

1 BELL SOUTH TELECOMMUNICATIONS, INC.

ORIGINAL

2 REBUTTAL TESTIMONY OF PATRICK C. FINLEN

3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

4 DOCKET NO. 980119-TP

5 APRIL 15, 1998

6

7

8 Q. PLEASE STATE YOUR NAME, ADDRESS, AND POSITION WITH
9 BELL SOUTH TELECOMMUNICATIONS, INC. (HEREINAFTER
10 REFERRED TO AS "BELL SOUTH" OR "THE COMPANY").

11

12 A. My name is Patrick C. Finlen. I am employed by BellSouth as a
13 Manager in the Interconnection Services Pricing Department. My
14 business address is 675 West Peachtree Street, Atlanta, Georgia
15 30375.

16

17 Q. ARE YOU THE SAME PATRICK C. FINLEN WHO FILED DIRECT
18 TESTIMONY IN THIS PROCEEDING?

19

20 A. Yes.

21

22 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

23

24 A. The purpose of my testimony is to address several issues that were
25 raised in Mr. Olukayoda A. Ramos' and Mr. Bradford Hamilton's, both

1 of Supra Telecommunications & Information Systems, Inc., (hereinafter
2 referred to as "Supra"), direct testimony in this docket. Specifically, I
3 will address the following issues:

- 4 • The process used for negotiation of the Interconnection Agreement
5 between BellSouth and Supra;
- 6 • Supra's assertion that BellSouth has acted inappropriately in its
7 billing of Supra, and that Supra has remitted timely payments to
8 BellSouth;
- 9 • The appropriateness of BellSouth's application of Sections A2.3.8A
10 and A2.3.8B of the General Subscriber Service Tariff to Supra;
- 11 • The allegation that BellSouth has acted inappropriately when
12 customers queried BellSouth contact personnel regarding Supra,
13 and that BellSouth has undertaken an anti-competitive campaign
14 against Supra;
- 15 • The appropriateness of the charge for switching end-users from
16 BellSouth to Supra and the billing of one month's service in
17 advance; and
- 18 • Supra's request that the Florida Public Service Commission require
19 BellSouth customer contact personnel to acknowledge to customer
20 inquiries that Supra is a certificated alternative local exchange
21 company, to tell Supra's customers to contact Supra when reporting
22 problems, to stop advising customers to file complaints with the
23 Commission, to stop making derogatory and untrue statements
24 regarding Supra to customers, and to stop sending retention letters
25 to new Supra customers.

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Q. WHEN DID SUPRA FIRST BECOME A BELLSOUTH WHOLESALE CUSTOMER?

A. On May 28, 1997, BellSouth and Supra executed an agreement for the resale of BellSouth's telecommunications services. An interconnection agreement was successfully executed on October 31, 1997. Both of these agreements have been filed and approved by the Public Service Commission.

Q. PLEASE EXPLAIN THE PROCESS AND TIMELINE FOR THE NEGOTIATION OF THE INTERCONNECTION AGREEMENT WITH SUPRA.

A. On Friday, October 17, 1997, Supra contacted BellSouth requesting negotiation of an interconnection agreement with BellSouth. On this day BellSouth Federal Expressed a draft interconnection agreement to Mr. Kay Ramos at Supra for his review. On Monday, October 20, 1997 Mr. Ramos received the draft interconnection agreement and promptly executed the draft agreement (Exhibit PCF-4). Once Mr. Ramos signed the draft, he immediately Federal Expressed it back to BellSouth, where it was received on October 21, 1997.

On October 21, 1997, I called Mr. Ramos and asked if he truly wanted to execute an agreement this soon. I asked if he had any questions

1 regarding the agreement, or if he needed some time to review or have
2 his attorney review the agreement. He indicated he was okay with the
3 agreement and was ready to sign.

4
5 On Thursday, October 23, 1997, I Federal Expressed to Mr. Ramos a
6 hard copy of the interconnection agreement for his execution. On the
7 morning of Saturday, October 25, 1997, Mr. Ramos paged me. I
8 promptly called Mr. Ramos from my residence and asked how I could
9 help him. He wanted to know where he could find the rate for DS3
10 service in his contract. I advised him that I didn't know at that time, but
11 I would be happy to advise him on Monday, October 27, 1997, when I
12 got back to my office. On Monday I called Mr. Ramos and advised that
13 DS3 service was not contained in the agreement but that he could
14 purchase this service out of the Access Service tariff. He seemed
15 satisfied with this answer.

16
17 Mr. Ramos executed the agreement on Monday, October 27, 1997,
18 and promptly Federal Expressed it back to me for the BellSouth
19 representative's signature. On Friday, October 31, 1997, Jerry Hendrix
20 signed the agreement on behalf of BellSouth.

21

22 Q. DURING THE NEGOTIATION PROCESS DID SUPRA ASK IF IT
23 COULD OBTAIN AN INTERCONNECTION AGREEMENT THAT
24 WOULD BE SUPERIOR TO EXISTING AGREEMENTS BETWEEN
25 BELL SOUTH AND OTHER ALECS?

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A. No. Supra did not ask if it could obtain an interconnection agreement that would be superior to existing Interconnection Agreements that BellSouth had entered into with other ALECs. Mr. Ramos was very anxious to sign an Interconnection Agreement with BellSouth and did not wish to discuss terms, conditions, or rates.

Q. DID SUPRA EVER ASK HOW THE RATES CONTAINED IN THE INTERCONNECTION AGREEMENT WERE ESTABLISHED FOR UNBUNDLED NETWORK ELEMENTS?

A. Yes. Mr. Ramos called me a couple of weeks after the execution of the Interconnection Agreement to ask how the rates in the Interconnection Agreement were established. I advised him that these were the same rates that were contained in the AT&T, Sprint, and MCI agreements and were the result of arbitration and had been set by the Florida Public Service Commission in Order No. PSC-96-1579-FOF-TP. He seemed satisfied with this response.

On January 9, 1998, Mr. Ramos called me and was upset regarding the rates in the Interconnection Agreement for unbundled network elements in Florida. I advised Mr. Ramos the agreement had already been signed and the rates in the Agreement were the best BellSouth had to offer at that time. I reiterated that the rates had been set by the Florida Public Service Commission in Order No. PSC-96-1579-FOF-TP.

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Q. HAS BELLSOUTH ACTED INAPPROPRIATELY, AS ALLEGED BY SUPRA, IN ITS BILLING OF CHARGES TO SUPRA?

A. Absolutely not. BellSouth has never acted inappropriately nor anti-competitively in its billing of charges for services rendered by BellSouth to Supra.

Q. DOES BELLSOUTH CHARGE A DISCONNECTION FEE OF \$29.41 FOR DISCONNECTING SERVICE WHERE AN END USER HAS DECIDED TO SWITCH BACK TO BELLSOUTH?

A. No. BellSouth does not charge a disconnection fee of \$29.41. However, BellSouth does charge an ALEC \$19.41 if it is determined that an end user has been switched by that ALEC without that end user's authorization (i.e., "slammed"). This charge is in Section VI, Paragraph F of the Resale Agreement with Supra. In addition to the unauthorized change charge, Supra is billed a "Secondary Service Charge" of \$10.00 for residential service and \$19.00 for Business service. As called for in Section III, Paragraph A, and Exhibit B of the Resale Agreement, these charges are discounted by 21.83% and 16.81% for residential and business services, respectively. The "Secondary Service Charge" is defined in A4.1 of the General Subscriber Service Tariff, and "applies per customer request for receiving, recording, and processing of customer requests to change

1 services or add new or additional services.” Supra will also be billed
2 for service, as called for in Section A.2.3.8.A of the General Subscriber
3 Service Tariff, “commencing with the date of installation of the service.”
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5 Q. BY WHAT AUTHORITY IS BELLSOUTH BILLING SUPRA FOR
6 SERVICES IN ADVANCE?

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8 A. Section VII, Paragraph E of the Resale Agreement with Supra provides
9 BellSouth the authority to bill for services in advance. This paragraph
10 states the following:

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12 “The Company will bill Reseller, in advance, charges for
13 all services to be provided during the ensuing billing
14 period except charges associated with service usage,
15 which charges will be billed in arrears. Charges will be
16 calculated on an individual end user account level,
17 including, if applicable, any charges for usage or usage
18 allowances. BellSouth will also bill all charges, including
19 but not limited to 911 and E911 charges,
20 telecommunications relay charges, and franchise fees, to
21 Reseller.”

22
23 Q. HAS SUPRA SUBMITTED PAYMENTS TO BELLSOUTH FOR
24 SERVICES RENDERED IN A TIMELY MANNER AS STATED IN
25 MR. RAMOS’ TESTIMONY ON PAGE 42 LINES 19 AND 20?

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A. No. Supra has a history of paying late and with funds that are not immediately available as called for in the Interconnection Agreement. The following is a record of Supra's payment history:

- On October 13, 1997 Mr. Gonzales of Supra advised that a check for \$100,000 would be mailed that day. This arrangement was not kept.
- On October 17, 1997, Mr. Ramos called and made arrangements to Federal Express \$125,000 on October 17 , and overnight \$422,777.62 on November 1, 1997. BellSouth received a check for \$128,265.73 on October 20, 1997.
- On October 31, 1997 Mr. Ramos advised that Supra would send \$150,000 via Federal Express, and the balance of their account on November 5, 1997. BellSouth received a check for \$150,000 on November 5, 1997, but Supra failed to send the balance as promised on November 5, 1997.
- Mr. Campbell of Supra made the following arrangements on November 11, 1997: Supra would Federal Express \$272,755.43 on November 20 , and the balance of \$120,835.43 on December 1, 1997. The payment for \$272,755.43 was not received on the 20th as promised.
- On November 24, 1997 Mr. Campbell wanted to send \$100,000 that day. BellSouth advised Mr. Campbell that if \$272,755.43 was not received by November 25, 1997, then BellSouth would,

- 1 as called for in the Interconnection and Resale Agreements,
2 stop processing orders from Supra.
- 3 ● On November 25, 1997 Mr. Ramos advised that \$100, 000
4 would be sent that day, \$114,492.99 on December 2, 1997,
5 and \$79,000 on December 5. On December 1st a check for
6 \$100,000 was received, however the arrangements for the 2nd
7 and 5th of December were not kept.
 - 8 ● On December 10, 1997, the Local Carrier Service Center
9 ("LCSC") called Mr. Ramos and left a message on his voice
10 mail for him to call BellSouth to make payment arrangements
11 for Supra's account.
 - 12 ● A check for \$203,724.39 was received from Supra on
13 December 22, 1997.
 - 14 ● On January 12, 1998, the LCSC called Mr. Campbell and left a
15 voice mail message for Supra to contact BellSouth regarding its
16 account.
 - 17 ● The LCSC again called Mr. Campbell on January 14, 1998, to
18 make arrangements regarding Supra's account. He advised
19 that we needed to contact another Supra employee named
20 Emanuel about payment arrangements. The LCSC called his
21 number and left a message on his voice mail to call BellSouth to
22 make arrangements on Supra's account.
 - 23 ● On January 15, 1998, a letter was sent to Mr. Ramos advising
24 that a payment of \$83,879.68 was needed by January 21, 1998,
25 or BellSouth would stop processing orders for Supra.

- 1 ● On January 21, 1998, BellSouth stopped processing orders for
2 Supra. Mr. Ramos called and advised that a check for
3 \$83,860.82 would be sent overnight on the 27th of January.
- 4 ● A check for \$79,107.85 was received on January 26, 1998,
5 however, the bank on which the check was drawn advised twice
6 that day, once in the morning and once in the afternoon, that
7 funds were not available. The bank was contacted the next
8 day and advised again that funds were still not available. On
9 January 28, 1998, the bank advised that funds were now
10 available to cover the check. On January 28th at 5:45 PM a
11 check for \$8,299.36 was received.
- 12 ● On January 29, 1998 BellSouth resumed processing orders
13 from Supra.
- 14 ● On February 18, 1998 the LCSC again attempted to contact Mr.
15 Ramos regarding Supra's account. A message was left on his
16 voice mail. He returned BellSouth's call and advised that he
17 would send a check for \$70,220.93 on February 24th. On the
18 26th of February a check for \$70,138.48 was received but
19 according to the bank, funds were not available to cover the
20 check. The LCSC contacted the bank twice on February 27th to
21 see if funds were available to cover the check. The bank
22 advised that funds were not available. On March 2, 1998 the
23 bank finally advised the check was now good.
- 24 ● On the 12th and 13th of March the LCSC called and left a voice
25 mail message for Mr. Ramos regarding Supra's account. On

1 March 16, 1998, the LCSC called Mr. Ramos regarding the
2 amount due of \$136,341.82 of which \$72,519.15 was
3 delinquent. Mr. Ramos advised that he would send \$72,519.15
4 on the 19th of March. This was not received until March 25,
5 1998, the day he filed direct testimony in this docket.

6

7 Q. DID BELLSOUTH HOLD A CHECK IT HAD RECEIVED ON JANUARY
8 26, 1998 SO THAT BELLSOUTH COULD WIN BACK A LARGE
9 CUSTOMER OF SUPRA'S, AS ALLEGED BY MR. RAMOS ON PAGE
10 39 OF HIS TESTIMONY?

11

12 A. Absolutely not. BellSouth did not hold a check it had received from
13 Supra for \$79,107.85 on January 26, 1998 so that BellSouth could win
14 back a large Supra customer as alleged by Mr. Ramos. The reason
15 the check was held was because Supra's bank, First Union Bank of
16 Miami, advised BellSouth that funds were not currently available to
17 cover the check. However, once funds became available, BellSouth
18 began processing orders for Supra. It had nothing to do with a Supra
19 customer.

20

21 Q. DOES BELLSOUTH SEND OUT LETTERS TO CUSTOMERS WHO
22 HAVE SWITCHED THEIR LOCAL SERVICE FROM BELLSOUTH TO
23 ONE OF ITS LOCAL SERVICE COMPETITORS, SUCH AS SUPRA?

24

25

1 A. Yes. BellSouth does send "acknowledgment of switch" letters ,
2 advising customers that their request to switch their local service has
3 been completed. This letter further advises customers that if they did
4 not request to have their local service switched they should call
5 BellSouth, and if they want to return to BellSouth as a customer, we
6 would be glad to have them back. There is nothing "anti-competitive"
7 associated with these letters as Mr. Ramos has charged.

8
9 Q. WHEN DOES BELLSOUTH SEND THE "ACKNOWLEDGMENT OF
10 SWITCH" LETTER?

11
12 A. BellSouth sends out the "acknowledgment of switch" letter after an end
13 user's local service has been switched from BellSouth to an ALEC,
14 such as Supra. However, in June of last year it was discovered the
15 letter was being sent before an end user's service had been
16 disconnected. This error was corrected in August of last year.

17
18 Q. IS SUPRA'S BELIEF THAT BELLSOUTH HAS INAPPROPRIATELY
19 APPLIED SECTIONS A2.3.8A AND A2.3.8B OF THE GENERAL
20 SUBSCRIBER SERVICE TARIFF CORRECT?

21
22 A. No. BellSouth has appropriately applied Sections A2.3.8A and A2.3.8B
23 of the General Subscriber Service Tariff. As I stated in my direct
24 testimony these two sections address the "Initial Service Periods" for
25 "Establishment and Furnishing of Service" and not for advance

1 payment of services as stated in Mr. Ramos' testimony on page 44,
2 lines 14 and 15. However, Section A2.4.3B of the General Subscriber
3 Service Tariff clearly states that services will be billed in advance, and
4 the resale agreement in Section VII, Paragraph E also provides
5 authorization for BellSouth to bill for services in advance

6

7 Q. DOES BELLSOUTH CHARGE SUPRA A DISCONNECTION FEE
8 WHEN A CUSTOMER SWITCHES "TO SUPRA FOR ONLY A FEW
9 DAYS AND THEN" SWITCHES BACK TO BELLSOUTH?

10

11 A. No. BellSouth does not charge for the disconnection of service. There
12 is, however, a charge of \$19.41 that will be and has been previously
13 charged to Supra for switching an end user from BellSouth to Supra
14 without authorization from the end user (i.e., "slammed"). When this
15 happens Supra will not only be billed the charge for slamming the
16 customer, but also the "Secondary Service Charge" which is \$10.00 for
17 residence and \$19.00 for business services, less the appropriate resale
18 discount.

19

20 Q. SHOULD THE COMMISSION REQUIRE BELLSOUTH TO MODIFY
21 ITS TARIFF SO THAT ALECS ARE NOT CHARGED FOR SERVICE
22 IN ADVANCE?

23

24 A. No. The Commission should not require BellSouth to modify its tariff so
25 that ALECs are not charged for service in advance. Allowing ALECs to

1 pay in arrears would put BellSouth at a serious disadvantage. BellSouth
2 would be billing its end-users in advance but allowing ALECs to be
3 billed in arrears. Not only is this discriminatory against consumers but
4 would require BellSouth to modify its billing systems to accommodate
5 the way billing is done for the same service.

6

7 Q. HAS BELL SOUTH CHARGED TWICE FOR THE SAME SERVICE AS
8 ALLEGED BY SUPRA?

9

10 A. No. BellSouth has not charged twice for the same service as alleged
11 by Supra. When BellSouth receives an order from Supra to switch an
12 end-user from BellSouth, BellSouth will render a final bill to the former
13 BellSouth end user. The final bill is necessary so that BellSouth can be
14 paid for any services rendered to the customer before that customer
15 leaves BellSouth. The final bill will also include any adjustments for
16 services that have been billed in advance prior to the service being
17 canceled.

18

19 However, if an end user has been switched without authorization, the
20 end user is reinstated as a BellSouth end user. The end user will be
21 billed in advance for local service beginning on the date the customer is
22 reinstated. Supra will be charged, as called for in A2.3.8A of the
23 General Subscriber Service Tariff, for the initial period if the service is
24 for less than the initial period. Also, in accordance with the resale
25 agreement, Supra will be billed an unauthorized change charge and the

1 non-recurring charge required to switch the end user back to their
2 desired local service company.

3

4 Q. HAVE BELLSOUTH'S CUSTOMER SERVICE REPRESENTATIVES
5 ACTED INAPPROPRIATELY TO INQUIRIES REGARDING SUPRA,
6 AS SUPRA HAS PURPORTED?

7

8 A. No. BellSouth has made it very clear to its retail customer service
9 representatives, as well as to all employees, not to make disparaging
10 remarks or criticize any competitors to end users. In addition to
11 managers meeting with individuals under their supervision, Company
12 newsletters and executive letters are sent out periodically to the
13 employee body (Exhibit PCF-5).

14

15 However, with over 350 signed agreements and inquiries from new
16 entrants wishing to enter the local exchange market being received
17 everyday, there is no way that BellSouth's customer service
18 representatives can be aware of every new ALEC, including Supra,
19 that is operating in the BellSouth region.

20

21 Q. HAS BELLSOUTH ADVISED SUPRA'S CUSTOMERS THAT THEY
22 CAN NOT ADVERTISE IN THE YELLOW PAGES, THAT THEY WILL
23 LOSE ACCESS TO THE INTERNET, OR THAT THEY SHOULD NOT
24 PAY THEIR BILLS?

25

1 A. No. As I have stated in my direct testimony, BellSouth does not advise
2 Supra's, or any other ALEC's, customers that they can't advertise in the
3 yellow pages or will be unable to access the Internet if they choose an
4 ALEC for local service. BellSouth's customer contact personnel also do
5 not inform customers that they don't have to pay their bills from other
6 local service providers, including Supra. If they receive an inquiry from
7 a customer regarding their bill from another entity, they advise the
8 customer to contact the entity that issued the bill.

9

10 If an end user, however, wishes to make a complaint against their local
11 service provider, such as when an end user's service is switched
12 without authorization, then BellSouth's customer contact personnel will
13 advise that end user to contact the appropriate regulatory authority,
14 such as the Federal Communications Commission or a Public Service
15 Commission.

16

17 Q. IS THERE ANY TRUTH TO MR. HAMILTON'S ASSERTION THAT
18 BELL SOUTH'S CUSTOMER CONTACT PERSONNEL "COACH" END
19 USERS TO CONTACT THEIR LOCAL SERVICE PROVIDER TO ASK
20 QUESTIONS, SUCH AS "WHO WILL REPAIR MY PHONE IF IT GOES
21 OUT OF ORDER?"

22

23 A. No. There is no truth to Mr. Hamilton's statement that BellSouth's
24 customer contact personnel have coached end users to contact their
25 local service provider to ask questions, such as "who will repair my

1 phone if it goes out of order.” Furthermore Mr. Hamilton has offered
2 no specifics of when this allegation occurred.

3

4 Q. IS THERE ANY TRUTH TO MR. RAMOS' ALLEGATION THAT
5 BELLSOUTH HAS TAKEN AN ANTI-COMPETITIVE CAMPAIGN
6 AGAINST SUPRA THAT INCLUDED TARGETING SPECIFIC
7 BUSINESS AND ASSOCIATION CUSTOMERS?

8

9 A. No. BellSouth has not conducted an anti-competitive campaign against
10 Supra, nor has Mr. Ramos offered any details in his testimony as to
11 what this alleged campaign consisted of or when it occurred.

12

13 Q. IS BELLSOUTH A MEMBER OF THE UNITED STATES TELEPHONE
14 ASSOCIATION?

15

16 A. Yes. BellSouth is a member of the United States Telephone
17 Association as Mr. Ramos has stated in his testimony.

18

19 Q. WHAT IS THE UNITED STATES TELEPHONE ASSOCIATION?

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21 A. The United States Telephone Association is the nation's only forum for
22 small, mid-size, and large local exchange carriers. It is made up of
23 over 1,200 companies worldwide. This organization provides a
24 common ground where local telephone companies of all sizes can unite
25 to advance the industry's concerns.

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Q. ARE ANY ALECS MEMBERS OF THE UNITED STATES TELEPHONE ASSOCIATION?

A. Although I'm not aware of any ALECs that are full members of the association, there are numerous ALECs who are associate members of the organization. Some of these are American Communications Services Inc. (ACSI), TCI Inc., and WiTel now known as WorldCom.

Q. HAS THE UNITED STATES TELEPHONE ASSOCIATION UNDERTAKEN AN ADVERTISING CAMPAIGN CALLED "CALL THEM ON IT" AS STATED ON PAGE 47 OF MR. RAMOS' TESTIMONY AND ON PAGE 10 OF MR. HAMILTON'S TESTIMONY?

A. Yes. The United States Telephone Association does have a campaign called "Call Them On It" as both Mr. Ramos and Mr. Hamilton have stated in their testimony. This campaign however, does not target the ALEC industry. It is more an information type campaign for consumers, and is very similar to the campaign conducted by this Commission (Exhibit PCF-6). The purpose of this campaign is to assist consumers in making decisions when selecting a local exchange company. As Mr. Hamilton points out on Page 10, Line 10 of his testimony, the campaign is aimed at long distance companies, not at ALECs as Mr. Hamilton and Mr. Ramos are attempting to lead the Commission to believe. The website for this campaign, www.callthemonit.com, is not "full of

1 propaganda designed to discourage consumers from selecting an
2 ALEC for their local telephone service.” What this site consists of is
3 information regarding the Telecommunications Act of 1996, questions
4 consumers should ask when selecting a local exchange carrier,
5 information regarding the investment that local exchange companies
6 make in the network, and the community mindedness of local
7 telephone companies. I find it interesting that Mr. Hamilton points at
8 none of the information on the website as being incorrect or misleading.
9 Instead he labels the information propaganda. Unfortunately, it seems
10 that Mr. Hamilton believes that “good customers are uninformed
11 customers.”

12

13 **Q. SHOULD THE COMMISSION STOP BELLSOUTH FROM CHARGING**
14 **A “SECONDARY SERVICE CHARGE” OF \$19.00, A**
15 **RECONNECTION CHARGE OF \$29.14, AND ONE MONTH’S**
16 **SERVICE WHEN A CUSTOMER SWITCHES TO SUPRA AS MR.**
17 **RAMOS HAS REQUESTED ON PAGE 48, LINES 3-6, OF HIS**
18 **TESTIMONY?**

19

20 **A. No. As I have stated previously BellSouth has every right to bill Supra**
21 **for one month’s service in advance. As defined in A4.1 of the General**
22 **Subscriber Service Tariff , the “Secondary Service Charge” of \$19.00**
23 **“applies per customer request for receiving, recording, and processing**
24 **of customer requests to change services or add new or additional**
25 **services.” This would include transfers of responsibility, changing from**

1 residence to business service and vice versa, rearrangements of drop
2 wires, protectors, and/or network interfaces. etc. Supra is requesting
3 that BellSouth incur the costs of transferring a customer to Supra
4 without being able to recover the costs associated with such transfer.

5

6 Other than the charge of \$19.41 for switching an end user's local
7 service without authorization, I don't know what Mr. Ramos is referring
8 to regarding the \$29.14, "reconnection charge" for switching a
9 customer to Supra.

10

11 Q. SHOULD THE COMMISSION ORDER BELLSOUTH TO PROVIDE
12 DIRECTORY ADVERTISING TO SUPRA OR OTHER ALECS THAT
13 ARE PROVIDING ALTERNATIVE LOCAL EXCHANGE SERVICES?

14

15 A. No. If Supra or any other ALEC wishes to advertise in the directory, all
16 they have to do is contact BellSouth Advertising and Publishing
17 Corporation ("BAPCO"), a subsidiary of BellSouth Corporation. It
18 seems that what Supra is requesting is free advertising.

19

20 There are provisions already in place, of which Supra is already aware,
21 for including Supra's name and contact telephone number in the
22 customer guide of the telephone book, if this is what Mr. Ramos is
23 requesting on page 48 of his direct testimony. BAPCO has already
24 sent a form to Supra that only needs to be filled out and returned so

25

1 that when the next telephone book is published then Supra's name and
2 contact telephone numbers will appear.

3

4 Q. HAS BELLSOUTH ACTED IN AN ANTI-COMPETITIVE AND
5 DISCRIMINATORY MANNER AGAINST SUPRA AS MR. RAMOS
6 CONTENDS ON PAGES 48 AND 49 OF HIS TESTIMONY WHEN HE
7 IS ASKING FOR RELIEF BY THIS COMMISSION?

8

9 A. Absolutely not. BellSouth has not and never will conduct an anti-
10 competitive campaign, or act in a discriminatory manner against Supra
11 or any other ALEC. Mr. Ramos' request that BellSouth acknowledge to
12 customer inquiries that Supra is a certificated local exchange provider
13 is nothing more than an indirect way for Supra to receive free
14 advertising at BellSouth's expense. If a customer does inquire about
15 Supra's certification, then they are advised to contact the Commission
16 to determine the information. BellSouth should not be made to keep a
17 list updated for all customer contact personnel of every certificated local
18 exchange carrier in the BellSouth region.

19

20 If a customer contacts BellSouth about a problem with Supra, then
21 BellSouth has every right to direct the customer to the proper regulatory
22 body to resolve that problem. It is evident that if an end user is
23 contacting BellSouth regarding a problem they are having with Supra,
24 then either Supra would not or could not resolve their difficulty. Why
25 else would a customer contact BellSouth with a problem with Supra?

1 Again, Mr. Ramos has offered no specifics regarding the statement that
2 BellSouth's employees are making derogatory or untrue statements
3 regarding Supra.

4

5 Mr. Ramos' request that the Commission should stop BellSouth from
6 sending out retention letters to customers who have left BellSouth for
7 Supra is preposterous. BellSouth does not currently send out retention
8 letters when a customer switches local service. As I have said before
9 BellSouth sends out an "acknowledgment of switch" letter to customers
10 after their service has been changed to their new local provider.

11

12 However, BellSouth has a right to send "win back" letters to its former
13 customers in the future. There is nothing unethical with a business
14 contacting its former customers and trying to win them back. This is the
15 same tactic used by businesses everywhere. An example of this is
16 when a customer switches their long distance service provider; the
17 former provider contacts its former customer to ask why they left and try
18 to win them back. This is what happens in a competitive environment.
19 It appears from Supra's request that it is afraid to compete for
20 customers in an ethical manner using normal business practices .

21

22 Q. IS SUPRA STILL USING BELLSOUTH'S NAME AND/OR
23 TRADEMARKS WHEN CONTACTING END USERS?

24

25

1 A. Yes. As can be seen in Exhibit OAR-4 of Mr. Ramos' direct testimony,
2 Supra is still using the BellSouth name when corresponding with its end
3 users. Not only is Supra using the name BellSouth but is also making
4 untrue statements by telling their end users that it's BellSouth's fault
5 that Supra can not provide an itemized bill.

6

7 The continued use of the BellSouth name is in direct violation of
8 Supra's commitment that it would cease using the BellSouth name.
9 This commitment was made in an October 6, 1997, letter from Mr. R. J.
10 Campbell, Vice President - Marketing of Supra to BellSouth and is
11 shown in Exhibit PCF-3 of my direct testimony.

12

13 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

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15 A. Yes.

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**INTERCONNECTION AGREEMENT
BETWEEN BELL SOUTH TELECOMMUNICATIONS INC.
AND ALEC-1**

Jerry H.

THINK I HAVE AN OLD COPY.

PLS. GIVE ME COMPLETE/UPDATED
VERSION OF STD. AGREEMENT YOU'D
LIKE PROVIDED. PLS. GIVE TO ME

BY 2:30P. TODAY

Tx. *[Signature]*

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AGREEMENT

THIS AGREEMENT is made by and between BellSouth Telecommunications, Inc., ("BellSouth"), a Georgia corporation, and ALEC-1, a Florida corporation, and shall be deemed effective as of _____. This agreement may refer to either BellSouth or ALEC-1 or both as a "Party" or "Parties."

WITNESSETH

WHEREAS, BellSouth is a local exchange telecommunications company authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

WHEREAS, ALEC-1 is an alternative local exchange telecommunications company ("ALEC") authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

WHEREAS, the Parties wish to interconnect their facilities, purchase unbundled elements, and exchange traffic specifically for the purposes of fulfilling their obligations pursuant to sections 251 and 252 of the Telecommunications Act of 1996.

NOW THEREFORE, in consideration of the mutual agreements contained herein, BellSouth and ALEC-1 agree as follows:

1. **Purpose**

The Parties agree that the rates, terms and conditions contained within this Agreement, including all Attachments, comply and conform with each Parties' obligations under sections 251 and 252 of the Act. The access and interconnection obligations contained herein enable ALEC-1 to provide competing telephone exchange service to residential and business subscribers within the territory of BellSouth. The Parties agree that ALEC-1 will not be considered to have offered interconnection in any state within BellSouth's region until such time as it has ordered interconnection facilities for the purposes of providing business and/or residential local exchange service to customers

2. **Term of the Agreement**

2.1 The term of this Agreement shall be two years, beginning _____
_____.

9/2/97

- 2.2 - The Parties agree that by no later than one hundred and eighty (180) days prior to the expiration of this Agreement, they shall commence negotiations with regard to the terms, conditions and prices of local interconnection to be effective beginning on the expiration date of this Agreement ("Subsequent Agreement"). The Parties further agree that any such Subsequent Agreement shall be for a term of no less than two (2) years unless the Parties agree otherwise.
- 2.3 If, within one hundred and thirty-five (135) days of commencing the negotiation referred to in Section 2.2, above, the Parties are unable to satisfactorily negotiate new local interconnection terms, conditions and prices, either Party may petition the Commission to establish appropriate local interconnection arrangements pursuant to 47 U.S.C. 252. The Parties agree that, in such event, they shall encourage the Commission to issue its order regarding the appropriate local interconnection arrangements no later than the expiration date of this Agreement. The Parties further agree that in the event the Commission does not issue its order prior to the expiration date of this Agreement, or if the Parties continue beyond the expiration date of this Agreement to negotiate the local interconnection arrangements without Commission intervention, the terms, conditions and prices ultimately ordered by the Commission, or negotiated by the Parties, will be effective retroactive to the day following the expiration date of this Agreement. Until the Subsequent Agreement becomes effective, the Parties shall continue to exchange traffic pursuant to the terms and conditions of this Agreement.

3. Ordering Procedures

Detailed procedures for ordering and provisioning BellSouth services are set forth in BellSouth's Local Interconnection and Facility Based Ordering Guide and Resale Ordering Guide, as appropriate.

4. Parity

The services and service provisioning that BellSouth provides ALEC-1 for resale will be at least equal in quality to that provided to BellSouth, or any BellSouth subsidiary, affiliate or end user. In connection with resale, BellSouth will provide ALEC-1 with pre-ordering, ordering, maintenance and trouble reporting, and daily usage data functionality that will enable ALEC-1 to provide equivalent levels of customer service to their local exchange customers as BellSouth provides to its own end users. BellSouth shall also provide ALEC-1 with unbundled network elements, and access to those elements, that is at least equal in quality to that which BellSouth provides BellSouth, or any BellSouth subsidiary, affiliate or other ALEC. BellSouth will provide number portability to ALEC-1 and their

customers with minimum impairment of functionality, quality, reliability and convenience.

5. **White Pages Listings**

BellSouth shall provide ALEC-1 and their customers access to white pages directory listings under the following terms:

- 5.1 **Listings.** BellSouth or its agent will include ALEC-1 residential and business customer listings in the appropriate White Pages (residential and business) or alphabetical directories. Directory listings will make no distinction between ALEC-1 and BellSouth subscribers.
- 5.2 **Rates.** Subscriber primary listing information in the White Pages shall be provided at no charge to ALEC-1 or its subscribers provided that ALEC-1 provides subscriber listing information to BellSouth at no charge.
- 5.3 **Procedures for Submitting ALEC-1 Subscriber Information.** BellSouth will provide to ALEC-1 a magnetic tape or computer disk containing the proper format for submitting subscriber listings. ALEC-1 will be required to provide BellSouth with directory listings and daily updates to those listings, including new, changed, and deleted listings, in an industry-accepted format. These procedures are detailed in the OLEC-to-BellSouth Ordering Guidelines (Facilities Based).
- 5.4 **Unlisted Subscribers.** ALEC-1 will be required to provide to BellSouth the names, addresses and telephone numbers of all ALEC-1 customers that wish to be omitted from directories.
- 5.5 **Inclusion of ALEC-1 Customers in Directory Assistance Database.** BellSouth will include and maintain ALEC-1 subscriber listings in BellSouth's directory assistance databases at no charge. BellSouth and ALEC-1 will formulate appropriate procedures regarding lead time, timeliness, format and content of listing information.
- 5.6 **Listing Information Confidentiality.** BellSouth will accord ALEC-1's directory listing information the same level of confidentiality that BellSouth accords its own directory listing information, and BellSouth shall limit access to ALEC-1's customer proprietary confidential directory information to those BellSouth employees who are involved in the preparation of listings.
- 5.7 **Optional Listings.** Additional listings and optional listings will be offered by BellSouth at tariffed rates as set forth in the General Subscriber Services Tariff.

5.8 - Delivery. BellSouth or its agent shall deliver White Pages directories to ALEC-1 subscribers at no charge.

6. **Bona Fide Request Process for Further Unbundling**

BellSouth shall, upon request of ALEC-1, provide to ALEC-1 access to its unbundled elements at any technically feasible point for the provision of ALEC-1's telecommunications service where such access is necessary and failure to provide access would impair the ability of ALEC-1 to provide services that it seeks to offer. Any request by ALEC-1 for access to an unbundled element that is not already available shall be treated as an unbundled element Bona Fide Request, and shall be submitted to BellSouth pursuant to the Bona Fide Request process set forth in Attachment 9.

7. **Liability and Indemnification**

7.1 **BellSouth Liability**. BellSouth shall take financial responsibility for its own actions in causing, or its lack of action in preventing, unbillable or uncollectible ALEC-1 revenues.

7.2 **Liability for Acts or Omissions of Third Parties**. Neither BellSouth nor ALEC-1 shall be liable for any act or omission of another telecommunications company providing a portion of the services provided under this Agreement.

7.3 **Limitation of Liability**.

7.3.1 Each Party's liability to the other for any loss, cost, claim, injury or liability or expense, including reasonable attorney's fees relating to or arising out of any negligent act or omission in its performance of this Agreement whether in contract or in tort, shall be limited to a credit for the actual cost of the services or functions not performed or improperly performed.

7.3.2 **Limitations in Tariffs**. A Party may, in its sole discretion, provide in its tariffs and contracts with its Customer and third parties that relate to any service, product or function provided or contemplated under this Agreement, that to the maximum extent permitted by Applicable Law, such Party shall not be liable to Customer or third for (i) any Loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such party would have charged that applicable person for the service, product or function that gave rise to such Loss and (ii) Consequential Damages. To the extent that a Party elects not to place in its tariffs on contracts such limitations of liability, and the other Party incurs a Loss as a result thereof, such Party shall indemnify and

- reimburse the other Party for that portion of the Loss that would have been limited had the first Party included in its tariffs and contracts the limitations of liability that such other Party included in its own tariffs at the time of such Loss.
- 7.3.3 Neither BellSouth nor ALEC-1 shall be liable for damages to the other's terminal location, POI or other company's customers' premises resulting from the furnishing of a service, including, but not limited to, the installation and removal of equipment or associated wiring, except to the extent caused by a company's negligence or willful misconduct or by a company's failure to properly ground a local loop after disconnection.
- 7.3.4 Under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or accessories attached thereto, delay, error, or loss of data. In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the Services, or facilities described in this Agreement, and, while each Party shall use diligent efforts in this regard, the Parties acknowledge and agree that this limitation of liability shall apply to provision of such advice, recommendations, and analyses.
- 7.4 Indemnification for Certain Claims. BellSouth and ALEC-1 providing services, their affiliates and their parent company, shall be indemnified, defended and held harmless by each other against any claim, loss or damage arising from the receiving company's use of the services provided under this Agreement pertaining to (1) claims for libel, slander, invasion of privacy or copyright infringement arising from the content of the receiving company's own communications, or (2) any claim, loss or damage claimed by the other company's customer arising from one company's use or reliance on the other company's services, actions, duties, or obligations arising out of this Agreement.
- 7.5 No liability for Certain Inaccurate Data. Neither BellSouth nor ALEC-1 assumes any liability for the accuracy of data provided by one Party to the other and each Party agrees to indemnify and hold harmless the other for any claim, action, cause of action, damage, or injury that might result from the supply of inaccurate data in conjunction with the provision of any service provided pursuant to this Agreement.
- 7.6 Disclaimer. EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY

- CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. THE PARTIES DISCLAIM, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

8. Intellectual Property Rights and Indemnification

8.1 **No License.** No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement. ALEC-1 is strictly prohibited from any use, including but not limited to in sales, in marketing or advertising of telecommunications services, of any BellSouth name, service mark or trademark.

8.2 **Ownership of Intellectual Property.** Any intellectual property which originates from or is developed by a Party shall remain in the exclusive ownership of that Party. Except for a limited license to use patents or copyrights to the extent necessary for the Parties to use any facilities or equipment (including software) or to receive any service solely as provided under this Agreement, no license in patent, copyright, trademark or trade secret, or other proprietary or intellectual property right now or hereafter owned, controlled or licensable by a Party, is granted to the other Party or shall be implied or arise by estoppel. It is the responsibility of each Party to ensure at no additional cost to the other Party that it has obtained any necessary licenses in relation to intellectual property of third Parties used in its network that may be required to enable the other Party to use any facilities or equipment (including software), to receive any service, or to perform its respective obligations under this Agreement.

8.3 **Indemnification.** The Party providing a service pursuant to this Agreement will defend the Party receiving such service or data provided as a result of such service against claims of infringement arising solely from the use by the receiving Party of such service and will indemnify the receiving Party for any damages awarded based solely on such claims in accordance with Section 7 of this Agreement.

8.4 **Claim of Infringement.** In the event that use of any facilities or equipment (including software), becomes, or in reasonable judgment of the Party who owns the affected network is likely to become, the subject of a claim, action, suit, or proceeding based on intellectual property infringement, then said Party shall promptly and at its sole expense, but subject to the limitations of liability set forth below:

8.4.1 modify or replace the applicable facilities or equipment (including software) while maintaining form and function, or

- 8.4.2 obtain a license sufficient to allow such use to continue.
- 8.4.3 In the event 8.4.1 or 8.4.2 are commercially unreasonable, then said Party may, terminate, upon reasonable notice, this contract with respect to use of, or services provided through use of, the affected facilities or equipment (including software), but solely to the extent required to avoid the infringement claim.
- 8.5 **Exception to Obligations.** Neither Party's obligations under this Section shall apply to the extent the infringement is caused by: (i) modification of the facilities or equipment (including software) by the indemnitee; (ii) use by the indemnitee of the facilities or equipment (including software) in combination with equipment or facilities (including software) not provided or authorized by the indemnitor provided the facilities or equipment (including software) would not be infringing if used alone; (iii) conformance to specifications of the indemnitee which would necessarily result in infringement; or (iv) continued use by the indemnitee of the affected facilities or equipment (including software) after being placed on notice to discontinue use as set forth herein.
- 8.6 **Exclusive Remedy.** The foregoing shall constitute the Parties' sole and exclusive remedies and obligations with respect to a third party claim of intellectual property infringement arising out of the conduct of business under this agreement.
9. **Treatment of Proprietary and Confidential Information**
- 9.1 **Confidential Information.** It may be necessary for BellSouth and ALEC-1 to provide each other with certain confidential information, including trade secret information, including but not limited to, technical and business plans, technical information, proposals, specifications, drawings, procedures, customer account data, call detail records and like information (hereinafter collectively referred to as "Information"). All Information shall be in writing or other tangible form and clearly marked with a confidential, private or proprietary legend and that the Information will be returned to the owner within a reasonable time. The Information shall not be copied or reproduced in any form. BellSouth and ALEC-1 shall receive such Information and not disclose such Information. BellSouth and ALEC-1 shall protect the Information received from distribution, disclosure or dissemination to anyone except employees of BellSouth and ALEC-1 with a need to know such Information and which employees agree to be bound by the terms of this Section. BellSouth and ALEC-1 will use the same standard of care to protect Information received as they would use to protect their own confidential and proprietary Information.

9.2 **Exception to Obligation.** Notwithstanding the foregoing, there will be no obligation on BellSouth or ALEC-1 to protect any portion of the information that is: (1) made publicly available by the owner of the information or lawfully disclosed by a Party other than BellSouth or ALEC-1; (2) lawfully obtained from any source other than the owner of the information; or (3) previously known to the receiving Party without an obligation to keep it confidential.

10. **Assignments**

Any assignment by either Party to any non-affiliated entity of any right, obligation or duty, or of any other interest hereunder, in whole or in part, without the prior written consent of the other Party shall be void. A Party may assign this Agreement or any right, obligation, duty or other interest hereunder to an Affiliate company of the Party without the consent of the other Party. All obligations and duties of any Party under this Agreement shall be binding on all successors in interest and assigns of such Party. No assignment of delegation hereof shall relieve the assignor of its obligations under this Agreement in the event that the assignee fails to perform such obligations.

11. **Resolution of Disputes**

Except as otherwise stated in this Agreement, the Parties agree that if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, either Party may petition the Commission for a resolution of the dispute. However, each Party reserves any rights it may have to seek judicial review of any ruling made by the Commission concerning this Agreement.

12. **Limitation of Use**

The Parties agree that this Agreement shall not be offered by either Party in another jurisdiction as evidence of any concession or as a waiver of any position taken by the other Party in that jurisdiction or for any other purpose.

13. **Taxes**

13.1 **Definition.** For purposes of this Section 14, the terms "taxes" and "fees" shall include but not limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise)

imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments therefore, excluding any taxes levied on income.

13.2 Taxes and Fees Imposed Directly On Either Seller or Purchaser.

13.2.1 Taxes and fees imposed on the providing Party, which are not permitted or required to be passed on by the providing Party to its customer, shall be borne and paid by the providing Party.

13.2.2 Taxes and fees imposed on the purchasing Party, which are not required to be collected and/or remitted by the providing Party, shall be borne and paid by the purchasing Party.

13.3 Taxes and Fees Imposed on Purchaser But Collected And Remitted By Seller.

13.3.1 Taxes and fees imposed on the purchasing Party shall be borne by the purchasing Party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing Party.

13.3.2 To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.

13.3.3 If the purchasing Party determines that in its opinion any such taxes or fees are not payable, the providing Party shall not bill such taxes or fees to the purchasing Party if the purchasing Party provides written certification, reasonably satisfactory to the providing Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefor, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing Party has determined and certified not to be payable, or any such tax or fee that was not billed by the providing Party, the purchasing Party may contest the same in good faith, at its own expense. In any such contest, the purchasing Party shall promptly furnish the providing Party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing Party and the taxing authority.

13.3.4 In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during

- the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 13.3.5 If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
- 13.3.6 Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
- 13.3.7 Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.
- 13.4 Taxes and Fees Imposed on Seller But Passed On To Purchaser.
- 13.4.1 Taxes and fees imposed on the providing Party, which are permitted or required to be passed on by the providing Party to its customer, shall be borne by the purchasing Party.
- 13.4.2 To the extent permitted by applicable law, any such taxes and/or fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
- 13.4.3 If the purchasing Party disagrees with the providing Party's determination as to the application or basis for any such tax or fee, the Parties shall consult with respect to the imposition and billing of such tax or fee, the Parties shall consult with respect to the imposition of such tax or fee. Notwithstanding the foregoing, the providing Party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the purchasing Party shall abide by such determination and pay such taxes or fees to the providing Party. The providing Party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes and fees;

provided, however, that any such contest undertaken at the request of the purchasing Party shall be at the purchasing Party's expense.

- 13.4.4 In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.
- 13.4.5 If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.
- 13.4.6 Notwithstanding any provision to the contrary, the purchasing Party shall protect indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other reasonable charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.
- 13.4.7 Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a taxing authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.
- 13.5 Mutual Cooperation. In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest.
14. Force Majeure
- In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake or like acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendor, changes requested by Customer, or any other circumstances beyond the reasonable control and without the fault or

- negligence of the Party affected, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); provided however, that the Party so affected shall use diligent efforts to avoid or remove such causes of non-performance and both Parties shall proceed whenever such causes are removed or cease.

15. Year 2000 Compliance

All software and related materials (collectively called "Software") delivered, connected with BellSouth or supplied in the furtherance of the terms and conditions specified in this Agreement: (i) will record, store, process and display calendar dates falling on or after January 1, 2000, in the same manner, and with the same functionality as such software records, stores, processes and calendar dates falling on or before December 31, 1999; and (ii) shall include without limitation date data century recognition, calculations that accommodate same century and multicentury formulas and date values, and date data interface values that reflect the century.

16. Modification of Agreement

- 16.1 BellSouth shall make available to ALEC-1 any interconnection, service, or network element provided under any other agreement filed and approved pursuant to 47 USC § 252; provided however the parties shall adopt such other agreement in its entirety. The adopted agreement shall apply to the same states as such other agreement and for the identical term.
- 16.2 No modification, amendment, supplement to, or waiver of the Agreement or any of its provisions shall be effective and binding upon the Parties unless it is made in writing and duly signed by the Parties.
- 16.3 Execution of this Agreement by either Party does not confirm or infer that the executing Party agrees with any decision(s) issued pursuant to the Telecommunications Act of 1996 and the consequences of those decisions on specific language in this Agreement. Neither Party waives its rights to appeal or otherwise challenge any such decision(s) and each Party reserves all of its rights to pursue any and all legal and/or equitable remedies, including appeals of any such decision(s).
- 16.4 In the event that any final and nonappealable legislative, regulatory, judicial or other legal action materially affects any material terms of this Agreement, or the ability of ALEC-1 or BellSouth to perform any material terms of this

- Agreement, ALEC-1 or BellSouth may, on thirty (30) days' written notice require that such terms be renegotiated, and the Parties shall renegotiate in good faith such mutually acceptable new terms as may be required. In the event that such new terms are not renegotiated within ninety (90) days after such notice, the Dispute shall be referred to the Dispute Resolution procedure set forth in Section 11.

16.5 If any provision of this Agreement, or the application of such provision to either Party or circumstance, shall be held invalid, the remainder of the Agreement, or the application of any such provision to the Parties or circumstances other than those to which it is held invalid, shall not be effective thereby, provided that the Parties shall attempt to reformulate such invalid provision to give effect to such portions thereof as may be valid without defeating the intent of such provision.

17. **Waivers**

A failure or delay of either Party to enforce any of the provisions hereof, to exercise any option which is herein provided, or to require performance of any of the provisions hereof shall in no way be construed to be a waiver of such provisions or options, and each Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

18. **Governing Law**

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Georgia, without regard to its conflict of laws principles.

19. **Arm's Length Negotiations**

This Agreement was executed after arm's length negotiations between the undersigned Parties and reflects the conclusion of the undersigned that this Agreement is in the best interests of all Parties.

20. **Notices**

20.1 Every notice, consent, approval, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered in person or given by postage prepaid mail, address to:

BellSouth Telecommunications, Inc.

**OLEC Account Team
Room E4E1**

3535 Colonnade Parkway
Birmingham, Alabama 35243

and

General Attorney - COU
Suite 4300
675 W. Peachtree St.
Atlanta, GA 30375

ALEC-1

Supr TeleComm & Info. Systems, Inc
269 Giraldo Ave. Suite 203
Coral Gables, Fl. 33134

or at such other address as the intended recipient previously shall have designated by written notice to the other Party.

- 20.2 Where specifically required, notices shall be by certified or registered mail. Unless otherwise provided in this Agreement, notice by mail shall be effective on the date it is officially recorded as delivered by return receipt or equivalent, and in the absence of such record of delivery, it shall be presumed to have been delivered the fifth day, or next business day after the fifth day, after it was deposited in the mails.
21. **Rule of Construction**
No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.
22. **Headings of No Force or Effect**
The headings of Articles and Sections of this Agreement are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement.
23. **Multiple Counterparts**
This Agreement may be executed multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document.
24. **Entire Agreement**

- This Agreement and its Attachments, incorporated herein by this reference, sets forth the entire understanding and supersedes prior agreements between the Parties relating to the subject matter contained herein and merges all prior discussions between them, and neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the Party to be bound thereby.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year above first written.

BellSouth Telecommunications, Inc.

ALEC-1

Signature

Signature

Title

Title

Date

Date



CEO

10/20/97

Definitions

Affiliate is defined as a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term "own" means to own an equity interest (or equivalent thereof) of more than 10 percent.

Centralized Message Distribution System is the BellCore administered national system, based in Kansas City, Missouri, used to exchange Exchange Message Record (EMR) formatted data among host companies.

Commission is defined as the appropriate regulatory agency in each of BellSouth's nine state region, Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

Daily Usage File is the compilation of messages or copies of messages in standard Exchange Message Record (EMR) format exchanged from BellSouth to an OLEC.

Exchange Message Record is the nationally administered standard format for the exchange of data among Exchange Carriers within the telecommunications industry.

Intercompany Settlements (ICS) is the revenue associated with charges billed by a company other than the company in whose service area such charges were incurred. ICS on a national level includes third number and credit card calls and is administered by BellCore's Credit Card and Third Number Settlement System (CATS). Included is traffic that originates in one Regional Bell Operating Company's (RBOC) territory and bills in another RBOC's territory.

Intermediary function is defined as the delivery of local traffic from a local exchange carrier other than BellSouth; an ALEC other than ALEC-1; another telecommunications company such as a wireless telecommunications provider through the network of BellSouth or ALEC-1 to an end user of BellSouth or ALEC-1.

Local Interconnection is defined as 1) the delivery of local traffic to be terminated on each Party's local network so that end users of either Party have the ability to reach end users of the other Party without the use of any access code or substantial delay in the processing of the call; 2) the LEC unbundled network features, functions, and capabilities set forth in this Agreement; and 3) Service Provider Number Portability sometimes referred to as temporary telephone number portability to be implemented pursuant to the terms of this Agreement.

Local Traffic is defined as any telephone call that originates in one exchange and terminates in either the same exchange, or a corresponding Extended Area Service ("EAS") exchange. The terms Exchange, and EAS exchanges are defined and specified in Section A3. of BellSouth's General Subscriber Service Tariff. Local Traffic

does not include traffic that originates from or terminates to an enhanced service provider or information service provider.

Message Distribution is routing determination and subsequent delivery of message data from one company to another. Also included is the interface function with CMDS, where appropriate.

Multiple Exchange Carrier Access Billing ("MECAB") means the document prepared by the Billing Committee of the Ordering and Billing Forum ("OBF"), which functions under the auspices of the Carrier Liaison Committee of the Alliance for Telecommunications Industry Solutions ("ATIS") and by Bellcore as Special Report SR-BDS-000983, Containing the recommended guidelines for the billing of Exchange Service access provided by two or more LECs and/or ALECs or by one LEC in two or more states within a single LATA.

Non-Intercompany Settlement System (NICS) is the BellCore system that calculates non-intercompany settlements amounts due from one company to another within the same RBOC region. It includes credit card, third number and collect messages.

Percent of Interstate Usage (PIU) is defined as a factor to be applied to terminating access services minutes of use to obtain those minutes that should be rated as interstate access services minutes of use. The numerator includes all interstate "non-intermediary" minutes of use, including interstate minutes of use that are forwarded due to service provider number portability less any interstate minutes of use for Terminating Party Pays services, such as 800 Services. The denominator includes all "non-intermediary", local, interstate, intrastate, toll and access minutes of use adjusted for service provider number portability less all minutes attributable to terminating Party pays services.

Percent Local Usage (PLU) is defined as a factor to be applied to intrastate terminating minutes of use. The numerator shall include all "non-intermediary" local minutes of use adjusted for those minutes of use that only apply local due to Service Provider Number Portability. The denominator is the total intrastate minutes of use including local, intrastate toll, and access, adjusted for Service Provider Number Portability less intrastate terminating Party pays minutes of use.

Revenue Accounting Office (RAO) Status Company is a local exchange company/alternate local exchange company that has been assigned a unique RAO code. Message data exchanged among RAO status companies is grouped (i.e. packed) according to From/To/Bill RAO combinations.

Service Control Points ("SCPs") are defined as databases that store information and have the ability to manipulate data required to offer particular services.

Signal Transfer Points ("STPs") are signaling message switches that interconnect Signaling Links to route signaling messages between switches and databases. STPs

enable the exchange of Signaling System 7 ("SS7") messages between switching elements, database elements and STPs. STPs provide access to various BellSouth and third party network elements such as local switching and databases.

Signaling links are dedicated transmission paths carrying signaling messages between carrier switches and signaling networks. Signal Link Transport is a set of two or four dedicated 56 kbps transmission paths between ALEC-1 designated Signaling Points of Interconnection that provide a diverse transmission path and cross connect to a BellSouth Signal Transfer Point.

Telecommunications Act of 1996 ("Act") means Public Law 104-104 of the United States Congress effective February 8, 1996. The Act amended the Communications Act of 1934 (47, U.S.C. Section 1 et. seq.).

February 12, 1997

Page 1 of 10

TO: All Consumer Services Employees

FROM: Judi North

As each of us is very aware, BellSouth is actively preparing to meet the challenges of a fully competitive environment. We have worked long and hard to earn the right to compete in new markets, and we are striving to complete all the tasks required of us to make this possible.

To accomplish this, I need your assistance. In Congress and before the FCC, BellSouth has asked for fair and even rules in the new game of telecommunications competition. By the same token, BellSouth must compete fairly and properly at all times. One of the most important ways we can demonstrate this is to provide the best possible service on each customer contact, particularly those that involve competitive services such as local toll competition and wireless.

As competition increases, particularly in the area of local service, it is essential that on every contact we follow the rules and requirements that are set forth in the Telecom Act as well as in other applicable laws and regulations. For example, we must not discriminate in the service we provide between BellSouth customers and customers of our competitors. Nor may any BellSouth employee say, write or otherwise do anything to disparage our competition. And, once a competitor has won a customer, no BellSouth employee can improperly come between the contractual relationship between those parties.

We all know that the new environment is requiring many operational adjustments, while at the same time we are reducing costs and changing our systems to be more efficient. I recognize that this presents challenges that we must overcome. Please be responsive to these challenges in two ways. First, when you have contact with a customer who uses a competitor, always deliver excellent customer service, just as you would with any other customer. Secondly, if you are unsure about proper procedures or guidelines, don't just guess -- ask your supervisor how to handle the situation.

We are making a service commitment to competitors here at BellSouth that recognizes both the letter and the spirit of the law. The Telecommunications Act of 1996 and regulators at the federal and state level are defining the rules by which we will operate. We must take care to adhere to those expectations, even as we learn their impact on our business. BellSouth's own standard recognizes not just the letter of the law but the spirit of the law as well: under the framework of competition, our competitors are also our customers and are entitled to the best customer service we can provide.

You will be reading more about this important topic in the weeks and months to come. Please keep it top of mind as you perform your daily work.

Sincerely,

Judi

March 25, 1997

TO: Director & Above Managers

FROM: Rebecca M. Dunn, Vice President - Human Resources & Corporate Services

SUBJECT: Treating Customers Equitably

The importance of delivering equitable service to all customers is at the very heart of how we go about performing our jobs on a daily basis. Whether providing service to competitive local exchange carriers (CLECs) or their customers, it is critical not to differentiate between them and BST's end-user customer group.

With that in mind, BST's officers determined that this service equity principle should be included in the performance commitments for many managers. Whether a manager is in the Network organization provisioning service to both BST customers and CLEC customers, or in a support role such as maintaining systems or providing methods and procedures for customer-affecting operations, equal treatment of all customers is a job requirement.

To emphasize the critical nature of this issue, all managers who have customer service responsibilities or who provide direct support to customer-affecting operations must include a commitment addressing service equity on their 1997 performance plans. Following are examples of commitments for such managers. However, individual commitments should be customized to reflect specific job responsibilities in this area.

Examples of Service Equity Commitments:

1. In implementing trunking configurations, I will provide equivalent service levels to both CLEC and BST end-user customers and will complete orders and perform appropriate maintenance functions according to established, competitively neutral guidelines.
2. I will ensure that all methods and procedures for service order processing are designed in a competitively neutral manner and that training is provided to affected customer contact employees to ensure impartial implementation.
3. I will complete 10 observations per month of my work group to ensure that they are providing equitable service to CLEC customers and BST end-user customers.

We also want to integrate this important principle into the overall PM process for all managers through modification of the Ethics Statement which appears at the bottom of page one of the Performance Review Checklist (Form RF-5855-SUP). An updated, interactive copy of the Performance Review Checklist is attached and a revised version of the form will be available soon on the Bulletin Board area of Open Mail. The revised statement is included below with changes emboldened and italicized:

In accomplishing our mission, vision, goals and my commitments, I am committed to excellent customer service to *both BST end-user customers and also to customers who compete with BST for end-users' business*, and to adherence to the highest ethical business practices and personal integrity.

These changes to the Performance Management process reinforce the expected character of our relationships with competitors and the impact individual actions can have. The Ethics Statement is normally signed when commitments are agreed to by the manager and supervisor, providing an opportunity to pointedly remind managers that what they do matters and impacts BST's ability to demonstrate that our network is open to competitors.

As with all commitments, results will be reviewed at least at mid-year and at end-of-year. However, any violation of the service equity principle must be addressed immediately and action will be taken to ensure that there are no future occurrences. Steps may involve retraining and/or progressive discipline up to and including dismissal if appropriate.

Please share this information with all your managers as soon as possible and immediately revise performance plans to include a service equity commitment (if appropriate) and have all managers sign an updated Ethics Statement. These revisions should be in place no later than May 1, 1997.

Although I know that this change causes additional paperwork, some things are simply worth doing. We think this is one of them. Thanks for your support in communicating this message to our management team - it doesn't get more important than this!

Attachment

April 8, 1997

TO: VP/GMs and Line Operations Directors

FROM: Pat Donald

As I hope you know, an Operational Readiness Information Effort has been underway throughout the company to help educate employees on the critical importance of responding to the operational needs of our competitors. Some of the key elements of this effort have included a special edition of TeleScope on Feb. 5, a Feb. 12 letter from Judi North to all Consumer Services employees, a Feb. 27 letter on Performance Management commitments from Judi to Consumer directors and above, and the first edition of a new all-employee bulletin, Competitive Alert, which was recently distributed.

As a part of this effort, we have been asked to ensure that our contact employees are aware of the methods and procedures in place for handling calls from competitive local exchange companies (CLECs) and their customers. The following material needs to be covered with all sales, service and collections reps and with customer service assistants and maintenance administrators by the end of April. You will need to:

- Distribute the memo from me to these contact employees. Please review the memo with them.
- Review the related procedures. For Sales, Service and Collections, these are found in OLD under the Reference Guide. Procedures for Repair are also on file.
- Answer any questions the reps, CSAs and MAs may have.
- Ask them to sign a copy of the acknowledgment form, which then goes in their personnel file.

By May 1, each VP/GM needs to send me written confirmation that his or her employees have been covered so I can write a letter to BellSouth Legal to confirm that Consumer Services coverage is complete. If you have any questions about this coverage, please contact Diane Gee (404 529-2916) for Sales, Service and Collections or Leah Jackins (404 520-6301) for Repair.

Thank you,

Pat

April 8, 1997

**TO: Sales, Service & Collections Reps, Customer Service Assistants, and
Maintenance Administrators**

FROM: Pat Donald

As local competition becomes more and more a reality in our markets, I want to remind you again how important it is that we provide quality service to all customers and that we follow the procedures that have been established for operating in a competitive marketplace.

As local competition grows, we will find ourselves dealing with competitive local exchange companies (CLECs) and with customers of these competitors. BellSouth has been a strong proponent of competition on a level playing field. Our opponents will now be watching us closely to make sure we also compete fairly and properly at all times. While we intend to compete aggressively, we must continue to provide the best possible service on each customer contact. This means we should treat our competitors and their customers who contact us just as we treat our existing customers. Also, BellSouth employees shouldn't say, write or do anything that casts our competitors in a negative light. Our strategy is to retain and win customers based on the quality and reputation of our service, not by attacking the reputation of other companies.

Procedures are in place for handling requests from CLECs and their customers. As you probably know, these procedures for Sales, Service and Collections can be found in Online Documentation (OLD) under the Reference Guide. Included in this information are instructions for handling requests for the name and number of a customer's local provider, disconnecting local service from BST and changing a customer back to BST, handling number portability, handling claims, issuing various types of orders, and handling interfering service. Repair procedures have also been distributed. If you don't have a copy, please ask your coach.

Please make sure you are familiar with these procedures. Your coach will review the contents with you and will give you an opportunity to ask any questions you may have. Our performance in this area is so vital to maintaining our ability to enter new markets that we are asking you to sign an acknowledgment that this review has taken place.

Thank you for all that you are doing for BellSouth. I am proud of your continued success in the midst of constant change and uncertainty.

Thank you,

Pat

**BellSouth Consumer Services
April 1997**

On April ____, 1997, I participated in a review of the procedures for handling requests from competitive local exchange carriers (CLECs) and their customers. I understand that it is my responsibility to provide the best possible service both to BellSouth's customers as well as to CLECs and their customers and that I may not discriminate between them in the service I provide.

Name

TELESCOPE

For employees of BellSouth Telecommunications Inc.

What's new in the industry
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Telecom law

Page 3 ...
Are we following through?
You'll hear more soon!

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Complaint filed

Special
edition!

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BellSouth Telecommunications, Inc.

FPSC Docket No. 980119-TP

April 15, 1998

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Competitors can be our customers, too!

Editor's note:

On Feb. 8, 1996, the Telecommunications Act was signed into law. This issue of TeleScope looks at some of the competitive issues BellSouth is facing and what we must do to ensure that we fully meet the needs of the telecom law.

The announced plans to combine Pacific Telesis and SBC Corp. and to combine NYNEX and Bell Atlantic, and the planned merger of MCI and British Telecom. We've watched as AT&T realigned to better focus itself on competing in our markets, and we're moving aggressively toward becoming a single-source provider of telecommunication services to our customers.

In addition to the major competitors who have plans to enter our markets, many other companies are making moves to provide phone service to our customers, as well. To date, over 175 different companies have filed to offer service in our region. While all of these companies will be our competitors, many will also be our customers. The way we treat these competitors in the new environment will determine in large part how quickly we're able to become a one-stop shop for meeting all of our customers' telecom needs in the future.

"At BellSouth we have always been in favor of opening our local markets and in turn will move into the long distance business as quickly as possible," noted Jere Drummond, BST president and CEO. "We will compete aggressively in this new environment against the likes of AT&T, MCI and others. However, by the same token, we will compete fairly and properly at all times. This means that we treat our competitors who come to us for service just as we treat our existing customers," Drummond said.

The company has begun the process of moving forward with requests to each state

The year that's followed the signing of the telecom law has been marked by tremendous change at BellSouth and in the industry itself. We've seen

public service commission and to the Federal Communications Commission (FCC) for permission to enter the long distance business in our region. This activity will occur state by state, and will provide opportunities for our competitors to question if our entry into long distance is appropriate. As these filings are considered, and after our entry into long distance is approved, we must act appropriately and ethically in dealing with our competitors.

This means following the rules and requirements that are set forth by the Telecom Act as well as other laws, such as those involving antitrust and the rules of the FCC and state commissions. For example, we must not discriminate in the

"We will compete aggressively in this new environment against the likes of AT&T, MCI and others. ...we will compete fairly and properly at all times."

— Jere Drummond, BST president and CEO

service we provide between BellSouth customers and customers of our competitors, or among any of the customers of our competitors. Nor can any BellSouth employee say, write, or do anything else that casts our competitors in a negative light. In other words, we will do business and win customers based on the reputation of our service, not by saying or doing anything that damages the credibility of others.

"There is a great deal at stake for our company going forward," Drummond said. "Things are changing rapidly, and there is great uncertainty in our industry. However, what is certain is the reputation that BellSouth has earned with our customers and with our regulators. To behave in a manner that in any way jeopardizes our business plans, or casts a negative image of our company and employees, will not be tolerated. Accordingly, I urge us all to take advantage of the information that will be shared in this issue of TeleScope, and in other publications and materials, so that we fully understand the implications of our actions today and in the future," Drummond said.

Project ENCORE has leadership in meeting competitors' needs

The implementation of the telecom act passed last year can be compared in complexity only with the massive changes brought on by divestiture. For BellSouth, the challenging task of assuring our competitors have ready access to BellSouth's services for their service offerings is being run by Project ENCORE.

So far, over 175 different companies have filed for or been approved to offer local service in our territory. BellSouth has already processed tens of thousands of orders for customers who have actually switched their local telephone service to another company.

From an operations perspective, Project ENCORE is where the rubber meets the road.

As local competition continues to expand, Project ENCORE, utilizing resources from across the entire company, has lead-role responsibility to direct the implementation of activities that will enable BellSouth's competitors, to the extent they are using BellSouth facilities, to get into business. The initial planning for these changes was conducted as a part of Project Harmonize over the past year. While Project ENCORE start-up activities were at first a part of the Interconnection Services customer operations unit (COU), effective Feb. 1, oversight responsibilities now reside with the Product Commercialization Unit.

According to Charlie Coe, group president for Customer Operations, the role of the team is extremely critical. "We have been the most aggressive RBOC in opening up our local

markets to competition. Our charge now is to assure that our systems and operating procedures for allowing our competitors into business are airtight."

The important charge for this cross-unit team is to ensure that the appropriate systems and procedures are in place to support competitors' plans either to resell BellSouth's services or to purchase unbundled services.

"We have been the most aggressive RBOC in opening up our local markets to competition. Our charge now is to assure that our systems and operating procedures for allowing our competitors into business are airtight."

— Charlie Coe, group president for Customer Operations

in order to provide telephone services to their local customers. The ENCORE team is making the necessary changes to ordering, billing, provisioning, and maintenance systems and procedures.

BellSouth's pro-competitive stance is driven in part by our goal of getting into the interLATA long-distance market as soon as we can. This will allow us to compete on even terms with other broad-based competitors in meeting the demands of customers in the Southeast for a single-source provider for all their telecommunications needs.

"The situation with local competitors is much like our relationship with long distance companies in that they are our competitors and our customers at the same time," noted Coe. "We must treat these local competitors fairly, and provide them with a level of service equivalent to that provided to the Consumer Small Business and BBS COUs, as well as to our own customers. This will clearly demonstrate our leadership position in bringing competition to the local market."

Local competitors have already begun to order services from BellSouth in order to provide their own competitive offerings, and in some cases problems in provisioning these services have occurred (see "Competitor complaint on interconnection filed with regulators" on page 4). Because of this, Project ENCORE is on an extremely aggressive track to assure that the necessary systems and procedures are in place as soon as possible.

"Project ENCORE's success is of the highest priority. By assuring we're set up to allow other companies to use our services to compete in the local market, we will move closer to being able to get into long distance and offer our customers a full range of telecom services," Coe said.

The telecom law:

What it says and what we've agreed to

The Telecommunications Act of 1996 set very specific steps for opening the local telephone market and for how the RBOC will be allowed into the long distance business. Among the many different and complex rules and regulations is specific direction local phone companies such as BellSouth on the obligations we have in allowing competitors to use our services so they can get into business. One set of these rules is known as the "14-point" checklist. BellSouth must prove the terms of the list have been

BellSouth must prove the terms of the 14-point checklist have been met before we'll be allowed into the long distance business.

Read here for details.

met before we'll be allowed in the long distance business in our region. Another set of rules we now operate under is contained in the almost 40 agreements we've signed with local competitors that define the terms and conditions they will use to interconnect with us.

The 14-point checklist includes items that BellSouth must assure are available to our competitors. These include things such as making sure our competitors have access to unbundled network elements, that their customers can be listed in the BellSouth phone directory, and that we've made our products and services available on a wholesale basis for resale by our competitors. BellSouth will present evidence to our commissions that we have met the 14-point checklist and that our network is "open" to competitors.

Are we following through? McNair group to make sure

Bill McNair, vice president-Network Operations-North, has been named vice president-Interconnection Operations, reporting to **Charlie Coe**, group president-Customer Operations. In this position, McNair is responsible for bringing BellSouth to operational readiness as well as for implementing the interfaces and processes needed to serve BST's interconnection customers. The implementation of these systems is key to BellSouth's entry into the long distance business.

Reporting to McNair is **Krista Tillman**, assistant vice president-Operations, who is responsible for the Interexchange Carrier Service Center (ICSC), Access Carrier Advocacy Center (ACAC), Local Carrier Advocacy Center (LCAC), and operations planning; and **Bill Stacy**, assistant vice president-Service, who manages BST's rapid response center, which expedites problem resolution, especially those involving process and interdepartmental coordination.

Also reporting to McNair is **Bill Smith**, vice president-Product Commercialization Unit, and **Jim Anderson**, assistant vice president-Cost

Matters in the Finance organization. McNair's operation works closely with **Richard Teel**, vice president-Regulatory and External Affairs, who continues to direct both external and internal communications related to Project ENCORE (see "Project ENCORE has leadership role in meeting competitors' needs" on page 2).

"Interconnection agreements have been signed with many customers, and, more recently, state arbitration rulings have further clarified BST's obligations to provide both network resale and unbundling of network elements," said Coe. "We are working full time on meeting the needs of interconnection customers. BST will continue to work on making these operations efficient and to grow and evolve them as the competitive local exchange markets develop," he added.

"Substantial progress has already been made since mid-1996 through the efforts of a cross-functional project team working under the name ENCORE, and will continue under Bill's direction," Coe said.

Until BST has completely normalized its competitive local exchange carrier operations, McNair's Network-North organization will continue to report to **Don Scrohmeier**, vice president-Network Operations-South, as announced in BST Briefing, Vol. 5, No. 18.



Bill McNair

While the telecom law has brought many new marketing opportunities, strict adherence to its provisions must first be met.

Also, BellSouth has been very aggressive in signing agreements with competitors so that they can get into business in our local markets. These agreements set the terms by which these companies can purchase elements they need to offer service or to interconnect their network with ours. The items on the 14-point checklist are included in these agreements and will provide further evidence to regulators that we are meeting the requirements of the law. If, however, a competitor alleges that we aren't meeting the conditions of our agreements or the law, as ACSI has recently done (see "Competitor complain on interconnection filed with regulators" on page 4), our entry into long distance and other businesses may be delayed.

Other issues included in the telecom law, and the rules the Federal Communications Commission and state commissions have passed, define the manner in which our competitors can interface with our ordering and maintenance systems. These issues are being addressed as a part of Project ENCORE (see "Project ENCORE has leadership role in meeting competitors' needs" on page 2) initiative and play a major role in demonstrating that we are meeting the requirements of the new law.

A whole other set of laws concerning how we must operate in a competitive environment involves issues related to antitrust. For example, we can't unlawfully restrict a competitor's access to the market or allow employee actions that in any way disparage our competitors. If we are perceived to be conducting business this way, we may be sued. A competitor in California recently filed a \$100-million antitrust lawsuit against Pacific Bell, accusing the operating company of improperly preventing its entry into the local market.

While the telecom law has brought with it many new marketing opportunities for BellSouth, strict adherence to the provisions of the law must be met before many of these opportunities will be realized.

You'll hear more soon!

In addition to the information contained in this issue of *Telescope*, additional information aimed at informing employees about the critical importance of responding to the operational needs of our competitors is being developed and will be distributed soon. These include a letter from operational officers to their employees, a BST Briefing, and a video tape about employee compliance to be distributed this month.

Employees in Network and the customer operation units (COUs) who don't interact with competitors will see additional information in their functional group newsletters such as: *Relay* (BellSouth Business Systems), *Overline Notes* (Small Business), *Making Connections* (Consumer Services) and *FrontLine* (Network). You'll also hear more about these issues through other department-specific channels, such as BellSouth Television Network telecasts.

Finally, specialized training is being developed for employees who deal day to day with competitors. This training will be delivered through the appropriate COU and operations group training organizations in the next 45 to 60 days.

Competitor complaint on interconn filed with regulators

BellSouth Telecommunications, Inc.
FPSC Docket No. 980119-TP
April 15, 1998
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American Communications Services Inc. (ACSI), a new competitor in several BellSouth markets, has filed complaints against the company with the Georgia Public Service Commission (PSC) and the Federal Communications Commission (FCC) for problems it says it experienced when ordering services for ACSI customers. The complaints allege that BellSouth has violated the interconnection agreement signed with ACSI in July and problems delayed ACSI's ability to begin offering local phone service.

The problem related to the failure to quickly cut over a few orders for unbundled loops, the portion of the network from a customer's location to our switch. This resulted in a delay in ACSI providing service to its end customers in Columbus, Ga. ACSI also alleges that BellSouth has failed to develop the systems needed to properly provide the services it needs to offer local phone service to customers.

We have responded to the complaint filed with the Georgia PSC and have acknowledged that some problems did occur. It's our position that the problems were the result of the start-up nature of our operation and that they've been corrected. In the reply, the company states that since mid-December, when the complaint was initially lodged with the Georgia PSC, all of the services requested by ACSI have been provided promptly and accurately. Further, the company has embarked on an aggressive program (see "Project ENCORE has leadership role in meeting competitors' needs" on page 2) directed by Project ENCORE to assure that our systems and processes are designed to meet the service needs of our competitors.

We must not do anything to jeopardize the credibility we've established with our customers and regulators. We also must treat our competitors, and the customers of our competitors, the same way we treat our own customers.

BST's response to the FCC is currently under development, but will closely mirror the reply provided to the Georgia Commission.

This complaint underscores the extremely sensitive nature of our new relationship with competitors, and gives us a glimpse of the types of actions we may expect from competitors in the future. Since the industry is in the midst of transformation, with many new competitors entering the market, some of which are very small and have limited resources,

almost every action we take has the potential to be misinterpreted as an attempt to restrict competition in the market, as opposed to promoting it.

BellSouth's position has always been, and will continue to be going forward, one that is very pro-competitive. We've sponsored legislation in each of our states and with Congress to open our markets to competition. The benefit to BellSouth and our

customers is the ability to become a full-service provider, including long distance services in our region. Because of this, we have every incentive to open our markets, not attempt to keep them closed.

Employees should also recognize that their actions will also come under microscopic scrutiny. We must not do anything to jeopardize the credibility we've established with our customers and regulators. We also must treat our competitors, and the customers of our competitors, the same way we treat our own customers. By doing this, we will significantly reduce the risk of complaints such as the one made by ACSI and assure that we fully meet the intent of the telecom law in opening our markets to competition.

Special edition!

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BST MISSION

BST will be the customer's best connection to the world of communication, information, and entertainment



COMPETITION CALLING

FLORIDA PUBLIC SERVICE COMMISSION



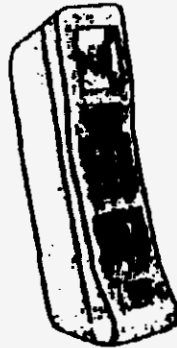
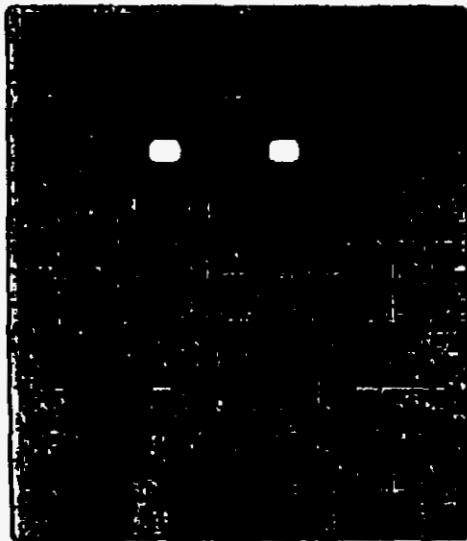
Tips on **TELEPHONE SERVICE**

**Alternative
Local
Telephone
Companies**

**Cellular
Service**

**Pay
Telephones**

If I choose an alternative local telephone company will my service and rates change? Perhaps. In addition, your local calling scope may change. This means that calls that were previously part of your local area and included as part of your monthly flat rate charge, may now be long distance, or calls that were at one time long distance, may now be considered local. Be sure that you ask any telephone company that you choose, not only about its rates, but also its calling scope. The Florida Public Service Commission will continue to insure the rights of all Florida consumers to obtain basic local telephone service, insure service quality, and assist consumers who have complaints about rates and services. Below are some general questions you may want to ask before you choose another local telephone company.



What about cellular telephone service?

The Florida Public Service Commission does not regulate cellular telephone companies.

This means that cellular companies do not follow our rules, and we cannot

help you with complaints or questions regarding cellular telephone service. However, with the ever-increasing popularity of cellular telephones, we felt it was important to mention a few things. Many customers choose cellular telephone companies as an alternative to a traditional telephone company. Like most telephone companies, cellular telephone companies offer a variety of service plans. Cellular service charges are generally based on minutes of use, or "air time," and a fixed monthly fee. Roaming or long distance charges may also apply when you are away from your home area. Also, it is important that you know what is a local call and what is a long distance call. Many times the local service area of the cellular company is not the same as the local telephone company's. Cellular providers offer a variety of packages to meet the various needs of business and residential customers. You should discuss the various service plans with your cellular telephone company. Here are some general questions you may want to ask the cellular providers.

1) What services or packages do you offer?

2) What are the per-minute and monthly charges for these services?

3) _____ Per minute

4) _____ Monthly

5) Are there any other charges I need to know about?

6) What areas on I call history incurring additional charges or roaming fees?

Remember, the Florida Public Service Commission does not regulate cellular telephone companies. If you have question about cellular services, you should call the Federal Communications Commission Wireless Telecommunications Bureau - Consumer Assistance Hotline at 800-322-1117 or 717-337-1212.



Changes in the Pay Telephone Market:

In October 1996, the Federal Communications Commission (FCC) issued a mandate to bring about changes in the pay telephone industry designed to increase competition.

Most of the changes will not be noticeable to you, and you will continue to have free access to 911 and the telecommunications relay service.

However, there are two significant changes that may affect you:

◆ Effective no later than October 7, 1997, a pay telephone company may charge you for calls to local directory assistance, that were previously free of charge.

◆ The rate charged for local calls will be deregulated. This means that a pay telephone company may charge whatever it likes for a local coin call. It is also possible for the local charge to vary from pay telephone to pay telephone; however, in all cases, it is mandatory that the rate for a local call be displayed, so that you know the cost before making a call.

The Florida Public Service Commission will continue to monitor and regulate service quality and handicapped accessibility. If you have any questions about pay telephones, you should contact the Florida Public Service Commission.

LOCAL TELEPHONE SERVICE

Both Florida and federal law now allow competition for local telephone service. Your local telephone company will not change unless you choose to select a different company. When, and if, an alternative local telephone company begins to offer service in your area, you will likely learn of it through traditional marketing and advertising. In addition, you could choose a cellular company to provide your local service.

What are some of the services traditional local telephone companies are required to provide? Local telephone companies are required to provide basic local telephone service to both residential and business customers; unlimited local calls within a local calling area; access to emergency services, long distance services, directory assistance, operator services, telecommunications relay services and an updated directory listing.

How can I save money on my local service? One option would be to ask your local telephone company if they offer basic local telephone service as a message-rated service, rather than at a flat rate. With message-rated service, you are limited to a certain number of local calls per month, and then you incur additional charges for each local call above your limit. Flat-rate service allows customers unlimited calls within their local calling area at a fixed monthly rate. Message-rated service is a great way to save money if you don't make many local calls. Local telephone companies are not required to offer a message-rated service option, so be sure to ask any local telephone company that you choose about this optional billing plan for local calling.

1. How much will each extra local call cost?
2. Based on the number of local calls I make in a month, will I save money if I choose message-rated local service?

How to Contact the Florida Public Service Commission

Division of Consumer Affairs

2540 Shumard Oak Blvd.

Tallahassee, Florida 32399-0850

1-800-342-3552/1-800-511-0809 (Fax)

or E-mail us via the following Internet address:

CONTACT@PSC.STATE.FL.US

See the PSC's World Wide Web Home Page at

<http://www.scri.net/psc>.