COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In Re:

Petition of Sprint Communications Company L.P. for Arbitration with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996	)	Case No. 2000-480

BELLSOUTH TELECOMMUNICATIONS, INC.'S RESPONSE TO SPRINT COMMUNICATIONS COMPANY, L.P.'S PETITION FOR ARBITRATION

Pursuant to 47 U.S.C. § 252(b)(3), BellSouth Telecommunications, Inc. ("BellSouth"), responds to the Petition for Arbitration ("Petition") filed by Sprint Communications Company, L.P. ("Sprint") and says:

INTRODUCTION

Sections 251 and 252 of the Telecommunications Act of 1996 ("1996 Act") encourage negotiations between parties to reach local interconnection agreements. Section 251(c)(1) of the 1996 Act requires incumbent local exchange companies to negotiate the particular terms and conditions of agreements to fulfill the duties described in Sections 251(b) and 251(c)(2)-(6).

Since passage of the 1996 Act on February 8, 1996, BellSouth has successfully conducted negotiations with numerous competitive local exchange companies ("CLECs") in Kentucky. To date, the Kentucky Public Service Commission ("Commission") has approved over 450 agreements between BellSouth and CLECs. The nature and extent of these agreements vary depending on the individual needs of the companies, but the conclusion is inescapable – BellSouth has a record of embracing

competition and displaying willingness to compromise and interconnect on fair and reasonable terms. To the extent Sprint alleges that it cannot compete in the local telecommunications market in Kentucky, such limitations are self-imposed by Sprint.

As part of the negotiation process, the 1996 Act allows a party to petition a state commission for arbitration of unresolved issues.[1] The petition must identify the issues resulting from the negotiations that are resolved, as well as those that are unresolved.[2] The petitioning party must submit along with its petition "all relevant documentation concerning: (1) the unresolved issues; (2) the position of each of the parties with respect to those issues; and (3) any other issues discussed and resolved by the parties."[3] A non-petitioning party to a negotiation under this section may respond to the other party's petition and provide such additional information as it wishes within 25 days after a commission receives the petition.[4] The 1996 Act limits a commission's consideration of any petition (and any response thereto) to the unresolved issues set forth in the petition and in the response.[5]

Previously, BellSouth and Sprint entered into a three-year Interconnection Agreement ("Agreement"). BellSouth and Sprint agreed to continue to operate pursuant to the terms of the Agreement until such time as a new interconnection agreement is approved. Although BellSouth and Sprint negotiated in good faith, the parties have been unable to reach agreement on some issues. As a result, Sprint filed its Petition.

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1 47 U.S.C. § 252(b)(2).

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

3 47 U.S.C. § 252(b)(2).

4 47 U.S.C. § 252(b)(3).

5 47 U.S.C. § 252(b)(4).

Through the arbitration process, a commission must resolve the unresolved issues ensuring that the requirements of Sections 251 and 252 of the 1996 Act are met. The obligations contained in those sections of the 1996 Act are the obligations that form the basis for negotiation, and if negotiations are unsuccessful, then form the basis for arbitration. Issues or topics not specifically related to these areas are outside the scope of an arbitration proceeding. Once a commission has provided guidance on the unresolved issues, the parties must incorporate those resolutions into a final agreement to be submitted to a commission for approval.[6]

BellSouth responds below to each of the separately numbered paragraphs of Sprint's Petition for Arbitration:

PARTIES

1. On information and belief, BellSouth admits the allegations set forth in Paragraph 1 of the Petition.

2. BellSouth admits the allegations in Paragraph 2 of the Petition.

JURISDICTION AND TIMELINESS

3. In response to Paragraph 3 of the Petition, BellSouth admits that the Commission has jurisdiction over this matter.

4. In response to Paragraph 4 of the Petition, BellSouth admits that Sprint and BellSouth agreed that interconnection negotiations began on May 18, 2000 and that the Petition is timely filed.

NEGOTIATIONS

[6] 47 U.S.C. § 252(a).

5. In response to Paragraph 5 of the Petition, BellSouth agrees that the Parties have held numerous negotiation sessions, either face-to-face or telephonically, and have conducted good-faith negotiations as required by the 1996 Act. BellSouth further agrees that, notwithstanding the good-faith negotiations, there are several issues that remain unresolved between the Parties that require Commission intervention.

6. In response to Paragraph 6 of the Petition, BellSouth admits that it is the keeper of the draft Agreement between the Parties. BellSouth further agrees that the draft Agreement contains language agreed to by the Parties, as well as language each party has proposed on issues to which the Parties could not agree. BellSouth has attached a copy of the draft Agreement as Attachment "A."

UNRESOLVED ISSUES FOR ARBITRATION

7-38. In those instances where the Parties have not agreed to language in the draft Agreement on any rate, term or condition, BellSouth respectfully requests that the Commission order language consistent with that proposed by BellSouth. To the extent any of the open issues identified in Exhibit "B" to the Petition are not ultimately resolved by the Parties, BellSouth reserves the right to set forth positions and file testimony on any such issue. In response to Paragraph 7 of the Petition, BellSouth admits that this section (¶¶ 7-38) sets forth Sprint's position on the unresolved issues. BellSouth denies that this section of the Petition sets forth BellSouth's position in a complete or accurate manner. In accordance with § 252(b)(3) of the 1996 Act, BellSouth sets forth below its position on each of the unresolved issues (¶¶ 7-38) identified by Sprint in the Petition:

ISSUE 1: Resolution of conflicts between Agreement and BellSouth tariff (Terms and Conditions - Section 19.7)

THIS ISSUE IS SETTLED.

ISSUE 2: Resale of stand-alone vertical features (Resale - Section 3.1.2)

Statement of the Issue: Should BellSouth make its Custom Calling features available for resale on a stand-alone basis?

BellSouth's Position: BellSouth is not obligated to offer to Sprint, or any other CLEC, Custom Calling Services on a stand-alone basis. BellSouth makes available for resale any telecommunications service that BellSouth offers on a retail basis to subscribers that are not telecommunications carriers. Notwithstanding, BellSouth is in the process of determining the technical feasibility of Sprint's request. If Sprint's request appears to be technically feasible, then Sprint should pay for any and all implementation costs associated with, or resulting from, BellSouth offering this service.

ISSUE 3: Cost-based Rates for Dedicated Trunking (Resale – Section 4.5.1.3.3; Attachment 2 – Section 15.4.3.3)

Statement of the Issue: Should Sprint be required to pay BellSouth access rates for dedicated trunking from each BellSouth end-office identified by Sprint to either the BellSouth Traffic Operator Position System (TOPS"), or the Sprint operator service provider?

BellSouth Position: Yes. Based on the FCC's UNE Remand Order, BellSouth is no longer required to unbundle OS/DA, thus the trunks associated with such services should be billed at the rate in BellSouth's access tariff. Because BellSouth is providing sufficient customized routing in accordance with State and Federal law, BellSouth is not required to provide Operator Services/Directory Assistance ("OS/DA") as a UNE.

ISSUE 4: UNE combinations (Attachment 2 - Sections 1.4, 13, 14)

Statement of the Issue: Pursuant to Federal Communications Commission ("FCC") Rule 51.315(b), should BellSouth be required to provide Sprint at forward-looking incremental rates combinations of UNEs that BellSouth typically combines for its own retail customers, whether or not the specific UNEs have already been combined for the specific end-user customer in question at the time Sprint places its order?

BellSouth's Position: No. On July 18, 2000, the United States Court of Appeals for the Eighth Circuit declined to reinstate 47 C.F.R. Sec. 51.315(c)-(f) that it had previously vacated. The Court found that subsections (c)-(f), which require the ILECs to do the work of combining network elements for the competitors, violate Section 251(c)(3) of the Act, which in turn requires ILECs to provide network elements "in a manner that allows the requesting carriers to combine such elements." Section 51-315(b), which the Supreme Court reinstated, only prohibits the ILECs from separating network elements that are already combined in the network.

ISSUE 5: Access to DSLAM, unbundled packet switching (Attachment 2 – Sections 4.2.6, 12)

THIS ISSUE IS SETTLED.

ISSUE 6: Enhanced Extended Links ("EELs") (Attachment 2 – Sections 13, 14)

Statement of the Issue: Should BellSouth be required to universally provide access to EELs that it ordinarily and typically combines in its network at UNE rates?

BellSouth's Position: No. Per FCC Rule 51.319, the EEL (a loop and dedicated transport UNE combination) is not a mandatory UNE and, therefore, BellSouth should not be required to provide it at

UNE rates. In addition, to provide the EEL BellSouth would have to combine the loop and dedicated transport for the CLEC, which BellSouth is not required to do. (See response to Issue 4)

ISSUE 7: Additional Charge for "Order Coordination – Time Specific" (Attachment 2 - Sections 2.2.11 and 2.2.14; Attachment 5 – Section 7.1.1.1)

Statement of the Issue: Should Sprint incur an additional charge for time-specific order coordination where no such charge has been specifically approved by the relevant state Commission?

BellSouth's Position: Yes. Sprint should be required to pay for any service that it receives regardless of whether the Commission has approved a rate for the service. Under Sprint's logic, BellSouth could equally argue that BellSouth should not be required to offer any service for which there is not a Commission-approved rate. Obviously, Sprint should pay an interim rate for the service (in this instance, time-specific order coordination), subject to true-up once the Commission sets a permanent cost-based rate for the service. BellSouth will work with Sprint to establish an agreed-upon interim rate.

ISSUE 8: Application of Access Rates to Cancellation Charges, Expedite Charges and Other Charges (Attachment 2 - Sections 2.2.11 and 4.2.6; Attachment 6 – Section 3.6)

THIS ISSUE IS SETTLED.

ISSUE 9: Point of Interconnection (Attachment 3 - Section 2.7 and 2.8.8.3)

Statement of the Issue: Should BellSouth be able to designate the network Point of Interconnection ("POI") for delivery of its local traffic?

BellSouth's Position: Yes. The FCC addresses this issue in its Local Competition Order, in Section IV. Further, the FCC determined that each originating carrier has the right to designate its POI on the

ILEC's network. Thus, if Sprint wants BellSouth to bring BellSouth's originating traffic to a point designated by Sprint, then Sprint should pay for those additional facilities.

ISSUE 10: Multi-jurisdictional traffic over any type trunk group (Attachment 3)

Statement of the Issue: Should the parties' Agreement contain language providing Sprint with the ability to transport multi-jurisdictional traffic over the same trunk groups, including access trunk groups?

BellSouth's Position: BellSouth understands Sprint's request to be, in lieu of establishing a reciprocal trunk group in some central offices, place all originating and/or terminating traffic, local or non-local, over direct end office switched access Feature Group D trunks. BellSouth is in the process of determining the technical feasibility of Sprint's request. If Sprint's request appears to be technically feasible, then Sprint should pay for any and all implementation costs associated with, or resulting from, BellSouth offering this service.

ISSUE 11: 00- Traffic Over Access Trunks (Attachment 3 – Section 2.9)

Statement of the Issue: Should Sprint local calls that are routed over existing or new access trunks using a zero-zero-minus ("00-") dialing pattern be priced and classified as local calls?

BellSouth's Position: No. Operator Service (00-) traffic is a standard, accepted and well understood dialing pattern that switches traffic to Sprint, the interexchange carrier ("IXC"), for its use in providing operator services. However, Sprint is now requesting that BellSouth allocate the billing for the 00-generated minutes between switched access and local, because Sprint apparently intends to use 00- for conventional long distance operator services, as well as for various "local" services through 00- access. Although not certain of all Sprint's plans for this service arrangement, BellSouth understands that Sprint is considering using this as a voice mail platform for both wireline and wireless customers.

Further, 00- access is offered only as a dialing arrangement under Feature Group D access. It allows a customer to reach the operator of the carrier to which the customer is pre-subscribed. It was not intended to be used in the manner that Sprint is suggesting. The prices for local interconnection that Sprint is requesting in its proposal are available only to those carriers who are a customer's local service provider or who provide a significant amount of local exchange service in addition to exchange access service. The public policy reason for this is to encourage local competition. Sprint is providing no local exchange service but wants the lower prices, as well as reciprocal compensation revenues, despite the fact that it is not performing the functions that the lower prices are meant to encourage. The benefits of reciprocal compensation should only be enjoyed by CLECs that are providing service to their local customers for completion of local calling originated by non-Sprint carriers. It should not be available as a funding source for Sprint to provide an alternative operator service platform to other CLECs and BellSouth's customers.

ISSUE 12: Two-way Trunks (Attachment 3 – Sections 2.8.6 and 2.8.8.2.1)

Statement of the Issue: Is BellSouth required under FCC Rule 51.305(f) to provide two-way trunks to Sprint and to use two-way trunks for BellSouth's originated traffic?

BellSouth's Position: BellSouth is only obligated to provide and use two-way local interconnection trunks where traffic volumes are too low to justify one-way trunks. In all other instances, BellSouth is able to use one-way trunks for its traffic if it so chooses. Nonetheless, BellSouth is not opposed to the use of two-way trunks where it makes sense, and the provisioning arrangements and location of the Point of Interconnection can be mutually agreed upon.

ISSUE 13: Definition of "Local Traffic" for purposes of Reciprocal Compensation, characterization of ISP traffic as switched access traffic (Attachment 3 - Sections 6.1.1, 6.1.1.1, 6.9, 7.7.8)

Statement of the Issue: Should Internet Service Provider ("ISP") -bound traffic be included in the definition of "local traffic" for purposes of reciprocal compensation under this Agreement?

BellSouth's Position: No. ISP-bound traffic is not local traffic eligible for reciprocal compensation, and should not be otherwise compensated. Based on the 1996 Act and the FCC's Local Competition Order, reciprocal compensation obligations under Section 251(b)(5) only apply to local traffic. ISP-bound traffic constitutes access service, which is clearly subject to interstate jurisdiction.

ISSUE 14: Tandem charges for comparable area (Attachment 3 - Section 6.1.2, 6.1.4 and 6.1.6)

Statement of the Issue: Where the switch of a carrier other than an incumbent LEC serves a geographic area comparable to the area served by the incumbent LEC's tandem switch, should the rate for such other carrier be the incumbent LEC' s tandem interconnection rate?

BellSouth's Position: In order for a CLEC to appropriately charge tandem rate elements, the CLEC must demonstrate to the Commission that: 1) its switch serves a comparable geographic area to that served by the ILEC's tandem switch; and 2) its switch performs local tandem functions. Clearly, the CLEC should only be compensated for the functions that it actually provides. Sprint has not demonstrated that it meets the required criteria.

ISSUE 15: Inclusion of IP telephony in definition of "Switched Access Traffic" (Attachment 3 - Sections 5.1.7, 5.7.1 and 5.8.1)

Statement of the Issue: Should voice-over-Internet ("IP telephony") traffic be included in the definition of "Switched Access Traffic", thus obligating Sprint to pay switched access charges for such calls?

BellSouth's Position: As with any other local traffic, reciprocal compensation should apply to local telecommunications provided via IP Telephony, to the extent that it is technically feasible to apply such

charges. To the extent, however, that calls provided via IP telephony are long distance calls, access charges should apply, irrespective of the technology used to transport them. It should be noted that Phone-to-Phone IP telephony should not be confused with Computer-to-Computer IP telephony, where computer users use the Internet to provide telecommunications to themselves. BellSouth is not purporting to address Computer IP telephony in this issue.

ISSUE 16: Provisioning intervals for physical collocation (Attachment 4 - Section 6.4)

Statement of the Issue: Should the parties' Interconnection Agreement include provisioning intervals proposed by Sprint for physical collocation?

BellSouth's Position: No. Upon a firm order by an applicant carrier, BellSouth will provision physical collocation as quickly as possible, but within 90 calendar days under ordinary circumstances and 130 calendar days under extraordinary conditions. As to virtual collocation, BellSouth will provision a firm order as quickly as possible, but within 50 calendar days under ordinary circumstances and 75 calendar days under extraordinary conditions.

ISSUE 17: Construction and provisioning interval (building permits) (Attachment 4 - Section 6.4)

Statement of the Issue: Is it appropriate for BellSouth to exclude from its physical caged collocation interval the time interval required to secure the necessary building licenses and permits?

BellSouth's Position: Yes. Collocation intervals should exclude the time spent obtaining needed building permits or licenses because BellSouth has no control over the amount of time it takes a third party municipality to complete the permitting and licensing process.

ISSUE 18: Collocation Response and Notification Intervals; Business Days versus Calendar Days (Attachment 4 – Sections 2.1, 2.6, 6.2 and 6.3)

THIS ISSUE IS SETTLED

ISSUE 19: Space Reservation (Attachment 4 – Section 1.2.2)

Statement of the Issue: Should the Space Reservation Section in the Collocation Attachment contain the following provisions: (1) BellSouth and Sprint may reserve floor space for their own specific uses for the remainder of the current year, plus twelve months; (2) Upon denial of a Sprint request for physical collocation, BellSouth shall provide justification for the reserved space to Sprint based on a demand and facility forecast which includes, but is not limited to, three to five years of historical data and forecasted growth, in twelve month increments, by functional type of equipment (e.g., switching, transmission, power, etc.); (3) BellSouth shall disclose to Sprint the space it reserves for its own future growth and for its interLATA, advanced services, and other affiliates upon request and in conjunction with a denial of Sprint's request for physical collocation, subject to appropriate proprietary protections; and (4) In order to increase the amount of space available for collocation, BellSouth will remove obsolete unused equipment, at its cost, from the Premises to meet a request for collocation from Sprint?

BellSouth's Position: BellSouth proposes the same standards to Sprint as it applies to itself regarding the reservation of space. BellSouth requests that the Commission require the following provisions regarding space reservation in the Parties' Interconnection Agreement under Attachment 4: BellSouth and Sprint may reserve floor space for their own specific uses for a two year period.

Upon denial of a Sprint request for physical collocation, BellSouth shall provide to the Commission justification for the reserved space based on what is currently required by and provided to the Commission. Consistent with FCC Rule 51.323(f)(5), BellSouth shall relinquish any space held for future use prior to denying a Sprint request for virtual collocation unless BellSouth proves to the Commission that virtual collocation at that point is not technically feasible.

BellSouth shall remove obsolete unused equipment from the premises prior to denying space at that Premises. BellSouth will not charge for removal of obsolete and unused equipment requested by Sprint if such removal is part of the space preparation and Sprint is paying standardized space preparation charges.

ISSUE 20: Time frame to provide reports regarding space availability (Attachment 4 - Section 2.2.2)

THIS ISSUE IS SETTLED

ISSUE 21: Denial of Application – BellSouth's Provision of Full-Sized, Detailed Engineering Floor Plans and Engineering Forecasts (Attachment 4 – Section 2.3)

Statement of the Issue: Upon denial of Sprints application for physical collocation in a particular central office, and prior to the walk-through, should BellSouth provide Sprint with full-sized, detailed engineering floor plans and engineering forecasts of the central office in question?

BellSouth's Position: BellSouth will provide to Sprint, floor plan drawings consistent with the size provided to the Commission for determination of the reasonableness of BellSouth's denial of a physical collocation request. Adding any further specificity in an interconnection agreement with regard to the details of what will be furnished would unnecessarily add to the administrative complexity of the process.

ISSUE 22: Priority of Space Assignment for "Space Exhausted" Central Offices (Attachment 4 - Section 2.7)

Statement of the Issue: Should Sprint be given space priority over other CLECs in the event that Sprint successfully challenges BellSouth's denial of space availability in a given central office, and the other CLECs who have been denied space do not challenge?

BellSouth's Position: No. The application of the "first-come, first-served" rule, as required by the FCC, provides the most rational treatment of all collocation space applicants. Further, basing priority on a successful challenge would circumvent the "first-come first-served" rule, be completely unmanageable, and will only cause CLECs to file complaints in order to preserve their priority on the waiting list, rather than for the pursuit of a legitimate dispute.

ISSUE 23: Demarcation point (Attachment 4 - Section 5.4)

Statement of the Issue: Should Sprint have the ability to designate the point of demarcation, in or adjacent to its collocation space, between Sprint's collocated equipment and BellSouth's equipment?

BellSouth's Position: No. Sprint confuses the point of demarcation with the POI. While the 1996 Act allows the originating carrier to interconnect (*i.e.*, choose the POI) at any technically feasible point, when a CLEC chooses collocation as the method of interconnecting, FCC Rule 51.323 dictates where the POI will occur. The point of demarcation is not the same as the POI. There is nothing in the 1996 Act or the FCC Rules that allows the CLEC to choose the point of demarcation on the ILEC's network. Consistent with the DC Circuit's recent collocation decision which clarified that the ILEC can designate where collocation occurs in its premises, BellSouth has the right to determine the demarcation point where the CLEC's collocated equipment will terminate. The appropriate point of demarcation between Sprint's network and BellSouth's network is the designated BellSouth conventional distributing frame.

ISSUE 24: Additions and augmentations (Attachment 4 - Section 6.4.1)

Statement of the Issue: In instances where Sprint desires to add additional collocation equipment that would require BellSouth to complete additional space preparation work, should BellSouth be willing to commit to specific completion intervals for specific types of additions and augmentations to the collocation space?

BellSouth's Position: No. BellSouth will have different implementation intervals depending on the type of addition or augmentation, so each one needs to be reviewed individually. Thus, each addition or augmentation should be treated in the same manner as a new application. (See Issue 16 for BellSouth's proposed provisioning intervals for physical and virtual collocation arrangements) Ultimately, the amount of work and associated time to complete the work depends on the requested change and the central office. The same augmentation work can be done in different central offices and require different infrastructure, building and power jobs to meet the needs of the request.

ISSUE 25: Transition from Virtual Collocation to Physical Collocation (Attachment 4 - Section 6.9)

Statement of the Issue: Are there situations where Sprint should be permitted to convert in place when transitioning from a virtual collocation arrangement to a cageless physical collocation arrangement?

BellSouth's Position: BellSouth will authorize the conversion of virtual collocation arrangements to physical collocation arrangements without requiring the relocation of the virtual arrangement where there are no extenuating circumstances or technical reasons that would cause the arrangement to become a safety hazard within the premises or otherwise being in conformance with the terms and conditions of the collocation agreement and where (1) there is no change to the arrangement; (2) the conversion of the virtual arrangement would not cause the arrangement to be located in the area of the premises reserved for BellSouth's forecast of future growth; and (3) due to the location of the virtual collocation

arrangement, the conversion of said arrangement to a physical arrangement would not impact BellSouth's ability to secure its own facilities.

ISSUE 26: Payment in Advance for Make-Ready Work Performed by BellSouth (Attachment 8 - Sections 6.2 and 9.5)

Statement of the Issue: Should Sprint be required to pay the entire cost of make-ready work prior to BellSouth's satisfactory completion of the work?

BellSouth's Position: Sprint should be obligated to pay for pre-license surveys and make-ready work in advance, as such payments are commercially reasonable and will ensure that all CLECs are treated in a nondiscriminatory manner with respect to such work.

ISSUE 27: Benchmark Based on BellSouth Affiliate Performance (Attachment 9 - Section 3.3.1)

Statement of the Issue: Should the Agreement contain a provision stating that if BellSouth has provided its affiliate preferential treatment for products or services as compared to the provision of those same products or services to Sprint, then the applicable standard (i.e., benchmark or parity) will be replaced for that month with the level of service provided to the BellSouth affiliate?

BellSouth's Position: No. In the context of performance measurements, the only current BellSouth affiliate that could potentially be relevant to the discussion is BellSouth's affiliated CLEC entity, ("BSE-CLEC") for that is the only affiliate that could provide local exchange services. In Kentucky, however, BSE-CLEC does not offer CLEC services.

Notwithstanding the above, Sprint seems to propose, inappropriately, that BellSouth's performance to BSE-CLEC, if better than BellSouth's performance to its retail customers, serve as the floor from which discrimination should be measured. Moreover, under Sprint's proposal, during some months the analog would be BellSouth's performance to its retail units, and some months it would be its

performance to BSE-CLEC. To make BellSouth's monthly standard a moving target is absurd and defeats the purpose of having self-effectuating, easily implemented performance standards in the first place. Further, at this point in time BSE-CLEC has no Kentucky data from which to develop an analog. Thus, Sprint's proposal, besides being inappropriate and inapplicable, is impossible to implement. The FCC, moreover, has determined that performance comparisons should be made to the service BellSouth provides its retail customers.

With respect to services measured by benchmarks instead of retail analogs, Sprint's proposal is irrelevant. With benchmarks, the only relevant test is whether the predetermined benchmark is met. The benchmark does not change from month to month. Regardless of performance to an affiliate, performance is measured based on this constant benchmark.

ISSUE 28: Disaggregation of Measurement Data (Attachment 9 - Section 5.9)

Statement of the Issue: Should BellSouth geographically disaggregate its measurement data consistent with the geographic units that BellSouth currently utilizes when producing external or internal performance related reports in Kentucky, and, if BellSouth has not established geographical units in Kentucky smaller than statewide reporting, should Metropolitan Statistical Area ("MSA") level reporting be the default level of geographic disaggregation?

BellSouth's Position: In accordance with the nondiscrimination requirements of the 1996 Act, BellSouth produces Performance Measurements that permit regulatory bodies to monitor non-discriminatory access. It was not the intent of the Act or the FCC to have measurements for each and every process or sub-process, for each and every product, at the lowest geographic level, each month. At a minimum, the number of measurements to be reported would triple if reporting were done at the MSA level. In

considering geographic disaggregation below the state level, the Commission must consider if even more results will clarify, or further confuse, the Commission's ability to detect non-discriminatory access.

ISSUE 29: Audits (Attachment 9 - Section 6)

Statement of the Issue: Should the Agreement include BellSouth's performance measurements audit proposal that provides for one annual, aggregate level audit, as reflected in Appendix C of BellSouth's current Service Quality Measurement ("SQM") document?

BellSouth's Position: BellSouth's Service Quality Measurements, Appendix C, sets forth BellSouth's position on auditing performance measurements. This position provides the Commission with sufficient auditing capability to conclude that BellSouth is meeting its obligations under the Act. Under Sprint's proposal, given the number of CLECs with whom BellSouth has interconnection agreements, BellSouth would potentially have to conduct hundreds of audits each year, at significant cost. BellSouth's proposal balances the need to provide CLECs with the ability to audit performance data with the need to keep the process manageable, efficient, and cost-effective.

ISSUE 30: Effective Date of BellSouth's VSEEM III Remedies Proposal (Attachment 9 – Sections 1 and 7)

Statement of the Issue: Should the availability of BellSouth's VSEEM III remedies proposal to Sprint and the effective date of VSEEM III be tied to the date that BellSouth receives interLATA authority for the jurisdiction in question?

BellSouth's Position: Yes. The FCC has identified the implementation of enforcement mechanisms to be a condition of 271 relief. The FCC reviews performance and remedy plans as a part of its Public Interest Analysis. These plans are an additional incentive to ensure that BellSouth continues to comply with the competitive checklist after interLATA relief is granted. Enforcement mechanisms and remedies,

however, are neither necessary nor required to ensure that BellSouth meets its obligations under Section 251 of the Act and the FCC has never indicated otherwise. Thus, it is appropriate that the VSEEM III proposal not take effect until it is necessary to serve its purpose – i.e., until after BellSouth receives interLATA authority.

ISSUE 31: Application of Statistical Methodology to Service Quality Measurements ("SQM") Document (Attachment 9 - Section 5.1; Exhibits B and C)

Statement of the Issue: Should BellSouth be allowed to omit the statistical methodology in Exhibits B and C from its SQM performance measures provided to Sprint?

BellSouth's Position: Statistical methodology is not used on, or a part of BellSouth's Service Quality Measurements ("SQM"). Sprint is trying to merge the contents of two different plans. The statistical methodology being requested by Sprint is part and parcel of BellSouth's VSEEM III remedies plan. Sprint, therefore, is not entitled to the information that it is requesting.

CONTRACT PROVISIONS CURRENTLY UNDER NEGOTIATIONS

39. In response to Paragraph 39 of the Petition, BellSouth agrees with the procedure set forth by Sprint for the resolution of the issues identified in Exhibit "B" to the Petition, to the extent said issues are not resolved by the Parties. Thus, BellSouth also reserves the right to set forth a position and file testimony on any issue in Exhibit "B" to the Petition not ultimately resolved by the Parties.

ISSUES DISCUSSED AND RESOLVED BY THE PARTIES

40. In response to Paragraph 40 of the Petition, BellSouth agrees with the procedure set forth by Sprint for the resolution of any misunderstanding as to whether an issue was actually agreed to by the Parties. Thus, BellSouth reserves the right to set forth a position and file testimony on any issue

where it is subsequently discovered that the Parties are not in agreement on an issue that both parties previously believed they were in agreement.

CONCLUSION

41. To the extent necessary, BellSouth denies the allegations in Paragraph 41 of the Petition. BellSouth respectfully requests that the Commission enter an order in favor of BellSouth on each of the issues set forth herein, and grant BellSouth such other relief as the Commission deems just and proper.

42. Any allegation in the Petition not specifically admitted herein is expressly denied.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

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