

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
(as Arbitrators)**

NASHVILLE, TENNESSEE

JUNE 4, 1998

**IN RE: PETITION OF TELESCAN, INC. FOR ARBITRATION WITH
UNITED TELEPHONE SOUTHEAST UNDER SECTION 252
OF THE FEDERAL TELECOMMUNICATIONS ACT OF 1996**

DOCKET NO. 97-01334

FINAL ORDER OF ARBITRATION AWARD

This matter came before the Tennessee Regulatory Authority (the "Authority") upon the Petition of Telescan, Inc. ("Telescan") for arbitration of an interconnection agreement with United Telephone Southeast ("United") pursuant to Section 252 of the Federal Telecommunications Act of 1996. This Final Order of Arbitration Award embodies the decisions made by Chairman Lynn Greer, Director Melvin Malone, and Director Sara Kyle, acting as Arbitrators, during the Arbitration Conference held on October 21, 1997, and constitutes the valid, binding, and final decision of the Arbitrators.

STATEMENT OF THE CASE

Telescan filed its Petition for Arbitration with the Authority on July 9, 1997, requesting the Authority to arbitrate two unresolved issues arising from negotiations involving an interconnection agreement with United. By its Order of August 14, 1997, the Authority granted the request for arbitration and the Directors agreed to hear the matter acting in the capacity of arbitrators. The parties agreed to be bound by the Authority's expired Public Necessity Rules for Arbitration which had been promulgated for use in the BellSouth/AT&T Arbitration (Consolidated Docket Nos. 96-01152 and 96-01271). At the August 19, 1997,

Authority Conference, the Directors appointed the Authority's Associate Counsel, H. Edward Phillips, III, to act as Hearing Officer in this matter.

The Hearing Officer convened a Pre-Arbitration Conference on September 11, 1997. At the Pre-Arbitration Conference, the Parties agreed to submit the following two issues to the Authority for arbitration:

1. Whether Telescan should receive an additional discount on resold services when a company such as Telescan utilizes its own operator and directory assistance services.
2. What is the proper non-recurring charge that United should bill Telescan for the use of each end office that is utilized to route calls to Telescan operators?

The Parties also agreed to submit Issue No. 2 to mediation. United requested that Dr. Chris Klein serve as the mediator. Telescan stated that it would accept Dr. Klein, if appointed.

At the September 23, 1997, Authority Conference, the Authority approved the request for mediation and appointed Dr. Chris Klein to serve as mediator. A mediation session was held on September 24, 1997, however, the Parties were unable to resolve their dispute. Thereafter, this matter proceeded to an Arbitration Conference on October 2, 1997.

THE ARBITRATION CONFERENCES

The first Arbitration Conference in this matter was held on October 2, 1997, before Chairman Lynn Greer, Director Melvin Malone, and Director Sara Kyle, acting as Arbitrators. The Arbitration Conference was held in the hearing room of the Authority, 460 James Robertson Parkway, Nashville, Tennessee and was open to the public at all times. This Arbitration Conference was convened for the purpose of hearing oral testimony on the two issues which had been defined by the parties and submitted to the Arbitrators. In advance of the Conference, Telescan pre-filed the testimony of Stan Mosley, President of Telescan. United pre-filed the testimony of Laura A. Sykora, Regulatory Affairs Manager for Sprint's

Mid-Atlantic Operations, and David E. Maas, Manager of Network Design and Translations for Sprint Corporation. Mr. Mosley, Ms. Sykora, and Mr. Maas appeared at the October 2nd Conference and were subjected to cross-examination on their pre-filed testimony. During the Conference, the Arbitrators requested the parties to file post-hearing exhibits. Each party filed post-hearing exhibits on October 7, 1997.¹ Each party filed its Final Offer with the Authority on October 14, 1997. When this matter could not be resolved through settlement, it proceeded to a second Arbitration Conference.

On October 21, 1997, the Arbitrators convened a second Arbitration Conference for the purpose of deliberating and rendering a decision on the two issues presented to them. The Arbitrators deliberated and decided on each of the two issues in the following manner:

¹ In addition, on October 10, 1997, both parties filed briefs addressing issues of discrimination raised during the Conference. Telescan asserted that if the wholesale discount offered by United was based on a methodology different from that developed by the Authority and applied to BellSouth, then discrimination would result from the Authority applying one standard to competitors in BellSouth's territory and a different standard to resellers purchasing services from United. The Arbitrators' decision to apply in this case the methodology developed in the BellSouth arbitration rendered moot Telescan's claim of discrimination. United raised a different discrimination claim, asserting that the Authority's Final Order in Docket No. 96-01331 established a single discount rate for all United services resold by other carriers. United claimed that if Telescan received a larger discount than its other resellers, United would be providing to two different resellers identical services at different rates. However, the Final Order relied upon by United stated that the single wholesale discount applied to the resale of services that included operator services and directory assistance. United's claim of discrimination was without merit because the services being offered for resale to Telescan do not include operator services and directory assistance and therefore, are not identical. A copy of the Final Order in Docket No. 96-01331 is attached to this Order as Exhibit A.

ISSUE NO. 1:

WHETHER TELESCAN IS ENTITLED TO AN ADDITIONAL WHOLESALE DISCOUNT BEYOND THE 12.7% ESTABLISHED IN THE AVOIDABLE COST DOCKET (TRA NO. 96 - 01331) WHEN IT USES ITS OWN OPERATORS AND DIRECTORY ASSISTANCE FACILITIES AND, IF SO, THE AMOUNT OF THAT DISCOUNT.

COMMENTS AND DISCUSSION:

The Arbitrators voted unanimously to resolve Issue No. 1 by utilizing the methodology established in the BellSouth/AT&T arbitration (Consolidated Docket Nos. 96-01152 and 96-01271). [A copy of an excerpt from the Second and Final Order of Arbitration Awards, containing the Authority's decision on Issues 22 and 23, is attached to this Order as Exhibit B.] In response to a discovery request made by Telescan, United submitted what its discount rate would be, using that methodology, for a requesting telecommunications service provider who provided operator and directory assistance services itself. Using that methodology, United calculated a discount of 19.89 percent. The Arbitrators voted unanimously to adopt this methodology in this arbitration and to apply the discount rate of 19.89 percent.

ORDERED:

1. That the methodology utilized in the BellSouth/AT&T arbitration (Consolidated Docket Nos. 96-01152 and 96-01271) to set BellSouth's unbundled wholesale discount percentage is hereby applied to this proceeding and that, consistent with that methodology, Telescan, based on its use of its own operator and directory assistance services, is entitled to a discount of 19.89 percent in its purchase of service from United.

ISSUE NO. 2:

WHEN UNITED PROVIDES CUSTOMIZED ROUTING TO TELESCAN'S OPERATORS AND DIRECTORY ASSISTANCE FACILITIES, WHAT SHOULD BE THE PRICE OF SUCH CUSTOMIZED ROUTING?

COMMENTS AND DISCUSSION

In deliberating on Issue No. 2, the Arbitrators noted that because United had not provided detailed support for its proposed customized routing price, a permanent price could not be established at this time. The Arbitrators voted unanimously to utilize a proxy price of \$5.00 per line class code to conform with the BellSouth/AT&T arbitration.²

ORDERED:

2. That, in the absence of a permanent price for the customized routing requested by Telescan, a proxy price of \$5.00 per line class code, consistent with the proxy price established in the BellSouth/AT&T arbitration, is hereby placed into effect and shall be the price charged by United to Telescan for selective routing.

² The Arbitrators noted that United could gain insight from the completion of the current Permanent Prices Docket (No. 97-01262) and should be encouraged to postpone its filing of any cost studies to determine permanent prices until completion of that docket.

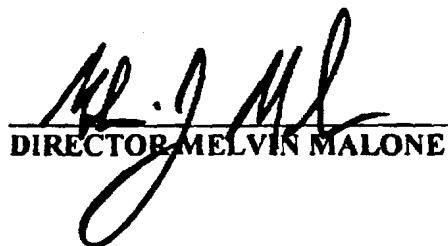
CONCLUSION:

The Arbitrators state that the decisions made on October 21, 1997, are considered rendered when voted upon that day. The Arbitrators conclude that the foregoing Final Order of Arbitration Award reflects a resolution of the issues presented by the parties for arbitration. The Arbitrators conclude that their resolution of these issues complies with the provisions of the Federal Telecommunications Act of 1996, and is supported by the record in this proceeding.

**TENNESSEE REGULATORY AUTHORITY, BY
ITS DIRECTORS ACTING AS ARBITRATORS**


CHAIRMAN LYNN GREER


DIRECTOR SARA KYLE


DIRECTOR MELVIN MALONE

ATTEST:


EXECUTIVE SECRETARY

APPEARANCES: The following appearances were entered at the Arbitration Conferences held on October 2, 1997 and October 21, 1997:

James B. Wright, Esquire, Sprint Mid Atlantic Telecom, 14111 Capital Boulevard, Wake Forest, North Carolina 27587-5900, appearing on behalf of United Telephone-Southeast, Inc.

Henry Walker, Esquire, Boulton, Cummings, Conners & Berry, PLC, 414 Union Street, Suite 1600, Nashville, Tennessee 37219, appearing on behalf of Telescan, Inc.

BEFORE THE TENNESSEE REGULATORY AUTHORITY

FINAL ORDER IN DOCKET NO. 96-01331

**THE AVOIDABLE COSTS OF
PROVIDING BUNDLED SERVICE FOR RESALE
BY
LOCAL EXCHANGE TELEPHONE COMPANIES**

EXHIBIT A

BEFORE THE TENNESSEE REGULATORY AUTHORITY

January 17, 1997

Nashville, Tennessee

**IN RE: THE AVOIDABLE COSTS OF PROVIDING BUNDLED SERVICE FOR
RESALE BY LOCAL EXCHANGE TELEPHONE COMPANIES**

FINAL ORDER IN DOCKET NO. 96-01331

I. INTRODUCTION:

A properly convened hearing (the "Avoidable Costs Hearing") was held in the above-captioned matter on Monday, September 30, 1996, and continuing until Wednesday, October 2, 1996, in the hearing room of the Tennessee Regulatory Authority (the "Authority"), 460 James Robertson Parkway, Nashville, Tennessee before Chairman Lynn Greer, Director Melvin Malone, and Director Sara Kyle. The Avoidable Costs Hearing was open to the public at all times.¹

The purpose of the Avoidable Costs Hearing was to hear oral testimony on the issues to be decided in Docket No. 96-01331. At the Status Conference in this matter held on Wednesday, August 28, 1996, and the Pre-Hearing Conferences held in connection with this matter on September 5, 1996 and September 11, 1996, the Directors and the parties determined and agreed that the issues to be decided in Docket No. 96-01331 were 1) what are the appropriate wholesale rates for BellSouth or Sprint-United to charge when Local Service Competitors purchase BellSouth's or Sprint-United's retail services for resale? and 2) must appropriate wholesale rates for BellSouth's and/or Sprint-United's services subject to resale equal

¹ The appearances entered at the Avoidable Costs Hearing are recorded on the last page of the order.

BellSouth's or Sprint-United's retail rates, less all direct and indirect costs related to retail functions?

On Thursday, November 14, 1996, a properly convened conference was held in this matter in the hearing room of the Authority in order to allow the Directors to deliberate and reach a determination of the issues presented in Docket No. 96-01331 (the "Avoidable Costs Conference"). The Avoidable Costs Conference was open to the public at all times.²

II. APPLICABLE LAW AND THE PURPOSE OF THE AVOIDABLE COSTS PROCEEDING:

A. LAWS OF THE STATE OF TENNESSEE-

In 1995, the General Assembly of the State of Tennessee enacted Public Chapter 408 in order to encourage the development of "an efficient, technologically advanced, statewide system of telecommunications services by permitting competition in all telecommunications markets, and by permitting alternative forms of regulation for telecommunications services and telecommunications services providers." (Section 1 of Public Chapter 408 of the Acts of 1995, codified as T.C.A. § 65-4-123 entitled "Declaration of telecommunications services policy"). Under Section 8 of Public Chapter 408 of the Acts of 1995, codified as T.C.A. § 65-4-124 entitled "Administrative Rules", the Authority is required in T.C.A. § 65-4-124(b) to "promulgate rules and issue such orders as necessary to implement the requirements of [T.C.A. § 65-4-124(a)] and to provide for unbundling of service elements and functions, terms for resale, interLATA presubscription, number portability, and packaging of a basic local exchange telephone service or unbundled features or functions with services of other providers." T.C.A. § 65-4-124(a) states

² The Avoidable Costs Hearing, the Avoidable Costs Conference, and all other open meetings held by the Authority in connection with Docket No. 96-01331 are hereinafter sometimes collectively referred to as the "Avoidable Costs Proceeding."

that "[a]ll telecommunications services providers shall provide non-discriminatory interconnection to their public networks under reasonable terms and conditions; and all telecommunications providers shall, to the extent that it is technically and financially feasible, be provided desired features, functions and services promptly, and on an unbundled and non-discriminatory basis from all other telecommunications services providers."

The Authority commenced Docket No. 96-01331³ as part of its duty to facilitate the implementation of the State of Tennessee's telecommunications services policy and to promulgate rules and issue orders as necessary to implement the requirements of T.C.A. § 65-4-124(a).

B. FEDERAL LAWS-

In 1996, the Federal Telecommunications Act of 1996 (the "Act") was passed, signed into law, and became effective and the Federal Communications Commission (the "FCC") issued its First Report and Order in CC Docket No. 96-98, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996. Pursuant to Section 251(c)(4) of the Act, incumbent local exchange carriers are required "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers....." Issues arising out of this Section of the Act, including the two issues raised in this Docket No. 96-01331, were presented to the Directors, acting as Arbitrators pursuant to the Act, as a part of the arbitration proceedings between AT&T

³ The Tennessee Public Service Commission opened Docket No. 96-00067 at the beginning of 1996. Docket No. 96-00067 was also entitled "The Avoidable Costs of Providing Bundled Services for Resale by Local Exchange Telephone Companies" and was opened for the purpose of satisfying the requirements of T.C.A. § 65-4-124(b). Docket No. 96-00067 was not recommenced before the Authority because the parties thereto failed to stipulate that the record in Docket No. 96-00067 could be transferred to the Authority after the Tennessee Public Service Commission ceased to exist on June 30, 1996.

and BellSouth in Docket No. 96-01152 and the arbitration proceedings between MCI and BellSouth in Docket No. 96-01271. Therefore, it was agreed that the record presented in this Docket No. 96-01331 was to be made a part of the record in Docket No. 96-01152 and Docket No. 96-01271 as well and that the decisions reached in the Avoidable Costs Proceeding would be recognized and adopted as part of the decisions in the arbitrations.

III. DISCUSSION:

In order to reach the appropriate wholesale rates for BellSouth and/or Sprint-United to charge when the Local Service Competitors (and all other local service competitors) purchase resale services from BellSouth and Sprint-United for resale, the Directors followed a three step process. First, they made a series of general decisions, second, a series of decisions to establish the accounting mechanism, and third, they calculated and approved a wholesale discount.

The general decisions were that one wholesale discount should apply to all services subject to resale, in other words, there should not be a different rate for residential, business, or other categories, that the wholesale discount was to be a set percentage off the tariffed rates, not a fixed dollar amount, and that the services subject to resale were bundled services and include operator services and directory assistance.

In order to establish the accounting mechanisms, the Directors found that the wholesale discount percentage should be based on (Tennessee) intrastate revenues and expenses⁴; that the expenses in Accounts 6611, 6612, 6613, and 6623 are directly avoided; that, for BellSouth, approximately eighty (80%) percent of the expenses in the accounts named directly above are avoided; that, for Sprint-United, approximately eighty-three and one half (83.5%)

⁴ Chairman Greer, in making his motion on this matter, stated that it was appropriate for the Authority to base its decisions in Docket No. 96-01331 on expenses and revenues incurred and generated in Tennessee because that was the State over which it had jurisdiction.

percent of the expenses in the accounts named directly above are avoided; that the expenses in Accounts 6121, 6122, 6123, 6124, 6711, 6712, 6721, 6722, 6723, 6724, 6725, 6726, 6727, and 6728 are indirectly avoided; that the percentage of indirect expenses avoided is calculated as a ratio of directly avoided expenses to total direct expenses; that, for BellSouth, approximately fifteen (15%) percent of the expenses in the accounts named in the indirect category are avoided; that, for Sprint-United, approximately twelve and sixty one-hundredths (12.60%) percent of the expenses in the accounts named in the indirect category are avoided; that "Uncollectible Revenues" recorded in Account 5301 are treated as indirect expenses and are avoided at one hundred (100%) percent; and that the wholesale discount shall be calculated as a ratio of total avoided expenses to total operating expenses.

Finally, based upon the method of calculating the wholesale discount as the ratio of total avoided expenses to total operating expenses, the Directors found that the wholesale discount for BellSouth should be sixteen (16%) percent and for Sprint-United should be twelve and seventy one-hundredths (12.70%) percent.

Based upon the entire record in Docket No. 96-01331 and the applicable federal and state laws, the Authority reached the conclusions set forth below:

IT IS THEREFORE ORDERED:

1. That one wholesale discount shall apply to all services subject to resale⁵; and

⁵ Several parties advocated the adoption of more than one discount rate for each incumbent local exchange company. The Authority did not adopt this position. As examples of testimony supporting the approach taken by the Authority, see Transcript of Tennessee Regulatory Hearing, Volume IV, Tuesday, October 1, 1996, page 110, lines 6-11, testimony of Patricia A. McFarland, witness for AT&T; Transcript of Tennessee Regulatory Hearing, Volume V, Tuesday, October 1, 1996, page 235, lines 10-12, testimony of August H. Ankum, witness for MCI; and Transcript of Tennessee Regulatory Hearing, Volume VI, Wednesday, October 2, 1996, page 70, lines 11-25 and page 71, lines 1-3, testimony of Archie Hickerson, witness for the Consumer Advocate.

2. That the wholesale discount be, and hereby is, established as a set percentage off the tariffed rates⁶; and

3. That the decisions rendered in Docket No. 96-01331 and evidenced in this Order apply to the resale of bundled services, which include operator services and directory assistance⁷; and

4. That the wholesale discount percentage be, and hereby is, based on Tennessee intrastate revenues and expenses⁸; and

5. That the expenses in the following accounts, be, and hereby are, found to be directly avoided⁹:

Account 6611-Product Management,

Account 6612-Sales,

Account 6613-Product Advertising, and

Account 6623-Customer Services; and

⁶ Sprint-United advocated the adoption of a set dollar amount off of the retail price rather than a percentage discount. The Authority did not adopt this position. As an example of testimony supporting the approach taken by the Authority, see Transcript of Tennessee Regulatory Hearing, Volume I, Monday, September 30, 1996, page 256, lines 3-14, testimony of Walter S. Reid, witness for BellSouth.

⁷ As an example of testimony supporting the approach taken by the Authority, see Transcript of Tennessee Regulatory Hearing, Volume I, Monday, September 30, 1996, page 273, line 25 and page 274, line 1, testimony of Walter S. Reid, witness for BellSouth.

⁸ As an example of testimony supporting the position taken by the Authority, see Transcript of Tennessee Regulatory Hearing, Volume V, Tuesday, October 1, 1996, pages 235-243, testimony of August H. Ankum, witness for MCI and Attachment 3, Direct Testimony of August H. Ankum Before the Tennessee Regulatory Authority on Behalf of MCI dated September 10, 1996.

⁹ As an example of testimony supporting the approach taken by the Authority, see Transcript of Tennessee Regulatory Hearing, Volume VI, Wednesday, October 2, 1996, page 37, lines 14-18, testimony of Archie Hickerson, witness for the Consumer Advocate.

6. That for BellSouth, approximately eighty (80%) percent of the expenses included in the accounts named in Paragraph 5 above are avoided¹⁰; and

7. That for Sprint-United, approximately eighty-three and one-half (83.5%) percent of the expenses included in the accounts named in Paragraph 5 above are avoided¹¹; and

8. That the expenses in the following accounts, be, and hereby are, found to be indirectly avoided¹²:

Account 6121-Land and Buildings,

Account 6122-Furniture and Artwork,

Account 6123-Office Equipment,

Account 6124-General Purpose Computer,

Account 6711-Executive,

Account 6712-Planning,

Account 6721-Accounting and Finance,

Account 6722-External Relations,

Account 6723-Human Resources,

Account 6724-Information Management,

Account 6725-Legal,

Account 6726-Procurement,

¹⁰ The percentage determined in Paragraph 6 is based upon proprietary information submitted by the parties to the Avoidable Costs Proceeding. Such information is the subject of a Protective Order.

¹¹ The percentage determined in Paragraph 7 is based upon proprietary information submitted by the parties to the Avoidable Costs Proceeding. Such information is the subject of a Protective Order.

¹² As an example of testimony supporting the approach taken by the Authority, see Transcript of Tennessee Regulatory Hearing, Volume VI, Wednesday, October 2, 1996, page 38, lines 1-6, testimony of Archie Hickerson, witness for the Consumer Advocate.

Account 6727-Research and Development,

Account 6728-Other General and Administrative; and

9. That the percentage of indirect expenses avoided is calculated as a ratio of directly avoided expenses to total direct expenses¹³; and

10. That for BellSouth, approximately fifteen (15%) percent of the expenses included in the accounts named in Paragraph 8 are avoided¹⁴; and

11. That for Sprint-United, approximately twelve and sixty one-hundredths (12.60%) percent of the expenses included in the accounts named in Paragraph 8 are avoided¹⁵; and

12. That "Uncollectible Revenues" recorded in Account 5301 are treated as indirect expenses and are avoided at one hundred (100%) percent¹⁶; and

13. That the wholesale discount be, and hereby is, calculated as a ratio of total avoided expenses to total operating expenses¹⁷; and

¹³ As examples of testimony supporting the approach taken by the Authority, see Transcript of Tennessee Regulatory Hearing, Volume IV, Tuesday, October 1, 1996, page 116, lines 4-25 and page 117, lines 1-14, testimony of Patricia A. McFarland, witness for AT&T; Transcript of Tennessee Regulatory Hearing, Volume VI, Wednesday, October 2, 1996, page 41, lines 16-25 and page 42, lines 1-21, testimony of Archie Hickerson, witness for the Consumer Advocate; and Transcript of Tennessee Regulatory Hearing, Volume VI, Wednesday, October 2, 1996, page 54, lines 5-8, testimony of Archie Hickerson, witness for the Consumer Advocate.

¹⁴ The percentage determined in Paragraph 10 is based upon proprietary information submitted by the parties to the Avoidable Costs Proceeding. Such information is the subject of a Protective Order.

¹⁵ The percentage determined in Paragraph 11 is based upon proprietary information submitted by the parties to the Avoidable Costs Proceeding. Such information is the subject of a Protective Order.

¹⁶ As examples of testimony supporting the approach taken by the Authority, see Transcript of Tennessee Regulatory Hearing, Volume IV, Tuesday, October 1, 1996, page 138, lines 2-8, testimony of Ari Lerma, witness for AT&T; Transcript of Tennessee Regulatory Hearing, Volume V, Tuesday, October 1, 1996, page 240, lines 13-20, testimony of August H. Ankum, witness for MCI.

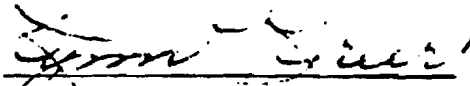
¹⁷ As an example of testimony supporting the approach taken by the Authority, see Transcript of Tennessee Regulatory Hearing, Volume V, Tuesday, October 1, 1996, page 245, lines 4-10, testimony of August H. Ankum, witness for MCI.

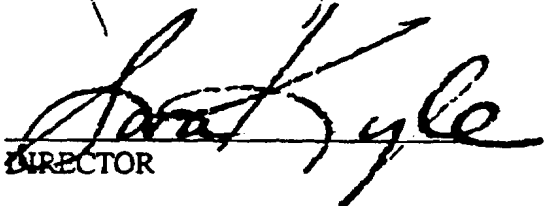
14. That the wholesale discount for BellSouth be, and hereby is, sixteen (16%) percent; and

15. That the wholesale discount for Sprint-United be, and hereby is, twelve and seventy one-hundredths (12.70%) percent; and

16. That any party aggrieved with the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order; and

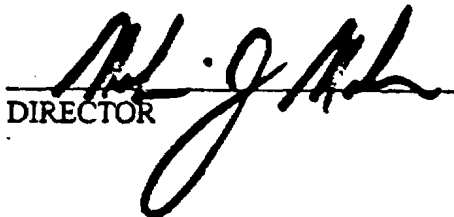
17. That any party aggrieved with the Authority's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.


CHAIRMAN


DIRECTOR

ATTEST:


EXECUTIVE SECRETARY


DIRECTOR

APPEARANCES:

Guy M. Hicks, Esquire, General Counsel-Tennessee, 333 Commerce Street, Suite 2101, Nashville, Tennessee 37201-3300 and Fred McCallum, Esquire, and Thomas B. Alexander, Esquire, 675 West Peachtree Street, Suite 4300, Atlanta, Georgia 30375-0001, appearing on behalf of BellSouth Telecommunications, Inc. ("BellSouth").

Carolyn Tatum Roddy, Esquire, Attorney, State Regulatory, 3100 Cumberland Circle, Atlanta, Georgia 30339, appearing on behalf of Sprint Communications Company, L.P. ("Sprint").

James Wright, Esquire, Senior Attorney, 14111 Capital Boulevard, Wake Forest, North Carolina 27587-5900, appearing on behalf of United Telephone-Southeast ("United").

Herein Sprint and United have been jointly referred to as "Sprint-United".

James Falvey, Esquire, 131 National Business Parkway, #100, Annapolis Junction, Maryland 20701, appearing on behalf of American Communications Services, Inc. ("ACSI").

G. Thomas McPherson, Esquire, Benham-Leake, 6000 Poplar Avenue, Suite 401, Memphis, Tennessee 38119, appearing on behalf of ATS of Tennessee, LLC ("ATS").

Val Sanford, Esquire, and John Knox Walkup, Esquire, Gullett, Sanford, Robinson & Martin, 230 Fourth Avenue, N., 3rd Floor, P.O. Box 198888, Nashville, Tennessee 37219-8888 and James Lamoureux, Esquire and Thomas Lemmer, Esquire, 1200 Peachtree Street, Atlanta, Georgia 30309, appearing on behalf of AT&T Communications of the South Central States, Inc. ("AT&T").

Vincent Williams, Esquire, Second Floor, Cordell Hull Building, 426 Fifth Avenue North, Nashville, Tennessee 37243-0500, formerly located at 1504 Parkway Tower, 404 James Robertson Parkway, Nashville, Tennessee 37243-0500, appearing on behalf of the Consumer Advocate Division of the Office of the Attorney General (the "Consumer Advocate").

Jon E. Hastings, Esquire, Boulton, Cummings, Connors & Berry, PLC, 414 Union Street, Suite 1600, Nashville, Tennessee 37219 and Michael Henry, Esquire, Senior Counsel, 780 Johnson Ferry Road, Atlanta, Georgia 30875, appearing on behalf of MCI Telecommunications Corporation ("MCI").

Dana Shaffer, Esquire, 105 Malloy Street, #300, Nashville, Tennessee 37201, appearing on behalf of NEXTLINK of Tennessee, LLC ("Nextlink").

T. G. Pappas, Esquire, Bass, Berry & Sims, 2084 First American Center, Nashville, Tennessee 37238, appearing on behalf of the Coalition of Small Local Exchange Companies.

Charles Welch, Jr., Esquire, Farris, Mathews, Gilman, Brannan & Hellen, 511 Union Street, Suite 2400, Nashville, Tennessee 37219, appearing on behalf of Time-Warner AXS of Tennessee, L.P. ("Time-Warner").

Herein ACSI, ATS, AT&T, MCI, Time-Warner, Nextlink, and the Coalition of Small Local Exchange Companies have been referred to collectively as "Local Service Competitors."

BEFORE THE TENNESSEE REGULATORY AUTHORITY

January 23, 1997

SECOND AND FINAL ORDER OF ARBITRATION AWARDS

**IN THE MATTER OF THE INTERCONNECTION AGREEMENT
NEGOTIATION BETWEEN AT&T COMMUNICATIONS OF THE SOUTH
CENTRAL STATES, INC. AND BELL SOUTH TELECOMMUNICATIONS, INC.
PURSUANT TO 47 U.S.C. SECTION 252**

DOCKET NO. 96-01152

**IN THE MATTER OF THE PETITION OF MCI TELECOMMUNICATIONS CORPORATION FOR
ARBITRATION OF CERTAIN TERMS AND CONDITIONS OF A PROPOSED AGREEMENT WITH
BELL SOUTH TELECOMMUNICATIONS, INC. CONCERNING INTERCONNECTION AND RESALE
UNDER THE TELECOMMUNICATIONS ACT OF 1996**

DOCKET NO. 96-01271

EXHIBIT B

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ISSUE 22: MUST APPROPRIATE WHOLESALE RATES FOR BELL SOUTH SERVICES SUBJECT TO RESALE EQUAL BELL SOUTH'S RETAIL RATES LESS ALL DIRECT AND INDIRECT COSTS RELATED TO RETAIL FUNCTIONS? AND

ISSUE 23: WHAT ARE THE APPROPRIATE WHOLESALE RATES FOR BELL SOUTH TO CHARGE WHEN AT&T OR MCI PURCHASES BELL SOUTH'S RETAIL SERVICES FOR RESALE?"

COMMENTS AND DISCUSSION:

The Arbitrators chose to consider Issues 22 and 23 together. The Arbitrators decided, in Docket No. 96-01331, entitled "The Avoidable Costs of Providing Bundled Services for Resale by Local Exchange Telephone Companies," that the appropriate wholesale discount for BellSouth's bundled service is sixteen (16%) percent. The Arbitrators answered the question presented, by a unanimous vote, that the appropriate rate for BellSouth to charge when AT&T or MCI purchases BellSouth's bundled retail services for resale is the retail rate less a wholesale discount of sixteen (16%) percent. Within the context of the Arbitration, by a vote of two to one, with Director Malone dissenting, the Arbitrators also decided to set an additional discount rate for BellSouth retail services of twenty-one and fifty-six one hundredths (21.56%) percent when operator services and directory assistance are not bundled. In setting this additional rate, Chairman Greer noted that unbundling operator services and directory assistance would not change the methodology adopted by the Directors in Docket No. 96-01331 to set the avoided cost discount. It would, however, change the calculation of the avoided cost discount by

³⁵ A copy of the Final Order in Docket No. 96-01331 is attached hereto as Attachment "B". In determining the wholesale discount at which local service competitors will be able to purchase services from BellSouth for resale, Chairman Greer made three motions in Docket No. 96-01331 which are described in the Final Order. The first motion dealt with issues grouped in what he called "General Statements." The next motion concerned a second set of issues grouped into what he called the "Accounting Mechanisms" used to determine the wholesale discount. The final motion was the proposed determination of the wholesale discount percentage for BellSouth.

including one hundred (100%) percent of Account 6621 "Call Completion" and Account 6622 "Number Services" as directly avoided expenses. This change would have the approximate additional effect of increasing the amount of total expenses that are directly avoided to eighty-five (85%) percent and the amount of total expenses that are indirectly avoided to twenty and one-half (20.5%) percent. Taking these two changes into consideration increased the proposed discount to twenty-one and fifty-six one hundredths (21.56%) percent.

Director Malone, in expressing his dissenting view, stated that directory assistance was currently a part of basic local service in the State of Tennessee and should not be unbundled for strong policy reasons, namely, that directory assistance should remain bundled until the conclusion of the FCC's Universal Services and Access Charges proceedings. He suggested an additional discount rate of seventeen and sixteen one-hundredths (17.16%) percent when only operator services are unbundled.

ORDERED:

57. That the Arbitrators hereby take official notice of the decisions reached in Docket No. 96-01331, including specifically the methodology used to determine the wholesale discount of sixteen (16%) percent for bundled services and that the wholesale discount for bundled retail services sold by BellSouth be, and hereby is, set at sixteen (16%) percent using said methodology.

58. That the Arbitrators hereby set the wholesale discount for retail services, sold by BellSouth, where operator services and directory assistance are not bundled at twenty-one and fifty six one-hundredths (21.56%) percent.

CONCLUSION

The Arbitrators voted unanimously to require the parties to submit a fully executed Interconnection Agreement thirty (30) days after the entry of the Arbitrators' final order. The Arbitrators conclude that the foregoing Second and Final Order of Arbitration Awards, including the attached exhibits, reflects a resolution of the issues presented by the parties for arbitration at the Arbitration Hearing on October 21, 22 and 23, 1996. The Arbitrators conclude that their resolution of these issues complies with the provisions of the Act, and is supported by the record in this proceeding.

**TENNESSEE REGULATORY AUTHORITY, BY ITS
DIRECTORS ACTING AS ARBITRATORS**


CHAIRMAN LYNN GREER


DIRECTOR SARA KYLE

ATTEST:


EXECUTIVE SECRETARY


DIRECTOR MELVIN MALONE