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August 6, 1998

BY HAND DELIVERY

Ms. Blanca Bayo, Director
Division of Records and Reporting
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

981008-TP

Dear Ms. Bayo:

Enclosed for filing are an original and fifteen copies of the e.spire Communications, Inc.'s Complaint.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,

Norman H. Horton, Jr.

Norman H. Horton, Jr.

NHH/amb

Enclosures

cc: James C. Falvey, Esq.

*Some pages are
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08380 AUG-6 88

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**COMPLAINT OF e.spire)
COMMUNICATIONS, INC. AGAINST)
BELLSOUTH TELECOMMUNICATIONS,)
INC. REGARDING RECIPROCAL)
COMPENSATION FOR TRAFFIC)
TERMINATED TO INTERNET SERVICE)
PROVIDERS)
_____)**

Docket No. *981008-TP*
Filed: August 6, 1998

**COMPLAINT OF
e.spire COMMUNICATIONS, INC.**

American Communication Services of Jacksonville, Inc. d/b/a e.spire Communications, and ACSI Local Switched Services, Inc. d/b/a e.spire Communications, Inc. (collectively "e.spire" or the "Company"), by their counsel, hereby file this complaint against BellSouth Telecommunications, Inc. ("BellSouth") and as grounds therefore state as follows:

I. PRELIMINARY

1. e.spire is an alternative local exchange company certificated to provide local exchange services in Florida. e.spire's address is:

e.spire Communications, Inc.
133 National Business Parkway
Suite 200
Annapolis Junction, MD 20701

2. Copies of pleadings, notices and other documents in this docket should be provided to:

Norman H. Horton, Jr., Esq.
Messer, Caparello & Self, P.A.
215 South Monroe Street, Ste. 701
Tallahassee, FL 32301

James C. Falvey, Esq.
e.spire Communications, Inc.
133 National Business Pkwy., Ste. 200
Annapolis Junction, MD 20701

DOCUMENT NUMBER-DATE

08380 AUG-6 98

FPSC-RECORDS/REPORTING

3. e.spire is a competitive local exchange carrier authorized to provide dedicated and switched local exchange services in Florida and numerous other states. e.spire currently provides services in Florida through the resale of BellSouth wholesale products, by using its own network facilities exclusively and in combination with unbundled elements purchased from BellSouth. e.spire serves customers that are ISPs using its fiber optic network in Jacksonville and Tampa, Florida.

4. BellSouth is an incumbent local exchange company (ILEC) that, among other things, provides switched local exchange and other telecommunications services in nine southern states. BellSouth is an ILEC, as defined in 47 U.S.C. § 251(h), authorized to provide local exchange services in areas of Florida currently served by e.spire.

5. e.spire and BellSouth entered into an Interconnection Agreement on July 25, 1996 (the "Agreement"). An Amendment to the Agreement, dated October 17, 1996, was also filed with the Commission and approved by the Commission by Order No. PSC-96-1509-FOF-TP, issued December 12, 1996. A copy of the relevant portions of the Agreement and amendment are attached hereto as Exhibit A.

6. Section VI(A) of the Agreement provides as follows for the exchange of local traffic:

A. Exchange of Traffic

The Parties agree that local interconnection is defined as the delivery of local traffic to be terminated on each party's local network so that customers of either party have the ability to reach customers of the other party, without the use of access codes or delay in the processing of a call. The Parties further agree that the exchange of traffic on BellSouth's Extended Area Service (EAS) shall be considered local traffic and compensation for the termination of such traffic shall be pursuant to the terms of this section.

7. Attachment B of the Agreement defines “local traffic” as “telephone calls that originate in one exchange and terminate in either the same exchange, or a corresponding Extended Service Area (“EAS”) exchange.” This definition does not discriminate among types of end users, nor does it exclude calls from end users to other end users in the same local calling area that happen to be ISPs.

8. Section VI(B) of the Agreement provides that e.spire and BellSouth *initially* compensate each other through a “bill and keep” arrangement, whereby each party would transport and terminate the other’s local traffic without charge. Section VI(B) provides for a transition to reciprocal compensation as follows:

B. Compensation

The Parties agree that BellSouth will track the usage for both companies for the period of the Agreement. BellSouth will provide copies of such usage reports to [e.spire] on a monthly basis. For purposes of this Agreement, the Parties agree that there will be no cash compensation exchanged by the parties during the term of this Agreement unless the difference in minutes of use for terminating local traffic exceeds 2 million minutes per state on a monthly basis. In such an event, the Parties will thereafter negotiate the specifics of a traffic exchange agreement which will apply on a going-forward basis.

9. The Agreement does not contain a rate per minute for reciprocal compensation. Pursuant to the terms of the Agreement, however e.spire may elect to replace any of the material terms of the Agreement, including rates, with the corresponding provisions of any other local interconnection agreement that BellSouth enters with another carrier. Section XXII(A) of the Agreement, granting e.spire most favored status, provides:

If as a result of any proceeding before any Court, Commission, or the FCC, any voluntary agreement or arbitration proceeding pursuant to

the Act, or pursuant to any applicable federal or state law, BellSouth becomes obligated to provide interconnection, number portability, unbundled access to network elements or any other services related to interconnection, whether or not presently covered by this Agreement, to another telecommunications carrier operating within a state within the BellSouth territory at rates or on terms and conditions more favorable to such carrier than the comparable provisions of this Agreement, then [e.spire] shall be entitled to add such network elements and services, or substitute such more favorable rates, terms or conditions for the relevant provisions of this Agreement, which shall apply to the same states as such other carrier and such substituted rates, terms or conditions shall be deemed to have been effective under this Agreement as of the effective date thereof to such other carrier.

10. By correspondence dated November 14, 1997, e.spire informed BellSouth that e.spire had not received any usage reports from BellSouth as required by the Agreement. e.spire informed BellSouth that it would begin to bill BellSouth for reciprocal compensation based upon e.spire's reports of local traffic differentials in each state beginning with the month in which the differential exceeded 2 million Minutes of Use ("MOU"). e.spire proposed an amendment to the Agreement setting the termination rate for Florida as \$.009 per minute pursuant to the most favored provision of the Agreement. The reciprocal compensation rate of \$.009 per minute is contained in the Interconnection Agreement between MCI and BellSouth. A copy of the November 14, 1997 letter and the proposed Amendment to the Agreement is attached hereto marked as Exhibit B.

11. BellSouth did not respond to e.spire's November 14, 1997 letter. Accordingly, e.spire wrote BellSouth again on the subject by letter dated December 23, 1997, and again by letter dated January 8, 1998. These letters reiterated the terms of the Agreement and advised BellSouth that e.spire would take legal action if BellSouth continued to breach the Agreement.

12. On January 8, 1998, BellSouth finally responded to e.spire's correspondence. (Copies of the referenced correspondence are included as Exhibit C.) In its response, BellSouth conceded that it had failed to provide e.spire with the required usage reports and agreed to use e.spire's reports. BellSouth also stated in its January 8 letter that it would not pay the bills because it does not believe that ISP traffic is "local traffic." Moreover, BellSouth proposed a rate of \$0.002 for terminating local traffic.

13. The amount of unpaid reciprocal compensation owed by BellSouth to e.spire increases on a daily basis. As of June 1998, the total unpaid reciprocal compensation regionwide amounted to several million dollars, a substantial amount of which is attributable to Florida. Copies of recent invoices from e.spire to BellSouth are attached hereto marked as Exhibit D. Minutes of use and billing amounts have been redacted from invoices for reciprocal compensation attached hereto. Pursuant to Section 364.183, Florida Statutes, governing the treatment of information designated as trade secret, proprietary or confidential, e.spire requests that this information be kept confidential. In addition, e.spire has provided supporting documents to BellSouth to substantiate its invoices.

14 Federal and state laws require incumbent local exchange carriers, such as BellSouth to interconnect their telecommunications networks with networks constructed by competitive local exchange carriers ("CLECs"), such as e.spire, for purposes of exchanging local traffic. Pursuant to such laws, e.spire and BellSouth have entered into an Interconnection Agreement stating the terms and conditions governing interconnection. The Agreement requires each party to compensate the other for termination of local calls. BellSouth, however, refuses to compensate e.spire for handling local calls made by BellSouth customers to Internet Services Providers ("ISPs") connected to

e.spire's network. Contrary to both federal and state rulings, BellSouth has unilaterally decided that such calls ("ISP traffic") are not "local traffic," as defined in the Interconnection Agreement, but rather long distance calls carried over the Internet. Based on this decision, BellSouth maintains that it is not required to compensate e.spire for termination of ISP traffic.

15. e.spire has been unable to resolve this issue through negotiations and therefore has no choice but to request the Florida Public Service Commission ("Commission") to enforce the Agreement and direct BellSouth to comply with the Agreement. As described below, BellSouth's position is plainly in violation of three separate provisions of the Agreement, and it is also inconsistent with Federal Communications Commission ("FCC") decisions, general public policy, and the decisions of nineteen state commissions.

16. When a BellSouth customer places a call to an e.spire customer that is an ISP, the call originates on BellSouth's network, and BellSouth then hands the call off to e.spire at their mutual point of interconnection. e.spire transports and terminates the call to its ISP customer. BellSouth is fully compensated by its customer for arranging the completion of its calls to ISPs through the payment of tariffed local exchange rates and subscriber line charges. By contrast, e.spire receives no compensation from BellSouth's customer for providing termination services, and is barred by FCC rules¹ from charging access charges to the ISP. Therefore, unless BellSouth pays reciprocal compensation for the termination of calls placed to ISPs, BellSouth will be free-riding on e.spire's network facilities in violation of Sections 251-252 of the Act. Indeed, the result is that the

¹ See, *In the Matter of Access Charge Reform*, First Report and Order, CC Docket No. 96-262, (rel. May 17, 1997).

incumbent LEC receives an undeserved windfall, in the form of free service, at the expense of new entrants in the local services market.

17. e.spire has been unable to resolve this dispute with BellSouth. Therefore, e.spire respectfully requests that the Commission direct BellSouth to comply with the Agreement as to the treatment of the ISP traffic and the availability of the rate under the most favored nations provisions and grant such other relief as requested herein.

III. JURISDICTION

18. e.spire and BellSouth negotiated the Agreement, which the Commission subsequently approved under the authority granted to it in Section 252(e) of the Act. The Commission has jurisdiction to hear this Complaint regarding that Commission-approved Agreement pursuant to Section 252 of the Act. Furthermore, in *Iowa Utilities Board v. FCC* (120 F.3d 753 8th Cir., 1997), the United States Court of Appeals for the Eighth Circuit recently held that the Act vests in the state commissions the power to enforce the interconnection agreements they approve. Specifically, the Court stated in relevant part:

We also believe that state commissions retain the primary authority to enforce the substantive terms of the agreements made pursuant to sections 251 and 252. Subsection 252(e)(1) of the Act explicitly requires all agreements under the Act to be submitted for state commission approval. 47 U.S.C.A. § 252(3)(1) (West Supp. 1997). We believe that the state commissions' plenary authority to accept or reject these agreements necessarily carries with it the authority to enforce the provisions of agreements that the state commissions have approved. Moreover, the state commissions' enforcement power extends to ensuring that parties comply with the regulations that the FCC is specifically authorized to issue under the Act, because the Act empowers state commissions to reject arbitrated agreements on the basis that they violate the FCC's regulations. *See id.* at § 252(e)(2)(B). Again, we believe that the power to approve or

reject these agreements based on the FCC's requirements includes the power to enforce those requirements.

Id., 120 F.3d at 804 [emphasis added].

This Commission recently heard testimony and rendered a decision on similar complaints filed by WorldCom Technologies, Inc. (Dkt. No. 971478-TP), Teleport Communications Group (Dkt. No. 980184-TP), Intermedia Communications, Inc. (Dkt. No. 980495-TP), and MCI Metro Access Transmission Services, Inc. (Dkt. No. 980499-TP). With respect to interconnection agreements filed pursuant to Chapter 364, Florida Statutes, Section 364.162(2) provides the Commission the authority to arbitrate any dispute regarding interpretation of interconnection or resale prices and terms and conditions. This commission has jurisdiction to interpret and enforce the terms of the Agreement.

IV. ARGUMENT

A. **BellSouth has breached the Agreement by, *inter alia*, Refusing to Pay e.spire Reciprocal Compensation, Refusing to Report Local Minutes and Refusing to Honor the "Most Favorable Provisions" Clause.**

19. Federal and state laws require incumbent local exchange carriers to interconnect their telecommunications networks for purposes of exchanging local traffic. Section 251 of the Act requires that all local exchange carriers ("LECs") interconnect their networks with those of competing service providers upon request:

General Duty of Telecommunications Carriers. --Each telecommunications carrier has the duty--

- (1) to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers, and

- (2) not to install network features, functions or capabilities that do not comply with the guidelines and standards established pursuant to section 255 or 256.

47 U.S.C. §251(a). Section 251 of the Act imposes additional interconnection obligations on Incumbent Local Exchange Carriers (“ILECs”), such as BellSouth. The relevant portion of Section 251(c) governing ILECs’ duty of interconnection states as follows:

Additional Obligations of Incumbent Local Exchange Carriers.--In addition to the duties contained in subsection (b), each incumbent local exchange carrier has the following duties:

- (1) . . .
- (2) Interconnection.--The duty to provide, for the facilities and equipment of any requesting telecommunication carrier, interconnection with the local exchange carrier’s network--
 - a. for the transmission and routing of telephone exchange service and exchange access;
 - b. at any technically feasible point within the carrier’s network;
 - c. that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary affiliated, or any other party to which the carrier provides interconnection; and
 - (D) on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.

47 U.S.C. Section 251(c).

Further, local exchange companies have an obligation regarding interconnection under Chapter 364, Florida Statutes. Section 364.16(3) requires:

Each local exchange telecommunications company shall provide access to, and interconnection with, its telecommunications facilities to any other provider of local exchange telecommunications services

requesting access and interconnection at nondiscriminatory prices, rates, terms and conditions . . .

20. e.spire and BellSouth entered a negotiated Agreement consistent with the Act. Each local exchange telecommunications company shall provide access to, and interconnection with, its telecommunications facilities to any other provider of local exchange telecommunications services requesting such access and interconnection at nondiscriminatory prices, rates, terms and conditions pursuant to which local exchange carriers are obligated to transport and terminate local exchange traffic over their network facilities and to establish reciprocal compensation arrangements to apply to transport and termination of such local exchange traffic. Section 251(b) of the Act provides:

Obligations of All Local Exchange Carriers.--Each local exchange carrier has the following duties:

- (1) . . .
- (5) Reciprocal Compensation--The duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

47 U.S.C. §251(b).

21. Under the terms of the Agreement, e.spire customers can place calls to ISPs served by BellSouth. Likewise, BellSouth customers can place calls to ISPs served by e.spire. These calls, originating and terminating in the same BellSouth exchange, fall squarely within the definition of local traffic set out in the Agreement. As such, they are subject to reciprocal compensation. There is no reason to differentiate among end users. Again, e.spire's position is simple: a local call is determined by its origination and termination points, and all local calling is subject to reciprocal compensation.

22. BellSouth *itself* treats calls to ISPs as local calls. Not only does BellSouth classify calls to ISPs as local traffic for cost allocation purposes between interstate and intrastate, but BellSouth also provides services to its own ISP customers from its *local* tariff. Moreover, BellSouth routes calls to ISPs from e.spire over trunks designated for local traffic. Thus, BellSouth implicitly acknowledges that classification as a local call is determined by where the call originates and terminates, *not* by the type of end user. Simply stated, if the originating and terminating locations of the call are within the same local calling area, the call is a local call subject to reciprocal compensation.

23. By its January 8, 1998 letter, BellSouth conceded that it had failed to provide e.spire with the usage reports as required by the Agreement. By failing to provide e.spire with the required usage reports, BellSouth violated the express terms of Section VI(B) of the Agreement. Further, Section XV(C) of the Agreement provides that “[e.spire] and BellSouth agree to promptly exchange all necessary records for the proper billing of all traffic.” By failing to provide records of all local traffic, BellSouth also has violated this provision of the Agreement.

24. Section XV(A) of the Agreement obligates both parties “to treat each other fairly, non-discriminatorily, and equally for all items included in this Agreement or related to the support of items included in this Agreement.” BellSouth’s refusal to pay reciprocal compensation for local traffic (as defined in the Agreement) terminated by e.spire, and exchange business records required to bill such traffic, amounts to a willful breach of this obligation.

25. The rate that BellSouth proposes to pay for local traffic termination violates Section XXII(A) of the Agreement. The \$0.009 per minute rate proposed by e.spire for Florida in its November 14, 1997 letter is the same rate established by BellSouth with MFS in Florida. BellSouth,

in proposing a rate of \$0.002, violates the Most Favorable Provision in Section XXII(A) of the Agreement.

26. BellSouth's refusal to pay reciprocal compensation for the ISP calls of its customers that terminate on e.spire's local network constitutes a willful breach of the Agreement and Section 251(b)(5) of the Act. As a result, e.spire has suffered damages equal to the accrued amount of reciprocal compensation due, plus interest, and the costs of pursuing this Complaint. Notably, the amount of reciprocal compensation owing is increasing on a daily basis.

B. The FCC Treats ISP Traffic as Local Traffic.

27. The FCC historically has classified ISP traffic as local traffic. On several different occasions, the FCC has affirmed that calls from Internet subscribers to the ISPs local points of presence are local calls.²

28. In its recent *Universal Service* docket,³ for example, the FCC concluded that ISP traffic consists of two distinct, severable components: (1) the telephone connection to the ISP; and (2) the information service subsequently provided by the ISP. The connection to the ISP is a telecommunications service entirely separate from any later connection to the Internet. The first link is a local call that is eligible for local compensation under the Agreement.

² See, e.g., *Amendments to Part 69 of the Commission's Rules Relating to Enhanced Service Providers*, 3 FCC Rcd 2631, 2633 (1988) (ISP traffic exempt from interstate access charges).

³ *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-95 (rel. May 8, 1997) ("Universal Service Order"), ¶ 789.

29. In the *Access Charge Reform Order*,⁴ similarly, the FCC maintained its long standing exemption of ISPs from assessment of interstate access charges by the LECs. In fact, the FCC clearly stated in that Order that calls to ISPs are local traffic: “To maximize the number of subscribers that can reach them *through a local call*, most ISPs have deployed points of presence.”⁵

30. In the *Non-Accounting Safeguards Order*, the FCC concluded that the local call to an ISP is separate from the subsequent information service provided.⁶ These Orders form the basis of the FCC’s current position regarding ISP traffic; that is, the connection between the customer and the ISP is a local call, regardless of what happens next.

31. Most recently, in its April 10, 1998 Report to Congress on universal service, the FCC reiterated that, in enacting the Act, “Congress intended to maintain a regime in which information service providers are not subject to regulation as common carriers merely because they provide their services via telecommunications.”⁷ Accordingly, any suggestion that typical ISP transmissions are common carrier telecommunications services is inapt.

⁴ *In the Matter of Access Charge Reform*, First Report and Order, CC Docket No. 96-262 (rel. May 17, 1997)(“Access Charge Reform Order”), ¶¶ 344-348.

⁵ *Id.* at n. 502 (emphasis added). The FCC also observed that “ISPs may purchase services from incumbent LECs under the same intrastate tariffs available to end users. ISPs may pay business line rates and the appropriate subscription line charges, rather than interstate access rates, even for calls that appear to traverse state boundaries.” *Id.* at ¶ 342.

⁶ *Implementation of Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, As amended*, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-149 (rel. Dec. 24, 1996), ¶ 120.

⁷ *In the Matter of Federal-State Joint Board on Universal Service*, Report to Congress, CC Docket No. 96-45 (rel. April 10, 1998) at ¶ 21. This Report repeatedly reiterates this theme.

32. Although the FCC currently is considering the issue of ISPs' use of the public switched network,⁸ the status of the existing FCC rules and policies has not changed.

C. Numerous State Commissions Have Concluded That ISP Traffic Is Subject to Reciprocal Compensation.

33. In Florida, the Commission in Order No. 21815, issued September 5, 1989, in Dkt. No. 880423-TP, completed an investigation by concluding that access to the ISP is by local services. BellSouth supported that conclusion and the Order of the Commission has not been changed. In fact, the Order issued in 1989 is entirely consistent with current FCC orders and decisions by other commissions. More importantly, however, on August 4 the Commission resolved the complaints filed by WorldCom, Teleport, Intermedia and MCImetro by agreeing with the staff conclusion that calls terminated to an ISP are local and subject to reciprocal compensation.

⁸ *Notice of Inquiry, Usage of the Public Switched Network by Information Service and Internet Access Providers*, FCC, CC Docket 96-263 (rel. Dec. 24, 1996); *In the Matter of Request by ALTS for Clarification of the Commission's Rules Regarding Reciprocal Compensation for Information Service Provider Traffic*, FCC, CCB/CPD (filed July 18, 1997) (pending).

To date, at least nineteen state commissions have concluded that ISP traffic is subject to reciprocal compensation: Arizona,⁹ Colorado,¹⁰ Connecticut,¹¹

⁹ *Petition of MFS Communications Company, Inc., for Arbitration of Interconnection Rates, Terms, and Conditions with US WEST Communications, Inc., Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996*, Opinion and Order, Arizona Corporation Commission, Decision No. 59872, Docket Nos. U-2752-96-362 and E-1051-96-362 (dated October 29, 1996) at 7.

¹⁰ *Petition of MFS Communications Company, Inc., for Arbitration Pursuant to 47 U.S.C. § 252(b) of Interconnection Rates, Terms, and Conditions with US WEST Communications, Inc.*, Decision Regarding Petition for Arbitration, Colorado Public Utilities Commission, Decision No. C96-1185, Docket No. 96A-287T (dated November 5, 1996) at 30. The Colorado Commission has rejected US WEST's efforts to exclude ISP traffic from reciprocal compensation when it rejected such a provision in US WEST's proposed tariff. *The Investigation and Suspension of Tariff Sheets Filed by US WEST Communications, Inc. With Advice Letter No. 2617, Regarding Tariffs for Interconnection, Local Termination, Unbundling and Resale of Services*, Order, Docket No. 96A-331T (dated July 16, 1997) at 8.

¹¹ *Petition of the Southern New England Telephone Company for a Declaratory Ruling Concerning Internet Service Provider Traffic*, Final Decision, Connecticut Department of Public Utility Control, Docket No. 97-05-22 (dated September 17, 1997).

Illinois,¹² Maryland,¹³ Michigan,¹⁴ Minnesota,¹⁵ Missouri,¹⁶ New York,¹⁷ North Carolina,¹⁸

¹² *Teleport Communications Group, Inc., v. Illinois Bell Telephone Company, Ameritech Illinois: Complaint as to dispute over a contract definition*, Opinion and Order, Illinois Commerce Commission, Docket No. 97-0404 (dated March 11, 1998).

¹³ Letter from Daniel P. Gahagan, Executive Secretary, to David K. Hall, Esq., Bell Atlantic-Maryland, Inc. Maryland Public Service Commission (dated September 11, 1997). On October 1, 1997, the Commission affirmed the decision by denying a Bell Atlantic-Maryland Petition for Reconsideration. Bell Atlantic-Maryland was ordered to pay MFS reciprocal compensation previously withheld.

¹⁴ Opinion and Order, Michigan Public Service Commission, Case Nos. U-11178, U-11502, U-11522, U-11553 and U-111554 (dated January 28, 1998).

¹⁵ *Consolidated Petitions of AT&T Communications of the Midwest, Inc., MCIMetro Access Transmission Services, Inc., and MFS Communications Company for Arbitration with US WEST Communications, Inc. Pursuant to Section 252(b) of the Federal Telecommunications Act of 1996*, Order Resolving Arbitration Issues, Minnesota Public Utilities Commission, Docket Nos. P-442, 421/M-96-855, P-5321, 421/M-96-909, P-3167, 421/M-96-729 (dated December 2, 1996) at 75-76.

¹⁶ *Petition of Birch Telecom of Missouri, Inc. For Arbitration of the Rates, Terms, Conditions and Related Arrangements for Interconnection with SWBT*, Missouri Public Service Commission, Case No. TC-98-278 (April 23, 1998).

¹⁷ *Proceeding on Motion of the Commission to Investigate Reciprocal Compensation Related to Internet Traffic*, Order Denying Petition and Instituting Proceeding, New York Public Service Commission, Case No. 97-C-1275 (dated July 17, 1997). Here, the Commission ordered New York Telephone to pay reciprocal compensation for local exchange traffic delivered by ISPs served by MFS Intelenet of New York, which had been unilaterally withheld; Order Closing Proceeding, Case No. 97-C-1275 (dated March 19, 1998).

¹⁸ *Interconnection Agreement between BellSouth Telecommunications, Inc. and US LEC of North Carolina, Inc.*, Order Concerning Reciprocal Compensation for ISP Traffic, North Carolina Utilities Commission, Docket No. P-55, SUB 1027 (Dated February 26, 1998).

Oklahoma,¹⁹ Oregon,²⁰ Pennsylvania,²¹ Tennessee,²² Texas,²³ Virginia,²⁴ Washington,²⁵ West Virginia²⁶ and Wisconsin.²⁷ In addition, a commission-appointed arbitrator in Delaware has

¹⁹ *Application of Brooks Fiber Communications of Oklahoma, Inc., and Brooks Fiber Communications of Tulsa, Inc. for an Order Concerning Traffic Terminating to Internet Service Providers and Enforcing Compensation Provisions of the Interconnection Agreement with Southwestern Bell Telephone Company*, Oklahoma Corporation Commission, Cause No. PUD 970000548 (Feb. 5, 1998).

²⁰ *Petition of MFS Communications Company, Inc., for Arbitration of Interconnection Rates, Terms, and Conditions Pursuant to 47 U.S.C. Sec. 252(b) of the Telecommunications Act of 1996*, Decision, Order No. 96-324, Oregon Public Utility Commission, (dated December 9, 1996).

²¹ *Petition for Declaratory Order of TCG Delaware Valley, Inc. For Clarification of Section 5.7.2 of its Interconnection Agreement with Bell Atlantic-Pennsylvania, Inc.*, Pennsylvania Public Utility Commission, P-00971256 (June 2, 1998).

²² *Petition of Brooks Fiber to Enforce Interconnection Agreement and for Emergency Relief*, Initial Order of Hearing Officer, Tennessee Regulatory Authority, Docket No. 98-00118 (April 21, 1998)(the Regulatory Authority has voted to affirm the Hearing Officer's Order, written order pending).

²³ *Complaint and Request for Expedited ruling of Time Warner Communications*, Order, Texas Public Utility Commission, Docket No. 18082 (dated February 27, 1998).

²⁴ *Petition of Cox Virginia Telecom, Inc. for enforcement of interconnection agreement with Bell-Atlantic-Virginia, Inc. and arbitration award for reciprocal compensation for the termination of local calls to Internet Service Providers*, Final Order, Virginia State Corporation Commission, Case No. PUC970069 (dated October 24, 1997).

²⁵ *Petition for Arbitration of an Interconnection Agreement Between MFS Communications Company, Inc. and US WEST Communications, Inc., Pursuant to 47 U.S.C. § 252*, Arbitrator's Report and Decision, Washington Utilities and Transportation Commission, Docket No. UT-960323 (dated November 8, 1996) at 27, *aff'd U S West Communications, Inc. v. MFS Intelenet, Inc.*, No. C97-222WD (W.D.Wash. Jan. 7, 1998).

²⁶ *MCI Telecommunications Corporation Petition for arbitration of unresolved issues for the interconnection negotiations between MCI and Bell Atlantic – West Virginia, Inc.*, Order, West Virginia Public Service Commission, Case No. 97-1210-T-PC (dated January 13, 1998).

²⁷ *Contractual Disputes about the Terms of an Interconnection Agreement Between Ameritech Wisconsin and TCG Milwaukee, Inc.*, Wisconsin Public Service Commission, 5837-TC-100 (May 13, 1998).

recommended that ISP traffic be classified as local in nature, reasoning that ISPs take service from LECs under local exchange tariffs and use their connections to the public switched network as do other customers.²⁸

34. In Connecticut, for example, the Department of Public Utility Control ("Department") held that there is no difference between an ISP and the incumbent Southern New England Telephone's ("SNET's") other local exchange customers. Therefore, it concluded, traffic carried between SNET's end users and ISPs within the same local calling area is local in nature and subject to reciprocal compensation as contemplated under the interconnection agreement at issue. In reaching this conclusion, the Department reasoned that the usage characteristics of a specific end user are irrelevant. The Department stated:

ISPs are business local exchange customers that purchase service from SNET, use the network in a similar manner to the Company's other end users and, therefore, should not be treated any differently than other business local exchange customers. Overall, ISP traffic consists of both originating and terminating traffic similar to other end user customers. (Connecticut Decision at 9. The Decision is attached hereto as Exhibit E.)

35. Similarly, the Virginia Corporation Commission ordered that the termination of local calls to ISPs is subject to the reciprocal compensation terms of the interconnection agreement between BellAtlantic-Virginia, Inc. and Cox Virginia Telecom, Inc. The Corporation Commission found that:

Calls that are placed to a local ISP are dialed by using the traditional local-service, seven-digit dialing

²⁸ *Petition of MCI Telecommunications Corporation for the Arbitration of Unresolved Issues from the Interconnection Negotiations with Bell Atlantic-Delaware, Inc.*, Arbitration Award, Delaware Public Service Commission, Docket No. 97-323 (dated December 16, 1997) at 31.

sequence. Local service provides the termination of such calls at the ISP, and any transmission beyond that point presents a new consideration of service(s) involved. The presence of CLECs does not alter the nature of this traffic. (Virginia Opinion at 2. The Order is attached hereto as Exhibit F.)

36. Recently, the Texas Public Utility Commission unanimously ruled that ISP traffic is local traffic, and therefore, Southwestern Bell ("SBC") must reimburse Time Warner Communications for reciprocal compensation costs incurred since June 1997, with interest, as provided in their interconnection agreement (Exhibit G). The Texas Commission ordered SBC to pay approximately \$490,000 per month in back payments, plus interest. Like the other state commissions, the Texas Commission agreed that the destination of a call, not the content of a call, determines whether a call is local. This decision of the Texas PUC was recently affirmed by the U.S. District Court for the Western District of Texas in *Southwestern Bell Telephone Company v. Public Utility Commission*, Case No. MO-98-CA-43, Order dated June 16, 1998. Therein, the court confirmed that local calls terminating at ISP numbers were indeed local traffic subject to reciprocal compensation payments.

D. Policy And The Promotion of Competition Supports The Application of Reciprocal Compensation to ISP Traffic.

37. Because the law requires that BellSouth pay reciprocal compensation to e.spire, there is no policy issue before the Commission. To the extent that the Commission nonetheless chooses to consider broader policy issues, public policy also dictates that BellSouth pay reciprocal compensation to e.spire for ISP traffic.

38. Section 251(a)(5) of the Act provides that it is the duty of each telecommunications carrier to “establish reciprocal compensation arrangements for the transport and termination of telecommunications.” Section 252(d)(2)(A)(I) of the Act provides that such reciprocal compensation must be set at rates, terms and conditions that “provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier’s network facilities of calls that originate on the network facilities of the other carrier. . . .”

39. When a BellSouth customer places a call to an e.spire customer that is an ISP, BellSouth originates the call and then hands the call off to e.spire at their mutual point of interconnection. e.spire transports and terminates the call to its ISP customer. BellSouth is fully compensated by its customer for arranging the completion of its calls to ISPs through the payment of tariffed local exchange rates and subscriber line charges. By contrast, e.spire receives no compensation from BellSouth’s customer for providing termination services, and is barred by FCC rules²⁹ from charging access charges to the ISP. Therefore, unless BellSouth pays reciprocal compensation for the termination of calls placed to ISPs, BellSouth will be free-riding on e.spire’s network facilities in violation of Sections 251-252 of the Act. Indeed, the obscene result is that the incumbent LEC receives an undeserved windfall, in the form of free service, at the expense of new entrants in the local services market.

40. The charges that BellSouth refuses to pay are based on the rate set in BellSouth’s interconnection agreement with MFS. Accordingly, it is a rate BellSouth voluntarily agreed to that merely compensates e.spire for the cost of carrying the calls in question. Importantly, BellSouth also

²⁹ See, *In the Matter of Access Charge Reform*, First Report and Order, CC Docket No. 96-262, (rel. May 17, 1997).

avoids incurring the same cost amount when e.spire assumes service to the ISP customer. In effect, BellSouth is being forced, for the first time, to pay “access charges” for using another carrier’s network to terminate traffic. BellSouth – which has built its business on *receiving* similar access charges from other carriers – is in no position to complain, on a policy basis, about the imposition of such a charge to which it has voluntarily agreed.

41. In addition, BellSouth’s refusal to pay reciprocal compensation as contemplated under the Agreement will essentially give BellSouth a monopoly over the provision of service to ISP end users. Simply stated, any carrier that terminates calls to end users, whether the end users are residential customers, business customers or ISPs, incurs costs in terminating such calls. Given its historical monopoly in the local market, BellSouth controls almost all of the traffic that originates within its territory. By refusing to compensate e.spire and other CLECs for terminating its traffic, e.spire and other competitors of BellSouth are essentially being forced to terminate these calls for free. Obviously, if CLECs are not compensated for terminating calls to ISPs, the service will be rendered uneconomic, and CLECs will be forced to discontinue service to this class of customers. Indeed, in the pending FCC proceeding, ISPs have expressed concern that they will be unable to obtain service at all from CLECs if BellSouth continues to refuse to pay for the termination of ISP traffic. If this happens, BellSouth will have achieved a monopoly over the provisioning of local service to ISPs – a result clearly contradicting the pro-competitive goals of the Act.

42. Furthermore, the actions of BellSouth threaten the competitiveness of Internet access. Currently, BellSouth offers its own customers Internet access. If BellSouth gains a monopoly over local traffic to ISPs as a result of its refusal to pay reciprocal compensation and simultaneously raises

the costs ISPs must pay for network access, BellSouth has the potential to monopolize Internet access by forcing ISPs out of the market. Again, this result is clearly not in the public interest.

RELIEF SOUGHT

WHEREFORE, e.spire hereby requests that the Commission issue the following relief in response to this Complaint:

- (a) Determine that telephone calls placed within the same local calling area from a BellSouth end user to an e.spire ISP end user qualify as "local traffic" as defined in the Agreement;
- (b) Establish the rate for the transport and termination of local traffic between e.spire and BellSouth at \$.009 pursuant to the Most Favored Nations provision of the Agreement;
- (c) Order BellSouth to pay e.spire all amounts due, with interest, and owing in the future to e.spire pursuant to the Agreement;
- (d) Issue an order directing BellSouth to provide reports of local traffic usage to e.spire;
- (e) Order BellSouth to cease and desist from continuing to take the actions described herein;
- (f) Order attorneys fees;
- (g) Order such other relief as the Commission deems appropriate.

This 6th day of August, 1998.

Respectfully submitted,



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and ACSI Local Switched Services, Inc., d/b/a e.spire
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Complaint of e.spire
Communications, Inc. was provided this 6th day of August, 1998, by regular U.S. mail to:

Nancy B. White, Esq.
BellSouth Telecommunications, Inc.
150 South Monroe Street, Ste. 400
Tallahassee, FL 32301

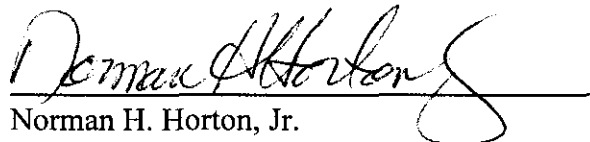

Norman H. Horton, Jr.

EXHIBIT A

**INTERCONNECTION AGREEMENT
BETWEEN ACSI AND BELLSOUTH**

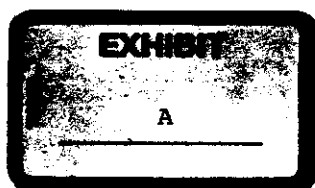


TABLE OF CONTENTS

	<u>PAGE</u>
I. <u>RECITALS AND PRINCIPLES</u>	1
II. <u>SCOPE OF THE AGREEMENT</u>	2
III. <u>DEFINITIONS</u>	2
IV. <u>ACCESS TO UNBUNDLED NETWORK ELEMENTS</u>	2
A. <u>General Requirements</u>	3
B. <u>Interconnection with Network Elements</u>	3
C. <u>Order Processing</u>	6
D. <u>Conversion of Exchange Service to Network Elements</u>	7
E. <u>Service Quality</u>	8
F. <u>Network Information Exchange</u>	9
G. <u>Maintenance and Trouble Resolution</u>	9
H. <u>Billing for Network Elements</u>	11
I. <u>Addition of Network Elements</u>	12
V. <u>LOCAL TRAFFIC INTERCONNECTION ARRANGEMENTS</u>	12
A. <u>Types of Local Traffic to Be Exchanged</u>	12
B. <u>Designated Points of Interconnection</u>	13
C. <u>Facilities for Local Interconnection</u>	15
D. <u>Trunking and Signaling</u>	16
E. <u>Network Management</u>	19
F. <u>Local Number Assignment</u>	21
G. <u>Cross-Connection to Other Collocators</u>	21
VI. <u>LOCAL TRAFFIC EXCHANGE</u>	21
A. <u>Exchange of Traffic</u>	21
B. <u>Compensation</u>	21
C. <u>Transit Traffic</u>	22
VII. <u>MEET-POINT BILLING ARRANGEMENTS</u>	22
A. <u>Applicability of OBF Guidelines</u>	22
B. <u>Meet-Point Interconnection</u>	23
C. <u>Tariffs</u>	24
D. <u>Billing and Data Exchange</u>	24
E. <u>Toll Free IXC Traffic</u>	26
F. <u>MPB Billing Percentages</u>	26
G. <u>Special Arrangements</u>	26
VIII. <u>TOLL TRAFFIC INTERCONNECTION</u>	27
IX. <u>NUMBER RESOURCE ARRANGEMENTS</u>	27

TABLE OF CONTENTS (cont'd)

X.	<u>ACCESS TO POLES, DUCTS, CONDUIT AND RIGHTS OF WAY</u>	28
XI.	<u>ANCILLARY SERVICES AND PLATFORM ARRANGEMENTS</u>	29
	A. <u>800 Traffic</u>	29
	B. <u>911/E-911</u>	30
	C. <u>Provision of Operator Services</u>	31
	D. <u>Transfer of Service Announcements</u>	32
	E. <u>Coordinated Repair Calls</u>	32
	F. <u>Busy Line Verification and Interrupt</u>	32
	F.1 <u>Description</u>	32
	F.2 <u>Compensation</u>	33
	G. <u>Directory Assistance (DA)</u>	33
	G.1 <u>Description</u>	33
	G.2 <u>Compensation</u>	33
	H. <u>Directory Listings and Directory Distribution</u>	33
	I. <u>Access to Signaling and Signaling Databases</u>	34
XII.	<u>TELEPHONE NUMBER PORTABILITY ARRANGEMENTS</u>	34
XIII.	<u>DISCONNECTION OF CUSTOMERS</u>	38
XIV.	<u>RESALE OF BELLSOUTH LOCAL EXCHANGE SERVICES</u>	38
XV.	<u>RESPONSIBILITIES OF THE PARTIES</u>	39
XVI.	<u>NETWORK DESIGN AND MANAGEMENT</u>	40
XVII.	<u>TERM</u>	41
XVIII.	<u>IMPLEMENTATION OF AGREEMENT</u>	41
XX.	<u>FORCE MAJEURE</u>	42
XXI.	<u>LIABILITY AND INDEMNIFICATION</u>	42
XXII.	<u>MOST FAVORABLE PROVISIONS</u>	45
XXIII.	<u>DEFAULT</u>	46
XXIV.	<u>NONDISCLOSURE</u>	46
XXV.	<u>ARBITRATION</u>	47
XXVI.	<u>WAIVERS</u>	48

TABLE OF CONTENTS (cont'd)

XXVII. GOVERNING LAW 48

XXVIII. ARM'S LENGTH NEGOTIATIONS 48

XXIX. NOTICES 49

XXX. ENTIRE AGREEMENT 49

XXXI. COUNTERPARTS 49

ATTACHMENT A (Operating Subsidiaries of American Communications Services, Inc.)

ATTACHMENT B (Definitions)

ATTACHMENT C-1 (Collocation Rates)

ATTACHMENT C-2 (Unbundled Exchange Access Loops)

ATTACHMENT C-3 (Loop Channelization)

ATTACHMENT C-4 (Unbundled Exchange Ports)

ATTACHMENT C-5 (Signalling Rates)

ATTACHMENT C-6 (LIDB Storage)

ATTACHMENT C-7 (LIDB Validation)

ATTACHMENT C-8 (Directory Listings)

ATTACHMENT C-9 (911 Access)

ATTACHMENT C-10 (Operator Call Processing Access Service)

ATTACHMENT C-11 (Directory Assistance Access Service)

ATTACHMENT C-12 (CMDS Hosting)

ATTACHMENT C-13 (Non-Sent Paid Report System)

ATTACHMENT D (SPNP-RCF Interim Costs)

ATTACHMENT E (SPNP-DID Interim Rates)

TABLE OF CONTENTS (cont'd)

ATTACHMENT F (Blanket Agency Agreement)

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**INTERCONNECTION AGREEMENT
BETWEEN ACSI AND BELL SOUTH COMMUNICATIONS**

Pursuant to this Interconnection Agreement (Agreement), American Communication Services, Inc. on behalf of its local exchange operating subsidiaries identified on Attachment A as it shall be amended from time to time (collectively "ACSI"), and BellSouth Telecommunications, Inc. (BellSouth) (collectively, "the Parties") agree to extend certain interconnection arrangements to one another within each LATA in which they both operate. This Agreement is an integrated package that reflects a balancing of interests critical to the Parties which the Parties believe is not inconsistent with Sections 251, 252 and 271 of the Telecommunications Act of 1996.

I. RECITALS AND PRINCIPLES

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

WHEREAS, ACSI is a competitive local exchange telecommunications company (CLEC) which is authorized or plans to become authorized to provide local telecommunications services in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Carolina and Tennessee; and

WHEREAS, the interconnection and interoperability of the Parties' respective local networks is required to facilitate the introduction of local exchange service competition and fulfill the objectives of the Telecommunications Act of 1996 (Telecommunications Act); and

WHEREAS, universal connectivity and interoperability between competing telecommunications carriers is necessary for the termination of traffic on each carrier's network; and

WHEREAS, the Parties intend that BellSouth should unbundle certain basic network elements and make them available for purchase by ACSI; and

WHEREAS, the Parties agree that this Agreement shall be filed with the appropriate state commissions in compliance with Section 252 of the Telecommunications Act;

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

II. SCOPE OF THE AGREEMENT

This Agreement will govern the interconnection and resale arrangements between the Parties to facilitate the interconnection of their facilities and the connection of local and interexchange traffic in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Carolina and Tennessee. This agreement will further govern the unbundling of BellSouth network elements in the same states. The Agreement will be filed for approval of the agreed terms with state commissions in each of the states listed above. ACSI will petition for state commission arbitration of the unresolved issues referred to herein. Upon conclusion of such state commission arbitration proceedings, the Agreement will be amended to reflect the decided issues and filed for approval consistent with the terms of Section 252(e) of the Telecommunications Act.

III. DEFINITIONS

The definitions contained in Attachment B are intended to define and govern how the terms included therein are used in this Agreement. However, except as provided herein, the inclusion or exclusion of any particular definition is not intended by either party to limit, or to define technical interface, reliability, performance or throughput parameters for the network elements that both Parties expect to interconnect and interoperate. The minimum performance, reliability, throughput and operational characteristic of elements identified herein, as well as physical and logical interface standards utilized, unless otherwise specifically provided herein, are according to generally accepted industry standards as defined by the ITU (ISO/CCITT), ANSI, or the Network Management Forum, whichever is more specific. Where standards are not yet fully defined, the Parties agree to take reasonable steps to insure that interface designs are modularized and retrofittable to any pending standard at the least cost to the interconnecting Parties.

IV. ACCESS TO UNBUNDLED NETWORK ELEMENTS

BellSouth shall unbundle network elements used in the provision of a telecommunications service and offer them for resale to ACSI as provided hereafter. ACSI shall be entitled to request, and BellSouth shall provide, access to any such unbundled network element(s). BellSouth shall unbundle such network elements where technically feasible, and separately price and offer those elements such that ACSI will be able to lease and interconnect to whichever of these unbundled network elements ACSI requires, and combine the BellSouth-provided network elements with any facilities and services that ACSI may itself provide or obtain from other telecommunications carriers, in order to offer telecommunications services to other telecommunications carriers and end users. Such network elements shall be offered as provided hereafter.

A. General Requirements

- A.1 The Parties hereto mutually understand and agree that the array of network elements is steadily evolving and expanding. The initial set of network elements and attendant services to be made available by BellSouth hereunder is included as Attachment C hereto. Network elements will be provided subject to the rules, terms and conditions expressed in this Article and in Attachment C. It is understood, however, and mutually agreed that either Party may add network elements to the listing contained in Attachment C as the BellSouth network changes or additional network elements are identified. It is especially acknowledged, without limitation, that the list of network elements may be expanded by either Party to include network elements identified in relevant FCC or state commission regulations or orders, or made available by BellSouth to other telecommunications carriers pursuant to other interconnection agreements. The addition or inclusion of additional network elements shall be made in accordance with subsection IV.I hereof.
- A.2 Without limitation, BellSouth agrees to provide ACSI access to all network elements identified in Attachment C hereto. Wherever technically feasible, interconnection shall be offered at the line and/or trunk side of each discrete network element. It is agreed that interconnection will be made available by BellSouth to ACSI at any technically feasible point. BellSouth must implement physical and logical interconnection points consistent with generally accepted industry standards.
- A.3 Initial pricing of network elements is included in Attachment C hereto, provided the Parties hereby agree that ACSI will petition for state commission arbitration to establish initial pricing of both nonrecurring and recurring charges applicable to the provision of unbundled loops, cross connections, loop channelization, unbundled ports, and associated facilities and services. In addition, the initial pricing may be revised by mutual agreement or at ACSI's election pursuant to Article XXII hereof.
- A.4 It is agreed that ACSI may combine network elements purchased hereunder as required to provide any local, toll or access service.

B. Interconnection with Network Elements

- B.1 Interconnection shall be achieved via collocation arrangements ACSI shall maintain at a BellSouth wire center or other BellSouth network point.
- B.2 At ACSI's discretion, each unbundled loop or port element shall be delivered to the ACSI collocation arrangement over an individual 2-wire hand-off, in multiples of 24 over a digital DS-1 hand-off in any

- combination or order ACSI may specify, in multiples of 672 over a digital DS-3 hand-off in any combination or order ACSI may specify, or through other technically feasible and economically comparable hand-off arrangements requested by ACSI. Economically comparable as used in this section refers to an economically comparable effect upon ACSI and is not meant to ensure an equivalent revenue stream or contribution level to BellSouth.
- B.3 BellSouth will permit ACSI to collocate DLC systems in conjunction with collocation arrangements ACSI maintains at a BellSouth wire center, for the purpose of interconnecting to unbundled loop elements. ACSI will have the option of purchasing BellSouth unbundled transport (at any transmission level) between placed equipment and the ACSI network.
- B.4 ACSI shall access BellSouth's unbundled loops via collocation at the BellSouth wire center where those elements exist. Each loop or port shall be delivered to ACSI's collocation by means of a cross connection.
- B.5 BellSouth shall provide ACSI access to its unbundled loops at each of BellSouth's Wire Centers. In addition, if ACSI requests one or more loops serviced by Integrated Digital Loop Carrier or Remote Switching technology deployed as a loop concentrator, BellSouth shall, where available, move the requested loop(s) to a spare, existing physical loop. If, however, no spare physical loop is available, BellSouth shall within forty-eight (48) hours of ACSI's request notify ACSI of the lack of available facilities. ACSI may then, at its discretion, make a network element request for BellSouth to provide the unbundled loop through the demultiplexing of the integrated digitized loop(s).
- B.6 Where BellSouth utilizes digital loop carrier (DLC) technology to provision the loop element of an unbundled exchange service to an end user customer who subsequently determines to assign the loop element to ACSI and receive Exchange Service from ACSI via such loop, BellSouth shall deliver such loop to ACSI on an unintegrated basis, pursuant to ACSI's chosen hand-off architecture, without a degradation of end user service or feature availability.
- B.7 Except as otherwise specified herein, all dedicated transport-based features, functions, service attributes, grades-of-service, install, maintenance, and repair intervals which apply to BellSouth's bundled local exchange service shall apply to unbundled loops.
- B.8 Except as otherwise specified herein, all switch-based features, functions, service attributes, grades-of-service, and install, maintenance, and repair intervals which apply to BellSouth's bundled local exchange service shall apply to unbundled ports.

- B.9 BellSouth will permit any customer to convert its bundled local service to an unbundled element or service and assign such unbundled element or service to ACSI, with no penalties, rollover, termination or conversion charges to ACSI or the customer, except as specifically provided in Attachment C-2 hereto or pursuant to the terms of a specific customer service agreement (unless superseded by government action).
- B.10 BellSouth will permit ACSI to collocate remote switching modules and associated equipment in conjunction with collocation arrangements ACSI maintains at a BellSouth wire center, for the purpose of interconnecting to unbundled loop or link elements.
- B.11 When available to any other telecommunications carrier or other customer, BellSouth shall provide ACSI with an appropriate on-line electronic file transfer arrangement by which ACSI may place, verify, and receive confirmation on orders for unbundled elements, and issue and track trouble-ticket and repair requests associated with unbundled elements. In the interim, batch file arrangements specified in BellSouth's current Facilities Based Carrier Operating Guide (FBOG) shall apply. BellSouth shall provide ACSI with the ability to order any defined network element using OBF or other mutually agreed upon ordering/provisioning codes.
- B.12 It is expressly agreed that interconnection will be afforded equally regardless of the transmission medium selected by the interconnector, *i.e.*, digital or analog loops, conditioned circuits, ISDN, SONET, wherever present in BellSouth's network, so that networks and applications can evolve unencumbered by the available degree of interconnectivity.
- B.13 Wherever technically feasible, it is expressly agreed and understood that BellSouth will provide interconnection on the line side and/or trunk side of each unbundled Network Element. Where interconnection is ordered to the line side of a Network Element, interconnection shall be on a hard-wired (not software driven) basis.
- B.14 The Parties shall attempt in good faith to mutually devise and implement a means to extend the unbundled loop sufficient to enable ACSI to use a collocation arrangement at one BellSouth location (*e.g.*, tandem switch) to obtain access to the unbundled loop(s) at another such BellSouth location over BellSouth facilities.
- B.15. BellSouth shall develop a process to identify the carrier for each unbundled loop and establish automated intercompany referral and/or call hand-off processes. In addition, BellSouth will not in any way hinder ACSI from deploying modem DLC equipment (TR303) throughout the unbundled loop/transport network.

C. Order Processing

- C.1 ACSI shall place orders for unbundled loops (and other network elements) through completion and submission of the Service Order form specified in the FBOG. The installation time intervals which shall apply thereto are as expressed in subsection IV.D hereafter.
- C.2 Order processing for unbundled loops shall be mechanized, in a form substantially similar to that currently used for the ordering of special access services. Automated interfaces shall be provided into a centralized operations support systems database for determining service availability on loops (e.g., ISCON), confirmation of order acceptance and ongoing order status. If made available by BellSouth to any other telecommunications carrier, automated interfaces shall be provided in a centralized operations support systems database for installation scheduling, confirmation of circuit assignments and completion confirmation.
- C.3 Particular combinations of elements, hereafter referred to as combinations, identified and described by ACSI can be ordered and provisioned as combinations, and not require the enumeration of each element within that combination in each provisioning order, consistent with OBF or other mutually agreed upon procedures.
- C.4 Appropriate ordering/provisioning codes will be established for each identified combination, consistent with OBF or other mutually agreed upon procedures.
- C.5 When combinations are ordered where the elements are currently interconnected and functional, those elements will remain interconnected and functional (except for the integrated SLC).
- C.6 When the open network access platform is available, BellSouth will provide ACSI with the ability to have the BellSouth end office AIN triggers initiated via an appropriate service order from ACSI.
- C.7 ACSI and BellSouth will negotiate in good faith to create a mutually acceptable standard service order/disconnect order format, consistent with OBF or other mutually agreed upon procedures.
- C.8 BellSouth shall exercise best efforts to provide ACSI with the "real time" ability to schedule installation appointments with the customer on-line and access to BellSouth's schedule availability beginning in the second calendar quarter of 1997. In the interim, BellSouth will install unbundled loops and other network elements by the Customer Desired Due Date (CDDD) where facilities permit.

- C.9 When available to any other telecommunications carrier or other customer, BellSouth shall provide "real time" response for firm order confirmation, due date availability/scheduling, dispatch required or not, identify line option availability by Local Service Office (LSO) (such as digital copper, copper analog, ISDN), completion with all service order and time and cost related fees, rejections/errors on service order data element(s), jeopardies against the due date, missed appointments, additional order charges (construction charges), order status, validate street address detail, and electronic notification of the local line options that were provisioned. This applies to all types of service orders and all network elements.
- C.10 The Parties will negotiate in good faith to establish expedite and escalation procedures for ordering and provisioning, including establishment of a process for ACSI to request the expedite an order on a customer's behalf.

D. Conversion of Exchange Service to Network Elements

- D.1 Installation intervals must be established to ensure that service can be established via unbundled loops in an equivalent timeframe as BellSouth provides services to its own customers, as measured from the date upon which BellSouth receives the order to the date of customer delivery.
- D.2 On each unbundled network element order in a wire center, ACSI and BellSouth will agree on a cutover time at least 48 hours before that cutover time. The cutover time will be defined as a 30-minute window within which both the ACSI and BellSouth personnel will make telephone contact to complete the cutover.
- D.3 Within the appointed 30-minute cutover time, the ACSI contact will call the BellSouth contact designated to perform cross-connection work and when the BellSouth contact is reached in that interval, such work will be promptly performed.
- D.4 If the ACSI contact fails to call or is not ready within the appointed interval and if ACSI has not called to reschedule the work at least two (2) hours prior to the start of the interval, BellSouth and ACSI will reschedule the work order.
- D.5 If the BellSouth contact is not available or not ready at any time during the 30-minute interval, ACSI and BellSouth will reschedule and BellSouth will waive the non-recurring charge for the unbundled elements scheduled for that interval.

- D.6 The standard time expected from disconnection of a live Exchange Service to the connection of the unbundled element to the ACSI collocation arrangement is 5 minutes. If BellSouth causes an Exchange Service to be out of service due solely to its failure for more than 15 minutes, BellSouth will waive the non-recurring charge for that unbundled element.
- D.7 If unusual or unexpected circumstances prolong or extend the time required to accomplish the coordinated cut-over, the Party responsible for such circumstances is responsible for the reasonable labor charges of the other Party. Delays caused by the customer are the responsibility of ACSI.
- D.8 If ACSI has ordered Service Provider Number Portability (SPNP) as part of an unbundled loop installation, BellSouth will coordinate implementation of SPNP with the loop installation.
- D.9 The conversion/installation time intervals which shall apply to unbundled loops and other network elements shall be as expressed herein.

E. Service Quality

- E.1 At a minimum, the service quality of leased network elements should match that of BellSouth's own elements and conform to all Bellcore and ANSI requirements applicable to the type of service being provided. In addition, BellSouth will provide maintenance services on network elements purchased by ACSI which are timely, consistent and at parity with that provided when such elements are used for its own purposes.
- E.2 Maintenance support shall be available 7 days a week, 24 hours a day. Provisioning support shall be available at the same times at which BellSouth installs its own bundled local exchange services.
- E.3 Installation and service intervals shall be the same as when BellSouth provisions such network elements for use by itself, its affiliates or its own retail customers.
- E.4 In facility and power outage situations, BellSouth agrees to provide network elements leased by ACSI the same priority for maintenance and restoration as similar elements used by BellSouth for itself or its affiliates.
- E.5 The Parties agree that all interconnection arrangements and services will at a minimum be subject to technical standards which are equal to those that BellSouth affords to itself, other LECs or other telecommunications carriers. This must, at a minimum, include parity in:

- Port features
- Treatment during overflow/congestion conditions
- Equipment/interface protection
- Power redundancy
- Sufficient spare facilities to ensure provisioning, repair, performance and availability
- Mediation functions
- Standard interfaces
- Real time control over switch traffic parameters
- Real time access to integrated test functionality
- Real time access to performance monitoring and alarm data

F. Network Information Exchange

- F.1 BellSouth shall provide ACSI with information sufficient to determine an end user's existing service and feature configurations.
- F.2 BellSouth agrees to provide ACSI with all necessary engineering information regarding all unbundled network elements and combinations thereof, including information normally provided on records such as the detailed design layout records (DLR) for unbundled loops and circuits.
- F.3 BellSouth shall provide information to ACSI on a continuing basis required to keep ACSI apprised of engineering changes associated with BellSouth's network elements and its deployment of new technologies.
- F.4 BellSouth shall provide ACSI with a detailed description of the criteria and procedures used for handling facility and power outages.
- F.5 Where permitted by law, BellSouth will make available to ACSI electronic (magnetic tape and/or diskette) and hard copies of its Master Street Address Guide (MSAG), and any regular updates thereof.
- F.6 BellSouth will provide ACSI with access to a listing and description of all services and features available down to street address detail, including: Type of Class 5 switch by CLLI, line features availability by LSO, and service availability by LSO, as well as the data elements required by BellSouth to provision all such services and features.

G. Maintenance and Trouble Resolution

- G.1 BellSouth shall provide automated interfaces to ACSI for field dispatch scheduling, status of repairs and confirmation of repair completion. The mean time to repair unbundled loops shall be equivalent to the mean time to repair reported by BellSouth for its retail customers.

- G.2 Service centers shall be established by both Parties to handle service issues, escalations, resolution of billing issues and other administrative problems. Automated interfaces (such as the carrier gateway) shall be provided into a centralized customer support systems databases for access to services and features purchased by ACSI from BellSouth.
- G.3 The Parties agree to establish a real time automated industry standard electronic interface (EBI) to perform the following functions:
- Trouble Entry
 - Obtain Trouble Report Status
 - Obtain Estimated Time To Repair (ETTR) and ILEC Ticket Number
 - Trouble Escalation
 - Network Surveillance - Performance Monitoring (*i.e.*, proactive notification of "auto detects" on network outages)
- G.4 The Parties agree to adopt a process for the efficient management of misdirected service calls.
- G.5 BellSouth will establish and staff a Maintenance Center to act as ACSI's single point of contact for all maintenance functions which will operate on a 24 hour a day, 7 days a week basis.
- G.6 All trouble shooting will be performed by BellSouth and BellSouth will be responsible for the reported trouble until turned back to ACSI.
- G.7 The Parties agree to establish an escalation process for resolving maintenance troubles.
- G.8 BellSouth shall perform Mechanized Loop Tests (Quick Test) at the request of ACSI while ACSI is on line.
- G.9 BellSouth shall provide progress status reports sufficient to enable ACSI to provide end user customers with detailed information and an estimated time to repair (ETTR).
- G.10 BellSouth will close all trouble reports with ACSI. ACSI will close all trouble reports with the end user.
- G.11 BellSouth will not undertake any work at an end user's request for which ACSI would be charged without obtaining the prior approval of ACSI. This includes authorizations by ACSI if a dispatch is required to the customer premises as well as verification of actual work completed.
- G.12 All Auto/Subscriber Line Tests (ALIT/SLIT) tests performed on ACSI customers that result in a failure will be reported to ACSI.

- G.13 ACSI will coordinate dispatches to the customer premise. This includes redispaches for customer access not available.
- G.14 BellSouth will ensure that all applicable alarm systems that support ACSI customers are operational and the supporting databases are accurate so that equipment that is in alarm will be properly identified. BellSouth will respond to ACSI customer alarms consistent with how and when they respond to alarms for their own customers.
- G.15 Nondiscriminatory emergency restoration and disaster recovery plans will be developed consistent with TSR essential line procedures. The plans should outline methods for the restoration of each central office in the local network provider territory as well as contain site specific restoration alternatives which can be implemented based on the magnitude of the disaster. Each plan should incorporate at a minimum the following elements:
- a. A BellSouth single point of contact which shall be:
 - Responsible for notification of the ACSI work center
 - Responsible for the initiation of BellSouth's restoration plan
 - Responsible for status and problem resolution during the entire restoration process
 - b. A restoration equipment dispatch plan which will establish a:
 - Documented procedure on how equipment will be dispatched to the restoration site
 - Estimated maximum time for the restoration equipment to arrive on site
 - c. Prior notification, with the option to influence the decision of any scheduled maintenance activity performed by the local supplier that may be service affecting to ACSI local customers (*i.e.*, cable throws, power tests, *etc.*).

H. Billing for Network Elements

- H.1 BellSouth will bill all unbundled elements and associated services purchased by ACSI (either directly or by previous assignment by a customer) on no more than two (2) consolidated statements per Point of Interconnection (POI) with sufficient billing detail to enable ACSI to reasonably audit such charges.
- H.2 Invoices must be presented monthly in a Carrier Access Billing Systems (CABS) and/or Customer Record Information System (CRIS) format in order to facilitate standard industry auditing practices. ACSI and

BellSouth will agree on the flow and format of CARE records for correct provisioning and billing to IXCs.

I. Addition of Network Elements

ACSI may request that BellSouth allow purchase and interconnection of additional Network Elements (including, without limitation, sub-loop unbundling and databases not otherwise discussed herein) at any time by making a demand in writing including a proposed revised Attachment C. BellSouth will respond in writing within thirty (30) days of receipt of such a request, and either accept or reject the service request. BellSouth may not refuse to make the requested Network Element available if its availability is required by FCC or state commission requirements, the Network Element is provided to any other telecommunications carrier, or interconnection is technically feasible and failure to obtain access to such Network Element might impair the ability of ACSI to provide telecommunications services. Pricing of such additional elements shall be provided within forty-five (45) days of receipt of the request for service, and shall be in accordance with the requirements of 47 U.S.C. § 252(d)(1). BellSouth will exercise best efforts to accomplish actual interconnection and provision of service within ninety (90) days of receipt of the service request.

V. LOCAL TRAFFIC INTERCONNECTION ARRANGEMENTS

A. Types of Local Traffic to Be Exchanged

The Parties agree to provide the necessary facilities and equipment to allow for the exchange of the following types of traffic between BellSouth and ACSI:

- A.1 Local Exchange: Local traffic to be terminated on each party's local network so that customers of either party have the ability to reach customers of the other party without the use of access codes.
- A.2 Exchange Access: The offering of access to telephone exchange services or facilities-based origination and termination of intraLATA or interLATA toll services.
- A.3 IXC Transit: BellSouth shall provide intermediary network access service between ACSI and any IXC for the purpose of completing interLATA or intraLATA toll traffic.
- A.4 Other Transit Functions: The Parties shall provide intermediary tandem switching and transport services for the other Party's connection of its end user to a local end user of other CLECs, other ILECs, and wireless telecommunications providers, which are connected to such Party's network.

- A.5 Intelligent Network and Network Surveillance: BellSouth shall provide open logical interconnection points to an AIN/IN interface in their network. BellSouth must also provide access to monitoring, surveillance and other fraud control functions in its network.
- A.6 Other Services: BellSouth shall provide connection and call routing for 911, directory assistance, and operator assistance services.

B. Designated Points of Interconnection

The Parties shall designate Points of Interconnection (POIs) on each other's networks. ACSI shall at a minimum designate a POI at each BellSouth access tandem serving the local calling area of the exchanges being served by ACSI. ACSI may designate additional POIs within a BellSouth local calling area and BellSouth will not unreasonably refuse to interconnect at each such designated POI. BellSouth may designate a POI at one or more of ACSI's local switching centers within each LATA in which ACSI is providing local service. If no ACSI local switching center is located within such LATA, the Parties will arrange a POI at a mutually agreed point within such LATA. ACSI will not unreasonably refuse to interconnect at a POI designated by BellSouth.

- B.1 Interconnection will be available at any technically feasible point that is used in the transmission of voice, data or other types of traffic.
- B.2 Reciprocal connectivity shall be established at each and every BellSouth access tandem within the local calling area ACSI desires to serve for interconnection to those end offices that subtend the access tandem. At its discretion, ACSI may elect to interconnect directly at any BellSouth end offices for interconnection to end users served by that end office. Such interconnecting facilities shall conform, at a minimum, to the telecommunications industry standard of DS-1 pursuant to Bellcore Standard No. TR-NWT-00499. Signal transfer point, Signaling System 7 (SS7) connectivity is required at each interconnection point where available. BellSouth will provide out-of-band signaling using Common Channel Signaling Access Capability where technically and economically feasible, in accordance with the technical specifications set forth in the BellSouth Guidelines to Technical Publication, TR-TSV-000905. The Parties agree that their facilities shall provide the necessary on-hook, off-hook answer and disconnect supervision, and shall hand off calling party number ID where technically feasible.
- B.3 In accordance with Section V.C hereafter, collocation arrangements will be established which are suitable for use in ACSI/BellSouth local interconnection and ACSI access to unbundled BellSouth network components. Allowable collocation equipment includes transmission and concentrating equipment.

- B.4 In accordance with Section V.D hereafter, the Parties agree to establish trunk groups such that each Party provides a reciprocal of each trunk group established by the other Party. The Parties agree to install efficient and sufficient facilities to carry traffic (1) to route calls originating on its network and terminating on the other carrier's network to its POI, and (2) to route calls originating on the other local exchange carrier's network, but terminating on its network from that carrier's POI, and will work cooperatively to ensure such. Notwithstanding the foregoing, each Party may construct its network, including the interconnecting facilities, to achieve optimum cost effectiveness and network efficiency.
- B.5 Each Party shall be responsible for routing calls to the POI for termination via the other's facilities. Each Party shall bear its own costs related to installation at the POI. ACSI may establish POIs on the BellSouth network via a negotiated expanded interconnection arrangement or via leased transport between the ACSI network and the BellSouth access tandem. BellSouth may establish POIs on the ACSI network via an expanded interconnection arrangement at the ACSI local switching center or via leased transport between an ACSI expanded interconnect arrangement and an ACSI local switching center.
- B.6 Either Party may use the POI for the interconnection of other types of services, such as toll services, subject to the applicable rates for such interconnection.
- B.7 BellSouth may not impose any restrictions on traffic types delivered to or from the POI(s). Notwithstanding the foregoing, the Parties hereto agree that no interexchange access services traffic will be exchanged as local traffic hereunder.
- B.8 Once traffic is delivered to the POI, it is the terminating carrier's responsibility to terminate the traffic to its end users. Calls should be terminated using the same network, ensuring the same quality of service, as the carrier provides its own customers.
- B.9 There will no re-arrangement, reconfiguration, disconnect, or other non-recurring fees associated with the initial reconfiguration of each carrier's existing traffic exchange arrangements upon execution of this agreement.
- B.10 BellSouth will absorb any applicable nonrecurring charges incurred by ACSI as a result of network redesigns/reconfigurations initiated by BellSouth to its own network.

C. Facilities for Local Interconnection

- C.1 The Parties agree that there are three appropriate methods of interconnecting facilities: (1) virtual collocation where physical collocation is not practical for technical reasons, because of space limitations or at the option of the Party requesting interconnection; (2) physical collocation; and (3) interconnection via purchase of facilities from either party by the other party. Rates and charges for collocation are set forth in Attachment C-1 hereto and applicable provisions of BellSouth's access service tariffs.
- C.2 Each Party hereto at its election shall have the sole right and discretion to specify any one of the following methods for interconnection at the POI:
- a. a meet in a manhole or other appropriate junction point inside, near to, or just outside the wire center designated as the POI, in which case the Party requesting interconnection shall additionally have the sole right and discretion to effect such meet by leasing from a third party, fiber facilities into the POI meet junction point (*i.e.*, virtual collocation);
 - b. a collocation facility which it maintains at the other Party's POI wire center (*i.e.*, physical collocation);
 - c. a collocation facility maintained at the POI wire center by a third party with whom the Party requesting interconnection has contracted for such purpose; or
 - d. a digital transport facility(ies) leased from the other Party hereto under the most favorable contract or tariff terms offered, where such facility(ies) extends to the POI from some second point designated by the Party requesting interconnection.

The Party requesting interconnection may, upon 60 days' advance written notice to the other Party, change from one of the interconnection methods specified above to another of the networks specified above. A mutually acceptable certified vendor for the installation of physical collocation equipment can be employed by the Party making the change to implement such changes, in which case no conversion or rollover charges will be assessed by the other party.

- C.3 Existing ACSI special access collocation arrangements with BellSouth shall be available for use by ACSI in the provision of switched services hereunder at no additional charge to ACSI.
- C.4 ACSI may at its option replace current virtual collocation arrangements at any location with physical collocation arrangements. The Parties agree

that no termination penalties or liabilities will apply to the termination of existing virtual collocation arrangements. A certified vendor for the installation of physical collocation equipment can be employed by the Party making the change to implement such a replacement, in which case no conversion, installation or non-recurring charges will be assessed by the other Party.

D. Trunking and Signaling

- D.1 a. The Party receiving traffic for termination can elect to receive the traffic in one of two ways: (a) over separate trunks for local and non-local; or (b) on combined trunks; provided that separate trunk groups shall be utilized where the delivering party is unable to furnish an auditable percent local usage (PLU) factor to the party receiving the traffic on a quarterly basis.
- b. If direct end office trunking with combined trunks is used, the Parties will work cooperatively to develop a procedure for accurately determining the amount of interLATA access traffic for proper application of switched access charges.
- D.2 Trunking shall be available to any switching center designated by either carrier: including end offices, access tandems, 911 routing switches, directory assistance/operator services switches, or any other feasible point in the network. The Parties shall have the option for either one-way or two-way trunking. Directionality in this case refers to the traffic flowing between two networks, not to the logical or physical configuration of the trunk. All trunks should be configured two-way for testing purposes only.
- D.3 Trunking can be established to tandems or end offices or a combination as mutually agreed. Normally, trunking will be at the DS-1 level. On a trunk group specific basis, the Parties may agree to establish trunking at higher (e.g., DS-3) levels. Initial trunking will be established between the ACSI local switching centers and the BellSouth access tandems. The Parties will utilize direct end office trunking under the following conditions:
- a. BellSouth tandem exhaust - If a BellSouth access tandem to which ACSI is interconnected is unable to, or is forecasted to be unable to, support additional traffic loads for any period of time, the Parties will mutually agree on an end office trunking plan that will alleviate the tandem capacity shortage and ensure completion of traffic between ACSI and BellSouth subscribers.

- b. Traffic volumes - The Parties shall install and retain direct end office trunking sufficient to handle actual or reasonably forecast traffic volumes, whichever is greater, between an ACSI local switching center and a BellSouth office where traffic between such points exceeds or is forecast to exceed 125,000 minutes of local traffic per month. The Parties will install additional capacity between such points when overflow traffic between the ACSI switching center and BellSouth access tandem exceeds or is forecast to exceed 125,000 minutes of local traffic per month.
 - c. Mutual agreement - The Parties may install direct end office trunking upon mutual agreement in the absence of conditions (a) or (b) above and agreement will not unreasonably be withheld.
- D.4 The Parties will provide Common Channel Signaling (CCS) to one another, where and as available, at no charge, in conjunction with all POI trunk groups. The Parties will cooperate in the exchange of Transaction Capabilities Application Part (TCAP) messages to facilitate full interoperability of CCS-based features between their respective networks, including all CLASS features and functions, to the extent each carrier offers such features and functions to its own end users. All CCS signaling parameters will be provided including calling party number (CPN), originating line information (OLI) calling party category, charge number, *etc.* All privacy indicators will be honored. Where available, network signaling information such as Carrier Identification Parameter (CCS platform) and CIC/OZZ information (non-CCS environment) will be provided wherever such information is needed for call routing or billing. The Parties will follow all Ordering and Billing Forum (OBF) adopted standards pertaining to CIC/OZZ codes. Where CCS is not available, in-band multi-frequency (MF) wink start E&M channel associated signaling will be provided. Such MF arrangements will require a separate trunk group between ACSI's switch and one specified BellSouth switch.
- D.5 ACSI shall establish CCS interconnection with BellSouth signal transfer points (STPs) in each LATA, either directly or via an intermediary STP provider.
- D.6 ACSI may opt at any time to terminate to BellSouth some or all local exchange traffic and intraLATA toll traffic originating on its network, together with switched access traffic, via Feature Group A, B, C or D Switched Access services which ACSI may otherwise purchase from BellSouth, subject to the rates, terms and conditions specified in BellSouth's applicable switched access tariffs. At no time shall ACSI be required to route outbound traffic via facilities for which a full retail or end user toll charge would be assessed when parallel FG-A, FG-B, FG-C.

or FG-D routing, or routing via a different carrier exists which is capable of carrying and completing said traffic at more favorable rates.

- D.7 The Parties will cooperate to jointly plan for the deployment of intercompany 64 Kbps per second clear channel capability.
- D.8 Service arrangements hereunder shall be engineered to an objective, consistent P.01 or better grade of service at the peak busy hour.
- D.9 The Parties shall periodically exchange technical descriptions and trunk/traffic forecasts of their interconnection and traffic requirements in sufficient detail to assure traffic completion to and from all customers within the appropriate calling areas.
- D.10 BellSouth shall deliver intraLATA traffic originating from its subscribers and terminating to ACSI's subscribers via a trunk group using facilities leased from ACSI on mutually agreeable terms.
- D.11 BellSouth will provide interconnection to and from intelligent network, signaling, monitoring, surveillance and fraud control points.
- D.12 BellSouth shall provide and implement all mandatory industry standard SS7 parameters as well as procedures that are defined in the applicable Bellcore standards, even if today's services do not specifically require these features. These functions shall include:
 - a. All functions of the ISUP, TCAP, SCCP, and MTP as specified in relevant Bellcore specifications.
 - b. All functions of the OMAP, including MTP Routing Verification Test (MRVT) and SCCP Routing Verification Test (SRVT).
- D.13 BellSouth shall provide a signaling link which consists of a 56 kbps transmission path or other rates as defined by ANSI standards between ACSI designated Signaling Points of Interconnection (SPOIs), satisfying an appropriate requirement for physical diversity.
- D.14 The Parties shall meet or exceed SS7 performance objectives as described in Bellcore TR-905 section 7, and MTP and SCCP performance as specified by ANSI.
- D.15 Either Party shall have the option for Multi-Frequency (MF) signaling, but only when either party does not have the technical capability to provide SS7 facilities.
- D.16 Other Signaling Requirements:

- a. CIP shall be provided (CIC within the SS7 call set-up signaling protocol) at tariffed charges.
- b. All mandatory SS7 signaling parameters must be provided including
* Calling Party Number (CPN). All privacy indicators must be honored.
- c. The Parties must provide Signaling System 7 (SS7) to one another.

E. Network Management

- E.1 The Parties agree to work cooperatively to install and maintain reliable interconnected telecommunications networks, including but not limited to, the exchange of appropriate information concerning network changes that affect services to the other Party, maintenance contact numbers and escalation procedures.
- E.2 The interconnection of all networks will be based upon accepted industry/national guidelines for transmission standards and traffic blocking criteria.
- E.3 The Parties will work cooperatively to apply sound network management principles by invoking appropriate network management controls (e.g., call gapping) to alleviate or prevent network congestion.
- E.4 The Parties will cooperate to determine the performance of their respective networks and will implement joint management controls to further overall service integrity.
- E.5 The Parties will jointly develop and agree on a Joint Interconnection Grooming Plan prescribing standards to ensure that traffic exchanged over the POI trunk groups experiences a consistent P.OI or better grade of service peak busy hour, and other appropriate, relevant industry-accepted quality, reliability and availability standards. Such plan shall also include mutually agreed upon standards for the configuration of segregated POI trunk groups. In addition, the plan shall also include standards and procedures for notification of trunk disconnections and discoveries of trunk disconnections. Neither Party shall be expected to maintain active status for a trunk disconnected by the other Party for an extended or indefinite period of time. The Parties will use their best collective good faith efforts to complete and agree on a Joint Interconnection Grooming Plan within 90 days following execution of this agreement.
- E.6 BellSouth will establish and adhere to industry standard intervals for the delivery of FOCs, DLRs and facilities. Such intervals need to ensure that facilities are provisioned in time frames and according to standards that meet or exceed those that BellSouth provides to itself for its own network

and end users. Intervals should not exceed the Customer Designated Date (CDD).

- E.7 • Upon request, BellSouth will provide ACSI with access to the BellSouth maintenance and trouble report systems including the following systems and/or functionality:
- Trouble reporting/dispatch capability - access must be real time
 - Repair status/confirmation; maintenance/trouble report systems
 - Planned/unplanned outage reports (where available to any other telecommunications carrier)
- E.8 Each Party has the duty to alert the other to any network events that can result or has resulted in service interruption, blocked calls, or changes in network performance, on a real time basis.
- E.9 BellSouth will adopt any multi-ILEC trouble management procedures and escalation processes developed by the NOF.
- E.10 The Parties will work cooperatively to plan and implement coordinated repair procedures for the local interconnection trunks and facilities to ensure trouble reports are resolved in a timely and appropriate manner.
- E.11 The Parties will provide each other with a trouble reporting number that is readily accessible and available 24 hours a day, 7 days a week. In addition, the Parties will provide each other test-line numbers and access to test lines.
- E.12 The quality of interconnection services should be no less than that provided by BellSouth for its own services.
- E.13 Installation and restoration of interconnection circuits by BellSouth for ACSI will be given equal priority as is given by BellSouth to similar services performed by BellSouth for any other telecommunications carrier.
- E.14 The time interval for installation of POIs by BellSouth will be negotiated on an ICB basis, subject to an agreement that installation of such POI's will be completed within a target of sixty (60) calendar days.
- E.15 Completion confirmation shall be provided to ensure that all necessary translation work is completed on newly installed facilities.
- E.16 The Parties shall periodically exchange technical descriptions and forecasts of their interconnection and traffic requirements in sufficient detail to assure traffic completion to and from all customers within the appropriate calling areas.

E.17 BellSouth will provide and update an electronic copy of their Switch Network ID Database with a complete list of features and functions by switch, i.e., NPA/NXXs, rate centers, etc.

F. Local Number Assignment

ACSI will assign telephone numbers to its customers using at least one NXX per BellSouth tariffed local exchange metropolitan area; provided, that sufficient quantities of numbering resources are made available to ACSI.

G. Cross-Connection to Other Collocators

Where one Party collocates in the wire center of the other Party, the Party operating the wire center shall allow the Party collocated at the wire center to directly interconnect to any other entity which maintains a collocation facility at that same wire center. The Party operating the wire center shall enable such interconnection by effecting a cross-connection between those collocation facilities, as jointly directed by the Party collocated at the wire center and the other collocated entity. For each such cross-connection, the Party operating the wire center shall charge the otherwise applicable standard tariff or contract special access cross-connect rate to the collocated Party. No other charges shall apply for such cross-connection. ACSI reserves its right to petition for state commission arbitration of the pricing of such cross-connections.

VI. LOCAL TRAFFIC EXCHANGE

A. Exchange of Traffic

The Parties agree for the purpose of this Agreement only that local interconnection is defined as the delivery of local traffic to be terminated on each party's local network so that customers of either party have the ability to reach customers of the other party, without the use of any access code or delay in the processing of the call. The Parties further agree that the exchange of traffic on BellSouth's Extended Area Service (EAS) shall be considered local traffic and compensation for the termination of such traffic shall be pursuant to the terms of this section.

B. Compensation

With the exception of the local traffic specifically identified in subsection (C) hereafter, each party agrees to terminate local traffic originated and routed to it by the other party. The Parties agree that BellSouth will track the usage for both companies for the period of the Agreement. BellSouth will provide copies of such usage reports to ACSI on a monthly basis. For purposes of this Agreement, the Parties agree that there will be no cash compensation exchanged by the parties

during the term of this Agreement unless the difference in minutes of use for terminating local traffic exceeds 2 million minutes per state on a monthly basis. In such an event, the Parties will thereafter negotiate the specifics of a traffic exchange agreement which will apply on a going-forward basis.

C. Transit Traffic

If either party provides intermediary tandem switching and transport services for the other party's connection of its end user to a local end user of: (1) a CLEC other than ACSI; (2) an ILEC other than BellSouth; or (3) another telecommunications company such as a wireless telecommunications service provider, the party performing the intermediary function will bill a \$0.002 per minute charge. However, BellSouth agrees that ACSI may cross-connect directly to such third Parties at the POI. In such an event, tariffed cross-connection non-recurring charges will apply, and no transitting charge will apply.

VII. MEET-POINT BILLING ARRANGEMENTS

Both Parties hereto provide interexchange access transport services to IXCs and other access service customers. Pursuant to the terms of this Agreement, ACSI will interconnect at selected BellSouth switches of its choosing for the purposes of providing certain Switched Access Services. On such occasions, a portion of the access transport service will be provided by each of the Parties hereto. This section establishes arrangements intended to enable each of the Parties hereto to serve and bill their mutual Switched Access Service customers, on an accurate and timely basis. The arrangements discussed in this section apply to the provision of both interLATA and intraLATA Switched Access Services. It is understood and agreed that ACSI is not obligated to provide any of its Switched Access Service(s) through any specific access tandem switch or access tandem provider, and may at its sole discretion, with due notice to those affected, modify its serving arrangements on its own initiative.

A. Applicability of OBF Guidelines

Meet-point billing (MPB) arrangements shall be established between the Parties to enable ACSI to provide, at its option, Switched Access Services to third Parties via specified LEC switches, in accordance with the Meet-Point Billing guidelines adopted by and contained in the Ordering and Billing Forum's MECAB and MECOD documents, except as modified herein. These arrangements are intended to be used to provide Switched Access Service that originates and/or terminates on an ACSI-provided Exchange Service, where the transport component of the Switched Access Service is routed through specified BellSouth switches.

B. Meet-Point Interconnection

- B.1 The Parties shall establish MPB arrangements in each LATA or locality where switched services are provided by ACSI, between the correspondingly identified Rating Point/Switch pairs. BellSouth shall provide homing/subtending access tandem arrangements through the same (or a closely proximate) switching entity used for access services to BellSouth's end users. This does not foreclose the possibility that other mutually agreeable arrangements may be utilized by mutual agreement of the Parties where appropriate.
- B.2 At ACSI's discretion, interconnection for the MPB arrangement shall be established at the POI as described hereafter, at a collocation facility maintained by ACSI or an affiliate of ACSI at specified BellSouth switches, or at any point mutually agreed to by the Parties, consistent with the terms and conditions herein.
- B.3 Two-way meet point trunks which are separate from the local interconnection trunk groups will be established to enable ACSI and BellSouth to provide Exchange Access Services to IXCs via a BellSouth Central Office. No Party shall charge the other any amount for any meet point facilities unless one Party is ordering trunks from the other.
- B.4 Common Channel Signaling (CCS) shall be utilized in conjunction with meet-point billing arrangements to the extent such signaling is technically compatible with and economically reasonable to provide through the BellSouth switch, except that MF signaling shall be used on a separate trunk group for originating FGD access to Exchange Access Customers that uses the MF FGD signaling protocol. The Parties may establish CCIS interconnection either directly or through a third party.
- B.5 ACSI may establish CCS interconnections either directly or through a third-party. The Parties will exchange TCAP messages to facilitate full interoperability of CCIS-based features between their respective networks, including all CLASS features and functions to its own end users. The Parties will provide all CCIS signaling, Billing Number, originating line information (OLI) and any other such similar service. For terminating FGD, BellSouth will pass CPN if it receives CPN from FGD carriers.
- All privacy indicators will be honored. Where available, network signaling information, such as Transit Network Selection (TNS) parameter (CCIS platform) and OZZ/CIC information (non-CCIS environment) will be provided whenever such information is needed for call routing or billing. The Parties will follow all OBF adopted standards pertaining to TNS and OZZ/CIC codes.

- B.6 All originating Toll Free Service calls for which BellSouth performs the Service Switching Point (SSP) function (e.g., performs the database query) shall be delivered by ACSI using GR-394 format over a trunk group designated for Toll Free Service. Carrier Code "0110" and Circuit Code of "08" shall be used for all such calls. In the event ACSI becomes a toll free service provider, BellSouth shall deliver traffic using the GR-394 format over a trunk group designated for Toll Free Service.
- B.7 All originating Toll Free Service calls for which ACSI performs the SSP function, if delivered to BellSouth, shall be delivered by ACSI using GR-394 format over the meet point trunk group for calls destined to IXCs, or shall be delivered by ACSI using GR-317 format over the Local Interconnection Trunk Group for calls destined to end offices that directly subtend BellSouth access tandems.
- B.8 Originating Feature Group B calls shall be delivered to BellSouth's tandem using the interLATA trunk groups.

C. Tariffs

ACSI and BellSouth will use their best reasonable efforts, individually and collectively, to maintain provisions in their respective federal and state access tariffs sufficient to reflect this MPB arrangement, including appropriate MPB percentages consistent with applicable industry standard practice and in accordance with Section VII.F hereafter.

D. Billing and Data Exchange

- D.1 Each Party shall implement the "Multiple Bill/Multiple Tariff" option in order to bill an IXC for the portion of the jointly provided telecommunications service provided by that Party. For all traffic carried over the MPB arrangement, each Party shall only bill the rate elements identified for it in this Agreement. For transport elements subject to billing percentages, each Party shall utilize the billing percentages discussed in Section III.C preceding and Section VII.F hereafter. The actual rate values for each element shall be the rates contained in that Party's own effective federal and state access tariffs. The Parties shall utilize complementary monthly billing periods for meet-point billing.
- D.2 BellSouth may charge the IXC for use of the entrance facility, the tandem switching and the mutually agreed portion of non-interconnection transport charges. BellSouth will not include an element for the Residual Interconnection Charge (RIC) and ACSI will be entitled to bill and collect the appropriate RIC and/or any other applicable rate elements.

- D.3 Each party will provide to the other access records sufficient to enable billing to the IXCs. Records shall be provided in the Exchange Message Record format, Bellcore Standard BR 010-200-010, as amended.
- D.4 BellSouth shall provide to ACSI the billing name, billing address, and CIC of the IXCs and copies of relevant IXC Access Service Requests (ASRs), in order to comply with the MPB notification process as outlined in the MECAB document, on an electronic medium basis using the EMR format.
- D.5 BellSouth shall provide ACSI, on a daily basis, switched access detail usage data (EMR Category 1101XX records) on magnetic tape or via electronic file transfer using EMR format, for calls from IXCs that have transitted BellSouth's tandems and terminated to ACSI's switching center(s).
- D.6 ACSI shall provide BellSouth, on a monthly basis, switched access summary usage data (EMR Category 1150XX records) on magnetic tape or via electronic file transfer using EMR format, for calls to IXCs which originate at ACSI's switching center(s).
- D.7 The Parties will exchange test files to support the initial implementation of the meet point billing processes provided for in this Agreement. Exchange of test data will commence one week after AMA certification begins. These data shall be actual recorded usage records.
- D.8 Each Party shall coordinate and exchange the billing account reference (BAR) and billing account cross reference (BACR) numbers for the MPB Service. Each Party shall notify the other if the level of billing or other BAR/BACR elements change, resulting in a new BAR/BACR number.
- D.9 If access usage data is not processed and delivered by either Party and sent to the other in a timely manner and in turn such other Party is unable to bill the IXC, the delivering Party will be held liable for the amount of lost billing.
- D.10 Errors may be discovered by ACSI, the IXC or BellSouth. Both BellSouth and ACSI agree to provide the other Party with notification of any discovered errors within seven (7) business days of the discovery. In the event of a loss of data, both Parties shall cooperate to reconstruct the lost data and if such reconstruction is not possible, shall accept a reasonable estimate of the lost data based upon three (3) to twelve (12) months of prior usage data.
- D.11 The Parties shall not charge one another for the services rendered or information provided pursuant to this Section VII of this Agreement.

E. Toll Free IXC Traffic

MPB will apply for all traffic bearing the 800, 888, or any other non-geographic NPA which may be likewise designated for such traffic in the future, where the responsible party is an IXC. In those situations where the responsible party for such traffic is a LEC, full switched access rates will apply.

F. MPB Billing Percentages

The MPB billing percentage for each ACSI Rating Point shall be calculated according to the following formulas:

In any service jointly provided by BellSouth and ACSI for which meet point billing arrangements are adopted, the meet point billing percentages shall be based on the relative distances (*i.e.*, airline mileage) between the meet point and the two rating points as follows:

$$\text{ACSI percentage} = \frac{a}{(a+b)} \qquad \text{BellSouth percentage} = \frac{b}{(a+b)}$$

where "a" is the airline mileage between the relevant ACSI rating point (*e.g.*, serving switch) and the meet point and "b" is the airline mileage between the BellSouth rating point and the meet point.

G. Special Arrangements

- G.1 In a few instances, the involvement of yet a third provider of switched access may be needed for particular traffic. For purposes of customer billing, when three or more LECs are involved in the transmission of a particular message, the intermediate carriers will have no rating point, and the relevant mileage measurement is between the two end points.
- G.2 In the case of IXC traffic terminating to ACSI ported numbers, the Parties will, unless IXC actual minutes of use can be measured, account for access revenue on a state-by-state basis by using verifiable BellSouth/ACSI interstate and intrastate minutes of use reported on the applicable ARMIS report at the total IXC access rates applicable to BellSouth less the BellSouth/ACSI meet point access minutes at the meet point billing access rates applicable to BellSouth, with no other subtractions.
- G.3 If either Party provides intermediary functions for network access service connection between an IXC and another Party, each Party will provide their own network access services to the IXC on a meet-point basis. The meet-point billing arrangement will be through the multiple bill. Each Party will bill its own network access services rates to the IXC with the

exception of the residual interconnection charge. Each Party shall bill 50% of its residual interconnection charges in such case.

VIII. TOLL TRAFFIC INTERCONNECTION

- A. The delivery of interexchange toll traffic by a Party to the other Party shall be reciprocal and compensation will be mutual. For terminating its toll traffic on the other Party's network, each Party will pay the other Party's tariffed terminating switched access rate, inclusive of the interconnection charge and the carrier common line rate elements of the switched access rate. The Parties agree that their terminating switched rate shall be the rate in effect when the traffic is terminated.
- B. For originating and terminating interexchange toll traffic, each Party shall pay the other Party's tariffed switched network access service rate elements. Said rate elements shall be as set out in the Parties' respective access services tariffs as those tariffs are amended from time to time during the term of this Agreement. The appropriate charges will be determined by the routing of the call. If ACSI is the BellSouth end user's presubscribed interexchange carrier or if the BellSouth end user uses ACSI as an interexchange carrier on a 10XXX basis, BellSouth will charge ACSI the appropriate tariff charges for originating network access services. If BellSouth is serving as the ACSI end user's presubscribed interexchange carrier or if the ACSI end user uses BellSouth as an interexchange carrier on a 10XXX basis, ACSI will charge BellSouth the appropriate BellSouth tariff charges for originating network access services.

IX. NUMBER RESOURCE ARRANGEMENTS

- A. Nothing in this Agreement shall be construed to in any manner limit or otherwise adversely impact either Party's right to request and be assigned any North American Numbering Plan (NANP) number resources including, but not limited to, central office (NXX) codes pursuant to the Central Office Code Assignment Guidelines (last published by the Industry Numbering Committee (INC) as INC 95-0407-008, Revision 4/7/95, formerly ICCF 93-0729-010), or to independently, and in a technically compatible manner, establish and publish in any and all switched telecommunications industry routing and rating databases, by tariff or otherwise, Rate Centers Rating Points, destination switching entity/office and routing/tandem information corresponding to such NXX codes.
- B. During any period under this Agreement in which it serves as the NANP administrator for its territory, BellSouth shall ensure that ACSI has nondiscriminatory access to telephone numbers for assignment to its telephone exchange service customers, and will assist ACSI in applying for NXX codes for its use in providing local exchange services. BellSouth shall provide numbering

resources pursuant to the Bellcore Guidelines Regarding Number Assignment. ACSI agrees that it will complete the NXX code application in accordance with Industry Carriers Compatibility Forum, Central Office Code Assignment Guidelines, ICCF 93-0729-010.

- C. If during the term of this Agreement BellSouth is no longer the NANP administrator, the Parties agree to comply with the guidelines, plan or rules adopted pursuant to 47 U.S.C. § 251(e).
- D. It shall be the responsibility of each Party to program and update its switches and network systems pursuant to the local exchange routing guide (LERG) and other switched telecommunications industry guidelines to recognize and route traffic to the other Party's assigned NXX codes using that party's preferred routing at all times. Neither Party shall impose any fees or charges whatsoever on the other Party for such activities, except as expressly defined in this Agreement.
- E. Each Party shall be responsible for notifying its customers of any changes in dialing arrangements due to NPA exhaustion. Neither party shall be obligated to adopt the specific end user dialing plan of the other.
- F. Administration and assignment of numbers will be moved to a neutral third party in the future. In the interim, while BellSouth is still administering numbering, the following will apply:
 - 1. BellSouth will assign NXXs to ACSI on a nondiscriminatory basis and on the same basis as to itself.
 - 2. Testing and loading of ACSI's NXXs' should be the same as BellSouth's own.
 - 3. BellSouth shall not discriminate in the allocation of the number and types of NXXs assigned to ACSI.
 - 4. BellSouth will load NXXs according to industry guidelines, including the terminating LATA in which the NXXs/rate centers are located.
 - 5. BellSouth will supply ACSI with copies of its Local Calling Area Boundary Guide, including all updates thereto.

X. ACCESS TO POLES, DUCTS, CONDUIT AND RIGHTS OF WAY

- A. BellSouth agrees to provide to ACSI, pursuant to 47 U.S.C. § 224, as amended by the Telecommunications Act nondiscriminatory access to any pole, duct, conduit, and right-of-way owned or controlled by BellSouth. The Parties agree to negotiate in good faith to establish rates, terms and conditions applicable to

ACSI's access to poles, ducts, conduit and rights-of-way owned and controlled by BellSouth, and modify, if necessary, existing arrangements by October 1, 1996, in a manner consistent with the requirements of the Telecommunications Act.

XI. ANCILLARY SERVICES AND PLATFORM ARRANGEMENTS

A. 800 Traffic

- A.1 BellSouth agrees to compensate ACSI, pursuant to ACSI's published originating switched access charges, including the database query charge, for the origination of 800 and 888 traffic (combined "800") terminated to BellSouth.
- A.2 ACSI will provide to BellSouth the appropriate records necessary for BellSouth to bill BellSouth's intraLATA 800 customers. The records provided by ACSI will be in a standard EMR format for a fee, paid by BellSouth to ACSI, of \$0.015 per record.
- A.3 If ACSI provides 800 services to its end users during the term of this Agreement, it agrees to compensate BellSouth, pursuant to BellSouth's originating switched access charges, including the database query charge, for the origination of 800 traffic terminated to ACSI. BellSouth agrees to provide ACSI the appropriate records for ACSI to bill its 800 customers. The records provided will be in a standard EMR format for a fee, paid by ACSI to BellSouth, of \$0.015 per record.
- A.4 If during the term of this Agreement, BellSouth is permitted to provide interLATA 800 services, BellSouth will compensate ACSI for the origination of such traffic in accordance with the above.
- A.5 If ACSI utilizes BellSouth's 800 database for query purposes only, the rates and charges shall be as set forth in the applicable BellSouth Access Services Tariff, as said tariff is amended from time to time during the term of this Agreement.
- A.6 Should ACSI require 800 access ten digit screening service from BellSouth, it shall have signaling transfer points connecting directly to BellSouth's local or regional signaling transfer point for service control point database query information. ACSI shall utilize SS7 Signaling links, ports and usage from BellSouth's interstate access services tariff. 800 access ten digit screening service is an originating service that is provided via 800 switched access service trunk groups from BellSouth's SSP equipped end office or access tandem providing an IXC identification function and delivery of call to the IXC based on the dialed ten digit

number. The rates and charges for said services shall be as set forth in the applicable BellSouth access services tariff as said tariff is amended from time to time during the term of this Agreement.

B. 911/E-911

- B.1 The Parties agree to interconnect with each other to provide Basic 911 and E-911 emergency calling services consistent with the terms of Attachment C-9 hereto.
- B.2 For Basic 911 service, BellSouth will provide to ACSI a list consisting of each municipality in each state that subscribes to Basic 911 service. The list will also provide, if known, the E-911 conversion date for each municipality and, for network routing purposes, a ten-digit directory number representing the appropriate emergency answering position for each municipality subscribing to 911. ACSI will arrange to accept 911 calls from its end users in municipalities that subscribe to Basic 911 service and translate the 911 call to the appropriate 10-digit directory number as stated on the list provided by BellSouth. ACSI will route that call to BellSouth at the appropriate tandem or end office. When a municipality converts to E-911 service, ACSI shall discontinue the Basic 911 procedures and begin the E-911 procedures, set forth in subsection B.4 below.
- B.3 For E-911 service, ACSI shall install a minimum of two dedicated trunks originating from ACSI's serving wire center and terminating to the appropriate E-911 tandem. The dedicated trunks shall be, at minimum, DS0 level trunks configured either as a 2 wire analog interface or as part of a digital (1.544 Mb/s) interface. Either configuration shall use CAMA type signaling with MF pulsing that will deliver automatic number identification (ANI) with the voice portion of the call. If the user interface is digital, MF pulses, as well as other AC signals, shall be encoded per the U-255 Law convention. ACSI will provide BellSouth daily updates to the E-911 database.
- B.4 If a municipality has converted to E-911 service, ACSI will forward 911 calls to the appropriate E-911 tandem, along with ANI, based upon the current E-911 end office to tandem homing arrangement as provided by BellSouth. If the E-911 tandem trunks are not available, ACSI will alternatively route the call to a designated 7-digit local number residing in the appropriate PSAP. This call will be transported over BellSouth's interoffice network and will not carry the ANI of the calling party.
- B.5 BellSouth will provide ACSI with an electronic interface from which ACSI may input and update subscriber records in the E-911 database.

BellSouth shall also provide ACSI with an automated interface to access its Automatic Location Identification (ALI) database.

- B.6 BellSouth and ACSI agree that the practices and procedures contained in the E-911 Local Exchange Carrier Guide For Facility-Based Providers (LEC Carrier Guide) shall determine the appropriate procedures and practices of the Parties as to the provision of 911/E-911 Access. The LEC Carrier Guide shall at a minimum include, or BellSouth shall separately provide, 911 database update procedures and 911 trunk restoration procedures.
- B.7 If ACSI requires transport to the BellSouth 911 tandem, ACSI may, at ACSI's option, purchase such transport from BellSouth at rates set forth in either BellSouth's intrastate switched access services tariff or intrastate special access services tariff.
- B.8 BellSouth and ACSI will cooperatively arrange meetings to answer any technical questions that municipal or county coordinators may have regarding the 9-1-1/E-911 portions of this Agreement.
- B.9 Where BellSouth is responsible for maintenance of the E-911 database and can be compensated for maintaining ACSI's information by the municipality, BellSouth shall seek such compensation. BellSouth may seek compensation for its costs from ACSI only if and to the extent BellSouth is unable to obtain such compensation from the municipality.
- B.10 Nothing herein shall be construed to prevent ACSI from opting to route Basic 911 and E-911 calls to an alternative emergency call service bureau, to provide such services itself, or to route such calls directly to a Public Safety Answering Point (PSAP).

C. Provision of Operator Services

- C.1 BellSouth will offer to ACSI Operator Call Processing Access Service BLV/BLVI Service and Directory Assistance Access Services. Rates, terms and conditions are set forth in section VI.F for BLV/BLVI Service, Attachment C-11 for Directory Assistance Access Services, and Attachment C-10 for Operator Call Processing Access Services. Each such attachment is incorporated herein by this reference.
- C.2 BellSouth also will offer to ACSI CMDS Hosting and the Non Sent Paid Report System pursuant to the terms and conditions set forth in Attachment C-12 and Attachment C-13, incorporated herein by this reference.

D. Transfer of Service Announcements

When an end user customer changes from BellSouth to ACSI, or from ACSI to BellSouth, and does not retain its original telephone number, the Party formerly providing service to the end user will provide a transfer of service announcement on the abandoned telephone number. Each Party will provide this referral service at no charge to the other Party. This announcement will provide details on the new number to be dialed to reach this customer.

E. Coordinated Repair Calls

ACSI and BellSouth will employ the following procedures for handling misdirected repair calls:

- E.1 ACSI and BellSouth will educate their respective customers as to the correct telephone numbers to call in order to access their respective repair bureaus.
- E.2 To the extent the correct provider can be determined, misdirected repair calls will be referred to the proper provider of local exchange service in a courteous manner, at no charge, and the end user will be provided the correct contact telephone number. In responding to repair calls, neither Party shall make disparaging remarks about each other, nor shall they use these repair calls as the basis for internal referrals or to solicit customers to market services. Either Party shall respond with accurate information in answering customer questions.
- E.3 ACSI and BellSouth shall provide their respective repair contact numbers to one another on a reciprocal basis.

F. Busy Line Verification and Interrupt

F.1 Description

- a. Each Party shall establish procedures whereby its operator bureau will coordinate with the operator bureau of the other Party in order to provide Busy Line Verification (BLV) and Busy Line Verification and Interrupt (BLVI) services on calls between their respective end users.
- b. ACSI will route BLV and BLVI traffic to the BellSouth access tandem.

F.2 Compensation

Each Party shall charge the other Party for BLV and BLVI at the effective rates contained in BellSouth's applicable Local Interconnection Services Tariff(s).

G. Directory Assistance (DA)

G.1 Description

At ACSI's request, BellSouth will:

- a. Provide to ACSI, over TOPs trunks, unbranded (or ACSI-branded, where available) directory assistance service which is comparable in every way to the directory assistance service BellSouth makes available to interexchange carriers.
- b. In conjunction with subparagraph (a) above, provide caller optional directory assistance call completion service which is comparable in every way to the directory assistance call completion service BellSouth generally makes available to its end users, to the extent BellSouth generally offers such service to its end users.
- c. BellSouth will provide ACSI operators on-line access to BellSouth's DA database.

G.2 Compensation

Initial rates, terms and conditions for DA Services shall be as provided in Attachment C-11 hereto.

H. Directory Listings and Directory Distribution

H.1 Subject to the execution of an agreement between BellSouth's affiliate, BellSouth Advertising and Publishing Co. (BAPCO), and ACSI in a form substantially similar to that attached as Attachment C-8, (1) ACSI's customers' primary listings shall be included in the appropriate white page (resident and business) listings or alphabetical directories, as well as the directory assistance database, (2) ACSI's business subscribers' listings will be included in all appropriate yellow pages or classified directories, and (3) copies of directories shall be delivered to ACSI's customers; all without charge.

H.2 BellSouth shall provide ACSI with a magnetic tape or computer disk containing the proper format to employ in submitting directory listings

Land daily updates. ACSI shall provide BellSouth with its directory listings and daily updates to those listings (including new, changed and deleted listings) in a mutually acceptable format. BellSouth shall include ACSI's customers in the directory assistance database associated with the areas in which ACSI provides exchange services within the same time frame as BellSouth includes its own customers in such databases.

H.3 BellSouth and its Affiliates will afford ACSI's directory listings information the same level of confidentiality which BellSouth affords its own directory listing information, and BellSouth shall ensure that access to ACSI's customer proprietary confidential directory information will be limited solely to those employees who immediately supervise or are directly involved in the processing and publishing of listings and directory delivery. BellSouth will not use ACSI's directory listings for the marketing of BellSouth's telecommunications services.

I. Access to Signaling and Signaling Databases

I.1 BellSouth will offer to ACSI use of its SS7 signaling network and signaling databases on an unbundled basis at the rates included in Attachment C-5 hereto. Signaling functionality will be available with both A-link and B-link connectivity.

I.2 BellSouth agrees to input NXX assigned to ACSI into the Local Exchange Routing Guide (LERG).

I.3 BellSouth will enter ACSI line information into its Line Information Database (LIDB) pursuant to the terms and conditions contained in Attachment C-6 hereto, incorporated herein by this reference. Entry of line information into LIDB will enable ACSI's end users to participate or not participate in alternate billing arrangements such as collect or third number billed calls.

I.4 BellSouth will provide ACSI with access to LIDB for call and card validation purposes pursuant to an Agreement substantially in the form of Attachment C-7 hereto, as amended hereafter to include unbundled local loops.

I.5 If ACSI utilizes BellSouth's 800 database for query purposes only applicable BellSouth tariffed rates will apply.

XII. TELEPHONE NUMBER PORTABILITY ARRANGEMENTS

A. The Parties agree to provide interim Service Provider Number Portability (SPNP) on a reciprocal basis between their networks to enable their end user customers to utilize telephone numbers associated with an Exchange Service provided by one



Party, in conjunction with an Exchange Service provided by the other Party, upon the coordinated or simultaneous termination of the first Exchange Service and activation of the second Exchange Service. The Parties shall provide reciprocal SPNP immediately upon execution of this Agreement via remote call forwarding (RCF) or Direct Inward Dialing (DID). SPNP shall operate as follows:

- A.1 An end user customer of Party A elects to become an end user customer of Party B. The end user customer elects to utilize the original telephone number(s) corresponding to the Exchange Service(s) it previously received from Party A, in conjunction with the Exchange Service(s) it will now receive from Party B. Upon receipt of a service order assigning the number to Party B, Party A will implement an arrangement whereby all calls to the original telephone number(s) will be forwarded to a new telephone number(s) designated by Party B within the same access where the original NXX code is used. Party A will route the forwarded traffic to Party B over the appropriate trunk groups, as if the call had originated on Party A's network.
- A.2 Party B will become the customer of record for the original Party A telephone numbers subject to the SPNP arrangements. Party A will provide Party B a single consolidated master billing statement for all collect, calling card, and third-number billed calls associated with those numbers, with subaccount detail by retained number. Such billing statement shall be delivered via either electronic data transfer, daily magnetic tape, or monthly magnetic tape (for which option there shall be no charge). Party A shall provide to Party B the EMR detail records associated with the calls on the master billing statement.
- A.3 Party A will cancel line-based calling cards and will, as directed by Party B, update its Line Information Database (LIDB) listings for retained numbers, subject to RCF, and restrict or cancel calling cards associated with those forwarded numbers, as directed by Party B, subject to execution of an LIDB storage agreement in substantially the form attached hereto.
- A.4 Within two (2) business days of receiving notification from the end user customer, Party B shall notify Party A of the customer's termination of service with Party B, and shall further notify Party A as to that customer's instructions regarding its telephone number(s). Party A will reinstate service to that customer, cancel the SPNP arrangements for that customer's telephone number(s), or redirect the SPNP arrangement pursuant to the customer's instructions at that time.

- B. SPNP-RCF is a telecommunications service whereby a call dialed to an SPNP-RCF equipped telephone number, is automatically forwarded to an assigned seven or ten digit telephone number within the local calling area as defined in Section A3 of the BellSouth General Subscriber Service Tariff. The forwarded-to number is specified by ACSI or BellSouth, as appropriate. Where technologically feasible, the forwarding party will provide identification of the originating telephone number, via SS7 signaling, to the receiving party. Neither party guarantees, however, identification of the originating telephone number to the SPNP-RCF end user. SPNP-RCF provides a single call path for the forwarding of no more than one simultaneous call to the receiving party's specified forwarded-to number. Additional call paths for the forwarding of multiple simultaneous calls are available on a per path basis and are in addition to the rate for SPNP-RCF service.
- C. The Parties shall provide RCF arrangements to each other at identical monthly rates. Recurring charges shall not exceed the actual cost of providing the service. There shall be no SPNP-RCF non-recurring charges. Until otherwise verified by reliable cost studies, actual cost for recurring charges are as stipulated in Attachment D hereto. The Parties agree that Article XXII of this Agreement shall apply to the rates, terms and conditions for SPNP-RCF arrangements.
- D. SPNP-DID service provides trunk side access to end office switches for direct inward dialing to the other Party's premises equipment from the telecommunications network to lines associated with the other Party's switching equipment and must be provided on all trunks in a group arranged for inward service. A SPNP-DID trunk termination, provided with SS7 signaling only, applies for each trunk voice grade equivalent. In addition, direct facilities are required from the end office where a ported number resides to the end office serving the ported end user customer. Transport mileage will be calculated as the airline distance between the end office where the number is ported and the POI using the V&H coordinate method. SPNP-DID must be established with a minimum configuration of two channels and one unassigned telephone number per switch, per arrangement for control purposes. Transport facilities arranged for SPNP-DID may not be mixed with any other type of trunk group, with no outgoing calls placed over said facilities. SPNP-DID will be provided only where such facilities are available and where the switching equipment of the ordering party is properly equipped. Where SPNP-DID service is required from more than one wire center or from separate trunk groups within the same wire center, such service provided from each wire center or each trunk group within the same wire center shall be considered a separate service. Only customer dialed sent paid calls will be completed to the first number of a SPNP-DID number group, however, there are no restrictions on calls completed to other numbers of a SPNP-DID number group.
- E. The Parties hereby agree to negotiate in good faith to establish the recurring and non-recurring charges, if any, for SPNP-DID. For this purpose, BellSouth shall

provide ACSI with its relevant cost studies, subject to applicable non-disclosure obligations. The Parties agree that Article XXII of this Agreement shall apply to the rates, terms and conditions of SPNP-DID arrangements. Until such permanent charges are established, the Parties agree that the rates contained in Attachment E hereof (hereinafter the "Interim SPNP-DID Rates") will apply.

- F. Each Party is responsible for obtaining authorization from the end user for the handling of the disconnection of the end user's service, the provision of new local service and the provision of SPNP services. Each Party is responsible for coordinating the provision of service with the other to assure that its switch is capable of accepting SPNP ported traffic. Each Party is responsible for providing equipment and facilities that are compatible with the other's service parameters, interfaces, equipment and facilities and is required to provide sufficient terminating facilities and services at the terminating end of an SPNP call to adequately handle all traffic to that location and is solely responsible to ensure that its facilities, equipment and services do not interfere with or impair any facility, equipment, or service of the other Party or any of its end users.
- G. Each Party is responsible for providing an appropriate intercept announcement service for any telephone numbers subscribed to SPNP services for which it is not presently providing local exchange service or terminating to an end user. Where either Party chooses to disconnect or terminate any SPNP service, that Party is responsible for designating the preferred standard type of announcement to be provided.
- H. Each Party will be the other's Party's single point of contact for all repair calls on behalf of each Party's end user. Each Party reserves the right to contact the other Party's customers, if deemed necessary, for maintenance purposes.
- I. The Parties will migrate from RCF or DID to Permanent Number Portability (PNP) as soon as practically possible, without interruption of service (to the degree possible) to their respective customers.
- J. Under either an SPNP or PNP arrangement, ACSI and BellSouth will implement a process to coordinate Telephone Numbers Portability (TNP) cut-overs with Unbundled loop conversions (as described in Section IV of this Agreement).
- K. The quality of service of calls to ported numbers should be identical to the quality of service of the calls to non-ported numbers.
- L. If the FCC or a state commission issues regulations pursuant to 47 U.S.C. § 251 to require number portability in a manner or at rates different than that provided pursuant to this subsection, the Parties agree to revise this Agreement as necessary to fully comply with those requirements.

XIII. DISCONNECTION OF CUSTOMERS

- A. BellSouth shall accept any requests from ACSI to disconnect the service of an existing BellSouth end user, except for BellSouth public and semipublic telephone service which service is subject to effective contracts with location providers. BellSouth will not require end user confirmation prior to disconnecting the end user's service. BellSouth will accept a request directly from an end user for conversion of the end user's service from ACSI to BellSouth or will accept a request from another CLEC for conversion of the SPNP service associated with an end user's service charge from ACSI to the CLEC. BellSouth will notify ACSI that such a request has been processed. This Article shall be subject to Section 258(a) and (b) of the Telecommunications Act which prohibits illegal changes of carrier selections and assesses liability for such changes, and any change of service verification procedures which may be promulgated by the FCC. ACSI and BellSouth shall each execute a blanket letter of authorization for each state substantially in the form attached as Attachment F hereto with respect to customer disconnections. The Parties shall each be entitled to adopt their own internal processes for verification of customer authorization of disconnection of service; provided, however, that such processes shall comply with applicable state and federal law and until superseded shall be deemed adequate for purposes of this Agreement if such processes comply with FCC guidelines applicable to Presubscribed Interexchange Carriers (PIC) changes.
- B. If either Party determines that an unauthorized change in local service provider has occurred, such Party shall reestablish service with the appropriate local service provider as requested by the end user and will assess the other Party an Unauthorized Change Charge of \$19.41 per line. The appropriate nonrecurring charges to reestablish the customer's service with the appropriate local service provider will also be assessed to the other Party because of the unauthorized change. These charges shall be adjusted if such Party provides satisfactory proof of authorization.
- C. If BellSouth accepts an order placed by itself or another CLEC (or local reseller) to disconnect the SPNP to an ACSI end user, BellSouth shall notify ACSI of the change within three (3) days thereof.

XIV. RESALE OF BELLSOUTH LOCAL EXCHANGE SERVICES

BellSouth hereby agrees that ACSI may at any time during the term of this Agreement elect to resell BellSouth's local exchange services under the terms and conditions of any local services resale agreement reached between BellSouth and any other telecommunications carrier. ACSI may select any such resale agreement at any time prior to the expiration of this Agreement.

XV. RESPONSIBILITIES OF THE PARTIES

- A. BellSouth and ACSI agree to treat each other fairly, non-discriminatorily, and equally for all items included in this Agreement or related to the support of items included in this Agreement.
- B. ACSI and BellSouth will work cooperatively to minimize fraud associated with third-number billed calls, calling card calls, or any other services related to this Agreement. The Parties fraud minimization procedures are to be cost effective and implemented so as not to unduly burden or harm one Party as compared to the other.
- C. ACSI and BellSouth agree to promptly exchange all necessary records for the proper billing of all traffic.
- D. ACSI and BellSouth will review engineering requirements on a quarterly basis and establish forecasts for trunk utilization, POI trunks, MPB arrangements, E-911, EISCC facility requirements, quantities of DNCF, loops and other services provided under this Agreement. New trunk groups will be implemented as dictated by engineering requirements for both BellSouth and ACSI. BellSouth and ACSI are required to provide each other the proper call information (e.g., originated call party number and destination call party number) to enable each company to bill in a complete and timely manner.
- E. The Parties will cooperate by exchanging technical information in order to identify and explore potential solutions to enable ACSI to establish unique rate centers, or to assign a single NXX code across multiple rate centers.
- F. ACSI and BellSouth will work jointly and cooperatively in developing and implementing common manual and/or electronic interfaces (including, for example, data elements, data format, and data transmission) from which to place service orders and trouble reports involving the provision of loops, DNCF, directory assistance, directory listings, E-911, and other services included in this Agreement. To the extent reasonable, ACSI and BellSouth will utilize the standards established by industry fora, such as OBF.
- G. BellSouth will support ACSI requests related to central office (NXX) code administration and assignments in an effective and timely manner. ACSI and BellSouth will comply with code administration requirements as prescribed by the FCC, the state commissions, and accepted industry guidelines.
- H. BellSouth shall not impose a cross-connect fee on ACSI where ACSI accesses 911 or E-911, reciprocal traffic exchange trunks, and network platform services, through a collocation arrangement at the BellSouth Wire Center.

- I. Notwithstanding any other provision of this Agreement, it is mutually understood and agreed that both Parties hereto reserve the right to establish each of the following, consistent with generally accepted industry standards.
1. Rate centers (location and area within)
 2. Points of interchange (including meet points)
 3. Switching entity designation and supporting data (including inbound route choice)
 - a. end office
 - b. homing/homed to tandem
 4. Association of routing point(s) with end offices, POIs, *etc.*
 5. Published rate center and locality designations.

XVI. NETWORK DESIGN AND MANAGEMENT

- A. The Parties agree to work cooperatively to install and maintain reliable interconnected telecommunications networks, including but not limited to, maintenance contact numbers and escalation procedures. BellSouth agrees to provide public notice of changes in the information necessary for the transmission and routing of services using its local exchange facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.
- B. The interconnection of all networks will be based upon accepted industry/national guidelines for transmission standards and traffic blocking criteria.
- C. The Parties will work cooperatively to apply sound network management principles by invoking appropriate network management controls to alleviate or prevent network congestion.
- D. For network expansion, the Parties agree to review engineering requirements on a quarterly basis and establish forecasts for trunk utilization. New trunk groups will be added as reasonably warranted.
- E. ACSI and BellSouth will exchange appropriate information (*e.g.*, maintenance contact numbers, network information, information required to comply with law enforcement and other security agencies of the Government) to achieve desired reliability. In addition, ACSI and BellSouth will cooperatively plan and implement coordinated repair procedures to ensure customer trouble reports are resolved in a timely and appropriate manner.

XVII. TERM

- A. The term of this Agreement shall be two years, beginning September 1, 1996.
- B. The Parties agree that by no later than September 1, 1997, they shall commence negotiations with regard to the terms, conditions and prices of local interconnection to be effective beginning September 1, 1998.
- C. If, within 90 days of commencing the negotiation referred to in Section XVII.B above, the Parties are unable to satisfactorily negotiate new local interconnection terms, conditions and prices, either Party may petition the state 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 July 1, 1998. The Parties further agree that in the event the Commission does not issue its order prior to July 1, 1998 or if the Parties continue beyond September 1, 1998 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 September 1, 1998. Until the revised local interconnection arrangements become effective, the Parties shall continue to exchange traffic pursuant to the terms and conditions of this Agreement.
- D. The Parties agree that (1) if the FCC or a state commission or other state or local body having jurisdiction over the subject matter of this Agreement finds that the terms of this Agreement are inconsistent in one or more material respects with any of its or their respective decisions, rules or regulations promulgated, or (2) if an FCC or state commission order or requirement has the effect of preempting any term of this Agreement, then in the event of the occurrence of (1) or (2) the Parties shall immediately commence good faith negotiations to conform this Agreement with any such decision, rule, regulation or preemption. The revised agreement shall have an effective date that coincides with the effective date of the original FCC or state commission action giving rise to such negotiations. The Parties agree that the rates, terms and conditions of any new agreement shall not be applied retroactively to any period prior to such effective date.

XVIII. IMPLEMENTATION OF AGREEMENT

The Parties agree that within 30 days of the execution of this Agreement they will adopt a schedule for the implementation of this Agreement. The schedule shall state with specificity, ordering, testing, and full operational time frames. The

implementation shall be attached to this Agreement as an addendum and specifically incorporated herein by this reference.

XIX. UNIVERSAL SERVICE

The Parties acknowledge that BellSouth will guarantee the provision of universal service as the carrier-of-last-resort throughout its territory in Florida until January 1, 1998 without contribution from ACSI.

XX. FORCE MAJEURE

Neither Party shall be responsible for delays or failures in performance resulting from acts or occurrences beyond the reasonable control of such Party, regardless of whether such delays or failures in performance were foreseen or foreseeable as of the date of this Agreement including, without limitation: fire, explosion, power failure, acts of God, war, revolution, civil commotion, or acts of public enemies; any law, order, regulation, ordinance or requirement of any government or legal body; or labor unrest, including, without limitation, strikes, slowdowns, picketing or boycotts; or delays caused by the other Party or by other service or equipment vendors; or any other circumstances beyond the Party's reasonable control. In such event the Party affected shall, upon giving prompt notice to the other Party, be excused from such performance on a day-to-day basis to the extent of such interference (and the other Party shall likewise be excused from performance of its obligations on a day-for-day basis to the extent such Party's obligations relate to the performance so interfered with). The affected Party shall use its best efforts to avoid or remove the cause of nonperformance and both Parties shall proceed to perform with dispatch once the causes are removed or cease.

XXI. LIABILITY AND INDEMNIFICATION

A. Liability Cap.

1. With respect to any claim or suit, whether based in contract, tort or any other theory of legal liability, by ACSI, any ACSI customer or by any other person or entity, for damages associated with any of the services provided by BellSouth pursuant to or in connection with this Agreement, including but not limited to the installation, provision, preemption, termination, maintenance, repair or restoration of service, and subject to the provisions of the remainder of this Article, BellSouth's liability shall be limited to an amount equal to the proportionate charge for the service provided pursuant to this Agreement for the period during which the service was affected. Notwithstanding the foregoing, claims for damages by ACSI, any ACSI customer or any other person or entity resulting from the gross negligence or willful misconduct of

BellSouth and claims for damages by ACSI resulting from the failure of BellSouth to honor in one or more material respects any one or more of the material provisions of this Agreement shall not be subject to such limitation of liability.

2. With respect to any claim or suit, whether based in contract, tort or any other theory of legal liability, by BellSouth, any BellSouth customer or by any other person or entity, for damages associated with any of the services provided by ACSI pursuant to or in connection with this Agreement, including but not limited to the installation, provision, preemption, termination, maintenance, repair or restoration of service, and subject to the provisions of the remainder of this Article, ACSI's liability shall be limited to an amount equal to the proportionate charge for the service provided pursuant to this Agreement for the period during which the service was affected. Notwithstanding the foregoing, claims for damages by BellSouth, any BellSouth customer or any other person or entity resulting from the gross negligence or willful misconduct of ACSI and claims for damages by BellSouth resulting from the failure of ACSI to honor in one or more material respects any one or more of the material provisions of this Agreement shall not be subject to such limitation of liability.

- B. Neither Party shall be liable for any act or omission of any other telecommunications company to the extent such other telecommunications company provides a portion of a service.
- C. Neither Party shall be liable for damages to the other Party's terminal location, POI or the other Party's customers' premises resulting from the furnishing of a service, including but not limited to the installation and removal of equipment and associated wiring, except to the extent the damage is caused by such Party's gross negligence or willful misconduct.
- D. Notwithstanding subsection A, the Party providing services under this Agreement, its affiliates and its parent company shall be indemnified, defended and held harmless by the Party receiving such services against any claim, loss or damage arising from the receiving Party's use of the services provided under this Agreement, involving: (1) claims for libel, slander, invasion of privacy or copyright infringement arising from the content of the receiving Party's own communications; (2) any claim, loss or damage claimed by the receiving Party's customer(s) arising from such customer's use of any service, including 911/E-911, that the customer has obtained from the receiving Party and that the receiving Party has obtained from the supplying Party under this Agreement; or (3) all other claims arising out of an act or omission of the receiving Party in the course of using services provided pursuant to this Agreement. Notwithstanding the foregoing, to the extent that a claim, loss or damage is caused by the gross negligence or willful misconduct of a supplying Party, the receiving Party shall

have no obligation to indemnify, defend and hold harmless the supplying Party hereunder.

- E. Neither Party guarantees or makes any warranty with respect to its services when used in an explosive atmosphere. Notwithstanding subsection A, each Party shall be indemnified, defended and held harmless by the other Party or the other Party's customer from any and all claims by any person relating to the other Party or the other Party's customer's use of services so provided.

- F. No license under patents (other than the limited license to use in the course of using a service provided pursuant to this Agreement) is granted by one Party to the other or shall be implied or arise by estoppel, with respect to any service offered pursuant to this Agreement. Notwithstanding subsection A, the Party providing a service pursuant to this Agreement will defend the Party receiving such service against claims of patent 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. Such indemnification shall not, however, extend to claims for patent infringement to the extent the alleged infringement results from:
 - 1. Modification of the service by someone other than the providing Party and/or its subcontractors, where there would be no such infringement or violation in the absence of such modification; or
 - 2. The combination, operation or use of the service with any product, data or apparatus not provided by the providing Party and/or its subcontractors, where there would be no such infringement or violation in the absence of such combination, operation or use.

- G. Promptly after receipt of notice of any claim or the commencement of any action for which a Party may seek indemnification pursuant to this Article XXI, such Party (Indemnified Party) shall promptly give written notice to the other Party (the Indemnifying Party) of such claim or action, but the failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability it may have to the Indemnified Party except to the extent the Indemnifying Party has actually been prejudiced thereby. The Indemnifying Party shall be obligated to assume the defense of such claim, at its own expense. The Indemnified Party shall cooperate with the Indemnifying Party's reasonable requests for assistance or information relating to such claim, at the Indemnifying Party's expense. The Indemnified Party shall have the right to participate in the investigation and defense of such claim or action, with separate counsel chosen and paid for by the Indemnified Party.

XXII. MOST FAVORABLE PROVISIONS

- A. If as a result of any proceeding before any Court, Commission, or the FCC, any voluntary agreement or arbitration proceeding pursuant to the Act, or pursuant to any applicable federal or state law, BellSouth becomes obligated to provide interconnection, number portability, unbundled access to network elements or any other services related to interconnection, whether or not presently covered by this Agreement, to another telecommunications carrier operating within a state within the BellSouth territory at rates or on terms and conditions more favorable to such carrier than the comparable provisions of this Agreement, then ACSI shall be entitled to add such network elements and services, or substitute such more favorable rates, terms or conditions for the relevant provisions of this Agreement, which shall apply to the same states as such other carrier and such substituted rates, terms or conditions shall be deemed to have been effective under this Agreement as of the effective date thereof to such other carrier.
- B. If the more favorable provision is a result of the action of an appropriate regulatory agency or judicial body, whether commenced before or after the effective date of this Agreement, the Parties agree to incorporate such order in this Agreement as of its effective date. In the event BellSouth files and receives approval for a tariff offering to provide any substantive service of this Agreement in a way different than that provided for herein, the Parties agree that the Companies shall be eligible for subscription to said service at the rates, terms and conditions contained in tariffs as of the effective date of the tariff.
- C. In the event that BellSouth provides interconnection and/or temporary number portability arrangements via tariff or has or enters into an interconnection and/or temporary number portability agreement with another entity, BellSouth will permit ACSI an opportunity to inspect such tariff or agreement and, upon ACSI's request, BellSouth will immediately offer ACSI an agreement on the same material terms with effect from the date BellSouth first made such tariff effective or entered into such arrangement and for the remainder of the term of this Agreement. The other items covered by this Agreement and not covered by such tariff or agreement shall remain unaffected and as to such items this Agreement shall remain in effect.
- D. In the event that BellSouth is required by an FCC or a state commission decision or order to provide any one or more terms of interconnection or other matters covered by this Agreement that individually differ from any one or more corresponding terms of this Agreement, ACSI may elect to amend this Agreement to reflect all of such differing terms (but not less than all) contained in such decision or order, with effect from the date ACSI makes such election. The other items covered by this Agreement and not covered by such decision or order shall remain unaffected and as to such items this Agreement shall remain in effect.

XXIII. DEFAULT

If either Party defaults in the payment of any amount due hereunder, or if either Party violates any other provision of this Agreement, and such default or violation shall continue for thirty (30) days after written notice thereof, the other Party may terminate this Agreement forthwith by written instrument. The failure of either Party to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment of its part of any such provision, but the same shall, nevertheless, be and remain in full force and effect.

XXIV. NONDISCLOSURE

- A. All information, including but not limited to specifications, microfilm, photocopies, magnetic disks, magnetic tapes, drawings, sketches, models, samples, tools, technical information, data, employee records, maps, financial reports, and market data, (i) furnished by one Party to the other Party dealing with customer specific, facility specific, or usage specific information, other than customer information communicated for the purpose of publication or directory database inclusion, or (ii) in written, graphic, electromagnetic, or other tangible form and marked at the time of delivery as "Confidential" or "Proprietary," or (iii) communicated orally and declared to the receiving Party at the time of delivery, or by written notice given to the receiving Party within ten (10) days after delivery, to be "Confidential" or "Proprietary" (collectively referred to as "Proprietary Information"), shall remain the property of the disclosing Party.
- B. Upon request by the disclosing Party, the receiving Party shall return all tangible copies of Proprietary Information, whether written, graphic or otherwise, except that the receiving Party may retain one copy for archival purposes.
- C. Each Party shall keep all of the other Party's Proprietary Information confidential and shall use the other Party's Proprietary Information only for performing the covenants contained in the Agreement. Neither Party shall use the other Party's Proprietary Information for any other purpose except upon such terms and conditions as may be agreed upon between the Parties in writing.
- D. Unless otherwise agreed, the obligations of confidentiality and non-use set forth in this Agreement do not apply to such Proprietary Information as:
 - 1. was at the time of receipt already known to the receiving Party free of any obligation to keep it confidential evidenced by written-records prepared prior to delivery by the disclosing Party; or
 - 2. is or becomes publicly known through no wrongful act of the receiving Party;
or

3. is rightfully received from a third person having no direct or indirect secrecy or confidentiality obligation to the disclosing Party with respect to such information; or
 4. is independently developed by an employee, agent, or contractor of the receiving Party which individual is not involved in any manner with the provision of services pursuant to the Agreement and does not have any direct or indirect access to the Proprietary Information; or
 5. is disclosed to a third person by the disclosing Party without similar restrictions on such third person's rights; or
 6. is approved for release by written authorization of the disclosing Party; or
 7. is required to be made public by the receiving Party pursuant to applicable law or regulation provided that the receiving Party shall give sufficient notice of the requirement to the disclosing Party to enable the disclosing Party to seek protective orders.
- E. **Effective Date.** Notwithstanding any other provision of this Agreement, the Proprietary Information provisions of this Agreement shall apply to all information furnished by either Party to the other in furtherance of the purpose of this Agreement, even if furnished before the date of this Agreement. The obligation to that information as confidential shall survive the termination of this Agreement.

XXV. ARBITRATION

- A. Any controversy or claim arising out of, or relating to, this Contract or the breach thereof shall be settled by arbitration, in accordance with the rules then obtaining, of the American Arbitration Association, and judgment upon the award rendered may be entered in any court having jurisdiction of the controversy or claim. As an express condition precedent to any legal or equitable action or proceeding in the event of disputes or controversies as to the amount of loss or damage arising out of this Contract, such disputes or controversies shall first be submitted to the arbitration of two persons, one chosen by each Party, who shall jointly select a third person. Provided, however, that nothing contained herein shall preclude either Party from filing any complaint or other request for action or relief with the FCC or the appropriate state commission, including any appeals thereof. The Party which does not prevail shall pay all reasonable costs of the arbitration or other formal complaint proceeding, including reasonable attorney's fees and other legal expenses of the prevailing Party.
- B. Nothing herein shall preclude ACSI from seeking state commission arbitration, pursuant to Section 252 of the Telecommunications Act, of issues upon which the

Parties hereto were unable to reach agreement during the negotiations hereof. The Parties acknowledge that they were unable to reach agreement on the rates applicable to unbundled local loops, associated cross connections, local loop multiplexing and switch ports, and that these issues will be submitted for resolution by the state commissions through arbitration. BellSouth hereby waives any right to contest ACSI's ability to seek state commission and/or FCC review of such unresolved issues.

XXVI. WAIVERS

Any failure by either Party to insist upon the strict performance by the other Party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement, 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.

XXVII. GOVERNING LAW

This Agreement shall be governed by, construed and enforced in accordance with applicable federal law and the laws of the State in which the arrangements are implemented.

XXVIII. 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.

XXIX. NOTICES

Any notices required by or concerning this Agreement shall be sent via facsimile and overnight courier to the Parties at the addresses shown below:

Riley M. Murphy
Executive Vice President & General Counsel
American Communications Services, Inc.
131 National Business Parkway, Suite 100
Annapolis Junction, Maryland 20701

Richard Dender
Account Manager
BellSouth Telecommunications, Inc.
South E4E1
3535 Collonnade Parkway
Birmingham, Alabama 35243

Each Party shall inform the other of any changes in the above addresses.

XXX. 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.

XXXI. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed an original and all such counterparts shall constitute one and the same instrument. Signatures transmitted by the Parties by facsimile shall have the same effect as original signatures as of the date transmitted by the executing Party.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

	
<u>AMERICAN COMMUNICATIONS SERVICES, INC.</u>	<u>BELLSOUTH TELECOMMUNICATIONS, INC.</u>

By: <u>Riley M. Murphy/Executive</u>	By: <u>Jerry D. Hendrix /Manager</u>
Name/Title	Name/Title
Vice President	

Date: <u>July 25, 1996</u>	Date: <u>July 25, 1996</u>
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ATTACHMENT A
OPERATING SUBSIDIARIES OF
AMERICAN COMMUNICATIONS SERVICES, INC.

ACSI of Mobile, Inc.

ACSI of Montgomery, Inc.

ACSI of Birmingham, Inc.

ACSI of Charleston, Inc.

ACSI of Columbia, Inc.

ACSI of Columbus, Inc.

ACSI of Greenville, Inc.

ACSI of Spartanburg, Inc.

ACSI of Chattanooga, Inc.

ACSI of Louisville, Inc.

ACSI of Lexington, Inc.

ACSI of Jackson, Inc.

ACSI of Baton Rouge, Inc.

ATTACHMENT B

DEFINITIONS

1. **"Access Service Request" or "ASR"** means an industry standard form used by the Parties to add, establish, change or disconnect trunks for the purposes of interconnection.

2. **"Advanced Intelligent Network" or "AIN"** means a network switching and architecture concept that centralizes intelligence in databases and application processors internal to the network rather than in central office switching systems. AIN enables the network to complete interactions (or actions) regarding routing, signaling and information quickly and accurately. The AIN concept permits intelligent database systems and application processors to be either centralized or distributed throughout one network.

3. **"Advanced Intelligent Network Features" or "AIN/IN Features"** refers to the replacement or enhancement of electronic switching and electronic network hardware and software functions via the use of distributed network based processors and Common Channel Interoffice Signaling (CCIS/SS7). For example, SCPs and STCs are part of the advanced intelligent network. AIN also features a "service creation environment" which permits the end user or reseller to create, and modify, in near real time, their own network routing instructions for calls to their facilities, creating, in effect a user customized virtual network.

4. **"Affiliate"** means 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) or more than 10 percent.

5. **"American National Standards Institute" or "ANSI"** is a private, non-profit organization representing more than 1,300 corporations, 30 government agencies, 20 institutions and 250 trade, labor, consumer, technical and professional organizations which sets voluntary standards for the United States (U.S.). ANSI has established an Information Infrastructure Standards Panel. ANSI is appointed by the U.S. State Department as a representative of the U.S. to the ITU's International Standards Organization.

6. **"Automated Report Management Information System" or "ARMIS"** means the most current ARMIS 4308 report issued by the FCC.

7. **"Automatic Number Identification" or "ANI"** is a telecommunications carrier signaling parameter that identifies, through industry standard network interfaces and formats (either SS7/CCIS (preferred), or in band signalling (predecessor technology), the billing number of the calling party. This functionality is also known and referred to as "Calling Party Number" or "CPN." This term is not to be limited by "Called Party Identification" service, another product that is frequently required by call centers.

8. **"Bell Communications Research" or "BellCore"** means an organization owned jointly by the RBOC that conducts research and development projects for them.

9. **"Busy Line Verification/BLVI Traffic"** or **"BLV/BLVI Call"** refers to an operator call in which the end user inquires as to the busy status of, or requests an interruption of, a call on an Exchange Service.

10. **"Calling Party Number"** or **"CPN"** means a common channel signalling parameter which refers to the number transmitted through the network identifying the calling party.

11. **"Carrier Identification Code"** or **"CIC"** means a three or four digit number assigned to an IXC that identifies that carrier's traffic.

12. **"Central Office Switch," "Central Office"** or **"CO"** refers to either a means a Switching entity or the physical location (site) which houses a traditional central office switch and its peripherals within the public switched telecommunications network, including but not limited to:

a. **"End Office Switches"** which are Class 5 switches from which End User Telecommunications Services are directly connected and offered.

b. **"Tandem Office Switches"** which are Class 4 switches which are used to connect and switch trunk circuits between and among Central Office Switches.

c. **"Remote Switching Module"** or **"RSM"** refers to a Central Office architecture element that permits the Central Office switch the ability to extend either line or trunk side interfaces, with all typical service features and functions to a cabinet which is physically remote from the home CO site, and where stand alone capability may or may not be implemented. RSMs are sometimes also referred to as "switches" in the BellSouth infrastructure inventory discussions and to that extent may be used as interchangeable terms.

d. **"Central Office Switches"** may be employed as combination End Office and Tandem Office Switches (combination Class 5/Class 4).

13. **"Central Office Equipment"** refers to the traditional Central Office Switch itself and all of the peripheral electronics (network elements) that supply network-based processing functions other than "transport." Network elements which provide "Transport" are generally referred to as "Outside Plant" equipment or electronics.

14. **"Centralized Message Distribution System"** or **"CMDS"** means the billing record and clearing house transport systems that incumbent LECs use to exchange out-collects, in-collects and Carrier Access Billing System ("CABS") records.

15. **"CLASS Features"** refers to features and functions (products) which become available on the "line side" of the Central Office through the use of common channel signalling system seven (CCIS/SS7.) CLASS features include, but are not necessarily limited to: Automatic Call Back, Call Trace, Caller ID and Related Blocking Features, Distinctive Ringing/Call Waiting, Selective Call Forward, and Selective Call Rejection. See also: "Software-based network elements and services."

16. **"Commission"** means the appropriate regulatory agency in each of BellSouth's nine state regions, Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

17. **"Common Channel (Interoffice) Signaling" or "CCIS"** means a method of digitally transmitting call set-up and network control data over separate physical or virtual connections from those which normally carry the actual call user connections. This technology supersedes "in-band" signalling. The current industry standard for common carrier network signaling is called Signaling System 7.

18. **"Cross Connect"** refers to the equipment physical or logical "meet point" between network elements.

a. For example, within a wire center, it is a connection between line termination blocks on the two sides of a distribution frame or between individual line terminations on the same side of the frame. Cross connections are made to route traffic from one group of lines to another specific group of lines on the distribution frame, or to route traffic from one individual line to another specific line on the distribution frame.

b. A piece of manual, electromechanical or electronic apparatus designed to make and rearrange the cross connections among the lines that terminate on a distribution frame. Cross-connect devices are employed where rearrangement of transmission circuits occur infrequently.

19. **"Customer Local Area Signalling Services" or "CLASS"** means features available to end users based on availability of CCIS, including, without limitation, Automatic Callback, Call Trace, Caller ID and related blocking, Distinctive Ringing, Call Waiting, Selective Call Forward and Selective Call Rejection.

20. **"DID" or "Direct Inward Dialing"** is a feature which allows callers on the public switched network to directly dial a specific PBX or Centrex extension telephone.

21. **"Directory Number Call Forwarding" or "DNCF"** is one form of Interim Number Portability ("ISPNP") which is provided through call routing and call forwarding capabilities. DNCF will forward calls dialed to an original telephone number to a new telephone number on a multi-path basis. DNCF is not limited to listed directory numbers.

22. **"Digital Loop Carrier" or "DLC"** consists of electronic equipment which uses one or more digital facilities, usually DS-1s, to provide voice grade analog or ISDN telecommunication services. Service is multiplexed at a remote location, transmitted over connecting digital facilities and demultiplexed, usually at a switching location. It can be concentrating or non-concentrating. **"Integrated Digital Loop Carrier"** is the same as Digital Loop Carrier, except it is not demultiplexed, but instead the DS-1 facilities are directly connected into compatible digital equipment.

23. **"Digital Service - Level 0"** or **"DS-0"** means a signal rate of 64 kilobits per second.
24. **"Digital Service - Level 1"** or **"DS-1"** is an industry standard telecommunications transport channel which can support a digital signaling rate of 1.544 Mbps (Mega Bits Per Second) at industry standard performance levels. Unless identified and priced as "fractional," this channel is assumed to be fully available.
25. **"Digital Service - Level 3"** or **"DS-3"** is an industry standard telecommunications transport channel which can support a digital signal rate of 44.736 Mbps (Mega Bits Per Second) at industry standard performance levels. Unless identified and priced as "fractional," this channel is assumed to be fully available.
26. **"DSX"** or **"Digital and Access Cross-connect System ("DACS")** is a cross-connection product (including a mounting bay/panel) used for termination of equipment and facilities operating at digital rates.
27. **"Electronic Data Interchange," "Electronic File Transfer"** or **"EFT"** is a process which utilizes an electronic format and protocol to send/receive digital data business documents between different companies' computers over phone lines. There are several generally accepted industry standards for EFT, pending acceptance of a single common standard.
28. **"Exchange Access"** means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.
29. **"Exchange Message Record"** or **"EMR"** is a term used to refer to the current standard used for exchange of telecommunications message information among Local Exchange Carriers for billable, non-billable, sample, settlement and study data. EMR format is currently contained in BR-010-200-010 CRIS Exchange Message Record, a Bellcore document which has traditionally defined Bell standards for exchange message records.
30. **"Exchange Service"** is a traditional marketing term used to refer to a service offered to end users which provides the end user with a telephonic connection to, and a unique local telephone number address on, the public switched telecommunications network, and which enables such end user to generally place calls to, or receive calls from, other stations on the public switch telecommunications network. Exchange Services include, but are not limited to, basic residence and business line service, PBX trunk line service, pay telephone stations, pay phone line service, Centrex and Centrex-like line services, AIN, and ISDN line/trunk services. Exchange Service does not traditionally include Private Line, Toll, Switched and Special Access (digital channel) services, which have traditionally been separately billed and regulated, although today these services are frequently formed from and bundled within common transport and network elements.
31. **"Feature Group A"** or **"FGA"** means FGA interexchange access as defined in BellSouth's FCC Tariff No. 1.

32. "Feature Group B" or "FGB" means FGB interexchange access as defined in BellSouth's FCC Tariff No. 1.

33. "Feature Group D" or "FGD" means FGD interexchange access as defined in BellSouth's FCC Tariff No. 1.

34. "Interconnection" means the connection between network elements that enable the formation of network systems. The objective of interconnection is to provide transport and transparent interoperation among separate pieces of equipment, transmission facilities, *etc.*, within, between or among networks. The architecture of interconnection may include several industry standard, or regulatory structured methods including, but not limited to, collocation arrangements ("physical" and "virtual" collocation) arrangements via industry standard interface arrangements.

35. "Interconnection Point," "Point of Interconnection" or "POI" includes all points where ACSI is entitled to interconnect with BellSouth under the terms of this Agreement, including, without limitation, points on the line side and trunk side of each Network Element.

36. "Interexchange Carrier" or "IXC" traditionally means a provider of stand-alone interexchange telecommunications services. Under the new Act, the term IXC may be interpreted to embrace any competitive intermediary telecommunications carrier providing switched (and/or private line) services between switching entities operated by local exchange service providers (BOC-LEC, Independent-LEC, Competitive-LEC, Wireless-LEC). IXC connectivity is typically an access services arrangement. The use of this term does not preclude the provider from also offering bundled telecommunications services.

37. "Integrated Services Digital Network" or "ISDN" refers to a switched network service that provides end-to-end digital connectivity for the simultaneous transmission of voice, data, video or multimedia services. Basic Rate Interface-ISDN (BRI-ISDN) provides for digital transmission of two 64 Kbps bearer channels and one 16 Kbps data channel (2B + D). Primary Rate Interface-ISDN (PRI-ISDN) provides for digital transmission of twenty-three (23) 64 Kbps bearer channels and one (1) 16 Kbps data channel (23B + D). Unless identified and priced as "fractional" both BRI and PRI ISDN circuits are assumed to be fully available.

38. "Interim Number Portability" or "INP" refers to the temporary means by which BellSouth allows customers to retain their existing telephone numbers when changing from one local exchange carrier to another. This service provides transparent delivery of Telephone Number Portability ("TNP") capabilities, from a customer standpoint in terms of call completion, and from a carrier standpoint in terms of compensation, through the use of call routing, forwarding, and addressing capabilities. The interim nature of these arrangements result from the fact that their performance and cost cannot meet or sustain end-user customer or co-carrier expectations. Standards for permanent number portability will be set by regulatory stricture, and both Parties agree to implementation of permanent number portability at the earliest possible point in time.

39. **"InterLATA Service"** means telecommunications between a point located in one LATA and a point located outside such area.

40. **"Intermediary function"** means the delivery of local traffic from a local exchange carrier other than BellSouth; an ALEC other than ACSI; another telecommunications company such as a wireless telecommunications provider through the network of BellSouth or ACSI to an end user of BellSouth or ACSI.

41. **"IntraLATA Service"** means telecommunications between a point located in one LATA and a point located in the same LATA.

42. **"International Telecommunications Union" or "ITU"** is a United Nations organization which comprises the organization previously known as the CCITT. Open Standards Interconnection (OSI) standards are established by the ITU. Telecommunications Management Network (TMN) standards are a subset of the OSI model. The American National Standards Institute (ANSI) is appointed by the State Department as a U.S. representative to the ITU's ISO.

43. **"Line Side"** refers to local loop interface ports of an end office switch that are programmed to treat the circuit as a local line connected to an ordinary telephone station set.

44. **"Link" or "Loop"** are synonyms for a communications channel or circuit on the line side or the trunk side of the common carrier switching element. This term has been used as a marketing term to refer to an element of "Exchange Service" whereby BellSouth provides transport between the Minimum Point of Entry (MPOE) at an end user premise and the BellSouth wire center from which the transport is extended. The communications channel, circuit or group of channels or circuits which are segmented from a transmission medium that extends from BellSouth's Central office or wire center's Main Distribution Frame, DSX-panel, or functionally comparable piece of equipment, to a demarcation point or connector block in/at a customer's premises. "Links" are communications channels or circuits, which may be provided as 2-wire or 4-wire copper pairs, as radio frequencies or as a channel on a high-capacity feeder/distribution facility so long as all industry standard interface, performance, price, privacy, reliability and other operational characteristics are functionally transparent and are equal to or better than that of dedicated copper pairs. Examples of communications channels or circuits that are "links" or "loops" include, but are not limited to:

45. **"Basic Voice Grade Line/Link/Circuit"** is a basic voice grade line which is a two wire circuit or equivalent voice frequency channel for the transmission of analog signals with an approximate bandwidth of 300 to 3000 Hz (3 KHz analog or 56 Kbps digital (POTS grade, capable of transmitting voice or analog data transmissions up to 28.8 BPS with current generation modems). In addition, Basic Links must meet all RELRA and USF requirements for "basic telephone service" imposed by State and Federal regulatory authorities. Digital signaling, transmission performance and reliability characteristics for basic "link" circuits are a matter of industry standard, having an expected measured loss or gain of approximately +/-6dB, and a signal to noise ratio that does not exceed (fill-in) and capable of supporting fully functional connections for up to 2 miles from the nearest electronic network element. Within the 300 to 3000 Hz range, "Basic Links" will support all

standard signalling arrangements including repeat loop start, loop reverse battery, or ground start seizure and disconnect in one direction (toward the end office switch), and repeat ringing in the other direction (toward the end user).

a. **"ISDN link/loop/circuit"** is an ISDN link which provides a 2-wire ISDN digital circuit connection that will support digital transmission of two 64 Kbps clear channels and one 16 Kbps data channel (2B+D), suitable for provision of BRI-ISDN service. ISDN links shall be provisioned by least cost planning methodologies sufficient to insure industry standard interface, performance, price, reliability and operational characteristics are functionally transparent and are equal to or better than dedicated copper pairs. All things being equal, "Broadband ISDN" is preferred to CO-based ISDN circuits. Unless specifically identified and priced as "fractional" these circuits are assumed to be fully available.

b. **"4-Wire DS-1 Digital Grade Links"** will support full duplex transmission of isochronous serial data at 1.544 Mbps, and provide the equivalent of 24 voice grade channels. Unless specifically identified and priced as "fractional" these circuits are assumed to be fully available.

46. **"Local Exchange Carrier" or "LEC"** means any carrier that provides local common carrier telecommunications services to business and/or residential subscribers within a given LATA and interconnects to other carriers for the provision of alternative telecommunications products or services, including, but not limited to toll, special access, and private line services. This includes the Parties to this Agreement. The term "Incumbent-LEC" or "I-LEC" is sometimes used to refer to the dominant LEC for a particular locality (such as BellSouth). Such Incumbent-LECs include both Bell Operating Companies ("BOCs") and non-BOC LECs, which are often referred to as "Independent-LECs." By contrast, new entrants into the local exchange market are sometimes referred to as "Competitive LECs" or "CLECs," or sometimes as "Alternative LECs" or "ALECs."

47. **"Local Exchange Routing Guide" or "LERG"** means a BellCore Reference customarily used to identify NPA-NXX routing and homing information, as well as network element and equipment designations.

48. **"Local Traffic"** means telephone calls that originate in one exchange and terminate 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 A.3. of BellSouth's General Subscriber Service Tariff.

49. **"Local Interconnection"** means (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.

50. **"Local Interconnection Trunks/Trunk Groups"** means equipment and facilities that provide for the termination of Local Traffic and intraLATA traffic.

51. **"Local Access and Transport Area" or "LATA"** means one of 161 contiguous geographic areas established pursuant to the AT&T Content Decree to define the permitted operating regions of the RBOCs prior to the enactment of the Telecommunications Act of 1996.

52. **"Long Run Incremental Cost" or "LRIC"** refers to the costs a company would incur (or save) if it increases (or decreases) the level of production of an existing service or group of services. These costs consist of the costs associated with adjusting future production capacity and reflect forward-looking technology and operations methods.

53. **"MECAB"** refers to the Multiple Exchange Carrier Access Billing (MECAB) 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). The MECAB document published by Bellcore as Special Report SR-BDS-000983, contains the recommended guidelines for the billing of an access service provided by two or more LECs (including a LEC and a C-LEC), or by one LEC in two or more states within a single LATA.

54. **"MECOD"** refers to the Multiple Exchange Carriers Ordering and Design (MECOD) Guidelines for Access Services—Industry Support Interface, a document developed by the Ordering/Provisioning Committee under the auspices 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). The MECOD document, published by Bellcore as Special Report, SR STS-002643, establishes methods for processing orders for access service which is to be provided by two or more LECs.

55. **"Meet-Point Billing" or "MPB"** refers to a mutual compensation arrangement whereby two LECs provide the transport element of a switched access service to one of the LEC's end office switches, with each LEC receiving an appropriate share of the transport element revenues as defined by law, regulatory requirements, this agreement or, where permissible, effective access tariffs. MPB concepts are also incorporated in some LEC-toll (intraLATA) mutual compensation arrangements.

56. **"Multiple Bill/Multiple Tariff method"** means the meet-point billing method where each LEC (or C-LEC) prepares and renders its own meet point bill to the IXC in accordance with its own tariff for that portion of the jointly provided switched Access Service which the LEC (or C-LEC) provides. Bellcore's MECAB document refers to this method as "Multiple Bill/Single Tariff."

57. **"Mutual Traffic Exchange"** means that the sole compensation to a Party for termination of specified categories of traffic shall be the reciprocal services provided by the other Party. Each Party shall bill its own customers for such categories of traffic and retain all revenues resulting therefrom.

58. "North American Numbering Plan" or "NANP" is the system of telephone numbering employed in the United States, Canada, and certain Caribbean countries.

59. "Network Element" means any facility or equipment used by BellSouth in the provision of Exchange Services, and all features, functions and capabilities that are provided by means of such facility or equipment, including numbering systems, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing or other provision of a telecommunications service.

60. "Network Management Forum" is a consortium of 160 U.S. and international carriers and global alliances, including SITA, Unisource and others. Their objective is to determine specific interoperability needs, so that manufacturers of network management equipment will have the detailed technical specification needed to develop interoperable standards. For the purposes of this Agreement, both Parties agree to accept the NMF standards and solutions for OAM&P interconnections.

61. "Numbering Plan Area" or "NPA" is also sometimes referred to as an area code. This is the three digit indicator which is defined by the "A," "B," and "C" digits of each "digit" telephone number within the North American Numbering Plan ("NANP"). Each NPA contains 800 Possible NXX Codes. At present, there are two general categories of NPA, "Geographic NPAs" and "Non-Geographic NPAs." A "Geographic NPA" is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that Geographic area. In some locations, and ultimately with number portability, more than one area code will be associated with many geographic areas. A "Non-Geographic NPA," also known as a "Service Access Code" (SAC Code) is typically associated with a specialized telecommunications service which may be provided across multiple geographic NPA areas; 500, 800, 900, 700, and 888 are examples of Non-Geographic NPAs.

62. "NXX," "NXX Code," "Central Office Code" or "CO Code" is defined by the "D," "E," and "F" digits of a 10-digit telephone number within the North American Numbering Plan. Each NXX Code contains 10,000 station numbers. Historically, entire NXX code blocks have been assigned to specific individual local exchange end office switches, because, in general, this approach did not conflict with geographic numbering except as the CO approached number exhaustion. Where there are multiple COs in the same geographic area, this assignment method must change. With the advent of end-user telephone number portability, the usual one-on-one association on an NXX with an end office switching entity will be severed.

63. "OAM&P" or "Operations, Administration, Maintenance and Provisioning Functions" are those automated and manual functions which insure quality of service and least cost planning, management and operations for telecommunications service providers. These functions, have traditionally been addressed through the user of operations support, decision support and administrative support systems; and are now generally in the process of being integrated under client-server and mainframe network management platforms such as HP's OpenView, IBM's NetView and SUN's various network management product sets.

64. "OZZ Codes" define FGD call paths through a LEC's access Tandem Office Switch.

65. "Percent of Interstate Usage" or "PIU" means 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 "nonintermediary" 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 "nonintermediary", local, interstate, intrastate, toll and access minutes of use adjusted for service provider number portability less all minutes attributable to terminating party pays services.

66. "Percent Local Usage" or "PLU" means a factor to be applied to intrastate terminating minutes of use. The numerator shall include all "nonintermediary" 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.

67. "Permanent Number Portability" means the use of a database solution to provide fully transparent TNP for all customers and all providers without limitation.

68. "Port" and "Slot" are terms used to describe physical interfaces and traffic carriage capacity of some network elements. One "port" is needed for each connection capable of carrying one message into or out of the network element to other network elements. One "slot" is needed within each network element for each message to be handled simultaneously with other messages. Port categories include, but are not limited to:

a. "2-wire analog line port" is a line side switch connection employed to provide basic residential and business type analog telephone services.

b. "2-wire ISDN digital line port" is a set of Basic Rate Interface (BRI) line side switch connections which actually consists of multiple paths or interfaces to the switching network (2B+D). It is employed to provide residential and business type digital telephone services. The port connections may or may not be the same Central Office switch (network element) that provides analog services. When ISDN is provisioned as "broadband" ISDN through current generation digital switches the cost causation is totally different than when the digital service is provisioned as a set of CO port attachments.

c. "2-wire analog DID trunk port" is a direct inward dialing (DID) trunk side switch connection employed to provide incoming trunk-side services. Each port provisioned permits one simultaneous connection to the customer premises equipment.

d. "4-wire DS-1 digital DID trunk port" is a direct inward dialing (DID) trunk side switch connection which is time division multiplexed to provide the equivalent of 24 analog incoming trunk type DID trunk ports.

e. "4-wire DS-1 digital CBWT trunk port" is a trunk side switch connection which is time division multiplexed to provide the equivalent of 24 analog incoming trunk ports which may be programmed as DID, CBWT, TIE, or dedicated private trunk circuits.

f. "4-wire ISDN digital DS-1 trunk port" is a Primary Rate Interface (PRI) trunk side switch connection which is time division multiplexed to provide the equivalent of 23 digital one or two-way trunk ports and one signalling trunk port (23 B+D), where the B channels can be programmed as digital DID, CBWT, TIE, Private Line or Special Access trunk circuits. The port connections may or may not be the same Central Office switch (network element) that provides analog services.

69. "Rate Center" currently refers to a specific geographic point, designated by latitude and longitude, a corresponding V and H coordinate pair, and an associated geographic area which has heretofore been defined by the incumbent LEC industry to be associated with switched message telecommunications services (MTS). Rate centers, sometimes also known as exchange areas, often determine the regions within which particular classes, features, and pricing for exchange services are uniformly administered. Each NPA-NXX code combination is associated with a single rate center, although any one such code may only service a fraction of the rate center area when the rate center areas circumscribes multiple serving wire centers. Where retail MTS services contain a distance sensitive rate element, the valuation of that element utilizes the calculated distance between the V and H coordinate pairs of the originating and terminating rate centers.

70. "Rating Point" means the vertical and horizontal coordinates associated with a particular telephone number for rating purposes.

71. "Routing Point" traditionally refers to a location which a LEC or CLEC has designated on its own network as the homing (routing) point for traffic inbound to Telecommunications Services provided by the LEC or CLEC which bear a certain NPA-NXX designation. The Routing Point is employed to calculate mileage measurements for the distance-sensitive transport element charges of Switched Access Services. At present, Bellcore Practice BR 795-100-100, places the Routing Point at either an "End Office" location, or a "LEC Consortium Point of Interconnection." According to that same Bellcore Practice, examples of the latter shall be designated by a common language location identifier (CLLI) code with (x)KD in positions 9, 10, 11, where (x) may be any alphanumeric A-Z or 0-9. Nothing in this Agreement shall be construed to preclude either Party hereto from establishing its own Routing Points.

72. "Service Control Point" or "SCP" is network element of the common channel signaling network to which informational requests for service handling, such as routing, are directed and processed. The SCP is a real-time processor with a database system that, based on a query from a Service Switching Point ("SSP"), performs software-based common carrier, subscriber or application-specific service logic, and then sends instructions back to the SSP on how to continue call processing.

73. "Signal Transfer Point" or "STP" is a network element (presently a packet switch) that routes signaling messages among Service Switching Points (SSPs), Service Control Points (SCPs), Signaling Points (SPs) and other network elements in order to set up calls and to query databases for digital telecommunications services using CCIS/SS7 and software-based common carrier telecommunications services.

74. "Switched Access Detail Usage Data" shall mean a category 1101XX record as defined in the EMR Bellcore Practice BR 010-200-010.

75. "Switched Access Summary Usage Data" shall mean a category 1150XX record as defined in the EMR Bellcore Practice BR 010-200-010.

76. "Switched Access Service" means the offering of facilities for the purpose of the origination or termination of traffic to or from telecommunications services offered in a given area. Switched Access Services include: Feature Group A, Feature Group B, Feature Group D, 800 access, and 900 access.

77. "Synchronous Optical Network" or "SONET" is a set of optical interface standards that allow optical transmission at rates from 51.4 Mbps to 13.22 Gbps. Synchronous optical network standard is an ultra-high-speed, fiber-optic transmission standard developed by Bellcore for large-scale, fiber-based digital transmission networks that use equipment from many different manufacturers. It is the first telecom industry agreement on standardized interfaces between fiber optic transmission systems and is well on the way to becoming an international standard. Because all SONET-compatible devices speak a common language, network administrators will gain network-wide use of advanced operation and maintenance systems, regardless of who made individual network components. The SONET standard is built around a 51.84 Mbps basic communications channel that is multiplexed upward. SONET line-rate standards now include network bandwidths up to 2.488 Gbps, a rate equivalent to 48 basic SONET communications channels. SONET network standards incorporate present-day 1.544 Mbps DS-1 service and 44.6 Mbps DS-3 service as subsets of the 51.84 Mbps SONET basic channel. SONET will eventually become the primary avenue for transporting broadband ISDN services. Major network equipment manufacturers are introducing network products claiming conformity to the SONET standard.

78. "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent or received.

79. "Telecommunications Act of 1996" or "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.*).

80. "Telecommunications Carrier" means any provider of telecommunications services.

81. "Telecommunications Service" means the offering of telecommunications for a fee directly to the public, to such classes of users as to be effectively available to the public, or to telecommunications carriers, regardless of the facilities used.

82. "Telephone Number Portability" or "TNP" is the means by which BellSouth allows customers to retain their existing telephone numbers when changing from one local exchange carrier to another. This service provides transparent delivery of telephone number capabilities, from a customer standpoint in terms of call completion, and from a carrier standpoint in terms of compensation, through the use of call routing, forwarding, and addressing capabilities. Permanent number portability standards will be set by regulatory action, and both Parties agree to implementation of permanent number portability at the earliest possible point in time. The performance and cost of permanent number portability meets end-user customer or co-carrier expectations on a sustainable basis. (See also Interim Number Portability and Permanent Number Portability.)

83. "Total Service Long Run Incremental Cost" or "TSLRIC" is the total additional cost incurred by a telecommunications services provider to produce the entire quantity of a service, group of services, or basic network functions, given that the telecommunications services provider already provides all its other services. TSLRIC is based on the least cost, most efficient technology that is capable of being implemented at the time the decision to provide the service is made.

84. "Toll Free Service" means service provided with any dialing sequence that invokes toll-free (i.e., 800-like) service processing. Toll Free Service includes calls to the Toll Free Service 800/888 NPA SAC codes.

85. "Transit Calls" or "Intermediary Function" means intraLATA calls (local and toll) sent between the Parties originating from or terminating to an end user of a third-party LEC, CLEC, wireless provider, or other carrier or calls sent between the Parties destined for or originating from an IXC.

86. "Trunk Side" refers to a central office switch connection that is capable of, and has been programmed to treat the circuit as connecting to another switching entity. Trunk side connections offer those transmission and signaling features appropriate for the connection of switching elements, and cannot be used for the direct connection of ordinary telephone station sets. Incoming telecommunications services from the trunk to the line-side and for trunk-side-to-trunk side connections within any switching element should experience no less than a P.001 blocking probability in the average peak busy hour of the year, and should meet or exceed this level at all other times. This is a means to ensure that end-to-end blocking, which is cumulative, does not exceed a consistent P.02 for all call types in a multi-carrier network.

87. "Wire Center" denotes a building or space within a building which serves as an aggregation point on a given carrier's network, where transmission facilities and circuits are connected or switched. Wire Center can also denote a building in which one or more central offices, used for the provision of telecommunications services are located. The Parties hereby agree

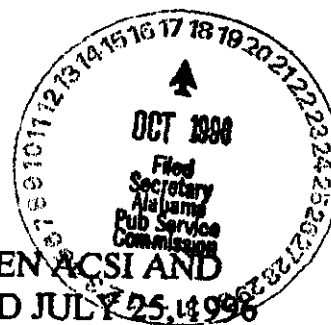
that interconnection will be available at any wire center which meets any or all legislative, judicial and regulatory eligibility standards for interconnection. Interconnection services and access to these interconnections shall not unreasonably be withheld by either Party on any grounds.

88. "Undefined Terms." The Parties acknowledge that terms may appear in this Agreement which are not defined and agree that any such terms shall be construed in accordance with their customary usage in the telecommunications industry as of the effective date of this Agreement.

AMENDMENT

TO

INTERCONNECTION AGREEMENT BETWEEN ACSI AND BELL SOUTH TELECOMMUNICATIONS DATED JULY 25, 1996



Pursuant to this Agreement (the "Amendment"), American Communications Services, Inc., on behalf of its local exchange operating subsidiaries (collectively "ACSI") and BellSouth Telecommunications, Inc. ("BellSouth") hereinafter referred to collectively as the "Parties" hereby agree to amend that certain Interconnection Agreement between the Parties dated July 25, 1996 ("Interconnection Agreement").

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

1. The Parties agree that BellSouth will provide and ACSI will accept and pay for (1) loops, (2) loop cross-connections and (3) loop channelization in accordance with the schedule of prices set forth in Attachment C-2 to this Amendment which is incorporated herein by reference, in and for the states reflected on Attachment C-2.

2. The Parties agree that the prices reflected herein shall be "true-up" (up or down) based on final prices either determined by further agreement or by a final order (including any appeals) of the relevant public service commission or other body having jurisdiction over the subject matter of this Amendment, which final order meets the criteria contained in paragraph 4 hereof. The "true-up" will consist of comparing the actual volumes and demand for each item, together with the price associated with such item by this Amendment, with the final prices determined for each item. Each party shall keep its own records upon which a "true-up" can be based and any final payment from one party to the other shall be in an amount agreed upon by the Parties based on such records. In the event of any disagreement as between the records or the Parties regarding the amount of such "true-up", the Parties agree that the body having jurisdiction over the matter for the affected states

shall be called upon to resolve such differences, or that they will submit the matter to commercial arbitration in accordance with the terms contained in Section XXV of the Interconnection Agreement.

3. The Parties agree that they may continue to negotiate as appropriate in an effort to obtain final prices for each of these items, but in the event that no such agreement is reached within six (6) months of this Amendment (which time can be extended by mutual agreement of the Parties) either party may petition the public service commission or other regulatory body of the State whose rates are in dispute to resolve such disputes and to determine final rates for each of the items covered by this Amendment. Alternatively, upon their mutual agreement, the parties may submit the matter to commercial arbitration in accordance with the terms contained in Section XXV of the Interconnection Agreement.

4. Any final order that forms the basis of a "true-up" under this Amendment shall meet the following criteria:

(a) It shall be in a proceeding to which ACSI and BellSouth are entitled to be full parties to the proceeding.

(b) It shall apply the provisions of the Telecommunications Act of 1996, including, but not limited to, Section 252 (d)(1) and all effective implementing rules and regulations; provided that said Act and such regulations are in effect at the time of the final order.

(c) It shall include as an issue the geographic deaveraging of unbundled element rates, which deaveraged rates, if any are required by said final order, shall form the basis of any "true-up."

5. The Parties further agree that the rates for number portability identified in Attachment D to the Interconnection Agreement will be retroactively "trued-up" to the effective date of the Interconnection Agreement in the event that different rates for number portability are established by mutual agreement of the parties, regulatory action, judicial order, or by selection of a lower rate for number portability pursuant to the "most favorable provisions" contained in Section XXII of the Interconnection Agreement.

6. The Parties agree that all of the other provisions of the Interconnection Agreement, dated July 25, 1996, shall remain in full force and effect. Nothing in this Amendment shall in any way limit ACSI's ability to select substitute rates for local loops, loop cross connects, loop channelization, or number portability pursuant to the terms of Section XXII of the Interconnection Agreement relating to "most favorable" treatment.

7. The Parties further agree that either or both of the Parties is authorized to submit this Amendment to the appropriate state public service commission or other regulatory body having jurisdiction over the subject matter of this amendment, for approval subject to Section 252 (e) of the federal Telecommunications Act of 1996.

8. ACSI agrees to withdraw its pending arbitration petitions under the Telecommunications Act of 1996 in all BellSouth states as soon as practical.

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

AMERICAN COMMUNICATIONS SERVICES, INC.

BELLSOUTH TELECOMMUNICATIONS, INC.

By: _____

BY: Robert C. Schuy

DATE: October 17, 1996

DATE: October 17, 1996

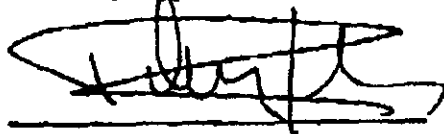
6. The Parties agree that all of the other provisions of the Interconnection Agreement, dated July 25, 1996, shall remain in full force and effect. Nothing in this Amendment shall in any way limit ACSI's ability to select substitute rates for local loops, loop cross connects, loop channelization, or number portability pursuant to the terms of Section XXII of the Interconnection Agreement relating to "most favorable" treatment.

7. The Parties further agree that either or both of the Parties is authorized to submit this Amendment to the appropriate state public service commission or other regulatory body having jurisdiction over the subject matter of this amendment, for approval subject to Section 252 (e) of the federal Telecommunications Act of 1996.

8. ACSI agrees to withdraw its pending arbitration petitions under the Telecommunications Act of 1996 in all BellSouth states as soon as practical.

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

AMERICAN COMMUNICATIONS SERVICES, INC.

By: 

DATE: October 17, 1996

BELLSOUTH TELECOMMUNICATIONS, INC.

BY: 

DATE: October 17, 1996

ATTACHMENT C-2

[The chart included below hereby replaces the table included on pages 2-3 of Attachment C-2 to the Interconnection Agreement. The service description contained in Attachment C-2 to the Interconnection Agreement is expressly retained.]

States:	Alabama		Florida		Georgia		Kentucky	
Rate Elements	Monthly	Nonrecurring *	Monthly	Nonrecurring *	Monthly	Nonrecurring *	Monthly	Nonrecurring *
Unbundled Exchange Access Loop **								
2-Wire Analog	\$18.00	\$55.20	\$17.00	\$44.80	\$17.00	\$25.80	\$17.00	\$58.40
4-Wire Analog	\$28.80	\$55.20	\$27.20	\$44.80	\$27.20	\$25.80	\$27.20	\$58.40
2-Wire ADSL/HDSL	\$18.00	\$55.20	\$17.00	\$44.80	\$17.00	\$25.80	\$17.00	\$58.40
4-Wire HDSL	\$28.80	\$55.20	\$27.20	\$44.80	\$27.20	\$25.80	\$27.20	\$58.40
2-Wire ISDN Digital	\$28.80	\$55.20	\$27.20	\$44.80	\$27.20	\$25.00	\$27.20	\$58.40
Cross-Connects								
2-Wire Analog	\$0.30	\$18.40	\$0.30	\$15.20	\$0.30	\$12.60	\$0.30	\$16.00
4-Wire Analog	\$0.50	\$18.40	\$0.50	\$15.20	\$0.50	\$12.60	\$0.50	\$16.00
Loop Channelization								
Equipment	\$400.00	\$525.00	\$400.00	\$525.00	\$400.00	\$525.00	\$400.00	\$525.00
Per Line	\$1.15	\$8.00	\$1.15	\$8.00	\$1.15	\$8.00	\$1.15	\$8.00

* These rates reflect 80% of the Business Service Connection Charge. If the Business Service Connection Charge is modified, this rate will become 80% of the revised rate.

** In the event that an unbundled loop ordered by ACSI is part of an Integrated Digital Loop Carrier (IDLC) system, the loop will be unbundled from the IDLC and provided to ACSI in accordance with the corresponding rates specified above.

P.09/11

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ATTACHMENT C-2

States: Louisiana Mississippi North Carolina South Carolina

Rate Elements	Monthly	Nonrecurring *	Monthly	Nonrecurring *	Monthly	Nonrecurring *	Monthly	Nonrecurring *
Unbundled Exchange Access Loop **								
2-Wire Analog	\$17.00	\$88.00	\$22.00	\$53.36	\$17.00	\$33.00	\$18.00	\$51.20
4-Wire Analog	\$27.20	\$88.00	\$35.20	\$53.36	\$27.20	\$33.00	\$28.80	\$51.20
2-Wire ADSL/HDSL	\$17.00	\$88.00	\$22.00	\$53.36	\$17.00	\$33.00	\$18.00	\$51.20
4-Wire HDSL	\$27.20	\$68.00	\$35.20	\$53.36	\$27.20	\$33.00	\$28.80	\$51.20
2-Wire ISDN Digital	\$27.20	\$68.00	\$35.20	\$53.36	\$27.20	\$33.00	\$28.80	\$51.20
Cross-Connects								
2-Wire Analog	\$0.30	\$20.80	\$0.30	\$13.00	\$0.30	\$11.60	\$0.30	\$8.00
4-Wire Analog	\$0.50	\$20.80	\$0.50	\$13.00	\$0.50	\$11.60	\$0.50	\$8.00
Loop Channelization								
Equipment	\$400.00	\$525.00	\$400.00	\$525.00	\$400.00	\$525.00	\$400.00	\$525.00
Per Line	\$1.15	\$8.00	\$1.15	\$8.00	\$1.15	\$8.00	\$1.15	\$8.00

* These rates reflect 80% of the Business Service Connection Charge. If the Business Service Connection Charge is modified, this rate will become 80% of the revised rate.

** In the event that an unbundled loop ordered by ACSI is part of an Integrated Digital Loop Carrier (IDLC) system, the loop will be unbundled from the IDLC and provided to ACSI in accordance with the corresponding rates specified above.

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P. 11/11

101

ATTACHMENT C-2

States: Tennessee

Rate Elements	Monthly	Nonrecurring *
Unbundled Exchange Access Loop **		
2-Wire Analog	\$18.00	\$46.80
4-Wire Analog	\$28.80	\$46.80
2-Wire ADSL/HDSL	\$18.00	\$46.80
4-Wire HDSL	\$28.80	\$46.80
2-Wire ISON Digital	\$28.80	\$46.80
Cross-Connects		
2-Wire Analog	\$0.30	\$19.20
4-Wire Analog	\$0.50	\$19.20
Loop Channelization Equipment	\$400.00	\$525.00
Per Line	\$1.15	\$8.00

* These rates reflect 80% of the Business Service Connection Charge. If the Business Service Connection Charge is modified, this rate will become 80% of the revised rate.

** In the event that an unbundled loop ordered by ACSI is part of an Integrated Digital Loop Carrier (IDLC) system, the loop will be unbundled from the IDLC and provided to ACSI in accordance with the corresponding rates specified above.

EXHIBIT B



American Communications Services, Inc.
131 National Business Parkway, Suite 100
Annapolis Junction, Maryland 20701
301-617-4200 . FAX 301-617-4279
www.acsi.net

November 14, 1997

Mr. Pat Finlan
BellSouth Telecommunications
675 W. Peachtree Street
Room 34S91
Atlanta, Georgia 30375

Dear Pat:

I am writing to summarize our recent discussions concerning reciprocal compensation for local traffic.

As you know, ACSI and BellSouth entered into an Interconnection Agreement on July 25, 1996 which included the following provision concerning reciprocal compensation for local traffic:

With the exception of the local traffic specifically identified in subsection (C) hereafter, each party agrees to terminate local traffic originated and routed to it by the other party. The Parties agree that BellSouth will track the usage for both companies for the period of the Agreement. BellSouth will provide copies of such usage reports to ACSI on a monthly basis. For purposes of this Agreement, the Parties agree that there will be no cash compensation exchanged by the parties during the term of this Agreement unless the difference in minutes of use for terminating local traffic exceeds 2 million minutes per state on a monthly basis. In such an event, the Parties will thereafter negotiate the specifics of a traffic exchange agreement which will apply on a going-forward basis. Interconnection Agreement Section VI(B).

The key to triggering the transition from "bill and keep" to reciprocal usage-based compensation is the reports that were to be issued by BellSouth on local traffic differentials pursuant to Section (VI)(B) of the Interconnection Agreement. These reports were to have indicated the point at which the state-by-state differential for local traffic minutes exceeded 2,000,000 minutes on a monthly basis. This, in turn, was to trigger a negotiation of usage-based rates to permit the immediate exchange "on a going forward basis" of usage-based compensation based on the difference between local traffic originated and terminated to ACSI end users. As you know, ACSI has never received such reports from BellSouth.¹

¹ To the extent that BellSouth is cooperative in moving quickly to usage-based reciprocal compensation - including retroactive compensation, if necessary - ACSI will have no interest in protesting BellSouth's failure to issue such reports.

Mr. Pat Fielen
November 14, 1997
Page 2

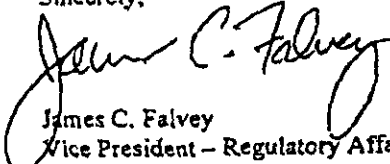
Accordingly, ACSI intends to begin billing BellSouth based upon ACSI's reports of local traffic differentials. ACSI will elect reciprocal compensation rates on a state-by-state basis which BellSouth has agreed to with other parties, or negotiate other rates. ACSI will begin billing BellSouth for local traffic differentials based on ACSI's traffic reporting system. If BellSouth develops its own reporting system, BellSouth will have the capability to compare its reports to ACSI's.

As we have discussed, an amendment to the ACSI/BellSouth Interconnection Agreement is necessary in light of the current imbalance in traffic. A proposed amendment is attached. ACSI anticipates that Schedule A, listing state specific reciprocal compensation rates, will be amended from time to time to add additional states. Please review the attached amendment and call me with your comments at your earliest convenience.

The Interconnection Agreement calls for usage-based compensation to be implemented "on a going forward basis." ACSI will bill BellSouth in each state beginning with the first month in which the local traffic differential exceeded 2 million minutes. ACSI's initial bill for reciprocal compensation for local traffic for Alabama and Georgia is attached hereto. The minutes billed are limited to local minutes for ACSI customers in Alabama and Georgia in October 1997. ACSI has calculated the difference between local traffic minutes originating by and terminating to ACSI end users and applied the rates in Schedule A to those minutes. ACSI is gathering and synthesizing data for earlier months, as well, and, will forward these bills shortly. As ACSI accumulates customers and minutes in other states, ACSI will also provide bills for these states.

I look forward to working with BellSouth in the transition to usage-based reciprocal compensation. Thank you for your attention to this matter.

Sincerely,


James C. Falvey
Vice President - Regulatory Affairs

cc: Stephen M. Klimacek,
Riley Murphy,
James Stidham

AMENDMENT

TO

INTERCONNECTION AGREEMENT BETWEEN ACSI AND BELL SOUTH TELECOMMUNICATIONS DATED JULY 25, 1996

Pursuant to this Agreement (the "Agreement"); American Communications Services, Inc., on behalf of its local exchange operating subsidiaries (collectively "ACSI") and BellSouth Telecommunications, Inc. ("BellSouth") hereinafter referred to collectively as the "Parties" hereby agree to amend that certain Interconnection Agreement between the Parties dated July 25, 1996 ("Interconnection Agreement").

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

1. Pursuant to Section VI(B) of the Interconnection agreement, the parties agreed to transition to a usage-based reciprocal compensation agreement once the difference in minutes of use for terminating local traffic exceeds 2 million minutes per state on monthly basis. The usage-based rate, pursuant to the Agreement, applies on a going forward basis beginning with the month in which the 2 million minutes threshold is met.
2. The parties hereby agree that the rates attached on Schedule A shall apply to all local traffic exchanged between the parties as mutual and reciprocal compensation rates for the transport and termination of local traffic. Schedule A may be revised by Agreement of the Parties.
3. The rates applied in Schedule A shall apply on a state-by-state basis beginning with and including the first month in which the differential exceeds 2 million minutes. Thereafter, the usage-based rate shall apply every month, regardless of the traffic differential.
4. The rate will be applied to the difference between the local traffic minutes originated by and terminated to ACSI end users.
5. The Parties shall exchange monthly local traffic reports on a state-by-state basis. A party that receives to its end users more local traffic than it originates from its end users shall submit a monthly bill showing state-by-state traffic data justifying the monthly bill.

Page 2

6. The Parties will negotiate in good faith to resolve differences in their corresponding local traffic reports.

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

AMERICAN COMMUNICATIONS
SERVICES, INC.

BELLSOUTH
TELECOMMUNICATIONS,
INC.

By: _____

By: _____

DATE: November 14, 1997

DATE: November 14, 1997

108

SCHEDULE A

ALABAMA	\$.01 per minute
GEORGIA	\$.0087 per minute
KENTUCKY	\$.008 per minute
MISSISSIPPI	TBD
LOUISIANA	\$.02 per minute
FLORIDA	\$.009 per minute
TENNESSEE	TBD
SOUTH CAROLINA	IBD

EXHIBIT C

ACSI

American Communications Services, Inc.

131 National Business Parkway, Suite 100
Annapolis Junction, Maryland 20701
TEL: 301.617.4200 FAX: 301.617.4279
www.acsi.net

December 23, 1997

VIA FACSIMILE AND FEDERAL EXPRESS

Mr. Pat Finlen
Manager - Interconnection Services
BellSouth Telecommunications
675 W. Peachtree Street
Room 34S91
Atlanta, Georgia 30375

Dear Pat:

I have not received a response to my letter dated November 14, 1997, which included a proposed amendment to the ACSI/BellSouth Interconnection Agreement ("Agreement") based upon BellSouth's obligations pursuant to Section VI(B) of the Agreement, and an initial bill for reciprocal compensation for the month of October 1997.

I am therefore writing to reiterate my request that BellSouth comply with Section VI(B) of the Agreement by agreeing to the Amendment and beginning to make reciprocal compensation payments. ACSI is also gravely concerned that - more than a month after bringing this issue to BellSouth's attention - ACSI has still not received a single report for any of its markets as to the local traffic flowing between our respective networks. This breach of Section VI(B) of the Agreement will be aggressively pursued if BellSouth does not immediately begin payment on ACSI's reciprocal compensation bills.

ACSI hereby reiterates its request for the rates stated in the Amendment attached to my November 14 letter based on BellSouth's contractual requirements in Section VI(B). ACSI also reiterates its request for these rates based upon its "Most Favorable Provisions" clause, Section XXII(A) of the Agreement.

In addition, ACSI attaches additional bills for local reciprocal compensation for several months not included in the November 14 bill. Section VI(B) of the Agreement expressly provides that reciprocal compensation is due beginning in the first month in which the traffic differential exceeds 2,000,000 minutes.

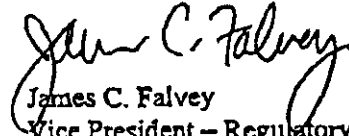
109

Mr. Pat Finlen
BellSouth Telecommunications
Page 2

If BellSouth does not respond to these requests made pursuant to the Agreement, ACSI will pursue appropriate legal remedies to enforce the terms and conditions of the Agreement.

Thank you for your immediate attention to this matter, and I look forward to hearing back from you promptly.

Sincerely,



James C. Falvey
Vice President - Regulatory Affairs

Enclosure

cc: Michael Tanner, Esq.
Stephen M. Klimacek, Esq.
Riley M. Murphy, Esq.
Brad Mutschelknaus, Esq.
Peter Fruin, Esq.
Alicia Freysinger, Esq.
Craig Dowdy, Esq.
Norman Horton, Esq.

ACSI

American Communications Services, Inc.

131 National Business Parkway, Suite 100
Annapolis Junction, Maryland 20701
TEL: 301.817.4200 FAX: 301.817.4279
www.acsi.net

January 8, 1998

VIA FACSIMILE AND FEDERAL EXPRESS

Mr. Pat Finlen
Manager - Interconnection Services
BellSouth Telecommunications
675 W. Peachtree Street
Room 34S91
Atlanta, Georgia 30375

Dear Pat:

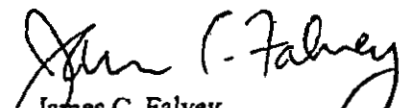
I have not received a response to my letters dated December 28, 1997 and November 14, 1997, which included a proposed amendment to the ACSI/BellSouth Interconnection Agreement ("Agreement") based upon BellSouth's obligations pursuant to Section VI(B) of the Agreement, and ACSI's first two bills for reciprocal compensation.

Enclosed is the third bill for reciprocal compensation, for traffic exchanged during the month of December 1997. If payments are not made on a timely basis, ACSI will charge interest on any late payments. Given the substantial amounts of money owed at this time, interest alone could be significant.

ACSI also still has not received a single report for any of its markets as to the local traffic flowing between our respective networks, as required by the Agreement. Please send such reports directly to my attention. BellSouth's continuing breach of the Agreement in this regard will be an issue if and when ACSI's is forced to file complaints on the issue of reciprocal compensation.

Thank you for your immediate attention to this matter, and I look forward to hearing back from you promptly.

Sincerely,



James C. Falvey
Vice President - Regulatory Affairs

Enclosure

cc: Michael Tanner, Esq.
Riley M. Murphy, Esq.
Peter Fruin, Esq.
Craig Dowdy, Esq.

Stephen M. Klimacek, Esq.
Brad Mutschelknaus, Esq.
Alicia Freysinger, Esq.
Norman Horton, Esq.

111



BellSouth Telecommunications, Inc.
Room 34531 BellSouth Center
675 West Peachtree Street, N.E.
Atlanta, Georgia 30375

January 8, 1998

Mr. James C. Falvey
American Communications Services, Inc.
Suite 100
131 National Business Parkway
Annapolis Junction, Maryland 20701

Dear Mr. Falvey,

This is in response to your proposed amendment to the Interconnection Agreement, and the billing of BellSouth for terminating local traffic on American Communications Services, Inc. (ACSI) network.

Section VI. Paragraph C. of the Interconnection Agreement provides that "the Parties agree that there will be no cash compensation exchanged by the parties during the term of this Agreement *unless the difference in minutes of use for terminating local traffic exceeds 2 million minutes per state on a monthly basis.*" (Emphasis added) Negotiation of a rate for terminating local traffic is to commence once the difference in terminating local traffic exceeds the 2 million threshold. The issue is what is being classified as terminating local traffic.

By letter dated August 12, 1997, BellSouth advised the Competitive Local Exchange Carrier industry that it considers ISP traffic to be jurisdictionally interstate interexchange, not local, and thus BellSouth will not pay reciprocal compensation for this traffic. Moreover, the ACSI-BellSouth Interconnection Agreement defines a local call as one where the dialer does not have to enter an "access code or experience delay in processing a call" (Section VI. Paragraph A and Section V. Paragraph A1). With ISP traffic, an access code (password) is invariably required to access the ISP network.

BellSouth agrees with ACSI that it was to track usage between the parties and to provide ACSI with copies of such usage reports, and that it has failed to provide these reports. Because of the absence of such reports BellSouth agrees to use ACSI's usage reports for determining the local traffic differentials.

Mr. James C. Falvey
American Communications Services, Inc.
Page 2

However, during our meeting in November, you indicated that ACSI used combined trunks for its traffic. In order to ensure the 2 million minute threshold has been reached, BellSouth would like to audit the process used by ACSI to jurisdictionalize its traffic between local and interexchange on these combined trunks. Obviously, to the extent ACSI is categorizing ISP traffic as local traffic, BellSouth's position is that it should not be counted toward the 2 million minute threshold. Until such time as BellSouth is assured the 2 million minute threshold does not contain interexchange usage, and a mutually agreed upon compensation rate has been determined, BellSouth will not pay the bills rendered by ACSI for reciprocal compensation of terminating local traffic.

In the event BellSouth determines, as a result of the audit, that the 2 million minute threshold has been reached, BellSouth's proposed rate for terminating local traffic would be \$0.002. This is the same rate called for in your Interconnection Agreement for transit traffic (Section VI. Paragraph D). This rate is also used in numerous other CLEC agreements. BellSouth proposes to pay this rate on a going-forward basis only.

We look forward to your response.

Sincerely,



Pat Finlen
Manager-Interconnection Services

cc: Jerry Hendrix, Director-Interconnection Services
Stephen M. Klimacek, Senior Attorney - Legal

BILL NUMBER: 334 BSD-5181 478
INVOICE NUMBER: BSD5181478-98199
BILL DATE: JUNE 15, 1998
PAGE: 1

TO: ATTN: ACCESS BILL VERIFICATION GROUP
BELLSOUTH
600 NORTH 19TH STREET
25TH FLOOR
BIRMINGHAM, AL 35203

Remit: e.spire COMMUNICATIONS, INC.
FORMERLY (ACSI)
Treasury Dept.
131 National Business Parkway, Suite 100
Annapolis Junction, MD 20701

BILLING INQUIRES CALL (301) 361-4250

SWITCHED ACCESS SERVICE

DETAIL OF CURRENT CHARGES

OTHER CHARGES AND CREDITS - SEE DETAIL
LOCAL 0.00
USAGE CHARGES - SEE DETAIL
LOCAL

TOTAL CURRENT CHARGES DUE BY JULY 15, 1998

TOTAL AMOUNT DUE

*DETAIL OF USAGE CHARGES FOR OFFICE MTGMALGYDS0
USAGE BILLING CYCLE MAY 1 THRU MAY 31, 1998
LOCAL*

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING		\$0.01		
TOTAL FOR LOCAL USAGE FOR OFFICE MTGMALGYDS0				

*DETAIL OF USAGE CHARGES FOR OFFICE BRHMALFCDS0
USAGE BILLING CYCLE MAY 1 THRU MAY 31, 1998
LOCAL*

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING		\$0.01		
TOTAL FOR LOCAL USAGE FOR OFFICE BRHMALFCDS0				

*DETAIL OF USAGE CHARGES FOR OFFICE CLMBGAEDDS0
USAGE BILLING CYCLE MAY 1 THRU MAY 31, 1998
LOCAL*

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING		\$0.0087		
TOTAL FOR LOCAL USAGE FOR OFFICE CLMBGAEDDS0				

BILL NUMBER: 334 BSD-5181 478
INVOICE NUMBER: BSD5181478-98199
BILL DATE: JUNE 15, 1998
PAGE: 2

DETAIL OF USAGE CHARGES FOR OFFICE NWORLAMODC0
USAGE BILLING CYCLE MAY 1 THRU MAY 31, 1998
LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING		\$0.02		
TOTAL FOR LOCAL USAGE FOR OFFICE NWORLAMODC0				

DETAIL OF USAGE CHARGES FOR OFFICE LSVLKY27DS0
USAGE BILLING CYCLE MAY 1 THRU MAY 31, 1998
LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING		\$0.08		
TOTAL FOR LOCAL USAGE FOR OFFICE LSVLKY27DS0				

DETAIL OF USAGE CHARGES FOR OFFICE JCVFLWFDC0
USAGE BILLING CYCLE MAY 1 THRU MAY 31, 1998
LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING		\$0.09		
TOTAL FOR LOCAL USAGE FOR OFFICE JCVFLWFDC0				

DETAIL OF USAGE CHARGES FOR OFFICE JCVFLWFDC0
USAGE BILLING CYCLE APRIL 1 THRU APRIL 30, 1998
LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING		\$0.09		
TOTAL FOR LOCAL USAGE FOR OFFICE JCVFLWFDC0				

DETAIL OF USAGE CHARGES FOR OFFICE JCVFLWFDC0
USAGE BILLING CYCLE MARCH 1 THRU MARCH 31, 1998
LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING		\$0.09		
TOTAL FOR LOCAL USAGE FOR OFFICE JCVFLWFDC0				

BILL NUMBER: 334 BSD-5181 478
INVOICE NUMBER: BSD5181478-98196
BILL DATE: JULY 15, 1998
PAGE: 1

TO: BELLSOUTH
600 NORTH 19TH STREET
25TH FLOOR
BIRMINGHAM, AL 35203
ATTN: ACCESS BILL VERIFICATION GROUP

REMIT: e.spire COMMUNICATIONS, INC
(FORMERLY ACSI)
RECIPROCAL COMPENSATION
PO BOX 64576
BALTIMORE, MD 21264

BILLING INQUIRES CALL (301) 361-4250

SWITCHED ACCESS SERVICE

DETAIL OF CURRENT CHARGES

OTHER CHARGES AND CREDITS - SEE DFTAIL

LOCAL 0.00

USAGE CHARGES - SEE DETAIL

LOCAL [REDACTED]

TOTAL CURRENT CHARGES DUE BY AUGUST 15, 1998 [REDACTED]

TOTAL AMOUNT DUE [REDACTED]

DETAIL OF USAGE CHARGES FOR OFFICE MTGMALGYDS0
USAGE BILLING CYCLE JUNE 1 THRU JUNE 30, 1998
LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING	[REDACTED]	\$0.01		[REDACTED]

TOTAL FOR LOCAL USAGE FOR OFFICE MTGMALGYDS0 [REDACTED]

DETAIL OF USAGE CHARGES FOR OFFICE BRHMALFCDS0
USAGE BILLING CYCLE JUNE 1 THRU JUNE 30, 1998
LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING	[REDACTED]	\$0.01		[REDACTED]

TOTAL FOR LOCAL USAGE FOR OFFICE BRHMALFCDS0 [REDACTED]

DETAIL OF USAGE CHARGES FOR OFFICE CLMBGAEDDS0
USAGE BILLING CYCLE JUNE 1 THRU JUNE 30, 1998
LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING	[REDACTED]	\$0.0087		[REDACTED]

TOTAL FOR LOCAL USAGE FOR OFFICE CLMBGAEDDS0 [REDACTED]

BILL NUMBER: 334 BSD-5181 478
INVOICE NUMBER: BSD5181478-98196
BILL DATE: JULY 15, 1998
PAGE: 2

DETAIL OF USAGE CHARGES FOR OFFICE NWORLAMODC0
USAGE BILLING CYCLE JUNE 1 THRU JUNE 30, 1998
LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING		\$0.02		
TOTAL FOR LOCAL USAGE FOR OFFICE NWORLAMODC0				

DETAIL OF USAGE CHARGES FOR OFFICE LSVLKY27DS0
USAGE BILLING CYCLE JUNE 1 THRU JUNE 30, 1998
LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING		\$0.08		
TOTAL FOR LOCAL USAGE FOR OFFICE LSVLKY27DS0				

DETAIL OF USAGE CHARGES FOR OFFICE JCVLF-LWFDC0
USAGE BILLING CYCLE JUNE 1 THRU JUNE 30, 1998
LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING		\$0.09		
TOTAL FOR LOCAL USAGE FOR OFFICE JCVLF-LWFDC0				

BILL NUMBER: 334 BSD-5181 478
INVOICE NUMBER: BSD5181478-98227
BILL DATE: AUGUST 15, 1998
PAGE: 1

TO: BELLSOUTH
600 NORTH 19TH STREET
25TH FLOOR
BIRMINGHAM, AL 35203
ATTN: ACCESS BILL VERIFICATION GROUP

REMIT : e.spire COMMUNICATIONS, INC
(FORMERLY ACSI)
RECIPROCAL COMPENSATION
PO BOX 64576
BALTIMORE, MD 21264

BILLING INQUIRES CALL (301) 361-4250

SWITCHED ACCESS SERVICE

DETAIL OF CURRENT CHARGES

OTHER CHARGES AND CREDITS - SEE DETAIL

LOCAL 0.00

USAGE CHARGES - SEE DETAIL

LOCAL [REDACTED]

TOTAL CURRENT CHARGES DUE BY SEPTEMBER 15, 1998 [REDACTED]

TOTAL AMOUNT DUE [REDACTED]

DETAIL OF USAGE CHARGES FOR OFFICE MTGMALGYDS0

USAGE BILLING CYCLE JULY 1 THRU JULY 31 1998

LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING	[REDACTED]	\$0.01		[REDACTED]

TOTAL FOR LOCAL USAGE FOR OFFICE MTGMALGYDS0 [REDACTED]

DETAIL OF USAGE CHARGES FOR OFFICE BRHMALFCDS0

USAGE BILLING CYCLE JULY 1 THRU JULY 31 1998

LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING	[REDACTED]	\$0.01		[REDACTED]

TOTAL FOR LOCAL USAGE FOR OFFICE BRHMALFCDS0 [REDACTED]

DETAIL OF USAGE CHARGES FOR OFFICE CLMRGAFDSD0

USAGE BILLING CYCLE JULY 1 THRU JULY 31 1998

LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING	[REDACTED]	\$0.0087		[REDACTED]

TOTAL FOR LOCAL USAGE FOR OFFICE CLMBGAEDDS0 [REDACTED]

BILL NUMBER: 334 BSD-5181 478
 INVOICE NUMBER: BSD5181478-98227
 BILL DATE: AUGUST 15, 1998
 PAGE: 2

DETAIL OF USAGE CHARGES FOR OFFICE NWORLAMODC0
 USAGE BILLING CYCLE JULY 1 THRU JULY 31 1998
 LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING	[REDACTED]	\$0.02		[REDACTED]
TOTAL FOR LOCAL USAGE FOR OFFICE NWORLAMODC0				[REDACTED]

DETAIL OF USAGE CHARGES FOR OFFICE LSVLKY27DS0
 USAGE BILLING CYCLE JULY 1 THRU JULY 31 1998
 LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING	[REDACTED]	\$0.08		[REDACTED]
TOTAL FOR LOCAL USAGE FOR OFFICE LSVLKY27DS0				[REDACTED]

DETAIL OF USAGE CHARGES FOR OFFICE JCVFLWFDC0
 USAGE BILLING CYCLE JULY 1 THRU JULY 31 1998
 LOCAL

<u>RATE CATEGORY</u>	<u>QUANTITY</u>	<u>RATE</u>	<u>MILES</u>	<u>AMOUNT</u>
TERMINATING	[REDACTED]	\$0.09		[REDACTED]
TOTAL FOR LOCAL USAGE FOR OFFICE JCVFLWFDC0				[REDACTED]

EXHIBIT D

ACSI

American Communications Services, Inc.

131 National Business Parkway, Suite 100
Annapolis Junction, Maryland 20701
TEL: 301.617.4200 FAX: 301.617.4279
www.acsi.net

March 17, 1998

Mr. Pat Finlen
Manager - Interconnection Services
BellSouth Telecommunications
675 W. Peachtree Street
Room 34S91
Atlanta, Georgia 30375

Dear Pat:

I am writing to provide the bill for January reciprocal compensation and to dispute statements in your letter of January 8, 1998.

I will not take the time here to dispute the definition of local traffic. Thirteen state commissions and the FCC support ACSI's definition; no commission supports BellSouth's. If ACSI does not change its position as to the definition of local traffic, ACSI will be filing its first of several complaints on this issue shortly.

I must take issue with your statement that "during our meeting in November, you [I] indicated that ACSI used combined trunks for its traffic." At our meeting, I specifically indicated that I could not speak to such issues at that time but would provide additional information at the appropriate time. Although ACSI has established a sound process to distinguish local traffic, an audit of ACSI's process would be premature until such time as BellSouth concedes that it owes ACSI for all local traffic. Given BellSouth's admitted failure to report local minutes, ACSI reserves the right to object to the extent and nature of such an audit.

In your letter of January 8, you failed to respond to ACSI's repeated request for the rates in ACSI's proposed Amendment attached to my letter dated November 14, 1997. These are rates established by BellSouth with other carriers in each state. Moreover, your proposed rate of \$0.002 ignores ACSI's repeated Most Favorable Provisions request pursuant to Section XXII(A) of ACSI's Interconnection Agreement. BellSouth's failure to recognize this repeated request represents an additional breach of ACSI's Interconnection Agreement.

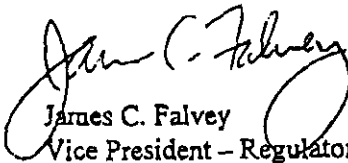
Again, ACSI applies these rates to the differential of local minutes, beginning with the month in which BellSouth exceeded the 2 million minute differential threshold in each state. ACSI takes strong exception to BellSouth's suggestion that it will "pay this rate on a going-forward basis only," as the Interconnection Agreement plainly applies the rate beginning with the month in which the 2 million minute differential is reached.

Mr. Pat Finlen
BellSouth Telecommunications
Page 2

Finally, the definition of "Local Traffic" is contained in Attachment B, Paragraph 118 of the Interconnection Agreement. Your attempt to rely upon other sections of the Agreement represents a deliberate misinterpretation of those sections in order to circumvent the plain language of ACSI's contract.

If BellSouth does not begin paying the attached and previous bills, ACSI will take legal action, including demand for interest, attorneys fees, and penalties, as applicable. Thank you for your continuing attention to this matter.

Sincerely,


James C. Falvey
Vice President - Regulatory Affairs

Enclosure

cc: Michael Tanner, Esq.
Riley M. Murphy, Esq.
Peter Fruin, Esq.
Craig Dowdy, Esq.
John Selent, Esq.

Stephen M. Klimacek, Esq.
Brad Mutschelknaus, Esq.
Alicia Freysinger, Esq.
Norman Horton, Esq.

EXHIBIT E



STATE OF CONNECTICUT

**DEPARTMENT OF PUBLIC UTILITY CONTROL
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051**

**DOCKET NO. 97-05-22 PETITION OF THE SOUTHERN NEW ENGLAND
TELEPHONE COMPANY FOR A DECLARATORY RULING
CONCERNING INTERNET SERVICES PROVIDER
TRAFFIC**

September 17, 1997

By the following Commissioners:

Jack R. Goldberg
Glenn Arthur
John W. Betkoski, III

DECISION

TABLE OF CONTENTS

I. INTRODUCTION 1

 A. SUMMARY 1

 B. BACKGROUND OF THE PROCEEDING 1

 C. CONDUCT OF PROCEEDING 1

II. SNET PETITION 2

III. PARTICIPANTS' POSITIONS 3

 A. AOL 3

 B. AT&T 4

 C. COX 4

 D. MCI 5

 E. MFSI 7

 F. TCG 8

IV. DEPARTMENT ANALYSIS 9

IV. CONCLUSION 11

DECISION**I. INTRODUCTION****A. SUMMARY**

The Southern New England Telephone Company (SNET) petitioned the Department of Public Utility Control (Department) requesting that the Department issue a Declaratory Ruling to the effect that the mutual compensation scheme developed in Docket No. 94-10-02 DPUC Investigation into the Unbundling of the Southern New England Telephone Company's Local Telecommunications Network -Reopened, does not apply to Internet Service Providers (ISP). SNET argues, inter alia that mutual compensation should not apply to ISP providers because to do so would give an unfair advantage to Competitive Local Exchange Carriers (CLECs), and that ISP traffic is not local in nature and should not be subject to local mutual compensation.

The Department solicited comments from interested parties. All those filing comments disagreed with SNET's arguments and conclude that ISP traffic should be subject to mutual compensation.

After consideration of the comments filed, the petition and the Decision in Docket No. 94-10-02, the Department has determined that ISP traffic should be subject to mutual compensation. Accordingly, SNET's petition is denied.

B. BACKGROUND OF THE PROCEEDING

By petition (Petition) dated May 27, 1997, the Southern New England Telephone Company (SNET or Company) requested that the Department of Public Utility Control (Department) issue a Declaratory Ruling that the January 16, 1997 Decision in Docket No. 94-10-02, DPUC Investigation into the Unbundling of the Southern New England Telephone Company's Local Telecommunications Network - Reopened, governing mutual or reciprocal compensation, does not apply to Internet Service Provider (ISP) traffic.

C. CONDUCT OF PROCEEDING

By Notice of Request for Written Comments (Request) dated June 13, 1997, all interested persons were given the opportunity to file with the Department written comments addressing the following issues:

1. Whether the Docket No. 94-10-02 Decision governing mutual compensation applies to Internet Service Provider (ISP) traffic.
2. Whether ISP traffic should be considered intrastate or interstate in nature.

Docket No. 97-05-22

Page 2

3. Whether the costs for terminating ISP traffic would already be recovered prior to imposition of mutual compensation.
4. Whether ISP traffic is terminating traffic only.
5. Whether any particular group or individual is provided a competitive advantage by allowing mutual compensation for ISP traffic.
6. Other pertinent issues directly related to this Petition.¹

The Department issued a draft Decision in this docket on August X, 1997. All participants were provided an opportunity to submit written exceptions to and oral arguments on the draft Decision.

II. SNET PETITION

SNET argues that ISP traffic is terminating only and does not fall within the traditional services mutual compensation was to address. SNET claims that the main assumption of mutual compensation is that originating and terminating usage would balance out between the carriers with any imbalance or difference in that traffic being periodically settled by a payment from one carrier to the other. According to SNET, since ISP traffic is terminating only, the competitive local exchange carrier (CLEC) serving that ISP would never have to compensate SNET. SNET maintains that telephone calls to ISPs do not terminate in the local access and transport area (LATA) where the ISP's facilities and data bases are located because these calls are carried across LATA boundaries over the Internet to locations beyond Connecticut. SNET concludes that ISP traffic, therefore, is not local, but is inherently interstate, interexchange traffic. Petition, pp. 4-6.

SNET also maintains that the Federal Communications Commission (FCC) has consistently viewed ISP traffic to be interstate in nature. While noting that mutual compensation is designed to compensate a terminating carrier for its costs in completing the calls, the Company states that, in the case of ISP traffic, Internet service providers compensate CLECs for serving the ISP through the rates charged the subscriber, or SNET subsidizes the CLEC's costs in providing service to the ISP, or both. SNET argues that allowing a carrier to be compensated through mutual compensation for the costs it is already recovering would be an unintended use of the Department's mutual compensation policy and would grant those carriers serving ISPs an unwarranted competitive advantage.

¹ In response to the Request, the Department received comments from the following: America Online, Inc. (AOL); AT&T Communications of New England, Inc. (AT&T); Cablevision Lightpath (Lightpath); Cox Connecticut Telecom, LLC (Cox); MCI Telecommunications Corporation (MCI); MFS Intelenet of Connecticut, Inc. (MFSI); and Teleport Communications Group, Inc. (TCG, collectively, the Participants).

137

Docket No. 97-05-22

Page 3

Additionally, SNET argues that subjecting ISP traffic to mutual compensation would require SNET to purchase additional interconnect trunks to the CLECs' switches. In this case, the Company claims that it would also be required to pay the CLEC for the termination of those ISP calls originated from a SNET local customer. SNET asserts that since this traffic is originating only, it would potentially be liable to pay compensation to those CLECs. Other significant costs include network investment for trunks, switch modules and facilities to route the ISP calls from SNET's originating end offices to its tandem that is interconnected to the CLEC.

The Company further states that ISP traffic, whether terminating to an ISP on SNET's network or on a CLEC's network, does not fall within the definition of the traditional services mutual compensation was to address. According to SNET, subjecting ISP traffic to the mutual compensation plan (Plan) adopted in the January 17, 1997 Decision in Docket No. 94-10-02, would allow terminating carriers serving ISPs to avail themselves of a loophole constituting a free ride.

In the event the Department determines that mutual compensation applies to ISP traffic, SNET states that the Decision in Docket No. 94-10-02 requires the Department to reconsider its mutual compensation policy because it provides the CLECs with an unfair advantage. SNET contends that if ISP traffic were included for mutual compensation purposes, it would be required to compensate the CLEC for the termination of that traffic. SNET also contends that since ISPs do not originate traffic, the CLEC would never have to compensate the Company with all compensation flowing in only one direction. The above comments can be found in the Petition, pp. 6-8.

III. PARTICIPANTS' POSITIONS

A. AOL

The Participants generally oppose SNET's Petition and recommend that the Department reject SNET's claims and deny its request for Declaratory Ruling. AOL Comments, p. 1; Cox Comments pp. 1, 3; MFSI Comments, p. 2; TCG Comments, p. 1. AOL states that the Department should deny the Petition and reaffirm that its mutual compensation rules apply to all traffic including ISP traffic. AOL Comments, p. 1. AOL opines that the Petition undermines the State's procompetitive policy and the mandates of the Telecommunications Act of 1996 (1996 Telcom Act) and is evidence of SNET's refusal to accept that it must transition from the "protected monopoly" environment to the new telecommunications era. In particular, SNET is attempting to undermine the CLEC's ability to save ISPs by attacking the Department and the 1996 Telcom Act's mutual compensation regime. According to AOL, if the Petition is adopted, CLECs would be denied compensation for local traffic terminated on their networks based upon the identity of the end user being called. Denial of compensation to CLECs for traffic terminating on their networks to ISP end users may result in discriminatory treatment of CLECs in comparison with adjacent ILECs.² AOL concludes that under this scenario,

² SNET claims that its proposal to exempt ISP traffic from mutual compensation is not discriminatory because ISP traffic is not similar to any other type of traffic. In support of that argument, SNET

Docket No. 97-05-22

Page 4

CLECs would be discouraged from marketing their services to ISP end users and all ISP traffic would be driven back to the ILEC because, without compensation, there is no incentive for CLECs to furnish service to ISPs. This would return SNET to the position of having a monopoly over ISP end users.

Lastly, AOL argues that SNET's attempt to persuade the Department not to apply its mutual compensation rules to the transport and termination of ISP traffic violates the prohibition in §202(a) of the 1996 Telcom Act and Conn. Gen. Stat. §16-247 against unjust and unreasonable discrimination towards ISPs and all other end users purchasing local service. AOL concludes that since numerous other businesses purchase the same type of service and use the network in the same manner as ISPs, the imposition of different pricing standards for ISP traffic would amount to unjust and unreasonable discrimination. Accordingly, AOL recommends that the Department reject SNET's Petition. The above positions can be found in AOL Comments, pp. 3-6.

B. AT&T

AT&T argues that ISPs exhibit many of the characteristics of other classes of local business customers and, therefore, ISP traffic should be treated as local traffic. According to AT&T, this traffic should be included in calculations of reciprocal compensation, allowing all LECs serving ISPs to take advantage of available market opportunities, which, in turn, would place downward pressure on ILEC access rates. AT&T contends that ISP traffic must be treated as intrastate traffic and ISP end users should be permitted to purchase local services as do other local business customers. AT&T states that for the Department to decide otherwise would be irrational and contrary to the FCC's rulings. AT&T Comments, pp. 1 and 2.

C. Cox

Cox asserts that the Petition is premised on factual errors requiring that SNET's claims be rejected.³ In particular, Cox opines that SNET has assumed that ISPs will never use the Company to terminate their traffic. Cox disagrees with this assumption and notes that unless SNET has unilaterally chosen not to serve ISPs in violation of its public service responsibilities, there is no reason to believe the claimed imbalance will not change this environment. Cox also notes that nowhere has SNET claimed that it is not currently terminating ISP traffic itself or has it indicated the amount of this traffic. Cox also disagrees with SNET's claim that no party to Docket No. 94-10-02 envisioned application of mutual compensation to large volumes of Internet traffic. Cox states that SNET itself argued that Bill and Keep⁴ was not appropriate given the likelihood of traffic

maintains that ISP traffic is not local traffic, but is interstate in nature. SNET also maintains that ISP traffic is characterized by unusually long holding times, is not voice, but involves the transmission of data. Accordingly, SNET suggests that a Department finding that ISP traffic is not subject to mutual compensation would not discriminate against any particular segment of CLECs' end users. SNET Reply Comments, pp. 9 and 10.

³ Lightpath concurs with Cox's comments. Lightpath 6/27/97 Letter to the Department, p. 1.

⁴ A bill and keep arrangement, in its most simplistic form, means that traffic is exchanged between networks without any compensation among providers.

129

Docket No. 97-05-22

Page 5

imbalance. Additionally, Cox disagrees with SNET's claim that terminating carriers serving ISPs are availing themselves of a loophole that constitutes a free ride. According to Cox, the terminating carriers incur certain costs to terminate traffic that must be recovered from the carrier originating the traffic. Cox Comments, pp. 1 and 2.

Cox contends that there is no legal or technical basis under state or federal laws or regulations to indicate that ISP traffic is anything other than local traffic. Accordingly, Cox maintains that ISP traffic qualifies as local telecommunications traffic under mutual compensation agreements and the Department must reject the Petition and affirm that ISP traffic is subject to mutual compensation. Cox Comments, p. 3.

Moreover, Cox provides two reasons why local calls to ISPs cannot be classified as anything other than local traffic. First, an ISP is not a telecommunications carrier, but is a customer purchasing telephone service from a LEC or CLEC like any other customer. Secondly, Cox argues that a call is considered as being terminated or completed to a customer, irrespective of what that customer does with the call on its own network. Therefore, Cox asserts that the fact that an ISP may route the customer traffic to the source of the information for which the customer is paying the ISP is no basis for claiming that the traffic that originated as local and locally terminated at an end user (ISP) is anything other than local traffic. Cox Comments, pp. 5 and 6.

Lastly, Cox disagrees with SNET's claim that ISP traffic is only terminating traffic. Cox states that when a SNET customer originates a call to an ISP who is a customer of another LEC or CLEC, and that second carrier completes the call, the traffic that flows is both upstream (from the SNET customer) and downstream (to the SNET customer). Cox opines that the traffic is not only terminating to the ISP but also flows from the ISP to SNET's customers. Cox Comments, p. 7.

D. MCI

MCI maintains that ISP traffic should be considered intrastate in nature and the January 17, 1996 Decision in Docket No. 94-10-02 governing mutual compensation applies to ISP traffic. MCI asserts that no where in §251(b)(5) of the 1996 Telcom Act did Congress or in the FCC's First Report and Order, CC Docket No. 96-98 In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 (First Report and Order), was the application of reciprocal compensation obligations removed from any specific traffic that originates and terminates within a local area based upon the identity or usage characteristics of the individual end user. MCI argues that mutual compensation requirements imposed on all LECs are not eliminated by the fact that they charge their end user customers for local services provided to their customers. According to MCI, a call placed over the public switch network (PSN) is considered to be terminated when it is delivered to the telephone exchange service bearing the called telephone number. MCI states that as a communications service, a call is completed at that point, regardless of the identity or status of the called party. Therefore, a call to an ISP is terminated at the point it is delivered to the telephone exchange service purchased by the ISP. MCI Comments, pp. 2-7.

130

Docket No. 97-05-22

Page 6

MCI also argues that ISP traffic is not terminating only traffic, because ISPs have outbound usage. MCI contends that the relevant treatment of ISP traffic for purposes of intercarrier mutual compensation obligations does not depend on independent individual end users or their calling patterns because it is carrier traffic in the aggregate that determines mutual compensation. Additionally, MCI claims that no particular group or individual is provided a competitive advantage by allowing mutual compensation to ISP traffic. Lastly, MCI contends that the Petition is contrary to the January 10, 1997 Decision in Docket No. 96-09-09, Application of MCI Telecommunications Corporation for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996, in which the Department adopted the December 24, 1996 Final Arbitration Award, for an "Agreement for Network Interconnection and Resale between SNET and MCI (Agreement)." MCI asserts that no where in the Agreement is it provided that SNET may refuse to compensate it for terminating local traffic that originates on SNET's network by singling out specific recipients of local calls for exclusion from its mutual compensation obligations. According to MCI, SNET has improperly refused to treat ISP traffic as part of its mutual compensation arrangements with MCI.

MCI also claims that SNET will not pay compensation for the termination of ISP traffic over MCI's facilities based on the January 17, 1996 Decision in Docket No. 94-10-02. MCI states that SNET's position is factually and legally incorrect because the service in question is a type of service that would be included in the Plan. MCI also states that SNET's position is incorrect because the Plan does not provide for, or contemplate that, carriers can pick and choose which end users it wants to include under mutual compensation arrangements and which it would exclude. MCI argues that under the Plan, all types of local service customers of all interconnecting carriers are blended together, without exception. Moreover, MCI argues that SNET improperly assumes that MCI is overcompensated on the basis of one customer, without considering all payments taking into account network investment and total customer base. Further, MCI argues that SNET is legally incorrect in its claim that it is an inappropriate and unintended use of the Plan to include all local service customers in the determination of mutual compensation. According to MCI, the Plan expressly requires that all local service traffic be included under mutual compensation arrangements, making no distinctions among or between types of end users nor omitting any from the mutual compensation mix.

Lastly, MCI asserts that SNET's claim of network burdens due to ISP traffic are irrelevant and without merit. MCI opines that any such burdens may also be self-inflicted by SNET's own aggressive Internet access business and the increased use of second lines actively promoted by SNET. Accordingly, MCI requests that the Department direct SNET to include ISP traffic under mutual compensation arrangements pending the final resolution of this issue. The above positions can be found in MCI Comments, pp. 10-14.

131

Docket No. 97-05-22

Page 7

E. MFSI

MFSI argues that the January 16, 1997 Decision in Docket No. 94-10-02 applies to all local exchange traffic passed between SNET and CLECs.⁵ MFSI also argues that calls to ISPs are simple local calls and fall within the category of local exchange traffic governed by Docket No. 94-10-02. Similar to the other participants, MFSI asserts that the FCC has repeatedly affirmed ISP rights to employ local exchange services to connect to the PSN. According to MFSI, the local call to an ISP local exchange service provider is a separate and distinguishable transmission from any subsequent Internet connection enabled by the ISP in which the FCC has considered to be the interstate portion of an ISP's business. MFSI Comments, pp. 3 and 4.

Citing the recent FCC orders in CC Docket No. 96-262, In the Matter of Access Charge Reform, released on May 16, 1997 (Access Charge Order) and CC Docket No. 96-45 In the Matter of Federal-State Joint Board on Universal Service, released on May 8, 1997 (Universal Service Order), MFSI claims that the FCC affirms these conclusions. In particular, the FCC has declined to allow LECs to assess interstate access charges on ISPs (Access Charge Order) and has also determined that Internet access consists of severable components: the connection to the ISP via access to the PSN and the information service subsequently provided by the ISP (Universal Service Order). MFSI further asserts that the fact that SNET charges its own customers local rates for traffic to ISPs and classifies that traffic as local for purposes of interstate separations is strong evidence that SNET considers such traffic to be local and eligible for reciprocal compensation. MFSI posits that the untenable nature of SNET's position is underscored by the fact that if such traffic were deemed interstate instead of local, SNET could not carry it. MFSI Comments, pp. 6 and 7.

Additionally, MFSI notes that SNET's position has been rejected by six other state regulatory agencies.⁶ MFSI concludes that calls to ISPs are not interstate traffic and therefore fall within the scope of the Department's resolution of reciprocal compensation arrangements in Docket No. 94-10-02. MFSI Comments, p. 8.

Lastly, MFSI argues that since SNET controls most of the originating traffic within its territory, exempting calls to ISPs from the reciprocal compensation arrangements would force MFSI and other new entrants to terminate these calls without compensation. MFSI claims that if this were to occur, it would be financial suicide for CLECs to furnish service to an ISP, since providing that service would result in uncompensated termination costs. MFSI also claims that in the end, SNET would have a de facto monopoly over ISP end users, something that was not intended by §251(b)(5) of the 1996 Telcom Act or by §§16-247a-g of the Conn. Gen. Stat. MFSI Comments, p. 12.

⁵ SNET disagrees. According to SNET, ISP traffic is not simple local traffic. SNET argues that telephone calls to ISPs do not terminate in the LATA where the ISP's facilities and data bases are located. Rather, these calls are carried over the Internet across LATA and state boundaries and, therefore, are interstate in nature. SNET Reply Comments, p. 2.

⁶ The states of Arizona, Colorado, Minnesota, New York, Oregon and Washington all have declined to treat ISP traffic any differently than other local traffic.

132

F. TCG

TCG states that this issue was already addressed by several state commissions and they have all concluded that local calls to ISPs are subject to reciprocal compensation arrangements. TCG claims that some states - Oregon, Washington, Minnesota and Arizona - have concluded in arbitration proceedings before their respective commissions that CLEC/ILEC interconnection agreements must treat local calls to ISPs like any other local traffic subject to mutual compensation. TCG Comments, pp. 2 and 3.

TCG argues that the mutual compensation arrangements adopted by the Department in Docket No. 94-10-02 apply to ISP traffic. Similar to MFSI, TCG maintains that for purposes of reciprocal compensation, ISP traffic is local in nature because it originates and terminates between two end users, the LEC end user (an ISP customer) and the ISP itself within a local calling area. Additionally, TCG cites the Access Charge and Universal Service Orders, wherein the FCC has indicated that intrastate local rates are applied to Internet calls regardless of whether or how the information is enhanced or transmitted by the ISP. TCG also maintains that the nature of the ISP's provision of enhanced service does not affect and is not relevant to the jurisdictional nature of the local call carried by the LEC to the CLEC to the ISP. According to TCG, because this traffic is local, then it should be subject to reciprocal compensation arrangements.

TCG also argues that the local caller pays charges to the originating carrier and the originating carrier must compensate the terminating carrier for completing the call. TCG asserts that SNET seeks to evade this requirement under the 1996 Telcom Act and that the relationship between itself and SNET in completing calls placed to an ISP fits the circumstances under which reciprocal compensation must apply. TCG contends that irrespective of whether a CLEC or SNET provides the local service to the ISP: 1) the ISP's customer still dials a conventional local number to reach the ISP; 2) the call is then routed to the ISP's premises by means of SNET or CLEC local service; and 3) the call is rated by SNET. TCG also contends that, pursuant to §251 of the 1996 Telcom Act and the FCC's First Report and Order, it is entitled to reciprocal compensation for terminating such traffic. The above can be found in TCG Comments, pp. 8, 10-13.

Finally, TCG claims that it has established prices for the trunking arrangements purchased by ISPs that are intended to recover TCG's cost to provide the service. TCG also claims that it incurs additional costs associated with the receipt of traffic from SNET and with processing these calls placed by SNET's customers. TCG states that these costs are primarily associated with the trunking arrangements and switch ports TCG must utilize to receive this traffic. TCG concludes that it is appropriate to require SNET to compensate TCG for the trunking and port costs associated with transport and termination of calls from SNET's customers and that the existing reciprocal compensation framework is adequate to do that task. TCG Comments, p. 13.

Docket No. 97-05-22

Page 9

IV. DEPARTMENT ANALYSIS

SNET has requested that the Department issue a Declaratory Ruling that its Decision in Docket No. 94-10-02 governing mutual compensation does not apply to ISP traffic. Mutual compensation refers to the charges paid to one facilities provider by another for the completion or termination of local calls on the provider's network that did not originate the call. Mutual compensation has been further defined as the means of allowing each network participant to be compensated fairly for the use of its network to complete a local call originating on another provider's network. January 17, 1996 Decision in Docket No. 94-10-02, p. 57. In the January 17, 1996 Decision, the Department also limited the application of mutual compensation to the termination of local traffic and did not permit the incumbent provider to dictate the definition of "local service" for these purposes. *Id.*, p. 71.

While SNET may not be dictating the definition of local service, the Company appears to be attempting to dictate the terms and conditions under which mutual compensation would apply beyond those provided for in the January 17, 1996 Decision in Docket No. 94-10-02. However, as evidenced by the comments submitted by the other participants in this proceeding, the overwhelming opinion is that local calls to ISPs should be subject to mutual compensation. The Department concurs.

ISPs are business local exchange customers that purchase service from SNET, use the network in a similar manner to the Company's other end users and, therefore, should not be treated any differently than other business local exchange customers. Overall, ISP traffic consists of both originating and terminating traffic similar to other end user customers. The basic operating basis of an ISP is the exchange of information between itself and its own customers. In that respect, local traffic will flow in both directions between the SNET end user and the actual Internet service provider supplying the information. The Department considers calls originating and terminating between these customers (ISPs and other SNET customers) within the same local calling area to be local, and, therefore, should be subject to the mutual compensation arrangements adopted in the Plan. This is consistent with the FCC's position that ISPs may pay business line rates and the appropriate subscriber line charge, rather than interstate access rates, even for calls that appear to traverse state boundaries. Access Charge Order ¶342.

The Department also concurs with the FCC in that Internet access is composed of various components including the local voice grade connection to the PSN to which an ISP subscribes and the information service actually provided to the end user by the ISP. In its Access Charge Order, the FCC indicated that Internet access includes the network transmission component (the connection over an LEC network from a subscriber to an ISP) and the underlying information service. In its Access Charge Order, the FCC also stated that voice grade access to the PSN enabled customer access to an ISP and, ultimately, the Internet. Access Charge Order ¶83. In the opinion of the Department, it is the local connection component and the traffic carried over it that should be subject to mutual compensation. Subscription of a local voice grade connection to the PSN by ISPs, as well as its use of these connections, is no

134

Docket No. 97-05-22

Page 10

different than those subscribed to and utilized by other SNET business and residential customers. The Department finds that any traffic originating and terminating in the local calling area carried over these connections should be subject to compensation as outlined in the Plan. Not applying the Plan's mutual compensation arrangements to this traffic would discriminate against these users and violate the 1996 Telcom Act and Conn. Gen. Stat. §16-247a. The fact that the Plan requires that compensation be paid for all local traffic carried over the LEC and CLEC networks does not, and should not, depend on the usage characteristics of a specific end user. Therefore, ISP traffic should be subject to mutual compensation.

Additionally, the Department is not persuaded by SNET's claim that it will be required to purchase additional interconnect trunks to the CLEC switches to accommodate the ISP traffic and be required to pay additional compensation resulting from the terminating traffic that would be carried. SNET's common carrier duties require it to install trunking facilities as needed. These facilities will more than likely be used by SNET for its own Internet business as well as the installation and increased use of second lines by its own end user customers. SNET has not substantiated its claim that purchase of additional trunking is required due to its carriage of ISP traffic.

The Department also looks to the experience of other states in addressing the issue of reciprocal compensation for local ISP traffic. The record indicates that Arizona, Colorado, Minnesota, New York, Oregon and Washington have all declined to treat ISP traffic any differently than other local traffic. MFSI Comments, p. 8; TCG Comments, pp. 2 and 3. As indicated above, these states have separately reviewed LEC proposals to deny compensation for ISP traffic. The Department believes its requirement that ISP traffic be subject to the Plan is consistent with these states' decisions.

Lastly, SNET has requested that in the event it is determined that ISP traffic should be subject to the Plan that the Department reconsider its January 17, 1996 Decision in Docket No. 94-10-02 because it would provide CLECs with an unfair competitive advantage. SNET Reply Comments, pp. 7,10. In that Decision, the Department stated that:

... the Department has similarly concluded that any such compensation method approved for adoption by the Department cannot knowingly provide any individual party or group of participants a competitive advantage by unwarranted use of the mutual compensation plan's terms and conditions. If any party subsequently can show harm that has been directly imposed by misuse, abuse or other intended use of the plan to preclude effective competition, the Department will be prepared to formally reconsider its mutual compensation policy.

January 17, 1996 Decision in Docket No. 94-10-02, p. 68.

Local competition and the carriage of traffic by CLECs continues to develop. Through the development of local competition, the exchange of traffic between SNET and CLECs will remain fluid, eventually approaching an equilibrium. The Department

135

Docket No. 97-05-22

Page 11

does not believe that SNET has satisfactorily demonstrated that it has experienced sufficient harm or that effective competition has been hindered due to the implementation of the Plan. Accordingly, reconsideration of the Plan at this time is not warranted and SNET's request for such is hereby denied. In the event SNET formally requests the Department to reconsider the Plan at some point in the future, the Company should be prepared to provide detailed evidence that effective competition has been precluded and/or it is experiencing excessive or unjust or irreparable harm as a direct result of the mutual compensation policy.

IV. CONCLUSION

There is no difference between an ISP and SNET's other local exchange customers. Traffic carried between SNET's end user customers and ISPs within the same local calling area is local in nature and, therefore, subject to the mutual compensation arrangements outlined in the Department's January 17, 1997 Decision in Docket No. 94-10-02. Neither SNET nor any other telecommunications service provider has presented sufficient evidence of irreparable harm or that effective competition has been hindered due to the Department's mutual compensation policies. Accordingly, SNET's request is hereby denied.

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136

DOCKET NO. 97-05-22 PETITION OF THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY FOR A DECLARATORY RULING CONCERNING INTERNET SERVICES PROVIDER TRAFFIC

This Decision is adopted by the following Commissioners:

Jack R. Goldberg

Glenn Arthur

John W. Betkoski, III

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Department of Public Utility Control, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.

Robert J. Murphy
Executive Secretary
Department of Public Utility Control

Date

EXHIBIT F

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISS. 1

97104015

AT RICHMOND, OCTOBER 24, 1997

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PETITION OF

COX VIRGINIA TELCOM, Inc.

CASE NO. PUC970069

For enforcement of interconnection
agreement with Bell Atlantic-
Virginia, Inc. and arbitration award
for reciprocal compensation for the
termination of local calls to
Internet service providers

FINAL ORDER

On June 13, 1997, Cox Virginia Telcom, Inc. ("Cox") filed a petition for enforcement of its interconnection agreement with Bell Atlantic-Virginia, Inc. ("BA-VA") and for an arbitration award for reciprocal compensation for the termination of local calls to Internet service providers. Cox requested that the Commission enter an order declaring that local calls to Internet service providers ("ISPs") constitute local traffic under the terms of its agreement and that Cox and BA-VA are entitled to reciprocal compensation for the completion of this type of call.

By Order of August 14, 1997, the Commission directed that a response from BA-VA be filed on or before August 29, 1997, and that a reply be filed by Cox on or before September 15, 1997.

139

Interested parties were also allowed to submit comments by September 15, 1997. In addition to Cox, replies were filed by TCG Virginia, Inc., Hyperion Telecommunications of Virginia, Inc., AT&T Communications of Virginia, Inc., CFW Network, Inc., R&B Network, Inc., MCImetro Access Transmission Services of Virginia, Inc., MFS Intelenet of Virginia, Inc., WinStar Wireless of Virginia, Inc., and Sprint Communications L.P.

Having considered the response of BA-VA and the replies, the Commission finds that calls to ISPs as described in the Cox petition constitute local traffic under the terms of the agreement between Cox and BA-VA and that the companies are entitled to reciprocal compensation for the termination of this type of call.

Calls that are placed to a local ISP are dialed by using the traditional local-service, seven-digit dialing sequence. Local service provides the termination of such calls at the ISP, and any transmission beyond that point presents a new consideration of service(s) involved. The presence of CLECs does not alter the nature of this traffic.

Accordingly, IT IS THEREFORE ORDERED that:

- (1) The Cox petition is granted.

(2) The termination of local calls to ISPs are subject to the compensation terms of Cox and BA-VA's interconnection agreement.

(3) This matter is dismissed and the papers filed herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Yaron Dori, Esquire, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., 701 Pennsylvania Avenue, N.W., Washington, D.C. 20004; Carolyn Corona, Legal Assistant, TCG of Virginia, Inc., 2 Lafayette Centre, Suite 400, 1133 21st Street, N.W., Washington, D.C. 20036; Douglas G. Bonner, Esquire, Hyperion Telecommunications of Virginia, Inc., Swidler & Berlin, 3000 K Street, N.W., Suite 300, Washington, D.C. 20007-5116; Wilma R. McCarey, Esquire, AT&T Communications of Virginia, Inc., Room 3-D, 3033 Chain Bridge Road, Oakton, Virginia 22185; Sarah Hopkins Finley, Esquire, MCI Metro Access Transmission Services of Virginia, Inc., Williams, Mullen, Christian & Dobbins, P.O. Box 1320, Richmond, Virginia 23218-1320; Michael W. Fleming, Esquire, CFW Network, Inc., R&B Network, Inc., and MFS Intelenet of Virginia, Inc., Swidler & Berlin, 3000 K Street, N.W., Washington, D.C. 20007-5116; Morton J. Posner, Esquire, WinStar Wireless of Virginia, Inc., Swidler and Berlin, 3000 K Street,

N.W., Suite 300, Washington, D.C. 20007-5116; James B. Wright, Esquire, Sprint Mid Atlantic Telecom, 14111 Capital Boulevard, Wake Forest, North Carolina 27587-5900; Warner F. Brundage, Jr., Esquire, Bell Atlantic-Virginia, Inc., 600 East Main Street, P.O. Box 27241, Richmond, Virginia 23261; Alexander F. Skirpan, Esquire, Christian & Barton, L.L.P., 909 East Main Street, Suite 1200, Richmond, Virginia 23219; Thomas B. Nicholson, Senior Assistant Attorney General, Division of Consumer Counsel, 900 East Main Street, Second Floor, Richmond, Virginia 23219; and the Commission's Division of Communications and Office of General Counsel.

A True Copy
Filed
William J. Bridge
Chair of the
State Corporate Commission

142

EXHIBIT G

PUC DOCKET NO. 18032

COMPLAINT AND REQUEST FOR
EXPEDITED RULING OF TIME
WARNER COMMUNICATIONS

§
§
§
§

PUBLIC UTILITY COMMISSION
OF TEXAS

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PUBLIC UTILITY COMMISSION

ORDER

This Order grants the petition of Time Warner Communications of Austin, L.P., Time Warner Communications of Houston, L.P., and FIBRcom (collectively, "TW Comm") to require Southwestern Bell Telephone Company ("SWBT") to apply the interconnection agreements' provision requiring reciprocal compensation for the termination of local traffic at specified rates, to the termination of SWBT's customers' calls to Internet Service Providers ("ISPs"). For the period in which such payments have not been made to TW Comm in compliance with this provision, SWBT is further ordered to pay interest at the rate of 5.52%.

In granting the relief sought by TW Comm, the Commission concludes that calls placed to ISPs through the public switched network should be considered "local traffic" for purposes of the reciprocal compensation provision in the interconnection agreements between SWBT and TW Comm. Accordingly, the Commission reverses the portions of the Arbitrator's Award that: (1) characterized the jurisdiction of traffic related to ISP calls as interstate traffic, and (2) concluded that calls to ISPs are not subject to the reciprocal compensation provision applying to the termination of local traffic.

I. Background:

On October 7, 1997, TW Comm filed a complaint against SWBT for the breach of the terms of the SWBT - TW Comm interconnection agreements approved by the Commission. Specifically, TW Comm requested that the Commission immediately direct SWBT to comply with the reciprocal compensation provision in those agreements by paying TW Comm such compensation for its termination of SWBT's customers' calls to ISPs.

98

The reciprocal compensation provision addressing payments for termination of local traffic is identical in both the first and second interconnection agreements between TW Comm and SWBT.¹ The most relevant portions of the latter agreement for the purposes of this Order are:

5.3 Reciprocal Compensation for Termination of Local Traffic

5.3.1 The Compensation set forth below will apply to all Local Traffic as defined in sub-section 5.1.2 of this Agreement.

5.3.2 Applicability of Rates

- i) The rates, terms, and conditions in this Section 5.3 apply only to the termination of Local Traffic, except as explicitly noted.
- ii) The Parties agree to compensate each other for the termination of Local Traffic on a minute of use (MOU) basis.

Subsection 1.33 contains the following definition of Local Traffic:

1.33 Local Traffic - Local Traffic, for purposes of intercompany compensation, is if (i) the call originates and terminates in the same SWBT exchange area; or (ii) originates and terminates within different SWBT Exchanges that share a common mandatory local calling area e.g., mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS), or other like types of mandatory expanded local calling scopes.

SWBT responded to TW Comm's complaint by asserting that the calls made to TW Comm's ISP customers do not represent local traffic, by virtue of the users' predominantly non-local connections through the ISP to the Internet. Consequently, SWBT contended that the reciprocal compensation provision in the interconnection agreements do not apply to such traffic.

¹ *Joint Application of Southwestern Bell Telephone Company and Time Warner for Approval of Interconnection Agreement under PURA 1993 and the Telecommunications Act of 1996, Docket No. 16186 (Oct. 15, 1996); and Joint Application of Time Warner Communications of Austin, L.P., Time Warner Communications of Houston, L.P., FIBRCOM, Incorporated and Southwestern Bell Telephone Company for Approval of Interconnection Agreement under PURA and the Telecommunications Act of 1996, Docket No. 17836 (Nov. 7, 1997).*

This proceeding was conducted under Subtitle Q of the Commission's Procedural Rules, governing post-arbitration disputes. Furthermore, for purpose of hearing and the development of a record on the ISP issue, this docket was consolidated with Docket No. 17922.² In this consolidated proceeding, TW Comm argued: 1) ISP traffic is local traffic and subject to reciprocal compensation; 2) nothing in the interconnection agreements describes an exception to the definition of "local traffic" for ISP calls; and 3) SWBT should reimburse TW Comm for unpaid reciprocal compensation amounts, plus interest. SWBT countered by arguing: 1) the jurisdictional nature of a call is determined by the end-to-end communications; 2) a substantial portion of ISP traffic is interstate; 3) when intrastate and interstate traffic are inextricably mixed, all of the traffic is treated as jurisdictionally interstate; and therefore, 4) the interconnection agreements' reciprocal compensation provision for termination of local traffic is inapplicable.

An arbitration award was issued on January 7, 1998 on the issue of compensation for ISP traffic in both dockets. The Arbitrator concluded that until the FCC determines otherwise, calls to ISPs should be viewed as interstate in nature, and therefore, are not subject to provisions related to local traffic. Based on this ruling, SWBT was not required to pay TW Comm any compensation, either retroactively or prospectively, for the termination of SWBT's customers' calls to ISPs.

II. Disputed Issues:

The federal Telecommunications Act of 1996 § 252(b)(4)³ limits the issues that may be decided in arbitration to those set forth by the parties. This Order resolves the disputed issues presented for arbitration. The Commission affirms the Arbitrator's Award with respect to issues TWC-1, TWC-2, and TWC-13. As a result of the

² *Petition of Waller Creek Communications, Inc. ("WCC") For Arbitration With Southwestern Bell Telephone Company, Docket No. 17922 (pending). This Order is issued only in Docket No. 18082, and not in Docket No. 17922.*

³ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (FTA).

Commission's decision in this Order, it is not necessary to make specific findings with respect to issues TWC-4, TWC-5, TWC-6, TWC-8, TWC-14, TWC-15, TWC-16, TWC-17, and TWC-18. The Commission reverses the Arbitrator's Award with respect to issues TWC-3, TWC-7, TWC-9, TWC-10, TWC-11, and TWC-12, for the reasons discussed in this Order.

To the extent that "calls" to ISPs are interstate, can such calls be considered "local" for the purpose of reciprocal compensation? (TWC-3) Does a "call" from an end user to an ISP "terminate" at the ISP location? (TWC-7.)

The Commission agrees with the FCC's view that the provision of Internet service via the traditional telecommunications network involves multiple components.⁴ One component is the information service — the content — which appears to consist of a significant amount of non-local traffic. The network component, however, is the carrier-to-carrier and carrier-to-end-user telecommunications transmission component, which in the case of a call between two end users in the same local calling area is local traffic.

Therefore, it is the telecommunications service component, rather than the information service component, that constitutes the basis for determining the jurisdiction of the traffic involved in calls to ISPs.⁵ When a transmission path is established between two subscribers in the same mandatory calling area, traffic carried on that path is local traffic, with the telecommunications service component of the call terminating at the ISP location.

⁴ "We agree with the Joint Board's determination that Internet access consists of more than one component. Specifically, we recognize that Internet Access includes a transmission component, which is the connection over a LEC network from a subscriber to an Internet Service Provider, in addition to the underlying information service." Federal Communications Commission, *Report and Order on Universal Service*, CC Docket No. 96-45, FCC 97-157 at ¶ 83 (May 2, 1997). Although the FCC has recognized that this position should be reviewed in a future FCC proceeding, its conclusion in the Universal Service Order is the prevailing FCC decision at this time.

⁵ SWB's analysis erroneously combines the telecommunications component and the information component when it applies its end-to-end analysis.

Does the term "Local Traffic" as defined in Sec. 1.31 and 1.33 of TWC and SWBT's' first and second Interconnection contracts respectively, include ISP traffic? (TWC-12.)

The Commission finds that the definition of "local traffic" in the applicable interconnection agreements includes ISP traffic that otherwise conforms to the definition. The Commission disagrees with the Arbitrator's conclusion that the interconnection agreements are ambiguous in this respect. The contract language in dispute clearly hinges upon the definition of "local traffic" and an interpretation of the point at which traffic "terminates."

Do the reciprocal compensation provisions of the TWC and SWBT interconnection agreements require SWBT to compensate TWC to transport and terminate calls from SWBT and user customers to TWC end user customers who happen to be Internet service providers? (TWC-9.)

As previously discussed, SWBT is required to compensate TW Comm under the terms of the reciprocal compensation provision for local calls that terminate to TW Comm customers, including such customers that are ISPs. See also discussion relating to TWC-12.

Is SWBT's refusal to pay reciprocal compensation for calls terminated to TWC customers that happen to be ISPs a violation of TWC and SWBT's' interconnection agreement? (TWC-11.)

The Commission finds that SWBT's non-payment of reciprocal compensation for the calls in dispute is a violation of the reciprocal compensation provision in both interconnection agreements.⁶

Does SWBT owe past due amounts to TWC for the transport and termination of ESP traffic? If so, should SWBT pay interest on past due amounts? (TWC-10.)

P.U.C. SUBST. R. 23.45(h) states:

If billings for utility service are found to differ from the utility's lawful rates for the service being purchased by the customer, or if the utility fails to bill the customer for such service, a billing adjustment shall be calculated by the utility. If the customer is due a refund, an adjustment shall be made for the entire period of the overcharges. If an overcharge is adjusted by the utility within three billing cycles of the bill in error, interest shall not accrue. Unless otherwise provided in this section, if an overcharge is not adjusted by the utility within three billing cycles of the bill in error, interest shall be applied to the amount of the overcharge at the rate set by the commission annually for a calendar year.

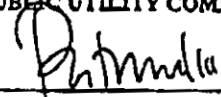
On December 1, 1997, the Commission established the interest rate to be applied in calendar year 1998 to overcharges at 5.52% pursuant to P.U.C. SUBST. R. 23.45(h). SWBT shall reimburse TW Comm for the amount owed as a result of this Order, plus 5.52% interest.

⁶ The Commission is troubled by SWBT's unilateral decision to refuse payment of reciprocal compensation. Such conduct, if it recurs, could possibly be found to be a barrier to entry. Now that the Commission has post-interconnection procedural rules, the Commission anticipates that SWBT would make use of those procedures when it believes competitors are misapplying or misinterpreting interconnection agreement provisions. See P.U.C. PROC. R. 22.321-322.

140

SIGNED AT AUSTIN, TEXAS the 27th day of February 1998.

PUBLIC UTILITY COMMISSION OF TEXAS



PAT WOOD, III, CHAIRMAN



JUDY WALSH, COMMISSIONER



PATRICIA A. CURRAN, COMMISSIONER

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