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August 19, 2005

Ron Jones, Chairman
Tennessee Regulatory Authority
460 James Robertson Pkwy.
Nashville, TN 37243

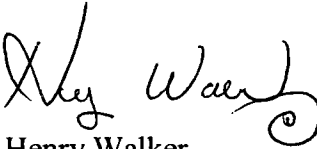
Re: *Petition of ITC^DeltaCom Communications, Inc for Mediation and Dispute Resolution.*
Docket Number: 05-00174

Dear Chairman Jones:

Attached is an order issued August 18, 2005 by the North Carolina Utilities Commission regarding ITC^DeltaCom's Petition for Mediation and Dispute Resolution filed in that state. We are bringing this to attention of the TRA in regard to the similar petition of ITC^DeltaCom Communications, Inc. pending before the Authority.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: 
Henry Walker

HW/djc

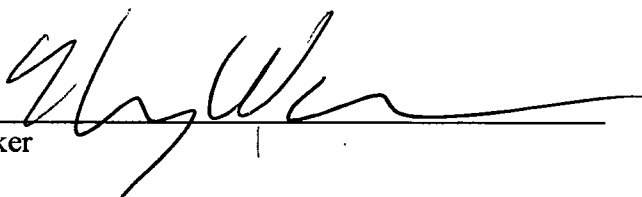
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded electronically and via U.S. Mail, postage prepaid, to:

Guy Hicks
BellSouth Telecommunications, Inc.
333 Commerce Street
Suite 2101
Nashville, TN 37201-3300

on this the 19th day of August, 2005.

Henry Walker

A handwritten signature in dark ink, appearing to read 'Henry Walker', is written over a horizontal line.

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO P-500, SUB 18
DOCKET NO P-500, SUB 18a
DOCKET NO P-55, SUB 1549

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Docket No P-500, Sub 18	)	
	)	
Petition for Arbitration of ITC^DeltaCom	)	
With BellSouth Telecommunications, Inc	)	
	)	
Docket No P-500, Sub 18a	)	ORDER TRANSFERRING
	)	ISSUES TO CHANGE OF
Supplemental Issues in Arbitration	)	LAW PROCEEDING AND
Of ITC^DeltaCom with BellSouth	)	SETTING HEARING FOR
Telecommunications, Inc	)	SUPPLEMENTAL
	)	ARBITRATION ISSUES
Docket No P-55, Sub 1549	)	
	)	
Proceeding to Consider Amendments	)	
to Interconnection Agreements	)	
Between BellSouth Telecommunications,	)	
Inc and Competing Local Providers	)	
Due to Change of Law	)	

BY THE PRESIDING COMMISSIONER On June 29, 2005, ITC^DeltaCom Communications, Inc (DeltaCom) filed a Petition for Mediation and Dispute Resolution consisting of 43 issues in this docket "arising out of the parties' negotiations to incorporate changes of law" into the interconnection agreement. DeltaCom cited to Section 16.4 and Section 11 of the *existing* agreement for authority to make such a request. Section 16.4 and Section 11, read together, allow either party to seek renegotiation of terms which have been materially affected by change of law and, if this is unavailing, to seek dispute resolution from the Commission. Both DeltaCom and BellSouth Telecommunications, Inc. (BellSouth) have hitherto been engaged in and virtually concluded an arbitration in this docket for a new interconnection agreement, but due to change of law questions, they sought the suspension of certain deadlines, including an impending deadline for a composite agreement. This motion was granted. The Commission has also initiated Docket No P-55, Sub 1549 to handle change of law questions with respect to BellSouth interconnection agreements in which DeltaCom is an active participant. It has also been provided that change of law questions from the

Docket No P-500, Sub 18 arbitration were to be transferred from that docket to Docket P-55, Sub 1549 for resolution

On June 30, 2005, DeltaCom filed its Unresolved Issues List in Docket No P-500, Sub 18 with respect to Docket No P-500, Sub 1459. On the same day, in Docket No P-500, Sub 18, BellSouth filed its Issues Matrix for non-compliant change of law issues, which it requested be decided in Docket No P-55, Sub 1549

The Commission sought and received comments from the parties to Docket No P-500, Sub 18 on DeltaCom's Petition

BellSouth responded in a Motion to Dismiss. BellSouth argued that DeltaCom's Motion was improper. BellSouth maintained that the appropriate forum to resolve disputes as to recent changes of law is in Docket No P-55, Sub 1549, not in a two-party proceeding. Even if DeltaCom were permitted to make this "end-run," this docket is an arbitration concerning what terms should apply to the new interconnection agreement and it is not a proper forum to bring an action pursuant to the existing interconnection agreement. It is thus inappropriate for DeltaCom to bring what amounts to a complaint pursuant to the dispute resolution process in the *current* interconnection agreement, in essence, to litigate issues regarding its *new* agreement and/or rehash issues that the Commission has already addressed in its arbitration regarding the new agreement. Both BellSouth and DeltaCom agree that their interconnection agreement is not compliant with current law, but that is what the change of law proceeding is designed to fix. DeltaCom is an active participant in that change of law proceeding. BellSouth also pointed out that DeltaCom's petition is duplicative of issues in the change of law proceeding. No other competing local provider has seen fit to file a petition like DeltaCom's. A two-party mediation of generic change of law issues would not be appropriate in any event.

Public Staff recommended that the Commission defer ruling on DeltaCom's Petition so that DeltaCom and BellSouth could continue their discussions on how to appropriately address the unresolved issues and report the outcome to the Commission. If the parties agree or the Commission orders that certain issues are appropriate for further negotiation, the Public Staff stated that it was prepared to serve as a facilitator in these discussions.

Joint Filing

On July 7, 2005, the Commission issued an Order Requiring Joint Filing as to those issues that should be transferred from Docket No P-500, Sub 18 to Docket No P-55, Sub 1549. The Order contained a matrix indicating the Commission's first impression of what issues from the Petition ought to go to the change of law proceeding.

On August 10, 2005, DeltaCom filed a Joint Report of itself, BellSouth, and the Public Staff. The Joint Report contained a matrix in three columns entitled the following

“BST believes issue should be deferred [to P-55, Sub 1549] and DeltaCom is not adverse to deferral consistent with NCUC Order,” “BST believes issue should not be deferred to the generic change of law docket and DeltaCom seeks mediation and dispute resolution,” and “BST believes that issue should not be deferred to the generic change of law docket ”

DeltaCom also on August 10th submitted its Comments on the Joint Report, Motion for Re-docketing and Motion for Expedited Hearing in which it emphasized its sense of urgency that the issues be resolved. It also provided issue-specific comments regarding certain issues. DeltaCom stated that the Petition relates to disputes arising under the existing agreement, while the arbitration docket relates to ongoing disputes to language to implement the Commission’s arbitration regarding the new agreement. For administrative efficiency, DeltaCom suggested that it would be useful to separate the Petition into a new sub-docket under the P-500, Sub 18 docket. DeltaCom also sought an expedited hearing under the Petition. Where the Commission ultimately resolves a given issue in the change of law docket, DeltaCom will negotiate an amendment to incorporate the Commission’s decision subject to true-up if ordered by the Commission.

WHEREUPON, the Presiding Commissioner reaches the following

CONCLUSIONS

After careful consideration and review of the filings in these dockets, the Presiding Commissioner concludes that good cause exists to (1) transfer the new issues as set out in Appendix A and the issues already subsumed in existing issues as set out in Appendix B to Docket No. P-55, Sub 1549 and (2) to hold a proceeding in Docket No. P-500, Sub 18 to consider the balance of issues as set out in Appendix C.

1 Issues Transferred to Change of Law Proceeding

The issues to be transferred to Docket No. P-55, Sub 1549 consist of issues which BellSouth and DeltaCom have generally agreed in their August 10th Joint Report ought to be part of that proceeding. They consist of two classes of issues. The first class, or “conflated issues,” consist of those issues which are substantially identical to all or parts of already existing matrix issues and are folded into them [Appendix B]. In such a case, the wording of the matrix issue controls, and to the extent there is any difference in nuance or emphasis, it is up to the interested party to bring that distinction forward in testimony or brief. The second class consists of issues that appear generic to change of law but do not fit comfortably into an existing matrix issue. These have become new issues in addition to the existing matrix issues [Appendix A]. In such a case, the language of the party bringing forth the issue—usually DeltaCom—has been retained but the wording slightly adjusted to insert “CLP” rather than “DeltaCom” to make plain that the issue is being decided generically.

The Presiding Commissioner believes that, to the extent feasible, all P-55, Sub 1549 issues ought to be decided together at one time. **Accordingly, parties shall**

prefile any supplemental direct testimony concerning new or conflated issues in Docket No. P-55, Sub 1549 by no later than September 6, 2005, with any supplemental rebuttal testimony to be prefiled no later than September 13, 2005. Preferred order of witnesses and estimated cross-examination times shall be due with respect to the whole proceeding on September 15, 2005.

2 Additional Docket No P-500, Sub 18a Proceeding

The balance of the issues are set out in Appendix C. These do not appear to be appropriate for the change of law proceeding but rather to the arbitration between BellSouth and DeltaCom. These will be subject to a proceeding in a subdocket to Docket No. P-500, Sub 18, which is hereby established as captioned above and is denominated Docket No. P-500, Sub 18a. The schedule for this proceeding is as follows: **(1) A hearing is scheduled to be held beginning at 9:30 a.m. on Tuesday, October 18, 2005, in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh; (2) Prefiled direct testimony shall be due from parties on September 30, 2005; (3) Prefiled rebuttal testimony shall be due from the parties on October 10, 2005; (4) Parties shall submit their preferred order of witnesses and estimated cross-examination times by no later than October 13, 2005; and (5) Parties are encouraged to continue negotiations with a view to resolving as many issues as possible before hearing. To the extent the Public Staff believes its assistance to be helpful, the Public Staff is encouraged to help the parties mediate their differences.**

IT IS, THEREFORE, SO ORDERED

ISSUED BY ORDER OF THE COMMISSION

This the 18th day of August, 2005

NORTH CAROLINA UTILITIES COMMISSION



Patricia Swenson, Deputy Clerk

DI081705.01

New Issues Transferred to Docket No. P-55, Sub 1549

ITC Issue No.	New Issue No. [1]	ISSUE DESCRIPTION
Arb 21	33	Does BellSouth have to make available to CLPs dark fiber loops and transport at any technically feasible point?
6	34	Should the Agreement include language expressly stating that the requirements of the TRO and the TRRO apply to the Agreement?
11	35	Should the Agreement include a specific definition of "reasonable inquiry" for purposes of governing the self-certification of DS1 loops process? If so, how should "reasonable inquiry" be defined?
15	36	Should language governing fiber to the home and fiber to the curb be reciprocal?
16	37	What obligations should apply to BellSouth when a CLP requests a copper loop that has not yet been retired?
17	38	Should BellSouth's standard interval apply for purposes or replacement of retired copper loops?
19	39	What language should be incorporated into the Agreement to govern the transition period and procedures for DS1 and DS3 high capacity loops and Dark Fiber loops? How should a true-up be conducted, if a true-up is required?
21	40	CLPs are required to transition their base of UNE-P customers to another service (UNE-L, resale, EEL) Should BellSouth be required to comply with the bulk migration guidelines that it filed with the FCC? When BellSouth fails to follow its own migration guidelines filed with the FCC, should the Agreement include language that provides a CLP recourse in the form of (a) credits of those NRCs assessed by BellSouth for the failed bulk migration, (b) credits due to the outage suffered by the end user, (c) notification to the end user that the CLP was not at fault for the failed migration, and (d) compensation for resources required to reinstate the service(s) due to premature disconnects or cut failures? What should be the bulk migration guidelines for single line residential customers?
22	41	Should BellSouth be required to provide a 10 percent discount on non-recurring charges associated with bulk migrations which occur between March 11, 2005 and March 11, 2006? Should the discount be effective as of March 11, 2005?

[1] The June 30, 2005 Matrix filed in Docket No. P-55, Sub 1549 lists Issue Nos. 1 through 32.

New Issues Transferred to Docket No. P-55, Sub 1549

ITC Issue No.	New Issue No.	ISSUE DESCRIPTION
23	42	Should BellSouth be required to provide access to CLPs to the UDC?
25	43	Should BellSouth be required to perform line conditioning even when not performing a Routine Network Modification and what language should be included to incorporate the requirements of line conditioning?
28	44	Does the TRO require BellSouth to provide narrowband services over IDLC loops? If other ILECs have identified means by which to offer unbundled loops converted from IDLC without additional analog to digital conversions, does BellSouth retain the burden of offering the same methods?
29	45	Should ULC be included in the Agreement?
30	46	Should USLC be included in the Agreement?
33	47	What obligations does BellSouth have to a CLP if a network modification will affect a CLP or its customers? What terms and conditions should apply in such circumstances?
35	48	Should embedded base limitations prohibit CLECs from adding a line or merging with another company when the end user customer was receiving service from a CLEC via UNE-P prior to March 11, 2005? What terms and conditions should apply during and after the transition period?
40	49	On what terms and conditions should BellSouth be required to provide dedicated transport and dark fiber transport to a CLP?
43	50	What language should be incorporated into the Agreement concerning the FCC's Pick and Choose Order? Should BellSouth be required to file Commercial Agreements with the Commission? Should BellSouth be required to notify a CLP of the latest available rates, terms, and conditions pursuant to a Most Favored Nations Clause? If BellSouth does not provide a CLP information related to the latest available offer, how can a CLP be assured that BellSouth is acting in a nondiscriminatory manner?
BST 3	51	Sections 11 8 5 and 11 8 6 – DS-1 switching combinations
BST 4	52	Sections 12.2 1 3 to 12 4 2 and 12 3 to 12 4 3 – Common (Shared) Transport
BST 5	53	Sections 12 5 2 to 12 5 4 2 – Local Channel

New Issues Transferred to Docket No. P-55, Sub 1549

ITC Issue No.	New Issue No.	ISSUE DESCRIPTION
BST 6	54	Section 12 5 7 3 – SONET Transmission rates
BST 7	55	Sections 12 8 to 12 8 4 – Rearrangements
BST 8	56	Sections 14 1 and 14 2 – Operator Services
BST 9	57	Section 14 3 – Directory Assistance
BST 10	58	Section 14 4 – Branding for Operator Services and Directory Assistance
BST 11	59	Section 14 6 – DADS Service
BST 12	60	Section 14 7 – DADAS Service

APPENDIX B

Issues Transferred to Docket No. P-55, Sub 1549 Already Included in June 30, 2005 Matrix

ITC Issue No.	6/30/05 Matrix No.	ISSUE DESCRIPTION
1	8	Commission authority for Section 271 rates, terms, and conditions
4	5	Definitions for purposes of impairment decisions
7	10	Amendment required prior to changes in rates, terms, and conditions for Section 251 items
8	10	Conversions of wholesale to UNE and UNE to wholesale
10	10	BellSouth notice prior to disconnection of unavailable UNEs
14	26 & 27	Routine Network Modifications
18	24	Hybrid loops
24	26 & 27	Copper loop Routine Network Modifications (over 18k)
31	8	Unbundled sub-loop feeder (USLF) as Section 271 item
32	8 & 10	Dark fiber loops during transition period – conversion to Section 271 item
34	19	Line Splitting
37	10	UNE-P – transition period limitations
38	10	Transitional rates true-up billing payment period
41	8	Section 271 elements for UNE-P embedded base access
42	8 & 10	UNE-P Tandem Switching for embedded base [BellSouth proposes to move existing tandem switching language to Unbundled Local Switching Section of Attachment 2 as tandem switching is not a separate element apart from UNE-P which is covered in another issue]

APPENDIX C
Page 1 of 2

Issues to be Decided in Docket No. P-500, Sub 18(A)

ITC Issue No.	New Issue No.	ISSUE DESCRIPTION
Arb 26	1	Pursuant to Finding of Fact No. 10 in the Commission's <i>Order Ruling on Objections</i> requiring BellSouth to provide local switching as set forth in the FCC's rules, is BellSouth required to provide rates, terms, and conditions for local switching in the composite agreement? If yes, what rates should be included?
Arb 36	2	(A) Should ITC be able to connect UNE loops to special access transport? (B) Are special access services being combined with UNEs today?
Arb 37	3	Where ITC has a special access loop that goes to ITC's collocation space, can that special access loop be converted to a UNE loop?
Arb 57	4	(A) Should BellSouth be permitted to charge for ITC conversions of customers from a special access loop to a UNE loop? (B) Should the conversion be completed such that there is no disconnect and reconnect (i.e., no outage to the customer)?
2	5	Where ITC seeks to migrate service currently provided by BellSouth, to either an ACP or ITC's collocation sites located in a BellSouth CO, should BellSouth be permitted to charge a "rearrangement fee" at a rate which exceeds the cost of installation of a cross-connect? What should be the rate and what language should be included in the Agreement relating to migration to an ACP or to ITC collocation sites?
3	6	Should BellSouth be required to deliver UNEs to a third party collocation site when ITC has provided proof of consent from the third party through a blanket LOA?
5	7	Should BellSouth be required to deliver any tariffed services requested by ITC to a collocation site?
9	8	Should the conversion of facilities from special access or other pricing arrangements to UNE prices be made effective back to August 23, 2003 (effective date of the TRO)?

Issues to be Decided in Docket No. P-500, Sub 18(A)

ITC Issue No.	New Issue No.	ISSUE DESCRIPTION
12	9	What language should be incorporated into the Agreement to capture the FCC's policy regarding commingling? Should commingling arrangements be made retroactive back to the date of ITC's arbitration petition (February 2003 or August 2003)? What commingling configurations should BellSouth be required to provide?
13	10	Should the Agreement include language providing for minimum quality standards for UNEs and if so, which standards should apply?
20	11	Should BellSouth be required to honor the language agreed upon in settlement of its Arbitration relating to Hot Cuts?
26	12	Should BellSouth be required to provide Trouble Report Test results to ITC or credit NRCs when a chronic trouble has occurred? Should language in the Agreement be updated to reflect the TRO statements on this issue?
27	13	Should ITC be permitted to convert resold services to other types of services?
36	14	Does the TRRO require BellSouth to provide ITC transitional pricing of TELRIC + \$1.00 for embedded base customers with less than DS1 capacity during the transition period of March 11, 2005 through March 11, 2006?
39	15	What terms and conditions should apply with regard to the availability of EELs? What qualifies as a "reverse collocation" for purposes of Paragraph 605 of the TRO? What EEL configurations is BellSouth required to provide? Is BellSouth required to provide a DS0 EEL? What are the business rules/regulations for obtaining a DS0 EEL? What are the business rules relating to ordering an EEL under the new Service Eligibility Criteria? What should be the terms and conditions of the audit? How long does ITC have to keep records supporting the Service Eligibility Criteria for High Capacity DS1/DS3 EELs?
BST 1	16	Sections 11.3.1 to 11.3.3 – EELs language
BST 2	17	Sections 11.3.4 to 11.2.4.2.7 – EELs service eligibility criteria