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December 27, 2001

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

RE: *Petition for Arbitration of the Interconnection Agreement Between AT&T Communications of the South Central States, Inc., TCG MidSouth, Inc. and BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996*

Docket No. 00-00079

Dear Mr. Waddell:

Enclosed for filing are the original and thirteen copies of the Memorandum of AT&T Communications of the South Central States, Inc. in Opposition to BellSouth Telecommunication, Inc.'s Motion for Reconsideration and Clarification.

Copies are being served on all parties of record.

Very truly yours,

Jack W. Robinson, Jr.

JWRjr/ghc

cc: Guy Hicks, Esq.
R. Douglas Lackey, Esq.

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BEFORE THE
TENNESSEE REGULATORY AUTHORITY

IN RE:	)	
Petition for Arbitration of the	)	
Interconnection Agreement Between	)	
AT&T Communications of the South	)	**Docket No. 00-00079**
Central States, Inc., TCG MidSouth, Inc.,	)	
and BellSouth Telecommunications, Inc.	)	
Pursuant to the 47 U.S.C. § 252	)	
	)	

AT&T'S MEMORANDUM IN OPPOSITION TO BELLSOUTH TELECOMMUNICATION, INC.'S MOTION FOR RECONSIDERATION AND CLARIFICATION

On November 29, 2001, the Tennessee Regulatory Authority ("TRA"or "Authority") issued its Final Order of Arbitration Award ("Final Order") in the above referenced proceeding. On December 14, 2001, BellSouth Telecommunications, Inc. ("BellSouth") filed a Motion for Reconsideration and Clarification of the Final Order. BellSouth's Motion is remarkable for what it does not contain. BellSouth does not allege there are new facts that were unavailable at the time of the hearing or that there is new legal authority to support its position. Nor does BellSouth assert any new arguments that have not already been considered by the Authority. The essence of the Motion is that BellSouth is unhappy with the TRA's decision and that BellSouth wants the TRA to try again. Based on the lack of substance in the BellSouth Motion, AT&T Communications of the South Central States, LLC[1] and TCG MidSouth, Inc. (collectively "AT&T")

[1] Formerly AT&T Communications of the South Central States, Inc.

hereby respectfully request that the TRA deny BellSouth's request for reconsideration and clarification.

ARGUMENT

Issue 2: What does "currently combines" mean as that phrase is used in 47 C.F.R. § 51.315(b)?

Issue 3: Should BellSouth be permitted to charge AT&T a "glue charge" when BellSouth combines network elements?

BellSouth states that the "Authority is simply wrong" in obligating BellSouth to combine Unbundled Network Elements ("UNEs") at TELRIC prices based on the present law.[2] However, BellSouth raises no new facts or makes no new legal argument. Indeed, it candidly states that it is relying on the arguments made in its post-hearing brief:

> BellSouth detailed in its post-hearing brief the current law as it addresses these issues and incorporates those remarks by reference. To expand on those remarks. . .

Moreover, the only legal authority quoted in BellSouth's Motion is a lengthy quote that also appeared in its post-hearing brief and which the TRA took into consideration before writing its final decision. There is absolutely nothing new that BellSouth is asking the TRA to consider that it has not already considered.

Consistent with the intent of the FCC's rules and orders as well as the TRA's previous holding on this issue in the Permanent Prices Proceedings,[3] the TRA correctly defined "currently combines" as "all combinations that BellSouth currently provides to

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[2] BellSouth Telecommunications, Inc.'s Motion For Reconsideration And Clarification, *In Re: Petition For Arbitration of the Interconnection Agreement Between AT&T Communications of the South Central States, Inc., TCG MidSouth, Inc., and BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. §*252, p. 3. Docket No. 00-00079, December 14, 2001, ("BellSouth's Motion").

[3] *In re: Petition of BellSouth Telecommunications, Inc. to Convene a Contested Case to Establish "Permanent Prices" for Interconnection and Unbundled Network Elements,* Docket No. 97-01262, *Second Interim Order Re: Revised Cost Studies and Geographic Deaveraging.* ("Permanent Prices Proceeding").

itself anywhere in its network."[4] The TRA's Final Order points out that "the only FCC interpretation of 'currently combines' remains the one contained in the *First Report and* Order.'"[5] The BellSouth Motion does not challenge this conclusion.

Additionally, and consistent with previous orders, the TRA correctly held that "BellSouth shall not include a 'glue charge' when providing UNE combinations" since BellSouth can charge the '"sum of the [UNE] prices after adjustments for nonrecurring costs to reflect efficiencies.'"[6] Prohibiting glue charges will require BellSouth to properly charge in accordance with TELRIC pricing standards created by the FCC and the TRA.

BellSouth has done nothing more than reassert its original position and only offers the same arguments that it put forth in its post-hearing brief. The TRA has considered and dismissed all of BellSouth's arguments in its Final Order. Consequently, BellSouth has not established an adequate basis for the Authority to reconsider its prior decision on these issues. Inasmuch as BellSouth has failed to bring forth any new facts, laws or legal arguments compared to those previously argued in its post-hearing brief, the TRA should deny BellSouth's Motion on these issues.

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[4] Final Order of Arbitration Award, *In Re: Petition For Arbitration of the Interconnection Agreement Between AT&T Communications of the South Central States, Inc., TCG MidSouth, Inc., and BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. §*252, p. 12. Docket No. 00-00079. ("Final Order").

[5] Final Order, p. 12.

[6] Final Order at p. 12 (quoting the Permanent Prices Proceeding Order).

Issue 14: Has BellSouth provided sufficient customized routing in accordance with State and Federal law to allow it to avoid providing Operator Services/Directory Assistance ("OS/DA) as a UNE?

The TRA's Final Order concludes that the evidence submitted did not demonstrate the customized routing solutions offered by BellSouth had been sufficiently tested to warrant BellSouth being excused from its obligation to provide OS/DA as a UNE. "BellSouth should be required to continue offering OS/DA as a UNE until it can demonstrate that it has implemented a sufficient customized routing solution *in Tennessee*."[7] BellSouth declares that "customized routing is available" and that the TRA's decision to require BellSouth to continue offering OS/DA as a UNE is "contrary to the law."[8] Again, the BellSouth Motion does not bring forth any new arguments that were not already made in its post-hearing brief.[9]

BellSouth has not established that it is providing sufficient customized routing in Tennessee. The Motion takes issue with the statement in the Final Order that "BellSouth admits that, to date, the only customized routing solution that exists in the entire BellSouth region is a test deployment in Georgia."[10] The Motion argues that BellSouth's testimony did not constitute an "admission" but rather was intended to show that no other CLEC had requested customized routing. The Motion states that the "CLECs' failure to

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[7] Final Order at p. 27 (emphasis added).

[8] BellSouth Motion at pp. 6-7.

[9] There is a one sentence reference to the Florida PSC Order of June 28, 2001, BellSouth Motion, p. 6.

[10] BellSouth Motion, p. 5; Final Order, p. 27

request customized routing cannot be construed as a failure of BellSouth's."[11] BellSouth misses the point.

The TRA's Final Order does not conclude that BellSouth's systems failed to work, rather it merely concluded: 1) that the only customized routing solution that exists is a test deployment in Georgia (a fact that BellSouth does not contest); and 2) that the systems had not been adequately tested (a matter that the Motion fails to address). BellSouth does not attempt to provide new facts that would support the adequacy of the Georgia tests or otherwise argue that the record establishes that the tests were sufficient.[12] The absence of such a showing is a fatal flaw in BellSouth's request for reconsideration on this issue. As a result, BellSouth should be required to continue offering OS/DA as a UNE.

The TRA points out in its Final Order that BellSouth will have the opportunity to demonstrate whether it is providing sufficient customized routing in Tennessee in Docket No. 01-00526, *In re: Generic Docket to Establish Generally Available Terms and Conditions for Interconnection*.[13] In that proceeding, BellSouth will be able to offer proof of its systems' capabilities related to all CLECs. BellSouth has put forth no new point of fact or law that the TRA has not already considered in reaching its final decision. Therefore, BellSouth's request for reconsideration on this issue should be denied.

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[11] BellSouth Motion, p.5.

[12] In fact, the "test deployment" in Georgia to which BellSouth refers has never actually been implemented.

[13] Final Order, p. 27.

Issue 15: What procedure should be established for AT&T to obtain Loop-Port Combinations (UNE-P) using both infrastructure and customer specific provisioning?

As set out in the Final Order, this issue "centers on whether Bellsouth has an obligation to provide situational customized OS/DA routing for AT&T customers served via UNE-P." BellSouth disagrees with the TRA's decision arguing first, that to allow AT&T to use single number indicators for multiple routing codes goes beyond that which BellSouth provides to itself and, thus, violates the principles of parity, and second, that although a customized routing system could be created by BellSouth, it would take a lot of work on its part to do so. Again, these are the exact same arguments that appear in BellSouth's post-hearing brief with nothing new to offer.

The TRA has adequately and clearly addressed both points raised by BellSouth's Motion in the Final Order. With respect to the parity argument, BellSouth claims that it has a single routing plan for OS/DA for its customers and that it should be required to do no more for the CLECs. The Authority, however, found that CLECs are entitled to selectively route individual customers to different OS/DA platforms, citing the FCC's *Louisiana II* decision as the supporting legal authority:[14]

> If, however, a competitive LEC has more than one set of routing instructions for its customers, it seems reasonable and necessary for BellSouth to require the competitive LEC to include in its order an indicator that will inform BellSouth which selective routing pattern to use.[15]

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[14] Final Order, p. 30.

[15] *In re: Application of BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. for Provision of In-Region, Interlata Services in Louisiana*, FCC 98-121, 13 FCC Rcd. 20,599, para. 224, (Oct. 13, 1998) (Memorandum Opinion and Order) (footnote omitted) (hereinafter "*Louisiana II Order*").

The BellSouth Motion does not claim that it lacks the capability to provide customized routing as requested by AT&T, only that it has chosen not to provide it to its customers. BellSouth's business decision not to provide customized routing to its customers, however, does not relieve it of its obligation to provide it to other CLECs that require that capability. The Final Order was correct where it stated, "[w]hat BellSouth chooses to do for its own OS/DA routing is not relevant. Rather, **the standard is whether BellSouth is capable of accepting a single code region-wide.**"[16] (Emphasis added).

The BellSouth Motion also complains that the creation of the routing tables in its central offices would take some unspecified amount of work to complete. BellSouth does not attempt to argue that it would be unduly burdensome provide the requested customized routing services. Indeed at page 11 of its Motion, BellSouth describes exactly how it could be accomplished. The Motion raises no new arguments, offers no new evidence or indicates no record evidence that was overlooked by the TRA in its Final Order regarding this issue. Consequently, there is no need to clarify or otherwise reconsider the final decision on issue No. 15.

Issue 18: **What Should be the resolution of the following OSS issues currently pending in the change control process but not yet provided: a) Parsed customer service records for pre-ordering; b) Ability to submit orders electronically for all services and elements; and c) Electronic processing after electronic ordering, without subsequent manual processing by BellSouth personnel?**

This issue is the one that concerns the matter of parity. BellSouth seeks clarification and reconsideration by attempting to confuse the ***pre-ordering*** process with the ***ordering*** process. BellSouth does submit its own orders, including complex orders

[16] Final Order, p. 31.

electronically. Bell witness Pate testified at the hearing that virtually all of BellSouth's retail products and services were ordered by Bellsouth using either the RNS or ROS sales and marketing systems and electronically sent to SOCS. AT&T seeks nothing more than what BellSouth provides for its own customers. That is what the TRA's Final Order requires and, therefore, BellSouth's Motion on this issue should be denied.

AT&T's position can be explained very simply by reference to Mr. Pate's Exhibit RMP-26. That Exhibit shows BellSouth's retail ordering process for MultiServ, a complex business service. Although the Exhibit depicts a number of manual ***pre-ordering*** processes, the ultimate ordering process itself is electronic: the BellSouth service representative sits at a terminal and types the order into ROS (BellSouth's ordering system), which edits and formats the service representative's inputs into an electronic message. That message flows through to SOCS, BellSouth's Service Order Control System, where it is subjected to final editing and, if accepted, becomes a valid order. Mr. Pate admitted that BellSouth service representatives can order each and every retail service offered by BellSouth in exactly this fashion: They enter the order into the appropriate ordering system, and the order flows through to SOCS (Tr. Vol. IIB, pp. 146-148). As shown on Exhibit RMP-27, AT&T service representatives cannot – because BellSouth has not provided AT&T with equivalent functionality.

AT&T seeks nothing more – and nothing less – than the equivalent ability to electronically order all services and elements, as can BellSouth representatives, and to have those flow through to SOCS, as do the orders placed by BellSouth representatives. BellSouth already offers this functionality to CLECs for some services, most notably for business and residential POTS resale (Tr. Vol. IIB, p. 144). In order to meet the

requirements of the Act, however, BellSouth must provide this functionality for ordering and processing all services and elements.

BellSouth argues, "non-discriminatory access does not require that all LSRs be submitted electronically. Many of BellSouth's retail services, primarily complex services, involve substantial manual handling by BellSouth account teams for BellSouth's own retail customers." (Pate Rebuttal, p. 39; BellSouth Motion, p. 14) This argument, however, intentionally confuses the ***pre-ordering*** process with the ***ordering*** process. Mr. Pate's own Exhibit RMP-26 very clearly shows that the "manual handling" to which he refers consists of ***pre-ordering*** processes, while he admitted that BellSouth service representatives ***order*** all services electronically. (Tr. Vol. IIB, pp. 146-149).

BellSouth also addressed electronic processing of orders, stating "BellSouth is providing non-discriminatory access for CLECs to its OSS functions. Non-discriminatory access does not require that all LSRs be submitted electronically and flow through BellSouth's systems without manual intervention." (Pate Direct, p. 79-80) BellSouth is wrong on the first count, and therefore his conclusion is also incorrect. Non-discriminatory access does, indeed, require BellSouth to provide CLECs with the ability to submit their orders and flow them through BellSouth's systems electronically, simply because all of BellSouth's orders are treated in this fashion and the principles of parity require that result. The BellSouth Motion has identified no rule, order, or provision of the Act that suggests anything less.

Issue 19: Should BellSouth provide AT&T with the ability to access, via EBI/ECTA, the full functionality available to BellSouth from TAFI and WFA?

Again, there is nothing new in the Motion upon which BellSouth seeks reconsideration – simply a regurgitation of the arguments set out in its brief. The FCC has determined that the two interfaces BellSouth currently offers for access to maintenance and repair functions (TAFI and ECTA) fail to provide non-discriminatory access as required by the Act.[17] The FCC found that neither of these two choices provides competitors with OSS functionalities equivalent to BellSouth's own capabilities. The Authority came to a similar conclusion in this proceeding:

> In this case, BellSouth enjoys functionality in its repair and maintenance OSS that it does not offer CLECs. Thus, BellSouth does not provide nondiscriminatory access to the full functionality of its maintenance and repair OSS. The barrier which prevents BellSouth's OSS from providing nondiscriminatory access is the lack of integratability of the TAFI interface. Thus, despite the FCC's more lenient standard, the only solution in this case to ensure nondiscriminatory access is for BellSouth to provide an integratable interface that incorporates the functionality of TAFI. (Final Order, p. 42)

The Authority has heard all of BellSouth's arguments and found them lacking. BellSouth has had since October of 1998 to respond to the FCC's similar finding in the *Louisiana II Order*. The fact that BellSouth has chosen not to respond does not relieve it of its obligation to provide non-discriminatory access. The false concerns of cost, time and industry standards could not be made if BellSouth simply would have began development to integrate these systems when AT&T first identified this deficiency in April 1996 or after the FCC's *Louisiana II Order*.

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[17] *Louisiana II Order*, para. 148.

Requiring BellSouth to provide full TAFI functionality via the ECTA interface does not violate "industry standards". Industry standards are guidelines. The TRA's Final Order requiring functionality over and above the guideline does not violate those guidelines, it enhances them. In fact, such a requirement is one of the key methods by which guidelines are expanded and improved. (Bradbury Rebuttal, p. 73) Further, it is important to note that deploying an interface that merely adheres to industry standards is not sufficient to demonstrate non-discriminatory access. BellSouth must provide non-discriminatory access to its OSS functions irrespective of the existence of, or whether it complies with, industry standards.

For the foregoing reasons, AT&T and TCG request that the TRA deny BellSouth's Motion for Reconsideration and Clarification of the Final Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Memorandum of AT&T Communications of the South Central States, Inc. in Oppoosition to BellSouth Telecommunications, Inc.'s Motion for Reconsideration was served by Facsimile, hand delivery and/or U.S. mail on the following known parties of record this 27th day of December, 2001:

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