

# TENNESSEE REGULATORY AUTHORITY



2006 FEB 24 11:46 AM  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505  
T.R.A. DOCKET ROOM

## MEMORANDUM

TO: Chairman Ron Jones  
Director Pat Miller  
Director Sara Kyle

FROM: Eddie Roberson, Chief, Consumer Services and External Affairs Division *ER*  
Darlene Standley, Chief, Utilities Division *DS*  
Richard Collier, General Counsel *JRC*

DATE: February 23, 2006

SUBJECT: Settlement with BellSouth Telecommunications, Inc.

DOCKET NO.

06-00059

Attached is a Settlement Agreement between BellSouth Telecommunications, Inc. ("BellSouth") and the Staff of the Tennessee Regulatory Authority ("TRA") arising out of delayed payments to the TRA which resulted from alleged violations of the Service Quality Measurements ("SQMs") and Self Effectuating Enforcement Mechanisms ("SEEMs").

The SQMs and SEEMs were adopted in an Order issued in Docket No. 01-00193 by the TRA on October 4, 2002. In accordance with this Order, BellSouth self reports to the Authority on a monthly basis the nature of violations of these benchmarks and, if necessary, makes Tier I payments to the affected Competitive Local Exchange Carriers (CLECs) and Tier II payments to the TRA without any action being required. On its own volition, BellSouth engaged PriceWaterhouseCoopers LLP to review its performance for 2003. The report by Price WaterhouseCoopers discovered BellSouth had missed eight (8) Tier II SEEMs payments to the TRA amounting to \$11,950 over a three month period of time during 2003. The "missed" payments triggered per diem penalties for the time periods the payments remained outstanding.

Upon discovery, BellSouth proceeded to make the outstanding payments. As to the penalties associated with the delay, BellSouth self reported these findings to the TRA staff and expressed an interest in amicably resolving this matter, while expressly contesting the findings. The proposed Settlement Agreement encompasses improvements to the TRA's Lifeline and Link-up programs as well as payments dedicated to increased education and awareness efforts regarding these programs. Under the Settlement Agreement, BellSouth will expand the criteria for qualification for its Lifeline/Link-up tariffs thereby increasing the income based criterion from 125% to 135% of the Federal Income Poverty Level and streamlining the qualification

Settlement with BellSouth Telecommunications, Inc.  
February 23, 2006  
Page 2

process to allow consumers to enroll through a self-certification process instead of submitting proof of eligibility by supplying State-provided documentation. It is estimated that an additional 20,150 Tennesseans will become eligible for Lifeline/Link-up from this expansion. This Settlement also requires BellSouth to provide \$45,000 over a three year period, for the purpose of funding a consumer education campaign publicizing the Lifeline and Link-Up programs. A representative for BellSouth will be available at the March 20, 2006 Authority Conference to answer any questions.

Considering all relevant facts, the Staff is of the opinion that the terms of this Settlement Agreement are fair and reasonable, and provide direct benefit to low income consumers in Tennessee. Staff submits the attached Settlement Agreement for deliberation at the March 20, 2006 Authority Conference.

cc: Charlie Howorth, Attorney, BellSouth Telecommunications Inc.

Attachment

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

RECEIVED  
CONSUMER SERVICES DIVISION  
FEB 13 2005

TN REGULATORY AUTHORITY

IN RE: )  
ALLEGED VIOLATIONS OF )  
§ 1.4.4 of the SERVICE QUALITY )  
MEASUREMENTS & SELF EFFECTUATING )  
ENFORCEMENT MECHANISMS )  
ADMINISTRATIVE PLAN VERSION 2.0 )  
BY: BELL SOUTH )  
TELECOMMUNICATIONS INC. )

TRA DOCKET NO. 06-00059

TRA DOCKET ROOM  
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SETTLEMENT AGREEMENT

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This Settlement Agreement has been entered into between the Staff of the Tennessee Regulatory Authority ("TRA") and BellSouth Telecommunications Inc. ("BellSouth"). The Parties Agree as follows:

RECITALS

1. Service Quality Measurements and Self- Effectuating Enforcement Mechanisms ("SQM/ SEEMs") were initially adopted in Docket 01-00193 on October 4, 2002, as part of a settlement agreement between the parties, in BellSouth's request for Section 271 approval. The SQM/SEEMs establish minimum service quality levels that BellSouth is required to meet in providing service to its competitors. Failure to meet the standards triggers payment by BellSouth of fees to its competitors (Tier I payments) and to the TRA (Tier II payments).
2. From November 21, 2003 to May 13, 2005, BellSouth paid the TRA \$2,745,261 in Tier II payments.

3. BellSouth voluntarily self-reported, to the TRA Staff, findings of a BellSouth-initiated, third-party study (the "Study") of payments made pursuant to its SQM/ SEEMs. While BellSouth strongly contests the accuracy of the findings of the Study, BellSouth chose to notify the TRA of the results, in an abundance of caution.
4. During September, November and December 2003, BellSouth paid \$227,000 in Tier II payments to the TRA. The Study for this same period identified eight (8) late Tier II payments to the TRA, amounting to \$11,950. Based upon Section 4.4.3 of the SEEM Administrative Plan (p.8) Version 3.0, outlining a \$1000 per day penalty, the Study contends, and BellSouth expressly disputes, that penalty payments in the amount of \$822,000 are due based upon the number of days each of the payments was late. The largest of the late payments is a payment shortage of \$10,400 in September 2003, resulting in a calculated late payment of \$546,000. There is no dispute that each and every one of the identified late payments was discovered and paid in the ordinary course of business without regard for the Study.
5. The Study found no omissions in Tier I payments for the test period.
6. BellSouth contacted the Staff expressing an interest in resolving this matter.
7. In negotiating this Settlement Agreement, Staff relied upon the mitigating factors such as those stated in Tenn. Code Ann. 65-4-116(b), including the good faith of the company and the fact that all late payments were made when discovered in the ordinary course of business.
8. BellSouth enters into this Agreement in order to resolve this dispute and expressly denies the accuracy of the findings of the Study.
9. This Settlement Agreement is subject to the approval of the Directors of the TRA.

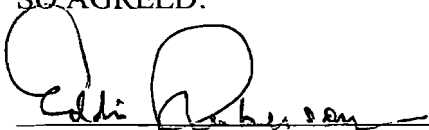
## TERMS OF SETTLEMENT

10. The parties hereby agree that BellSouth will provide a total sum of \$45,000, to be paid in installments over a three year period, for the purpose of providing consumer education publicizing the Lifeline and LinkUp programs, in full and complete settlement of the alleged errors identified by the Study.
11. BellSouth shall coordinate with the Chief of the Consumer Services Division, or other TRA staff member as directed by the TRA, for the purpose of establishing the multi-year publicity plan referenced in the preceding paragraph, which will be implemented by BellSouth. Such plan shall be submitted to the TRA Chair for final approval no later than 60 days after approval of the Settlement Agreement by the TRA.
12. BellSouth agrees to file with the TRA within 60 days from approval of this Settlement Agreement the attached revised Lifeline/LinkUp tariff, reflecting at a minimum the Federal Communications Commission's default state Lifeline/LinkUp requirements (WC Docket 03-109, Order released on April 29, 2004, paragraphs 10 – 18). This revised tariff will extend the program benefits to additional Tennessee low-income consumers served in the BellSouth territory by expanding Lifeline/LinkUp criteria to allow consumers currently participating in Temporary Assistance to Needy Families (TANF), National School Lunch's free lunch program (NSL) or with gross annual income that does not exceed one hundred and thirty five percent (135%) of the federal poverty income guidelines to qualify for the BellSouth Lifeline/LinkUp program. Qualifying consumers will be allowed to enroll in the Lifeline/LinkUp program through self-certification; certifying under penalty of perjury that the customer participates in a

qualifying Tennessee Lifeline eligible program, greatly simplifying the Lifeline/LinkUp enrollment process for qualifying customers.

13. BellSouth agrees to have a representative available at the TRA Conference when this matter is deliberated.
14. If any clause, provision or section of this agreement shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Settlement Agreement and this Settlement Agreement shall be construed as if such illegal, invalid or unenforceable clause, section or provision had not been contained herein.
15. This Settlement Agreement represents the entire agreement between the parties, and there are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter of this Settlement Agreement that are not fully expressed herein, or attached hereto.
16. In the event that BellSouth fails to comply with the terms and conditions of this Settlement Agreement, the TRA reserves the right to open a docket. In that event, BellSouth shall pay any and all costs incurred in enforcing this Settlement agreement.

SO AGREED:

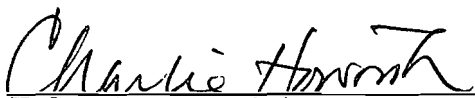
  
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Eddie Roberson

TRA Chief, Consumer Services and External Affairs Division

2/24/06

\_\_\_\_\_  
Date

  
\_\_\_\_\_

BellSouth Telecommunications, Inc.

2/10/2006

\_\_\_\_\_  
Date

EFFECTIVE March 14, 2006

RECEIVED  
CONSUMER SERVICES DIVISION  
FEB 15 2006

TN REGULATORY AUTHORITY

### A3. BASIC LOCAL EXCHANGE SERVICE

#### A3.31 Lifeline

##### A3.31.1 Description of Service

- A. The Lifeline program is designed to increase the availability of telecommunications services to low income subscribers by providing a credit to monthly recurring local service to qualifying residential subscribers. Basic terms and conditions are in compliance with the FCC's Order on Universal Service in FCC 97-157, which adopts the Federal-State Joint Board's recommendation in CC Docket 96-45, which complies with the Telecommunications Act of 1996. Specific terms and conditions are as prescribed by the Tennessee Regulatory Authority and are as set forth in this tariff.
- B. Lifeline is supported by the federal universal service support mechanism.
- C. Federal baseline support of \$8.25 is available for each Lifeline service and is passed through to the subscriber. An additional \$3.50 credit is provided by the Company. Supplemental federal support of \$1.75, matching one half of the Company contribution, will also be passed along to the Lifeline subscriber. The total Lifeline credit available to an eligible customer in Tennessee is \$13.50. The amount of credit will not exceed the charge for local service, which includes the access line, Touch-Tone, the Subscriber Line Charge and local usage.

##### A3.31.2 Regulations

###### A. General

1. Customers eligible under the Lifeline program are also eligible for connection assistance under the Link-Up program
2. One low income credit is available per household and is applicable to the primary residential connection only. The named subscriber must be a current recipient of any of the low income assistance programs identified in B. following.
3. A Lifeline customer may subscribe to the current capped message rate Lifeline plan (USOC LM8) or any local service offering available to other residence customers. Since the Lifeline credit is applicable to the primary residential connection only, it may not be applied to a multiple line package local service offering.
4. Toll blocking, if elected, will be provided at no charge to the Lifeline subscriber.
5. The deposit requirement is not applicable to a Lifeline customer who subscribes to toll blocking. If a Lifeline customer removes toll blocking prior to establishing an acceptable credit history, a deposit may be required. When applicable, advance payments will not exceed the connection and local service charges for one month.
6. A Lifeline customer is exempt from the Late Payment Charge in Section A2.
7. The Federal Universal Service Charge will not be billed to Lifeline customers.
8. A Lifeline subscriber's local service will not be disconnected for non-payment of regulated toll charges. Local service may be denied for non-payment of local service in accordance with Section A2. Access to toll service may be denied for non-payment of regulated tolls. A Lifeline subscriber's request for reconnection of local service will not be denied if the service was previously denied for non-payment of toll charges.
9. The non-discounted federal Lifeline credit amount will be passed along to resellers ordering local service at the prescribed resale discount from this Tariff, for their eligible end users. The additional credit to the end user will be the responsibility of the reseller. Eligible Telecommunications Carriers, as defined by the FCC, are required to establish their own Lifeline programs.

###### B. Eligibility

1. To be eligible for a Lifeline credit, a customer must be a current recipient of any one of the following low income assistance programs:
  - a. Temporary Assistance to Needy Families (TANF), previously known as AFDC
  - b. Supplemental Security Income (SSI)
  - c. Food Stamps
  - d. *TennCare* Medicaid (T)
  - e. National School Lunch's free lunch program (NSL) (N)
  - f. Federal Public Housing Assistance/Section 8<sup>1</sup> (N)
  - g. Low Income Home Energy Assistance Program (LIHEAP)<sup>1</sup> (N)
2. Additionally, a customer with total gross annual income that does not exceed *one hundred and thirty-five percent (135%)* of the federal poverty income guidelines may apply directly to the Tennessee Regulatory Authority (TRA) for Lifeline eligibility certification. (C)
3. All applications for service are subject to verification with the TRA or state agency responsible for administration of the qualifying program.

**Note 1:** Effective on or before July 31, 2006

(N)

### A3. BASIC LOCAL EXCHANGE SERVICE

#### A3.31 Lifeline (Cont'd)

##### A3.31.2 Regulations (Cont'd)

###### C. Certification

1. Proof of eligibility in any of the qualifying low income assistance programs should be provided to the Company at the time of application for service, *or eligible Lifeline subscribers may enroll in the Lifeline program by signing a document certifying under penalty of perjury that the customer participates in one of the Tennessee Lifeline eligible programs and identifying the qualifying program*. The Lifeline credit will not be established until *the Company has received such signed document*. If the customer requests installation prior to the Company's receipt of *such signed document*, the requested service will be provided without the Lifeline credit. When eligibility documentation is provided subsequent to installation, the Lifeline credit will be provided on a going forward basis. (C)
2. The Company reserves the right to periodically audit its records, working in conjunction with the appropriate state agencies, for the purpose of determining continuing eligibility. Information obtained during such audit will be treated as confidential information to the extent required under State and Federal laws. The use or disclosure of information concerning enrollees will be limited to purposes directly connected with the administration of the Lifeline plan.
3. When a customer is determined to be ineligible as a result of an audit, the Company will contact the customer. If the customer cannot provide eligibility documentation, the Lifeline credit will be discontinued *after a thirty (30) day notice to the customer*. (C)
4. Resellers providing Lifeline service from this tariff are responsible for determining proof of eligibility prior to requesting the service. As set forth in 47 C.F.R. 54 § 417(a) and (b), a reseller must provide a certification, upon request, to BellSouth that it is complying with all FCC and applicable State requirements governing Lifeline/Link-Up programs, including certification and verification procedures. Resellers are required to retain the required documentation for three (3) years and be able to produce the documentation to the Commission or its Administrator to demonstrate that they are providing discounted services only to qualified low-income customers as outlined in B.1. and B.2. preceding. Disclosure requirements described in 2. preceding are applicable to resellers of Lifeline service. (T)

##### A3.31.3 Rates and Charges

###### A. General

1. Lifeline is provided as a monthly credit on the eligible residential subscriber's access line bill for local service.
2. Service Charges in Section A4 are applicable for installing or changing Lifeline service.
3. Link-Up connection assistance in Section A4 may be available for installing or relocating Lifeline service.
4. The Secondary Service Charge in Section A4 is not applicable when existing service is converted intact to Lifeline.

###### B. The total Lifeline credit consists of one federal credit plus one state credit

###### (1) Federal credit

	Monthly Credit	USOC	
(a) Temporary Assistance to Needy Families (TANF)	\$10.00	ASGFA	
(b) Supplemental Security Income (SSI)	10.00	ASGFS	
(c) Food Stamps	10.00	ASGFC	
(d) <i>TennCare</i> Medicaid	10.00	ASGS1	(T)
(e) TRA Certified	10.00	ASGTC	
(f) National School Lunch's free lunch program (NSL)	10.00	ASGFN	(N)
(g) Federal Public Housing Assistance/Section 8 <sup>1</sup>	10.00	ASGFP	(N)
(h) Low Income Home Energy Assistance Program (LIHEAP) <sup>1</sup>	10.00	ASGFL	(N)
(2) State credit			
(a) One per Lifeline	3.50	CRA	

**Note 1:** Effective on or before July 31, 2006

(N)



## A4. SERVICE CHARGES

### A4.7 Link-Up

#### A4.7.1 General

- A. Link-Up is a program designed to increase the availability of telecommunications services to low income subscribers by providing a credit to the non-recurring installation and service charges to qualifying residential subscribers. Basic terms and conditions are in compliance with the FCC's Order on Universal Service in FCC 97-157, which adopts the Federal-State Joint Board's recommendation in CC Docket 96-45, which complies with the Telecommunications Act of 1996. Specific terms and conditions are as prescribed by the Tennessee Regulatory Authority, as set forth in this tariff.
- B. Link-Up is supported by the federal universal service support mechanism
- C. A federal credit amount of fifty percent (50%) of the non-recurring charges for connection of service, up to a maximum of thirty dollars (\$30.00), is available to be passed through to the subscriber.
- D. In compliance with the FCC's Order, FCC 05-178, dated October 14, 2005, support under the federal Link-Up program will be provided to victims of Hurricane Katrina moving to temporary housing arrangements and to those who return to permanent residences in the affected areas. A federal credit in the amount of thirty dollars (\$30.00) per qualifying household will be available to subscribers upon request and certification of FEMA eligibility. Eligibility for this credit is based on the eligibility criteria used by FEMA to provide individual disaster housing assistance. A maximum of two federal credits (one for the temporary location and one for a return to the permanent location) will be available to qualified subscribers. These credits will be available for customer orders from October 14, 2005 to March 1, 2007. These subscribers will not necessarily be eligible for the Lifeline program as specified in this tariff.

#### A4.7.2 Regulations

##### A General

- 1 Customers eligible under Link-Up are also eligible for monthly recurring assistance under the Lifeline program
- 2 Link-Up connection assistance is available per household and is applicable to the primary residential connection only.
- 3 The Link-Up credit is available each time the customer installs or relocates the primary residential service
- 4 To receive the credit, proof of eligibility must be provided prior to installation of service.
- 5 The total tariffed charges for connecting service, including service and other installation charges, are considered in the credit calculation
- 6 The non-discounted federal credit amount will be passed along to resellers ordering local service at the prescribed resale discount from this Tariff, for their eligible end users. Eligible Telecommunications Carriers, as defined by the FCC, are required to establish their own Link-Up programs

##### B. Eligibility

1. To be eligible for a Link-Up credit, the named subscriber must be a current recipient of any of the following low income assistance programs
  - a. Temporary Assistance to Needy Families (TANF), previously known as AFDC
  - b. Supplemental Security Income (SSI)
  - c. Food Stamps
  - d. **TennCare** Medicaid (T)
  - e. National School Lunch's free lunch program (NSL) (N)
  - f. Federal Public Housing Assistance/Section 8<sup>1</sup> (N)
  - g. Low Income Home Energy Assistance Program (LIHEAP)<sup>1</sup> (N)
2. Additionally, a customer with total gross annual income that does not exceed **one hundred and thirty-five percent (135%)** of the federal poverty income guidelines may apply directly to the Tennessee Regulatory Authority (TRA) for Lifeline eligibility certification (C)
3. All applications for service are subject to verification with the TRA or state agency responsible for administration of the qualifying program.

**Note 1:** Effective on or before July 31, 2006

(M)

(N)

Material previously appearing on this page now appears on page(s) 71 of this section

All BellSouth marks contained herein and as set forth in the trademarks and servicemarks section of this Tariff are owned by BellSouth Intellectual Property Corporation

## A4. SERVICE CHARGES

### A4.7 Link-Up (Cont'd)

#### A4.7.2 Regulations (Cont'd)

##### C. Certification

1. Proof of eligibility in any of the qualifying low income assistance programs should be provided to the Company at the time of application for service. *Link-Up eligible subscribers may receive the Link-Up credit by signing a document certifying under penalty of perjury, that the customer participates in one of the Link-Up eligible programs and identifying the qualifying program.* The Link-Up credit will not be established until *the Company has received such signed document*. If the customer requests installation *prior to the Company's receipt of such signed document*, the requested service will be provided without the Link-Up credit. (M) (C)
2. The use or disclosure of information concerning enrollees will be limited to purposes directly connected with the administration of the Link-Up plan. (M)
3. Resellers providing Link-Up service from this Tariff are responsible for determining proof of eligibility prior to requesting the service. As set forth in 47 C.F.R. § 417(a) and (b), a reseller must provide a certification, upon request, to BellSouth that it is complying with all FCC and applicable State requirements governing Lifeline/Link-Up programs, including certification and verification procedures. Resellers are required to retain the required documentation for three (3) years and be able to produce the documentation to the Commission or its Administrator to demonstrate that they are providing discounted services only to qualified low-income customers as outlined in B 1 and B 2 preceding. Disclosure requirements described in 2 preceding are applicable to resellers of Link-Up service. (T)

#### A4.7.3 Rates and Charges

- A. The federal credit available for a Link-Up connection is thirty dollars (\$30.00) maximum or fifty percent (50%) of the installation and service charges from this Tariff, whichever is less

### A4.8 Trouble Determination Charge

#### A4.8.1 General

- A. Residence and Business basic exchange services which terminate in a communications system, such as PBX or Key, are defined as Other Residence or Business Services. These customer shall be responsible for the payment of Company charges for visits by the Company to the customer's premises which are required in connection with a customer's service difficulty or trouble report when it is determined that the source of the difficulty or trouble is on the customer's side of the demarcation point. This charge does not include any isolation work beyond the demarcation point.
- B. Effective 1-1-87, the Company no longer provides maintenance and further isolation of wire and set troubles as a regulated service in compliance with the FCC order in CC Docket 79-105

#### A4.8.2 Rates and Charges

- A. Trouble determination for both Other Residence or Business Service customers will be provided based on Premises Work Charges as described in A4.2.5, at the rates applicable to Business customers

### A4.9 Reserved for Future Use

### A4.10 Reserved for Future Use

### A4.11 Reserved for Future Use

### A4.12 Reserved for Future Use

Material appearing on this page previously appeared on page(s) 7 of this section.

All BellSouth marks contained herein and as set forth in the trademarks and servicemarks section of this Tariff are owned by BellSouth Intellectual Property Corporation.

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

RECEIVED  
CONSUMER SERVICES DIVISION  
FEB 13 2006

TN REGULATORY AUTHORITY  
TRA DOCKET NO. 06-00059  
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ADMINISTRATIVE PLAN VERSION 2.0 )  
BY: BELLSOUTH )  
TELECOMMUNICATIONS INC. )

TRA DOCKET NO. 06-00059

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OVERVIEW OF SETTLEMENT AGREEMENT AND REQUEST FOR APPROVAL

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BellSouth Telecommunications, Inc. ("BellSouth") and the Staff of the Tennessee Regulatory Authority ("TRA") have negotiated a settlement in this matter, which the parties believe is in the best interest of Tennessee consumers as discussed below:

**Background**

On October 4, 2002, the Tennessee Regulatory Authority ("Authority" or "TRA") issued an Order in TRA Docket No. 01-00193, adopting Tennessee's current Performance Assurance Plan ("PAP") that includes Service Quality Measurements ("SQMs") and Self-Effectuating Enforcement Mechanisms ("SEEMs").<sup>1</sup> Through this Order, the Authority adopted specific performance measurements, benchmarks and enforcement mechanisms that are to be implemented through interconnection agreements between BellSouth and Competitive Local Exchange Carriers ("CLECs"). The SQMs measure the extent to which BellSouth provides nondiscriminatory wholesale service to CLECs. BellSouth's failure to meet these benchmarks

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<sup>1</sup> See *In re: Generic Docket on Performance Measurements*, TRA Docket No. 01-00193, *Final Order Accepting Settlement Agreement and Adopting Performance Measurements, Benchmarks and Enforcement Mechanisms*, (October 4, 2002).

over a certain period of time activates the SEEMs under which BellSouth is required to make payments to the CLECs (Tier I payments) and to the TRA (Tier II payments). Under the agreement of the parties in Docket No. 01-00193, the Authority adopted the SQMs and SEEMs that were put into place by the Florida Public Service Commission on February 14, 2002 and as they may be modified in the future. The PAP was a component of a settlement agreement under which BellSouth received TRA approval for entry into the long distance telecommunications market pursuant to Section 271 of the federal Telecommunications Act of 1996. In 2005, the TRA approved a Settlement Agreement in Docket 04-00150 establishing a new PAP, which is in effect today.

Pursuant to the adoption of the SQMs and SEEMs, BellSouth self-reports to the Authority on a monthly basis the nature of violations of the benchmarks and makes payments to the CLECs and the TRA without any action being required. From November 21, 2003 to May 13, 2005, BellSouth made Tier II payments to the TRA in the total amount of \$2,745,261. On its own volition, BellSouth engaged the services of PricewaterhouseCoopers LLP to review its Tennessee SEEMs Tier I and Tier II payments for 2003.<sup>2</sup> The preliminary PricewaterhouseCoopers Report (“Report”) included findings that several SEEMs payments had been missed and provided information to BellSouth regarding the amount of time that had lapsed from the due date and the amount of the penalty for late payments.

### **Report Findings**

The preliminary Report found that during the months of September, November and December 2003, BellSouth paid \$227,000 in Tier II payments to the TRA. The Report

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<sup>2</sup> Section 4.9 of the Tennessee SEEMs Administrative Plan outlines the audit rights available to the TRA and CLECs under the Plan. BellSouth is required to perform an audit “If requested by a Public Service Commission [TRA]. . .” No audit request has been made by the TRA.

identified eight (8) late Tier II payments to the TRA for this same period, amounting to \$11,950. Based upon Section 4.4.3 of the SEEM Administrative Plan (p.8) Version 3.0, outlining a \$1000 per day penalty, the Report contends, and BellSouth expressly disputes, that penalty payments in the amount of \$822,000 are due based upon the total number of days each of the payments was late. The largest of the late payments is a payment shortage of \$10,400 in September 2003. This same month, BellSouth paid the TRA a Tier II payment of \$56,700. According to BellSouth, the omitted payment of 10,400 for September 2003 was due to a bookkeeping error, which was not discovered until the Report was issued. As a result, 546 days passed which, according to the Report generated a late payment charge in the amount of \$546,000.

**There is no dispute that, although the identified payments were paid late, each and every one of the payments was reported by BellSouth and paid by BellSouth in the ordinary course of business without regard for the Report. All late payments, excluding disputed penalties, identified in the Report have been paid to the TRA during the normal course of business.**

While BellSouth vigorously contests the accuracy of the findings of the Report regarding penalties due, BellSouth voluntarily self-reported to the TRA Staff the findings of the Report out of an abundance of caution. In the midst of discussions, BellSouth contacted the members of TRA Staff expressing an interest in resolving this matter.

#### **Description of Settlement Terms**

As a part of the attached Settlement Agreement, BellSouth will revise its Lifeline/Link-Up tariffs to expand the criteria and streamline the Lifeline and Link-Up qualification process, as more fully described in this Settlement Agreement. BellSouth agrees to expand the consumer low-income benefits of BellSouth's Lifeline/Link-Up service as set forth in

the attached revised tariff, which BellSouth agrees to file with the TRA, within thirty (30) days from approval of the Settlement Agreement. BellSouth's tariff will adopt the Federal Communications Commission's Federal Default Lifeline/Link-Up eligibility criteria which will expand the Lifeline/Link-Up benefits to an estimated 20,150<sup>3</sup> Tennesseans. BellSouth will cover the additional state monthly contribution of \$3.50 for its new lifeline retail customers under the expanded criteria as it does for existing customers.<sup>4</sup> The new criteria set forth in the BellSouth tariff will include the following state social programs: Temporary Assistance to Needy Families (TANF), National School Lunch's free lunch program (NSL), Federal Public Housing Assistance (Section 8), Low Income Heating and Electric Assistance Program (LIHEAP). Low-income consumers may also qualify for Lifeline/Link-Up based upon income at or below a percentage of the National Poverty Guidelines ("NPG"). Presently, Tennessee has an income-based criterion of one hundred and twenty-five percent (125%) of the NPG. BellSouth agrees to file a tariff that will increase the percentage to one hundred thirty-five percent (135%) of NPG.

The Staff is aware of consumers experiencing trouble in signing up for Lifeline/Link-Up.<sup>5</sup> The staff is of the opinion that the current process of qualifying for Lifeline/Link-Up can be cumbersome and tedious, requiring consumers to submit proof of qualification by faxing or mailing State-provided documentation to BellSouth. As a result, staff believes certain consumers are likely to give up in the midst of the process. As part of this settlement, Staff has been working with BellSouth in an attempt to develop a more streamlined, consumer-friendly process that will maintain a certain level of integrity. BellSouth agrees to

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<sup>3</sup> *In the Matter of Lifeline and Link-up, FCC 04-87, Report and Order and Further Notice of Proposed Rulemaking*, p. K-18 (April 29, 2004).

<sup>4</sup> This state contribution is required in order to receive the maximum federal contribution for Lifeline customers.

<sup>5</sup> Consumer Services and External Affairs Division complaint data reveals that 44 complaints were registered in 2005 and 11 for 2006 as of 2-1-06 of consumers that experienced trouble in registering for Lifeline through BellSouth. BellSouth quickly addressed the complaints once notified by the TRA.

incorporate in its revised Lifeline/Link-Up tariff a streamlined process for enrollment. Qualifying consumers will be allowed to enroll in the Lifeline/Link-Up program through a self-certification process; certifying in writing under penalty of perjury that the customer participates in a qualifying Tennessee Lifeline eligible program. The self-certification process also includes an electronic verification of the qualifications of enrollees every six (6) months by BellSouth by comparing its Lifeline enrollments with the Tennessee Department of Human Services social program rolls. Consumers found to be no longer qualified for Lifeline by this verification process will be notified that their benefits will terminate sixty (60) days from the date of notification unless sufficient proof of qualification is provided.

With the expanded criteria of the tariff mentioned above, eligible consumers need to be informed as to their qualification to receive Lifeline and Link-Up benefits. BellSouth further agrees to provide a total sum of \$45,000, to be dispersed in installments over a three year period, for the purpose of funding a consumer education campaign publicizing the Lifeline and Link-Up programs. BellSouth shall coordinate with the Chief of the Consumer Services Division, or other TRA staff members as directed by the TRA, for the purpose of establishing the multi-year consumer education plan ("Plan"), which will be implemented by BellSouth. The Plan will be designed to enhance the awareness and more thoroughly educate the targeted population regarding the availability and benefits of Lifeline and Link-Up Assistance Programs. The Plan shall be statewide in scope and shall utilize multi-media advertising and direct mail approach to the targeted population. The Plan shall be submitted to the Tennessee Regulatory Authority Directors for approval no later than sixty (60) days after approval of the Settlement Agreement by the TRA.

Staff asserts that the implementation of this new process of self-certification and the expanded criteria for eligibility, along with the provision of funds to publicize Lifeline/Link-Up that are part of this settlement, are of tremendous value to the State and comprise a settlement of this matter that is in the public interest.

In negotiating the Settlement Agreement, Staff relied upon the mitigating factors, such as those stated in Tenn. Code Ann. 65-4-116(b), including the good faith of BellSouth in disclosing the Report's findings and the fact that all late Tier II payment amounts were promptly made by BellSouth to the TRA upon their discovery by BellSouth.

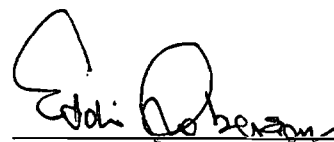
BellSouth enters into this Agreement in order to resolve the penalty payments in dispute, expressly denying the accuracy of the findings of the Report. The parties understand that the Settlement Agreement is subject to the approval of the Directors of the TRA. BellSouth agrees to have a representative available at the TRA Conference when this matter is deliberated.

In the event that BellSouth fails to comply with the terms and conditions of the Settlement Agreement, the TRA reserves the right to open a docket. In that event, BellSouth shall pay any and all costs incurred in enforcing the Settlement agreement.

### CONCLUSION

For the foregoing reasons, Staff presents the attached Settlement agreement to the TRA and urges the Authority to grant approval.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eddie Roberson", is written over a horizontal line.

Eddie Roberson  
TRA Chief, Consumer Services  
and External Affairs Division