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February 10, 2006

VIA HAND DELIVERY

Hon. Ron Jones, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Petition to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Changes of Law*
Docket No. 04-00381

Dear Chairman Jones:

On January 26, 2006, the Staff of the Florida Public Service Commission issued its recommendation on all issues pending in the parallel change of law docket resulting from the Federal Communications Commission's *Triennial Review Remand Order*. That recommendation was filed with the Authority by BellSouth on February 1, 2006.

On February 7, 2006, the Florida Public Service Commission ("Florida Commission") voted to adopt this recommendation in whole, with the exception of the Staff's recommendation on Issue 13, Commingling. Enclosed for your review is a copy of the Florida Commission's vote sheet on all issues.

On Issue 13, Commingling, the Florida Commission declined to adopt Staff's recommendation that BellSouth be required to permit a requesting carrier to commingle certain facilities and services. Instead, the Florida Commission rejected Staff's position on this issue and ordered that BellSouth not be obligated to permit a carrier to commingle certain services and facilities, including those available to CLECs under §271 of the Telecommunications Act of 1996 ("the Act") with elements available under §251 of the Act.

Regarding Issue 7 relative to §271 jurisdiction, the Florida Staff concluded that the Florida "Commission does not have authority to require

BellSouth to include in §252 interconnection agreements §271 elements." Florida Staff Recommendation, p. 78. The Florida Staff reasoned that "although such a finding by this Commission may arguably have a negative impact on CLECs business plans in the short term, staff firmly believes that in the long term, a Commission finding that BellSouth is not required to include §271 elements in §252 interconnection agreements, will further bolster the FCC's stated policy of encouraging strong facility-based competitors." Florida Staff Recommendation, p. 77. Likewise, because the Florida Staff found improper the CLECs request that it order BellSouth to include §271 elements in §252 agreements, it concluded that the CLECs' request that it set rates for these §271 elements was moot. As noted above, the Florida Commission voted to adopt this recommendation and thereby rejected the CLECs' position that state commissions have authority under the federal act to require §271 elements be included in §252 agreements.

Additionally, by letter dated January 24, 2006, CompSouth informed the Authority that the Georgia Commission had recently entered an order addressing the Section 271 issues involved in this docket. On February 6, 2006, BellSouth notified the Authority that BellSouth has appealed that decision to the federal district court in Georgia. Earlier this week, the Georgia Commission voted on the remaining issues in its Change of Law docket. A written order is not yet available, and BellSouth is still reviewing the details of the Motion the Georgia Commission adopted, but it appears that the Georgia Commission adopted BellSouth's position on some issues, adopted CompSouth's positions on some issues, and decided other issues in a way that is not entirely consistent with either BellSouth's or CompSouth's positions.

As explained in the February 1, 2006 letter that BellSouth filed with the Federal Communications Commission ("FCC"), at least three recent decisions of the Georgia Commission have misinterpreted the federal act and have been overturned by the federal courts or preempted by the FCC. [1] BellSouth respectfully submits that several aspects of the two Georgia Commission decisions described above likewise contravene federal law. The

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[1] A copy of BellSouth's February 1, 2006 letter to the FCC was attached to the letter BellSouth submitted to the Authority on February 6, 2006. *See* footnote 13, which summarizes the recent rejections of the Georgia Commission's orders by the federal courts and the FCC.

FLORIDA PUBLIC SERVICE COMMISSION

13

VOTE SHEET

FEBRUARY 7, 2006

RE: **Docket No. 041269-TP** - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

Issue 1: What is the appropriate language to implement the FCC's transition plan for
(1) switching,
(2) high capacity loops and
(3) dedicated transport as detailed in the FCC's Triennial Review Remand Order ("TRRO"), issued February 4, 2005?

Recommendation: Staff recommends that the embedded base as used in the TRRO relates to de-listed UNE arrangements existing on March 11, 2005. Staff recommends that the TRRO transition rates be based on the higher of the rate the CLEC paid for that element or combination of elements on June 15, 2004, or the rate the Commission ordered for that element or combination of elements between June 16, 2004, and March 11, 2005, plus the applicable additive (one dollar for local circuit switching and 15 percent for high-capacity loops and transport and dark fiber). Accordingly, the transition rate for DS0 level capacity switching for customers subject to the four or more line carve-out is the rate in existing contracts. Additionally, staff recommends that the TRRO transitional rates for the de-listed UNEs are effective at the time of the ICA amendment and subject to true-up back to March 11, 2005; the TRO new unbundling obligations should be effective with the ICA amendment.

APPROVED

COMMISSIONERS ASSIGNED: Edgar, Deason, Arriaga

COMMISSIONERS' SIGNATURES

MAJORITY	DISSENTING
	7a) 13

REMARKS/DISSENTING COMMENTS:

Commissioner Arriaga dissented on Issues 7(a) and 13.

PSC/CCA033-C (Rev 12/01)

VOTE SHEET
FEBRUARY 7, 2006
Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

Consistent with the Commission's finding in the Verizon Arbitration Order, staff recommends that regardless of when CLECs submit their conversion orders during the transition period, the TRRO rules entitle them to receive the transitional rates for the full 12 months, March 11, 2005 - March 10, 2006, for local circuit switching, high-capacity loops and transport, and 18 months, March 11, 2005 - September 10, 2006, for dark fiber loops and transport. However, transitional pricing ends March 10, 2006, and September 10, 2006, for the affected de-listed arrangements, whether or not the former UNEs have been converted.

With regard to the transition period process, staff recommends that (1) CLECs are required to submit conversion orders for the affected de-listed arrangements by the end of the transition period, but conversions do not have to be completed by the end of the applicable transition period (March 10, 2006, for local circuit switching and affected high-capacity loops and transport and September 10, 2006, for dark fiber loops and transport); and (2) there should not be a required date for CLECs to identify the respective embedded bases of the de-listed UNEs. However, if CLECs do not identify the applicable embedded bases by March 10, 2006, and by September 10, 2006, respectively, staff recommends that BellSouth should be permitted to (1) identify the arrangements itself, (2) charge CLECs the applicable disconnect charges and full installation charges, and (3) charge CLECs the resale or wholesale tariffed rate beginning March 11, 2006, for local circuit switching and affected high-capacity loops and transport (September 11, 2006, for dark fiber loops and transport), regardless of when the conversion is completed.

Staff also recommends that BellSouth's proposed "switch-as-is" conversion rates not be approved due to the lack of competent evidence. However, BellSouth is not precluded from initiating a cost proceeding later to address "switch-as-is" conversion rates.

Staff believes that neither the language proposed by BellSouth nor CompSouth is totally appropriate to implement this recommended decision. Instead, staff believes that parts of the language proposed by BellSouth and CompSouth should be combined and adopted as discussed in the analysis portion of its memorandum. Staff's recommended language is found in Appendix A of staff's memorandum.

APPROVED

VOTE SHEET
FEBRUARY 7, 2006
Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

Issue 2: a. How should existing ICAs be modified to address BellSouth's obligation to provide network elements that the FCC has found are no longer Section 251(c) (3) obligations?

b. What is the appropriate way to implement in new agreements pending in arbitration any modifications to BellSouth's obligations to provide network elements that are no longer Section 251(c) (3) obligations?

Recommendation: a) The TRRO has changed BellSouth's obligation to provide unbundled network elements pursuant to its §251(c)(3) obligation. Therefore, staff recommends that existing ICAs should be amended to reflect those changes to BellSouth's obligations. b) Amendments to new ICAs pending arbitration should be based on the Commission's decisions in this proceeding, unless the parties have specifically agreed otherwise. Accordingly, staff believes that all Florida CLECs having ICAs with BellSouth should be bound by the decisions in this proceeding effective upon issuance of the final order.

APPROVED

Issue 3: What is the appropriate language to implement BellSouth's obligation to provide Section 251 unbundled access to high capacity loops and dedicated transport and how should the following terms be defined?

(i) Business Line
(ii) Fiber-Based Collocation
(iii) Building
(iv) Route

Recommendation: A business line should include all business UNE-P lines and all UNE-L lines, as well as HDSL-capable loops at full capacity. Fiber-based collocation should be based on the number of fiber-based collocators present in a wire-center at the time the count is made. The definition of a building should be based on a "reasonable telecom person" approach such that a multi-tenant building with multiple telecom entry points will be considered multiple buildings for purposes of DS1/DS3 caps. The FCC's definition of a route is appropriate. Staff believes that neither the language proposed by BellSouth nor CompSouth is totally appropriate to implement this recommended decision. Instead, staff believes that parts of the language proposed by BellSouth and CompSouth should be combined and adopted as discussed in the staff analysis. Staff's recommended language is found in Appendix A of its memorandum.

APPROVED

VOTE SHEET
FEBRUARY 7, 2006
Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

Issue 4: a. Does the Commission have the authority to determine whether or not BellSouth's application of the FCC's Section 251 non-impairment criteria for high-capacity loops and transport is appropriate?
b. What procedures should be used to identify those wire centers that satisfy the FCC's Section 251 non-impairment criteria for high-capacity loops and transport?
c. What language should be included in agreements to reflect the procedures identified in (b)?

Recommendation: Staff believes this Commission has authority to resolve an ILEC's challenges to a CLEC self-certification, under an ICA's dispute resolution process. This Commission should also approve the initial wire center lists as requested by the parties. CLECs should exercise due diligence in making inquiries about the availability of UNEs and must self-certify that they are entitled to the UNE. BellSouth should provision such UNEs, but may bring disputes to this Commission for resolution in accordance with the TRRO. Staff believes that neither the language proposed by BellSouth nor CompSouth is totally appropriate to implement this recommended decision. Instead, staff believes that parts of the language proposed by BellSouth and CompSouth should be combined and adopted as discussed in the staff analysis. Staff's recommended language is found in Appendix A of its memorandum.

APPROVED

Issue 5: Are HDSL-capable copper loops the equivalent of DS1 loops for the purpose of evaluating impairment?

Recommendation: Staff recommends that:

- High Bit Rate Digital Subscriber (HDSL)-capable loops (i.e., BellSouth's 2-wire or 4-wire High Bit Rate Digital Subscriber Compatible Loop offering) are the equivalent of DS1 loops for the purpose of evaluating impairment and should be counted as 24 voice grade equivalents.
- BellSouth is obligated to provide CLECs with access to copper loops and to condition copper loops upon request, however, BellSouth is not obligated to offer pre-conditioned/pre-packaged loop offerings designed for a specific service type
- An Unbundled Copper Loop Non-Designed (with or without conditioning) should be counted as one voice grade equivalent for each 2-wire (e.g., one voice grade equivalent for a 2-wire loop and two voice grade equivalents for a 4-wire loop).

Staff believes that neither the language proposed by BellSouth nor CompSouth is totally appropriate to implement this recommended decision. Instead, staff believes that the language proposed by BellSouth in Exhibit 17, with the modifications discussed in the analysis portion of staff's January 26, 2006 memorandum, should be adopted Staff's recommended language is found in Appendix A of its memorandum.

APPROVED

VOTE SHEET
FEBRUARY 7, 2006
Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

Issue 7(a): Does the Commission have the authority to require BellSouth to include in its interconnection agreements entered into pursuant to Section 252, network elements under either state law, or pursuant to Section 271 or any other federal law other than Section 251?
Recommendation: No. Staff believes that the Commission does not have authority to require BellSouth to include in §252 interconnection agreements §271 elements. The inclusion of §271 elements in a §252 agreement would be contrary to both the plain language of §§251 and 252 and the regulatory regime set forth by the FCC in the TRO and the TRRO.

APPROVED Commissioner Arriaga dissented on the bases stated by the Commissioner at the conference.

Issue 7(b): If the answer to part (a) is affirmative in any respect, does the Commission have the authority to establish rates for such elements?
Recommendation: If the Commission approves staff's recommendation in Issue 7(a), this issue is moot.

MOOT

Issue 7(c): If the answer to part (a) or (b) is affirmative in any respect, (i) what language, if any, should be included in the ICA with regard to the rates for such elements, and (ii) what language, if any, should be included in the ICA with regard to the terms and conditions for such elements?
Recommendation: If the Commission approves staff's recommendation in Issues 7(a) and/or (b), this issue is moot. If the Commission denies staff's recommendation in Issue(s) 7(a) and/or (b), staff recommends the Commission approve the Joint CLECs' proposed language pending a further proceeding to determine permanent rates which meet the standards set forth in §§201 and 202.

MOOT

VOTE SHEET
FEBRUARY 7, 2006
Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

Issue 8: What conditions, if any, should be imposed on moving, adding, or changing orders to a CLEC's respective embedded bases of switching, high-capacity loops and dedicated transport, and what is the appropriate language to implement such conditions, if any?
Recommendation: Staff recommends that moving or adding orders to a CLEC's respective embedded bases of switching, high-capacity loops and dedicated transport are not allowed. However, changes to an existing service, such as adding or removing vertical features, are permitted during the applicable transition period. Staff recommends that no language is needed to effectuate this policy.

APPROVED

Issue 9: What rates, terms, and conditions should govern the transition of existing network elements that BellSouth is no longer obligated to provide as Section 251 UNEs to non-Section 251 network elements and other services and

a. what is the proper treatment for such network elements at the end of the transition period; and
b. what is the appropriate transition period, and what are the appropriate rates, terms and conditions during such transition period, for unbundled high capacity loops, high capacity transport, and dark fiber transport in and between wire centers that do not meet the FCC's non-impairment standards at this time, but that meet such standards in the future?

Recommendation:
(a) Transition of UNEs de-listed in the TRO

If a CLEC has any de-listed TRO elements or arrangements in place after the effective date of the change-of-law amendment, staff recommends that BellSouth should be authorized to disconnect or convert such services, after a 30-day written notice and absent a CLEC disconnection or conversion order. If CLECs submit the requisite orders during the 30-day period, staff recommends that conversions be subject to Commission-approved switch-as-is rates. If CLECs do not submit the requisite orders during the 30-day period, staff recommends that BellSouth should be allowed to transition such circuits to equivalent BellSouth tariffed services and impose full nonrecurring charges as set forth in BellSouth tariffs.

Staff believes that neither the language proposed by BellSouth nor CompSouth is totally appropriate to implement this recommended decision. Instead, staff believes that the language proposed by BellSouth, with the modifications discussed in the staff analysis, should be adopted. Staff's recommended language is found in Appendix A of its memorandum.

(b) Subsequent Transition Period

- Staff recommends that BellSouth should identify and post on its website subsequent wire centers meeting the non-impairment criteria set forth in the TRRO (Subsequent Wire Center List) in a Carrier Notification Letter (CNL).
- Staff recommends that CLECs have 30 calendar days following the CNL to dispute a non-impaired wire center claim. During the 30 days, rates for de-listed UNEs (DS1 and DS3 loops and transport and dark fiber transport) do not change.

VOTE SHEET
FEBRUARY 7, 2006
Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

- 30 calendar days after the CNL, staff recommends that BellSouth no longer has an obligation to provide unbundling of new de-listed UNEs, as applicable, in the wire centers listed on the Subsequent Wire Center List. If a CLEC disputes a specific non-impaired wire center claim with a UNE order within 30 calendar days following the CNL, BellSouth will provision the CLEC's ordered UNE. BellSouth will review the CLEC claim and will seek dispute resolution if needed During the dispute resolution period, the applicable UNE rates will not change unless ordered by the Commission. Upon the Commission's resolution of the dispute, the rates will be trued up, if necessary, to the time BellSouth provisioned the CLEC's order.
- Staff recommends that the Subsequent Transition Period for DS1 and DS3 loops and transport in a wire center identified on the Subsequent Wire Center List is 180 calendar days and begins on day 30 following issuance of the CNL; the Subsequent Transition Period for dark fiber transport is 270 calendar days beginning on day 30 following issuance of the CNL.
- Staff recommends that the Subsequent Transition Period applies to the Subsequent Embedded Base (all de-listed UNE arrangements in service in a wire center identified on the Subsequent Wire Center List on the thirtieth day following issuance of the CNL).
- Staff recommends that the transition rates to apply to the Subsequent Embedded Base throughout the Subsequent Transition Period should be the rate paid for that element at the time of the CNL posting, plus 15 percent.
- Staff recommends that CLECs be required to submit spreadsheets identifying the Subsequent Embedded Base of circuits to be disconnected or converted to other BellSouth services no later than the end of the Subsequent Transition Period (210 days following the CNL for DS1 and DS3 loops and transport and 300 days following the CNL for dark fiber transport). A project schedule for the conversion of these affected circuits will be negotiated between the parties.
- For the Subsequent Embedded Base circuits identified by the end of 210 days for DS1 and DS3 high-capacity loops and transport (300 days for dark fiber transport) following the CNL, BellSouth should convert the applicable circuits at Commission-approved switch-as-is rates and UNE disconnect charges do not apply. The applicable recurring tariff charges will apply beginning on the first day following the end of the Subsequent Transition Period.

VOTE SHEET
FEBRUARY 7, 2006
Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

- If CLECs do not submit the spreadsheets for all of their Subsequent Embedded Base by the end of the Subsequent Transition Period, staff recommends that BellSouth be permitted to identify the remaining Subsequent Embedded Base and transition the circuits to the equivalent BellSouth tariffed services. Additionally, the circuits identified and transitioned by BellSouth should be subject to the applicable UNE disconnect charges and the full non-recurring charges for installation of the BellSouth equivalent tariffed service.
- For the Subsequent Embedded Base circuits, staff recommends that the applicable recurring tariff charges should apply beginning on the first day following the end of the Subsequent Transition Period, whether or not the circuits have been converted.

Staff believes that neither the language proposed by BellSouth nor CompSouth is totally appropriate to implement this recommended decision. Instead, staff believes that the language proposed by BellSouth, with the modifications discussed in the staff analysis, should be adopted. Staff's recommended language is found in Appendix A of its memorandum.

APPROVED

Issue 10: What rates, terms and conditions, if any, should apply to UNEs that are not converted on or before March 11, 2006, and what impact, if any, should the conduct of the parties have upon the determination of the applicable rates, terms and conditions that apply in such circumstances?
Recommendation: The staff recommendation addressing this issue is included in the recommendation for Issue 1. Therefore, if the staff recommendation in Issue 1 is approved, this issue is moot.

APPROVED

Issue 12: Should network elements de-listed under Section 251(c)(3) be removed from the SQM/PMAP/SEEM?
Recommendation: Yes. Performance data for services (de-listed elements) no longer under Section 251(c)(3) should be removed from BellSouth's SQM/PMAP/SEEM. Staff believes that the language proposed by BellSouth, with the modification discussed in the staff analysis, should be adopted. Staff's recommended language is found in Appendix A of its memorandum.

APPROVED

VOTE SHEET
FEBRUARY 7, 2006
Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

Issue 13: What is the scope of commingling allowed under the FCC's rules and orders and what language should be included in Interconnection Agreements to implement commingling (including rates)?
Recommendation: Staff recommends that: (1) BellSouth is required to permit a requesting telecommunications carrier to commingle a UNE or a UNE combination with one or more facilities or services that a requesting carrier has obtained at wholesale from an incumbent LEC pursuant to any method other than unbundling under §251(c)(3) of the Act, unless otherwise specifically prohibited; (2) BellSouth is not required to commingle UNEs or combinations of UNEs with another carrier; and (3) multiplexing in a commingled circuit should be billed from the same agreement or tariff as the higher bandwidth circuit. Staff believes that neither the language proposed by BellSouth nor the Joint CLECs is totally appropriate to implement this recommended decision. Instead, staff believes that the language proposed by BellSouth, with the modifications discussed in the staff analysis, should be adopted. Staff's recommended language is found in Appendix A of its memorandum.

DENIED Commissioner Arriaga dissented.

Issue 14: Is BellSouth required to provide conversion of special access circuits to UNE pricing, and, if so, at what rates, terms and conditions and during what timeframe should such new requests for such conversions be effectuated?
Recommendation: Staff recommends that BellSouth is obligated to provide conversions of special access to UNE pricing. Staff defers recommendation of the rates for conversions to Issue 1. Staff believes that the language proposed by BellSouth best implements this recommended decision and should be adopted. The recommended language is found in Appendix A of staff's memorandum.

APPROVED

Issue 15: What are the appropriate rates, terms, conditions and effective dates, if any, for conversion requests that were pending on the effective date of the TRO?
Recommendation: Staff recommends that any conversions to stand-alone UNEs pending on the effective date of the TRO should be effective with the date of an amendment or interconnection agreement that incorporates conversions. Since neither party proposed or contested language as part of this issue, staff created its own language to cover this issue.

APPROVED

VOTE SHEET
FEBRUARY 7, 2006
Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

Issue 16: Is BellSouth obligated pursuant to the Telecommunications Act of 1996 and FCC Orders to provide line sharing to new CLEC customers after October 1, 2004?
Recommendation: Staff recommends that BellSouth is not obligated pursuant to the Telecommunications Act of 1996 and FCC Orders to provide line sharing to new CLEC customers after October 1, 2004. The recommended language for this issue is addressed in Issue 17.

APPROVED

Issue 17: If the answer to foregoing issue is negative, what is the appropriate language for transitioning off a CLEC's existing line sharing arrangements?
Recommendation: Staff believes that neither the language proposed by CompSouth nor BellSouth is totally appropriate to implement the recommended decision in Issue 16. Instead the language proposed by BellSouth in Exhibit 12, with modifications discussed in the staff analysis, should be adopted. The recommended language is found in Appendix A of staff's memorandum.

APPROVED

Issue 18: What is the appropriate ICA language to implement BellSouth's obligations with regard to line splitting?
Recommendation: Staff's recommended language is based on the following three points:
1. BellSouth's obligation with regard to line splitting is to provide nondiscriminatory access to operations support systems necessary for pre-ordering, ordering, provisioning, maintenance and repair, and billing for loops used in line splitting arrangements.
2. The CLEC requesting a line splitting arrangement should purchase the whole loop and provide its own splitter to be collocated in the central office.
3. The CLEC requesting a line splitting arrangement should indemnify, defend and hold BellSouth harmless against any and all claims, loss or damage except where arising from or in connection with BellSouth's gross negligence or willful misconduct

Staff believes that neither the language proposed by BellSouth nor CompSouth is totally appropriate to implement this recommended decision. Instead, staff believes that the language proposed by BellSouth, with modifications discussed in the staff analysis, should be adopted. Staff's recommended language is found in Appendix A of its memorandum

APPROVED

VOTE SHEET
FEBRUARY 7, 2006
Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

Issue 21: What is the appropriate ICA language, if any, to address access to call related databases?
Recommendation: BellSouth is obligated to offer all CLECs unbundled access to the 911 and E911 call-related databases. For CLECs with existing agreements with BellSouth as of March 11, 2005, BellSouth is obligated to offer unbundled access to all other call related databases through March 10, 2006.

Staff believes that neither the language proposed by BellSouth nor the Joint CLECs is totally appropriate to implement this recommended decision. Instead, staff believes that the language proposed by BellSouth, with the modification discussed in the staff analysis, should be adopted. Staff's recommended language is found in Appendix A of its memorandum.

APPROVED

Issue 22: a) What is the appropriate definition of minimum point of entry ("MPOE")?
b) What is the appropriate language to implement BellSouth's obligation, if any, to offer unbundled access to newly deployed or "greenfield" fiber loops, including fiber loops deployed to the minimum point of entry ("MPOE") of a multiple dwelling unit that is predominantly residential, and what, if any, impact does the ownership of the inside wiring from the MPOE to each end user have on this obligation?

Recommendation: a) Since no party has proposed language for a definition of MPOE within the contract, staff too concludes that no language is required.
b) BellSouth is required to unbundle FTTH/FTTC loops to predominantly commercial MDUs, but has no obligation to unbundle such fiber loops to residential MDUs. While the FCC's rules provide that FTTH/FTTC loops serving end user customer premises do not have to be unbundled, CLEC access to unbundled DS1 and DS3 loops was also preserved. Accordingly, in wire centers in which a non-impairment finding for DS1 or DS3 loops has not been made, BellSouth is obligated upon request to unbundle a FTTH/FTTC loop to provide a DS1 or DS3 loop. Staff believes that no party's language is completely appropriate. Staff's recommended language is found in Appendix A of its memorandum.

APPROVED

VOTE SHEET
FEBRUARY 7, 2006
Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

Issue 23: What is the appropriate ICA language to implement BellSouth's obligation to provide unbundled access to hybrid loops?
Recommendation: Staff recommends BellSouth be required to provide the CLEC with nondiscriminatory access to the time division multiplexing features, functions and capabilities of a hybrid loop, including DS1 and DS3 capacity under Section 251 where impairment exists, on an unbundled basis to establish a complete transmission path between BellSouth's central office and an end user's premises. Staff believes that the language proposed by BellSouth best implements this recommended decision and should be adopted. The recommended language is found in Appendix A of staff's memorandum.

APPROVED

Issue 25: What is the appropriate ICA language to implement BellSouth's obligation to provide routine network modifications?
Recommendation: BellSouth should provide the same routine network modifications and line conditioning that it normally provides for its own customers. Staff believes that neither the language proposed by BellSouth, CompSouth nor Sprint is totally appropriate to implement this recommended decision. Instead, staff believes that parts of the language proposed by BellSouth, CompSouth, and Sprint should be combined and adopted as discussed in the staff analysis. Staff's recommended language is found in Appendix A its memorandum.

APPROVED

Issue 26: What is the appropriate process for establishing a rate, if any, to allow for the cost of a routine network modification that is not already recovered in Commission-approved recurring or nonrecurring rates? What is the appropriate language, if any, to incorporate into the ICAs?
Recommendation: BellSouth should use the rates approved by this Commission in the UNE Order. If any additional rates are needed, BellSouth should petition this Commission to establish those rates. Staff believes that neither the language proposed by BellSouth, CompSouth nor Sprint is totally appropriate to implement this recommended decision. Instead, staff believes that parts of the language proposed by BellSouth, CompSouth, and Sprint should be combined and adopted as discussed in the staff analysis. Staff's recommended language is found in Appendix A of its memorandum.

APPROVED

VOTE SHEET
FEBRUARY 7, 2006
Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

Issue 27: What is the appropriate language, if any, to address access to overbuild deployments of fiber to the home and fiber to the curb facilities?
Recommendation: The unbundling requirements of an incumbent carrier with respect to overbuilt FTTH/FTTC loops are limited to either a 64 Kbps transmission path over the FTTH loop or unbundled access to a copper loop. Staff believes that the language proposed by BellSouth best implements this recommendation, with minor modifications as discussed in the staff analysis, and should be adopted. The recommended language is found in Appendix A of staff's memorandum.

APPROVED

Issue 28: What is the appropriate ICA language to implement BellSouth's EEL audit rights, if any, under the TRO?
Recommendation: BellSouth need not identify the specific circuits that are to be audited or provide additional detailed documentation prior to an audit of a CLEC's EELs. The audit should be performed by an independent, third-party auditor selected by BellSouth. The audit should be performed according to the standards of the American Institute of Certified Public Accountants (AICPA). The CLEC may dispute any portion of the audit following the dispute resolution procedures contained in the interconnection agreement after the audit is complete. Staff believes that neither the language proposed by BellSouth nor CompSouth is totally appropriate to implement this recommended decision. Instead, staff believes that the language proposed by BellSouth, with the modifications discussed in the staff analysis, should be adopted. Staff's recommended language is found in Appendix A of its memorandum.

APPROVED

Issue 30: What language should be used to incorporate the FCC's ISP Remand Core Forbearance Order into interconnection agreements?
Recommendation: Staff recommends that while the Commission should make it clear that all affected CLECs are entitled to amend their agreements to implement the ISP Remand Core Forbearance Order, such amendments should be handled on a carrier-by-carrier basis. Accordingly, no language is necessary for this issue.

APPROVED

VOTE SHEET
FEBRUARY 7, 2006
Docket No. 041269-TP - Petition to establish generic docket to consider amendments to interconnection agreements resulting from changes in law, by BellSouth Telecommunications, Inc.

(Continued from previous page)

Issue 31: How should the determinations made in this proceeding be incorporated into existing Section 252 interconnection agreements?
Recommendation: In accordance with the Commission's ruling in Order No. PSC-05-0639-PCO-TP, issued in this docket, staff believes that parties and non-parties should be bound to the amendments arising from the Commission's determinations in this proceeding. For non-parties, staff recommends that the resulting amendments be limited to the disputed issues in this proceeding and not affect language unrelated to the disputed issues in this proceeding Staff recommends that it may be appropriate given the FCC's transitional deadlines to order the parties to file their respective amendments or agreements within 20 days of the decisions in this proceeding. Staff believes that this would allow the parties sufficient time to comply with the Commission's decisions in this proceeding and meet the March 11, 2006 deadline. In addition, staff requests that the Commission grant it administrative authority to approve any amendments and agreements filed in accordance with the Commission's decisions in this proceeding.

APPROVED

Issue 32: Should this docket be closed?
Recommendation: No. The parties should be required to submit signed amendments or agreements that comply with the Commission's decisions in this docket for approval within 20 days of the Commission's decisions in this proceeding. This docket should remain open pending Commission approval of the final arbitration agreements in accordance with §252 of the Telecommunications Act of 1996.

APPROVED

CERTIFICATE OF SERVICE

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