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Legal Department

J. PHILLIP CARVER
General Attorney

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BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(404) 335-0710

RECORDS AND
REPORTING

February 25, 2000

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 991838-TP

Dear Ms. Bayó:

Enclosed please find the original and fifteen copies of BellSouth's Response in Opposition to BlueStar Network, Inc.'s Motion to Strike Testimony and Motion for Sanctions, which we ask that you file in the above-referenced matter.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,



J. Phillip Carver

AFA	_____
APP	_____
GAF	_____
CMU	_____
CTR	_____
EAG	_____
LEG	_____
MAS	_____
OPC	_____
RRR	_____
SEC	_____
WAW	_____
OTH	_____

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

02596 FEB 25 8

FPSC-RECORDS/REPORTING

**CERTIFICATE OF SERVICE
DOCKET NO. 991838-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Federal Express (+) or Hand-Delivery (*) this 25th day of February, 2000 to the following:

Donna Clemons (*)
Staff Counsel
Division of Legal Services
Florida Public Service Comm.
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Henry C. Campen (+)
John A. Doyle
Parker, Poe, Adams & Bernstein, LLP
First Union Captiol Center
150 Fayetteville Street Mall
Suite 1400
Raleigh, N.C. 27602
Tel. No. (919) 828-0564
Fax. No. (919) 834-4564

Vicki Gordon Kaufman (*)
McWhirter, Reeves, McGlothlin,
Davidson, Decker, Kaufman,
Arnold & Steen, P.A.
117 South Gadsden Street
Tallahassee, FL 32301
Tel. No. (850) 222-2525
Fax. No. (850) 222-5606

Norton Cutler (+)
V.P. Regulatory & General Counsel
BlueStar Networks, Inc.
L & C Tower, 24th Floor
401 Church Street
Nashville, Tennessee 37219
(615) 346-6660


J. Phillip Carver (for)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re:

Petition for Arbitration of BlueStar)
 Networks, Inc. with BellSouth)
 Telecommunications, Inc. Pursuant)
 To the Telecommunications Act of 1996)
 _____)

Docket No. 991838-TP

Filed: February 25, 2000

**BELLSOUTH'S RESPONSE IN OPPOSITION TO BLUESTAR NETWORKS, INC.'S
 MOTION TO STRIKE TESTIMONY AND MOTION FOR SANCTIONS**

BellSouth Telecommunications, Inc. ("BellSouth") hereby files, pursuant to Rule 25-22.037, Florida Administrative Code, its Response in Opposition to BellSouth's Response to BlueStar Networks, Inc.'s ("BlueStar") Motion to Strike Testimony and Motion for Sanctions, and states the following:

BlueStar's Motion requests that a portion of Mr. Varner's testimony be stricken for two reasons: 1) The testimony contains as an Attachment an Amendment between the parties that, on its face, settles the issue of the rates to be charged on an interim basis for unbundled copper loops ("UCL") and line conditioning. BlueStar apparently does not believe this Amendment to be valid, and, therefore, wants it to be stricken; 2) Mr. Varner included his rebuttal testimony information that was not contained in his direct. BlueStar also moves to strike this testimony. Neither argument has any merit, and both should fail, as should BlueStar's request for sanctions.¹

¹ To the extent BlueStar's Motion should fail, then its request for sanctions, to which BlueStar gives no more than cursory attention in its Motion, should fail as well.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

Although BlueStar's Motion goes on at some length, it is most noteworthy for what it fails to state, i.e., any legal basis whatsoever to make the determination that the Amendment signed by BlueStar on January 27, 2000 is anything other than what is indicated by reading the document, an Amendment to the Interconnection Agreement that set the terms, conditions and rates for UCLs and loop conditioning. Further, based upon the undisputed facts (some of which are set forth in an Affidavit of Susan Arrington, Attachment A), it is clear that this Amendment is a valid and binding contract. Again, the facts are essentially uncontroverted:

- 1) In December, BellSouth sent a draft Amendment for negotiating purposes to BlueStar.
- 2) BlueStar subsequently attempted to order loops from BellSouth.
- 3) Ms. Arrington, on behalf of BellSouth, stated that loop orders could not be processed until there was an Amendment in place to set forth the terms, conditions and rates for these loops.
- 4) The amendment that BellSouth provided to BlueStar is comprised of four pages. The first page is the amendment itself, including signature lines for each party. Attached to this Agreement as Exhibit A are three-pages. The first two pages set forth the terms and conditions that apply to the UNEs in question. The next page sets forth a chart that includes the rates for unbundled copper wire loops ("ULCs") and for loop conditioning. The three-page Exhibit is all a part of a new Section 2.1.2 of the Interconnection Agreement that is specifically referenced on the first page of the amendment.

5) On January 27, 2000, Norton Cutler, on behalf of BlueStar, signed some version of the Amendment, three times. First, he signed the draft copy that had been previously provided by Ms. Arrington.² When Ms. Arrington called to inform him that a formal, final Amendment would need to be signed, he did so twice. First, he signed an Amendment in final form that covers Florida, Georgia, Kentucky and Tennessee; then he signed an amendment in final form that covers Louisiana, Alabama, South Carolina and Mississippi.

In BlueStar's Motion, it contends that this agreement did not set rates between the parties, but it provides absolutely no basis upon which this Commission could reach this conclusion. The document sent to Mr. Cutler included a rate schedule, Mr. Cutler signed this document on behalf of BlueStar three times, and he returned it to BellSouth with the rate schedule attached. These facts, standing alone, are sufficient to establish that a valid agreement has been entered into by the parties. BlueStar has offered no evidence in this proceeding that would allow the Commission to conclude otherwise, and, in fact, it has not even attempted in its Motion to explain why this document is not legally valid.

Moreover, BlueStar's contention that it does not agree to the rates is illogical. A contract to purchase something that does not include the purchase price is no contract at all. Nevertheless, BlueStar appears to contend that they have signed a completed

² The negotiating draft was not subsequently signed by BellSouth, and is, therefore, not a binding Agreement between the parties.

Amendment in order to obtain UCLs, but did not agree to the UCL rate, a material provision of the contract. Again, BlueStar's position simply makes no sense.

As stated above, BlueStar makes no effort to explain why the Amendment would not be valid. Instead, BlueStar's Motion is based upon 1) the bald, unsupported assertion that the agreement is invalid and 2) the theory that BellSouth somehow acquiesced to this interpretation. The facts alleged in BlueStar's Motion (albeit without the benefit of verification or an accompanying affidavit) do nothing to support BlueStar's contention.

Specifically, BlueStar contends that the undersigned counsel for BellSouth allowed BlueStar to review cost studies, and that this somehow amounts to a concession that the Amendment that BlueStar signed is not legally binding. The actual facts of what occurred are as follow. On Monday, February 1, 2000, the undersigned counsel was informed by a representative of BellSouth that BlueStar had signed an amendment that settled the UCL and line conditioning issues. When the undersigned counsel attempted to contact Mr. Cutler that day to inquire about this, Mr. Cutler was unavailable. The next day, counsel for BellSouth spoke with Mr. Cutler and inquired about the Agreement. Mr. Cutler represented that there was an agreement on terms and conditions, but no agreement on rates. Mr. Cutler further represented that the Amendment he signed did not have a rate schedule attached, and that Ms. Arrington was aware of this. The undersigned counsel for BellSouth stated that he would check further with Ms. Arrington. However, based upon Mr. Cutler's representations, Mr. Cutler was allowed to review the cost studies that he had traveled to Atlanta to review on that day.

Of course, as stated in the Affidavit of Ms. Arrington, she had not been previously told by Mr. Cutler (and had no reason to believe) that he contended that the Amendment is not valid. It is also clear based on the face of the agreement signed by Mr. Cutler and returned to BellSouth that it includes not only terms and conditions, but rates as well.

Nevertheless, BlueStar makes the argument that, in effect, because BellSouth took the word of BlueStar, even for the limited purpose of allowing it to review documents requested in discovery, this somehow constitutes a waiver of BellSouth's legal right to insist that BlueStar abide by its obligations under the Amendment. BlueStar, of course, has provided no authority (or rationale) to suggest that this is an appropriate result. Further, BlueStar's argument, once again, makes no sense. Apparently BlueStar is taking the position that if BlueStar claims that an issue is not settled, BellSouth has the ability to assert otherwise and, on the basis of this assertion, refuse to allow BlueStar to review documents requested in discovery. BellSouth does not believe that a party can refuse discovery requests on the basis. The contrary, more reasonable action of allowing discovery to proceed under those circumstances, does not constitute a waiver of any legal right.

Further, BlueStar contends that BellSouth somehow waived its right to seek enforcement of the Amendment, because it continued to negotiate settlement with BlueStar. Once again, BlueStar is wrong. Apparently BlueStar's theory is that if one seeks to settle a disputed issue, then this necessarily means that one accepts the opposing party's legal view of that issue. To the contrary, BellSouth believes, and continues to believe, that the Amendment is valid and binding. Ms. Arrington was made aware on February 2, that BlueStar disagrees. Nevertheless, she continued to negotiate

a settlement on this issue, just as she continued to negotiate possible settlement of all issues. The fact that BellSouth engaged in these negotiations in no way means that it accepts BlueStar's position on this issue, or on any other.

Based on the facts as set forth above, it is clear that BlueStar signed a valid and binding Amendment two days after Direct Testimony was filed. Mr. Varner attached this Amendment to his rebuttal testimony. Mr. Starkey, in his Direct Testimony, proposed a set of rates. Mr. Varner rebutted Mr. Starkey's testimony by pointing out that, subsequent to the filing of that testimony, BlueStar had agreed to different rates. This is entirely appropriate rebuttal testimony.

Accordingly, BellSouth submits that not only should this exhibit to Mr. Varner's testimony not be stricken, it should form the basis for a legal ruling by this Commission that BlueStar is bound by the Amendment, and that the rates set forth in that agreement pertain.

BlueStar also attempts to strike a portion of Mr. Varner's testimony because that rebuttal testimony is different on some points from Mr. Varner's Direct Testimony. It is true that, in his Direct Testimony, Mr. Varner proposed certain interim rates for UCLs based on his belief that there was no cost study that had been prepared for filing in Florida on the UNEs in question. As he states in his Rebuttal Testimony, he subsequently found out that he was wrong, that a study exists, and he proposed rates based on this study. This much is true. What is not true is the allegation of BlueStar that there is anything unique about Mr. Varner's changing or supplementing his testimony in rebuttal.

In point of fact, BlueStar's witnesses have changed their testimony routinely. In fact, if one views the direct and rebuttal testimony of BlueStar's witness, Carty Hassett, the differences between the two are so pronounced that it is difficult to believe that a single person drafted both. To give but three examples:

1) In her Direct Testimony, Ms. Hassett discusses the specific databases to which BlueStar seeks access (Issues 3 and 4). In her Rebuttal Testimony, she supplements that list and adds additional databases that are not discussed in her Direct Testimony (e.g. LQS and Mapviewer).

2) In her Direct Testimony, Ms. Hassett addresses Issue 9 by stating that BlueStar should receive expedited repair service in one hour. In her Rebuttal Testimony, she states that BlueStar should receive expedited repairs within two hours. In the Prehearing Statement filed the next day, however, the timeframe was apparently changed back to one hour.

3) In her Direct Testimony, Ms. Hassett states (in response to Issue 16), that BlueStar demands the ability to cross connect to BellSouth's riser cable at the DSLAM. In her Rebuttal Testimony, she did not address this issue at all. However, in the Rebuttal Testimony of BlueStar's other witness, Michael Starkey (who has been replaced by August Ankum), he states that BlueStar accepts BellSouth's proposal.

On the matter of changes, there are only two differences between the testimony of Mr. Varner and that of Ms. Hassett: 1) Mr. Varner makes a single change, while Ms. Hassett makes several; 2) when Mr. Varner made a change, he acknowledged that he

made a change to correct an error and he explained the change. BlueStar's Ms. Hassett, however, simply changes her testimony numerous times without acknowledging the changes at all.

While BlueStar is technically correct that it would have been more appropriate for Mr. Varner to file supplemental direct testimony, as opposed to changing his testimony through rebuttal (just as it would have been appropriate for Ms. Hassett to do so), the end result is the same. Mr. Varner filed the change to his testimony by February 14, 2000. BlueStar subsequently obtained permission to file Supplemental Rebuttal Testimony, which was filed on February 23, 2000. A review of this testimony makes it clear that it is not so much Supplemental Rebuttal Testimony as it is Surrebuttal. Specifically, Dr. Ankum takes the opportunity to respond at length to Mr. Varner's Rebuttal Testimony, including the portions in which he proposes rates for UCLs, both shorter than 18 kilofeet and longer than 18 kilofeet. Mr. Ankum also responds to the portions of Mr. Varner's Testimony in which he proposes prices for loop conditioning.


Thus, it is clear that BlueStar has had a more than adequate opportunity to respond to all aspects of Mr. Varner's testimony, and it has not in any way been prejudiced by the change that appears in Mr. Varner's Rebuttal Testimony. It is equally clear that BlueStar has provided no basis whatsoever, either legal or otherwise, to strike from Mr. Varner's Testimony the attached legally binding Amendment that BlueStar signed, and in which it agreed to rates for UCLs and line conditioning. Again, the most noteworthy aspect of BlueStar's Motion is that it has failed entirely to provide any theory under which the Amendment that its representative signed is anything other than an Amendment to the contract that sets forth rates, terms and conditions for UCLs and line

conditioning. Instead, BlueStar has engaged in a desperate, but implausible, argument that it simply declared this amendment to be invalid, and that this somehow makes it so. The reality is that BlueStar is attempting to avoid a valid contractual obligation. This Commission should not allow BlueStar to do so.


Based on the foregoing, BellSouth respectfully requests the entry of an Order denying BlueStar's Motion in all regards.

Respectfully submitted this 25th day of February, 2000.

BELLSOUTH TELECOMMUNICATIONS, INC.



NANCY B. WHITE (Pw)
MICHAEL P. GOGGIN
c/o Nancy Sims
150 South Monroe Street, #400
Tallahassee, Florida 32301
(305) 347-5558



R. DOUGLAS LACKEY
J. PHILLIP CARVER
675 West Peachtree Street, #4300
Atlanta, Georgia 30375
(404)335-0710

198775

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re:

Petition for Arbitration of BlueStar)
Networks, Inc. with BellSouth) Docket No. 991838-TP
Telecommunications, Inc. Pursuant)
To the Telecommunications Act of 1996)
_____)

STATE OF GEORGIA)
COUNTY OF FULTON)

AFFIDAVIT OF
SUSAN M. ARRINGTON

I, Susan M. Arrington, being duly sworn, do hereby depose and state as follows:

1) My name is Susan M. Arrington, and I am employed by BellSouth Telecommunications, Inc. ("BellSouth"), 675 W. Peachtree Street, Atlanta, Georgia 30375. For the past 12 years, I have held various positions with BellSouth, including State Regulatory Paralegal – BellSouth Legal Department. I assumed my current position as Manager – Contract Negotiations for Interconnection Services in August of 1998. One of my primary responsibilities includes negotiating interconnection agreements with competing local exchange carriers. In the past 3 ½ years, I have negotiated numerous interconnection agreements on behalf of BellSouth.

2) During negotiations with BlueStar Networks, Inc. ("BlueStar") and BellSouth for a new interconnection agreement, BlueStar originally requested Unbundled Copper Loops (UCL) at lengths greater than 18 kilofeet. At that time, BellSouth only offered UCLs up to 18 kilofeet. On December 7, 1999, BlueStar filed for arbitration in Florida, Georgia, Kentucky and Tennessee. In its arbitration petition, BlueStar included the issue of the longer UCLs.

3) As a result of the FCC's UNE Remand Order, BellSouth reviewed its position on offering long UCLs and developed an offering for UCLs at lengths greater than 18 kilofeet. An amendment including the terms and conditions, as well as the rates, for both short and long UCLs and rates for line conditioning was proposed to BlueStar in early January, 2000. At this time, I sent to BlueStar a draft Agreement that had been prepared for discussion purposes (a copy of that draft is attached as Exhibit 1). BlueStar did not comment in response to its receipt of the proposed amendment.

4) During the week of January 17, 2000, I received a number of telephone calls from BlueStar's account manager Scott Christian as well as Mr. Christian's supervisor, Mike Wilburn, inquiring as to whether BlueStar could order UCLs at lengths greater than 18 kilofeet. I explained to both Mr. Christian and Mr. Wilburn, that, although BellSouth had proposed an Amendment to BlueStar which would give them the ability to order the longer UCLs, BlueStar had not yet executed the Amendment and therefore, was not authorized at this time to order the longer UCLs.

5) I received an e-mail from Norton Cutler, BlueStar's General Counsel, dated January 26, 2000 advising me that a signed copy of the proposed UCL amendment was being faxed to me. (Exhibit 2) The fax consisted of four pages including the rate attachment, and contained information that apparently had been handwritten by Mr. Cutler. (Exhibit 3) In the e-mail message, Mr. Cutler stated that "it is imperative that we process this asap because BellSouth is canceling increasing numbers of orders for length." Mr. Cutler did not raise any specific issues concerning the language of the amendment. In the January 26, 2000 e-mail, Mr. Cutler also stated that he had been requesting a conformed copy of the amendment for two weeks. I had not received such requests, but responded to Mr. Cutler's statement immediately.

6) On January 27, 2000, I sent to BlueStar a revised UCL amendment for BlueStar's signature. The only revision made to the Amendment was to add BlueStar Networks, Inc.'s name and the Interconnection Agreement date. The rates, terms and conditions remained the same as in BellSouth's original proposal to BlueStar. Since BlueStar has two almost identical interconnection agreements with BellSouth, and a third agreement that applies only to the state of North Carolina, I asked Mr. Cutler if he also wanted to amend the BlueStar Interconnection Agreement for the states of Alabama, Mississippi, South Carolina and Louisiana to incorporate the UCL amendment, and, if so, that I would prepare an amendment to apply to these other states. Mr. Cutler, on behalf of BlueStar signed the amendment to the Interconnection Agreement for the states of Florida, Georgia, Kentucky and Tennessee (Exhibit 4), and then, on the same

date, signed the same Amendment to the Interconnection Agreement for the states Alabama, Louisiana, Mississippi and South Carolina.


7) On February 2, 2000, Mr. Cutler was in Atlanta, Georgia to review documents that had been produced by BellSouth. During a meeting with BlueStar on the afternoon of the second, Mr. Cutler stated to me for the first time that BlueStar did not agree to the rates in the UCL amendment. Mr. Cutler essentially signed this amendment three times: One, when he signed the proposed copy of the amendment (Exhibit 3); two when he signed the conformed copy for four states (including Florida); and three, when he signed the conformed copy for the interconnection agreement for four other states. Never during this time did Mr. Cutler, or anyone from BlueStar, advise me that BlueStar did not agree to BellSouth's proposed UCL and Line Conditioning rates. In fact, BlueStar has submitted orders, and continues to submit orders, to BellSouth for long UCLs pursuant to this agreement. In order for BellSouth to process orders, there must be a complete Interconnection Agreement in place, including rates as well as terms and conditions. Without an Agreement with rates for UCLs, BlueStar would not be able to order these loops.

8) Nevertheless, during the meeting on February 2, 2000, Mr. Cutler advised me that he did not intend to agree to the rates when he signed the amendment. He also stated that he was willing to accept the rates proposed by BellSouth's witness, Al Varner in his Direct Testimony filed January 25, 2000, two days before BlueStar signed the Amendment. We discussed the UCL rates in Mr. Varner's testimony, and reviewed cost studies that were produced to

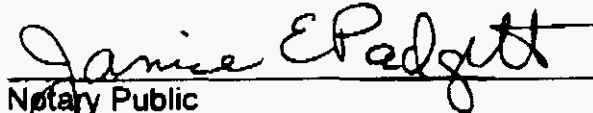
BlueStar as part of discovery. In light of Mr. Cutler's contention that this issue was not settled, I told him that I would be willing to continue to negotiate the UCL rates. Although I believed that the Amendment was binding, I agreed to continue negotiations for all issues that were not covered by a signed stipulation, including this issue.

9) I later received a letter dated February 1, 2000, from Halley Walton, a Paralegal at BlueStar, along with the original signature pages of the amendments executed by BlueStar. (Exhibit 5). This original included all four pages of the BlueStar agreement, including the page that sets out the rates for UCLs and line conditioning. A copy of the fully executed amendments was returned to BlueStar under a letter dated February 18, 2000. (Exhibit 6).

FURTHER AFFIANT SAYETH NOT.


Susan M. Arrington

Subscribed and sworn to before me this 25th day of February, 2000.



Notary Public

My Commission Expires: _____

Notary Public, Gwinnett County, Georgia
My Commission Expires Feb. 18, 2004

198786

**AMENDMENT
TO THE
AGREEMENT BETWEEN**

**AND
BELLSOUTH TELECOMMUNICATIONS, INC.
DATED**

Pursuant to this Agreement, (the "Amendment"), CLEC-1 ("CLEC-1"), and BellSouth Telecommunications, Inc. ("BellSouth"), hereinafter referred to individually as a "Party" and collectively as the "Parties," hereby agree to amend that certain Interconnection Agreement between the Parties dated _____ (the "Interconnection Agreement").

WHEREAS, BellSouth and CLEC-1 entered into an Interconnection Agreement on December 28, 1999 and;

NOW THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

1. The Interconnection Agreement entered into between CLEC-1 and BellSouth is hereby amended to delete Section ____ of Attachment 2 in its entirety and replace it with new Section _____ of Attachment 2 which is attached hereto as Exhibit A.
2. This Amendment shall have an effective date of _____, 2000.
3. All of the other provisions of the Agreement, dated _____, shall remain in full force and effect.
4. Either or both of the Parties may submit this Amendment to the appropriate Commission for approval subject to Section 252(e) of the Federal Telecommunications Act of 1996.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below.

CLEC-1

BellSouth Telecommunications, Inc.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

2.3 Technical Requirements

2.3.1 BellSouth will offer loops capable of supporting telecommunications services such as: POTS, Centrex, basic rate ISDN, analog PBX, voice grade private line, 2 and 4 wire xDSL, and digital data (up to 64 kb/s). Additional services may include digital PBXs, primary rate ISDN, Nx 64 kb/s, and DS1/DS3 and SONET private lines.

2.3.1.1 **Digital Subscriber Line ("xDSL") Capable Loops.** XDSL capable loops describe loops that may support various technologies and services. The "x" in xDSL is a placeholder for the various types of digital subscriber line services. An xDSL loop is a plain twisted pair copper loop. BellSouth will offer xDSL capable loops according to industry standards for CSA design loops (ADSL/HDSL) and resistance design loops (UCL). To the extent that these loops exist within the BellSouth network at a particular location, they will be provisioned without intervening devices, including but not limited to load coils, repeaters (unless so requested by CLEC-1), or digital access main lines ("DAMLs"). These loops may contain bridged tap in accordance with the respective industry standards (CSA design loops may have up to 2,500 feet total (all bridged taps) and up to 2,000 feet for a single bridged tap; resistance design loops may have up to 6,000 ft). At CLEC-1's request, BellSouth will provide CLEC-1 with xDSL loops other than those listed above, so long as CLEC-1 is willing to pay the loop conditioning costs needed to remove the above listed equipment and/or bridge taps from the loops. Any copper loop longer than 18kft requested by CLEC-1 through the loop conditioning process will be ordered, billed, and inventoried as UCLs. Loop conditioning costs will be charged in addition to the loop itself on any of the loops described in this section 2.1.2.2, CLEC-1 may provide any service that it chooses so long as such service is in compliance with FCC regulations and BellSouth's TR73600).

2.3.1.2 The loop will support the transmission, signaling, performance and interface requirements of the services described in 2.1.2.1 above. The foregoing sentence notwithstanding, in instances where BellSouth provides CLEC-1 with an xDSL loop that is over 12,000 feet in length, BellSouth will not be expected to maintain and repair the loop to the standards specified in the TR73600 and other standards referenced in this Agreement; provided, however, that for all loops (xDSL or otherwise) ordered by CLEC-1, BellSouth agrees to maintain electrical continuity and to provide balance relative to tip and ring.

2.3.1.3 In instances where CLEC-1 requests BellSouth to provide CLEC-1 with an xDSL loop to a particular end-user premises and (i) there is no such facility (including

without limitation spare copper) available, and (ii) there is a loop available that would meet the definition of an xDSL loop if it were conditioned consistent with the FCC's rules promulgated pursuant to the UNE Remand Order, FCC 99-238 (adopted Sept. 15, 1999) (i.e., FCC Rule 51.319(a)(3)) (hereinafter "Conditioning Rules"), BellSouth shall offer such loop to CLEC-1 and shall offer to condition such loop consistent with the Conditioning Rules. In those cases where CLEC-1 requests that BellSouth remove equipment from a loop longer than 18kft, and this equipment is required to provide normal voice services, CLEC-1 agrees to pay a re-conditioning charge in order to bring the loop back up to its original specifications.

2.3.1.3.1

The Parties agree that such conditioning charges shall be interim and subject to true-up (up or down), pending the determination by the relevant Commission of conditioning charges. The Parties further agree that, if and when a Commission (in a final order not stayed) orders or otherwise adopts conditioning charges, they shall amend this Agreement to reflect said charges. If the Parties are unable to reach agreement on such an amendment, either Party may petition the appropriate Commission for relief pursuant to the dispute resolution procedures described in the General Terms and Conditions - Part A of this Agreement.

In those cases where CLEC-1 has requested that BellSouth remove equipment from the BellSouth loop, BellSouth will not be expected to maintain and repair the loop to the standards specified for that loop type in the TR73600 and other standards referenced in this Agreement.

In addition, CLEC-1 recognizes that there may be instances where a loop modified pursuant to this subsection 2.1.2.5 may be subjected to normal network configuration changes that may cause the circuit characteristics to be changed and may create an outage of the service that CLEC-1 has placed on the loop (e.g., a copper voice loop is modified by the removal of load coils so that CLEC-1 may attempt to provide xDSL service. BellSouth's records may still reflect that the loop is a voice circuit. BellSouth performs a network efficiency job and rolls the loop to a DLC. The original voice loop would not have been impacted by this move but the xDSL loop will likely not support xDSL service). If this occurs, BellSouth will work cooperatively with CLEC-1 to restore the circuit to its previous xDSL capable status as quickly as possible.

2.3.1.4 The following rates, as subject to true-up, will apply:

2-Wire Unbundled Copper Loop (18kft or less)									
	AL*	FL	GA*	KY*	LA	MS*	NC	SC*	TN**
Recurring	\$15.11	\$18.00	\$13.05	\$11.89	\$21.00	\$14.83	\$19.00	\$20.81	\$18.00
Non-Recurring									
Non-Recurring 1st	\$514.21	\$340.00	\$359.00	\$713.50	\$340.00	\$504.82	\$450.00	\$600.61	\$450.00
Non-Recurring Add'l	\$464.58	\$300.00	\$325.15	\$609.44	\$300.00	\$456.24	\$390.00	\$507.33	\$325.00
Manual Svc Ord - 1st	\$47.00	\$47.00	\$18.94	\$47.00	\$18.14	\$25.52	\$47.00	\$25.52	
Manual Svc Ord - Adl	\$21.00	\$21.00	\$8.42	\$21.00	\$8.06	\$11.34	\$21.00	\$47.00	
Manual Svc Ord - Dis	\$17.77			\$17.77	\$11.41	\$16.06		\$21.00	
Order Coordination	\$16.00	\$16.00	\$34.22	NA	\$32.77	\$45.27	\$16.00	\$45.43	\$45.00
Disconnect 1st					\$72.54	\$105.86			
Disconnect Addl					\$39.42	\$57.25			

*Same as ADSL loop rate

** ADSL rates not yet set

Loop Conditioning									
Remove Equip < 18ft									
First Install	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485
Addl Install	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25
Remove Equip > 18ft									
First Install	\$775	\$775	\$775	\$775	\$775	\$775	\$775	\$775	\$775
Addl Install	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25
First Disconnect	\$775	\$775	\$775	\$775	\$775	\$775	\$775	\$775	\$775
Addl Disconnect	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25
Remove Bridge Tap all									
First Install	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485
Addl Install	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20

The UCL Rates listed above may be used for UCLs longer than 18kft until we are able to perform a cost study on long UCLs (18kft).

The Loop Conditioning charges would apply in addition to the UCL NRCs.

All the rates listed above would be subject to true-up once final cost numbers are determined.

The Parties agree that the prices reflected herein shall be "true-up" (up or down) based on final prices either determined by further agreement or by final order, including any appeals, in a proceeding involving BellSouth before the regulatory authority for the state in which the services are being performed or any other body having jurisdiction over this agreement, including the FCC. Under the "true-up" process, the price for each service shall be multiplied by the volume of that service purchased to arrive at the total interim amount paid for that service ("Total Interim Price"). The final price for that service shall be multiplied by the volume purchased to arrive at the total final amount due ("Total Final Price"). The Total Interim Price shall be compared with the Total Final Price. If the Total Final Price is more than the Total Interim Price, CLEC-1 shall pay the difference to BellSouth. If the Total Final Price is less than the Total Interim Price, BellSouth shall pay the difference to CLEC-1. Each party shall keep its own records upon which a "true-up" can be based and any final payment from one party to the other shall be in an amount agreed upon by the Parties based on such records. In the event of any disagreement as between the records or the Parties regarding the amount of such "true-up," the Parties agree that such differences shall be resolved through arbitration.

MESSAGE

Dated: 1/26/00 at 15:50

Subject: UCL Amendment And Further Negotiations

Contents: 3

Sender: norton!cutler /Internet (norton.cutler@bluestar.net)

Item 1

FROM: norton!cutler /Internet (norton.cutler@bluestar.net)
TO: Susan M. Arrington /m3,mail13a
carty!hassett /Internet (carty.hassett@bluestar.net)
Michael D. Wilburn /m6,mail16a

Item 2

ARPA MESSAGE HEADER

Item 3

I am faxing you a signed copy of the proposed UCL amendment now, but we will need to conform it to type in Bluestar's name. It is imperative that we process this asap because BellSouth is cancelling increasing numbers of orders for length. Bluestar has been requesting a copy of the amendment with Bluestar's name for almost two weeks and patience is wearing thin. BellSouth's refusal to honor these orders without an amendment that BellSouth has refused to supply borders on bad faith.

We also need to have a meeting on the remaining issues ASAP. Bluestar has requested that the Tennessee Commission conduct the mediation that it suggested. The answer to the arbitration and the testimony filed on 1/25 in Florida prove that there is very little between our positions. Refusing to meet to narrow this gap again borders on bad faith.

Bluestar is ready to resolve all the issues let's not wait any longer to try.

Exhibit 2

**AMENDMENT
TO THE
AGREEMENT BETWEEN
Bluestar Networks
AND
BELLSOUTH TELECOMMUNICATIONS, INC.
DATED *Bluestar Networks***

Pursuant to this Agreement, (the "Amendment"), ~~CLEC-1 ("CLEC-1")~~, and BellSouth Telecommunications, Inc. ("BellSouth"), hereinafter referred to individually as a "Party" and collectively as the "Parties," hereby agree to amend that certain Interconnection Agreement between the Parties dated Dec 7, 1999, (the "Interconnection Agreement").

WHEREAS, BellSouth and ~~CLEC-1~~ *Bluestar* entered into an Interconnection Agreement on Dec 7, 1999, and:

NOW THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

1. The Interconnection Agreement entered into between CLEC-1 and BellSouth is hereby amended to delete Section _____ of Attachment 2 in its entirety and replace it with new Section _____ of Attachment 2 which is attached hereto as Exhibit A.
2. This Amendment shall have an effective date of Jan 1, 2000.
3. All of the other provisions of the Agreement, dated Dec 7, 1999, shall remain in full force and effect.
4. Either or both of the Parties may submit this Amendment to the appropriate Commission for approval subject to Section 252(a) of the Federal Telecommunications Act of 1996.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below.

Bluestar Networks
~~CLEC-1~~
By: *Norton Cutler*
Name: *Norton Cutler*
Title: *General Counsel*
Date: *1-26-2000*

BellSouth Telecommunications, Inc.
By: _____
Name: *Jerry Hendrix*
Title: *Senior Director*
Date: _____

EXHIBIT A**2.3 Technical Requirements**

2.3.1 BST will offer loops capable of supporting telecommunications services such as: POTS, Centrex, basic rate ISDN, analog PBX, voice grade private line, 2 and 4 wire xDSL, and digital data (up to 64 kb/s). Additional services may include digital PBXs, primary rate ISDN, Nx 64 kb/s, and DS1/DS3 and SONET private lines.

2.3.1.1 Digital Subscriber Line ("xDSL") Capable Loops. xDSL capable loops describe loops that may support various technologies and services. The "x" in xDSL is a placeholder for the various types of digital subscriber line services. An xDSL loop is a plain twisted pair copper loop. BellSouth will offer xDSL capable loops according to industry standards for CSA design loops (ADSL/HDSL) and resistance design loops (UCL). To the extent that these loops exist within the BellSouth network at a particular location, they will be provisioned without intervening devices, including but not limited to load coils, repeaters (unless so requested by CLEC-1), or digital access main lines ("DAMLs"). These loops may contain bridged tap in accordance with the respective industry standards (CSA design loops may have up to 2,500 feet total (all bridged taps) and up to 2,000 feet for a single bridged tap; resistance design loops may have up to 6,000 ft). At CLEC-1's request, BellSouth will provide CLEC-1 with xDSL loops other than those listed above, so long as CLEC-1 is willing to pay the loop conditioning costs needed to remove the above listed equipment and/or bridge taps from the loops. Any copper loop longer than 18kft requested by CLEC-1 through the loop conditioning process will be ordered, billed, and inventoried as UCLs. Loop conditioning costs will be charged in addition to the loop itself. On any of the loops described in this section 2.3.1.1, CLEC-1 may provide any service that it chooses so long as such service is in compliance with FCC regulations and BellSouth's TR73600.

2.3.1.2 The loop will support the transmission, signaling, performance and interface requirements of the services described in 2.3.1 above. The foregoing sentence notwithstanding, in instances where BellSouth provides CLEC-1 with an xDSL loop that is over 12,000 feet in length, BellSouth will not be expected to maintain and repair the loop to the standards specified in the TR73600 and other standards referenced in this Agreement; provided, however, that for all loops (xDSL or otherwise) ordered by CLEC-1, BellSouth agrees to maintain electrical continuity and to provide balance relative to tip and ring.

2.3.1.3 In instances where CLEC-1 requests BellSouth to provide CLEC-1 with an xDSL loop to a particular end-user premises and (i) there is no such facility (including without limitation spare copper) available, and (ii) there is a loop available that

would meet the definition of an xDSL loop if it were conditioned consistent with the FCC's rules promulgated pursuant to the UNE Remand Order, FCC 99-238 (adopted Sept. 15, 1999) (i.e., FCC Rule 51.319(e)(3)) (hereinafter "Conditioning Rules"), BellSouth shall offer such loop to CLEC-1 and shall offer to condition such loop consistent with the Conditioning Rules. In those cases where CLEC-1 requests that BellSouth remove equipment from a loop longer than 18kft, and this equipment is required to provide normal voice services, CLEC-1 agrees to pay a re-conditioning charge in order to bring the loop back up to its original specifications.

- 2.3.1.3.1 The Parties agree that such conditioning charges shall be interim and subject to true-up (up or down), pending the determination by the relevant Commission of conditioning charges. The Parties further agree that, if and when a Commission (in a final order not stayed) orders or otherwise adopts conditioning charges, they shall amend this Agreement to reflect said charges. If the Parties are unable to reach agreement on such an amendment, either Party may petition the appropriate Commission for relief pursuant to the dispute resolution procedures described in the General Terms and Conditions - Part A of this Agreement.

In those cases where CLEC-1 has requested that BellSouth remove equipment from the BellSouth loop, BellSouth will not be expected to maintain and repair the loop to the standards specified for that loop type in the TR73600 and other standards referenced in this Agreement.

In addition, CLEC-1 recognizes that there may be instances where a loop modified pursuant to this subsection 2.3.1.3.1 may be subjected to normal network configuration changes that may cause the circuit characteristics to be changed and may create an outage of the service that CLEC-1 has placed on the loop (e.g., a copper voice loop is modified by the removal of load coils so that CLEC-1 may attempt to provide xDSL service. BellSouth's records may still reflect that the loop is a voice circuit. BellSouth performs a network efficiency job and rolls the loop to a DLC. The original voice loop would not have been impacted by this move but the xDSL loop will likely not support xDSL service). If this occurs, BellSouth will work cooperatively with CLEC-1 to restore the circuit to its previous xDSL capable status as quickly as possible.

- 2.3.1.4 The following rates, as subject to true-up, will apply:

2-Wire Unbundled Copper Loop (18kft or less)									
	AL*	FL	GA*	KY*	LA	MS*	NC	SC*	TN**
Recurring	\$15.11	\$18.00	\$13.05	\$11.89	\$21.00	\$14.83	\$19.00	\$20.81	\$18.00
Non-Recurring		\$113.00							
Non-Recurring 1st	\$314.21	\$948.00	\$359.00	\$713.50	\$340.00	\$504.82	\$450.00	\$600.61	\$450.00
Non-Recurring Addl	\$464.58	\$300.00	\$325.15	\$609.44	\$300.00	\$456.24	\$390.00	\$307.33	\$325.00
Manual Svc Ord -1st	\$47.00	\$47.00	\$18.94	\$47.00	\$18.14	\$25.52	\$47.00	\$25.52	
Manual Svc Ord -Adl	\$21.00	\$21.00	\$8.42	\$21.00	\$8.06	\$11.34	\$21.00	\$47.00	
Manual Svc Ord -Dis	\$17.77			\$17.77	\$11.41	\$16.06		\$21.00	
Order Coordination	\$16.00	\$16.00	\$34.22	NA	\$32.77	\$45.27	\$16.00	\$45.43	\$45.00
Disconnect 1st					\$72.54	\$105.86			
Disconnect Addl					\$39.42	\$57.25			

* Same as ADSL loop rate

** ADSL rates not yet set

Loop Conditioning									
Remove Equip < 18ft									
First Install	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485
Addl Install	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25
Remove Equip > 18ft									
First Install	\$775	\$775	\$775	\$775	\$775	\$775	\$775	\$775	\$775
Addl Install	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25
First Disconnect	\$775	\$775	\$775	\$775	\$775	\$775	\$775	\$775	\$775
Addl Disconnect	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25
Remove Bridge Tap all									
First Install	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485
Addl Install	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20

The UCL Rates listed above may be used for UCLs longer than 18kft until we are able to perform a cost study on long UCLs (18kft).

The Loop Conditioning charges would apply in addition to the UCL NRCs.

All the rates listed above would be subject to true-up once final cost numbers are determined.

The Parties agree that the prices reflected herein shall be "true-up" (up or down) based on final prices either determined by further agreement or by final order, including any appeals, in a proceeding involving BellSouth before the regulatory authority for the state in which the services are being performed or any other body having jurisdiction over this agreement, including the FCC. Under the "true-up" process, the price for each service shall be multiplied by the volume of that service purchased to arrive at the total interim amount paid for that service ("Total Interim Price"). The final price for that service shall be multiplied by the volume purchased to arrive at the total final amount due ("Total Final Price"). The Total Interim Price shall be compared with the Total Final Price. If the Total Final Price is more than the Total Interim Price, CLEC-1 shall pay the difference to BellSouth. If the Total Final Price is less than the Total Interim Price, BellSouth shall pay the difference to CLEC-1. Each party shall keep its own records upon which a "true-up" can be based and any final payment from one party to the other shall be in an amount agreed upon by the Parties based on such records. In the event of any disagreement as between the records or the Parties regarding the amount of such "true-up," the Parties agree that such differences shall be resolved through arbitration.

**AMENDMENT
TO THE
AGREEMENT BETWEEN
BLUESTAR NETWORKS, INC.
AND
BELL SOUTH TELECOMMUNICATIONS, INC.
DATED DECEMBER 28, 1999
(Florida, Georgia, Kentucky and Tennessee)**


Pursuant to this Agreement, (the "Amendment"), Bluestar Networks, Inc. ("Bluestar"), and BellSouth Telecommunications, Inc. ("BellSouth"), hereinafter referred to individually as a "Party" and collectively as the "Parties," hereby agree to amend that certain Interconnection Agreement between the Parties dated December 28, 1999 (the "Interconnection Agreement").

WHEREAS, BellSouth and Bluestar entered into an Interconnection Agreement on December 28, 1999 and;

NOW THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

1. The Interconnection Agreement entered into between Bluestar and BellSouth is hereby amended to delete Sections 2.1.2, 2.1.3 - 2.1.3.7 of Attachment 2 in its entirety and replace it with new Section 2.1.2 of Attachment 2 which is attached hereto as Exhibit A.
2. This Amendment shall have an effective date of January 27, 2000.
3. All of the other provisions of the Agreement, dated December 28, 1999, shall remain in full force and effect.
4. Either or both of the Parties may submit this Amendment to the appropriate Commission for approval subject to Section 252(e) of the Federal Telecommunications Act of 1996.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below.

Bluestar Networks, Inc.
By: 
Name: Norton Cutler
Title: General Counsel
Date: 1-27-2000

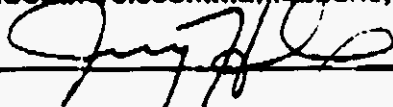
BellSouth Telecommunications, Inc.
By: 
Name: Jerry Hendrix
Title: Senior Director
Date: 1/27/00

EXHIBIT A

2.1.2 Technical Requirements

2.1.2.1 BellSouth will offer loops capable of supporting telecommunications services such as: POTS, Centrax, basic rate ISDN, analog PBX, voice grade private line, 2 and 4 wire xDSL, and digital data (up to 64 kb/s). Additional services may include digital PBXs, primary rate ISDN, Nx 64 kb/s, and DS1/DS3 and SONET private lines.

2.1.2.2 Digital Subscriber Line ("xDSL") Capable Loops. xDSL capable loops describe loops that may support various technologies and services. The "x" in xDSL is a placeholder for the various types of digital subscriber line services. An xDSL loop is a plain twisted pair copper loop. BellSouth will offer xDSL capable loops according to industry standards for CSA design loops (ADSL/HDSL) and resistance design loops (UCL). To the extent that these loops exist within the BellSouth network at a particular location, they will be provisioned without intervening devices, including but not limited to load coils, repeaters (unless so requested by Bluestar), or digital access main lines ("DAMLs"). These loops may contain bridged tap in accordance with the respective industry standards (CSA design loops may have up to 2,500 feet total (all bridged taps) and up to 2,000 feet for a single bridged tap; resistance design loops may have up to 6,000 ft). At Bluestar's request, BellSouth will provide Bluestar with xDSL loops other than those listed above, so long as Bluestar is willing to pay the loop conditioning costs needed to remove the above listed equipment and/or bridge taps from the loops. Any copper loop longer than 18kft requested by Bluestar through the loop conditioning process will be ordered, billed, and inventoried as UCLs. Loop conditioning costs will be charged in addition to the loop itself on any of the loops described in this section 2.1.2.2, Bluestar may provide any service that it chooses so long as such service is in compliance with FCC regulations and BellSouth's TR73600.

2.1.2.3 The loop will support the transmission, signaling, performance and interface requirements of the services described in 2.1.2.1 above. The foregoing sentence notwithstanding, in instances where BellSouth provides Bluestar with an xDSL loop that is over 12,000 feet in length, BellSouth will not be expected to maintain and repair the loop to the standards specified in the TR73600 and other standards referenced in this Agreement; provided, however, that for all loops (xDSL or otherwise) ordered by Bluestar, BellSouth agrees to maintain electrical continuity and to provide balance relative to tip and ring.

2.1.2.4 In instances where Bluestar requests BellSouth to provide Bluestar with an xDSL loop to a particular end-user premises and (i) there is no such facility (including

without limitation spare copper) available, and (ii) there is a loop available that would meet the definition of an xDSL loop if it were conditioned consistent with the FCC's rules promulgated pursuant to the UNE Remand Order, FCC 99-238 (adopted Sept. 15, 1999) (i.e., FCC Rule 51.319(a)(3)) (hereinafter "Conditioning Rules"), BellSouth shall offer such loop to Bluestar and shall offer to condition such loop consistent with the Conditioning Rules. In those cases where Bluestar requests that BellSouth remove equipment from a loop longer than 18kft, and this equipment is required to provide normal voice services, Bluestar agrees to pay a re-conditioning charge in order to bring the loop back up to its original specifications.

2.1.2.5 The Parties agree that such conditioning charges shall be interim and subject to true-up (up or down), pending the determination by the relevant Commission of conditioning charges. The Parties further agree that, if and when a Commission (in a final order not stayed) orders or otherwise adopts conditioning charges, they shall amend this Agreement to reflect said charges. If the Parties are unable to reach agreement on such an amendment, either Party may petition the appropriate Commission for relief pursuant to the dispute resolution procedures described in the General Terms and Conditions - Part A of this Agreement.

2.1.2.6 In those cases where Bluestar has requested that BellSouth remove equipment from the BellSouth loop, BellSouth will not be expected to maintain and repair the loop to the standards specified for that loop type in the TR73600 and other standards referenced in this Agreement.

2.1.2.7 In addition, Bluestar recognizes that there may be instances where a loop modified pursuant to this subsection 2.1.2.5 may be subjected to normal network configuration changes that may cause the circuit characteristics to be changed and may create an outage of the service that Bluestar has placed on the loop (e.g., a copper voice loop is modified by the removal of load coils so that Bluestar may attempt to provide xDSL service. BellSouth's records may still reflect that the loop is a voice circuit. BellSouth performs a network efficiency job and rolls the loop to a DLC. The original voice loop would not have been impacted by this move but the xDSL loop will likely not support xDSL service). If this occurs, BellSouth will work cooperatively with Bluestar to restore the circuit to its previous xDSL capable status as quickly as possible.

2.1.2.8 The following rates, as subject to true-up, will apply:

2-Wire Unbundled Copper Loop (18kft or less)
--

	AL*	FL	GA*	KY*	LA	MS*	NC	SC*	TN**
Recurring	\$15.11	\$18.00	\$13.05	\$11.89	\$21.00	\$14.83	\$19.00	\$20.81	\$18.00
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Disconnect 1st					\$72.34	\$103.86			
Disconnect Add'l					\$39.42	\$57.23			

*Same as ADSL loop rate

** ADSL rates not yet set

Loop Conditioning									
<i>Remove Equip < 18ft</i>									
First Install	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485
Addl Install	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25
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Addl Install	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25
First Disconnect	\$775	\$775	\$775	\$775	\$775	\$775	\$775	\$775	\$775
Addl Disconnect	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25
<i>Remove Bridge Tap all</i>									
First Install	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485
Addl Install	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20

The UCL Rates listed above may be used for UCLs longer than 18kft until we are able to perform a cost study on long UCLs (18kft)

The Loop Conditioning charges would apply in addition to the UCL NRCs.

All the rates listed above would be subject to true-up once final cost numbers are determined.

The Parties agree that the prices reflected herein shall be "true-up" (up or down) based on final prices either determined by further agreement or by final order, including any appeals, in a proceeding involving BellSouth before the regulatory authority for the state in which the services are being performed or any other body having jurisdiction over this agreement, including the FCC. Under the "true-up" process, the price for each service shall be multiplied by the volume of that service purchased to arrive at the total interim amount paid for that service ("Total Interim Price"). The final price for that service shall be multiplied by the volume purchased to arrive at the total final amount due ("Total Final Price"). The Total Interim Price shall be compared with the Total Final Price. If the Total Final Price is more than the Total Interim Price, Bluestar shall pay the difference to BellSouth. If the Total Final Price is less than the Total Interim Price, BellSouth shall pay the difference to Bluestar. Each party shall keep its own records upon which a "true-up" can be based and any final payment from one party to the other shall be in an amount agreed upon by the Parties based on such records. In the event of any disagreement as between the records or the Parties regarding the amount of such "true-up," the Parties agree that such differences shall be resolved through arbitration.



Exhibit 5

February 1, 2000

Susan Arrington
BellSouth Interconnection Services
675 West Peachtree Street, NE
Room 34591
Atlanta, GA 30375

Re: Amendment to the Agreement between BlueStar Networks and BellSouth

Dear Susan:

Enclosed please find BlueStar's original signature pages to the Amendment. Once BellSouth has executed this Agreement please send an original signature for our files.

Sincerely,


Halley Walton
Paralegal

401 Church Street, 24th Floor
Nashville, Tennessee 37219
615-255-2100 Fax: 615-255-2102
Toll Free: 877-898-8580
www.bluestar.net

**AMENDMENT
TO THE
AGREEMENT BETWEEN
BLUESTAR NETWORKS, INC.
AND
BELLSOUTH TELECOMMUNICATIONS, INC.
DATED DECEMBER 28, 1999
(Florida, Georgia, Kentucky and Tennessee)**

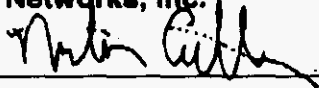
Pursuant to this Agreement, (the "Amendment"), Bluestar Networks, Inc. ("Bluestar"), and BellSouth Telecommunications, Inc. ("BellSouth"), hereinafter referred to individually as a "Party" and collectively as the "Parties," hereby agree to amend that certain Interconnection Agreement between the Parties dated December 28, 1999 (the "Interconnection Agreement").

WHEREAS, BellSouth and Bluestar entered into an Interconnection Agreement on December 28, 1999 and;

NOW THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

1. The Interconnection Agreement entered into between Bluestar and BellSouth is hereby amended to delete Sections 2.1.2, 2.1.3 - 2.1.3.7 of Attachment 2 in its entirety and replace it with new Section 2.1.2 of Attachment 2 which is attached hereto as Exhibit A.
2. This Amendment shall have an effective date of January 27, 2000.
3. All of the other provisions of the Agreement, dated December 28, 1999, shall remain in full force and effect.
4. Either or both of the Parties may submit this Amendment to the appropriate Commission for approval subject to Section 252(e) of the Federal Telecommunications Act of 1996.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below.

Bluestar Networks, Inc.
By: 
Name: Norton Cutler
Title: General Counsel
Date: 1-27-2000


BellSouth Telecommunications, Inc.
By: 
Name: Jerry Hendrix
Title: Senior Director
Date: 1-27-00

EXHIBIT A

2.1.2 Technical Requirements

- 2.1.2.1 BellSouth will offer loops capable of supporting telecommunications services such as: POTS, Centrex, basic rate ISDN, analog PBX, voice grade private line, 2 and 4 wire xDSL, and digital data (up to 64 kb/s). Additional services may include digital PBXs, primary rate ISDN, Nx 64 kb/s, and DS1/DS3 and SONET private lines.
- 2.1.2.2 Digital Subscriber Line ("xDSL") Capable Loops. XDSL capable loops describe loops that may support various technologies and services. The "x" in xDSL is a placeholder for the various types of digital subscriber line services. An xDSL loop is a plain twisted pair copper loop. BellSouth will offer xDSL capable loops according to industry standards for CSA design loops (ADSL/HDSL) and resistance design loops (UCL). To the extent that these loops exist within the BellSouth network at a particular location, they will be provisioned without intervening devices, including but not limited to load coils, repeaters (unless so requested by Bluestar), or digital access main lines ("DAMLs"). These loops may contain bridged tap in accordance with the respective industry standards (CSA design loops may have up to 2,500 feet total (all bridged taps) and up to 2,000 feet for a single bridged tap; resistance design loops may have up to 6,000 ft). At Bluestar's request, BellSouth will provide Bluestar with xDSL loops other than those listed above, so long as Bluestar is willing to pay the loop conditioning costs needed to remove the above listed equipment and/or bridge taps from the loops. Any copper loop longer than 18kft requested by Bluestar through the loop conditioning process will be ordered, billed, and inventoried as UCLs. Loop conditioning costs will be charged in addition to the loop itself on any of the loops described in this section 2.1.2.2, Bluestar may provide any service that it chooses so long as such service is in compliance with FCC regulations and BellSouth's TR73600.
- 2.1.2.3 The loop will support the transmission, signaling, performance and interface requirements of the services described in 2.1.2.1 above. The foregoing sentence notwithstanding, in instances where BellSouth provides Bluestar with an xDSL loop that is over 12,000 feet in length, BellSouth will not be expected to maintain and repair the loop to the standards specified in the TR73600 and other standards referenced in this Agreement; provided, however, that for all loops (xDSL or otherwise) ordered by Bluestar, BellSouth agrees to maintain electrical continuity and to provide balance relative to tip and ring.
- 2.1.2.4 In instances where Bluestar requests BellSouth to provide Bluestar with an xDSL loop to a particular end-user premises and (I) there is no such facility (including

without limitation spare copper) available, and (ii) there is a loop available that would meet the definition of an xDSL loop if it were conditioned consistent with the FCC's rules promulgated pursuant to the UNE Remand Order, FCC 99-238 (adopted Sept. 15, 1999) (i.e., FCC Rule 51.319(a)(3)) (hereinafter "Conditioning Rules"), BellSouth shall offer such loop to Bluestar and shall offer to condition such loop consistent with the Conditioning Rules. In those cases where Bluestar requests that BellSouth remove equipment from a loop longer than 18kft, and this equipment is required to provide normal voice services, Bluestar agrees to pay a re-conditioning charge in order to bring the loop back up to its original specifications.

- 2.1.2.5 The Parties agree that such conditioning charges shall be interim and subject to true-up (up or down), pending the determination by the relevant Commission of conditioning charges. The Parties further agree that, if and when a Commission (in a final order not stayed) orders or otherwise adopts conditioning charges, they shall amend this Agreement to reflect said charges. If the Parties are unable to reach agreement on such an amendment, either Party may petition the appropriate Commission for relief pursuant to the dispute resolution procedures described in the General Terms and Conditions – Part A of this Agreement.
- 2.1.2.6 In those cases where Bluestar has requested that BellSouth remove equipment from the BellSouth loop, BellSouth will not be expected to maintain and repair the loop to the standards specified for that loop type in the TR73600 and other standards referenced in this Agreement.
- 2.1.2.7 In addition, Bluestar recognizes that there may be instances where a loop modified pursuant to this subsection 2.1.2.5 may be subjected to normal network configuration changes that may cause the circuit characteristics to be changed and may create an outage of the service that Bluestar has placed on the loop (e.g., a copper voice loop is modified by the removal of load coils so that Bluestar may attempt to provide xDSL service. BellSouth's records may still reflect that the loop is a voice circuit. BellSouth performs a network efficiency job and rolls the loop to a DLC. The original voice loop would not have been impacted by this move but the xDSL loop will likely not support xDSL service). If this occurs, BellSouth will work cooperatively with Bluestar to restore the circuit to its previous xDSL capable status as quickly as possible.

2.1.2.8 The following rates, as subject to true-up, will apply:

2-Wire Unbundled Copper Loop (18kft or less)

	AL*	FL	GA*	KY*	LA	MS*	NC	SC*	TN**
Recurring	\$15.11	\$18.00	\$13.05	\$11.89	\$21.00	\$14.83	\$19.00	\$20.81	\$18.00
Non-Recurring									
Non-Recurring 1st	\$514.21	\$340.00	\$359.00	\$713.50	\$340.00	\$504.82	\$450.00	\$600.61	\$450.00
Non-Recurring Addl	\$464.58	\$300.00	\$325.15	\$609.44	\$300.00	\$456.24	\$390.00	\$507.33	\$325.00
Manual Svc Ord -1st	\$47.00	\$47.00	\$18.94	\$47.00	\$18.14	\$25.52	\$47.00	\$25.52	
Manual Svc Ord -Adl	\$21.00	\$21.00	\$8.42	\$21.00	\$8.06	\$11.34	\$21.00	\$47.00	
Manual Svc Ord -Dis	\$17.77			\$17.77	\$11.41	\$16.06		\$21.00	
Order Coordination	\$16.00	\$16.00	\$34.22	NA	\$32.77	\$45.27	\$16.00	\$45.43	\$45.00
Disconnect 1st					\$72.54	\$105.86			
Disconnect Addl					\$39.42	\$57.25			

*Same as ADSL loop rate

** ADSL rates not yet set

Loop Conditioning									
Remove Equip < 18ft									
First Install	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485
Addl Install	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25
Remove Equip > 18ft									
First Install	\$775	\$775	\$775	\$775	\$775	\$775	\$775	\$775	\$775
Addl Install	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25
First Disconnect	\$775	\$775	\$775	\$775	\$775	\$775	\$775	\$775	\$775
Addl Disconnect	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25
Remove Bridge Tap all									
First Install	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485	\$485
Addl Install	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20

The UCL Rates listed above may be used for UCLs longer than 18kft until we are able to perform a cost study on long UCLs (18kft).

The Loop Conditioning charges would apply in addition to the UCL NRCs.

All the rates listed above would be subject to true-up once final cost numbers are determined.

The Parties agree that the prices reflected herein shall be "true-up" (up or down) based on final prices either determined by further agreement or by final order, including any appeals, in a proceeding involving BellSouth before the regulatory authority for the state in which the services are being performed or any other body having jurisdiction over this agreement, including the FCC. Under the "true-up" process, the price for each service shall be multiplied by the volume of that service purchased to arrive at the total interim amount paid for that service ("Total Interim Price"). The final price for that service shall be multiplied by the volume purchased to arrive at the total final amount due ("Total Final Price"). The Total Interim Price shall be compared with the Total Final Price. If the Total Final Price is more than the Total Interim Price, Bluestar shall pay the difference to BellSouth. If the Total Final Price is less than the Total Interim Price, BellSouth shall pay the difference to Bluestar. Each party shall keep its own records upon which a "true-up" can be based and any final payment from one party to the other shall be in an amount agreed upon by the Parties based on such records. In the event of any disagreement as between the records of the Parties regarding the amount of such "true-up," the Parties agree that such differences shall be resolved through arbitration.

**AMENDMENT
TO THE
AGREEMENT BETWEEN
BLUESTAR NETWORKS, INC.
AND
BELLSOUTH TELECOMMUNICATIONS, INC.
DATED DECEMBER 7, 1999**

Pursuant to this Agreement, (the "Amendment"), Bluestar Networks, Inc. ("Bluestar"), and BellSouth Telecommunications, Inc. ("BellSouth"), hereinafter referred to individually as a "Party" and collectively as the "Parties," hereby agree to amend that certain Interconnection Agreement between the Parties dated December 7, 1999 (the "Interconnection Agreement").

WHEREAS, BellSouth and Bluestar entered into an Interconnection Agreement on December 7, 1999 and;

NOW THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

1. The Interconnection Agreement entered into between Bluestar and BellSouth is hereby amended to delete Sections 2.1.2, 2.1.3 - 2.1.3.7 of Attachment 2 in its entirety and replace it with new Section 2.1.2 of Attachment 2 which is attached hereto as Exhibit A.
2. This Amendment shall have an effective date of January 27, 2000.
3. All of the other provisions of the Agreement, dated December 7, 1999, shall remain in full force and effect.
4. Either or both of the Parties may submit this Amendment to the appropriate Commission for approval subject to Section 252(e) of the Federal Telecommunications Act of 1996.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below.

Bluestar Networks, Inc.

By: Norton Cutler

Name: Norton Cutler

Title: General Counsel

Date: 1-27-2000

BellSouth Telecommunications, Inc.

By: Jerry Hendrix

Name: Jerry Hendrix

Title: Senior Director

Date: 1-27-00

EXHIBIT A

2.1.2 Technical Requirements

2.1.2.1 BellSouth will offer loops capable of supporting telecommunications services such as: POTS, Centrex, basic rate ISDN, analog PBX, voice grade private line, 2 and 4 wire xDSL, and digital data (up to 64 kb/s). Additional services may include digital PBXs, primary rate ISDN, Nx 64 kb/s, and DS1/DS3 and SONET private lines.

2.1.2.2 Digital Subscriber Line ("xDSL") Capable Loops. XDSL capable loops describe loops that may support various technologies and services. The "x" in xDSL is a placeholder for the various types of digital subscriber line services. An xDSL loop is a plain twisted pair copper loop. BellSouth will offer xDSL capable loops according to industry standards for CSA design loops (ADSL/HDSL) and resistance design loops (UCL). To the extent that these loops exist within the BellSouth network at a particular location, they will be provisioned without intervening devices, including but not limited to load coils, repeaters (unless so requested by Bluestar), or digital access main lines ("DAMLs"). These loops may contain bridged tap in accordance with the respective industry standards (CSA design loops may have up to 2,500 feet total (all bridged taps) and up to 2,000 feet for a single bridged tap; resistance design loops may have up to 6,000 ft). At Bluestar's request, BellSouth will provide Bluestar with xDSL loops other than those listed above, so long as Bluestar is willing to pay the loop conditioning costs needed to remove the above listed equipment and/or bridge taps from the loops. Any copper loop longer than 18kft requested by Bluestar through the loop conditioning process will be ordered, billed, and inventoried as UCLs. Loop conditioning costs will be charged in addition to the loop itself on any of the loops described in this section 2.1.2.2, Bluestar may provide any service that it chooses so long as such service is in compliance with FCC regulations and BellSouth's TR73600.

2.1.2.3 The loop will support the transmission, signaling, performance and interface requirements of the services described in 2.1.2.1 above. The foregoing sentence notwithstanding, in instances where BellSouth provides Bluestar with an xDSL loop that is over 12,000 feet in length, BellSouth will not be expected to maintain and repair the loop to the standards specified in the TR73600 and other standards referenced in this Agreement; provided, however, that for all loops (xDSL or otherwise) ordered by Bluestar, BellSouth agrees to maintain electrical continuity and to provide balance relative to tip and ring.

2.1.2.4 In instances where Bluestar requests BellSouth to provide Bluestar with an xDSL loop to a particular end-user premises and (i) there is no such facility (including without limitation spare copper) available, and (ii) there is a loop available that

would meet the definition of an xDSL loop if it were conditioned consistent with the FCC's rules promulgated pursuant to the UNE Remand Order, FCC 99-238 (adopted Sept. 15, 1999) (i.e., FCC Rule 51.319(a)(3)) (hereinafter "Conditioning Rules"), BellSouth shall offer such loop to Bluestar and shall offer to condition such loop consistent with the Conditioning Rules. In those cases where Bluestar requests that BellSouth remove equipment from a loop longer than 18kft, and this equipment is required to provide normal voice services, Bluestar agrees to pay a re-conditioning charge in order to bring the loop back up to its original specifications.

2.1.2.5 The Parties agree that such conditioning charges shall be interim and subject to true-up (up or down), pending the determination by the relevant Commission of conditioning charges. The Parties further agree that, if and when a Commission (in a final order not stayed) orders or otherwise adopts conditioning charges, they shall amend this Agreement to reflect said charges. If the Parties are unable to reach agreement on such an amendment, either Party may petition the appropriate Commission for relief pursuant to the dispute resolution procedures described in the General Terms and Conditions – Part A of this Agreement.

2.1.2.6 In those cases where Bluestar has requested that BellSouth remove equipment from the BellSouth loop, BellSouth will not be expected to maintain and repair the loop to the standards specified for that loop type in the TR73600 and other standards referenced in this Agreement.

2.1.2.7 In addition, Bluestar recognizes that there may be instances where a loop modified pursuant to this subsection 2.1.2.5 may be subjected to normal network configuration changes that may cause the circuit characteristics to be changed and may create an outage of the service that Bluestar has placed on the loop (e.g., a copper voice loop is modified by the removal of load coils so that Bluestar may attempt to provide xDSL service. BellSouth's records may still reflect that the loop is a voice circuit. BellSouth performs a network efficiency job and rolls the loop to a DLC. The original voice loop would not have been impacted by this move but the xDSL loop will likely not support xDSL service). If this occurs, BellSouth will work cooperatively with Bluestar to restore the circuit to its previous xDSL capable status as quickly as possible.

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BellSouth Interconnection Services

675 West Peachtree Street
Room 34P70
Atlanta, Georgia 30375

Susan M. Arrington
(404) 927-7513
Fax: (404) 529-7839

February 18, 2000

Halley Walton
Paralegal
BlueStar Networks, Inc.
401 Church Street
24th Floor
Nashville, TN 37219

Dear Halley:

Enclosed herein for your files is a copy of the amendments to the Interconnection Agreements between BellSouth and BlueStar Networks, Inc. BellSouth will file these amendments with the appropriate regulatory agencies. If you have any questions, please give me a call at (404) 927-7513.

Sincerely,



Susan M. Arrington
Manager - Interconnection Services/Pricing

Enclosures