

BEFORE THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE, TENNESSEE

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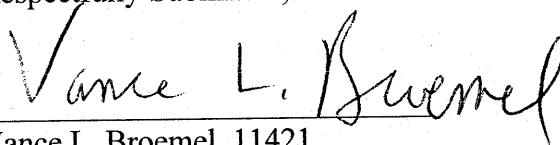
IN RE: BELL SOUTH)
TELECOMMUNICATIONS, INC.'S) DOCKET NO. 97-00309
ENTRY INTO LONG DISTANCE)
(INTERLATA) SERVICE IN TENNESSEE)
PURSUANT TO SECTION 271 OF THE)
TELECOMMUNICATIONS ACT OF 1996)

**CONSUMER ADVOCATE DIVISION'S STATEMENT OF POSITION ON CHECKLIST
ITEMS ONE AND TWO**

Attached are the Consumer Advocate Division's statements of Position on Checklist
Items One and Two.

Dated this 17th day of December, 1998.

Respectfully Submitted,



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Checklist Item 1: Interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).

Consumer Advocate Division	FCC Second Louisiana Order
BellSouth does not have interconnections agreements with CLECs that conform to the requirements of Section 251(c)(2) and 252(d)(1). BellSouth witness Varner testified that the present agreements with the CLEC's do not comply with Section 251 and 252. (Transcript, May 6, 1998, Volume II B, page 103) BellSouth proposed to rely on the approval of its SGAT to comply with Section 251 and 252. BellSouth has not shown that a company filing under Track A can rely on an SGAT to qualify under Section 271, and has not provided substantial material evidence that its proposed SGAT complies with Section 251 and 252. From the record it is not even clear what version of the SGAT that BellSouth is requesting the Authority to approve. Mr. Varner, testifying on behalf of BellSouth, explained that subsequent to its filing the proposed SGAT before the Authority, revisions were made to address concerns of the FCC and other states' regulatory authorities. He could not testify that these changes had been made officially to the SGAT filed with the Authority and what unofficial changes had been provided in responses to discovery requests issued by other parties in this proceeding. (Transcript May 6, 1998, Volume II B, page 78) As a result it is not clear if the SGAT actually filed with the Authority is the SGAT that BellSouth is requesting to be approved or if the Company is now requesting that the Authority approve a revised version of the SGAT. With such a basic question unanswered, the Authority can not determine if the SGAT complies with sections 251 and 252. (Consumer Advocate Division's Post-Hearing Brief, page 54)	■ BellSouth does not satisfy the requirements of checklist item (i). Pursuant to this checklist item, BellSouth must allow other carriers to link their networks to its network for the mutual exchange of traffic. To do so, BellSouth must permit carriers to use any available method of interconnection at any available point in BellSouth's network. For the reasons stated in the <i>BellSouth South Carolina Order</i>, we find BellSouth's collocation offering insufficient. Furthermore, interconnection between networks must be equal in quality whether the interconnection is between BellSouth and an affiliate, or between BellSouth and another carrier. BellSouth also does not show that it provides interconnection that meets this standard. (Executive summary.)

Consumer Advocate Division	FCC Second Louisiana Order
BellSouth has not shown that it is providing nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1). Since permanent rates for unbundled network elements have not yet been approved for BellSouth, the interconnection agreements and the proposed SGAT do not technically comply with sections 252(d). As explained by a BellSouth witness, a decision by the Authority in the pending permanent price docket may not rectify the deficiency. BellSouth's witness explained that even after the Authority approves permanent prices, the agreement/contracts cannot be used to show compliance with the checklist "until all the appeals of that have been exhausted." (Transcript, May 6, 1998, Vol. II B, page 105)(Consumer Advocate Division Post-Hearing Brief, page 26.) BellSouth has the burden of proving that it is providing competing local exchange carriers (CLECs) nondiscriminatory access to its network elements including its operational support systems (OSS). A very significant portion of the testimony in this proceeding addressed Bell's OSS. While the general consensus appears to be that BellSouth has made significant progress in providing the CLECs access, the record shows that the CLECs have continued to experience significant problems. BellSouth did not provide any explanation or analysis to demonstrate the problems were the result of random variation not the result of differences in its behavior when dealing with CLECs as opposed to dealing with its own retail operation.	■ BellSouth does not satisfy the requirements of checklist item (ii). The telephone network is comprised of individual network elements. In order to provide "access" to an unbundled network element, for purposes of the checklist, BellSouth must provide a connection to the network element at any technically feasible point under rates, terms, and conditions that are just, reasonable, and nondiscriminatory. To fulfill the nondiscrimination obligation under checklist item (ii), BellSouth must provide access to its operations support systems, meaning the information, systems, and personnel necessary to support the elements and services. This is important because access to BellSouth's operations support systems provides new entrants with the ability to order service for their customers and allows new entrants to communicate effectively with BellSouth regarding such basic activities as placing orders and providing repair and maintenance service for customers. BellSouth does not demonstrate that its operation support systems enable other carriers to connect electronically to its pre-ordering and ordering functions, thus placing those carriers at a competitive disadvantage relative to BellSouth's own retail operation. Although BellSouth has made some progress in addressing deficiencies in its operations support systems, it has failed to address successfully other problems that we specifically identified in previous orders as critical for nondiscriminatory access.(Executive summary.)
	■ In addition, BellSouth must provide nondiscriminatory access to network elements in a manner that allows other carriers to combine such elements. Other carriers are entitled to request any "technically feasible" method for combining network elements. As we held in the <i>BellSouth South Carolina Order</i>, BellSouth has failed to demonstrate that it can provide nondiscriminatory access to unbundled network elements through the one method it identifies for such access, collocation. (Executive summary.)

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Post-Hearing Brief was served on the parties listed below by mail on this the 17th day of December, 1998.

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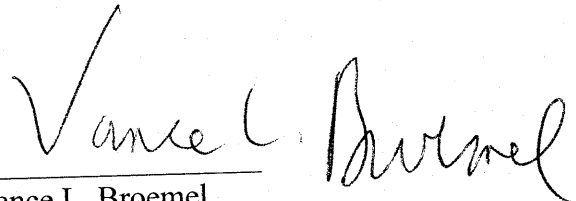
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