X		
TRMNNCMA	Troutman			X		
TROYALMA	Troy			X		
TROYTNMT	Troy			X		
TRRSSCMA	Travelers Rest			X		
TRRYMSMA	Terry			X		
TRTNTNMA	Trenton			X		
TSCLALDH	Tuscaloosa-Druid Hills			X		
TSCLALMT	Tuscaloosa-Main&Toll			X		
TSCLALNO	Tuscaloosa-Northport			X		
TSKGALMA	Tuskegee			X		
TTVFLMA	Titusville			X		
TTWLMSMA	Tutwiler			X		
TUKRGAMA	Tucker		X			
TUNCLAMA	Tunica			X		
TUNCMSMA	Tunica			X		
TUPLMSMA	Tupelo		X			
TWCKALMA	Town Creek			X		
TWNSTNMA	Maryville-Townsend			X		
TYTWMSMC	Tylertown			X		
TYVLKYMA	Taylorsville			X		
TYVLMSMA	Taylorsville			X		
TYVLNCMA	Taylorsville			X		
UNCYTNMA	Union City			X		
UNINMSDS	Union			X		
UNINSCMA	Union			X		
UNTWALNM	Uniontown			X		
UTICKYMA	Utica			X		
UTICMSDS	Utica			X		
VADNMSMA	Vaiden			X		
VCBGMSMA	Vicksburg			X		
VCHRLAMA	Vacherie			X		
VDALGAMA	Vidalia			X		
VDALLAMA	Vidalia			X		
VENCLAMA	Venice			X		
VERNFLMA	Vernon			X		
VIRGKYMA	Virgie			X		
VLDGAMA	Valdosta			X		
VLRCGAES	Villa Rica			X		
VNCLMSMA	Van Cleave			X		
VNCNALMA	Vincent			X		
VNLRTNMA	Vanleer			X		
VNTNLAMA	Vinton			X		
VRBHFLBE	Beachland			X		
VRBHFLMA	Vero Beach		X			
VRNAMMSMA	Verona			X		
WACOKYMA	Waco			X		

# Exhibit 1

## Wirecenter Listings for Non-Impairment Thresholds

FCC WC Docket No. 04-313.  
BellSouth Telecommunications, Inc.  
Filing Date: 02-18-05

WC CLLI	WC Name	Interoffice Transport			High Capacity Loops	
		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
WASHLAMA	Washington			X		
WBTNALNM	West Blocton			X		
WCLMSCMA	Airport Remote			X		
WDBYGAES	Woodbury			X		
WDDYKYMA	Waddy			X		
WDLYGAMA	Wadley			X		
WDSTGACR	Woodstock			X		
WDVLMMSA	Woodville			X		
WELKFLMA	Welaka			X		
WESTMSMA	West			X		
WGNSMSMA	Wiggins			X		
WGVLGAES	Wrightsville			X		
WGVLNCMA	Wrightsville			X		
WHBGKYMA	Whitesburg			X		
WHBLTNMT	White Bluff			X		
WHCSLAMA	White Castle			X		
WHHSTNMA	White House			X		
WHPITNMA	White Pine			X		
WHTMSCMA	Whitmire			X		
WHVLKYMA	Whitesville			X		
WHVLTNMT	Whiteville			X		
WHWLTNMA	Whitwell			X		
WINOMSMA	Winona			X		
WKISLAMA	Weeks Island			X		
WLBGKYMA	Williamsburg			X		
WLCKKYES	Wallins Creek			X		
WLGVMSSU	Walnut Grove			X		
WLHLSCES	Waihalia			X		
WLMGNCFO	Fourth St.	X				
WLMGNCLE	Leland			X		
WLMGNCWI	Winter Park		X			
WLNTMSMA	Walnut			X		
WLPTTNMA	Williamsport			X		
WLSNLAMA	Wilson			X		
WLVLKYMA	West Louisville			X		
WMNSSCES	Westminister			X		
WMTNSCPW	Peizer			X		
WNBOLAMA	Winnsboro			X		
WNCHKYMA	Winchester			X		
WNCHKYPV	Pilot View			X		
WNCHTNMA	Winchester			X		
WNDLNCPI	Wendell			X		
WNFDLACA	Winnfield-Calvin			X		
WNFDLAMA	Winnfield-Main			X		
WNRDMSSU	Windsor Road			X		
WNSLNCAR	Arc Midway			X		
WNSLNCCL	Clemmons			X		
WNSLNCFI	Fifth St.	X			X	

# Exhibit 1

## Wirecenter Listings for Non-Impairment Thresholds

FCC WC Docket No. 04-313.  
BellSouth Telecommunications, Inc.  
Filing Date: 02-18-05

WC CLLI	WC Name	Interoffice Transport			High Capacity Loops	
		Tier 1	Tier 2	Tier 3	No Impairment for DS3	No Impairment for DS1
WNSLNCGL	Glenn Avenue			X		
WNSLNCLE	Lexington			X		
WNSLNCVI	Vineyard			X		
WNSLNCWA	Wallburg			X		
WNSLNCWH	Whitaker			X		
WPBHFLAN	W.Palm Bch Main	X			X	
WPBHFLGA	Greenacres		X			
WPBHFLGR	Gardens	X				
WPBHFLHH	Haverhill	X			X	
WPBHFLLE	Lake Worth		X			
WPBHFLRB	Riviera Beach		X			
WPBHFLRP	Royal Palm			X		
WRFDKYMA	Warfield			X		
WRNSGAMA	Wrens			X		
WRRBGAMA	Warner Robins			X		
WRRRALNM	Warrior			X		
WRTNGAMA	Warrenton			X		
WRTRTNMT	Wartrace			X		
WSBGKYMA	Willisburg			X		
WSPNKYMA	West Point			X		
WSPNMSMA	West Point			X		
WSSNMSMA	Wesson			X		
WTMPALMA	Wetumpka			X		
WTPRLAMA	Waterproof			X		
WTTWTNMA	Watertown			X		
WTVLGAES	Watkinsville			X		
WTVYMSMA	Water Valley			X		
WVRLTNMT	Waverly			X		
WWSPFLHI	Weekiwachee Main			X		
WWSPFLSH	Spring Hill			X		
WYBOGAES	Waynesboro			X		
WYBOMSMA	Waynesboro			X		
WYCRGAMA	Waycross			X		
WYLDKYES	Wayland			X		
WYVLNCMA	Waynesville			X		
YNFNFLMA	Youngstown Fountain W. C.			X		
YNTWFLMA	Yankeetown			X		
YNVLLAMA	Youngville			X		
YORKALMA	York			X		
YORKSCMA	York			X		
YSCLLAMA	Yscloskey			X		
YULEFLMA	Yulee			X		
YZCYMSMA	Yazoo City			X		
ZBLNGAMA	Zebulon			X		
ZBLNNCCE	Zebulon			X		
ZCHRLAMA	Zachary			X		
ZWLLLAMA	Zwolle			X		



**DOCKET NO. 28821**

**ARBITRATION OF NON-COSTING § PUBLIC UTILITY COMMISSION**  
**ISSUES FOR SUCCESSOR §**  
**INTERCONNECTION AGREEMENTS § OF TEXAS**  
**TO THE TEXAS 271 AGREEMENT §**

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**ORDER NO. 38**  
**ESTABLISHING PROCEDURAL SCHEDULE AND**  
**SCOPE OF PROCEEDING**

Based upon discussions with the parties at a prehearing conference held on February 24, 2005, the following procedural schedule is adopted for this proceeding:

<b>DIRECT TESTIMONY FILED</b>	<b>MARCH 25, 2005</b>
<b>REBUTTAL TESTIMONY FILED</b>	<b>APRIL 8, 2005</b>
<b>HEARING ON THE MERITS</b>	<b>APRIL 21-22, 2005</b>
<b>INITIAL BRIEFS</b>	<b>MAY 9, 2005</b>
<b>REPLY BRIEFS (10-page limit)</b>	<b>MAY 16, 2005</b>
<b>ARBITRATION AWARD</b>	<b>MID-JUNE</b>
<b>FINAL CONTRACTS FILED</b>	<b>BY JULY 31, 2005</b>

**I. Procedural Matters**

Although this schedule does not require the filing of a Decision Point List (DPL), parties are requested to provide the Arbitrators with a joint DPL concurrent with ,or, if possible, slightly before, the filing of direct testimony. In any event, parties are expected to organize their testimony by issue and to highlight which issues a particular witness will address to allow comparison of parties' positions on an issue-by-issue basis. To facilitate scheduling for the hearing on the merits, parties are asked to provide a list of panels, including all witnesses on each panel, no later than April 13, 2005.

To the extent parties wish to undertake further discovery, they shall do so consistent with agreements made in Phase I as to remaining numbers of requests for information (RFIs) etc. Upon agreement regarding discovery, parties shall inform the Arbitrators of their discovery arrangements, to include reference to any agreements regarding timing of or the need for, motions to compel and motions to strike.

## **II. Scoping of Track II**

Consistent with the Commission's discussion at the Open Meeting of February 24, 2005, arguments relating to unbundling obligations under state law shall not be included within the scope of Track II of this proceeding. Rulings upon preliminary motions, requests for discovery, including motions to compel, and issues regarding testimony or evidence, including motions to strike, shall be made consistent with the Commission's direction.

As referenced in the Interim Agreement Amendment approved by the Commission at its Open Meeting of February 24, 2005, parties are not precluded from questioning the PUC's interim determinations and requesting relief therefrom, including, but not limited to, requests for true-up at some later time.

## **III. CLLI Code Proceeding**

Consistent with the request of the Federal Communications Commission's (FCC's) letter of February 4, 2005, Southwestern Bell Telephone, L.P. d/b/a SBC Texas (SBC Texas) was requested to file, in this docket, a list identifying by Common Language Location Identifier (CLLI) code no later than February 22, 2005. In particular, SBC Texas was asked to identify:

- which wire centers in SBC Texas' operating areas in Texas satisfy the Tier 1, Tier 2, and Tier 3 criteria for dedicated transport, and
- which wire centers satisfy the non-impairment thresholds for DS1 and DS3 loops.

At this time, it is not clear whether the FCC will address these matters itself or whether state commissions will be expected to undertake these analyses. Parties are requested to discuss this issue among themselves and file a proposal for addressing these matters at some point after the hearing on the merits, including, but not limited to, suggesting timeframes and recommending whether to conduct such a proceeding on an ILEC-by-ILEC basis.



**IV. Parties' Reservations**

At the prehearing conference, although SBC Texas agreed to this procedural schedule, SBC Texas made clear that any agreement was not a waiver of its objection to the approval of the Interim Agreement Amendment. SBC Texas, and any other party wishing to do so, shall file any such objections, in writing, in this docket to ensure that the "running objection" is evident.

SIGNED AT AUSTIN, TEXAS THE 25<sup>th</sup> DAY OF FEBRUARY 2005.

**FTA § 252 ARBITRATION PANEL**

\_\_\_\_\_  
**DIANE PARKER**  
**ARBITRATOR**

  
\_\_\_\_\_  
**ANDREW KANG**  
**ARBITRATOR**

DOCKET NO. 28821

ARBITRATION OF NON-COSTING  
ISSUES FOR SUCCESSOR  
INTERCONNECTION AGREEMENTS TO  
THE TEXAS 271 AGREEMENT

§  
§  
§  
§

PUBLIC UTILITY COMMISSION  
OF TEXAS

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CLERK  
PUBLIC UTILITY COMMISSION  
1000 WEST 11TH STREET  
AUSTIN, TEXAS 78701  
512.475.2000  
WWW.PUC.TX.GOV

ORDER NO. 39  
ISSUING INTERIM AGREEMENT AMENDMENT

Upon consideration of the parties' filings and discussion at the February 24, 2005, Open Meeting, and the expiration of the Texas 271 Agreement (T2A) and T2A-based interconnection agreements between Southwestern Bell Telephone, L.P. d/b/a SBC Texas (SBC Texas) and competitive local exchange carriers (CLECs), the Public Utility Commission of Texas (Commission or PUC) issues the attached interim agreement amendment to govern parties' contractual relationships for the period of March 1 through July 31, 2005.<sup>1</sup> In issuing this interim agreement amendment, the Commission finds it necessary to act to prevent a lapse in the parties' contracts that could affect telecommunications services to end-user customers pending the completion of this docket.

The PUC seeks to ensure that the aforementioned expired agreements are made current to reflect recent changes in law under the Federal Communications Commission's (FCC) *Triennial Review Order* (TRO)<sup>2</sup> and *Triennial Review Remand Order* (TRRO).<sup>3</sup> The attached interim agreement amendment represents the Commission's preliminary determinations of the impacts of the TRO and TRRO. Parties are not precluded from arguing the merits of these issues in Track II of this proceeding and as appropriate, requesting relief, including, but not limited to, seeking true-up.

SBC Texas is directed to issue the attached interim agreement amendment through an Accessible Letter to all CLECs operating under the T2A, T2A-based interconnection agreements, or the contract developed in Docket No. 24542 no later than March 4, 2005. SBC Texas is further ordered to post this interim agreement amendment in a conspicuous location on its CLEC website, with appropriate links.

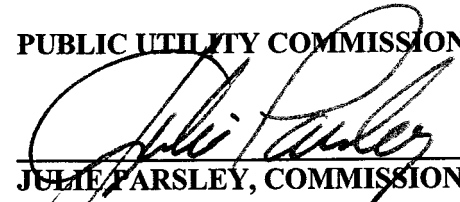
<sup>1</sup> The deadline of July 31, 2005 is the date under the current proposed procedural schedule by which parties expect to have completed this docket and have replacement contracts in place.

<sup>2</sup> *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competitive Provisions of the Telecommunications Act of 1996, and Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-388, 96-98, 98-147, Order, FCC 03-36 (Aug. 21, 2003) (*Triennial Review Order*).

<sup>3</sup> *Unbundled Access to Network Elements and Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 01-388 and CC Docket No. 01-388, Order on Remand, FCC 04-290 (Feb. 4, 2005) (*Triennial Review Remand Order*).

SIGNED AT AUSTIN, TEXAS the 25<sup>th</sup> day of February 2005.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
\_\_\_\_\_  
**JULIE PARSLEY, COMMISSIONER**

  
\_\_\_\_\_  
**PAUL HUDSON, CHAIRMAN**

  
\_\_\_\_\_  
**BARRY T. SMITHERMAN, COMMISSIONER**

**INTERIM AGREEMENT AMENDMENT WITH UNE CONFORMING LANGUAGE  
TO  
INTERCONNECTION AGREEMENT - TEXAS**

This Interim Agreement Amendment with UNE Conforming Language is to the approved Interconnection Agreement entered into by and between Southwestern Bell Telephone, L.P. d/b/a SBC Texas ("SBC Texas") and CLEC NAME ("CLEC").

WHEREAS, the original Agreement modified by way of this Amendment is the result of CLEC's decision to opt into the Texas 271 Agreement ("T2A") or parts thereof pursuant to Order 55 in Project 16251 dated October 13, 1999, or as a result of the Final Order issued in Docket No. 24542, as such Agreement may have been modified from time to time, and to the extent the original Agreement was only a partial election by CLEC to opt into the T2A, such Agreement may also include certain voluntarily negotiated or arbitrated appendices/provisions (hereinafter collectively "the T2A Agreement"); and

WHEREAS, the T2A Agreement expired October 13, 2003; and

WHEREAS, on April 11, 2003, SBC Texas delivered to CLEC a timely request to negotiate a successor agreement to CLEC's T2A Agreement ("Notice to Negotiate"); and

WHEREAS, Section 4.2 of CLEC's T2A Agreement provides that if either party has served a Notice to Negotiate then, notwithstanding the expiration of the T2A Agreement on October 13, 2003, the terms, conditions and prices of the T2A Agreement will remain in effect for a maximum period of 135 days after such expiration for completion of negotiations and any necessary arbitration; and

WHEREAS, a series of extensions of the T2A have occurred, and the termination of the T2A occurred as of February 17, 2005; and

WHEREAS, on January 23, 2004, SBC Texas filed its Omnibus Petition for Arbitration in Docket No. 28821 against all Texas CLECs with interconnection agreements originally expiring on October 13, 2003. Additionally, also on January 23, 2004, separate petitions of arbitration were filed against SBC Texas by the following CLECs: Stratos Telecom, Inc., Comcast Phone of Texas, LLC, Heritage Technologies, Ltd., FamilyTel of Texas, LLC and Navigator Telecommunications, LLC; Birch Telecom of Texas Ltd. L.L.P. and Ionex Communications South, Inc; CLEC Joint Petitioners; MCImetro Access Transmission Services, LLC, MCI Worldcom Communications and Brooks Fiber Communications of Texas, Inc.; Sage Telecom of Texas, L.P.; AT&T Communications of Texas, L.P., TCG Dallas and Teleport Communications Houston, Inc.; and CLEC Coalition.

WHEREAS, it appears that a successor interconnection agreement will not be approved in the Arbitration until after February 17, 2005, the termination date of CLEC's T2A Agreement; and

WHEREAS, pursuant to Order No. 34 in Docket No. 28821 and the Texas Public Utility Commission's 2/10/05 ruling extending the effective date of the T2A from 2/17/05 to 2/28/05, the Texas PUC has ordered extension of the term of CLEC's T2A agreement beyond the termination date of February 17, 2005 to February 28, 2005, and has instructed the parties to create an amendment to incorporate its decision on TRO elements Order Addressing Threshold Issues dated April 19, 2004 and Order Addressing Motion for Reconsideration of Threshold Issues dated August 18, 2004 in Docket No. 28821, along with the transition periods/pricing from the FCC's TRO Remand Order, released February 4, 2005, and scheduled to become effective March 11, 2005. The Texas PUC has stated that the amendment will, along with the CLEC's T2A agreement, Attachments 6-10, and the Arbitration Award on Track One Issues in Docket No. 28821, and the Texas UNE Rate Amendment resulting from the September 9, 2004 Revised

Arbitration Award in Docket No. 28600, govern as an interim interconnection agreement approved by the Texas PUC during the period between the TPUC-established termination of the T2A Agreement (i.e., February 28, 2005) and the earlier of: (i) the date a successor agreement between SBC Texas and CLEC is approved or is deemed to have been approved by the Texas PUC; or (ii) July 31, 2005; and

WHEREAS, the interim agreement will automatically terminate the earlier of: (i) the date a successor agreement between SBC Texas and CLEC is approved or is deemed to have been approved by the TPUC; or (ii) July 31, 2005; and full intervening law rights are available to both parties under the interim agreement notwithstanding any language in CLEC's T2A Agreement, Attachments 6-10 to the contrary;

NOW, THEREFORE, in consideration of the foregoing, and the promises and mutual agreements set forth herein, and to facilitate the orderly progress of the Arbitration to conclusion, the T2A Agreement is hereby amended, as follows, to be effective only on an interim basis, for the purposes herein expressed, and for a finite, interim term to expire the earlier of (i) the date a successor agreement between SBC and CLEC is approved or is deemed to have been approved by the TPUC; or (ii) July 31, 2005; and to make full intervening law rights available to both parties:

1. The Whereas clauses contained herein are incorporated into this Agreement.
2. The title of the T2A Agreement is hereby changed to "Interim Interconnection Agreement – Texas." All internal references to the "Agreement" are hereby changed to "Interim Agreement."
3. Sections 4.1, including Sections 4.1.1 and 4.1.2, Sections 4.2, 4.2.1 and 4.3 of the General Terms and Conditions of the Agreement are hereby deleted in their entirety and replaced with the following:

**4.1 Effective Date and Expiration/Termination.** The Interim Agreement shall be deemed effective following approval by the TPUC and commencing on the TPUC-established termination of the T2A Agreement February 28, 2005, and shall terminate, without any further action on the part of either Party, the earlier of:

- 4.1.1 The effective date of approval by the TPUC of a successor agreement to the T2A or partial-T2A Agreement(s) in the above referenced Arbitration; or
  - 4.1.2 The date a successor agreement between SBC and CLEC is approved or is deemed to have been approved by the TPUC; or
  - 4.1.3 The effective date of a written and signed agreement between the parties that the Interim Agreement is terminated; or
  - 4.1.4 A proper request by CLEC that the Interim Agreement be terminated (subject to CLEC's post-termination obligations, such as CLEC's payment obligation(s) and the other obligations set forth in Section 44.0 "Survival of Obligations" of the General Terms and Conditions); or
  - 4.1.5 Termination for any other reason, such as non-payment (as set forth in Section 10 of the General Terms and Conditions), subject to CLEC's post-termination obligations, such as CLEC's payment obligation(s) and the other obligations set forth in Section 44.0 "Survival of Obligations" of the General Terms and Conditions; or
  - 4.1.6 July 31, 2005.
4. Sections 2.0 and 2.1 ("Effective Date") of the General Terms and Conditions of the Agreement are deleted in their entirety.
  5. Nothing in this Agreement is to be interpreted as an agreement by SBC Texas to an extension of the T2A or any Section 271 obligations. The Interim Agreement, notwithstanding any provision to the contrary, is not based upon the same consideration or conditions as the T2A Agreement, and, regardless of when this Amendment is executed or effective, it shall not have the effect of extending the T2A Agreement, even if the

Agreement contained or contains, in whole or in part, provisions identical or substantially similar to provisions contained in the T2A Agreement. Any issues relating to Section 271 and any disputed issues with respect to language in the preamble to the underlying Agreement will be addressed in the proceedings related to the Parties' successor Interconnection Agreement, and the parties reserve their rights to all arguments related to the disposition of such issues.

6. Sections 1.3, 18.2, 18.3, and 30.2 of the General Terms and Conditions of the Agreement are hereby deleted in their entirety, and replaced with the following:

## 2.0 Intervening Law

- 2.1 In entering into this Amendment and Interim Agreement, neither Party is waiving, and each Party hereby expressly reserves, any of the rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, including, without limitation, the following actions, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further review: *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA, et. al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) ("*USTA I*") and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) ("*USTA II*"); the FCC's 2003 Triennial Review Order and 2005 Triennial Review Remand Order; and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).

7. Sections 14.1, 14.5, and 14.8 of Attachment 6: Unbundled Network Elements are hereby deleted and Section 1.0 ("Introduction") of Attachment 6: Unbundled Network Elements of the Agreement is hereby deleted and replaced with the following:

### 1.0 Declassified Network Elements No Longer Required

- 1.1 TRO-Declassified Elements. Notwithstanding anything in this Interim Agreement, pursuant to the TRO and to the decision in *USTA II*, except as provided in Paragraph 3.0 below, nothing in this Interim Agreement requires SBC Texas to provide to CLEC any of the following items as an unbundled network element, either alone or in combination (whether new, existing, or pre-existing) with any other element, service or functionality: (i) entrance facilities; (ii) OCn dedicated transport; (iii) "enterprise market" local circuit switching for DS1 and higher capacity switching; (iv) OCn loops; (v) the feeder portion of the loop; (vi) any call-related database (other than the 911 and E911 databases), that is not provisioned in connection with CLEC's use of embedded base SBC Texas unbundled local circuit switching (as provided in Section 1.3, below); (vii) Operator Services and Directory Assistance that is not provisioned in connection with CLEC's use of embedded base SBC Texas unbundled local circuit switching (as provided in Section 1.3 below); (viii) Shared Transport and SS7 signaling that is not provisioned in connection with CLEC's use of embedded base SBC Texas unbundled local circuit switching (as provided in Section 1.3 below); (ix) packet switching, including routers and DSLAMs; (x) the packetized bandwidth, features, functions, capabilities, electronics and other equipment used to transmit packetized information over hybrid loops (as defined in 47 C.F.R. § 51.319(a)(2)), including without limitation, xDSL-capable line cards installed in digital loop carrier ("DLC") systems or equipment used to provide passive optical networking ("PON") capabilities; (xi) fiber-to-the-home Loops and fiber-to-the-curb Loops (as defined in 47 C.F.R. § 51.319(a)(3)) ("FTTH Loops" and "FTTC Loops"), except to the extent that SBC Texas has deployed such fiber in parallel to, or in replacement of, an existing copper loop facility and elects to retire the copper loop, in which case SBC Texas will provide nondiscriminatory access to a 64 kilobits per second transmission path capable of voice grade service over the FTTH Loop or

FTTC Loop on an unbundled basis to the extent required by terms and conditions in the Agreement.

1.1.1 SBC Texas will provide written notice to CLEC of its intention to discontinue the provision of one or more of the TRO-Declassified Elements identified in Section 1.1, above under the Agreement. During a transitional period of thirty (30) days from the date of such notice, SBC Texas agrees to continue providing such TRO-Declassified Elements under the terms of the Agreement, to the extent required by the Agreement.

1.1.1.1 Upon receipt of such written notice, CLEC will cease new orders for such network element(s) that are identified in the SBC Texas notice letter. SBC Texas reserves the right to monitor, review, and/or reject CLEC orders transmitted to SBC Texas and, to the extent that the CLEC has submitted orders and such orders are provisioned after this 30-day transitional period, such network elements are still subject to this Paragraph Section 1, including the CLEC options set forth in subparagraph 1.1.1.1.1 below, and SBC Texas's right of conversion in the event the CLEC options are not accomplished by the end of the 30-day transitional period.

1.1.1.1.1 During such 30-day transitional period, the following options are available to CLEC with regard to the network element(s) identified in the SBC Texas notice, including the combination or other arrangement in which the network element(s) were previously provided:

- (i) CLEC may issue an LSR or ASR, as applicable, to seek disconnection or other discontinuance of the network element(s) and/or the combination or other arrangement in which the element(s) were previously provided; or
- (ii) SBC Texas and CLEC may agree upon another service arrangement (e.g. via a separate agreement at market-based rates or resale), or may agree that an analogous resale service or access product or service may be substituted, if available.

Notwithstanding anything to the contrary in the Agreement, including any amendments to the Agreement, at the end of the thirty (30) day transitional period, unless CLEC has submitted a disconnect/discontinuance LSR or ASR, as applicable, under subparagraph (i), above, and if CLEC and SBC Texas have failed to reach agreement, under subparagraph (ii), above, as to a substitute service arrangement or element, then SBC Texas will convert the subject element(s), whether alone or in combination with or as part of any other arrangement to an analogous resale or access service or arrangement, if available, at rates applicable to such analogous service or arrangement.

1.2 TRO Remand Order – Declassified High-Capacity Loop and Dedicated Transport Elements No Longer Required. Notwithstanding anything in the Agreement, effective March 11, 2005, pursuant to Rule 51.319(a) and Rule 51.319(e) as set forth in the TRO Remand Order, the following high-capacity loop and dedicated transport elements are no longer required to be provided by SBC Texas on an unbundled basis under the Agreement, whether alone, in combination, or otherwise:

- Dark Fiber Loops;
- DS1 Loops or DS3 Loops in excess of the caps or to any building served by a wire center described in Rule 51.319(a)(4) or 51.319(a)(5), as set forth in the TRO Remand Order, as applicable;

- DS1 Dedicated Transport or DS3 Dedicated Transport in excess of the caps or between any pair of wire centers as described in Rule 51.319(e)(2)(ii) or 51.319(e)(2)(iii), as set forth in the TRO Remand Order, as applicable; and/or
- Dark Fiber Dedicated Transport, between any pair of wire centers as described in Rule 51.319(e)(2)(iv), as set forth in the TRO Remand Order.

The above-listed element(s) are referred to herein as the "Affected Loop-Transport Element(s)."

1.2.1 After March 11, 2005, pursuant to Rules 51.319(a) and (e), as set forth in the TRO Remand Order, SBC Texas shall continue to provide unbundled access to the Affected Loop-Transport Element(s) to CLEC, if and as provided by Attachment 6: UNE, only for CLEC to serve its embedded base. "Embedded base" shall refer only to Affected Loop-Transport Element(s) ordered by CLEC prior to March 11, 2005. The price for the embedded base Affected Loop-Transport Element(s) shall be the higher of (A) the rate CLEC paid for the embedded base Affected Loop-Transport Element(s) as of June 15, 2004 plus 15% or (B) the rate the state commission has established or establishes, if any, between June 16, 2004 and March 11, 2005 for the Affected Loop-Transport Element(s), plus 15%. CLEC shall be fully liable to SBC to pay such pricing under the Agreement, including applicable terms and conditions setting forth damages, interest, and/or late payment charges for failure to comply with payment terms, notwithstanding anything to the contrary in the underlying Agreement.

1.3 TRO Remand Order – Mass Market ULS/UNE-P – Notwithstanding anything in the underlying Agreement, effective March 11, 2005, pursuant to Rule 51.319(d) as set forth in the TRO Remand Order, Mass Market Local Circuit Switching, whether alone, in combination (as with UNE-P), or otherwise, is no longer required to be provided by SBC on an unbundled basis under the Agreement. Pursuant to the TRO Remand Order, "Mass Market" Local Circuit Switching means unbundled local circuit switching arrangements used to serve a customer at less than the DS1 capacity level (e.g., 23 or fewer Local Circuit Switching DS0 ports or the equivalent switching capacity).

1.3.1 After March 11, 2005, pursuant to Rule 51.319(d)(2)(iii), as set forth in the TRO Remand Order, SBC shall continue to provide unbundled access to Mass Market Local Circuit Switching/UNE-P to CLEC, if and as provided by Attachment 6: UNE, only for CLEC to serve its embedded base. "Embedded base" shall refer only to Mass Market Local Circuit Switching/UNE-P ordered by CLEC prior to March 11, 2005. The price for the embedded base Mass Market Local Circuit Switching/UNE-P shall be the higher of (A) the rate CLEC paid for the embedded base Mass Market Local Circuit Switching/UNE-P as of June 15, 2004 *plus one dollar* or (B) the rate the state commission has established or establishes, if any, between June 16, 2004 and March 11, 2005 for the Mass Market Local Circuit Switching/UNE-P, *plus one dollar*. CLEC shall be fully liable to SBC to pay such pricing under the Agreement, including applicable terms and conditions setting forth damages, interest, and/or late payment charges for failure to comply with payment terms, notwithstanding anything to the contrary in the underlying Agreement.

1.3.2 Consistent with Paragraphs 199 and 216 of the TRO Remand Order, which recognize that CLECs must have time to transition their embedded customer-base that is served using Mass-Market Local Circuit Switching and UNE-P combinations to other facilities, including self-deployed switching and UNE loops, CLEC shall not be prohibited from ordering and SBC shall provision (i) additional UNE-P access lines to serve CLEC's embedded



customer-base and (ii) moves and changes in UNE-P access lines to serve CLEC's embedded customer-base during the time that this Amendment is in effect.

- 1.4 Consistent with Paragraph 100 of the TRO Remand Order, CLEC shall have the right to verify and challenge SBC's identification of fiber-based collocation arrangements in the listed Tier 1 and Tier 2 wire centers as part of Track 2 of the Arbitration.
  - 1.4.1 If the PUC determines that SBC's identification of fiber-based collocation arrangements is in error and if the correction of such error results in change to one or more wire center's classification as a Tier 1 or Tier 2 wire center, the rates paid by CLEC for High-Capacity Loops and Transport shall be subject to true-up.
- 1.5 Consistent with Paragraph 234 of the TRO Remand Order, and recognizing that the designation of wire centers as Tier 1 and Tier 2 is dependent on facts not within CLEC's knowledge or control, CLEC shall undertake a reasonably diligent inquiry and shall self-certify, based on that inquiry, that its request for a High-Capacity Loop and/or Transport is consistent with the requirements of the TRO Remand Order. SBC shall provision the requested High-Capacity Loop and/or Transport according to standard provisioning intervals and only after provisioning may it challenge CLEC's ability to obtain the High-Capacity Loop and/or Transport.
  - 1.5.1 If it is subsequently determined that the CLEC's request for a High-Capacity Loop and/or Transport is inconsistent with the requirements of the TRO Remand Order, the rates paid by CLEC for High-Capacity Loops and Transport shall be subject to true-up.
  - 1.5.2 Consistent with footnote 524 of the TRO Remand Order, High-Capacity Loops no longer subject to unbundling under Section 251, shall be subject to true-up to the applicable transition rate.
- 1.6 Consistent with Paragraph 133 of the TRO Remand Order, CLEC shall have the right to retain and obtain dark fiber transport as an unbundled network element under Section 251 only on routes for which the wire center on one end is neither Tier 1 nor Tier 2.
- 1.7 **CONVERSIONS:** CLEC shall have the right to order and SBC shall provision conversions of special access services to UNEs and UNE Combinations during the time this Amendment is in effect; provided however, that CLEC (1) satisfies the tests set out in Paragraphs 591 through 599 of the TRO and (2) the UNE or the UNE Combination requested is not subject to any of the transition plans identified in the TRO Remand Order. That is, CLEC may not seek to request the conversion of a special access circuit to a UNE or UNE combination unless the UNE itself or each of the UNEs sought to be combined is ordered to be provided on an unbundled basis in the TRO Remand Order.
- 1.8 **COMMINGLED ARRANGEMENTS:** CLEC shall have the right to order and SBC shall provision the following commingled arrangements consisting of the following High-Capacity Loops and Transport required to be unbundled under Section 251 or subject to the transition plan set out in the TRRO:
  - (a) UNE DS1 loop connected to:

- (1) a commingled wholesale/special access 3/1 mux and DS3 or higher capacity interoffice transport;<sup>1</sup>
  - (2) a UNE DS1 transport which is then connected to a commingled wholesale/special access 3/1 mux and DS3 or higher capacity interoffice transport;
  - (3) a commingled wholesale/special access DS1 transport.
- (b) UNE DS1 transport connected to:
- (1) a commingled wholesale/special access 3/1 mux and DS3 or higher capacity interoffice transport.
- (c) UNE DS3 transport connect to:
- (1) a commingled wholesale/special access higher capacity interoffice transport.

1.8.1 SBC and CLEC shall establish and agree to a manual ordering process for the commingled arrangements identified in 1.6 above no later than 10 business days following the effective date of this Amendment. Commingled arrangements ordered by CLEC using the agreed-upon manual ordering process shall be provisioned within the provisioning intervals already established by SBC for the wholesale service(s) with which CLEC requests a UNE be commingled.

1.8.2 SBC shall charge the rates for UNEs (or UNE combinations) that are commingled with facilities or service obtained at wholesale (including, for example, special access services) on an element-by-element basis, and such wholesale facilities and services on a facility-by-facility, service-by-service basis.

1.8.3 The Parties agree that the list of commingled arrangements identified in 1.6 above is not a complete list of all commingled arrangements that ultimately may be made available to CLEC following the conclusion of Track 2 of the Arbitration. The Parties' disputes regarding the availability of other commingled arrangements as well as the process and procedures for ordering commingled arrangements are part of Track 2 of the Arbitration.

8. TO THE EXTENT THE UNDERLYING AGREEMENT INCLUDES LINE SHARING PROVISIONS INCLUDE THE FOLLOWING: The following provisions are hereby added to the Agreement specific to the High Frequency Portion of the Loop" ("HFPL"):

**Grandfathered and New End-Users:** SBC Texas will continue to provide access to the HFPL, where: (i) prior to October 2, 2003, CLEC began providing DSL service to a particular end-user customer and has not ceased providing DSL service to that customer ("Grandfathered End-Users"); and/or (ii) CLEC begins/began providing xDSL service to a particular end-user customer on or after October 2, 2003, and on or before the close of business December 3, 2004 ("New End-Users"). Such access to the HFPL shall be provided at the same monthly recurring rate that SBC Texas charged prior to October 2, 2003 and shall continue for Grandfathered End-Users until the earlier of: (1) CLEC's xDSL-base service to the end-user customer is disconnected for whatever reason, or (2) the FCC issues its Order in its Biennial Review Proceeding or any other relevant government action which modifies the FCC's HFPL grandfather clause established in its Triennial Review Order and as to New End-Users, the earlier of: (1) and (2) immediately above; or (3) October 2, 2006.

<sup>1</sup> "Higher capacity interoffice transport" must include any technology that is offered or made available with that transport on a regular or routine basis, e.g., SONET. This requirement applies to all references to "higher capacity interoffice transport" in this Section 1.6.

Beginning October 2, 2006, SBC Texas shall have no obligation to continue to provide the HFPL for CLEC to provide xDSL-based service to any New End-Users that CLEC began providing xDSL-based service to over the HFPL on or after October 2, 2003 and before December 3, 2004. Rather, effective October 2, 2006, CLEC must provide xDSL-based service to any such new end-user customer(s) via a line splitting arrangement, over a stand-alone xDSL Loop purchased from SBC Texas, or through an alternate arrangement, if any, that the Parties may negotiate. Any references to the HFPL being made available as an unbundled network element or "UNE" are hereby deleted from the underlying Agreement.

9. Except as prohibited or otherwise affected by the *Interim Order*, nothing in this Amendment shall affect the general application and effectiveness of the Interim Agreement's "change of law," "intervening law", "successor rates" and/or any other similar provisions and/or rights under the Interim Agreement. The rights and obligations set forth in this Amendment apply in addition to any other rights and obligations that may be created by such intervening law, change in law or other substantively similar provision.
10. This Amendment shall be deemed to revise the rates, terms and provisions of the Agreement, including without limitation all associated prices in the Agreement to the extent necessary to give effect to the terms and conditions of this Amendment. In the event of a conflict between the terms and conditions of this Amendment and the rates, terms and conditions of the Agreement, this Amendment shall govern. By way of example only, if the Agreement provides that a combination of UNEs must be provided by SBC Texas, CLEC may not obtain a combination including one or more elements affected by Section 1.0 "Declassified Elements No Longer Required," above. By way of additional example only, if the Agreement provides (or assumes) that a UNE must be provided by SBC Texas, elements affected by Section 1.0 "Declassified Elements No Longer Required" are, nonetheless, not required to be provided, except to the limited extent set forth in Section 1.0 "Elements No Longer Required" and in such case, any rates for Elements No Longer Required under the Agreement shall be deemed removed from the Pricing Schedule to the Agreement.
11. This Amendment may require that certain sections of the Agreement shall be replaced and/or modified by the provisions set forth in this Amendment including without limitation certain sections not explicitly identified in this Amendment. The Parties agree that such replacement and/or modification shall be accomplished without the necessity of physically removing and replacing or modifying such language throughout the Agreement. Rather, the Agreement shall automatically be deemed to be modified by way of this Amendment to the extent necessary to implement the provisions of this Amendment.
12. Nothing in this Amendment shall be deemed to affect the right of a Party to exercise any rights it may have under the Interim Agreement including, without limitation, its intervening law rights, any rights of termination, and/or any other rights available to either Party under the Interim Agreement.
13. Although it is not necessary to give effect to the terms and conditions of this Amendment, including pricing provisions, upon written request of either Party, the Parties may amend any and all Interim Agreement rates and/or pricing schedules to formally conform the Interim Agreement to reflect the terms and conditions of this Amendment.
14. Notwithstanding any contrary provision in the Interim Agreement, this Amendment, or any applicable SBC tariff, nothing contained in the Interim Agreement, this Amendment, or any applicable SBC tariff shall limit SBC Texas's right to appeal, seek reconsideration of or otherwise seek to have stayed, modified, reversed or invalidated any order, rule, regulation, decision, ordinance or statute issued by the Texas PUC, the FCC, any court or any other governmental authority related to, concerning, or that may affect SBC Texas's obligations under the Interim Agreement, this Amendment, any applicable SBC tariff, or applicable law.

15. PERFORMANCE MEASURES and REMEDY PLAN: The performance measures and the existing remedy plan contained in the T2A for ordering, provisioning and maintenance shall apply to all High-Capacity Loops and Transport, and all Mass-Market Switching/UNE-P access lines during the period in which this Amendment is effective.
  
16. In entering into this Amendment, neither Party is waiving, and each Party hereby expressly reserves, any of the rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, including, without limitation, the following actions, to the extent the Parties have not yet fully incorporated them into this Agreement or which may be the subject of further government review: *Verizon v. FCC, et. al*, 535 U.S. 467 (2002); *USTA, et. al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) and following remand and appeal, *USTA v. FCC*, 359 F.3d 554 (D.C. Cir. 2004); the FCC's Triennial Review Order (rel. Aug. 21, 2003) including, without limitation, the FCC's MDU Reconsideration Order (FCC 04-191) (rel. Aug. 9, 2004) and the FCC's Order on Reconsideration (FCC 04-248) (rel. Oct. 18, 2004); the FCC's Triennial Review Remand Order (rel. Feb. 4, 2005), WC Docket No. 04-313; CC Docket No. 01-338; and the FCC's Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, 16 FCC Rcd 9151 (2001), (rel. April 27, 2001), which was remanded in *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002). The Parties further acknowledge and agree that this Amendment is to effectuate an Interim Agreement for a finite period of time to afford the Texas PUC and the Parties additional time to finalize a successor interconnection agreement based upon the provisions set forth herein. Therefore, the Parties acknowledge and agree that: (i) because this Amendment is to effectuate an Interim Agreement and not a final 251/252 Interconnection Agreement between the Parties; and (ii) effectively incorporates pricing changes into the Interim Agreement; and (iii) the Interim Agreement contains certain arbitrated provisions; and (iii) portions of the Interim Agreement are the result of CLEC's prior decision to opt into the T2A Agreement or parts thereof; that no aspect/provisions of this Interim Agreement qualify for portability into Illinois or any other state under 220 ILCS 5/13-801(b) ("Illinois Law"), Condition 27 of the Merger Order issued by the Illinois Commerce Commission in Docket No. 98-0555 ("Condition 27") or any other state or federal statute, regulation, order or legal obligation (collectively "Law"), if any.



STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the matter, on the Commission’s own motion, to	)	
consider Ameritech Michigan’s compliance with	)	
the competitive checklist in Section 271 of the	)	Case No. U-12320
federal Telecommunications Act of 1996.	)	
_____	)	

In the matter, on the Commission’s own motion, to	)	
commence a collaborative proceeding to monitor and	)	
facilitate implementation of Accessible Letters issued	)	Case No. U-14447
by SBC Michigan and Verizon.	)	
_____	)	

At the February 28, 2005 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chair  
Hon. Robert B. Nelson, Commissioner  
Hon. Laura Chappelle, Commissioner

**ORDER COMMENCING A COLLABORATIVE PROCEEDING**

On February 16, 2005, MCImetro Access Transmission Services LLC (MCImetro), which is a competitive local exchange carrier (CLEC) pursuant to the federal Telecommunications Act of 1996, 47 USC 251 et seq. (FTA), filed objections to certain proposals and pronouncements made in five “Accessible Letters” dated February 10 and 11, 2005 by SBC Michigan (SBC), which is an incumbent local exchange carrier (ILEC) under the FTA. Other CLECs quickly followed suit.

On February 18, 2005, LDMI Telecommunications, Inc. (LDMI), also filed objections to the five Accessible Letters.

On February 23, 2005, Talk America Inc., filed objections to one of the five Accessible Letters.

On February 23, 2005, TelNet Worldwide, Inc., Quick Communications, Inc. d/b/a Quick Connect USA, Superior Technologies, Inc. d/b/a/ Superior Spectrum, Inc., CMC Telecom, Inc., Grid4 Communications, Inc., and Zenk Group Ltd. d/b/a Planet Access filed comments in support of the objections raised by MCImetro and LDMI.

On February 23, 2005, XO Communications, Inc. (XO), filed objections to one of the five Accessible Letters.

On February 23, 2005, SBC filed its response to the objections filed by MCImetro and LDMI.

Accessible Letter No. CLECAM05-037 (AL-37), which is dated February 10, 2005, states that SBC will be withdrawing its wholesale unbundled network element (UNE) tariffs “beginning as early as March 10, 2005.” AL-37, p.1. Accessible Letter No. CLECALL05-017 (AL-17) and Accessible Letter No. CLECALL05-018 (AL-18), which are each dated February 11, 2005, state that SBC will not accept new, migration, or move local service requests (LSRs) for mass market unbundled local switching (ULS) and unbundled network element-platform (UNE-P) on or after March 11, 2005, notwithstanding the terms of any interconnection agreements or applicable tariffs. In AL-18, SBC additionally states that effective March 11, 2005, it will begin charging CLECs a \$1 surcharge for mass market ULS and UNE-P. Accessible Letter No. CLECALL05-019 (AL-19) and Accessible Letter No. CLECALL05-020 (AL-20), which are each dated February 11, 2005, state that as of March 11, 2005 SBC will no longer accept new, migration, or move LSRs for certain DS1 and DS3 high capacity loops, DS1 and DS3 dedicated transport, dark fiber transport, and dark fiber loops. Also, in AL-20, SBC states that beginning March 11, 2005, it will be

charging increased rates for the embedded base of DS1 and DS3 high capacity loops, DS1 and DS3 dedicated transport, dark fiber transport, and dark fiber loops.<sup>1</sup>

The CLECs maintain that SBC has no unilateral right to change its wholesale tariffs. According to them, the Commission established a procedure in Case No. U-12320 whereby SBC must provide the CLECs with a 30-day notice of its intent to change any of its tariff provisions. The CLECs also point out that the Commission allowed a CLEC to object to SBC's proposed actions within two weeks of SBC's notice. In short, the CLECs insist that SBC may not unilaterally revise the rates, terms, and conditions under which SBC provisions wholesale telephone services. The CLECs seek a Commission order (1) establishing a proceeding to address the changes proposed by SBC, (2) prohibiting SBC from withdrawing its wholesale tariff until completion of this proceeding, (3) compelling SBC to honor its tariffs and interconnection agreements as they presently exist, (4) barring SBC from enforcing or implementing the Accessibility Letters until issuance of a final order in this proceeding, (5) directing SBC to continue to accept and provision new, migration, or move LSRs for mass market unbundled local switching (ULS) and unbundled network element-platform (UNE-P) until further order of the Commission, (6) directing SBC to continue to accept and provision new, migration, or move LSRs for certain DS1 and DS3 high capacity loops, DS1 and DS3 dedicated transport, dark fiber transport, and dark fiber loops until further order of the Commission, and directing SBC not to increase the rates it charges for UNE-P, DS1 and DS3 high capacity loops, DS1 and DS3 dedicated transport, dark fiber transport, and dark fiber loops until further order of the Commission.

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<sup>1</sup>Although not contained in the record of the Case No. U-12320 docket, which is limited to consideration of issues related to Ameritech Michigan's compliance with the competitive checklist in Section 271 of the FTA, the Commission is also aware that Verizon has issued at least two similar Accessible Letters. The arguments raised by the CLECs with regard to SBC's proposed actions apply with equal force to the actions proposed by Verizon.



SBC responds by arguing that the modifications set forth in its Accessibility Letters are fully consistent with the Federal Communications Commission's (FCC) recent February 4, 2005 order regarding unbundling obligations of ILECs<sup>2</sup> and must therefore be honored by the CLECs and the Commission. According to SBC, the CLECs' objections are directly contrary to the recent rulings of the FCC. SBC states that the FCC has established a nationwide bar on unbundling as follows:

1. An ILEC is not required to provide access to local circuit switching on an unbundled basis to requesting telecommunications carriers for the purpose of serving end-user customers using DS0 capacity loops. 47 C.F.R. § 51.319(d)(2)(i).
2. Requesting carriers may not obtain new local switching as an UNE. *Id.* § 51.319(d)(2)(iii).
3. ILECs have no obligation to provide CLECs with unbundled access to mass market local circuit switching. *TRO Remand Order* ¶ 5.
4. The FCC's transition plan does not permit CLECs to add new switching UNEs. *Id.*
5. The FCC did not impose a Section 251 unbundling requirement for mass market local circuit switching nationwide. *Id.* ¶ 199.
6. The FCC found that the disincentives to investment posed by the availability of unbundled switching, in combination with unbundled loops and shared transport, justify a nationwide bar on such unbundling. *Id.* ¶ 204.
7. The FCC found that continued availability of unbundled mass market switching would impose significant costs in the form of decreased investment incentives, and therefore determined not to unbundle that network element. *Id.* ¶ 210.
8. The FCC found that unbundling would seriously undermine infrastructure investment and hinder the development of genuine, facilities-based competition. *Id.* ¶ 218.

According to SBC, the FCC's unbundling bar applies with equal force to network elements, such as shared transport, which can only be provided in conjunction with switching. SBC also

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<sup>2</sup>In the Matter of Unbundled Access to Network Elements, WC Docket No. 04-313 and Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338. (*TRO Remand Order*).

asserts that the FCC reached a similar result with regard to signaling (§ 544) and for certain databases used in routing calls (§ 551). Therefore, SBC maintains that, given the FCC's bar on unbundled switching, it cannot be forced to provide unbundled access to any switch-related UNEs.

SBC next argues that the Commission should reject the CLECs' efforts to link their objections to Case No. U-12320 and Section 271 of the FTA. According to SBC, the Commission has no decision making authority under Section 271. Further, SBC maintains that Section 271 focuses on "just, reasonable, and non-discriminatory" pricing rather than on total element long run incremental cost (TELRIC) pricing, which it claims will be perpetuated by adoption of the CLECs' objections. Further, SBC insists that Section 271 provides no support for continuing its required provision of UNE combinations. Finally, SBC argues that the Commission and the CLECs are powerless to ignore the FCC's holdings or otherwise delay SBC's implementation of the FCC's pricing determinations.

The Commission finds that the objections filed by the CLECs have merit. In Paragraph No. 233 of the FCC's February 4 order, the FCC stated:

We expect that incumbent LECs and competing carriers will implement the Commission's findings as directed by section 252 of the Act. *Thus, carriers must implement changes to their interconnection agreements consistent with our conclusions in this Order.* We note that the failure of an incumbent LEC or a competitive LEC to negotiate in good faith under section 251(c)(1) of the Act and our implementing rules may subject that party to enforcement action. Thus, the incumbent LEC and competitive LEC must negotiate in good faith regarding any rates, terms, and conditions necessary to implement our rule changes. We expect that parties to the negotiating process will not unreasonably delay implementation of the conclusions adopted in this Order. *We encourage the state commissions to monitor this area closely to ensure that parties do not engage in unnecessary delay.* Paragraph No. 233 (Emphasis added).

The emphasized portion of Paragraph No. 233 indicates that the FCC did not contemplate that ILECs may unilaterally dictate to CLECs the changes to their interconnection agreements necessary to implement the FCC's findings in the February 4 order. It also clearly indicates that

this Commission has an important role in the process by which ILECs and CLECs resolve their differences through good faith negotiations. Indeed, the Commission was specifically encouraged by the FCC to monitor implementation of the Accessible Letters issued by SBC and Verizon to ensure that parties do not engage in unnecessary delay. In addition, Paragraph No. 234 of the FCC's order indicates that SBC must immediately process a request for access to a dedicated transport or high capacity loop UNE and it can challenge the provision of such UNEs "through the dispute resolution procedures provided for in its interconnection agreements."

Given the urgency of the circumstances, the Commission finds that it should immediately commence a collaborative process for implementation of Accessible Letters issued by SBC Michigan and Verizon. In so doing, the Commission observes that the change of law provisions contained in the parties' interconnection agreements must be followed.

To avoid confusion, the Commission finds that a new proceeding that is devoted specifically to its monitoring and facilitating of the implementation of the Accessible Letters issued by SBC and Verizon should be commenced. Docket items 6, 7, 8, 9, 10, 11, 12, and 13 that currently appear in Case No. U-12320 should be placed into the docket file for Case No. U-14447. All additional pleadings related to implementation of Accessible Letters issued by SBC and Verizon should also be placed solely in the docket for Case No. U-14447.

The Commission intends that the collaborative proceeding should be limited in scope and duration. The Commission has selected the Director of its Telecommunications Division, Orjiakor Isiogu, to oversee all collaborative efforts. The Commission also directs that the collaborative process be conducted in a manner that will bring it to a successful end in no more than 45 days.

During the time that the collaborative process is ongoing, the Commission directs that SBC and Verizon may bill the CLECs at the rate effective March 11, 2005, however, the ILECs may

not take any collection actions against the CLECs for the portion of the bill caused by the increase on March 11, 2005. To ensure that there will be no undue benefit to the CLECs or harm to the ILECs due to the delay associated with the collaborative process, the Commission will also direct that there will be a true-up proceeding at the end of the collaborative process that will determine how rates and charges will be adjusted retroactively to March 11, 2005.<sup>3</sup>

The Commission has selected Case No. U-14447 for participation in its Electronic Filings Program. The Commission recognizes that all filers may not have the computer equipment or access to the Internet necessary to submit documents electronically. Therefore, filers may submit documents in the traditional paper format and mail them to the: Executive Secretary, Michigan Public Service Commission, 6545 Mercantile Way, P.O. Box 30221, Lansing, Michigan 48909. Otherwise, all documents filed in this case must be submitted in both paper and electronic versions. An original and four paper copies and an electronic copy in the portable document format (PDF) should be filed with the Commission. Requirements and instructions for filing electronic documents can be found in the Electronic Filings Users Manual at: <http://efile.mpsc.cis.state.mi.us/efile/usersmanual.pdf>. The application for account and letter of assurance are located at <http://efile.mpsc.cis.state.mi.us/efile/help>. You may contact the Commission Staff at (517) 241-6170 or by e-mail at [mpscfilecases@michigan.gov](mailto:mpscfilecases@michigan.gov) with questions and to obtain access privileges prior to filing.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 USC 151

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<sup>3</sup>See, Paragraph 228 and footnote 630 of the FCC's February 4, 2005 order.

et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.

b. A collaborative process should be commenced in Case No. U-14447 for monitoring and facilitating the implementation of the Accessible Letters issued by SBC and Verizon.

c. Pending completion of the collaborative process, SBC and Verizon may bill the CLECs a the rate effective March 11, 2005, however, SBC and Verizon may not take any collection actions against the CLECs for the portion of the bill caused by the increase on March 11, 2005.

d. Following completion of the collaborative process, a true-up proceeding should be conducted to adjust rates and charges retroactively to March 11, 2005.

THEREFORE, IT IS ORDERED that:

A. A collaborative process is commenced in Case No. U-14447 for monitoring and facilitating the implementation of the Accessible Letters issued by SBC Michigan and Verizon.

B. Pending completion of the collaborative process and further order of the Commission, SBC Michigan and Verizon shall refraining from collecting any billed rate arising from implementation of any of the changes described in their Accessible Letters.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark

Chair

( S E A L )

/s/ Robert B. Nelson

Commissioner

/s/ Laura Chappelle

Commissioner

By its action of February 28, 2005.

/s/ Mary Jo Kunkle

Its Executive Secretary

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

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Chair

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Commissioner

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Commissioner

By its action of February 28, 2005.

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Its Executive Secretary