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RECORDS AND
REPORTING

May 1, 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. 991220-TP

Dear Ms. Bayó:

Enclosed please find the original and fifteen copies of BellSouth Telecommunications, Inc.'s Rebuttal Testimony of Alphonso J. Varner, 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
(Handwritten signature)

J. Phillip Carver

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

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- APP _____
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CERTIFICATE OF SERVICE
Docket No. 991220-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via


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BELLSOUTH TELECOMMUNICATIONS, INC.
REBUTTAL TESTIMONY OF ALPHONSO J. VARNER
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 991220-TP
MAY 1, 2000

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS ADDRESS.

A. My name is Alphonso J. Varner. I am employed by BellSouth as Senior Director for State Regulatory for the nine-state BellSouth region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

A. Yes. I filed direct testimony and eight exhibits on April 3, 2000.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My testimony rebuts the direct testimony filed by Global NAPS South, Inc. ("Global NAPS"), witness William Rooney, on April 3, 2000.

Q. MR. ROONEY STATES THAT THE D.C. COURT OF APPEALS ORDER OF MARCH 24, 2000 CONFIRMS THAT ISP-BOUND CALLS INDEED

1 'TERMINATE' AT THE LOCAL ISP, SO THAT RECIPROCAL
2 COMPENSATION FOR SUCH CALLS IS DUE AS A MATTER OF LAW."
3 (Page 2, lines 7-11; page 8, line 21 – page 9, line 3). IS THIS AN
4 ACCURATE CHARACTERIZATION OF THE D.C. ORDER?

5

6 A. No. The March 24, 2000 Order of the D.C. Circuit Court of Appeals issued a
7 decision in *Bell Atlantic Telephone Companies v. FCC, Case No. 99-1094,*
8 *2000 WL 273383* ("D.C. Order"). That decision vacated and remanded the
9 FCC's Declaratory Ruling in CC Docket 96-98 and Notice of Proposed
10 Rulemaking in CC Docket 99-68, *Implementation of the Local Competition*
11 *Provisions of the Telecommunications Act of 1996, 14 FCC Rcd. 3698* (1999)
12 ("FCC Declaratory Ruling"). In its decision, the D.C. Circuit recognized that,
13 under the FCC's regulations, reciprocal compensation is due on calls to the
14 Internet if, and only if, such calls "terminate" at the ISP's local facilities. *Slip*
15 *op. at 9-11*. The D.C. Circuit held, however, that the FCC had not adequately
16 explained its conclusion that calls to an ISP do not terminate at the ISP's local
17 point of presence but instead at a distant website. It therefore remanded the
18 matter to permit the FCC to explain the point more fully. *See id.* at 15
19 (remanding the case to allow the FCC to provide a "satisfactory explanation").

20

21 The FCC has already indicated informally that it believes that it can provide
22 the requested clarification and reach the same conclusion that it has previously
23 – that is, that Internet-bound calls do *not* terminate locally. FCC Common
24 Carrier Bureau Chief Lawrence Strickling is quoted in *Telecommunications*
25 *Reports, FCC Stands by Conclusion That Calls to ISPs Are Interstate, Despite*

1 *Court's Nixing 1999 Order, March 27, 2000* as follows: "I don't read this
2 decision as telling us that we made a mistake" in finding ISP-bound calls to be
3 interstate in nature. "We need to take the confusing precedents and make clear
4 to the court why this is interstate traffic."

5

6 Q. IN HIS TESTIMONY, MR. ROONEY ALSO DISCUSSES POLICY
7 CONSIDERATIONS THAT HE CLAIMS LEAD TO THE CONCLUSION
8 THAT ISP-BOUND CALLS SHOULD BE SUBJECT TO COMPENSATION
9 LIKE LOCAL CALLS. (Page 5, line 4 – Page 6, line 7). PLEASE
10 COMMENT.

11

12 A. Mr. Rooney states that competitive local exchange carriers ("CLECs") or
13 alternative local exchange carriers ("ALECs") perform an important public
14 service by providing ISPs with the connections they need to the public
15 switched network in order for them to provide enough lines to meet customer
16 demand for Internet access. Further, Mr. Rooney states that if there is going to
17 be competition in Florida for the business of ISPs, then compensation must be
18 paid for these calls.

19

20 Apparently, Mr. Rooney believes that the goal of enhancing a competitive
21 market for ISPs justifies an incumbent local exchange carrier ("ILEC")
22 subsidizing an ALEC's provision of service to its ISP customers. As explained
23 in my direct testimony (page 19, line 6 – page 21, line 22), there is no
24 justification for requiring BellSouth to provide Global NAPS with a subsidy or
25 windfall. Global NAPS already receives all of the only applicable revenue for

1 the ISP-bound traffic in question.

2

3 Q. MR. ROONEY CLAIMS THAT ISP TRAFFIC IS COMPENSABLE, AND
4 THAT, "THE COMMISSION IN ITS ORDER IN THE CASE SHOULD
5 DIRECT THAT SUCH COMPENSATION BE PART OF THE PARTIES'
6 CONTRACT." (Page 9, lines 5-8). HOW DO YOU RESPOND?

7

8 A. This Commission should conclude that ISP-bound traffic is not local traffic
9 and does not qualify for payment of reciprocal compensation. As explained in
10 my direct testimony (page 8, line 16 – page 12, line 18), ISP-bound traffic is
11 not legally subject to reciprocal compensation, as are local calls. For purposes
12 of a ruling in this arbitration, this Commission does not need to interpret the
13 D.C. Order, or anticipate what may happen on remand of the Declaratory
14 Ruling to the FCC. As this Commission has previously noted, this issue will
15 be resolved at the Federal level. (See Order in MediaOne Arbitration Docket
16 No. 990149-TP, October 14, 1999, and Order in ICG Arbitration Docket No.
17 990691-TP, January 14, 2000.) There is no need for this Commission to set a
18 compensation mechanism when the FCC has clearly expressed its intention to
19 do so.

20

21 Q. WHAT ACTION SHOULD THIS COMMISSION TAKE WHILE
22 AWAITING A RULING BY THE FCC ON INTER-CARRIER
23 COMPENSATION FOR ISP TRAFFIC?

24

25 A. If the Commission wishes to establish an inter-carrier compensation

1 mechanism for ISP traffic, BellSouth believes that the preferable option is for
2 the parties to create a mechanism to track ISP-bound calls originating on each
3 parties' respective networks on a going-forward basis. The parties would
4 apply the inter-carrier compensation mechanism established by a final,
5 nonappealable order of the FCC retroactively from the date of the
6 Interconnection Agreement approved by the Commission, and the parties
7 would "true-up" any compensation that may be due for ISP-bound calls.

8

9 Q. IF THE COMMISSION DECIDES THAT COMPENSATION SHOULD BE
10 PAID PENDING THE FCC'S ORDER, HOW SHOULD THE RATE BE
11 DETERMINED?

12

13 A. In that case, the Commission should direct the parties to negotiate a rate which
14 would specifically apply to ISP-bound traffic, taking into consideration the
15 longer average call duration of ISP-bound calls, as explained subsequently
16 herein.

17

18 Q. IS BELLSOUTH'S PROPOSAL DIFFERENT THAN THE INTERIM
19 INTER-CARRIER COMPENSATION PROVISION THAT THE
20 COMMISSION HAS ORDERED IN THE PAST?

21

22 A. Yes. In the MediaOne Arbitration case, and in the ICG Arbitration case, the
23 Commission decided that the parties should continue to operate under their
24 current contract pending a decision by the FCC on inter-carrier compensation
25 for ISP-bound traffic. Such a decision is not appropriate in the Global NAPS

1 case for two reasons:

2
3 (1) Global NAPS has already attempted in this case to perpetuate the terms
4 of its prior agreement (1997 DeltaCom Agreement) by asserting that
5 the expiration date should be two years from the date of adoption. This
6 attempt was denied by this Commission in its Order No. PSC-00-0568-
7 FOF-TP, dated March 20, 2000. Using the treatment of reciprocal
8 compensation for ISP-bound traffic under Global NAPS' previous
9 agreement would have the same effect as extending the effective date of
10 that agreement.

11 (2) ISP traffic is compensable under the previous agreement (1997
12 DeltaCom Agreement) only because of the Commission's ruling in the
13 Global NAPS Complaint case (Docket No. 991267-TP), a ruling based
14 solely on the specific language of that agreement. In fact, in reaching
15 its decision in the Global NAPS Complaint case, the Commissioners
16 voiced concern that a ruling approving payment of reciprocal
17 compensation under the 1997 DeltaCom Agreement adopted by Global
18 NAPS should not set precedent for future decisions. (See Agenda
19 Transcript, Docket 991267-TP, March 28, 2000 and April 4, 2000.)
20 Specifically, the Order in that case (Order No. PSC-00-0802-FOF-TP,
21 dated April 24, 2000) states, on pages 7-8:

22
23 *Although we need not look beyond the plain language in the*
24 *Agreement in this instance, we note that we do not believe that*
25 *the intent of the parties at the time of the adoption is the*

1 *relevant intent when interpreting an Agreement adopted*
2 *pursuant to Section 252(i) of the Act. Rather, we believe the*
3 *intent of the original parties is the determining factor when the*
4 *Agreement language is not clear. Otherwise, original and*
5 *adopting parties to an Agreement could receive differing*
6 *interpretations of the same Agreement, which is not consistent*
7 *with the purpose of Section 252(i) of the Act. We also note that*
8 *we believe the underlying Agreement negotiated by the original*
9 *parties terminates on the date established by the original*
10 *parties to the Agreement. Therefore, adopting an Agreement*
11 *under Section 252(I) cannot perpetuate the terms of an*
12 *agreement beyond the life of the original agreement.* (emphasis
13 added)

14
15 If the Commission were to deal with ISP traffic in this case by treating it as it
16 is was ordered to be treated under the prior Agreement with Global NAPS, this
17 would have the effect of perpetuating the Agreement in a way that is
18 inconsistent with the Commission's ruling in the Complaint case.

19
20 Q. MR. ROONEY STATES "THE NOTION THAT SOME ILECS HAVE
21 ADVANCED FROM TIME TO TIME THAT CLECS SHOULD GET NO
22 COMPENSATION FOR THE WORK THEY DO IN DELIVERING CALLS
23 TO ISPS IS ECONOMICALLY TOTALLY IRRATIONAL." (Page 5, lines
24 7-9). IS IT BELLSOUTH'S POSITION THAT ALECS SHOULD NOT GET
25 ANY COMPENSATION FOR DELIVERING ISP-BOUND CALLS?

1

2 A. No. It is actually Mr. Rooney's proposal that is economically irrational.
3 ALECs are compensated by their ISP customers. In addition to that
4 compensation, Global NAPS also wants a windfall payment from BellSouth,
5 even though BellSouth receives no revenue for this traffic. No such irrational
6 arrangement exists in any other business relationship.

7

8 There is no evidence in the record that Global NAPS has incurred any costs in
9 transporting and terminating traffic that are not being fully recovered through
10 the local business rates paid by its ISP customers for access service. Even if
11 there were any such evidence, any under-recovery cannot be laid at BellSouth's
12 feet, but rather is the direct result of the FCC's policy of exempting ISPs from
13 paying any per-minute-of-use switched access charges under the switched
14 access tariff for their use of the ILEC network. ILECs are limited to charging
15 business exchange rates to their ISP customers. To the extent any ALEC is not
16 being adequately compensated for carrying ISP bound traffic, the same may be
17 said for all other local exchange carriers ("LECs") as well. Indeed, it is
18 BellSouth that incurs an uncompensated cost every time one of its customers
19 calls an ISP being served by Global NAPS. In such an instance, the end user
20 pays the ISP to place that call, and the ISP in turn pays Global NAPS.
21 BellSouth receives no revenue from any source to compensate it for the cost of
22 transporting that call.

23

24 Q. MR. ROONEY FURTHER STATES THAT, "THE IDEA SOMETIMES
25 ADVANCED BY ILECS, THAT CLECS SHOULD RECOVER THE COSTS

1 OF SWITCHING ISP-BOUND CALLS FROM THE ISPS IS NOT
2 POSSIBLE IN THE REAL WORLD.” (Page 5, lines 12-14). IS THIS A
3 VALID ARGUMENT?
4

5 A. No. The ISP is the cost-causer in the instance of ISP-bound traffic, and it
6 should compensate the ALEC for the costs the ALEC incurs. As explained in
7 my direct testimony (pages 19-21), whether Global NAPS may or may not be
8 able to fully recover its costs by fees from its ISP customers is no justification
9 for forcing BellSouth to subsidize Global NAPS’ service to those ISP
10 customers. BellSouth receives no revenue for this traffic and should not be
11 required to further increase its unreimbursed costs in order to provide Global
12 NAPS an unearned windfall.
13

14 Q. GLOBAL NAPS ASSERTS THREE ALTERNATIVES FOR RECIPROCAL
15 COMPENSATION FOR ISP-BOUND TRAFFIC, SHOULD THIS
16 COMMISSION ORDER THAT RECIPROCAL COMPENSATION APPLIES
17 (Page 9, lines 14-20). ARE GLOBAL NAPS’ POSITIONS APPROPRIATE?
18

19 A. No. First, each of Global NAPS’ proposals assumes that reciprocal
20 compensation for local traffic should apply to ISP traffic. However, such an
21 arrangement is clearly inappropriate. Even if reciprocal compensation did
22 apply to ISP traffic, each of Global NAPS’ proposals is flawed.
23

24 Global NAPS’ first preference is to keep the rate of \$.009 per minute that is in
25 their current agreement (the ITC^DeltaCom agreement adopted by Global

1 NAPS on January 18, 1999 ("1997 DeltaCom Agreement"). As explained in
 2 my direct testimony, the rate of \$.009 was a composite rate negotiated with
 3 ITC^DeltaCom in 1997, and is not a cost-based rate. In fact, BellSouth has
 4 filed a Motion for Reconsideration of this Commission's decision in the
 5 ITC^DeltaCom arbitration case, which ordered that the \$.009 reciprocal
 6 compensation rate from the 1997 DeltaCom Agreement should continue.
 7 (Order in Docket No. 990750-TP, dated March 15, 2000). The basis for the
 8 Motion for Reconsideration is that the \$.009 rate does not comply with the
 9 pricing standards set forth in 47 U.S.C. § 252(d) or with the binding rules of
 10 the FCC, which govern the establishment of rates for the transport and
 11 termination of local traffic.

12
 13 Global NAPS' second alternative is to use a rate that is no less than the
 14 unbundled local switching rate established by this Commission pursuant to the
 15 FCC's "TELRIC" methodology. The elemental rates for reciprocal
 16 compensation as ordered by this Commission in Order No. PSC-96-1579-FOF-
 17 TP (12/31/96) are cost based for *local* traffic only. These rates are listed in my
 18 direct testimony on page 35, and are repeated here for ease of reference:

19 **RECIPROCAL COMPENSATION RATES**

20 **Per FPSC Order No. PSC-96-1579-FOF-TP (12/31/96)**

RATE ELEMENT	RATE
Tandem Switching, Per MOU	\$.00125
End Office Termination	\$.002
Common Transport - per mile, per MOU	\$.000012
Common Transport – Facilities Termination per MOU	\$.0005

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However, the above rates overstate the cost of ISP-bound calls, as discussed in my direct testimony. Those rates were approved for reciprocal compensation applicable to local traffic, and were based on cost studies prepared using average per minute costs for local calls. These rates are not appropriate for ISP-bound calls which have much longer durations than local calls, on average, resulting in a lower average cost per minute. This point is more fully explained below.

Global NAPS' third position, use of the FCC's "proxy" rate in the range of \$.002 to \$.004, is flawed for the same reason as the second alternative. These proxy rates would only be applicable to local traffic. Call characteristics for ISP bound calls were not reflected in development of these proxies.

Q. ARE THE RECIPROCAL COMPENSATION RATES PREVIOUSLY APPROVED BY THE COMMISSION APPROPRIATE FOR ISP-BOUND TRAFFIC?

A. No. The above rates were approved for reciprocal compensation for local traffic. As previously explained, ISP-bound traffic is not local traffic. However, should the Commission find that ISP-bound traffic should be compensated, the appropriate rates should take into account the impact of longer call durations (for ISP calls) on recovery of cost. This is more fully explained in my direct testimony discussion of Issue 3 on pages 31 – 33. To summarize, application of per minute reciprocal compensation rates established

1 for local calls (with an average call duration of 3-4 minutes) to ISP calls (with
2 an average call duration of 20-25 minutes) would cause the call set up cost to
3 be over recovered. Any per minute reciprocal compensation rate, if applied to
4 ISP-bound traffic, should be a much lower per minute rate to account for the
5 longer call duration. As discussed in my direct testimony (page 33), adapting
6 the Commission approved end office switching reciprocal compensation rate of
7 \$.002 per minute to an ISP-bound call with an average duration of 20 minutes,
8 results in a per minute rate of \$.00128.

9
10 As additional information supporting the above position, the FCC has indicated
11 that minute-of-use pricing structures may not be appropriate for ISP-bound
12 traffic. In the FCC's Notice of Proposed Rulemaking (*ISP Declaratory Ruling*,
13 at ¶ 29), the FCC commented as follows:

14
15 *We believe that efficient rates for inter-carrier compensation for ISP-*
16 *bound traffic are not likely to be based entirely on minute-of-use*
17 *pricing structures. In particular, pure minute-of-use pricing structures*
18 *are not likely to reflect accurately how costs are incurred for delivering*
19 *ISP-bound traffic. For example, flat-rate pricing based on capacity*
20 *may be more cost-based.*

21
22 Q. HOW HAS GLOBAL NAPS ADDRESSED THE REMAINING ISSUES IN
23 THIS ARBITRATION CASE?

24
25 A. Global NAPS has not stated its position on the following remaining individual

- 1 issues:
- 2 • *Issue 6: What are the appropriate UNE rates to be included in the*
 - 3 *Interconnection Agreement?*
 - 4 • *Issue 7: What are the appropriate collocation provisions to be included in*
 - 5 *the Interconnection Agreement?*
 - 6 • *Issue 8: What is the appropriate language concerning order processing to*
 - 7 *be included in the Interconnection Agreement?*
 - 8 • *Issue 9: What is the appropriate language relating to conversion of*
 - 9 *exchange service to network elements to be included in the Interconnection*
 - 10 *Agreement?*
 - 11 • *Issue 10: What are the appropriate service quality measurements to be*
 - 12 *included in the Interconnection Agreement?*
 - 13 • *Issue 11: What is the appropriate language relating to network*
 - 14 *information exchange to be included in the Interconnection Agreement?*
 - 15 • *Issue 12: What is the appropriate language relating to maintenance and*
 - 16 *trouble resolution to be included in the Interconnection Agreement?*
 - 17 • *Issue 13: What is the appropriate language relating to local traffic*
 - 18 *exchange to be included in the Interconnection Agreement?*
 - 19 • *Issue 14: What is the appropriate language relating to telephone number*
 - 20 *portability arrangements to be included in the Interconnection Agreement?*

21

22 Rather than address the above issues as identified by BellSouth, Global NAPS

23 reiterates its position that the current agreement (“1997 DeltaCom

24 Agreement”) is a commercial relationship that is “working” and should be

25 allowed to continue. Obviously, the contract is not working in light of the fact

1 that DeltaCom and BellSouth have just been through arbitration in eight states
2 on the same contract. Nevertheless, Global NAPS seeks the ability to
3 perpetuate contract terms that are not available even to DeltaCom, the original
4 contracting ALEC. The Commission's ruling on March 20, 2000 on the
5 expiration date issue (Issue 1 of this case) prevents the type of perpetuation that
6 Global NAPS desires. Adopting the exact same terms as the expired contract
7 accomplishes the same thing as allowing the contract to continue, and is
8 contrary to the logic of the Commission's Order.

9
10 Although Global NAPS has only been operating under the 1997 DeltaCom
11 Agreement since January, 1999, that Agreement is now three years old. There
12 are a number of provisions in the 1997 DeltaCom Agreement that are out-of-
13 date or that have proved to be the subject of controversy, therefore needing
14 clarification. Major provisions needing new wording, and the reasons for the
15 changes, are explained in BellSouth's direct testimony on Issues 6 – 9.

16
17 Furthermore, it is critical that any new Interconnection Agreement entered into
18 by the parties have language that reflects the current law and the current
19 regulatory and business environment. The need for current general provisions
20 is even more compelling, considering that any agreement provisions currently
21 in effect can be adopted by other ALECs. If the 1997 DeltaCom Agreement
22 were allowed to continue as is, other ALECs could adopt provisions of the
23 agreement that are out-dated from an operational standpoint, or are inconsistent
24 with current law.
25

1 Q. HAS THIS COMMISSION PREVIOUSLY ADDRESSED THE ISSUE OF
2 PERPETUATING OUT-DATED AGREEMENT PROVISIONS?

3
4 A. Yes. In its Order on Issue 1 of this docket, dated March 20, 2000, the
5 Commission concluded that the ability of a CLEC to obtain the terms and
6 conditions of a pre-existing agreement ends at the expiration of that original
7 agreement. In reaching its conclusion that the 1997 DeltaCom Agreement as
8 adopted by Global NAPS expired on July 1, 1999, the Commission reasoned:

9
10 *If, however, a CLEC is allowed to adopt an agreement and*
11 *automatically extend that term of the agreement based upon the*
12 *effective date of the adoption, then the adopting CLEC would have the*
13 *advantage of being able to operate under advantageous terms*
14 *originally negotiated by another CLEC, but no longer available to that*
15 *original CLEC. This is an absurd, if somewhat speculative, result, and*
16 *could not be what was contemplated by Section 252(l).” [Order No.*
17 *PSC-00-0568-FOF-TP, page 13]*

18
19 Global NAPS was unsuccessful in its argument that the term of its Adoption
20 Agreement was for two years from the date of adoption. However, having lost
21 that decision, Mr. Rooney is now arguing for the same inappropriate result by
22 requesting that the terms of the previous agreement be allowed to continue.
23 The Commission should find, once again, that continuation of the previous
24 agreement is not appropriate, especially as to those specific terms identified by
25 BellSouth which have been superceded by new rules and circumstances since

1 the 1997 DeltaCom Agreement was implemented (Issues 6-9).

2

3 Q. IN ADDITION, MR. ROONEY COMPLAINS "IF SMALL CLECS HAVE
4 TO RENEGOTIATE A CONTRACT FROM SCRATCH EVERY TWO OR
5 THREE YEARS, THAT WILL BE AN ENORMOUS AND UNFAIR DRAIN
6 ON THEIR LIMITED RESOURCES." WHAT IS YOUR RESPONSE?

7

8 A. BellSouth agrees that neither party should have to "start from scratch". That is
9 the reason that BellSouth has developed a Standard Agreement from which to
10 start negotiations with all ALECs. By updating its Standard Agreement
11 quarterly with changes in legal rulings and current business offerings, each
12 ALEC is guaranteed a reasonable starting point. In fact, 110 Interconnection
13 Agreements in Florida, and 912 Interconnection Agreements in BellSouth's
14 nine-state region, are based on BellSouth's Standard Agreement.

15

16 Q. FINALLY, MR. ROONEY STATES ON PAGE 12 THAT "A BELLSOUTH-
17 DRAFTED AGREEMENT RUNNING TO SEVERAL HUNDRED PAGES
18 WILL ALMOST CERTAINLY CONTAIN PROVISIONS THAT ARE
19 HEAVILY 'TILTED' IN BELLSOUTH'S FAVOR". PLEASE COMMENT.

20

21 A. Mr. Rooney's statements reflect nothing more than baseless speculation. Even
22 if Global NAPS had an actual concern about this issue, such concern provides
23 no basis to continue operating under an expired and out-dated agreement. Of
24 course, Global NAPS could read the Standard Agreement to see if there is a
25 basis for any concerns. If Global NAPS has concerns about provisions of the

1 Standard Agreement, it can negotiate to change those provisions. This is the
2 standard negotiating procedure, and numerous ALECs have consummated
3 agreements in this manner. It is unreasonable for Mr. Rooney to contend that it
4 is too great a burden for Global NAPS to actually read the Standard
5 Agreement. It is, likewise, unreasonable for Mr. Rooney to decline to read the
6 Standard Agreement while speculating that it might contain some inappropriate
7 provision.

8
9 Global NAPS could also adopt another ALEC's agreement which has not
10 expired, as they have done previously. Global NAPS apparently felt
11 comfortable enough with the old DeltaCom agreement to adopt it. They could,
12 likewise, satisfy themselves that another agreement – that has not expired – is
13 suitable for their needs.

14
15 As stated in BellSouth's Response, there is a specific, appropriate reason for
16 every difference in BellSouth's current Standard Agreement and the three year
17 old DeltaCom Agreement that Global NAPS adopted in January of 1999.

18

19 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

20

21 A. Yes.

22

23

24

25