

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION


In re: Investigation to determine whether  
BellSouth Telecommunications, Inc.'s  
tariff filing to restructure its late payment  
charge is in violation of Section 364.051,  
F.S.

DOCKET NO. 000733-TL  
ORDER NO. PSC-01-1769-FOF-TL  
FILED: September 27, 2001

NOTICE OF ADMINISTRATIVE APPEAL

NOTICE is given that BellSouth Telecommunications, Inc., pursuant to Rule 9.030(a)(1)(B)(ii), Florida Rules of Appellate Procedure and Section 364.381, Florida Statutes, appeals to the Florida Supreme Court, the Public Service Commission's, Order No. PSC-01-1769-FOF-TL rendered on August 30, 2001. The nature of the order is a final order determining that BellSouth's tariff filing in T-991139 violates Section 364.051(5)(a), Florida Statutes, requiring BellSouth to discontinue assessing the restructured 1.5% interest charge on unpaid balances in excess of \$6.00, and ordering BellSouth to refund all amounts collected. A copy of the order is attached.

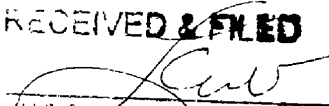
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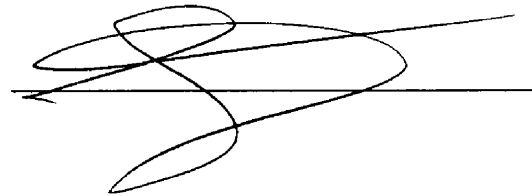
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing notice of appeal was served via U.S. Mail this 27<sup>th</sup> day of September, 2001 upon:

Timothy Vaccaro  
Staff Counsel  
Florida Public Service Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

A handwritten signature in dark ink, appearing to be 'S. Vaccaro', written over a horizontal line.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation to  
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DOCKET NO. 000733-TL  
ORDER NO. PSC-01-1769-FOF-TL  
ISSUED: August 30, 2001

The following Commissioners participated in the disposition of  
this matter:

E. LEON JACOBS, JR., Chairman  
J. TERRY DEASON  
LILA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI

FINAL ORDER BELL SOUTH LATE PAYMENT CHARGE  
TARIFF FILING

BY THE COMMISSION:

BACKGROUND

On July 9, 1999, BellSouth Telecommunications, Inc. (BellSouth or Company) filed a tariff with this Commission to restructure its Late Payment Charge (LPC) in Section A2 of its General Services Tariff (GST). Under this tariff filing, BellSouth applies a Late Payment Charge of \$1.50 for residential customers and \$9.00 for business customers plus an interest charge of 1.50% on unpaid balances in excess of \$6.00. Prior to this filing, BellSouth applied a Late Payment Charge of 1.50% to any unpaid balance greater than \$1.00.

As a price-regulated Local Exchange Company, BellSouth's filings are presumptively valid, pursuant to Section 364.051(5)(a), Florida Statutes, and may go into effect fifteen (15) days after the filing. BellSouth's filing became effective July 24, 1999, in accordance with Section 364.051(5)(a), Florida Statutes. The tariff provisions became effective August 28, 1999.

In August 1999, we first expressed our concerns to BellSouth about possible statutory violations regarding its Late Payment Charge tariff filing. We were made aware of ongoing discussions between BellSouth and the Office of Public Counsel (OPC) on this same filing. In view of the ongoing discussions between BellSouth and OPC, BellSouth requested that we allow the negotiations to continue in an effort to resolve the matter. BellSouth furnished us with a letter stating that BellSouth would provide refunds to affected customers if the Late Payment Charge is ultimately found to be unlawful.

On June 19, 2000, this docket was established to investigate whether BellSouth's tariff filing to restructure its late payment charge is in violation of Section 364.051, Florida Statutes. By Order No. PSC-00-1357-PAA-TL, issued July 27, 2000, as a proposed agency action, we found BellSouth's July 9, 1999, tariff filing revising its Late Payment Charge in Section A2 of its General Subscriber Service Tariff and Section B2 of its Private Line Services Tariff in violation of Section 364.051(5)(a), Florida Statutes. We also ordered that the tariffs remain in effect for 30 days from the issuance of the Order. If a timely protest of Order No. PSC-00-1357-PAA-TL was filed, then the tariffs were to remain in effect pending the outcome of a hearing with any revenues resulting from the tariff held subject to refund.

On August 17, 2000, BellSouth timely petitioned for a formal hearing. By Order No. PSC-00-2458-PSC-TL, issued December 20, 2000, OPC's Notice of Intervention was acknowledged. By Order No. PSC-00-2279-PCO-TL, a hearing was scheduled for April 18, 2001. On December 11, 2000, BellSouth and OPC filed a Joint Motion to Amend Procedural Schedule.

The parties stated that the procedure established for this docket was based on Section 120.57(1), Florida Statutes. BellSouth and OPC requested that the case proceed pursuant to Section 120.57(2), Florida Statutes, and the procedural order be amended to reflect this change. The parties asserted that a joint stipulation of the facts could be reached constituting the evidentiary record, and that a briefing schedule was appropriate. Thus, by Order No. PSC-01-0228-PCO-TL, issued on January 23, 2001, the hearing was cancelled and the parties were directed, instead, to file briefs.

At the issue identification meeting held on November 6, 2000, the following issues were identified:

1. Is BellSouth's interest charge of 1.50% on unpaid balances, as filed in T-991139, a rate element of an existing service that is subject to the provisions of Section 364.051(5)(a), Florida Statutes?
2. Is the interest charge filed by BellSouth in T-991139 a "new service" for the purposes of Section 364.051(5)(a), Florida Statutes?
3. Does BellSouth's tariff filing (T-991139) violate Section 364.051(5)(a), Florida Statutes? If so, what amount needs to be refunded, and how should the refund be determined and made effective?

As laid out, we find that Issue 3 is broad enough to allow us also to address both Issues 1 and 2 under it. We find that this is the most efficient way of addressing the issues in this proceeding.

We are vested with jurisdiction pursuant to Section 364.051(5)(a), Florida Statutes.

#### BELLSOUTH LATE PAYMENT CHARGE TARIFF FILING

Section 364.051(5)(a), Florida Statutes, allows telecommunications companies subject to this section to maintain tariffs for their nonbasic services with us. Changes to these tariffs are presumptively valid and become effective with fifteen days' notice. The key provision of Section 364.051(5)(a), Florida Statutes, states that rate increases:

. . . for any nonbasic service category shall not exceed 6 percent within a 12-month period until there is another provider providing local telecommunications service in an exchange area at which time the price for any nonbasic service category may be increased in an amount not to exceed twenty percent within a 12-month period, and the rate shall be presumptively valid.

BellSouth has been a price-regulated LEC since January 1, 1996, and thus is subject to Section 364.051(5)(a), Florida Statutes. Until this filing, BellSouth had charged both residential and business customers a late payment penalty fee of 1.50% on any unpaid balance greater than \$1.00. BellSouth called this late payment penalty fee a "late payment charge." Prior to this filing, BellSouth's late payment charge was classified in the miscellaneous nonbasic services basket. Now, BellSouth's late payment penalty consists of a fixed rate of \$1.50 and \$9.00 for residential and business

customers, respectively, and a 1.50% rate applicable to any unpaid balance in excess of \$6.00. However, BellSouth distinguishes the two late payment penalties (the fixed and percentage rates) for purposes of monitoring compliance with Section 364.051(5)(a), Florida Statutes. Although the flat charges are included in the miscellaneous nonbasic services basket, BellSouth contends that the 1.50% interest charge applicable to any unpaid balance in excess of \$6.00 is not subject to Section 364.051(5)(a), Florida Statutes. Alternatively, BellSouth suggests that should we rule that the interest charge is subject to Section 364.051(5)(a), Florida Statutes, then we should find that the interest charge is a new service and, therefore, is exempt from the miscellaneous services basket calculations.

At the crux of this proceeding is the question of whether BellSouth's change of the name and threshold level for a given penalty fee can exclude the revenue realized from this penalty fee from being considered part of BellSouth's telecommunications services revenue, even though BellSouth's core business is in telecommunications services.

#### Arguments

In its brief, the Office of Public Counsel representing the Citizens of Florida (OPC), assert that BellSouth has assessed a 1.50% monthly fee on a customer's unpaid balance in excess of \$1.00 for approximately thirteen years. OPC argues that BellSouth's tariff revision of July 9, 1999, created a "new" monthly charge of 1.50% on an end user's unpaid balance in excess of six dollars and named it an interest charge, in addition to the new fixed charge of \$1.50 for residential customers and \$9.00 for business customers. OPC further argues that "except for the new name and threshold amount, this 1.5% charge on late payments is identical to the late payment charge that had been in existence for approximately thirteen years."

In its brief, OPC state that although Chapter 364, Florida Statutes, does not define the term "service," Section 364.02(11), Florida Statutes, states that the term "service" should be construed in its broadest and most inclusive sense. OPC contends that the 1995 re-write of Chapter 364, Florida Statutes, does not provide the slightest hint that it was the legislative intent to exclude late payment or interest charges from any form of price regulation. OPC asserts that:

[T]he broad and all inclusive construction of the term "service," together with the residual definition for the term "nonbasic service," lead inescapably to the conclusion that the late payment charge, which was in existence long before the re-write of [C]hapter 364, must be included in the definition of nonbasic service.

According to OPC, BellSouth had generally treated the 1.50% monthly charge it assessed customers on any unpaid balances in excess of \$1.00 as a nonbasic service until its proposed restructuring in 1999. OPC argues that on numerous occasions, BellSouth continued to assert "that its late payment charge -- a 1.5% charge on unpaid balances in excess of \$1.00 -- was a nonbasic service." OPC maintains that BellSouth itself, in construing the legislative intent of the 1995 re-write of Chapter 364, Florida Statutes, ". . . declared [that] its 1.5% late payment fee to be a non basic service." OPC insists that throughout the entire period when we worked to implement the new law (the 1995 re-write of Chapter 364, Florida Statutes), BellSouth represented its 1.50% fee for late payment as a nonbasic service. OPC continues that even in June 1997, BellSouth continued to maintain that its 1.50% late payment fee on unpaid balances in excess of \$1.00 was a nonbasic service, when BellSouth included the 1.50% fee in the miscellaneous category of the nonbasic services basket in a tariff filing that sought to increase this fee from 1.50% to 1.63%. OPC further argues that in its June 1997 filing, BellSouth indicated that the proposed increase for the late payment charge from 1.50% to 1.63% was still within the allowable 6% increase to the miscellaneous nonbasic services category.

OPC argues that regardless of what BellSouth calls it, [I]f the previous late payment charge of 1.5% on unpaid balances in excess of \$1.00 belonged to the miscellaneous nonbasic service category, then the so-called new interest charge of 1.5% on unpaid balances in excess of \$6.00 also belongs to the category, no matter what BellSouth calls it.

OPC concludes that the nature of the charge does not change simply because the name is changed.

In its brief, BellSouth argues that its interest charge is not a "derivative telecommunications service," and it is not "another rate element"; instead, it is a fee designed to recover the costs for the loss of use of monies as BellSouth, American Express or Ford Motor Credit all impose. Further, BellSouth argues that since

an interest charge is a type of service distinct from telecommunications, it is therefore neither a telecommunications service nor part of a telecommunications service. BellSouth thus concludes that "an interest charge cannot be a nonbasic service governed by section 364.051(5)(a)."

In its brief, BellSouth states that the interest charge is not a fee ". . . for a telecommunications service and, therefore, is not subject to Section 364.051(5)(a) as a rate element of any existing nonbasic telecommunications service covered by the statute." BellSouth continues that the statutes define nonbasic service "as any telecommunications service provided by a local exchange telecommunications company other than a basic local telecommunications service, a local interconnection arrangement . . ., or a network access service." BellSouth argues that we previously determined that a service is not a "telecommunications service" just because it is provided by a telecommunications company; instead, a service is determined to be a telecommunications service because of its "functional analysis."<sup>1</sup> BellSouth further argues that federal law uses the same functional analysis to determine whether a service is a telecommunications service. BellSouth notes that the D.C. Circuit Court ruled that "'[W]hether an entity in a given case is to be considered a common carrier' and, thus, regulated like a telephone company, turns not on that entity's usual status but 'on the particular practice under surveillance.'" BellSouth contends that applying this functional analysis to its late payment interest charge "demonstrates that BellSouth's interest charge is not a telecommunications service," for the simple fact that an interest charge lacks the transmission of information characteristics of a telecommunications service. BellSouth asserts that "[R]ecouping the cost of the loss of use of money, whether under a narrow or the 'broadest and most inclusive' definition of that term, is obviously not telecommunications."

BellSouth argues that the late payment interest charge is not a "fee for any service, new or old, regulated by Section 364.051(5)(a)." However, BellSouth argues that should we find that the late payment interest charge is a nonbasic service, BellSouth proposes that we construe the late payment interest charge as a new service in the nonbasic services miscellaneous basket category. BellSouth contends that for us to rule otherwise, we "would work

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<sup>1</sup> Staff understands BellSouth's use of the term "functional analysis" to mean that a service is classified by examining its nature and use(s). (Order No. PSC-96-1545-FOF-TP at 4)



considerable unfairness on BellSouth, contrary to the directions of the Florida legislature." BellSouth states that the late payment interest charge that it instituted in 1986 was designed to "recoup the 'costs of collection' on delinquent accounts." However, BellSouth argues that the restructured interest charge allows BellSouth to recover "the costs imposed by untimely payment alone, such as the cost of borrowing money to meet cashflow needs or loss of the interest BellSouth could have earned on the money if paid on time." Thus, BellSouth asserts that the restructured interest charge ". . . pays for a new service, loss of the use of money," which although different from the late payment charge, yet both interest charges have a similar trigger -- a customer's action of untimely payment. BellSouth contends that the fact that a customer's single action triggers two charges is not sufficient reason to construe the charges to be rate elements of a single telecommunications service. BellSouth therefore argues that

[B]ecause BellSouth has never previously imposed an interest charge on late payments, it should be treated as a new service, even though the imposition of that charge is triggered by an event that also results in the imposition of an existing charge, namely the late payment charge.

BellSouth contends that treating the restructured interest charge as a new rate element of an existing telecommunications service effectively punishes BellSouth for instituting the 1986 late payment charge.

BellSouth argues that its tariff does not violate Section 364.051(5)(a), Florida Statutes, and that the restructuring of its late payment charge from a variable to a fixed amount is allowed under the price cap provisions in Section 364.051(5)(a), Florida Statutes, for nonbasic services. Therefore, BellSouth argues that its restructured interest charge does not violate Section 364.051(5)(a), Florida Statutes, because it recovers the cost of money and is also governed by the usury laws. BellSouth further argues that even if we rule that the restructured interest charge is a telecommunications service, we should nevertheless rule that the restructured interest charge is ". . . a new service because BellSouth has never before imposed a charge based on the costs of delayed payment." BellSouth concludes that if the restructured interest charge is determined to be an unlawful increase to the nonbasic services miscellaneous basket, BellSouth proposes to calculate customers' refunds based on the amounts paid under the restructured interest charge from August 1999 through the date on

which our decision becomes final and non-appealable. BellSouth states that it will refund each customer

. . . the amount of interest paid during this period. If possible, such refunds will be made by crediting the amount of interest charged on the customer's bill. When BellSouth cannot provide a refund through bill credits, it will send the customer a draft for the appropriate amount.

BellSouth will make such refunds within 120 days of the date on which the decision of this Commission becomes final and nonappealable.

#### Decision

In Order No. PSC-01-0228-PCO-TL, the parties agreed to stipulate to the facts in this proceeding. Order No. PSC-01-0228-PCO-TL at 3. Thus, there are no factual disputes between the parties. Some of the pertinent facts that have been stipulated:

- In 1986, BellSouth instituted a late payment charge as a variable amount of 1.50% on all unpaid balances in excess of \$1.00 of a customer's bill.
- In 1996, BellSouth represented to staff that its Late Payment Charge belongs in the miscellaneous basket of the nonbasic services category.
- Although the filing was later withdrawn, in 1997, BellSouth filed a proposed tariff revision to increase its Late Payment Charge from 1.50% to 1.63%. BellSouth represented this proposed filing as revisions to its miscellaneous basket of the nonbasic services category.
- In 1999, BellSouth filed a tariff revision to restructure its Late Payment Charge into a fixed rate of \$1.50 and \$9.00 for residential and business customers, respectively, and a variable rate of 1.50% on all unpaid balances in excess of \$6.00.

The question remaining before us is how Section 364.051(5)(a), Florida Statutes, applies to BellSouth's 1999 tariff filing that restructured its 1986 Late Payment Charge. BellSouth has represented that the 1986 Late Payment Charge belongs in the

miscellaneous basket category of the nonbasic services. However, with BellSouth's restructuring of the 1986 Late Payment Charge into fixed and variable charges for both residential and business customers, BellSouth now contends that the variable percentage charge should not be included in the miscellaneous basket of the nonbasic services category; thus, it is not subject to Section 364.051(5)(a), Florida Statutes.

BellSouth argues that Section 364.051(5)(a), Florida Statutes, is not applicable to the new interest charge and would have us believe that the restructured interest charge is not a telecommunications service. BellSouth argues that "[T]he interest charge pays for a new service, loss of the use of money . . . ." However, we find that the term "service" should be construed in the "broadest" sense of the word. We find that BellSouth's interest charge is a "service" that BellSouth renders to its delinquent telecommunications customers. We believe that through the use of its interest charge, BellSouth is able to keep these delinquent customers as telecommunications subscribers. The alternative is for BellSouth to terminate the accounts of all delinquent customers. We find that the interest charge is a "service" BellSouth renders its delinquent customers for carrying their unpaid balances. In turn, BellSouth uses the realized revenues to offset the loss of use of the unpaid monies.

We note that BellSouth argues that the interest charge ". . . lacks the characteristic - the transmission of information - found in the other services regulated as telecommunications services under the price cap statute." However, we conclude that a functional analysis of the interest charge, based on its nature and use, shows that it is assessed on a customer's use of telecommunications service with the desired result being to improve cashflow for BellSouth's telecommunications services' operations. We believe that absent BellSouth's core telecommunications operations, BellSouth would not have the ability to assess this interest charge on its customers. Therefore, we conclude that the restructured interest charge is a derivative service stemming from BellSouth's telecommunications operations. We find the revenues derived from the interest charge shall be construed as part of BellSouth's telecommunications operations. As such, this revenue shall be included in the miscellaneous nonbasic services category along with the fixed rated Late Payment Charge.

BellSouth further asserts that if we conclude that the restructured interest charge is a telecommunications service, it should be considered a new service for purposes of price-cap

treatment. For monitoring compliance with Section 364.051(5)(a), Florida Statutes, revenues for a new nonbasic service are excluded from the basket calculation for the first twelve (12) months that the service is offered. Thereafter, these revenues become part of the basket's benchmark revenues. However, in filing its tariff revision to restructure its Late Payment Charge, nowhere in that filing did BellSouth ever indicate that it was introducing a new service in the form of an interest charge. Instead, BellSouth stated that

[T]his tariff will revise the Late Payment Charge for Florida subscribers. Effective August 28, 1999, the Late Payment Charge for residence subscribers will be \$1.50 **plus an interest charge** of 1.5 percent on the unpaid balance. Also, effective August 28, 1999, the Late Payment Charge for business subscribers will be \$9.00 **plus an interest charge** of 1.5 percent on the unpaid balance.

See Attachment - A, Letter. (emphasis added). BellSouth represented this filing as a mere tariff revision simply intended to restructure its Late Payment Charge into a flat charge and a variable percentage rate of 1.50%. In numerous places in that filing, BellSouth represented the interest charge to be in addition to the fixed rate using words like "plus," and "will add an." See Attachment - A, Letter and Executive Summary. In the revised tariff pages, BellSouth indicated that the interest charge was a change in regulations or tariffs, using the tariff revision symbol of "C," as opposed to a tariff revision symbol of "N," which denotes a new rate, regulation or text. See Attachment - A, Third Revised Page 19.

We are not convinced that the revised interest charge is a new service. Even if the interest charge is intended to recover the cost of money, this by itself is not sufficient to make the revised interest charge a new service. To be classified as a new service, the interest charge will have to service a "concern" or "issue" that BellSouth has never addressed. This is not the case, because the 1986 Late Payment Charge was aimed at recovering ". . . the costs associated with administering the collection process . . ." on a customer's delinquent account. Similarly, the new interest charge is aimed at recovering ". . . the cost of money associated with delinquent payments." It is clear that both the 1986 Late Payment Charge and the 1999 new interest charge are associated with delinquent customer's accounts. Thus, we believe that the new interest charge is an expansion of BellSouth's 1986 late payment

fee, as stated in BellSouth's July 6, 2000, correspondence to Mrs. Bayo. This correspondence reads in part:

On July 7, 1999, BellSouth filed a tariff restructuring its late payment charge and adding a new interest charge. Specifically, BellSouth restructured its 1.5% late payment charge to a flat rate fee of \$1.50 for residence customers and \$9.00 for business. **The tariff was further revised so that the late payment charge would apply only to past due accounts greater than \$6.00.** A new charge of 1.5% was added as an **interest charge** to recover the cost of money associated with delinquent payments. **The interest charge is applied only to past due accounts greater than \$6.00.**

(emphasis added). We observe that although BellSouth argues that the fixed rate Late Payment Charge and the new interest charge are separate charges in its July 6, 2000 correspondence, BellSouth represented to us that both the fixed rate Late Payment Charge and the new interest charge are applied to a customer's past due account over \$6.00.

Comparing the structures of the 1986 Late Payment Charge and the 1999 Late Payment Charge, the charges in both filings are triggered by a customer's non-payment of telecommunications services. Thus, we do not find that either of the rate elements in the 1999 filing constitutes a new service; instead, BellSouth has merely introduced a new method of assessing a penalty on late payments.

Using BellSouth's calculations in this filing, the revenue impact of the restructure to a fixed late payment penalty (i.e., \$1.50 Late Payment Charge for residential and \$9.00 Late Payment Charge for business customers) increases the miscellaneous services basket by 5.01%. See, Attachment - A, Price Out. We note that the revenue impact of the 1.50% interest charge (that BellSouth argues should not be included in the basket calculation) is approximately 10 times the fixed Late Payment Charge. See, Attachment - A, Executive Summary. At this rate, the effective price increase to the Miscellaneous Services Basket is in excess of 50%. We conclude that absent the separation of these penalties as BellSouth contends is appropriate, BellSouth is clearly in violation of Section 364.051(5)(a), Florida Statutes, and Order No. PSC-96-0012-FOF-TL, issued January 4, 1996.

**Change in Basket due to BellSouth's LPC  
Restructuring**

	Current Basket Revenue	Proposed Basket Revenue	Change in Basket Revenue	% change in Basket Revenue
<b>Rate Element</b>				
Miscellaneous Basket	\$44,808,752	\$44,808,752	0	
1986 1.50% LPC (on unpaid balances greater than \$1.00)	0	(\$30,258,230)	(\$30,258,230)	
1999 Fixed LPC (Res. & Bus.)	0	32,500,923	32,500,923	
Sub-Total (per BellSouth)	\$44,808,752	\$47,051,445	\$2,242,693	5.01
1999 1.50% Interest Charge (on unpaid balances greater than \$6.00)	0	23,636,356	23,636,356	
(Basket) Grand Total	\$44,808,752	\$70,687,801	\$25,879,049	57.75

We agree with BellSouth that revenues from new services are not initially included for purposes of basket monitoring. However, the new interest charge is an expansion of BellSouth's 1986 Late Payment Charge, intended to recover the loss of the use of customers' unpaid monies. Therefore, we find that BellSouth's tariff restructuring adds another rate element (i.e., the percentage interest charge in addition to the "fixed dollar"

charge) to the existing late payment charge, and shall not be construed to be the same as introducing a new telecommunications service. Thus, the reclassified 1.50% interest charge (which was formerly the Late Payment Charge) results in an increase in late payment revenues, regardless of what it is called, and shall therefore be included in the basket calculation.

We agree with OPC that since the 1986 Late Payment Charge belonged in the miscellaneous services basket, then the restructured interest charge should likewise be so classified, regardless of what it is called. We again observe that BellSouth's filing to restructure its Late Payment Charge lacks the necessary tariff revisions symbol which would indicate that BellSouth had intended for the restructured interest charge to be construed as a new service. See, Attachment - A, Third Revised Page 19. Indeed, BellSouth's tariff filing appears to indicate that BellSouth intended for this tariff filing to be a tariff revision to "add" a new rate element to the existing late payment penalty charge. See, Attachment - A, Executive Summary. Therefore, we find that the record does not support BellSouth's assertion that its restructured interest charge is not a part of BellSouth's late payment charge. We believe that the restructured interest charge is not a new service; instead, we conclude that the restructured interest charge is another rate element of BellSouth's late payment penalty fee structure, even if designed to recover a different cost than the fixed rate Late Payment Charge. Thus, we find that since the 1986 late payment charge belonged in the miscellaneous services basket for purposes of monitoring compliance with Section 364.051(5)(a), Florida Statutes, the new rate element shall likewise be included in the miscellaneous services basket. We agree with OPC that the "nature of the charge does not change simply by changing its name."

Looking at BellSouth's tariff filing to restructure its 1986 Late Payment Charge as part of the miscellaneous services basket, it is obvious that the BellSouth filing is in violation of Section 364.051(5)(a), Florida Statutes. However, the parties seemingly agree that the fixed rate portion of BellSouth's Late Payment Charge restructuring is part of the miscellaneous services basket, and that it is not in violation of the 6% price increase cap. BellSouth has proposed that if we find that the new interest charge on unpaid balances over \$6.00 is in violation of Section 364.051(5)(a), Florida Statutes, we should allow it to refund the monies that it has collected as a result of the new interest charge. OPC did not brief this issue. Any refunds related to the Late Payment Charge would be governed by Rule 25-4.114, Florida Administrative Code, and the tariff provisions that were in effect

at the time of BellSouth's tariff filing. As a practical matter, it is nearly impossible to calculate accurately who would be due a refund based on the tariff provisions in effect prior to July 9, 1999. For example, it would be virtually impossible to estimate how many customers have unpaid balances falling within the gap between \$1.00 and \$6.00. Therefore, BellSouth has proposed to refund all the monies it has collected from applying the 1.50% on unpaid balances over \$6.00, and we find that this is reasonable since this is the portion of the restructuring that is contested. Thus, we agree with BellSouth that the refund should be based on ". . . the amount of interest paid during this period." Pursuant to Rule 25-4.114(1), Florida Administrative Code, we may order refunds in a manner we deem appropriate. Therefore, we find that BellSouth's proposal to refund customers based on all the monies it has collected from applying the 1.50% on unpaid balances over \$6.00, with interest, is appropriate in this situation.

Based on foregoing, we find that BellSouth's July 9, 1999, tariff filing restructured its 1986 Late Payment Charge into fixed and variable rate elements. We further find that even if the two rate elements are designed to recover different costs with respect to delinquent customer accounts, the two rate elements together constitute BellSouth's late payment charge. Thus, we conclude that the interest charge is not a "new" service and that the revenues realized from the interest charge, just like the revenues realized from the fixed rate Late Payment Charge, belong in the miscellaneous services basket for monitoring compliance with Section 364.051(5)(a), Florida Statutes.

Therefore, we find that BellSouth's tariff filing in T-991139 violates Section 364.051(5)(a), Florida Statutes, and that BellSouth shall discontinue assessing the restructured 1.50% interest charge on unpaid balances in excess of \$6.00 upon the issuance of the Order. BellSouth shall refund all amounts collected through the restructured interest charge of 1.50% on all unpaid balances in excess of \$6.00, with interest, to all affected customers within 120 days of a final order. We further find that this refund shall be made in the form of a credit to the customer's bill. Where BellSouth cannot provide a refund through a bill credit, BellSouth shall send the customer a check for the appropriate amount.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BellSouth Telecommunication's tariff filing in T-991139 violates



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Section 364.051(5)(a), Florida Statutes, and that BellSouth Telecommunications, Inc. shall discontinue assessing the restructured 1.50% interest charge on unpaid balances in excess of \$6.00 upon the issuance of this Order. It is further

ORDERED that BellSouth Telecommunications, Inc. shall refund all amounts collected through the restructured interest charge of 1.50% on all unpaid balances in excess of \$6.00, with interest, to all affected customers within 120 days of a final order. It is further

ORDERED that this refund shall be made in the form of a credit to the customer's bill. Where BellSouth Telecommunications, Inc. cannot provide a refund through a bill credit, BellSouth Telecommunications, Inc. shall send the customer a check for the appropriate amount. It is further

ORDERED that Attachment A is attached to this Order and incorporated herein.

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 30th day of August, 2001.

/s/ Blanca S. Bayó

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

This is a facsimile copy. Go to the Commission's Web site, <http://www.floridapsc.com> or fax a request to 1-850-413-7118, for a copy of the order with signature.

( S E A L )

SOME (OR ALL) ATTACHMENT PAGES ARE NOT ON ELECTRONIC DOCUMENT.

PAC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.



BellSouth Telecommunications, Inc. 850 224-7700  
Suite 400 Fax 850 224-5073  
150 South Monroe Street  
Tallahassee, Florida 32301-1356

Marshall M. Criss, III  
Regulatory Vice President

T-991139

RECEIVED

JUL 09 1999

CMU

July 9, 1999

Mr. Walter D'Haeseleer  
Director, Division of Communications  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Gerald L. Gunter Building, Room 270  
Tallahassee, Florida 32399-0850

Dear Mr. D'Haeseleer:

Pursuant to Florida Statute 364.051, we are filing a revision to our General Subscriber Service Tariff. Following are the affected pages.

General Subscriber Service Tariff

Section A2 - Third Revised Page 19  
- Second Revised Page 20

Private Line Services Tariff

Section B2 - First Revised Page 14

This tariff filing will revise the Late Payment Charge for Florida subscribers. Effective August 28, 1999, the Late Payment Charge for residence subscribers will be \$1.50 plus an interest charge of 1.5 percent on the unpaid balance. Also effective August 28, 1999, the Late Payment Charge for business subscribers will be \$9.00 plus an interest charge of 1.5 percent on the unpaid balance.

The following attachment provides additional supporting and explanatory information for the proposed tariff revision. The attachment constitutes a comprehensive package which fulfills the basic requirements for supporting data specified in Chapter 25-9 F.A.C.

Attachment A - Executive Summary

Acknowledgment, date of receipt, and authority number of this filing are requested. A duplicate letter of transmittal is attached for this purpose.

Your consideration and approval will be appreciated.

Yours very truly,

*Marshall M. Criss, III* <sup>NMS</sup>

Regulatory Vice President

Attachments

T-991139

BellSouth - Florida  
Attachment A  
Page 1 of 1

### EXECUTIVE SUMMARY

#### Introduction

This tariff filing will revise the Late Payment Charge for Florida subscribers effective August 28, 1999. There will be no changes to the Late Payment Charge for county and municipal governments that will remain at one percent.

#### Description of Proposed Tariff

Effective August 28, 1999, the proposed tariff will change the Late Payment Charge for residence subscribers to \$1.50 and will add an interest charge of 1.5 percent on the unpaid balance. It will also change the Late Payment Charge for business subscribers to \$9.00 and will add an interest charge of 1.5 percent on the unpaid balance. The other tariff regulations for the Late Payment Charge will remain unchanged. Currently the Late Payment Charge is applied on unpaid balances greater than \$1.00. Under the proposed tariff, the Late Payment Charge and interest charge will only apply on unpaid balances greater than \$6.00.

#### Revenue/Cost Information

The Company estimates a total incremental Late Payment Charge revenue of \$2,242,693 per year which is within the six percent increase allowed for the Miscellaneous Service Basket. The total incremental revenue as a result of the new interest charge is estimated to be \$23,636,356.

Dkt. No. 000733-TL  
August 3, 2001

BELLSON/IT  
TELECOMMUNICATIONS, INC.  
FLORIDA

GENERAL SUBSCRIBER SERVICE TARIFF

T-981139

ISSUED: December 22, 1999  
BY: Joseph P. Lacher, President-FC  
Miami, Florida

LEGISLATIVE FORMAT PAGE

Revised Page 19  
Cancels Revised Page 19

Second  
RFFH: 1106: January 6, 2000

July 24, 1999

## A2. GENERAL REGULATIONS

### A2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### A2.4.3 Payment for Service (Cont'd)

- C. **Effective August 28, 1999, a Late Payment Charge of \$1.30 plus an interest charge of 1.50 percent on the unpaid balance** (c)  
**including \$6.00 for residential subscribers and a Late Payment Charge of \$1.50 plus an interest charge of 1.50 percent on the**  
**unpaid balance including \$6.00 for business subscribers** will be applied to each subscriber's bill (including  
amounts billed in accordance with the Company's Billing and Collections Services Tariff) when the previous month's bill has  
not been paid in full prior to the next billing date. The 1.50 percent interest charge is applied to the total unpaid amount  
carried forward and is included in the total amount due on the current bill. This Tariff shall apply to Federal and state  
government payments to existing parties applicable to their governmental entities. Effective January 1, 1992, county and  
municipal governments will be assessed a 1 percent Late Payment Charge in accordance with the provisions of the Florida  
Prorata Payment Act, Section 218.70-218.79, Florida Statutes.
- D. Should service be suspended for nonpayment of charges, it will be restored only as provided under "Restoration Charge" in  
Section A4. of this Tariff.
- E. When the service has been disconnected for nonpayment, the service agreement is considered to have been terminated.  
Reestablishment of service may be made only upon the execution of a new service agreement which is subject to the  
provisions of this Tariff.
- F. In its discretion, the Company may resume or reestablish service which has been suspended or disconnected for nonpayment of  
charges, prior to payment of all charges due. Such restoration or reestablishment shall not be construed as a waiver of any  
right to suspend or disconnect service for nonpayment of any such or other charges due and unpaid or for the violation of the  
provisions of this Tariff, nor shall the failure to suspend or disconnect service for nonpayment of any past due account or  
accounts operate as a waiver or compel to suspend or disconnect service for nonpayment of such account or of any other past  
due account.
- G. Bills for service shall not be considered delinquent prior to the expiration of fifteen days from the date of mailing or delivery  
by the company. However, the company may demand immediate payment under the following circumstances:
1. Where service is terminated or abandoned.
  2. Where toll service is two times greater than the subscriber's average usage as reflected on the monthly bills for the three  
months prior to the current bill or, in the case of a new customer who has been receiving service for less than four  
months, where the toll service is twice the estimated monthly toll service.
  3. Where the Company has reason to believe that a business subscriber is about to go out of business or that bankruptcy is  
imminent for that subscriber.
- H. **Toll Credit Limit (TCL):**  
Toll Credit Limit (TCL) is an interim phase of toll denial in lieu of total service denial. It offers subscribers the option of toll  
restriction while paying a deposit or an overdue bill balance on an installment basis.
1. **(DELETED)**
  2. The Toll Credit Limit process shall apply for subscribers requesting new service with no outstanding bill balance. (D)  
subscribers requesting new service with unpaid balances from previous service, and for existing subscribers with overdue  
outstanding charges.
  - a. **New Service With No Outstanding Charges For Previous Service**  
When the Company deems it necessary for a subscriber requesting new service to pay a deposit and the subscriber is  
unable to pay the deposit in full, the subscriber may be allowed to pay the deposit in up to four (4) installments if the  
subscriber agrees to a full toll restriction of the service, at no charge, until the deposit is paid in full.  
An arrangement may be made to waive the deposit if the subscriber chooses to have a full toll restriction on the  
requested service until satisfactory credit has been established.
  - b. **New Service With Outstanding Charges For Previous Service**  
Residence subscribers requesting new service who have outstanding charges from previous service with the  
Company, which have not yet been referred to an outside collection agency, will be allowed to obtain full toll  
restriction of the service until the charges are paid in full. These subscribers can make arrangements to pay the  
charges in up to four installments.

ATTACHMENT A  
Dkt. No. 000733-TL  
August 2, 2001

BELL SOUTH  
TELECOMMUNICATIONS, INC.  
FLORIDA

GENERAL SURRENDER SERVICE TARIFF

ISSUED: ~~March 1, 1999~~ July 4, 1999  
BY: Joseph P. Lachar, President-JT.  
Miami, Florida

LEGISLATIVE FORMAT PAGE

Second ~~Revised Page 20~~  
~~Consolidated Page 20~~  
First Revised  
EFFECTIVE: ~~March 1, 1999~~  
July 24, 1999

A2. GENERAL REGULATIONS

A2.4 Payment Arrangements and Credit Allowances (Cont'd)

A2.4.3 Payment for Service (Cont'd)

M. Full Credit Limit (FCL) (Cont'd)

1.2. (Cont'd)

c. Existing Service

Residence subscribers with overdue bill balances who are unable to pay the charges in full may be allowed to retain their local service if they elect to have a full toll restriction placed on their existing service, at no charge, until the charges are paid. These subscribers may arrange to pay the outstanding balance in up to four installment payments.

A2.4.4 Allowance for Service Outages

When the use of service or facilities furnished by the Company becomes unavailable due to any cause other than the negligence or willful act of the subscriber or the failure of the facilities provided by the subscriber, a pro rata adjustment of the fixed monthly charges involved will be allowed, for the service and facilities rendered useless and unproductive by reason of the service outage during the time the outage continues in excess of twenty-four hours from the time it is reported to or detected by the Company, except as otherwise specified in this tariff. The adjustment shall not be applicable for the time that the Company stands ready to repair the service and the subscriber does not provide access to the Company for such restoration work. For the purpose of administering this regulation, every month is considered to have thirty days.

A2.4.5 Provision for Certain Local Taxes and Fees

When a municipality or political subdivision of the state charges the Company any license, nonexclusive franchise, inspection or other similar tax or fee, whether in a lump sum, or as a flat rate, or based on receipts, or based on poles, wires, conduits or other facilities, the aggregate amount thereof taxes and fees will be billed, insofar as practical, pro rata to exchange subscribers receiving service in the municipality or political subdivision.

A2.4.6 Provision for Certain Local Ordinance Costs

When the Company by virtue of its compliance with a municipal or county ordinance, incurs significant costs that would not otherwise normally be incurred, all such costs shall be billed, insofar as practical, pro rata, per exchange access line, to those subscribers receiving exchange service within the municipality or county as part of the price for exchange service.

An estimated monthly amount of such costs shall be billed to the affected subscribers each month and an adjustment is reconciled these estimates to the actual costs incurred for the six month periods ending June 30 and December 31 of each year shall be applied.

Charges for permits, licenses or fees required by governing authorities for installing any telephone wire in a building will be billed by the Company to the requesting party.

A2.4.7 Reserved for Future Use

A2.4.8 Variable Term Payments

- A. In the event that all or any part of the service is disconnected at the subscriber's request prior to the expiration of any selected payment period of greater than one month's duration, the subscriber will be required to pay the applicable termination charge as stated in the Access Service Tariff, the Private Line Service Tariff and this Tariff. The tariff provisions concerning termination liability shall be inapplicable to any state, county, or municipal governmental entity when there is in effect, as a result of action by such entity and through a duly constituted legislative, administrative, or executive body:

1. a voting;
2. an ordinance;
3. a policy directive; or
4. a constitutional provision

which restricts or prohibits an additional contractual payment for early termination of a contract by any such entity, or agency thereof, due to an unavailability of funding. When service is being provided and funding to the governmental entity for such service becomes unavailable, the governmental entity may cancel the service without additional payment obligation.

REGULATORY  
TELECOMMUNICATIONS, INC.  
FLORIDA

PRIVATE LINE SERVICES TARIFF

First Revision  
Legislat. Format Page 14  
Legislat. Original Page 14

ISSUED: July 1, 1999  
BY: Joseph P. Lecher, President-FL  
Miami, Florida

LEGISLATIVE FORMAT PAGE

EXPIRATION: July 1, 2000

July 24, 1999

## B2. REGULATIONS

### B2.4 Payment Arrangements and Credit Allowances (Cont'd)

#### B2.4.1 Payment of Charges and Deposits (Cont'd)

- B. Applicants for service who have no account with the Company or whose financial responsibility is not a matter of general knowledge, may be required to make an advance payment at the time an application for service is placed with the Company, equal to the service connection or installation charges, if applicable, and at least one month's charges for the service provided. In addition, where the furnishing of service involves an unusual investment, applicants may be required to make payment in advance of such portion of the estimated cost of the installation or construction as is to be borne by them. The amount of the advance payment is credited to the customer's account on applying in any subsequent month of the customer for the service furnished.
- C. The Company may, in order to safeguard its interests, require an applicant or customer to make such deposit to the Company deemed suitable to be held by the Company as a guarantee of the payment of charges. The fact that a deposit has been made in no way relieves the applicant or customer from complying with the Company's regulations as to advance payments or the prompt payment of bills on presentation. At such time as the service is terminated the amount of the deposit is credited to the customer's account and any credit balance which may remain is refunded. At the option of the Company such a deposit may be refunded in full or part or applied to the customer at any time prior to the termination of the service. In case of a cash deposit, interest is paid at the rate of 6% per annum to begin and run from the date said deposit is made except that, no interest shall apply on a deposit unless the deposit and the service have been in existence for a continuous period of six months.
- D. The Company reserves the right to increase the deposit requirements when in its judgment the conditions justify such action.
- E. Effective April 1, 1994, a charge of \$20.00 or 5 percent of the face value of the check, whichever is greater, will apply whenever a check or draft presented for payment for service is not accepted by the institution on which it is written. For a check or draft written prior to this date, a charge of \$15.00 will apply.
- F. ~~Effective August 28, 1992, a Late Payment Charge of \$1.50 plus an interest charge of 1.5 percent on the unpaid balance exceeding \$4.00 for residence subscribers and a Late Payment Charge of \$3.00 plus an interest charge of 1.5 percent on the unpaid balance exceeding \$4.00 for business subscribers will be applied. 1-1/2% applies to cash subscribers' customer's bill when the previous month's bill (including amounts billed in accordance with the Company's Billing and Collections Service Tariff) has not been paid in full prior to the next billing date. The 1-1/2-1-1/2% interest charge is applied to the total unpaid amount carried forward and is included in the total amount due on the current bill. Late payment charges to governmental entities shall be the maximum allowed by law but no more than 1.0 percent 1-1/2% per month.~~
- G. At the option of the customer, all nonrecurring charges associated with an order for service may be billed over a three month period subject to the following:
- 30% of the total nonrecurring charges will be billed in the first monthly billing period after the charges are incurred, and 25% of the total nonrecurring charges plus an Extended Billing Plan Charge will be billed in each of the following two monthly billing periods.
  - The Extended Billing Plan Charge is calculated at a rate of 1.0% per month or 12% annually, on the unbilled balance of the nonrecurring charges.
  - If the customer disconnects service before the expiration of the plan period, all unbilled charges plus the Extended Billing Plan charge, if applicable, will be included in the final bill rendered.
  - If the customer fails to make any of the payments prior to the next billing date then late payment charges as specified in F. preceding will apply.
- Note: Late Payment Charge is shown as non-due-to service of all tariffed services. No charges in rates or regulations were made with this filing.
- Note 1.3: Nonpayment of this charge will not constitute sufficient cause for interruption or cancellation of service.

BELL SOUTH  
TELECOMMUNICATIONS, INC.  
FLORIDA  
ISSUED: July 9, 1999  
BY: Joseph P. Lacher, President -FL  
Miami, Florida

GENERAL SUBSCRIBER SERVICE TARIFF

Third Revised Page 19  
Cancels Second Revised Page 19

EFFECTIVE: July 24, 1999

A2. GENERAL REGULATIONS

A2.4 Payment Arrangements and Credit Allowances (Cont'd)

A2.4.3 Payment for Service (Cont'd)

- C. *Effective August 26, 1999, a Late Payment Charge of \$1.50 plus an interest charge of 1.5 percent on the unpaid balance exceeding \$4.00 for residence subscribers and a Late Payment Charge of \$1.00 plus an interest charge of 1.5 percent on the unpaid balance exceeding \$4.00 for business subscribers will be applied to each subscriber's bill, (including amounts billed in accordance with the Company's Billing and Collections Services Tariff) when the previous month's bill has not been paid in full prior to the next billing date. The 1.5 percent interest charge is applied to the total unpaid amount carried forward and is included in the total amount due on the current bill. This Tariff shall apply to federal and state government pursuant to existing statutes applicable to those governmental entities. Effective January 1, 1992, county and municipal governments will be assessed a 1.0 percent Late Payment Charge in accordance with the provisions of the Florida Prompt Payment Act, Section 218.70-218.79, Florida Statutes.* (C)
- D. Should service be suspended for nonpayment of charges, it will be restored only as provided under "Restoration Charge" in Section A4. of this Tariff.
- E. When the service has been disconnected for nonpayment, the service agreement is considered to have been terminated. Reestablishment of service may be made only upon the execution of a new service agreement which is subject to the provisions of this Tariff.
- F. In its discretion, the Company may restore or reestablish service which has been suspended or disconnected for nonpayment of charges, prior to payment of all charges due. Such restoration or reestablishment shall not be construed as a waiver of any rights to suspend or disconnect service for nonpayment of any such or other charges due and unpaid or for the violation of the provisions of this Tariff, nor shall the failure to suspend or disconnect service for nonpayment of any past due account or accounts operate as a waiver or estoppel to suspend or disconnect service for nonpayment of such amount or of any other past due amount.
- G. Bills for service shall not be considered delinquent prior to the expiration of fifteen days from the date of mailing or delivery by the company. However, the company may demand immediate payment under the following circumstances:
1. Where service is terminated or abandoned.
  2. Where toll service is two times greater than the subscriber's average usage as reflected on the monthly bills for the three months prior to the current bill or, in the case of a new customer who has been receiving service for less than four months, where the toll service is twice the estimated monthly toll service.
  3. Where the Company has reason to believe that a business subscriber is about to go out of business or that bankruptcy is imminent for that subscriber.
- H. Toll Credit Limit (TCL)
- Toll Credit Limit (TCL) is an interim phase of toll denial in lieu of local service denial. It offers subscribers the option of toll restriction while paying a deposit or an overdue bill balance on an installment basis.
1. The Toll Credit Limit program shall apply for subscribers requesting new service with no outstanding bill balance, subscribers requesting new service with unpaid balances from previous service, and for existing subscribers with overdue outstanding charges. (H)
  - a. **New Service With No Outstanding Charges For Previous Service**  
*When the Company deems it necessary for a subscriber requesting new service to pay a deposit and the subscriber is unable to pay the deposit in full, the subscriber may be allowed to pay the deposit in up to four (4) installments if the subscriber agrees to a full toll restriction of the service, at no charge, until the deposit is paid in full.  
An arrangement may be made to waive the deposit if the subscriber chooses to have a full toll restriction on the requested service until satisfactory credit has been established.*
  - b. **New Service With Outstanding Charges For Previous Service**  
*Residence subscribers requesting new service who have outstanding charges from previous service with the Company, which have not yet been referred to an outside collection agency, will be allowed to select full toll restriction of the service until the charges are paid in full. These subscribers can make arrangements to pay the charges in up to four installments.*



BELLSOUTH  
TELECOMMUNICATIONS, INC.  
FLORIDA  
ISSUED: July 9, 1999  
BY: Joseph P. Lacher, President -FL  
Miami, Florida

GENERAL SUBSCRIBER SERVICE TARIFF

20

EFFECTIVE: July 24, 1999

**A2. GENERAL REGULATIONS**

**A2.4 Payment Arrangements and Credit Allowances (Cont'd)**

**A2.4.3 Payment for Service (Cont'd)**

**H. Toll Credit Limit (TCL) (Cont'd)**

**1. (Cont'd)**

**c. Existing Service**

Residence subscribers with overdue bill balances who are unable to pay the charges in full may be allowed to retain their local service if they elect to have a full toll restriction placed on their existing service, at no charge, until the charges are paid. These subscribers may arrange to pay the outstanding balance in up to four installment payments.

**A2.4.4 Allowance for Service Outages**

When the use of service or facilities furnished by the Company becomes unavailable due to any cause other than the negligence or willful act of the subscriber or the failure of the facilities provided by the subscriber, a pro rata adjustment of the fixed monthly charges involved will be allowed, for the service and facilities rendered useless and inoperative by reason of the service outage during the time the outage continues in excess of twenty-four hours from the time it is reported to or detected by the Company, except as otherwise specified in this tariff. The adjustment shall not be applicable for the time that the Company stands ready to repair the service and the subscriber does not provide access to the Company for such restoration work. For the purpose of administering this regulation, every month is considered to have thirty days.

**A2.4.5 Provision for Certain Local Taxes and Fees**

When a municipality or political subdivision of the state charges the Company any license, occupational, franchise, inspection or other similar tax or fee, whether in a lump sum, or at a flat rate, or based on receipts, or based on poles, wires, conduits or other facilities, the aggregate amount of such taxes and fees will be billed, insofar as practical, pro rata to exchange subscribers receiving service in the municipality or political subdivision.

**A2.4.6 Provision for Certain Local Ordinance Costs**

When the Company by virtue of its compliance with a municipal or county ordinance, incurs significant costs that would not otherwise normally be incurred, all such costs shall be billed, insofar as practical, pro rata, per exchange access line, to those subscribers receiving exchange service within the municipality or county as part of the price for exchange service.

An estimated monthly amount of such costs shall be billed to the affected subscribers each month and an adjustment to reconcile these estimates to the actual costs incurred for the six month periods ending June 30 and December 31 of each year shall be applied.

Charges for permits, licenses or fees required by governing authorities for installing any telephone wire in a building will be billed by the Company to the requesting party.

**A2.4.7 Reserved for Future Use**

**A2.4.8 Variable Term Payment**

- A. In the event that all or any part of the service is disconnected at the customer's request prior to the expiration of any selected payment period of greater than one month's duration, the customer will be required to pay the applicable termination charge as stated in the Access Service Tariff, the Private Line Service Tariff and this Tariff. The tariff provisions concerning termination liability shall be inapplicable to any state, county, or municipal governmental entity when there is in effect, as a result of action by such entity and through a duly constituted legislative, administrative, or executive body:

1. a statute;
2. an ordinance;
3. a policy directive; or
4. a constitutional provision

which restricts or prohibits an additional contractual payment for early termination of a contract by any such entity, or agency thereof, due to an unavailability of funding. When service is being provided and funding to the governmental entity for such service becomes unavailable, the governmental entity may cancel the service without additional payment obligation.

BELLSOUTH  
TELECOMMUNICATIONS, INC.  
FLORIDA  
ISSUED: July 9, 1999  
BY: Joseph P. Lacher, President -FL  
Miami, Florida

PRIVATE LINE SERVICES TARIFF

First Revised Page 14  
Cancels Original Page 14

EFFECTIVE: July 24, 1999

82. REGULATIONS

82.4 Payment Arrangements and Credit Allowances (Cont'd)

82.4.1 Payment of Charges and Deposits (Cont'd)

- B. Applicants for service who have no account with the Company or whose financial responsibility is not a matter of general knowledge, may be required to make an advance payment at the time an application for service is placed with the Company, equal to the service connection or installation charges, if applicable, and at least one month's charges for the service provided. In addition, where the furnishing of service involves an undated investment, applicants may be required to make payment in advance of such portion of the estimated cost of the installation or construction as is to be borne by them. The amount of the advance payment is credited to the customer's account or applied to any indebtedness of the customer for the service furnished.
- C. The Company may, in order to safeguard its interests, require an applicant or customer to make such deposit as the Company deems suitable to be held by the Company as a guarantee of the payment of charges. The fact that a deposit has been made in no way relieves the applicant or customer from complying with the Company's regulations as to advance payments or the prompt payment of bills on presentation. At such time as the service is terminated the amount of the deposit is credited to the customer's account and any credit balance which may remain is refunded. At the option of the Company such a deposit may be refunded in all or part or credited to the customer at any time prior to the termination of the service. In case of a cash deposit, interest is paid at the rate of 6% per annum to begin and run from the date said deposit is made except that, no interest shall apply on a deposit unless the deposit and the service have been in existence for a continuous period of six months.
- D. The Company reserves the right to increase the deposit requirement when in its judgment the conditions justify such action.
- E. Effective April 1, 1996, a charge of \$20.00 or 5 percent of the face value of the check, whichever is greater, will apply whenever a check or draft presented for payment for service is not accepted by the institution on which it is written. For a check or draft written prior to this date, a charge of \$15.00 will apply.
- F. Effective August 28, 1999, a Late Payment Charge of \$1.50 plus an interest charge of 1.5 percent on the unpaid balance exceeding \$6.00 for residential subscribers and a Late Payment Charge of \$3.00 plus an interest charge of 1.5 percent on the unpaid balance exceeding \$6.00 for business subscribers will be applied to each subscriber's bill when the previous month's bill (including amounts billed in accordance with the Company's Billing and Collections Services Tariff) has not been paid in full prior to the next billing date. The 1.5 percent interest charge is applied to the total unpaid amount carried forward and is included in the total amount due on the current bill. Late payment charges to governmental entities shall be the maximum allowed by law but no more than 1.0 percent per month.
- G. At the option of the customer, all nonrecurring charges associated with an order for service may be billed over a three month period subject to the following:
- 50% of the total nonrecurring charges will be billed in the first monthly billing period after the charges are incurred, and 25% of the total nonrecurring charges plus an Extended Billing Plan Charge will be billed in each of the following two monthly billing periods.
  - The Extended Billing Plan Charge is calculated at a rate of 1.0% per month or 12% annually, on the unbilled balance of the nonrecurring charges.
  - If the customer discontinues service before the expiration of the plan period, all unbilled charges plus the Extended Billing Plan charge, if applicable, will be included in the final bill rendered.
  - If the customer fails to make any of the payments prior to the next billing date then late payment charges as specified in F. preceding will apply.

Note 1: Nonpayment of this charge will not constitute sufficient cause for interruption or cancellation of service.

State: FL0706 Miscellaneous Service		Market Basket Summary of Annual Revenues		Develop Date 12/98 Run Date : 05/31/99	
WORKSHEET 8					
SERVICE ID NUMBER (1)	SERVICE DESCRIPTION (2)	PRESBIT REVENUE TOTAL (3)	PROPOSED REVENUE TOTAL (4)	\$ REVENUE CHANGE (5)	PERCENT CHANGE (6)
2901	RETURNED CHECK/BANK DRAFT - MISC	94,343,390	94,343,390	00	0.00%
2902	LATE PAYMENT CHARGES - MISC	930,230,230	932,500,923	92,342,093	7.41%
2904	APARTMENT RENT ADVANCEMENT SERVICES - MISC	924,000	924,000	00	0.00%
2905	911 TELECOMMUNICATION SERVICE - SA KEY TELEPHONE SYSTEM - BUS OPT SVC	990,962	990,962	00	0.00%
2906	TELECOMMUNICATION SVC. PRIORITY (TOP) SYSTEM - MISC	93,722	93,722	00	0.00%
2907	AUXILIARY EQUIPMENT - MISC	910,499	910,499	00	0.00%
2908	ENHANCED 911 EMERGENCY SERVICE - MISC	99,790,050	99,790,050	00	0.00%
2909	EQUIPMENT FOR DISABLED CUSTOMERS - OUTRIGHT SALE - MISC	937,742	937,742	00	0.00%
2910	EQUIPMENT FOR DISABLED CUSTOMERS - RENTS-TO-RENTS - MISC	932,739	932,739	00	0.00%
2911	EMERGENCY REPORTING SERVICE - MISC	99,320	99,320	00	0.00%
2912	MISCELLANEOUS EQUIPMENT - MISC	919,374	919,374	00	0.00%
2913	TROUBLE LOCATION CHARGE - MISC	91,035	91,035	00	0.00%
TOTAL		944,000,752	947,051,443	92,342,093	5.01%

State of Florida  
Miscellaneous Service

Market Basket Summary of Annual Revenues

Developed By: 12/98  
Page 1 of 1  
Run Date: 05/31/99

WORKPAPER A

LINE NUMBER	DESCRIPTION	SOURCE	PRESENT YEAR (\$) ANNUAL
1.	INITIAL PRICE REGULATION INDEX		100.0000
2.	PERCENT CHANGE ALLOWED		6.0000
3.	NEW PRICE REGULATION INDEX		106.0000
4.	CURRENT SPI	$L1 = (1 + L2)$	106.0000
5.	CURRENT SPI LESS THAN OR EQUAL TO NEW PRI	WORKPAPER A	106.0000
6.	EXISTING REVENUE		YES
7.	PROPOSED REVENUE	COLUMN 3, WORKPAPER B	944,000,752
8.	CHANGE IN SPI	COLUMN 4, WORKPAPER B	947,051,445
9.	NEW SPI	$(L7/L6)$	1.0501
10.	NEW SPI LESS THAN OR EQUAL TO NEW PRI	$(L8/L4)$	105.0050
11.	REVENUE AVAILABLE FOR ADJUSTMENT	$L7 * (L3/L9) - 1)$	YES
			9445,832