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March 27, 2002

VIA HAND DELIVERY

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

Re: *Petition of Cinergy Communications Company for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. pursuant to the Telecommunications Act of 1996*
Docket No. 01-00987

Dear Mr. Waddell:

Enclosed please find the original and thirteen copies of parties' Joint Issues Matrix. All other issues have been resolved by agreement. Henry Walker, local counsel for Cinergy, has authorized me to submit this Matrix on Cinergy's behalf.

Very truly yours,

Guy M. Hicks

GMH:ch

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BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: ***Petition for Interconnection by Cinergy Communications Company. Against BellSouth Telecommunications, Inc.***

Docket No. 01-00987

ISSUES MATRIX

ISSUE	CINERGY POSITION	BELLSOUTH POSITION
	ATTACHMENT 2	
Issue 10: Should BellSouth be required to provide Cinergy Communications nondiscriminatory access to unbundled packet switching in areas where BellSouth has deployed remote terminals in its network?	This issue is incorporated in Issue 11.	No. The TRA has ruled recently in addressing these same issues (Issues 10 and 11) that BellSouth is not required to offer unbundled packet switching as a UNE except when the limited circumstances identified in FCC Rule 51.319 exist. *See* Interim Order of Arbitration Award, BellSouth-Intermedia Arbitration, Docket No. 99-00948 (June 25, 2001), at 33-36. The UNE Remand Order does not require BellSouth to provide access to unbundled packet switching in situations where BellSouth has placed a DSLAM in a remote terminal. The fact is that where BellSouth has deployed digital loop carrier and placed a DSLAM in its remote terminal in order to provide xDSL service, it will allow a requesting CLEC to collocate a DSLAM at the remote terminal so that it may provide xDSL service as well. See Response to Issue No. 11 below.
Issue 11: Should BellSouth be required to offer unbundled packet switching as a UNE?	Yes. Under the FCC's rules, the Authority may order BellSouth to offer unbundled packet switching as a UNE if CLECs	No. The FCC declined to require ILECs to offer unbundled packet switching as a UNE, except in limited circumstances. FCC Rule

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	demonstrate that lack of access to BellSouth's packet switching "impairs their ability to provide the services they seek to offer." The testimony will demonstrate that Cinergy has met the FCC's "impairment" analysis. Cinergy Communications' business plan calls for the deployment of facilities to provide local dial tone with advanced calling features combined with high speed data services. At this time, however, without access to BellSouth's packet switching at a single meet point in each LATA, there is no cost effective means of offering the services Cinergy Communications seeks to offer to a mass market of small business and residential customers in a timely and ubiquitous fashion.	51.319(c)(5) requires ILECs to provide packet switching as a UNE only if the following four conditions are met: (i) the ILEC has deployed digital loop carrier systems or any other system in which fiber facilities replace copper in the distribution section of the network; (ii) there are no spare copper loops capable of supporting xDSL services the requesting carrier seeks to offer; (iii) the ILEC has not permitted a requesting carrier to collocate a DSLAM in the remote terminal; and (iv) the ILEC has deployed packet switching capability for its own use. Those requirements are not satisfied in this case, and Cinergy does not contend otherwise. In order for the TRA to impose a requirement for a new UNE, which is what Cinergy is requesting, Cinergy must, according to FCC Rules, prove that it is impaired in its ability to provide service to end-users. It is not. Cinergy has a variety of options available for it to provide xDSL service to its customers, including the ability to collocate DSLAMs in BellSouth central offices and remote terminals and to use UNE loops and transport to connect the DSLAM to the customer and to its switch, respectively.
Issue 12: Should BellSouth be required to offer Line Splitting – access to the High Frequency Portion of the Loop (HFPL) – when Cinergy	Yes. As Cinergy understands the term, line splitting refers to a situation in which a CLEC is providing voice service and another carrier is providing xDSL or some	No. The issue of line splitting arises where a CLEC providing voice service over a UNE-P arrangement wants to permit another CLEC to utilize the high frequency portion of the loop

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Communications purchases UNE-P loops from BellSouth to provide local service.	other high speed service over the same loop. BellSouth is the dominant provider of xDSL service in Tennessee. In many parts of Tennessee, no other carrier is capable of providing that service. But BellSouth refuses to provide xDSL service over the high frequency portion of a customer's line if the customer switches his voice service (the low frequency portion of the line) to a UNE-P carrier. This practice is discriminatory and anti-competitive because it allows BellSouth to use its dominance in the xDSL market to re-monopolize the voice market.	to provide data service. BellSouth offers all of the necessary elements, including a splitter, to enable Cinergy to line split with another CLEC over a UNE loop. However, UNE-P represents the direct connection of a loop and a port such that a CLEC can provide voice service to an end-user customer without collocating facilities in a central office or purchasing additional UNEs. Therefore, to allow line splitting, the loop and the port must be disconnected so that the loop can be terminated to a collocated splitter owned and maintained by one of the CLECs serving the customer. When a splitter is inserted, the UNE-P no longer exists. The line splitting arrangement requires more central office cabling and cross connections than does the UNE-P arrangement. The FCC has expressly recognized that UNE-P cannot be provisioned in a line splitting arrangement. It stated in its Texas 271 Order that "if a competing carrier is providing voice service using the UNE-P, it can order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment and unbundled switching combined with shared transport, *to replace its existing UNE-platform arrangement* with a configuration that allows provisioning of both voice and data services." Memorandum Opinion and Order, CC Docket No. 00-65 (June 30, 2000), at ¶ 325 (emphasis added).

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Issue 13: Should BellSouth be required to include packet switching functionality as part of the UNE platform, (referred to as UNE-D).	Yes. Consistent with the TRA's rulings concerning combinations of network elements, BellSouth should be required to combine packet switching with other UNEs as part of an xDSL facilities UNE platform just as BellSouth combines these elements for its own customers.	See BellSouth's response to Issues 10 and 11.
Issue 14: Should BellSouth be prohibited from requiring credit card billing of its Advanced Service customers when Cinergy Communications provides the underlying voice service to the same end user?	Yes. If a customer subscribes both to BellSouth's voice service and to BellSouth's high speed, Internet service, BellSouth bills the customer by mail for both services. But if the customer switches his telephone service to Cinergy then BellSouth requires the customer to pay for Internet service through an automatic deduction on the customer's credit card. BellSouth should be required to offer its Internet customer the same billing options whether or not the customer also subscribes to BellSouth's telephone service. (BellSouth will continue providing Internet service only if Cinergy is providing telephone service through a resold, BellSouth line. If the service is provided over a UNE-P line, BellSouth will discontinue its Internet service. See Issue 12.)	No. First, the only situation in which a CLEC's voice customer might also receive BellSouth's retail xDSL service is where the CLEC is reselling BellSouth's voice service to the customer. BellSouth's billing system for its retail xDSL service allows it to bill the customer on either the customer's telephone bill or via credit card. BellSouth does not have in place a system to allow it to send separate bills for retail xDSL service when the customer is not also receiving a telephone bill from BellSouth. It is common practice in the industry for internet service providers to use credit card billing. There is no discrimination and there is no reason to require BellSouth to incur the costs of modifying its billing system to do what other providers of enhanced services are not required to do.

CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2002, a copy of the foregoing document was served on the parties of record, via the method indicated:

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