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June 11, 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. 990649-TP (UNE Docket)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Motion for Reconsideration, which we ask that you file in the captioned docket.

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,

T. Michael Twomey
T. Michael Twomey (KA)

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
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DOCUMENT NUMBER-DATE

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**CERTIFICATE OF SERVICE
Docket No. 990649-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via
U.S. Mail this 11th day of June, 2001 to the following:

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into)	
Pricing of Unbundled Network)	Docket No. 990649-TP
Elements)	
_____)	Filed: June 11, 2001

BELLSOUTH TELECOMMUNICATIONS, INC.'S
MOTION FOR RECONSIDERATION

BellSouth Telecommunications, Inc. ("BellSouth") respectfully submits this Motion for Reconsideration and requests that the Commission modify its Order No. PSC-01-1181-FOF-TP in Docket No. 990649-TP In re: Investigation Into Pricing of Unbundled Network Elements ("UNE Order") in six respects. The Commission should modify its conclusions concerning (1) BellSouth's inflation adjustment; (2) the proposed hybrid copper/fiber xDSL-capable loop; (3) the provision of a "guaranteed copper" SL-1 loop; (4) the recovery of loop conditioning costs on loops less than 18,000 feet in length; (5) network interface device ("NID") costs; and (6) Service Advocacy Center ("SAC") time discrepancies.

The Commission, in reaching a decision on these issues, either overlooked or failed to consider certain evidence applicable to these dockets. See Diamond Cab Co. of Miami v. King, 146 So.2d 889 (Fla. 1962). On that basis the Commission should reconsider its rulings on those issues because they lack the requisite foundation of competent and substantial evidence. The Commission must rely upon evidence that is "sufficiently relevant and material that a reasonable man would accept it as adequate to support the conclusion reached." DeGroot v. Sheffield, 95 So.2d 912, 916 (Fla. 1st DCA 1957). See also, Agrico Chem. Co. v. State of Fla. Dept. of Environmental Reg., 365 So.2d 759, 763 (Fla. 1st DCA 1979); and Ammerman v. Fla. Board of Pharmacy, 174 So.2d 425, 426 (Fla. 3d DCA 1965). The evidence must "establish a substantial

basis of fact from which the fact at issue can reasonably be inferred.” DeGroot, 95 So.2d at 916. The Commission should reject evidence that is devoid of elements giving it probative value. Atlantic Coast Line R.R. Co. v. King, 135 So.2d 201, 202 (1961). “The public service Commission’s determinative action cannot be based upon speculation or supposition.” 1 Fla. Jur. 2d, §174, citing Tamiami Trail Tours, Inc. v. Bevis, 299 So.2d 22, 24 (1974). “Findings wholly inadequate or not supported by the evidence will not be permitted to stand.” Caranci v. Miami Glass & Engineering Co., 99 So.2d 252, 254 (Fla. 3d DCA 1957).

INFLATION FACTORS

BellSouth used BellSouth-specific material prices for copper and fiber cable, the drop, NID, digital loop carrier (“DLC”), and terminals. However, because inflation causes fluctuations in the forward-looking investment amount over the life of an investment, BellSouth also applied an inflation factor to recognize the increases and decreases in prices BellSouth pays for these physical pieces of plant on average over the three-year study period (in this case 2000-2002). The investment inflation factors are the cumulative average of three years’ projected inflation rates based on BellSouth telephone plant indices (“TPIs”). Tr. Vol. 1 at 100.

BellSouth converted material prices to an installed investment through the use of In-Plant factors, which add engineering and installation labor and miscellaneous equipment to the material price. The installed investment is the dollar amount recorded in capital accounts. BellSouth’s In-Plant factors are one type of loadings, which are factors designed to augment calculated material prices to account for additional costs that are difficult to ascertain on an individual, element-specific basis. The In-Plant factors are developed based upon mathematical relationships between the material prices and the additional labor expense, and miscellaneous

material required to capture the total cost BellSouth will incur on a going-forward basis. *Id.* at 101-02.

In the UNE Order, the Commission summarized its findings concerning inflation factors as follows:

[W]e shall approve the loading factors proposed by BellSouth, with the exception of its proposed inflation factors. Regarding the inflation factors, we are persuaded that the application of inflation results in an inappropriate mismatch of as much as 18 months between the inflation-adjusted material costs and the demand levels utilized in BellSouth's cost study. Thus, in [an] effort to reduce or eliminate this mismatch, the proposed inflation factors are rejected.

UNE Order at 262. The Commission ordered BellSouth to refile its cost study within one hundred and twenty days and stated: "to the extent BellSouth can come forward with information in its refiling indicating an appropriate inflation adjustment that eliminates the growth mismatch, we will consider that information at that time." *Id.* at 263. Rather than wait until the 120-day period until the study's refiling, BellSouth requests that the Commission consider the following facts and rescind its ruling.

Because the inflation issue arose from the testimony filed by Sprint witness Kent Dickerson, it is appropriate to begin with a discussion of the errors contained in his testimony. Mr. Dickerson totally misunderstands and misrepresents BellSouth's use of inflation factors. He uses BellSouth's explanation of the development of the Plant Specific expense factor and inappropriately states that the same methodology is used in the application of inflation to every investment. This is incorrect. The development of the Plant Specific factor and the application of inflation to investments are two entirely different exercises.

To develop the Plant Specific factor, BellSouth begins with the actual plant specific (maintenance) expenses for a base year and projects them into the future based on three indicators – labor inflation, increase in load (i.e., increase in network access lines), and

productivity. This is explained in the document sighted by Mr. Dickerson in his testimony – “BellSouth Operating Expense Projection Calendar Year 1999-2002 – Filing Forecast.” It is **not**, as Mr. Dickerson implies, the methodology used by the BellSouth Cost Calculator[®] to reflect inflation for either investments or labor rates. This exercise merely creates a method of estimating future maintenance expenses based on trends indicative of changes to those expenses. Labor inflation (wages) and additions in the amount of plant (load) will cause the overall expense to increase while productivity will cause it to decrease. This methodology is **not** used in inflating unit investments or labor rates.

The Plant Specific factor is a ratio of expense to investment. The investment, which is projected forward to calendar years 1999-2002 also reflects growth in demand, inflation, and productivity. Thus, the resulting **relationship** between expense (the numerator in the ratio) and investment (the denominator in the ratio) is consistent; i.e. they are both reflective of BellSouth’s anticipated future expenditures during the study period. In fact, mathematically the Plant Specific factor can be expressed as:

$$\frac{\text{Average 2000-2002 Expenses}}{\text{Average 2000-2002 Investments}} = \text{Plant Specific Factor}$$

The unit investments calculated within the cost studies for the UNEs **with TPIs applied** reflect average 2000-2002 investments. Thus, by multiplying the Plant Specific factor by the unit investment, the result is the Average 2000-2002 expenses, which is appropriate.

Moreover, the Plant Specific factor is developed based on investments that reflect the **existing** network, not the least-cost, forward-looking network considered in the cost study. Since this factor is applied against investments developed under the TELRIC guidelines (least-cost, most efficient, forward-looking), the actual level of maintenance expense in UNE rates is

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proportionally reduced by the ratio of least-cost, forward-looking investments to existing network investments.

Mr. Dickerson further muddies the water by mislabeling the Growth Rate (used for expense projections) as the Inflation Adjustment Factor (used in conjunction with investments). This is also incorrect. In fact, the Growth Rate = Inflation (for wages) + Load – Productivity. While the Inflation Adjustment Factor is a straight average of the cumulative effect of inflation over the study period. Again, one is used exclusively for the development of the Plant Specific factor (Growth Rate) and other is used against the unit investments (Inflation Adjustment factor).

Mr. Dickerson carries this error even further when he states that BellSouth applies growth in access lines to its inflation calculation. This is not true. Access line growth is only used to determine expense ratios for the study. In developing those ratios, BellSouth projects an increase in the amount of investment consistent with projected future expenses. To use projected expense levels with current investment levels, or vice versa, would be inappropriate. This point was explained in Ms. Caldwell's rebuttal testimony:

In determining **future plant specific expenses**, BellSouth appropriately uses the following components to project a growth rate; load (percent change in average access lines in service), inflation related to labor, and productivity offset. This calculation appropriately recognizes the fact that expenses related to maintenance; i.e. plant specific expenses, are highly labor intensive.

The inflation factor is developed to recognize the increase/decrease in prices BellSouth pays **for physical pieces of plant** on average over a three-year period. Exhibit DDC-9 (from file InflinLv2.xls in the BellSouth cost study) illustrates that this calculation is nothing more than a straight average of the cumulative effect of inflation over the study period.

Caldwell Rebuttal (08/21/00) at p. 37. Obviously, these are two entirely different calculations; used for two entirely different purposes. In fact, the Staff recognized the majority of the errors in

Mr. Dickerson's testimony. In its recommendation, the Staff stated: "Staff agrees with BellSouth that witness Dickerson confuses inflation used to project expenses with inflation used to project increases/decreases in equipment material prices." Staff Rec. at p. 354.

Thus, it seemed that the Staff recognized that Mr. Dickerson's argument is incorrect. However, the Staff still appears to be confused with the application of inflation factors since it also stated that there may be a slight mismatch between inflation-adjusted material costs and the demand levels utilized in BellSouth's cost study. The reasoning the Staff used to come to its conclusion was that the demand levels were 1999 and the unit material prices were forecasted to 2001. While their data is correct for loops (BSTLM[®] used customer demand data from 1999 and material prices were levelized to the average 2000-2002 timeframe), the conclusion is wrong for a number of reasons.

Consider what is being done with the existing customer data in the BSTLM. Current customer demand (which is predominately retail service provided to end users by BellSouth) is projected in the BSTLM instead to be UNEs, served by ALECs in the future. Thus, even though this is "1999" data, it is not "1999" demand. In its recommendation, the Staff accepted BellSouth's use of multiple scenarios in which BellSouth utilizes existing demand but converts that demand to UNEs. The Commission agreed on this point. Thus, both the Staff and the Commission understood how demand was reflected in the model. Further, this methodology fulfills the FCC's directive that "the per-unit costs associated with a particular element must be derived by dividing the total cost associated with the element by a reasonable projection of the actual total usage of the element." *First Report and Order* CC Docket No. 96-98, at ¶ 682. What is most important to recognize is that the BSTLM sizes, builds and costs a network to serve

a given demand (in this case 1999 demand) and then divides that total network cost by the **same** demand used to size the network in order to develop the per unit cost.

Another point to consider is that BellSouth does not know where future UNE loop demand will physically be located. Will it be close to a central office or 3 miles from the office? Any attempt to locate future UNE loop demand would be arbitrary at best. Thus, considering all applicable customer locations as potential candidates is an appropriate methodology.

The levelized inflation factors are used to determine the “average” cost over the study period. Since the rates established as a result of this proceeding will be in effect for more than one year, anticipated changes in material prices are relevant. It is shortsighted to think that material prices for equipment will remain constant for three years. Additionally, labor rates will also be increasing over that timeframe. Thus, inflation is also appropriate for the development of levelized labor rates.

At the Agenda Session, Commissioner Deason outlined what he felt is incorrect with BellSouth’s methodology: “[I]t is clearly incorrect to be projecting equipment cost increases and operating expenses increases associated with future demand growth, but yet turn around and divide those inflated costs by current demand levels.” (Page 107). However, Commissioner Deason’s statement is not descriptive of BellSouth’s methodology. As explained previously, as network access lines (demand) increase, total expenses increase to maintain that level of demand. BellSouth must also add investment to support that increased demand. In BellSouth’s methodology, projected expenses are not **divided** by “current demand levels,” as stated by Commissioner Deason. BellSouth develops its Plant Specific factor by dividing average projected expense by average projected investment in order to determine a relationship that is

appropriate for the study period. Under BellSouth's methodology, the factor relationship between expense and investment is the key, not a relationship between expense and demand.

As stated previously, mathematically BellSouth's methodology is consistent. The Plant Specific factor is:

$$\frac{\text{Average 2000-2002 Expenses}}{\text{Average 2000-2002 Investments}} = \text{Plant Specific Factor}$$

The unit investments **with TPIs applied** reflect average 2000-2002 investments. Thus, by multiplying the Plant Specific factor by the unit investment, the result is the Average 2000-2002 expenses which is appropriate.

In summary, there is no "mismatch" between the demand levels and the material costs.

- The BSTLM (loops) projects potential demand for UNE loops. The BSTLM sizes, builds and costs a network using study period material prices to serve a **given** demand and then divides that forward-looking network cost by the **same** demand.
- Factor application reflects the correct mathematical relationships.
- Demand in the development of the Plant Specific factor is used only to project expenses. Investment additions implicitly reflect future demand. Thus, the expense and investment projections are consistent with respect to demand.

Accordingly, the Commission should not have rejected BellSouth's inflation factors. Moreover, the Commission should not have eliminated inflation from the calculation of the labor rates. UNE Order at 289. There is no evidence to support such a ruling. In fact, on page 394 of its recommendation, the Staff "believes that BellSouth's labor rates are reasonable." Only with the Commission's Order is inflation eliminated.

Additionally, the Commission expressed a concern about the fact that BellSouth did not use the latest TPIS available. If BellSouth had used the latest available view of TPIS at the time of filing/refiling, it would have lowered material prices by only 0.6% on average and it would have lowered labor rates by only 0.9%. By totally removing the inflation factors, the Commission has effectively lowered material prices by an average of 2.2% (with reductions ranging from 7.2% to 9.3% for aerial, buried, underground metallic cable). The removal of inflation factors lowered labor rates by nearly 10.5%.

HYBRID COPPER/FIBER LOOPS

Another issue on which BellSouth seeks reconsideration is the Commission's requirement that BellSouth submit a cost study for hybrid copper/fiber xDSL-capable loops. At page 65 of the UNE Order, the Commission stated: "Furthermore, because we believe that BellSouth is obligated, if technically feasible, to provide hybrid copper/fiber xDSL-capable loops to Data ALECs, BellSouth shall be required to submit a cost study for hybrid copper/fiber xDSL-capable loops within 120 days from the issuance of this Order for further consideration by this Commission."

At a minimum, the Commission should clarify its requirement. The phrase "hybrid copper/fiber xDSL-capable loops" is vague and accordingly we are uncertain exactly what the Commission is requesting in its Order. To the extent that the Commission is requiring BellSouth to provide for xDSL services being deployed over fiber/DLC loops, the Commission needs to be aware that, under existing BellSouth architecture, BellSouth is unable to do so. The Commission observed:

... forward-looking DLC equipment also allows carriers to provide DSL-based services over fiber/DLC loops in the same manner as ISDN is provided over those facilities. With suitable line cards, witness Riolo opines that these DLCs can accommodate voice, ISDN, and a wide variety of DSL-based services such as

ADSL, HDSL and Symmetric Digital Subscriber Line (SDSL). In fact, witness Riolo notes that BellSouth is currently testing DLC systems to provision DSL services, and such deployment will be available in the near future.

UNE Order at pp. 53-54. Thus, by his own testimony, witness Riolo agrees that the necessary architecture, equipment, systems and sub-systems, etc. are not yet available to BellSouth by his reference to “forward-looking DLC equipment” and his recognition that BellSouth is currently testing DLC systems. Obviously, systems which are still in a ‘test’ mode, by definition indicates that the results are as yet unknown and therefore a decision has not yet been made regarding which architecture BellSouth shall consider deploying. In concert with witness Riolo’s statements, the Commission noted witness Dickerson’s statement that “[t]here are technological developments underway, which may permit certain DSL services to be provided behind certain types of DLCs.” UNE Order at 39.

These technological developments are underway, but not yet part of the BellSouth network. It should be noted that even the witnesses have a certain amount of skepticism regarding this newly evolving technology as evidenced by witness Dickerson’s phrase “which may” permit. Given this concurrence by all concerned parties, including the ALECs, that the technology needed to accomplish this has not yet been proven, it is unreasonable for BellSouth to produce cost studies for an as of yet undetermined architecture. In fact, the Commission (at page 65 of the UNE Order) observed: “Nevertheless, there is insufficient record evidence in this proceeding to set rates for a hybrid copper/fiber xDSL-capable loop. In particular, there is insufficient evidence regarding the specific components of these loops, such as line cards, vendors, and their associated prices.” The reason there is insufficient evidence regarding the specific components of these loops is because the possible future architecture for BellSouth has

not yet been deployed. In fact, the decision regarding which architecture to utilize has not yet been made.

The Commission should not mandate requirements regarding a DLC system that is completely incompatible with BellSouth's current DLC network. Such a mandate would require BellSouth to implement a superior network for its competitors than it has deployed for itself. Moreover, BellSouth is adamantly opposed to an ALEC collocating a line card in the RT. This imposes an extreme security risk that does not exist with collocating in a central office or collocating a DSLAM in a RT.¹ Imposing physical collocation of line cards in an RT on an ILEC will not allow the ILEC to properly secure its network. Nevertheless, the Commission can ensure that ALECs have access to the high frequency portion of the loop in ways that do not require the ILEC to build a more superior network than it now employs or increase risk to its network. For example, ALECs can currently provide ADSL under the same type of arrangement currently used by BellSouth by collocating a DSLAM at the RT.

It is possible to read the Commission's UNE Order as requiring BellSouth to offer unbundled packet switching. Such a requirement would amount to additional sub-loop unbundling beyond that which is required by the FCC. The subloop elements BellSouth currently provides are consistent with the sub-loop unbundling requirements set forth in the FCC's *Third Report and Order* and are more than sufficient to allow ALECs the opportunity to compete. Second, although the FCC has granted to state commissions the authority to impose additional unbundling obligations upon ILECs under the circumstances specified in FCC Rule 51.317, those circumstances have not been met here. In particular, there is no evidence in this record that access to additional subloop elements is "necessary" or that ALECs will be

“impaired” in their ability to compete without access to such elements. Varner, Tr. Vol. 1 at 55-56.

In the *Third Report and Order*, the FCC went through an extensive analysis and determined that unbundling packet switching and other equipment used to provide advanced services, e.g., DSLAMs, was unnecessary except in the limited situations where the ILEC refused collocation at the remote terminal. Indeed, many ALECs filed comments supporting the position that the “[FCC] should not unbundle packet switching or DSLAMs generally.”² In reaching its conclusion the FCC analysis fully recognized that the advanced services market was competitive, and forcing ILECs to unbundle equipment used to provide those services would only impede continuing competition:

We are mindful that regulatory actions should not alter the successful deployment of advanced services that has occurred to date. Our decision to decline to unbundle packet switching therefore reflects our concern that we not stifle burgeoning competition in the advanced service market. We are mindful that, in such a dynamic and evolving market, regulatory restraint on our part may be the most prudent course of action in order to further the Act’s goal of encouraging facilities-based investment and innovation.

Third Report and Order at ¶ 316. The FCC determined that competing carriers would not be impaired without unbundled access to the incumbent LEC’s packet switching functionality. ¶ 306. The FCC recognized that there are numerous carriers providing service with their own packet switches, and that “competitors are actively deploying facilities used to provide advanced services to serve certain segments of the market — namely, medium and large business — and hence they cannot be said to be impaired in their ability to offer service.” *Id.* Competition has only increased since the FCC reached this conclusion in the *Third Report and Order*. The

¹ ALEC personnel would have unsupervised access to ILEC and other ALEC equipment and services if physical collocation of line cards were required in an RT.

² *Third Report and Order* ¶ 308.

Commission should follow the FCC findings in the *Third Report and Order* and determine that unbundling of advanced services equipment remains unnecessary.

Moreover, such unbundling clearly does not meet the impairment requirement set forth in the 1996 Act. Before any unbundling can occur, section 251(d)(2) requires that the FCC find that carriers are impaired in their ability to deliver the services at issue. Thus, the Commission must apply the impairment test set out in the FCC *Third Report and Order*. In particular, the Commission must apply the FCC's impairment test to advanced services and the equipment used to provide those services where ALECs have the same opportunity to invest in deploying facilities of their own. The Supreme Court's *Iowa Utils. Bd.* decision and the FCC's *Third Report and Order* are absolutely clear that a pre-condition to compelled unbundling is a finding of impairment for the services at issue based on a careful analysis of network alternatives. •

Section 251(d)(2) of the 1996 Act, 47 U.S.C. § 251(d)(2), sets the standard for unbundling network elements. Network elements may only be unbundled where they meet that section's "necessary" or "impair" requirements. The statutory impair standard requires consideration of whether a carrier's ability to "provide the services it seeks to offer" would be impaired without access to a particular unbundled element. In addition to section 251(d)(2)'s explicit factors, the FCC separately weighs the effects unbundling would have on innovation and investment.³

The FCC empowered state commissions to require the unbundling of specific network elements used to provide frame relay (e.g. packet switching), but only to the extent that a competing carrier convinces the state commission that it is impaired without access to those elements. In its Rule 51.319(c)(5), the FCC identified four conditions that, only where all four

³ *UNE Remand Order* at ¶¶ 101-116.

conditions are present, would an ILEC have to unbundle packet switching, which would include DSLAMs. All of these conditions do not exist in BellSouth's network, as BellSouth has taken measures to ensure that ALECs have access to necessary facilities so that BellSouth is not required to unbundle packet switching. Varner, Tr. Vol. 1 at 70-72. This Commission has already declined to require unbundled packet switching in two arbitration proceedings. See Order No. PSC-00-1519-FOF-TP in Docket No. 99-1854-TP (BellSouth-Intermedia arbitration), at p. 34 ("we find that BellSouth shall only be required to unbundle its packet switching capabilities under the limited circumstances identified in FCC Rule 51.319(c)(5)"); Order No. PSC-00-0128-FOF-TP in Docket No. 99-0691-TP (BellSouth-ICG Telecom arbitration) at p. 7 ("packet-switching capabilities are not UNEs"). The Commission should not reach a different conclusion in this docket.

BellSouth respectfully requests that the Commission reconsider its order to the extent it requires BellSouth to submit a cost study for a "hybrid copper/fiber xDSL-capable loop."

xDSL-CAPABLE LOOPS

In the UNE Order, the Commission stated: "[B]ased on [the] record, we find it appropriate to require BellSouth to provision an SL-1 loop and guarantee not to roll it to another facility, or in other words, guarantee not to convert it to an alternative technology." UNE Order at 67. The Commission has ignored the fact that the ability to offer voice service over a variety of technologies is one of the main reasons that the recurring rate for an SL-1 loop is lower than the rate for other loops. That is, because BellSouth has the flexibility to offer voice service over copper, or copper/fiber, with or without DLC equipment, etc., the cost of providing an SL-1 loop to a customer for voice service is low when compared to the cost of providing an xDSL-compatible loop which must meet various technical requirements. While the Commission

acknowledged that there are very real differences between an SL-1 voice grade loop and an xDSL-compatible loop (“the Data ALECs’ proposition that ‘a loop is a loop’ is not accurate.” UNE Order at 65), the Commission’s conclusion that BellSouth must offer an SL-1 loop with a guarantee that a particular technology will be used ignores those differences. Ignoring such differences also ignores the costs that BellSouth will incur to provision the new “guaranteed copper” SL-1 loop required by the Commission. Congress specified that the rate for a UNE must be “based on the cost . . . of providing” the UNE. 47 U.S.C. § 252(d)(1). The UNE Order does not take into consideration the cost of this new requirement for a “guaranteed copper” SL-1 loop.

Since the hearing, BellSouth has offered ALECs a non-designed xDSL-compatible loop (the UCL-ND), which is a copper loop capable of carrying xDSL service but without the various design features that the ALECs now claim they do not want. This UCL-ND should satisfy the Commission’s concerns about the availability of a “no-frills” copper loop. BellSouth cannot offer an SL-1 loop with the guarantee of no roll-over without significant changes – and increased costs -- to its provisioning process. Therefore, BellSouth respectfully requests that the Commission reconsider its ruling on this issue.

LOOP CONDITIONING

The Commission rejected BellSouth’s proposed rates for conditioning loops less than 18,000 feet:

Upon consideration, we are persuaded that BellSouth should be allowed to charge a rate for loop modification on loops over 18,000 feet. This is supported by the statements of BellSouth witnesses Varner and Caldwell, and also Sprint witness Sichtler. However, loop conditioning for short loops, element A.17.1, shall be eliminated. Based on the record, this does not appear to be consistent with a forward-looking cost methodology.

UNE Order at p. 394. While BellSouth does not dispute that a forward-looking network being designed today would not include load coils, the fact is that ALECs are requesting unloaded copper loops from BellSouth's existing network, which contains both load coils and bridged tap. The removal of these elements is a very real and on-going cost that BellSouth will incur each and every time that an ALEC requests that BellSouth condition a loop. Caldwell, Tr. Vol. 8 at 1205. Thus, there is evidence in the record to support the recovery of conditioning costs on loops less than 18,000 feet. Therefore, the only basis for the Commission's conclusion is its interpretation of the FCC's TELRIC methodology.

The FCC, however, could not have been more clear that BellSouth is entitled to recover the costs associated with loop conditioning, notwithstanding that load coils and bridged tap may not be included in a "forward-looking" network design. The FCC stated in no uncertain terms that: "under our rules, the incumbent should be able to charge for conditioning such loops." *Third Report and Order* ¶ 193. See also *Advanced Services Order* ¶ 82 (concluding that "although loops of 18,000 feet or shorter normally should not require voice-transmission enhancing devices, these devices are sometimes present on such loops and the incumbent LEC should be able to charge for conditioning such loops"). To the extent the Commission is concerned that permitting BellSouth to recover conditioning costs on loops less than 18,000 feet might conflict with the FCC's cost methodology, the FCC itself has answered that question in the negative. BellSouth is entitled to recover such costs. The Commission should reconsider its ruling on this issue.

NID COSTS

At pages 192-93 of the UNE Order, the Commission notes an inconsistency in the treatment of exempt/miscellaneous material for the stand-alone NID and the

exempt/miscellaneous material associated with the NID when provisioned with the loop (via the BSTLM. The two NID offerings are explained below.

A. NID (with loop)

Typically, the NID provided with the loop is placed at the time the residence or business is constructed and the drop wire is placed and treated as capitalized investment. For most cable placements in BellSouth's studies, exempt material is recovered through an In-Plant factor; however, a different approach was taken for the NID and drop. BellSouth, in the BSTLM©, directly identifies the items normally captured in an In-Plant factor (labor, exempt materials, sales tax, etc.) for the capitalized drop and NID.

Because the NID coming from the BSTLM already includes exempt material, taxes, labor, etc., the BellSouth Cost Calculator does not need to apply the In-Plant factors to drop and NID investments. This is accomplished by assigning special "sub-FRCs" to the drop and NID. These special sub-FRC codes are 22C-01 or 45C-01. The "01" sub-FRCs instruct the BellSouth Cost Calculator not to apply In-Plant factors to those items of plant. Therefore, BellSouth's NID costs associated with unbundled loops are correct and no "double-counting" of In-Plant costs associated with the NID or drop occurs. The Commission should reconsider its ruling on this point.

B. Stand-Alone NID/NID Access

The Stand-Alone NID/NID Access is a separate UNE offering designed for situations where the existing NID is not suitable for ALEC connection, where BellSouth terminates its loop directly to the inside wire, or at the ALECs request. BellSouth charges a nonrecurring charge for the installation of, material for, and cross connect (if appropriate) to the stand-alone NID. The stand-alone NID material (housing, interface, protectors) is exactly the same as the NID placed

with the loop. As found by the Commission, BellSouth did not apply exempt materials in the stand-alone NID study. In fact, BellSouth should indeed have included exempt material in its stand-alone NID costs. When BellSouth refiles its cost study to reflect the other adjustments ordered by the Commission, BellSouth will adjust this input (which will increase the rates affected by this input to some extent).

SAC TIME DISCREPANCIES

At page 305 of the UNE Order, The Commission ruled that BellSouth's cost studies (FL-xDSL.xls) with loop make-up are wrong because BellSouth did not apply the 10% probability (Fall-out) shown in column I. In fact, BellSouth's studies are correct. In comparing the work functions of the SAC included in the loop with loop make-up, one will find the exact same work times as in the stand-alone loop make-up cost study. The SAC process in the case of a loop with loop make-up is a manual process that occurs each time a loop make-up is requested. It is not the function of a fall-out; therefore, the 10% fall-out rate does **not** apply.

The cost study for a loop without a loop make-up implies the loop make-up has been secured either in a mechanized or manual stand-alone process or is not needed by the ALEC. In either case, it is possible, as in other loops, that the engineering function would flow through (90% of the time) or in 10% of the situations would fall-out and require manual handling. In such cases, it is appropriate as BellSouth's studies reflect, to adjust the worktimes by the 10% fall-out rate/probability because, in these fall-out situations, BellSouth is required to go through the exact same processes required to produce a loop make-up. The Commission should reconsider its ruling on this issue.

CONCLUSION

For the foregoing reasons, the Commission should grant BellSouth's motion for reconsideration.

Respectfully submitted this 11th day of June, 2001.

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