

**BEFORE THE  
TENNESSEE PUBLIC UTILITY COMMISSION**

AT&T TENNESSEE COMPLAINT	)	
AGAINST CELLULAR SOUTH, INC.	)	Docket No. 19-00099
DBA C SPIRE	)	

**DIRECT TESTIMONY OF LEE PUCKETT ON BEHALF OF  
CELLULAR SOUTH, INC. DBA C SPIRE**

**April 6, 2020**

1                   **DIRECT TESTIMONY OF LEE PUCKETT ON BEHALF OF**  
2                   **CELLULAR SOUTH, INC. DBA C SPIRE**

3  
4                   **Introduction**

5  
6       **Q.     Please state your name, business address, and occupation.**

7  
8       A.     My name is Lee Puckett and I am the Manager, Network Finance and, among  
9       other things, I am in charge of interconnection for Cellular South, Inc. dba C Spire (“C  
10      Spire”) and my business address is 1018 Highland Colony Parkway, Suite 300,  
11      Ridgeland, Mississippi 39157.

12      **Q.     Please briefly outline your educational background and related experience.**

13  
14      A.     I graduated from the University of Mississippi in 1992 with a Bachelor’s Degree  
15      in Managerial Finance. I have been employed with C Spire since November 2008 and  
16      since 2009 I have been in charge of interconnection/reciprocal compensation with other  
17      telecommunications carriers on behalf of C Spire.

18      **Q.     On whose behalf are you testifying?**

19  
20      A.     I am testifying on behalf of C Spire.

21      **Q.     What is the purpose of your testimony?**

22  
23      A.     To address certain issues of contention between C Spire and AT&T in connection  
24      with that certain billing dispute between C Spire and AT&T arising under the terms of  
25      the Interconnection Agreement between C Spire and AT&T dated September 1, 2003, as  
26      amended including, but not limited to that certain Letter Agreement dated August 4, 2006  
27      (collectively, the “Agreement”).<sup>1</sup>

28      **Q.     Please give us a brief background of the events leading up to this Arbitration.**  
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<sup>1</sup> The Interconnection Agreement was between BellSouth Telecommunications, Inc. (now AT&T) and Telepak, Inc. (now Cellular South, Inc.).

1     A.     On October 19, 2017 I received a letter from Debbie Weber with AT&T notifying  
2     C Spire that AT&T was disputing a year's worth<sup>2</sup> of interconnection facility charges  
3     which C Spire had properly billed AT&T under the terms of the Agreement. The alleged  
4     grounds for the dispute were new traffic percentages generated by AT&T for the period  
5     of August 1, 2016 to August 1, 2017, which traffic percentages had been provided to C  
6     Spire until the day prior to receipt of the dispute and which traffic percentages showed a  
7     dramatic drop in AT&T originated telecommunications traffic to C Spire. C Spire  
8     rejected the dispute on the grounds that C Spire had correctly billed AT&T for the shared  
9     interconnection facilities in accordance with the terms of the Agreement and requested  
10    that AT&T provide the underlying traffic data supporting the new traffic percentages. On  
11    April 9, 2019 I received a letter from Debbie Weber notifying C Spire that AT&T would  
12    not provide the underlying traffic data and that it was now disputing not only the facilities  
13    charges for August 1, 2016 to July 31, 2017 but they were disputing all facilities charges  
14    going back as far as the applicable statute of limitations would allow or approximately  
15    three (3) years in this case. Notwithstanding the foregoing statements it appears AT&T is  
16    disputing charges in Tennessee from January 1, 2016 through July 31, 2017. C Spire  
17    again rejected AT&T's dispute and again asked for the traffic data supporting AT&T's  
18    alleged traffic figures. AT&T has never provided such underlying traffic data to C Spire  
19    (and it is my understanding from my counsel that AT&T now states it has been  
20    destroyed<sup>3</sup>) and since the parties were both steadfast in their position C Spire filed a  
21    petition to arbitrate the billing dispute under the Agreement with the Mississippi Public

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<sup>2</sup> Specifically for the period from August 2016 to July 2017.

<sup>3</sup> See AT&T's Responses to C Spire's Data Requests in this Docket.

1 Service Commission.<sup>4</sup> AT&T alleged that the Mississippi Public Service Commission  
2 has no jurisdiction to decide the portions of the billing dispute which relate to  
3 telecommunications traffic exchanged in other states<sup>5</sup> despite the fact that the Agreement  
4 appears to clearly contradict this argument.<sup>6</sup> Despite C Spire's objection<sup>7</sup> that the  
5 Agreement provided for any one Commission (as defined in the Agreement) to decide the  
6 dispute, on October 24, 2019 AT&T filed a complaint with the Tennessee Public Utility  
7 Commission to decide the billing dispute as relates to the dollar amounts at issue for the  
8 Interconnection Facilities (as hereinafter defined) based upon the Tennessee  
9 telecommunications traffic exchanged between the parties. Obviously it is not very  
10 efficient to have the dispute resolved by more than one commission and it also has served  
11 to dramatically increase the cost of this dispute.

12 **Q. What is C Spire's position regarding the billing dispute for the charges for**  
13 **shared interconnection facilities brought by AT&T?**

14 A. First, the terms for the billing by C Spire of charges for the two way  
15 interconnection facilities utilized by both C Spire and AT&T to directly interconnect their

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<sup>4</sup> Petition for Arbitration of a Billing Dispute Between Cellular South, Inc. and BellSouth Telecommunications, Inc., Docket No. 2019-AD-127, August 16, 2019.

<sup>5</sup> See Bellsouth Telecommunications, LLC DBA AT&T Mississippi Answer, Motion to Correct the Style of the Proceeding, Motion to Dismiss in Part, and Formal Complaint in Response to the Petition for Arbitration of Billing Dispute by Cellular South, Inc. dba C Spire, MPSC Docket No. 2019-AD-127, September 5, 2019, a copy of which is attached hereto as Exhibit A.

<sup>6</sup> The Agreement defines "Commission" to be the "appropriate regulatory agency in each of BellSouth's nine state region: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee." Agreement, Section I.B. Section XX of the Agreement expressly provides that any unresolved issues between the parties may be resolved petitioning the Commission for a resolution of the dispute.

<sup>7</sup> See Response to Bellsouth Telecommunications, LLC DBA AT&T Mississippi's Motion to Correct the Style of the Proceeding, Motion to Dismiss in Part, and Formal Complaint in Response to the Petition for Arbitration of a Billing Dispute by Cellular South, Inc. dba C Spire, Petition for Arbitration of a Billing Dispute Between Cellular South, Inc. and Bellsouth Telecommunications, LLC, MPSC Docket No. 2019-AD-127, October 15, 2019, a copy of which is attached hereto as Exhibit B.

1 networks and exchange telecommunications traffic (hereinafter the “Interconnection  
2 Facilities”) is governed by the Agreement, as is AT&T’s ability to dispute those charges.

3 Second, C Spire correctly billed AT&T for AT&T’s share of the cost of the  
4 Interconnection Facilities in accordance with the Agreement. The Agreement provides  
5 for the use of actual traffic measurements to determine the amount of traffic exchanged  
6 between the parties, if available, which traffic ratio is then applied to the cost of the  
7 Interconnection Facilities. AT&T controls the actual traffic measurements and AT&T is  
8 required to provide the actual traffic measurements to C Spire. Specifically, the Letter  
9 Agreement dated August 4, 2007, obligated AT&T to provide the interconnection facility  
10 factors to C Spire on a quarterly basis by the 20<sup>th</sup> day of April, July, October, and January  
11 of each year.<sup>8</sup> Despite the terms of Agreement AT&T did not provide C Spire with any  
12 actual traffic measurements after the third calendar quarter of 2012<sup>9</sup> until AT&T sent me  
13 traffic percentages one day prior to my receipt of notice of this dispute on October 19,  
14 2017. Furthermore, AT&T has to date refused to provide the underlying traffic data to C  
15 Spire as required by the Agreement and I am informed by my counsel that AT&T now  
16 says that the data no longer exists. This traffic data is necessary to determine exactly  
17 which telecommunications carrier originated the traffic and to determine the Percent  
18 Local Usage (“PLU”) factor which is critical to determining the charge for the  
19 Interconnection Facilities that AT&T should pay.<sup>10</sup> This is because Section V.B of the  
20 Agreement provides that AT&T shall bear the cost of the Interconnection Facilities based

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<sup>8</sup> See Exhibit C.

<sup>9</sup> As shown in the emails between G.W. Hodges of AT&T and me that are attached to C Spire’s response to AT&T’s discovery requests, the last actual traffic percentages received by C Spire prior to 2017 arrived on August 22, 2012. Thereafter, Mr. Hodges transferred to a new position and he acknowledged that AT&T would probably cease providing the traffic percentages. That is exactly what happened.

<sup>10</sup> “The Parties will use an auditable PLU factor as a method for determining whether traffic is Local or Non-Local. The PLU factor will be used for traffic delivered by either Party for termination on the other Party’s network.” Agreement, Section IV.E.

1 upon the percentage of BellSouth originated Local Traffic to the total traffic over the  
2 Interconnection Facilities.<sup>11</sup>

3 In any event the Agreement provides that if AT&T does not provide actual traffic  
4 measurements then C Spire is to use the latest actual traffic measurements provided by  
5 AT&T to bill for the Interconnection Facilities.<sup>12</sup> This is exactly what C Spire did.  
6 AT&T cannot dispute invoices properly billed and calculated in accordance with the  
7 terms of the Agreement.

8 **Q. If the foregoing reason for rejecting AT&T's billing dispute is rejected does**  
9 **C Spire have alternative reasons for why AT&T's dispute should be rejected in**  
10 **whole or in part?**

11 A. Yes. There are a number of alternative reasons why AT&T's dispute is  
12 not permitted under the Agreement. First, AT&T's billing dispute is not valid if AT&T  
13 refuses to provide the underlying traffic data supporting the percentages upon which its  
14 dispute is allegedly based. "[A] billing dispute will not include the refusal to pay all or  
15 part of a bill when no written documentation is provided to support the dispute."<sup>13</sup>  
16 AT&T has not provided written documentation, i.e. traffic data, which clearly shows the  
17 basis for the billing dispute. AT&T's refusal to provide the underlying traffic data is a

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<sup>11</sup> The Interconnection Facilities at issue are two-way trunk groups.

<sup>12</sup> "To determine the amount of compensation due to Carrier for interconnection facilities with two-way trunking for the transport of Local Traffic originating on BellSouth's network and terminating on Carrier's network, **Carrier will utilize the prior month's undisputed Local Traffic usage bill by BellSouth to Carrier to develop the percent of BellSouth originated traffic.**" Agreement, Section VI.A.4.a.

<sup>13</sup> Agreement, Section VI.B.4.b. Historically AT&T has provided C Spire with the underlying traffic data figures. "The dispute must be clearly explained by the disputing Party and supported by written documentation, which clearly shows the basis for disputing charges." Agreement, Section VI.B.4.b.

1 breach of the Agreement which provides that an “auditable PLU factor” will be used to  
2 determine whether traffic is Local or Non-Local.<sup>14</sup>

3 I would also note that the Agreement is very detailed about what  
4 telecommunications traffic records are to be retained by each party and the exact time  
5 periods during which a changed PLU factor can be applied. “The Parties will retain  
6 records of call detail for a minimum of nine (9) months from which the PLU, the percent  
7 of Intermediary Traffic, the percent interMTA traffic, and the PIU can be ascertained.”<sup>15</sup>  
8 “The PLU shall be adjusted based upon the audit results and shall apply to the usage for  
9 the quarter the audit was completed, the usage for the quarter prior to the completion of  
10 the audit, and to the usage for the two quarters following completion of the audit.”<sup>16</sup>  
11 AT&T is seeking to apply an adjusted PLU going back a period of three (3) years in some  
12 cases. The Agreement only permits an adjusted PLU to be applied to the quarter prior to  
13 the date the PLU was adjusted.

14 Finally, Section VI.B.5 of the Agreement provides that a party may not bill the  
15 other party for previously unbilled charges more than one (1) year old. So even if one  
16 determined that AT&T’s dispute is valid, in no event would AT&T be entitled to seek  
17 more than one (1) year of charges for its share of the Interconnection Facilities. Debbie  
18 Weber acknowledged this in her letter to me dated April 5, 2018.<sup>17</sup>

19 **Q. Since AT&T gave notice of their billing dispute have they routinely provided**  
20 **updated traffic percentages each quarter?**

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<sup>14</sup> Agreement, Section VI.B.3 The percent of local usage (“PLU”) is important because AT&T only pays for its portion of the Interconnection Facilities based on the Local Traffic originated by AT&T and terminated to C Spire.

<sup>15</sup> Agreement, Section XV.

<sup>16</sup> Id.

<sup>17</sup> See Exhibit D.

1 A. Generally they have. However, I still have to press AT&T to get the traffic  
2 percentages and AT&T has still refused to provide C Spire with the data underlying the  
3 traffic percentages AT&T is providing so that C Spire could verify the accuracy of the  
4 traffic percentages.

5 **Q. Why is the underlying traffic data important?**

6 A. It is the only way C Spire can verify the traffic percentages that AT&T is  
7 providing, the carriers originating the traffic, and the PLU among other things. As you  
8 might note the traffic percentages provided by AT&T in 2017 showed a significant drop  
9 in AT&T originated Local Traffic from 2012. Contrary to what AT&T alleges I did not  
10 expect that kind of drop because in the interim I had moved the vast majority of the third  
11 party transit traffic that AT&T was delivering to C Spire over the Interconnection  
12 Facilities to Inteliquent, Inc.. Therefore, I expected that AT&T's percentage of Local  
13 Traffic delivered over the Interconnection Facilities would increase rather than decrease.

14 Recently I was able to get a few months of underlying traffic data from  
15 Inteliquent which showed what transit traffic AT&T was delivering to C Spire over the  
16 Interconnection Facilities. That data showed that AT&T is now delivering traffic from its  
17 affiliate, AT&T Wireless, to C Spire over the Interconnection Facilities and effectively  
18 charging C Spire for delivering its affiliate's traffic to C Spire because the AT&T  
19 Wireless traffic is being treated as third party traffic rather than AT&T traffic. This  
20 bothers me a great deal. One, I can't believe this is actually legal under the  
21 Telecommunications Act of 1996 for two AT&T affiliates to fail to act independently.  
22 Two, why would AT&T Wireless choose to do this rather than directly interconnecting  
23 with C Spire when the direct interconnection facilities would cost less than the transit



1 fees AT&T Wireless is supposed to pay AT&T?<sup>18</sup> If they aren't paying such transit fees  
2 then that would be preferential treatment of an affiliate in violation of the  
3 Telecommunications Act of 1996. I'm not sure exactly what is going on but I do know  
4 that C Spire should not have to pay the charges for the Interconnection Facilities  
5 attributable to traffic originated by AT&T's affiliate, AT&T Wireless, particularly in  
6 light of the fact that it would be cheaper for AT&T Wireless to send traffic to C Spire  
7 over two-way direct interconnection facilities between C Spire and AT&T Wireless  
8 rather than indirectly interconnecting through AT&T.

9 **Q. In summary do you feel AT&T's billing dispute is permitted by the**  
10 **Agreement?**

11 A. No. C Spire correctly billed AT&T for its share of the Interconnection Facilities  
12 as provided in the Agreement and there is absolutely no justification for the dispute.  
13 AT&T failed to provide the actual traffic percentages for years and AT&T's attempt to  
14 recoup money required to be paid under the terms of the Agreement based upon their  
15 own failure to perform is unjust and in breach of the Agreement. Moreover, this unjust  
16 dispute has cost C Spire a great deal of money which I would hope this Commission  
17 would order AT&T to pay to C Spire.

18 **Q. Does this conclude your testimony?**

19 A. Yes.

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<sup>18</sup> I have personally reached out to AT&T Wireless to try to increase the size of our direct interconnection facilities to handle this traffic and AT&T Wireless has declined to increase the size of our direct interconnection facilities. There are no reciprocal compensation fees for traffic exchanged between AT&T Wireless and C Spire so the parties would only have to share in the cost of the interconnection facilities.

## EXHIBIT A



**THOMAS B. ALEXANDER**  
Assistant Vice President – Senior Legal Counsel  
AT&T Mississippi  
AT&T Alabama

**AT&T Services, Inc.**  
Legal Department  
675 West Peachtree Street, NW  
Suite 4326  
Atlanta, GA 30308

T: 404-893-7943  
F: 404-927-3636  
thomas.b.alexander@att.com  
Website: www.att.com

September 5, 2019

**Via Electronic Filing & Overnight Delivery**

Ms. Katherine Collier, Executive Secretary  
Mississippi Public Service Commission  
Woolfolk Building, Suite 201A  
501 North West Street  
Jackson, MS 39201

**Re: MPSC Docket No. 2019-AD-127  
Bellsouth Telecommunications, LC d/b/a AT&T Mississippi's Answer,  
Motion to Correct the Style of the Proceedings, Motion to Dismiss in Part,  
and Formal Complaint in Response to the Petition for Arbitration of Billing  
Dispute by Cellular South, Inc. d/b/a C Spire**


Dear Katherine:

Enclosed is the original and 12 copies of AT&T's Answer, Motion to Correct the Style of the Proceeding, Motion to Dismiss in Part, and Formal Complaint, filed August 16, 2019 in the above-referenced docket. I am also enclosing an additional copy for our records.

I would appreciate you stamping as "Filed" the extra copy of AT&T's Answer, Motion to Correct the Style of the Proceeding, Motion to Dismiss in Part, and Formal Complaint, and returning it to me in the envelope provided herewith.

If you have any questions or require further assistance in this matter, please feel free to call me at (404) 893-7943.

Sincerely yours,



Thomas B. Alexander

TBA/jae  
Enclosure

cc: W. Ken Rogers, Esq.  
Chad Reynolds, Esq.  
Frank Farmer, Esq.

1207491

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF  
THE STATE OF MISSISSIPPI**

**IN RE:        PETITION FOR ARBITRATION )  
              OF BILLING DISPUTE        )  
              BETWEEN CELLULAR SOUTH,)  
              INC. AND BELL SOUTH        )  
              TELECOMMUNICATIONS, LLC)**

**DOCKET NO. 2019-AD-127**

**BELLSOUTH TELECOMMUNICATIONS, LLC. D/B/A AT&T MISSISSIPPI  
ANSWER, MOTION TO CORRECT THE STYLE OF THE PROCEEDING, MOTION TO  
DISMISS IN PART, AND FORMAL COMPLAINT IN RESPONSE TO  
THE PETITION FOR ARBITRATION OF BILLING DISPUTE  
BY CELLULAR SOUTH, INC. D/B/A C SPIRE**

In Compliance with Rules 11 and 12 of the Mississippi Public Service Commission (the “MPSC”) and the Mississippi Public Utilities Staff (the “MPUS”) *Public Utilities Rules of Practice and Procedure* (“Rules”), BellSouth Telecommunications, LLC d/b/a AT&T Mississippi (“AT&T”) submits its Answer, Motion to Correct the Style of the Proceeding, Motion to Dismiss in Part, and its own Formal Complaint against C Spire, all in response to the August 16, 2019, Petition for Arbitration of Billing Dispute filed by Cellular South, Inc. d/b/a C Spire (“C Spire”).

**MOTION TO CORRECT STYLE OF THE PROCEEDING**

C Spire has filed its request for relief as a “Petition for Arbitration,” which is incorrect. Pursuant to 47 U.S.C. § 252, the compulsory arbitration process is used to establish a new interconnection agreement between carriers. Here, C Spire is not seeking a new interconnection agreement (“ICA”) with AT&T, but rather is seeking to enforce the terms of its existing ICA with AT&T. The appropriate procedural vehicle for seeking such relief is a formal complaint to the Commission. Rather than move to dismiss the C Spire “Petition for Arbitration,” however, AT&T

will treat it as a Formal Complaint to resolve a billing dispute under an existing ICA, pursuant to Rule 11 of the MPSC's and MPUS' Rules. If C Spire is unwilling to re-style its pleading as a "Formal Complaint," AT&T respectfully moves that the Commission do so on its own motion.

### **MOTION TO DISMISS PORTIONS OF C SPIRE'S FORMAL COMPLAINT THAT ARE BEYOND MPSC JURISDICTION**

The C Spire Formal Complaint notes, at p. 3, that AT&T has sought \$422,524 in refunds from C Spire (*i.e.*, \$278,824 + \$143,700). Only a portion of those amounts (\$173,919 or about 41% of the total) relate to Mississippi facilities. The remainder of the amounts at issue involve facilities in Alabama, Florida, and Tennessee. Matters involving issues in those states are clearly beyond the jurisdiction of the MSPC, and, accordingly, AT&T moves that such matters be dismissed from this proceeding.

### **OVERVIEW OF THE DISPUTE**

C Spire and AT&T deliver telecommunications traffic to one another using "two-way interconnection" trunks and share the costs of the facilities based on the relative traffic volumes each carrier delivers to the other.<sup>1</sup> Under the ICA, C Spire pays AT&T 100% of the charges for the interconnection facilities and then bills AT&T for AT&T's portion using a "shared facility factor"<sup>2</sup> based on the relationship AT&T-originated traffic bears relative to total traffic carried

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<sup>1</sup> ICA Section IV.B. "In the event such facilities are used for two-way interconnection, the appropriate recurring charges for such facilities will be shared by the Parties based on percentages equal to the estimated or actual percentages of traffic on such facilities." The percentage of AT&T originated traffic to total traffic carried over the facilities is typically referred to in the industry as the "shared facility factor."

<sup>2</sup> ICA Section VI.A.4.b. "For two way interconnection facilities purchased from BellSouth by Carrier, BellSouth will bill Carrier for the entire cost of the facility. Carrier will then apply the BellSouth originated percent against the total two-way interconnection facility charges billed by BellSouth to carrier."

over the shared two-way interconnection facilities.<sup>3</sup> Although the ICA contemplates that in some instances C Spire can bill AT&T based on an estimated shared facility factor,<sup>4</sup> ultimately the billings can be trued-up using a shared facility factor based on actual traffic volumes. Indeed, either party to the ICA is entitled to request an audit, as frequently as once a year, in order to satisfy themselves that the shared facility factor is accurate.<sup>5</sup> Thus, if over some period of time C Spire uses an outdated or estimated shared facility factor that results in AT&T being billed incorrectly for its portion of the shared facilities, the billing can be fixed once actual data are available.

That is precisely what has happened here. Looking back to 2016, C Spire was billing AT&T using a shared facility factor that implicitly assumed AT&T's originating traffic was a higher percentage of total traffic than was actually the case. Beginning in 2017, AT&T provided C Spire with information demonstrating that AT&T's relative traffic volumes were lower than what had been previously used to determine AT&T's responsibility for the shared facilities. Consequently, by providing C Spire with shared facility factors based on *actual* (as opposed to outdated or estimated) traffic data,<sup>6</sup> AT&T determined it was owed a \$422,525 refund of what it had already paid C Spire (\$173,919 of which is for Mississippi facilities).

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Carrier will invoice BellSouth on a monthly basis, the proportionate cost for the facilities utilized by BellSouth."

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> ICA Section XV.

<sup>6</sup> In the context of this proceeding, the terms "actual" traffic data and "actual" shared facility factors are used to mean that the information being used to develop the factors aligns in time with the corresponding shared facility billing. For example, AT&T's payments for its use of shared facilities in 2Q2017 should have been based on an *actual* shared facility factor calculated using usage data from the prior quarter (*i.e.*, 1Q2017). In contrast, billing AT&T for its 2Q2017 use of shared facilities using a shared facility factor from, say, 4Q2014 would constitute use of an *outdated* or *estimated* shared facility factor that should be corrected once an *actual* 1Q2017 shared facility factor could be used to determine correct 2Q2017 billing.

The impact of using *actual* shared facility factors could not have been a surprise to C Spire. The shared facility factor – *i.e.*, the ratio of AT&T originated traffic relative to all traffic carried over the shared two-way trunks – has been in decline over the past several years as AT&T has continued to lose landlines and landline-originated minutes of use (“MOUs”) when customers leave AT&T’s traditional wireline services in favor of wireless and IP-based services.<sup>7</sup>

In documents and discussions over the past two years, as well in its Formal Complaint, C Spire has raised a number of specious arguments asserting that AT&T cannot update and correct its traffic volumes and factors. In response to AT&T’s October 19, 2017, demand for a refund of \$278,824 based on *actual* (instead of estimated or outdated) shared facility factors (\$129,886 of which relates to Mississippi traffic),<sup>8</sup> C Spire waited five months before sending AT&T a March 12, 2018, letter alleging, among other things, that the ICA does not allow AT&T to update/adjust traffic factors. AT&T responded on April 5, 2018, asserting that C Spire is incorrect. Over the next several months there were sporadic discussions between the parties, but those were largely unproductive. On April 1, 2019, C Spire sent a demand letter for funds it alleges AT&T had improperly withheld and a request that AT&T designate representatives authorized to resolve the matter in discussions between the parties. AT&T responded on April 9, 2019, explaining that: (a) AT&T has provided all information C Spire needs to verify AT&T’s shared facility factors going back to 2016, (b) nothing in the ICA precludes AT&T’s claim that its payment to C Spire be adjusted based on *actual* (as opposed to outdated) shared facility factors,

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<sup>7</sup> The FCC’s latest *Voice Telephone Services Report*, released November, 2018, shows that from December, 2008, through June, 2017, the number of traditional ILEC switched access lines in Mississippi declined by 64%, from 1,074,000 to 386,000. That tracks the national trend, which saw nationwide ILEC switched access lines also drop by 64% during the same period, from 117,968,000 to 42,401,000.

<sup>8</sup> AT&T notified C Spire on October 19, 2017, that AT&T would be withholding payments on C-Spire’s shared facility billings until AT&T had recovered the \$278,824. Once AT&T had withheld that amount, it resumed paying C Spire’s monthly shared facility bills.

(c) based on the *actual* shared facility factors, AT&T is due an additional \$143,700 (some \$44,033 of which is for Mississippi facilities),<sup>9</sup> and (d) AT&T identified a person authorized to negotiate a resolution. There were no further substantive documents exchanged or discussions held between the parties prior to C Spire filing its Formal Complaint on August 16, 2019.

The pivotal issue before the Commission is whether the ICA permits either party to use *actual* shared facility factors when doing so ensures that payments between the parties will be based on *actual* data, rather than estimated or outdated data. If so, there is an additional question of whether the express terms of the ICA limit the time period for which such corrections can be made (it does not), or whether instead, the Mississippi statutory three-year limitation on contract actions applies.<sup>10</sup>

#### ANSWER TO SPECIFIC ALLEGATIONS

Regarding the allegations in the **introductory paragraph**, AT&T admits that it is a party to an ICA, as amended several times since the September 1, 2003 effective date,<sup>11</sup> with Telepak, Inc., now with successor in interest Cellular South, Inc, d/b/a C Spire. All other allegations in the introductory paragraph are denied. As noted in AT&T's Motion to Correct Style of the Proceeding, Rule 6 does not entitle C Spire to "request arbitration" before the MPUS or MPSC, nor is arbitration the correct legal mechanism for resolving a billing dispute under the parties' existing ICA.

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<sup>9</sup> At this time AT&T has not withheld any payments against the \$143,700. It is still owed that amount.

<sup>10</sup> See, e.g., Miss. Code Ann. § 15-1-49.

<sup>11</sup> C Spire did not include the last amendment in its Exhibit A, but that amendment is not relevant to the issues it raises in its Formal Complaint.



**I.A. and B.** These paragraphs name the Parties to this dispute and do not require a response.

**II.** AT&T admits that C Spire and AT&T are parties to an ICA dated September 1, 2003, but further states that the ICA has been amended several times over the years to address matters not relevant here. AT&T acknowledges that the Commission has statutory jurisdiction to address disputes arising from the ICA, and that Section XX of the parties' ICA provides that either party may seek MPSC resolution of a dispute and may seek judicial review of any corresponding MPSC decision.

**II.A. and B, III.** These paragraphs name Counsel and Designated Contacts for the Parties and do not require a response.

**IV. First paragraph:** All allegations in the first paragraph under IV are denied, except that AT&T admits that C Spire and AT&T are parties to an ICA and that this billing dispute arises from that ICA.

**Second paragraph:** All allegations in the second paragraph under IV are denied, except as expressly admitted herein. AT&T admits that it sent a September 19, 2017, letter notifying C Spire that use of *actual* shared facility factors (rather than an outdated or estimated one) to allocate costs of two-way shared facilities resulted in AT&T being owed \$278,824.49 (\$129,886 of which related to Mississippi facilities). AT&T further admits that on April 9, 2019, it informed C Spire that, based on additional review of the shared facility billing, AT&T is owed an additional \$143,700.44 (\$44,033 of which relates to Mississippi facilities). Under the ICA and the Mississippi statute of limitations, AT&T was within its rights to provide *actual* shared facility factors to be used to allocate the costs of shared two-way facilities for the prior three years.

**Third paragraph:** All allegations in the third paragraph under IV are denied, except as expressly admitted herein. AT&T expressly denies that it “recalculate[d] actual traffic figures” to the extent it implies AT&T somehow manipulated data. AT&T relied upon “actual traffic measurements to determine the amount of traffic exchanged between the parties” as required under the ICA. Although from February 2016 to August 2017, C Spire did not request, nor did AT&T provide, the actual shared facility factors, AT&T did provide those factors on October 19, 2017. At that point C Spire had the information it needed to correct its prior shared facility bills, but it failed to do so.

AT&T expressly denies that Section VI.B.5 of the ICA, cited in footnote 1 of the Complaint, is applicable to the billing dispute because there are no “unbilled charges.” Rather, C Spire billed AT&T, but did so using outdated and incorrect shared facility factors to determine AT&T’s responsibility for the two-way shared facilities.

AT&T also expressly denies that it went “back and adjust[ed] traffic figures” as alleged in footnote 1, to the extent it implies AT&T somehow manipulated data. AT&T has provided C Spire with shared facility factors that reflect *actual* traffic data for the periods at issue. AT&T did not “re-calculate” or “adjust” or otherwise “modify” any traffic data. Rather, the shared facility factors it provided to C Spire are based on *actual* traffic volumes for the specific time periods covered by each factor. AT&T is recovering amounts it overpaid only because C Spire used outdated, and thus incorrect, shared facility factors when it billed AT&T. Section IV.B of the ICA, which C Spire cites in footnote 2, expressly states that “the appropriate charges for such facilities will be shared by the Parties based upon percentages equal to the estimated or actual percentage of traffic on such facilities.” Nothing in that Section places any limits on the time period for correcting and updating the traffic factors so that they are based on *actual* data.

AT&T admits that Section VI.A.3 of the ICA offers guidance for a circumstance where C Spire is unable to determine AT&T's actual terminating minutes of use, but that is not the case here because AT&T has provided C Spire with the *actual* shared facility factors for the time periods at issue. *Actual* data should be used to allocate costs where available.<sup>12</sup> C Spire did not use the "latest actual traffic measurements" when it billed AT&T for the cost of shared facilities, but rather for more than one year used the "last" shared facility factor it claims to have received from AT&T. Once AT&T provided *actual* shared facility factors, those data should have been used to re-calculate AT&T's portion of the shared facilities costs.

AT&T further denies that Section VII.D (cited in footnote 3 of the Complaint) applies here. That section applies only when "either Party cannot measure traffic" for the listed categories. Here AT&T has provided C Spire with *actual* shared facility factors based on *actual* traffic volumes.

AT&T expressly denies that C Spire made "repeated requests for actual traffic measurements" for the periods in dispute. AT&T has no record that C Spire ever contacted AT&T requesting actual quarterly traffic measurements. AT&T has made several requests asking C Spire to provide any proof that it made such requests, but to date C Spire has failed to do so.

Finally, AT&T denies that the invoices at issue here were "properly calculated" by C Spire "in accordance with the express terms of the Agreement [ICA]." AT&T is entitled to dispute incorrect billing under the ICA. Once AT&T provided C Spire with *actual* shared facility factors, it was entitled to recover amounts it overpaid.

---

<sup>12</sup> Section VI.A.3 says that if C Spire did not have a correct shared facility factor, it could submit a written request for that information "on a quarterly basis." That did not (and has not) happened.

**Fourth paragraph:** All allegations in the fourth paragraph under IV are denied, except as expressly admitted herein. AT&T denies it has “refused to provide the data supporting its calculation of AT&T originated [landline to mobile] traffic during the periods in dispute.” Rather, AT&T has provided all relevant information necessary for C Spire to correct its bills for AT&T’s use of shared facilities. Specifically, for the shared facilities at issue AT&T has provided its originating minutes, as well as total minutes carried over the facilities, as reflected in the Carrier Access Billing System (“CABS”), for each quarter at issue. This is all C Spire needs to render correct bills.

AT&T denies that it has refused to provide C Spire with any lawfully permitted underlying traffic or other data. The instant billing dispute is a result of C Spire using an outdated shared facility factor for several quarters. The use of *actual* shared facility factors results in refunds due AT&T.

**Fifth paragraph:** All allegations in the fifth paragraph under IV are denied, except as expressly admitted herein. Section XV of the ICA establishes the process for auditing traffic volumes, but C Spire has not requested an audit for the time periods at issue. AT&T’s request for a refund is driven by AT&T’s provision of *actual* shared facility factors going back to 2016. C Spire has not, and cannot, point to any provision of the ICA that precludes AT&T from (a) providing C Spire with *actual* shared facility factors, and (b) recovering overpayments resulting from application of the actual data.

**Sixth paragraph:** All allegations in the sixth paragraph under IV are denied, except as expressly admitted herein. AT&T admits that C Spire and AT&T have not been able to resolve this dispute, but expressly denies that C Spire is entitled to “seek arbitration” under Section XX or any other provision in the ICA as this is a billing dispute under an existing ICA.

AT&T further denies that C Spire negotiated in good faith for the required thirty (30) day period under the ICA's dispute resolution provision.

**General Denials:** Any and all allegations in the Complaint that are not expressly admitted herein are denied. AT&T expressly denies that C Spire is entitled to the relief requested or to any relief whatsoever.

### **AFFIRMATIVE DEFENSES**

1. The Complaint fails to state a cause of action upon which relief can be granted.
2. C Spire failed to negotiate a resolution of the billing dispute in good faith pursuant to the terms of Section XX of the parties' ICA prior to filing its Complaint. On April 1, 2019, C Spire asked AT&T to identify a representative to resolve the dispute, which AT&T did eight days later, on April 9, 2019. C Spire never acknowledged AT&T's response and instead filed its Formal Complaint on August 16, 2019.
3. AT&T provided C Spire with *actual* shared facility factors which, pursuant to the ICA, C Spire should use to re-calculate AT&T's portion of shared two-way facilities costs going back to 2016. Nothing in the ICA precludes AT&T from providing C Spire with *actual* shared facility factors, nor is there anything which precludes AT&T from seeking a refund of its overpayments. AT&T's claim for refunds is timely under Mississippi's statute of limitations.

### **AT&T's FORMAL COMPLAINT**

All information set forth above is incorporated herein. AT&T respectfully requests that C Spire be directed to refund to AT&T the amount of \$44,033 (the Mississippi portion of the remaining \$143,700 C Spire still owes AT&T), plus statutory interest from April 1, 2019, the date


AT&T informed C Spire that such refunds were due and owing. AT&T further respectfully requests that the Commission direct C Spire to cease all efforts to collect \$129,886 (the Mississippi portion of the \$278,824 AT&T has withheld from C Spire), and find that, based on application of the *actual* shared facility factors, those funds shall rightfully remain with AT&T.

**WHEREFORE**, for the reasons set forth herein, AT&T respectfully requests that:

- C Spire's Petition for Arbitration be re-designated a Formal Complaint;
- The non-Mississippi portions of C Spire's Formal Complaint be dismissed as outside the MPSC's jurisdiction;
- C Spire's Formal Complaint be dismissed with prejudice; and
- C Spire be directed to refund to AT&T the amount of \$44,033, plus statutory interest from April 1, 2019, the date AT&T notified C Spire such amounts were due and owing.

Respectfully submitted, this the 5<sup>th</sup> day of September, 2019

**BELLSOUTH TELECOMMUNICATIONS, LLC d/b/a AT&T MISSISSIPPI**

By:   
THOMAS B. ALEXANDER  
Assistant Vice President - Senior Legal Counsel  
675 West Peachtree Street N.W.  
Suite 4326  
Atlanta, Georgia 30308  
(404) 893-7943  
[thomas.b.alexander@att.com](mailto:thomas.b.alexander@att.com)

**VERIFICATION**

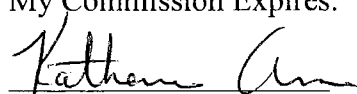
**STATE OF GEORGIA     )**  
**)**  
**COUNTY OF FULTON    )**

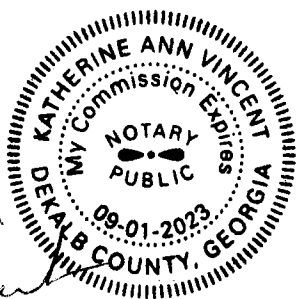
PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Thomas B. Alexander, who being by me first duly sworn, stated on oath that he is the attorney for BellSouth Telecommunications, LLC d/b/a AT&T Mississippi in this cause, and that he has read the above and foregoing, that the best of his knowledge, information and belief there is a good ground to support it, that it is not imposed for delay.

  
THOMAS B. ALEXANDER

SWORN TO AND SUBSCRIBED BEFORE ME, this the 4<sup>th</sup> day of September, 2019.

My Commission Expires:





### **CERTIFICATE OF SERVICE**

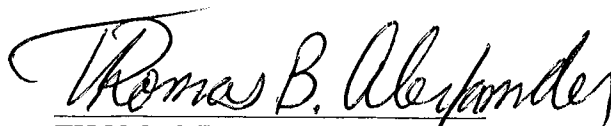
I, Thomas B. Alexander, attorney of record for BellSouth Telecommunications, LLC d/b/a AT&T Mississippi, hereby certify that I have this day caused to be electronically filed and delivered by overnight delivery, the original and twelve (12) copies of the above and foregoing Answer, Motion to Correct the Style of the Proceeding, Motion to Dismiss in Part, and Formal Complaint to Katherine Collier, the Executive Secretary of the Mississippi Public Service Commission, 2nd Floor, Woolfolk Building, Jackson, Mississippi 39201 and one copy of same to Chad Reynolds, the General Counsel of the Mississippi Public Utilities Staff, 3rd Floor, Woolfolk Building, Jackson, Mississippi 39201.

I further certify that I have this day caused to be delivered by Federal Express, Overnight Mail, and to be delivered by electronic mail, a true and correct copy of the foregoing Answer, Motion to Correct the Style of the Proceeding, Motion to Dismiss in Part, and Formal Complaint to the following:

#### **ATTORNEYS FOR CELLULAR SOUTH, INC.**

W. Ken Rogers  
Brunini, Grantham, Grower & Hewes, PLLC  
190 E. Capitol St., Suite 100  
Jackson, MS 39201  
Tel: (601) 960-6876  
Fax: (601) 960-6902  
[kr Rogers@brunini.com](mailto:kr Rogers@brunini.com)

This the 5<sup>th</sup> day of September, 2019

  
THOMAS B. ALEXANDER



## EXHIBIT B

**BRUNINI**  
ATTORNEYS AT LAW

W. Ken Rogers

E-mail: krogers@brunini.com  
Direct: 601.960.6876

The Pinnacle Building  
Suite 100  
190 East Capitol Street  
Jackson, Mississippi 39201  
Telephone: 601.948.3101

Post Office Drawer 119  
Jackson, Mississippi 39205  
Facsimile: 601.960.6902

October 15, 2019

Thomas B. Alexander  
Assistant Vice President – Senior Legal Counsel  
AT&T Alabama and Mississippi  
675 West Peachtree Street, N.W.  
Suite 4326  
Atlanta, GA 30308

**VIA Federal Express**

RE: Billing Dispute - Cellular South, Inc. / Bellsouth Telecommunications, Inc.

Dear Tom:

Enclosed for your file in the above referenced matter is a stamped “filed” copy of the Response to BellSouth Telecommunications, LLC dba AT&T Mississippi’s Motion to Correct the Style of the Proceeding, Motion to Dismiss in Part, and Formal Complaint in Response to the Petition for Arbitration of Billing Dispute Between Cellular South, Inc. and Bellsouth Telecommunications, Inc. which was filed today with the Mississippi Public Service Commission.

Should you have any questions or wish to discuss, please feel free to call me.

Sincerely,

Brunini, Grantham, Grower & Hewes, PLLC

  
W. Ken Rogers

WKR/cgs  
Enclosure

**FILED**

**OCT 15 2019**

**MISS. PUBLIC SERVICE  
COMMISSION**

**BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION**

PETITION FOR ARBITRATION	)	DOCKET NO. 2019-AD-127
OF A BILLING DISPUTE BETWEEN	)	
CELLULAR SOUTH, INC. AND	)	
BELLSOUTH TELECOMMUNICATIONS, INC.	)	

**RESPONSE TO BELLSOUTH TELECOMMUNICATIONS, LLC DBA AT&T  
MISSISSIPPI'S MOTION TO CORRECT THE STYLE OF THE PROCEEDING,  
MOTION TO DISMISS IN PART, AND FORMAL COMPLAINT IN RESPONSE TO  
THE PETITION FOR ARBITRATION OF A BILLING DISPUTE BY CELLULAR  
SOUTH, INC. DBA C SPIRE**

In compliance with Rules 6 and 12 of the Mississippi Public Service Commission (the "Commission") and the Mississippi Public Utilities Staff Public Utility Rules of Practice and Procedure (the "Rules"), Cellular South, Inc. dba C Spire, a Mississippi corporation whose Mississippi Public Utility ID is TC-123-0900-03 ("C Spire"), submits its Response to BellSouth Telecommunications, LLC dba AT&T Mississippi's ("AT&T") Motion to Correct the Style of the Proceeding, Motion to Dismiss in Part, and Formal Complaint in Response to the Petition for Arbitration of a Billing Dispute by C Spire (collectively, "AT&T's Answer"). C Spire and AT&T are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties."

**I. MOTION TO CORRECT STYLE OF THE PROCEEDING**

AT&T objects to the styling of this proceeding as a “Petition for Arbitration” as incorrect because an arbitration can only be used in the context of an arbitration of a new interconnection agreement by the Commission pursuant to 47 U.S.C. § 252, and, therefore, the proceeding should be styled a complaint.

With all due respect to AT&T, C Spire does not believe this to be a material matter, believes that the styling of the matter complies with Commission Rules,<sup>1</sup> and C Spire does not believe that the word “arbitration” is limited to a proceeding for a new interconnection agreement under 47 U.S.C. § 252. C Spire believes this reading is too narrow. “Arbitration” is defined as “a process of dispute resolution in which a neutral third party renders a decision after a hearing at which both parties have an opportunity to be heard.”<sup>2</sup> “Where arbitration is voluntary, the disputing parties select the arbitrator who has the power to render a binding decision.”<sup>3</sup>

What is described above is exactly what the Parties bargained for under the terms of their Interconnection Agreement dated September 1, 2003 (the “Agreement”). The Parties have been unable to resolve a billing dispute which arose under the terms of the Agreement. In such a case Section XX of the Agreement provides: “[i]f the issue is not resolved within thirty (30) days, either Party may petition the Commission for a resolution of the dispute.”<sup>4</sup> In accordance with

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<sup>1</sup> Rule 6.100 provides that “[e]ach matter coming before the Commission on a formal basis shall be known as a case, shall receive a Docket number and a concise title that is descriptive of the subject matter and shall be docketed accordingly.”

<sup>2</sup> Black’s Law Dictionary.

<sup>3</sup> *Id.*

<sup>4</sup> Agreement, Section XX. “Commission” is defined “as the appropriate regulatory agency in each of BellSouth’s nine state region: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.”

the terms of the Agreement C Spire petitioned the Commission to resolve the dispute.<sup>5</sup> C Spire therefore believes this action is appropriately styled as is, it complies with the Rules, public notice of this proceeding has already been published with this styling, and C Spire does not believe AT&T is negatively effected in any way by the styling of this dispute resolution.<sup>6</sup>

## **II. MOTION TO DISMISS PORTIONS OF C SPIRE'S FORMAL COMPLAINT THAT ARE BEYOND MPSC JURISDICTION**

AT&T argues that this Commission only has jurisdiction to resolve the dispute as relates to that portion of the billing dispute which relates to traffic exchanged between the Parties in Mississippi, and that those parts of the billing dispute relating to traffic exchanged in Alabama, Florida, and Tennessee must be decided by each of those state commissions. This argument obviously entails a great deal of additional expense for both Parties and the potential for four different interpretations of the terms of the Agreement. Not only is this nonsensical, inefficient, and expensive, it is also contrary to what the Parties bargained for in the Agreement.<sup>7</sup>

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<sup>5</sup> At least one federal court has dealt with the issue of enforcing an arbitration clause in an interconnection agreement. See ICG Telecom Group, Inc. v. Qwest Corporation, 375 F. Supp.2d 1084, 1084 (Dist. Ct. Co. 2005) (noting ICG filed the action to compel Qwest to arbitrate a dispute that arose between them out of their interconnection agreement under the terms of the interconnection agreement).

<sup>6</sup> C Spire notes that applicable case law makes clear that a state commission has continuing jurisdiction under 47 U.S.C. § 252 to interpret and enforce interconnection agreements. See In re Starpower Communications, 15 F.C.C.R. 11277 (2000) (determining that the interpretation and enforcement of interconnection agreements were the initial responsibility of state commissions under Section 252 of the Telecommunications Act of 1996); BellSouth Telecommunications, Inc. v. MCIMetro Access Transmission Services, Inc., 317 F.3d 1270, 1274 (11<sup>th</sup> Cir. 2003) (holding that "the authority to approve or reject agreements carries with it the authority to interpret agreements that have already been approved"); Southwestern Bell Tel. Co. v. Brooks Fiber Communs. of Okla. Inc., 235 F.3d 493, 497 (10<sup>th</sup> Cir. 2000) (deferring to FCC's conclusion that state commissions have the authority to interpret and enforce interconnection agreements); Puerto Rico Tel. Co. v. Telecommunications Regulatory Bd., 189 F.3d 1, 10-13 (1<sup>st</sup> Cir. 1999) (court did not question the state commission's authority to resolve the dispute); Illinois Bell Tel. Co. v. Worldcom Techs., Inc., 179 F.3d 566, 573 (7<sup>th</sup> Cir. 1999) (stating that in deciding a dispute between a CLEC and an ILEC over whether ISP calls were local traffic, the state commission "was doing what it was charged with doing in the Act and in the FCC ruling. It was determining what the parties intended under the agreements."); Iowa Util. Bd. v. F.C.C., 120 F.3d 753, 804 (8<sup>th</sup> Cir. 1997) (holding that under the Telecommunications Act the FCC has the authority to "design a pricing methodology" and to promulgate rules regarding various other matters).

<sup>7</sup> Furthermore, it is believed that many of the cases cited in footnote 6 above dealt with multi-state interconnection agreements and issues and one commission could decide those issues. None of the cases make any inference to the contrary.

As noted previously herein, the Parties expressly agreed in the Agreement that a "Commission" could resolve any disputes between them arising under the Agreement with "Commission" defined as the public service commissions of any of the nine (9) states in BellSouth's region. C Spire, as the petitioning party, chose to ask this Commission to resolve the dispute in accordance with the Agreement because it is headquartered in Mississippi and conducts the vast majority of its business in Mississippi. Had AT&T filed the petition first it could have done so with this Commission or with another state commission per the terms of the Agreement. The Parties did not agree that billing disputes must be resolved by the public service commission of each state in which the applicable telecommunications traffic was exchanged.

The way that new interconnection agreement arbitrations under 47 U.S.C. § 252 are handled is instructive. In the case of a multi-state interconnection agreement, i.e. one in which the carriers exchange traffic in more than one state, to which the parties cannot voluntarily reach agreement and seek arbitration, neither AT&T nor any party with whom it is negotiating files a petition for arbitration with all of the states in which the parties are exchanging traffic. Instead the arbitration is filed with and heard by one commission and the resulting interconnection agreement that is approved by that commission is then filed in all of the states in which the parties exchange traffic.<sup>8</sup> There are not multiple arbitrations in multiple states of one interconnection agreement which would likely result, in the case of C Spire for example, in different interconnection agreements in the four different states in which it exchanges traffic with AT&T. That result is untenable and clearly not intended by the Telecommunications Act of 1996, as amended. There, as here, one commission makes a determination concerning the

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<sup>8</sup> In the case of C Spire and AT&T the Agreement was filed in the four (4) states in which the Parties exchange traffic, i.e. Alabama, Florida, Mississippi, and Tennessee.

interconnection agreement that is applicable to all the relevant states in which the carriers interconnect and exchange traffic.<sup>9</sup>

Therefore, C Spire respectfully requests that AT&T's motion to dismiss be denied and that this Commission resolve the billing dispute arising under the Agreement as provided under the express terms of the Agreement.

### **III. RESPONSE TO AFFIRMATIVE DEFENSES**

1. Denied.
2. Denied that C Spire did not act in good faith to resolve the billing dispute for years before filing this Petition.
3. Denied and C Spire notes that AT&T has thus far refused to provide C Spire with the underlying traffic data from which its alleged actual traffic factors were computed as it has in the past which violates the terms of the Agreement, prejudiced C Spire's ability to verify the traffic figures, and is not acting in good faith to resolve the dispute.

### **IV. ANSWER TO AT&T'S FORMAL COMPLAINT**

For the reasons set forth in C Spire's original petition, C Spire generally denies AT&T's complaint and further states that AT&T's claims are wholly or partially time barred by the terms of the Agreement and alternatively 47 U.S.C. § 415. C Spire asks this Commission to dismiss AT&T's complaint with prejudice and proceed to resolve the billing dispute between the Parties as set forth in C Spire's Petition and the terms of the Parties Agreement.

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<sup>9</sup> It is worth noting that AT&T's more current forms of interconnection agreements and commercial agreements provide for mandatory arbitration of disputes by an arbitrator under the rules of the American Arbitration Association. There is no provision for multiple filings in front of multiple regulatory agencies to settle disputes.

Respectfully submitted this the 15<sup>th</sup> day of October, 2019.

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

Ken Rogers  
Brunini, Grantham, Grower & Hewes, PLLC  
190 E. Capitol Street, Suite 100  
Jackson, MS 39201  
Tel: (601) 960-6876  
Fax: (601) 960-6902  
[kr Rogers@brunini.com](mailto:kr Rogers@brunini.com)



VERIFICATION

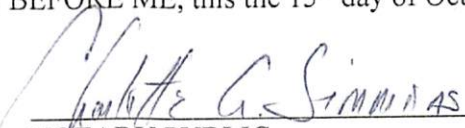
STATE OF MISSISSIPPI

COUNTY OF HINDS

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Ken Rogers, who being by me first duly sworn, stated on oath that he is the attorney for Cellular South, Inc. dba C Spire in this cause, and that he has read the above and foregoing, that to the best of his knowledge, information and belief there is good ground to support it, and that it is not interposed for delay.

  
\_\_\_\_\_  
Ken Rogers

SWORN TO AND SUBSCRIBED BEFORE ME, this the 15<sup>th</sup> day of October, 2019.

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:



**CERTIFICATE OF SERVICE**

I, Ken Rogers, do hereby certify that in accordance with Rule 6 of the Mississippi Public Service Commission's Rules I have this day caused to be filed by hand-delivery the original and twelve (12) copies of the foregoing Response to BellSouth Telecommunications, LLC dba AT&T Mississippi's Motion to Correct the Style of the Proceeding, Motion to Dismiss in Part, and Formal Complaint in Response to the Petition for Arbitration of Billing Dispute by C Spire to the following:

Ms. Katherine Collier, Executive Secretary  
Mississippi Public Service Commission  
Woolfolk Building, Suite 201-A  
501 North West Street  
Jackson, Mississippi 39202

I further certify that I have caused a copy of the Response to be delivered via FedEx to the following:

Thomas B. Alexander  
Assistant Vice President – Senior Legal Counsel  
AT&T Alabama and Mississippi  
675 West Peachtree Street, N.W.  
Suite 4326  
Atlanta, Georgia 30308

This the 15<sup>th</sup> day of October, 2019.

  
\_\_\_\_\_  
Ken Rogers



## Shipment Receipt

### Address Information

#### Ship to:

Thomas B. Alexander  
AT&T Alabama &  
Mississippi

675 W Peachtree St, NW -  
Suite 4326

ATLANTA, GA  
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US  
601.960.6908

#### Ship from:

W. Ken Rogers, Esq.  
Brunini Law Firm

The Pinnacle Building

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Jackson, MS  
39201  
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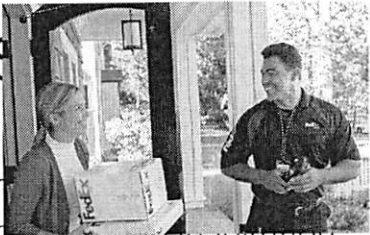


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## EXHIBIT C



<b>To:</b> Ken Rogers	<b>From:</b> Kim Little
<b>Fax:</b> 601.960.6902	<b>Pages:</b> 2
<b>Phone:</b> 601.960.6876	<b>Date:</b> August 7, 2006
<b>Re:</b> Facilities Side Letter	<b>CC:</b>

☐ Urgent    ☐ For Review    ☒ Please Comment    ☐ Please Reply    ☐ Please Recycle

● **Comments:**

Thanks,  
*Kim*  
Kim

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**125 South Congress, Suite 1400 • Jackson, MS 39201 • Fax - 601-974-7138**

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600 North 19<sup>th</sup> Street  
8<sup>th</sup> Floor  
Birmingham, AL 35203

Randy Ham  
Assistant Director - Wireless Interconnection  
205 321-7795  
Fax: 205 321-4702  
E-Mail: Randy.Ham@BellSouth.com

August 4, 2007

Cellular South, Inc.  
Attn: Tony Kent  
125 S. Congress St., Suite 1000  
Jackson, MS 39201

Subject: Letter Agreement on CMRS Facilities Percentages


Dear Tony:

In conjunction with the interconnection agreements effective September 1, 2003 between Cellular South, Inc. and BellSouth, both Parties agree that the following methodology will be utilized for Cellular South, Inc. to bill BellSouth for the portion of interconnection facilities used by BellSouth to deliver BellSouth originated Local Traffic to Cellular South, Inc., and as detailed below.

BellSouth and Cellular South, Inc. agree to utilize the interconnection facility percent factors calculated by BellSouth that represent the percent of BellSouth originated, Cellular South, Inc. terminated Local Traffic to the total traffic exchanged between BellSouth and Cellular South, Inc. over the two-way interconnection facilities. To determine the interconnection facility charges owed by BellSouth to Cellular South, Inc., such facility factors will be applied by Cellular South, Inc. against the two-way reciprocal compensation interconnection facility charges to Cellular South, Inc. by BellSouth. BellSouth will calculate the interconnection facility factors and provide to Cellular South, Inc. on a quarterly basis by the 20<sup>th</sup> of April, July, October and January of each year.

Cellular South, Inc. agrees to accept such methodology as full and complete compensation for interconnection facilities utilized by BellSouth until such time as either Party rescinds this billing agreement in writing.

Sincerely,

 Date 8/4/06  
Randy Ham, Assistant Director - Wireless Interconnection

Accepted and Agreed:

\_\_\_\_\_  
Date \_\_\_\_\_  
Tony Kent - Sr. VP Engineering and Network Operations



## EXHIBIT D



# AT&T

Debbie Weber  
Sr. Financial Analysis

740 N Broadway  
4<sup>th</sup> Floor  
Milwaukee, WI 53202

T 414 283-0987  
Dw9461@att.com

April 5, 2018

Lee Puckett  
Cellular South dba C Spire  
1018 Highland Colony Parkway  
Suite 330  
Ridgeland, MS 39157

Dear Mr. Puckett,

Re: Letter dated March 12, 2018

This letter is in response to the letter I received dated March 12, 2018.

Referencing quarterly factors per section 4.A.3, it is the carrier's responsibility, to notify in writing, which it requires the total terminating traffic to carrier originated by Bell South be provided. We are not in receipt of this notification. You stated in your letter that you have contacted AT&T several times to get the quarterly percentages. Could you supply me that information so I can investigate. Please provide list of AT&T contacts you sent requests to.

AT&T did not open a dispute based on new traffic information for the time frame of 8/1/16-8/1/17. The dispute is based on actual traffic originated by Bell South terminating to Cellular South for each of those months. Quarterly factors were calculated using these MOUs.

As stated above, AT&T did not calculate new shared facility factors in October 2017. The factors that were used in the dispute are the factors that should have been used all along.

According to section VI.B.5 I have the right to go back for one year from the time the charges were incurred.

AT&T feels this is a legitimate dispute and would like to resolve this issue in a timely manner.

Cellular South has been receiving the quarterly shared facility factors since September 2017 and continues to receive them.

Thanks,

Debbie Weber