



telecommunications service in Florida.<sup>2</sup> Sprint Spectrum Limited Partnership, a Delaware limited partnership, as agent and General Partner for WirelessCo, L.P. a Delaware limited partnership, and SprintCom, Inc., a Kansas corporation, all the foregoing entities jointly d/b/a Sprint PCS (“Sprint PCS”), is a commercial mobile radio service (“CMRS”) provider licensed by the Federal Communications Commission (“FCC”) to provide wireless services in Florida. Sprint CLEC and Sprint PCS are each a “telecommunications carrier” under the Act. Sprint CLEC and Sprint PCS are collectively referred to herein as “Sprint”, and Sprint’s principal place of business is 6200 Sprint Parkway, Overland Park, Kansas 66251.

2. The names and addresses of Sprint’s representatives in this proceeding are as follows:

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3. AT&T is an incumbent local exchange company (“ILEC”) as defined under Section 251(h) of the Act, and is certified to provide telecommunications services in the State of Florida. AT&T maintains its principal place of business in Florida at 150 West Flagler Street, Miami, Florida 33130.

4. The name, address, and contact information for AT&T’s current primary legal representative during negotiations with Sprint is:

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## **II. JURISDICTION**

5. The Commission has clear jurisdiction over this Petition and the relief requested herein pursuant to Sections 252(b)(1), 252(b)(4)(c), 252(c)(1) and (3) of the Act wherein Congress created an arbitration procedure for requesting telecommunications carriers and ILECs to resolve interconnection agreement-related disputes through “compulsory arbitration” by petitioning a “State commission to arbitrate any open issues” unresolved by negotiation, which the state commission shall resolve by

“imposing appropriate conditions as required to implement [252] subsection (c)”, including ensuring that “such resolution and conditions meet the requirements of Section 251” and “provid[ing] a schedule for implementation of the terms and conditions by the parties to the agreement”. A fundamental requirement of 251 is the obligation of ILECs such as AT&T to negotiate “terms [and] conditions” for interconnection pursuant to 251(c)(2)(D) – which necessarily includes the commencement date of an interconnection agreement.

6. The Commission also has undeniable jurisdiction pursuant to a) Florida Statutes Section 120.80(13)(d), wherein the Florida Legislature has authorized the Commission to employ procedures consistent with the Act; b) Section 364.162 (2), in which the Florida Legislature established that the Commission “shall have the authority to arbitrate any dispute regarding interpretation of interconnection ... terms and conditions;” c) Section 364.16(2), which directs the Commission to resolve disputes that arise when parties are “unable to negotiate mutually acceptable . . . terms and conditions pertaining to interconnection”; and d) Section 364.16(3) which (similar to section 251(c)(2)(D) of the Act), specifically imposes upon a local exchange carrier such as AT&T the obligation to establish “interconnection ... terms, and conditions” pursuant to the procedures set forth in section 364.162.

7. Under Section 252(b)(1) of the Act, parties negotiating for interconnection within a particular state may petition the state commission for arbitration of any unresolved issues during the 135<sup>th</sup> to the 160<sup>th</sup> day of such negotiation. Sprint filed its Petition with the Commission on April 6, 2007 to preserve its rights under Section 251(c)(2)(D) and to have the Commission arbitrate the parties’ dispute over the

commencement date of an otherwise agreed to three-year fixed term for the parties' current month-to-month interconnection agreement under 252(b).

8. Additionally, pursuant to Sections 18.4 and 14.1 of the Parties' Agreement, this Commission has jurisdiction to resolve a dispute regarding implementation of a material change in a term of the Agreement that is necessitated by a regulatory action.

9. By the negotiations schedule mutually agreed to by the Parties, the 135<sup>th</sup> day of the Section 252 arbitration "window" was extended to March 23, 2007, and the 160<sup>th</sup> day was April 17, 2007. See Exhibit "A", attached hereto. Accordingly, Sprint's April 6<sup>th</sup> Petition was timely filed. Sprint's Amended Petition arises out of the same conduct, transaction, or occurrence set forth in Sprint's original Petition. Pursuant to Rule 1.190(c), Florida Rules of Civil Procedure, this Amended Petition therefore relates back to the date of Sprint's original Petition filing date and also is timely filed under Section 252(b)(1).<sup>3</sup>

### **III. PARTIES' CONTRACTUAL FORUM SELECTION PROVISION**

10. The Commission's jurisdiction to arbitrate this matter also is recognized in the Parties' current Interconnection Agreement, which states as follows:

General Terms and conditions – Part A Section 14. Resolution of Disputes, Subsection 14.1 provides:

14.1 Except as otherwise stated in this Agreement, if any dispute arises as to the interpretation of any provision of

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<sup>3</sup> See *In re: Petition by Florida Digital Network, Inc. for arbitration of certain terms and conditions of proposed interconnection and resale agreement with BellSouth Telecommunications, Inc. under the Telecommunications Act of 1996*, Docket No. 010098-TP; Order No. PSC-01-1168-PCS-TP (May 22, 2001); see also Rule 1.190(c), Florida Rules of Civil Procedure.

this Agreement or as to the proper implementation of this Agreement, then if the aggrieved Party elects to pursue such dispute, *the aggrieved Party may petition the FCC or Commission for a resolution of the dispute. ....* [Emphasis added].

11. As the aggrieved Party pursuing the dispute, Sprint selected the Commission as the forum to resolve the dispute identified in this Petition and, pursuant to Interconnection Agreement subsection 14.1, AT&T contractually agreed to the submission of such dispute to the Commission for resolution. The Commission initially approved the current Interconnection Agreement by Order No. PSC-02-0076-FOF-TP issued in Dockets Nos. 000828-TP and 000761-TP on January 11, 2002, thus agreeing and asserting that it has such jurisdiction.

#### IV. BACKGROUND AND HISTORY OF NEGOTIATIONS

12. By mutual agreement, the Parties' Interconnection Agreement has been amended ten times since 2002, with the first amendment becoming effective on or about May 7, 2003, and the most recent tenth amendment becoming effective on or about October 16, 2006. On information and belief, Sprint believes all such amendments have been filed by AT&T with the Commission. A true and correct copy of the Parties' current 1,169 page Interconnection Agreement is incorporated by this reference herein and, as amended, can be viewed on AT&T's website at:

[http://cpr.bellsouth.com/clec/docs/all\\_states/800aa291.pdf](http://cpr.bellsouth.com/clec/docs/all_states/800aa291.pdf).

13. On July 1, 2004, Sprint sent AT&T a request for negotiation of a subsequent interconnection agreement ("RFN") pursuant to Sections 251, 252 and 332 of the Act. Following the RFN, Sprint and AT&T conducted negotiations over a lengthy period of time toward a comprehensive subsequent interconnection agreement.

Accordingly, the Parties agreed to a number of extensions of the arbitration window in order to continue negotiations. AT&T and Sprint have met on many occasions during the negotiation period both telephonically and in person to discuss issues in dispute between the Parties.

14. During the course of the Parties' negotiations, their current Interconnection Agreement automatically converted pursuant to its provisions to a month-to-month term as of January 1, 2005 pursuant to Section 2.1 of the Parties' Agreement.<sup>4</sup>

15. Pursuant to Sections 3.3 and 3.4,<sup>5</sup> the current Interconnection Agreement is also deemed to be extended on a month-to-month basis. While the Agreement is conditionally subject to termination by either Party if: a) no arbitration has been filed in accordance with Section 252 of the Act (or the Parties have not mutually agreed where permissible, to extend the arbitration window); and bi) a Party provides a 60-day termination notice to the other Party, neither condition applies herein. The Agreement continues to be effective and capable of amendment, and the Parties continue to operate pursuant to its terms.

16. Over the course of the nearly 3-year period during which the Parties conducted interconnection negotiations, the specific items under discussion and the parties' position thereon have changed and evolved substantially as the state of the law, state of the industry, and the Parties' individual situations changed.

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<sup>4</sup> Fourth Amendment at page 833, effective on or about June 3, 2004.

<sup>5</sup> Third Amendment at page 816, effective on or about December 3, 2003.

17. During the Parties' ongoing negotiations, AT&T, Inc. and BellSouth Corporation (collectively "AT&T/BellSouth") sought the FCC's approval of a controversial merger between the two companies. In order to induce the FCC's approval of the merger, AT&T, Inc. made a number of commitments to the FCC regarding the manner in which the merged company would conduct its business relations with consumers and competitors following the merger. AT&T's final commitments are found in a letter from AT&T, Inc.'s Senior Vice President – Federal Regulatory, Robert W. Quinn, Jr., which was filed with the FCC on December 28, 2006, and is attached hereto as Exhibit "B".

18. Among other things, AT&T advised the FCC that if the merger were approved, the merged company would offer retail consumers broadband service at a monthly rate of \$10 per month; that it would not seek any increase in state-approved rates for UNEs or collocation; and that it would not increase rates paid by existing customers for their existing transit service arrangements. Additionally, AT&T committed to offer its competitors the following important concessions in interconnection negotiations, which AT&T characterized as "Reducing Transaction Costs Associated with Interconnection Agreements":

1. The AT&T/BellSouth ILECs shall make available to any requesting telecommunications carrier any entire effective interconnection agreement, whether negotiated or arbitrated, that an AT&T/BellSouth ILEC entered into in any state in the AT&T/BellSouth 22-state ILEC operating territory, subject to state-specific pricing and performance plans and technical feasibility, and provided, further, that an AT&T/BellSouth ILEC shall not be obligated to provide pursuant to this commitment any interconnection arrangement or UNE unless it is feasible to provide, given the technical, network, and OSS attributes and limitations



in, and is consistent with the laws and regulatory requirements of, the state for which the request is made.

2. The AT&T/BellSouth ILECs shall not refuse a request by a telecommunications carrier to opt into an agreement on the ground that the agreement has not been amended to reflect changes of law, provided the requesting telecommunications carrier agrees to negotiate in good faith an amendment regarding such change of law immediately after it has opted into the agreement.

3. The AT&T/BellSouth ILECs shall allow a requesting telecommunications carrier to use its pre-existing interconnection agreement as the starting point for negotiating a new agreement.

4. The AT&T/BellSouth ILECs shall permit a requesting telecommunications carrier to extend its current interconnection agreement, regardless of whether its initial term has expired, for a period of up to three years, subject to amendment to reflect prior and future changes of law. During this period, the interconnection agreement may be terminated only via the carrier's request unless terminated pursuant to the agreement's "default" provisions.

Exhibit "B", page 3. The FCC accepted AT&T's commitments and approved the merger on December 29, 2006. The AT&T/BellSouth merger closed that same day.

19. On March 26, 2007 the FCC issued its formal Order authorizing the AT&T/BellSouth merger, which incorporated the commitments offered by AT&T/BellSouth (the "Merger Commitments").<sup>6</sup> As an express condition of its merger authorization, the FCC Ordered that "AT&T and BellSouth shall comply with the conditions set forth in Appendix F" of the FCC Order.<sup>7</sup> A copy of the Table of Contents and Appendix F to the FCC Order is attached as Exhibit "C". The conditions set forth in

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<sup>6</sup> *In the Matter of AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, WC Docket No. 06-74 (Adopted: December 29, 2006, Released: March 26, 2007) ("FCC Order").

<sup>7</sup> FCC Order, Ordering Clause ¶ 227 at page 112.

Appendix F include, verbatim, the four interconnection negotiation commitments set forth in Mr. Quinn's letter regarding "Reducing Transaction Costs Associated with Interconnection Agreements." The AT&T entity herein is the same pre-merger BellSouth entity which provided wireline communications services, including local exchange, network access, intraLATA long distance services, Internet services and the services to Sprint under the current interconnection agreement in Florida; and, as of December 29, 2006, became a post-merger AT&T/BellSouth ILEC subsidiary entity that is bound by the Merger Commitments.

20. The FCC's approval of the AT&T/BellSouth merger and AT&T's interconnection negotiation commitments had an immediate effect upon the Parties' ongoing interconnection negotiations. On January 3, 2007 the Parties had their first post-merger negotiation conference, attended telephonically by representatives of Sprint and the newly merged AT&T and BellSouth. During the January 3 call it became clear that both parties required further negotiations as a result of the merger. Specifically:

- a) AT&T/BellSouth advised Sprint that, with the merger, the environment had indeed changed and no decisions were being made in the new company without a committee;
- b) Sprint, in turn, advised that the merger raised issues on its part, including:
  - 1) Whether the AT&T representatives on the call were familiar with Mr. Quinn's December 28, 2006 letter;
  - 2) Whether the AT&T negotiators on the call would continue to be Sprint's contacts with respect to interconnection issues; and

- 3) The understanding of the AT&T representatives regarding the impact of the Merger Commitments on the existing Interconnection Agreement, and whether the Merger Commitments were all applicable to the negotiations.
- c) AT&T indicated that the AT&T representatives were aware of Mr. Quinn's letter and, while it remained to be confirmed, the merger commitments applied to the Sprint negotiation.
- d) The Parties agreed Sprint would submit its questions in writing; the arbitration window would be extended two weeks to permit the AT&T personnel on the call to obtain answers from their new owners and Sprint to consider its interconnection agreement options after receiving such answers, and a follow-up call was tentatively scheduled for the following week.

21. Later that day, Sprint submitted to AT&T a list of eight written questions, the first of which asked for "1) Confirmation that Sprint may extend its 2001 ICA (which is currently on a month-to-month term) for up to three years?"

22. On January 10, 2007, AT&T advised Sprint in writing that Sprint would, indeed be able to extend the current interconnection agreement, but that more time was required to flesh out the details:

BellSouth is working to get answers to these questions but will not have them by our scheduled meeting tomorrow, thus would prefer to cancel that meeting and reschedule once we have more information. The answer to Sprint's main question is that Sprint can extend the 2001 ICA, however, I do not yet have all the details to fully respond. Considering this, BellSouth proposes to extend the arbitration close by two weeks and the associated letter is attached for your confirmation. Please let me know if you are agreeable to this plan. " [Emphasis in original].

23. Thereafter, the Parties did in fact extend the respective, then-existing 251-252 negotiation arbitration windows for the nine AT&T states not once, but twice, specifically to provide additional time to continue negotiating interconnection issues, including extension of the current interconnection agreement as set forth in the Merger Commitments. The first extension, at AT&T's suggestion, was for a short period of time from early January to early February as set forth above, followed by yet a longer extension – also at AT&T's suggestion – that resulted in the first arbitration window opening in late March (*See Exhibit "A"*).

24. During these time periods the parties continued to negotiate interconnection issues, including an extended interconnection agreement. For example, on January 18, 2007, the Parties held another negotiation call, during which AT&T stated its position that the three-year extension of the Parties' interconnection agreement should run from the expiration of the Parties' last fixed term, while Sprint asserted that the three-year extension should run from the month in which Sprint requested the three-year extension.

25. Throughout February and March, 2007, an important continuing aspect of the parties' negotiation was consideration of the effective date of the extended interconnection agreement. The parties eventually reached an impasse, as confirmed by a letter from AT&T dated April 4, 2007, attached hereto as Exhibit "D".

**V.  
UNRESOLVED ISSUE FOR ARBITRATION**

26. Sprint requests that the Commission resolve the single open issue resulting from the parties' post-merger interconnection negotiations:

**ISSUE 1: When should the agreed-upon three year extension of Sprint's current Interconnection Agreement become effective?**

27. **Sprint's Position:** The extended agreement should become effective as of March 20, 2007, which is the date Sprint made a formal written request for extension of its current agreement. See Sprint's March 20, 2007 letter to AT&T, attached hereto as Exhibit "E".

28. **AT&T's Position:** Sprint understands AT&T's position to be that Sprint may only extend its Interconnection Agreement for up to three years *from* the "expiration" of a specified (rather than month-to-month) term of the Sprint Interconnection Agreement. AT&T contends that, in Sprint's case, the Parties' initial multi-year term was extended twice and, therefore, initially "expired" on December 31, 2004, when the agreement automatically converted to a month-to-month term. Therefore, AT&T's opinion is that any three-year extension commences *from* December 31, 2004, to result in a new "expiration" date of December 31, 2007.

**VI.**  
**SPRINT'S PETITION PRESENTS**  
**A PROPER SUBJECT FOR ARBITRATION BY THIS COMMISSION**

**A. The relief requested herein clearly is within the Commission's jurisdiction under federal and state law.**

29. Local exchange carriers such as AT&T have an affirmative duty under section 251(c)(2) (D) of the Act and Florida Statute 364.16(3) to negotiate the terms and conditions for interconnection. The inability of the parties to reach agreement regarding the impact of AT&T's interconnection negotiation commitments upon the commencement date of a new 3-year term is a dispute over a fundamental term and condition of the parties' interconnection agreement. Arbitrating disputes over the

effective date and term of an interconnection agreement is unquestionably within this Commission's jurisdiction under Sections 252(b)(4)(C) and 252(c)(3) of the Act. As far back as 1997, this Commission recognized its authority and obligation under 252(b)(4)(C) and 252(c)(3) to provide a schedule to implement arbitration agreements, even though the Act, FCC Orders and FCC rules did not contain any specific provisions governing the appropriate term of an agreement.

30. For example, in Docket Nos. 960847-TP<sup>8</sup> and 960980-TP,<sup>9</sup> the Commission was faced with a dispute in which two CLECs - MCI and AT&T – sought five-year interconnection agreements with GTE, while GTE insisted on a term of no more than two years. The Commission held in Order No. PSC-97-0064-FOF-TP that under 252(b)(4)(C) and 252(c)(3) it was required to provide a schedule to implement the parties' agreements, even though the Act, FCC Orders and FCC rules did not contain any specific provisions governing the appropriate term of an agreement. The Commission then gave the parties another opportunity to negotiate a mutually acceptable term for the agreement.

31. Although the parties in those cases ultimately agreed to a 3-year term, they could not agree on language regarding the *date the agreement could actually commence*. The Commission arbitrated that dispute in Order No. PSC-97-0585-FOF-TP, citing 252(b)(4)(c) as the basis for its jurisdiction. Thus, the Commission has recognized for years that Section 252(b)(4)(c) provides jurisdiction for state commissions to arbitrate

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<sup>8</sup> *In re: Petition by AT&T Communications of the Southern States, Inc. for arbitration of certain terms and conditions of a proposed agreement with GTE Florida Incorporated concerning interconnection and resale under the Telecommunications Act of 1996.*

<sup>9</sup> *In re: Petition by MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. for arbitration of certain terms and conditions of a proposed agreement with GTE Florida Incorporated concerning resale and interconnection under the Telecommunications Act of 1996.*

disputes – such as the instant dispute – regarding the term and beginning date of an interconnection agreement.

32. The 11<sup>th</sup> Circuit has likewise made it clear that the Commission’s broad authority under Section 252(b)(4)(C) permits it to arbitrate 251-related implementation disputes that are not expressly itemized in Section 251 of the Act. *MCI v. BellSouth*, 298 F.3d 1269 (11<sup>th</sup> Cir. 2002) In that case, the Commission originally found that it did not have jurisdiction to arbitrate disputes over enforcement provisions and liquidated damages because those matters were not specifically listed in Section 251 as subjects of arbitration. The 11<sup>th</sup> Circuit disagreed with this limited view of state commission jurisdiction over interconnection arbitrations, holding that the Commission has jurisdiction under 252(b)(4)(C) to arbitrate *any provision* that is “within the realm of ‘conditions . . . required to implement’ the agreement.” *Id.*, 1274. Sprint’s Petition seeks arbitration of a dispute regarding the date the parties’ current month-to-month agreement converts and commences to operate as a new fixed three-year agreement, which clearly falls within the realm of conditions required to implement an interconnection agreement.

33. Moreover, the Commission long has asserted its authority to construe FCC Orders in connection with arbitration proceedings, and to impose interconnection terms and conditions in addition to those specifically required Sections 251 and 252 of the Telecommunications Act. In Docket No.000731-TP, in the context of an interconnection arbitration proceeding between AT&T of the Southern States, LLC, and BellSouth,<sup>10</sup> the

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<sup>10</sup> *In re: Petition by AT&T Communications of the Southern States, Inc. d/b/a AT&T for arbitration of certain terms and conditions of a proposed agreement with BellSouth Telecommunications, Inc. pursuant to 47 U.S.C. Section 252.*

Commission explained that its broad jurisdiction to arbitrate interconnection disputes included the authority to *construe and apply* the Act, FCC rules, *FCC orders*, and controlling judicial precedent:

Pursuant to Section 252 (b) of the Act, an incumbent local exchange carrier or any other party to a negotiation under the Act after a prescribed period of time for voluntary negotiation, may petition a state commission to arbitrate any open issues. Pursuant to Section 252 (b)(4) of the Act, the state commission must limit its consideration of any petition and any response thereto, to the issues set forth in the petition and the response. Under Section 252(c) of the Act, the state commission shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions to implement the standards for arbitration set forth in Section 252 (c), of the Act. Pursuant to Section 252 (c) of the Act, a state commission in resolving any open issue and imposing conditions upon the parties to the agreement, shall ensure that the resolution and conditions meet the requirements of Section 251, including the regulations prescribed by the FCC; establish any rates

for interconnection, services, or network elements according to Section 252 (d) of the Act; and provide a schedule for implementation of the terms and conditions by the parties to the agreement. *In addition, we have the authority to construe the requirements of the Act, subject to controlling FCC Rules, FCC Orders and controlling judicial precedent.*

Section 252(e) of the Act reserves the state's authority to impose additional conditions and terms in arbitration that are not inconsistent with the Act and its interpretation by the FCC and the courts. *We find that under Section 252(e) of the Act, we could impose additional conditions and terms in exercising our independent state law authority under Chapter 364, Florida Statutes, so long as those requirements are not inconsistent with the Act, FCC rules and orders, and controlling judicial precedent.*

Based on the foregoing, we have jurisdiction pursuant to Section 252 of the Act to arbitrate interconnection agreements. Section 252 states that a State Commission shall resolve each issue set forth in the petition and



response, if any, by imposing the appropriate conditions as required. *Further, we find that Section 252(e) of the Act reserves the state's authority to impose additional conditions and terms in an arbitration not inconsistent with the Act and its interpretation by the FCC and the courts.*

Order No. PSC-01-1402-FOF-TP, pgs. 7-8, emphasis added. Thus, the Commission has clear jurisdiction to determine a commencement date for the parties' new 3-year term in a manner consistent with the now-controlling FCC Order.

34. Finally, the FCC's Order clearly specifies that the Merger Commitments do not limit the Commission's otherwise existing authority or jurisdiction:

*It is not the intent of these commitments to restrict, supersede, or otherwise alter state or local jurisdiction under the Communications Act of 1934, as amended, or over the matters addressed in these commitments, or to limit state authority to adopt rules, regulations, performance monitoring programs, or other policies that are not inconsistent with these commitments.*

FCC Order, App. F, emphasis added. Accordingly, the Commission has authority under both state and federal law to arbitrate the open issue raised by Sprint herein.

**B. Exercise of the Commission's jurisdiction over this interconnection dispute is in the public interest.**

35. The Commission should be especially vigilant regarding interconnection disputes regarding the Merger Commitments because the AT&T/BellSouth merger has reduced local telecommunications competition in Florida. This issue was placed squarely before the Commission by then-Attorney General Charlie Crist in Docket No. 060308-TL, in which the Commission considered and granted state approval of the merger. As Attorney General Crist warned in his comments to the Commission, the merged entity could well "squeeze out" competition, to the detriment of Florida's consumers:

The BellSouth/AT&T merger combines the territory, market share, and control of 'last mile' facilities of the largest incumbent local exchange company in Florida with the nation's largest provider of local voice, long distance and broadband DSL. \* \* \* The combined entity will no doubt dominate the telecommunications markets in which it competes, particularly the wireline markets. Therefore, *unless proper conditions are attached, the merger could indeed have a detrimental impact on competition.*

(Exhibit "F", Letter from Charlie Crist to Chairman Edgar, dated June 19, 2006; filed as Document No. 05315-06 in Docket No. 060308-TL, emphasis added) Mr. Crist specifically noted that "my concern here is that the merged company might squeeze out real competition . . ." and urged the Commission "to *forcefully seek the adoption of appropriate merger conditions* and thereby fulfill its statutory mandate to ensure the availability of service at reasonable prices *and encourage competition in the wireline market.*" The Merger Commitments provide the Commission with additional tools to encourage competition with a combined entity that otherwise will "dominate the telecommunications markets in which it competes." <sup>11</sup>

### **CONCLUSION AND PRAYER FOR RELIEF**

Sprint respectfully requests the Commission to arbitrate the single issue in dispute, to find in Sprint's favor, and to adopt Sprint's proposed Amendment to the

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<sup>11</sup> Additionally, if the Commission limits the jurisdiction of its jurisdiction over telecommunications issues simply because they arise in the context of Merger Commitments, it may lose the other opportunities to encourage competition and provide benefits to the citizens of Florida. For example, as stated in paragraph 18, above, AT&T's Merger Commitments include the commitment to offer \$10 DSL service to residential customers. However, AT&T has made no effort to provide Florida's consumers with information regarding the availability of this product; indeed, the "DSL Plans and Pricing" page on its website offers dial-up internet at \$14.95/month, "Standard Plan" DSL at \$19.95/month and "Preferred Plan" DSL at \$29.95/month – with no mention of a \$10 DSL product. The Commission should not lose the opportunity to require AT&T to comply with this or any other Merger Commitment, including the commitments intended to reduce the cost for competitors to enter into interconnection agreements.

Parties' current Interconnection Agreement. Specifically, Sprint requests that the Commission:

- a) Arbitrate the unresolved issue between Sprint and AT&T as described herein within the timetable specified in the Act;
- b) Issue an appropriate procedural Order that directs the parties to submit testimony regarding the issue presented for arbitration herein;
- c) Issue an Order requiring AT&T to extend the Parties' current Interconnection Agreement for a period of three (3) years from either i) Sprint's March 20, 2007 request for such extension, or ii) the December 29, 2006 effective date of the AT&T/BellSouth Merger Commitments, and to execute Sprint's proposed Interconnection Agreement Amendment reflecting the resolution of the unresolved issue as described above;
- d) Retain jurisdiction of this arbitration until the Parties have submitted an Amendment to the Interconnection Agreement for approval in accordance with Section 252(e) of the Act;
- e) Retain jurisdiction of this arbitration and the Parties hereto as necessary to enforce the amended Interconnection Agreement; and
- f) Grant such other and further relief as the Commission deems just and proper.

Respectfully submitted this 9<sup>th</sup> day of August, 2007.



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ATTORNEYS FOR  
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I HEREBY CERTIFY that a true and correct copy of the foregoing Motion has been furnished by U.S. Mail and email to the following parties on this 9<sup>th</sup> day of August, 2007:

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**Sent Via E-Mail**

January 25, 2007

Ms. Lynn Allen-Flood  
BellSouth Business Markets  
675 West Peachtree St., NE 34S91  
Atlanta, GA 30375

Re: Sprint Communications Company L.P. and Sprint Spectrum L.P. Request for Interconnection with BellSouth Telecommunications, Inc.


Dear Lynn:


This letter is to confirm our mutual agreement regarding Sprint Communications Company L.P. and Sprint Spectrum L.P. (collectively "Sprint") requests to negotiate an interconnection agreement and commencement of negotiations with BellSouth Telecommunications, Inc. ("BellSouth") pursuant to Section 251 and 252 of the Telecommunications Act of 1934 as amended (the "Act"). The Parties agree that with respect to a particular BellSouth state, Sprint requested negotiations and the corresponding dates as indicated below are, pursuant to Section 252(b)(1) of the Act, the applicable day 135 start of the arbitration "window" and day 160 close of the arbitration "window":

|   | Request           | Day 135        | Day 160        |
|---|-------------------|----------------|----------------|
| Florida:                                      | November 9, 2006  | March 23, 2007 | April 17, 2007 |
| Georgia:                                      | November 15, 2006 | March 29, 2007 | April 23, 2007 |
| North Carolina:                               | November 21, 2006 | April 4, 2007  | April 29, 2007 |
| Kentucky,<br>South Carolina<br>and Tennessee: | December 22, 2006 | May 5, 2007    | May 30, 2007   |
| Alabama,<br>Louisiana, and<br>Mississippi:    | February 1, 2007  | June 15, 2007  | July 10, 2007  |

To reflect our mutual understanding, please sign and return a copy of this letter to me.

Sincerely,

  
James C. Kite II  
ICA Solutions

Signature: 

Date: 1/26/07



Robert W. Quinn, Jr.  
Senior Vice President  
Federal Regulatory

AT&T Services, Inc. T: 202.457.3851  
1120 20<sup>th</sup> Street, NW F: 832.213.0243  
Suite 1000  
Washington, DC 20036

December 28, 2006

**VIA ELECTRONIC SUBMISSION**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., SW, Room TWB-204  
Washington, DC 20554

Re: Notice of Ex Parte Communication  
In the Matter of Review of AT&T Inc. and BellSouth Corp. Application  
For Consent to Transfer of Control, WC Docket No. 06-74

Dear Ms. Dortch:

On October 13, 2006, AT&T submitted a list of possible merger commitments, which, we indicated, we could accept in the interest of obtaining expeditious approval of the AT&T/BellSouth merger. We emphasized our belief that these commitments were wholly unnecessary in light of the demonstrated substantial public interest benefits of the merger and the lack of any cognizable harm to competition. We noted that this belief was shared by the Department of Justice, nineteen states, and three foreign countries, all of which subjected the merger to exacting scrutiny and found no anticompetitive effects. And, we noted, this merger involves even less competitive overlap than did the AT&T/SBC and Verizon/MCI mergers, both of which the Commission unanimously approved just last year with fewer, less extensive commitments than we offered in our October 13 letter.

Nevertheless, merger opponents continue to demand even more concessions, including those they were unable to obtain from Congress, or that are being considered in pending, industry-wide rulemaking proceedings. In the face of these continuing demands, the merger has yet to be approved. Accordingly, in order to break the impasse, and in the interest of facilitating the speediest possible approval of the merger by the Commission, Applicants agree to the attached merger commitments, which are significantly more extensive than those submitted on October 13. Applicants reserve the right to withdraw these commitments upon written notice to the Commission if the Commission has not approved the merger at the time of such notice. One electronic copy of this Notice is being submitted to the Secretary of the FCC in accordance with the Commission's rules.

Sincerely,

A handwritten signature in cursive script that reads "Robert W. Quinn, Jr.".

## Merger Commitments

For the avoidance of doubt, unless otherwise expressly stated to the contrary, all conditions and commitments proposed in this letter are enforceable by the FCC and would apply in the AT&T/BellSouth in-region territory, as defined herein, for a period of forty-two months from the Merger Closing Date and would automatically sunset thereafter.

### Repatriation of Jobs to the U.S.

AT&T/BellSouth<sup>1</sup> is committed to providing high quality employment opportunities in the U.S. In order to further this commitment, AT&T/BellSouth will repatriate 3,000 jobs that are currently outsourced by BellSouth outside of the U.S. This repatriation will be completed by December 31, 2008. At least 200 of the repatriated jobs will be physically located within the New Orleans, Louisiana MSA.

### Promoting Accessibility of Broadband Service

1. By December 31, 2007, AT&T/BellSouth will offer broadband Internet access service (*i.e.*, Internet access service at speeds in excess of 200 kbps in at least one direction) to 100 percent of the residential living units in the AT&T/BellSouth in-region territory.<sup>2</sup> To meet this commitment, AT&T/BellSouth will offer broadband Internet access services to at least 85 percent of such living units using wireline technologies (the "Wireline Buildout Area"). AT&T/BellSouth will make available broadband Internet access service to the remaining living units using alternative technologies and operating arrangements, including but not limited to satellite and Wi-Max fixed wireless technologies. AT&T/BellSouth further commits that at least 30 percent of the incremental deployment after the Merger Closing Date necessary to achieve the Wireline Buildout Area commitment will be to rural areas or low income living units.<sup>3</sup>
2. AT&T/BellSouth will provide an ADSL modem without charge (except for shipping and handling) to residential subscribers within the Wireline Buildout Area who, between July 1, 2007, and June 30, 2008, replace their AT&T/BellSouth dial-up Internet access service with

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<sup>1</sup> AT&T/BellSouth refers to AT&T Inc., BellSouth Corporation, and their affiliates that provide domestic wireline or Wi-Max fixed wireless services.

<sup>2</sup> As used herein, the "AT&T/BellSouth in-region territory" means the areas in which an AT&T or BellSouth operating company is the incumbent local exchange carrier, as defined in 47 U.S.C. § 251(h)(1)(A) and (B)(i). "AT&T in-region territory" means the area in which an AT&T operating company is the incumbent local exchange carrier, as defined in 47 U.S.C. § 251(h)(1)(A) and (B)(i), and "BellSouth in-region territory" means the area in which a BellSouth operating company is the incumbent local exchange carrier, as defined in 47 U.S.C. § 251(h)(1)(A) and (B)(i).

<sup>3</sup> For purposes of this commitment, a low income living unit shall mean a living unit in AT&T/BellSouth's in-region territory with an average annual income of less than \$35,000, determined consistent with Census Bureau data, *see* California Public Utilities Code section 5890(j)(2) (as added by AB 2987) (defining low income households as those with annual incomes below \$35,000), and a rural area shall consist of the zones in AT&T/BellSouth's in-region territory with the highest deaveraged UNE loop rates as established by the state commission consistent with the procedures set forth in section 51.507 of the Commission's rules. 47 C.F.R. § 51.507.



AT&T/BellSouth's ADSL service and elect a term plan for their ADSL service of twelve months or greater.

3. Within six months of the Merger Closing Date, and continuing for at least 30 months from the inception of the offer, AT&T/BellSouth will offer to retail consumers in the Wireline Buildout Area, who have not previously subscribed to AT&T's or BellSouth's ADSL service, a broadband Internet access service at a speed of up to 768 Kbps at a monthly rate (exclusive of any applicable taxes and regulatory fees) of \$10 per month.

### **Statement of Video Roll-Out Intentions**

AT&T is committed to providing, and has expended substantial resources to provide, a broad array of advanced video programming services in the AT&T in-region territory. These advanced video services include Uverse, on an integrated IP platform, and HomeZone, which integrates advanced broadband and satellite services. Subject to obtaining all necessary authorizations to do so, AT&T/BellSouth intends to bring such services to the BellSouth in-region territory in a manner reasonably consistent with AT&T's roll-out of such services within the AT&T in-region territory. In order to facilitate the provision of such advanced video services in the BellSouth in-region territory, AT&T/BellSouth will continue to deploy fiber-based facilities and intends to have the capability to reach at least 1.5 million homes in the BellSouth in-region territory by the end of 2007. AT&T/BellSouth agrees to provide a written report to the Commission by December 31, 2007, describing progress made in obtaining necessary authorizations to roll-out, and the actual roll-out of, such advanced video services in the BellSouth in-region territory.

### **Public Safety, Disaster Recovery**

1. By June 1, 2007, AT&T will complete the steps necessary to allow it to make its disaster recovery capabilities available to facilitate restoration of service in BellSouth's in-region territory in the event of an extended service outage caused by a hurricane or other disaster.

2. In order to further promote public safety, within thirty days of the Merger Closing Date, AT&T/BellSouth will donate \$1 million to a section 501(c)(3) foundation or public entities for the purpose of promoting public safety.

### **Service to Customers with Disabilities**

AT&T/BellSouth has a long and distinguished history of serving customers with disabilities. AT&T/BellSouth commits to provide the Commission, within 12 months of the Merger Closing Date, a report describing its efforts to provide high quality service to customers with disabilities.

### **UNEs**

1. The AT&T and BellSouth ILECs shall continue to offer and shall not seek any increase in state-approved rates for UNEs or collocation that are in effect as of the Merger Closing Date. For purposes of this commitment, an increase includes an increased existing surcharge or a new surcharge unless such new or increased surcharge is authorized by the applicable interconnection agreement or tariff, and by the relevant state commission. This commitment shall not limit the

ability of the AT&T and BellSouth ILECs and any other telecommunications carrier to agree voluntarily to any different UNE or collocation rates.

2. AT&T/BellSouth shall recalculate its wire center calculations for the number of business lines and fiber-based collocations and, for those that no longer meet the non-impairment thresholds established in 47 CFR §§ 51.319(a) and (e), provide appropriate loop and transport access. In identifying wire centers in which there is no impairment pursuant to 47 CFR §§ 51.319(a) and (e), the merged entity shall exclude the following: (i) fiber-based collocation arrangements established by AT&T or its affiliates; (ii) entities that do not operate (*i.e.*, own or manage the optronics on the fiber) their own fiber into and out of their own collocation arrangement but merely cross-connect to fiber-based collocation arrangements; and (iii) special access lines obtained by AT&T from BellSouth as of the day before the Merger Closing Date.

3. AT&T/BellSouth shall cease all ongoing or threatened audits of compliance with the Commission's EELs eligibility criteria (as set forth in the *Supplemental Order Clarification's* significant local use requirement and related safe harbors, and the *Triennial Review Order's* high capacity EEL eligibility criteria), and shall not initiate any new EELs audits.

#### **Reducing Transaction Costs Associated with Interconnection Agreements**

1. The AT&T/BellSouth ILECs shall make available to any requesting telecommunications carrier any entire effective interconnection agreement, whether negotiated or arbitrated, that an AT&T/BellSouth ILEC entered into in any state in the AT&T/BellSouth 22-state ILEC operating territory, subject to state-specific pricing and performance plans and technical feasibility, and provided, further, that an AT&T/BellSouth ILEC shall not be obligated to provide pursuant to this commitment any interconnection arrangement or UNE unless it is feasible to provide, given the technical, network, and OSS attributes and limitations in, and is consistent with the laws and regulatory requirements of, the state for which the request is made.

2. The AT&T/BellSouth ILECs shall not refuse a request by a telecommunications carrier to opt into an agreement on the ground that the agreement has not been amended to reflect changes of law, provided the requesting telecommunications carrier agrees to negotiate in good faith an amendment regarding such change of law immediately after it has opted into the agreement.

3. The AT&T/BellSouth ILECs shall allow a requesting telecommunications carrier to use its pre-existing interconnection agreement as the starting point for negotiating a new agreement.

4. The AT&T/BellSouth ILECs shall permit a requesting telecommunications carrier to extend its current interconnection agreement, regardless of whether its initial term has expired, for a period of up to three years, subject to amendment to reflect prior and future changes of law. During this period, the interconnection agreement may be terminated only via the carrier's request unless terminated pursuant to the agreement's "default" provisions.

#### **Special Access**

Each of the following special access commitments shall remain in effect until 48 months from the Merger Closing Date.

1. AT&T/BellSouth affiliates that meet the definition of a Bell operating company in section 3(4)(A) of the Act (“AT&T/BellSouth BOCs”)<sup>4</sup> will implement, in the AT&T and BellSouth Service Areas,<sup>5</sup> the Service Quality Measurement Plan for Interstate Special Access Services (“the Plan”), similar to that set forth in the SBC/AT&T Merger Conditions, as described herein and in Attachment A. The AT&T/BellSouth BOCs shall provide the Commission with performance measurement results on a quarterly basis, which shall consist of data collected according to the performance measurements listed therein. Such reports shall be provided in an Excel spreadsheet format and shall be designed to demonstrate the AT&T/BellSouth BOCs’ monthly performance in delivering interstate special access services within each of the states in the AT&T and BellSouth Service Areas. These data shall be reported on an aggregated basis for interstate special access services delivered to (i) AT&T and BellSouth section 272(a) affiliates, (ii) their BOC and other affiliates, and (iii) non-affiliates.<sup>6</sup> The AT&T/BellSouth BOCs shall provide performance measurement results (broken down on a monthly basis) for each quarter to the Commission by the 45th day after the end of the quarter. The AT&T/BellSouth BOCs shall implement the Plan for the first full quarter following the Merger Closing Date. This commitment shall terminate on the earlier of (i) 48 months and 45 days after the beginning of the first full quarter following the Merger Closing Date (that is, when AT&T/BellSouth files its 16th quarterly report); or (ii) the effective date of a Commission order adopting performance measurement requirements for interstate special access services.

2. AT&T/BellSouth shall not increase the rates paid by existing customers (as of the Merger Closing Date) of DS1 and DS3 local private line services that it provides in the AT&T/BellSouth in-region territory pursuant to, or referenced in, TCG FCC Tariff No. 2 above their level as of the Merger Closing Date.

3. AT&T/BellSouth will not provide special access offerings to its wireline affiliates that are not available to other similarly situated special access customers on the same terms and conditions.

4. To ensure that AT&T/BellSouth may not provide special access offerings to its affiliates that are not available to other special access customers, before AT&T/BellSouth provides a new or modified contract tariffed service under section 69.727(a) of the Commission’s rules to its own section 272(a) affiliate(s), it will certify to the Commission that it provides service pursuant to that contract tariff to an unaffiliated customer other than Verizon Communications Inc., or its wireline affiliates. AT&T/BellSouth also will not unreasonably discriminate in favor of its affiliates in establishing the terms and conditions for grooming special access facilities.<sup>7</sup>

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<sup>4</sup> For purposes of these commitments, AT&T Advanced Solutions, Inc. and the Ameritech Advanced Data Services Companies, doing business collectively as “ASI,” shall not be considered a BOC.

<sup>5</sup> For purposes of this commitment, “AT&T and BellSouth Service Areas” means the areas within AT&T/BellSouth’s in-region territory in which the AT&T and BellSouth ILECs are Bell operating companies as defined in 47 U.S.C. § 153(4)(A).

<sup>6</sup> BOC data shall not include retail data.

<sup>7</sup> Neither this merger commitment nor any other merger commitment herein shall be construed to require AT&T/BellSouth to provide any service through a separate affiliate if AT&T/BellSouth is not otherwise required by law to establish or maintain such separate affiliate.

5. No AT&T/BellSouth ILEC may increase the rates in its interstate tariffs, including contract tariffs, for special access services that it provides in the AT&T/BellSouth in-region territory, as set forth in tariffs on file at the Commission on the Merger Closing Date, and as set forth in tariffs amended subsequently in order to comply with the provisions of these commitments.

6. In areas within the AT&T/BellSouth in-region territory where an AT&T/BellSouth ILEC has obtained Phase II pricing flexibility for price cap services ("Phase II areas"), such ILEC will offer DS1 and DS3 channel termination services, DS1 and DS3 mileage services, and Ethernet services,<sup>8</sup> that currently are offered pursuant to the Phase II Pricing Flexibility Provisions of its special access tariffs,<sup>9</sup> at rates that are no higher than, and on the same terms and conditions as, its tariffed rates, terms, and conditions as of the Merger Closing Date for such services in areas within its in-region territory where it has not obtained Phase II pricing flexibility. In Phase II areas, AT&T/BellSouth also will reduce by 15% the rates in its interstate tariffs as of the Merger Closing Date for Ethernet services that are not at that time subject to price cap regulation. The foregoing commitments shall not apply to DS1, DS3, or Ethernet services provided by an AT&T/BellSouth ILEC to any other price cap ILEC, including any affiliate of such other price cap ILEC,<sup>10</sup> unless such other price cap ILEC offers DS1 and DS3 channel termination and mileage services, and price cap Ethernet services in all areas in which it has obtained Phase II pricing flexibility relief for such services (hereinafter "Reciprocal Price Cap Services") at rates, and on the terms and conditions, applicable to such services in areas in which it has not obtained Phase II pricing flexibility for such services, nor shall AT&T/BellSouth provide the aforementioned 15% discount to such price cap ILEC or affiliate thereof unless such ILEC makes generally available a reciprocal discount for any Ethernet service it offers outside of price cap regulation (hereinafter "Reciprocal Non-Price Cap Services"). Within 14 days of the Merger Closing Date, AT&T/BellSouth will provide notice of this commitment to each price cap ILEC that purchases, or that has an affiliate that purchases, services subject to this commitment from an AT&T/BellSouth ILEC. If within 30 days thereafter, such price cap ILEC does not: (i) affirmatively inform AT&T/BellSouth and the Commission of its intent to sell Reciprocal Price Cap Services in areas where it has received Phase II pricing flexibility for such services at the rates, terms, and conditions that apply in areas where it has not received such flexibility, and to provide a 15% discount on Reciprocal Non-Price Cap Services; and (ii) file tariff revisions that would implement such changes within 90 days of the Merger Closing Date (a "Non-Reciprocating Carrier"), the AT&T/BellSouth ILECs shall be deemed by the FCC to have

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<sup>8</sup> The Ethernet services subject to this commitment are AT&T's interstate OPT-E-MAN, GigaMAN and DecaMAN services and BellSouth's interstate Metro Ethernet Service.

<sup>9</sup> The Phase II Pricing Flexibility Provisions for DS1 and DS3 services are those set forth in Ameritech Tariff FCC No. 2, Section 21; Pacific Bell Tariff FCC No. 1, Section 31; Nevada Bell Tariff FCC No. 1, Section 22; Southwestern Bell Telephone Company Tariff FCC No. 73, Section 39; Southern New England Telephone Tariff FCC No. 39, Section 24; and BellSouth Telecommunications Tariff FCC No. 1, Section 23.

<sup>10</sup> For purposes of this commitment, the term "price cap ILEC" refers to an incumbent local exchange carrier that is subject to price cap regulation and all of its affiliates that are subject to price cap regulation. The term "affiliate" means an affiliate as defined in 47 U.S.C. § 153(1) and is not limited to affiliates that are subject to price cap regulation.

substantial cause to make any necessary revisions to the tariffs under which they provide the services subject to this commitment to such Non-Reciprocating Carrier, including any affiliates, to prevent or offset any change in the effective rate charged such entities for such services. The AT&T/BellSouth ILECs will file all tariff revisions necessary to effectuate this commitment, including any provisions addressing Non-Reciprocating Carriers and their affiliates, within 90 days from the Merger Closing Date.

7. AT&T/BellSouth will not oppose any request by a purchaser of interstate special access services for mediation by Commission staff of disputes relating to AT&T/BellSouth's compliance with the rates, terms, and conditions set forth in its interstate special access tariffs and pricing flexibility contracts or to the lawfulness of the rates, terms, and conditions in such tariffs and contracts, nor shall AT&T/BellSouth oppose any request that such disputes be accepted by the Commission onto the Accelerated Docket.

8. The AT&T/BellSouth ILECs will not include in any pricing flexibility contract or tariff filed with the Commission after the Merger Closing Date access service ratio terms which limit the extent to which customers may obtain transmission services as UNEs, rather than special access services.

9. Within 60 days after the Merger Closing Date, the AT&T/BellSouth ILECs will file one or more interstate tariffs that make available to customers of DS1, DS3, and Ethernet service reasonable volume and term discounts without minimum annual revenue commitments (MARC) or growth discounts. To the extent an AT&T/BellSouth ILEC files an interstate tariff for DS1, DS3, or Ethernet services with a varying MARC, it will at the same time file an interstate tariff for such services with a fixed MARC. For purposes of these commitments, a MARC is a requirement that the customer maintain a minimum specified level of spending for specified services per year.

10. If, during the course of any negotiation for an interstate pricing flexibility contract, AT&T/BellSouth offers a proposal that includes a MARC, AT&T/BellSouth will offer an alternative proposal that gives the customer the option of obtaining a volume and/or term discount(s) without a MARC. If, during the course of any negotiation for an interstate pricing flexibility contract, AT&T/BellSouth offers a proposal that includes a MARC that varies over the life of the contract, AT&T/BellSouth will offer an alternative proposal that includes a fixed MARC.

11. Within 14 days of the Merger Closing Date, the AT&T/BellSouth ILECs will give notice to customers of AT&T/BellSouth with interstate pricing flexibility contracts that provide for a MARC that varies over the life of the contract that, within 45 days of such notice, customers may elect to freeze, for the remaining term of such pricing flexibility contract, the MARC in effect as of the Merger Closing Date, provided that the customer also freezes, for the remaining term of such pricing flexibility contract, the contract discount rate (or specified rate if the contract sets forth specific rates rather than discounts off of referenced tariffed rates) in effect as of the Merger Closing Date.

## Transit Service

The AT&T and BellSouth ILECs will not increase the rates paid by existing customers for their existing tandem transit service arrangements that the AT&T and BellSouth ILECs provide in the AT&T/BellSouth in-region territory.<sup>11</sup>

## ADSL Service<sup>12</sup>

1. Within twelve months of the Merger Closing Date, AT&T/BellSouth will deploy and offer within the BellSouth in-region territory ADSL service to ADSL-capable customers without requiring such customers to also purchase circuit switched voice grade telephone service. AT&T/BellSouth will continue to offer this service in each state for thirty months after the "Implementation Date" in that state. For purposes of this commitment, the "Implementation Date" for a state shall be the date on which AT&T/BellSouth can offer this service to eighty percent of the ADSL-capable premises in BellSouth's in-region territory in that state.<sup>13</sup> Within twenty days after meeting the Implementation Date in a state, AT&T/BellSouth will file a letter with the Commission certifying to that effect. In all events, this commitment will terminate no later than forty-two months after the Merger Closing Date.
2. AT&T/BellSouth will extend until thirty months after the Merger Closing Date the availability within AT&T's in-region territory of ADSL service, as described in the ADSL Service Merger Condition, set forth in Appendix F of the *SBC/AT&T Merger Order* (FCC 05-183).
3. Within twelve months of the Merger Closing Date, AT&T/BellSouth will make available in its in-region territory an ADSL service capable of speeds up to 768 Kbps to ADSL-capable customers without requiring such customers to also purchase circuit switched voice grade telephone service ("Stand Alone 768 Kbps service"). AT&T/BellSouth will continue to offer the 768 Kbps service in a state for thirty months after the "Stand Alone 768 Kbps Implementation Date" for that state. For purposes of this commitment, the "Stand Alone 768 Kbps Implementation Date" for a state shall be the date on which AT&T/BellSouth can offer the Stand Alone 768 Kbps service to eighty percent of the ADSL-capable premises in AT&T/BellSouth's in-region territory in that state. The Stand Alone 768 Kbps service will be offered at a rate of not more than \$19.95 per month (exclusive of regulatory fees and taxes). AT&T/BellSouth may

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<sup>11</sup> Tandem transit service means tandem-switched transport service provided to an originating carrier in order to indirectly send intraLATA traffic subject to § 251(b)(5) of the Communications Act of 1934, as amended, to a terminating carrier, and includes tandem switching functionality and tandem switched transport functionality between an AT&T/BellSouth tandem switch location and the terminating carrier.

<sup>12</sup> The commitments set forth under the heading "ADSL Service" are, by their terms, available to retail customers only. Wholesale commitments are addressed separately under the heading "ADSL Transmission Service."

<sup>13</sup> After meeting the implementation date in each state, AT&T/BellSouth will continue deployment so that it can offer the service to all ADSL-capable premises in its in-region territory within twelve months of the Merger Closing Date.

make available such services at other speeds at prices that are competitive with the broadband market taken as a whole.

### **ADSL Transmission Service**

AT&T/BellSouth will offer to Internet service providers, for their provision of broadband Internet access service to ADSL-capable retail customer premises, ADSL transmission service in the combined AT&T/BellSouth territory that is functionally the same as the service AT&T offered within the AT&T in-region territory as of the Merger Closing Date.<sup>14</sup> Such wholesale offering will be at a price not greater than the retail price in a state for ADSL service that is separately purchased by customers who also subscribe to AT&T/BellSouth local telephone service.

### **Net Neutrality**

1. Effective on the Merger Closing Date, and continuing for 30 months thereafter, AT&T/BellSouth will conduct business in a manner that comports with the principles set forth in the Commission's Policy Statement, issued September 23, 2005 (FCC 05-151).
2. AT&T/BellSouth also commits that it will maintain a neutral network and neutral routing in its wireline broadband Internet access service.<sup>15</sup> This commitment shall be satisfied by AT&T/BellSouth's agreement not to provide or to sell to Internet content, application, or service providers, including those affiliated with AT&T/BellSouth, any service that privileges, degrades or prioritizes any packet transmitted over AT&T/BellSouth's wireline broadband Internet access service based on its source, ownership or destination.

This commitment shall apply to AT&T/BellSouth's wireline broadband Internet access service from the network side of the customer premise equipment up to and including the Internet Exchange Point closest to the customer's premise, defined as the point of interconnection that is logically, temporally or physically closest to the customer's premise where public or private Internet backbone networks freely exchange Internet packets.

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<sup>14</sup> An ADSL transmission service shall be considered "functionally the same" as the service AT&T offered within the AT&T in-region territory as of the Merger Closing Date if the ADSL transmission service relies on ATM transport from the DSLAM (or equivalent device) to the interface with the Internet service provider, and provides a maximum asymmetrical downstream speed of 1.5Mbps or 3.0Mbps, or a maximum symmetrical upstream/downstream speed of 384Kbps or 416Kbps, where each respective speed is available (the "Broadband ADSL Transmission Service"). Nothing in this commitment shall require AT&T/BellSouth to serve any geographic areas it currently does not serve with Broadband ADSL Transmission Service or to provide Internet service providers with broadband Internet access transmission technology that was not offered by AT&T to such providers in its in-region territory as of the Merger Closing Date.

<sup>15</sup> For purposes of this commitment, AT&T/BellSouth's wireline broadband Internet access service and its Wi-Max fixed wireless broadband Internet access service are, collectively, AT&T/BellSouth's "wireline broadband Internet access service."

This commitment does not apply to AT&T/BellSouth's enterprise managed IP services, defined as services available only to enterprise customers<sup>16</sup> that are separate services from, and can be purchased without, AT&T/BellSouth's wireline broadband Internet access service, including, but not limited to, virtual private network (VPN) services provided to enterprise customers. This commitment also does not apply to AT&T/BellSouth's Internet Protocol television (IPTV) service. These exclusions shall not result in the privileging, degradation, or prioritization of packets transmitted or received by AT&T/BellSouth's non-enterprise customers' wireline broadband Internet access service from the network side of the customer premise equipment up to and including the Internet Exchange Point closest to the customer's premise, as defined above.

This commitment shall sunset on the earlier of (1) two years from the Merger Closing Date, or (2) the effective date of any legislation enacted by Congress subsequent to the Merger Closing Date that substantially addresses "network neutrality" obligations of broadband Internet access providers, including, but not limited to, any legislation that substantially addresses the privileging, degradation, or prioritization of broadband Internet access traffic.

### **Internet Backbone**

1. For a period of three years after the Merger Closing Date, AT&T/BellSouth will maintain at least as many discrete settlement-free peering arrangements for Internet backbone services with domestic operating entities within the United States as they did on the Merger Closing Date, provided that the number of settlement-free peering arrangements that AT&T/BellSouth is required to maintain hereunder shall be adjusted downward to account for any mergers, acquisitions, or bankruptcies by existing peering entities or the voluntary election by a peering entity to discontinue its peering arrangement. If on the Merger Closing Date, AT&T and BellSouth both maintain a settlement free peering arrangement for Internet backbone services with the same entity (or an affiliate thereof), the separate arrangements shall count as one settlement-free peering arrangement for purposes of determining the number of discrete peering entities with whom AT&T/BellSouth must peer pursuant to this commitment. AT&T/BellSouth may waive terms of its published peering policy to the extent necessary to maintain the number of peering arrangements required by this commitment.. Notwithstanding the above, if within three years after the Merger Closing Date, one of the ten largest entities with which AT&T/BellSouth engages in settlement free peering for Internet backbone services (as measured by traffic volume delivered to AT&T/BellSouth's backbone network facilities by such entity) terminates its peering arrangement with AT&T/BellSouth for any reason (including bankruptcy, acquisition, or merger), AT&T/BellSouth will replace that peering arrangement with another settlement free peering arrangement and shall not adjust its total number of settlement free peers downward as a result.

2. Within thirty days after the Merger Closing Date, and continuing for three years thereafter, AT&T/BellSouth will post its peering policy on a publicly accessible website. During this three-year period, AT&T/BellSouth will post any revisions to its peering policy on a timely basis as they occur.

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<sup>16</sup> "Enterprise customers" refers to that class of customer identified as enterprise customers on AT&T's website (<http://www.att.com>) as of December 28, 2006.



## **Forbearance**

1. AT&T/BellSouth will not seek or give effect to a ruling, including through a forbearance petition under section 10 of the Communications Act (the "Act") 47 U.S.C. 160, or any other petition, altering the status of any facility being currently offered as a loop or transport UNE under section 251(c)(3) of the Act.
2. AT&T/BellSouth will not seek or give effect to any future grant of forbearance that diminishes or supersedes the merged entity's obligations or responsibilities under these merger commitments during the period in which those obligations are in effect.

## **Wireless**

1. AT&T/BellSouth shall assign and/or transfer to an unaffiliated third party all of the 2.5 GHz spectrum (broadband radio service (BRS)/educational broadband service (EBS)) currently licensed to or leased by BellSouth within one year of the Merger Closing Date.
2. By July 21, 2010, AT&T/BellSouth agrees to: (1) offer service in the 2.3 GHz band to 25% of the population in the service area of AT&T/BellSouth's wireless communications services (WCS) licenses, for mobile or fixed point-to-multi-point services, or (2) construct at least five permanent links per one million people in the service area of AT&T/BellSouth's WCS licenses, for fixed point-to-point services. In the event AT&T/BellSouth fails to meet either of these service requirements, AT&T/BellSouth will forfeit the unconstructed portion of the individual WCS licenses for which it did not meet either of these service requirements as of July 21, 2010; provided, however, that in the event the Commission extends the July 21, 2010, buildout date for 2.3GHz service for the WCS industry at large ("Extended Date"), the July 21, 2010 buildout date specified herein shall be modified to conform to the Extended Date. The wireless commitments set forth above do not apply to any 2.3 GHz wireless spectrum held by AT&T/BellSouth in the state of Alaska.

## **Divestiture of Facilities**

Within twelve months of the Merger Closing Date, AT&T/BellSouth will sell to an unaffiliated third party(ies) an indefeasible right of use ("IRU") to fiber strands within the existing "Lateral Connections," as that term is defined in the *SBC/AT&T Consent Decree*,<sup>17</sup> to the buildings listed in Attachment B ("BellSouth Divestiture Assets"). These divestitures will be effected in a manner consistent with the divestiture framework agreed to in the *SBC/AT&T Consent Decree*, provided that such divestitures will be subject to approval by the FCC, rather than the Department of Justice.

## **Tunney Act**

AT&T is a party to a Consent Decree entered into following the merger of SBC and AT&T (the "Consent Decree"). The Consent Decree documents the terms under which AT&T agreed to

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<sup>17</sup> See *United States v. SBC Communications, Inc.*, Civil Action No. 1:05CV02102, Final Judgment (D.D.C. filed Oct. 27, 2005).

divest special access facilities serving 383 buildings within the former SBC in-region ILEC territory (the "SBC Divestiture Assets"). In its Order approving the AT&T/SBC merger, the Commission also required the divestiture of these same facilities on the terms and conditions contained in the Consent Decree. The Consent Decree is currently under review pursuant to the Tunney Act in the U.S. District Court for the District of Columbia (the "Court") in *U.S. v. SBC Communications, Inc. and AT&T Corp.*, Civil Action No. 1:05CV02102 (EGS) (D.D.C.), where the Court is reviewing the adequacy of the remedy contained in the Consent Decree to address the competitive concerns described in the Complaint filed by the Department of Justice (DOJ).

If it is found in a final, non-appealable order, that the remedy in the Consent Decree is not adequate to address the concerns raised in the Complaint and AT&T and the DOJ agree to a modification of the Consent Decree (the "Modified Consent Decree"), then AT&T agrees that (1) AT&T/BellSouth will conform its divestiture of the BellSouth Divestiture Assets to the terms of the Modified Consent Decree; and (2) AT&T/BellSouth will negotiate in good faith with the Commission to determine whether the conditions imposed on AT&T/BellSouth in the Commission order approving the merger of AT&T and BellSouth satisfies, with respect to the BellSouth territory, the concerns addressed in the Modified Consent Decree.

#### **Certification**

AT&T/BellSouth shall annually file a declaration by an officer of the corporation attesting that AT&T/BellSouth has substantially complied with the terms of these commitments in all material respects. The first declaration shall be filed 45 days following the one-year anniversary of the Merger Closing Date, and the second, third, and fourth declarations shall be filed one, two, and three years thereafter, respectively.

**ATTACHMENT A**

**Service Quality Measurement Plan  
For Interstate Special Access**

**Contents**

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# Section 1: Ordering

## FOCT: Firm Order Confirmation (FOC) Timeliness

### Definition

Firm Order Confirmation (FOC) Timeliness measures the percentage of FOCs returned within the Company-specified standard interval.

### Exclusions

- Service requests identified as "Projects" or "ICBs"
- Service requests cancelled by the originator
- Weekends and designated holidays of the service center
- Unsolicited FOCs
- Administrative or test service requests
- Service requests that indicate that no confirmation/response should be sent
- Other exclusions as defined by each RBOC to reflect system and operational differences

### Business Rules

Counts are based on the first instance of a FOC being sent in response to an ASR. Activity starting on a weekend or holiday will reflect a start date of the next business day. Activity ending on a weekend or holiday will be calculated with an end date of the last previous business day. Requests received after the company's stated cutoff time will be counted as a "zero" day interval if the FOC is sent by close of business on the next business day. The standard interval will be that which is specified in the company-specific ordering guide.

### Calculation

**Firm Order Confirmation (FOC) Interval = (a - b)**

- a = Date and time FOC is returned
- b = Date and time valid access service request is received

**Percent within Standard Interval = (c / d) X 100**

- c = Number of service requests confirmed within the designated interval
- d = Total number of service requests confirmed in the reporting period

### Report Structure

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
- RBOC 272 Affiliates Aggregate

### Geographic Scope

- State

### SQM Disaggregation (Percent FOCs returned within Standard Interval)

- Special Access - DS0
- Special Access - DS1
- Special Access - DS3 and above

## Section 2: Provisioning

### PIAM: Percent Installation Appointments Met

#### Definition

Percent Installation Appointments Met measures the percentage of installations completed on or before the confirmed due date.

#### Exclusions

- Orders issued and subsequently cancelled
- Orders associated with internal or administrative (including test) activities
- Disconnect Orders
- Other exclusions as defined by each RBOC to reflect system and operational differences

#### Business Rules

This measurement is calculated by dividing the number of service orders completed during the reporting period, on or before the confirmed due date, by the total number of orders completed during the same reporting period. Installation appointments missed because of customer caused reasons shall be counted as met and included in both the numerator and denominator. Where there are multiple missed appointment codes, each RBOC will determine whether an order is considered missed.

#### Calculation

Percent Installation Appointments Met =  $(a / b) \times 100$

- a = Number of orders completed on or before the RBOC confirmed due date during the reporting period
- b = Total number of orders where completion has been confirmed during the reporting period

#### Report Structure

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
- RBOC 272 Affiliates Aggregate

#### Geographic Scope

- State

#### SQM Disaggregation

- Special Access – DS0
- Special Access - DS1
- Special Access - DS3 and above

## **NITR: New Installation Trouble Report Rate**

### **Definition**

New Installation Trouble Report Rate measures the percentage of circuits or orders where a trouble was found in RBOC facilities or equipment within thirty days of order completion.

### **Exclusions**

- Trouble tickets issued and subsequently cancelled
- Customer Provided Equipment (CPE) or customer caused troubles
- Troubles closed by the technician to disposition codes of IEC (Inter-exchange Carrier) or INF (Information)
- RBOC troubles associated with administrative service
- No Trouble Found (NTF) and Test OK (TOK)
- Other exclusions defined by each RBOC to reflect system and operational differences
- Subsequent trouble reports

### **Business Rules**

Only the first customer direct trouble report received within thirty calendar days of a completed service order is counted in this measure. Only customer direct trouble reports that required the RBOC to repair a portion of the RBOC network will be counted in this measure. The RBOC completion date is when the RBOC completes installation of the circuit or order.

### **Calculation**

**Trouble Report Rate within 30 Calendar Days of Installation = (a / b) X 100**

- a = Count of circuits/orders with trouble reports within 30 calendar days of installation
- b = Total number of circuits/orders installed in the reporting period

### **Report Structure**

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
- RBOC 272 Affiliates Aggregate

### **Geographic Scope**

- State

### **SQM Disaggregation**

- Special Access – DS0
- Special Access - DS1
- Special Access - DS3 and above

# Section 3: Maintenance & Repair

## CTRR: Failure Rate/Trouble Report Rate

### Definition

The percentage of initial and repeated circuit-specific trouble reports completed per 100 in-service circuits for the reporting period.

### Exclusions

- Trouble reports issued and subsequently cancelled
- Employee initiated trouble reports
- Trouble reports/circuits associated with internal or administrative activities
- Customer Provided Equipment (CPE) or customer caused troubles
- Troubles closed by the technician to disposition codes of IEC (Inter-exchange Carrier) or INF (Information)
- Tie Circuits
- No Trouble Found (NTF) and Test OK (TOK)
- Other exclusions as defined by each RBOC to reflect system and operational differences

### Business Rules

Only customer direct trouble reports that require the RBOC to repair a portion of the RBOC network will be counted in this report. The trouble report rate is computed by dividing the number of completed trouble reports handled during the reporting period by the total number of in-service circuits for the same period.

### Calculation

Percent Trouble Report Rate =  $(a / b) \times 100$

- a = Number of completed circuit-specific trouble reports received during the reporting period
- b = Total number of in-service circuits during the reporting period

### Report Structure

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
- RBOC 272 Affiliates Aggregate

### Geographic Scope

- State

### SQM Disaggregation

- Special Access – DS0
- Special Access - DS1
- Special Access - DS3 and above

# MAD: Average Repair Interval/Mean Time to Restore

## Definition

The Average Repair Interval/Mean Time to Restore is the average time between the receipt of a customer trouble report and the time the service is restored. The average outage duration is only calculated for completed circuit-specific trouble reports.

## Exclusions

- Trouble reports issued and subsequently cancelled
- Employee initiated trouble reports
- Trouble reports associated with internal or administrative activities
- Customer Provided Equipment (CPE) or customer caused troubles
- Troubles closed by the technician to disposition codes of IEC (Inter-exchange Carrier) or INF (Information)
- Tie Circuits
- No Trouble Found (NTF) and Test OK (TOK)
- Other exclusions as defined by each RBOC to reflect system and operational differences

## Business Rules

Only customer direct trouble reports that require the RBOC to repair a portion of the RBOC network will be counted in this measure. The average outage duration is calculated for each restored circuit with a trouble report. The start time begins with the receipt of the trouble report and ends when the service is restored. This is reported in a manner such that customer hold time or delay maintenance time resulting from verifiable situations of no access to the end user premise, other CLEC/IXC or RBOC retail customer caused delays, such as holding the ticket open for monitoring, is deducted from the total resolution interval ("stop clock" basis).

## Calculation

Repair Interval = (a - b)

- a = Date and time trouble report was restored
- b = Date and time trouble report was received

Average Repair Interval = (c / d)

- c = Total of all repair intervals (in hours/days) for the reporting period
- d = Total number of trouble reports closed during the reporting period

## Report Structure

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
- RBOC 272 Affiliates Aggregate

## Geographic Scope

- State

## SQM Disaggregation

- Special Access - DS0
- Special Access - DS1
- Special Access - DS3 and above



## GLOSSARY

|                                      |   |
|--------------------------------------|---|
| <b>Access Service Request (ASR)</b>  | A request to the RBOC to order new access service, or request a change to existing service, which provides access to the local exchange company's network under terms specified in the local exchange company's special or switched access tariffs.   |
| <b>RBOC 272 Affiliates Aggregate</b> | RBOC Affiliate(s) authorized to provide long distance service as a result of the Section 271 approval process.  |
| <b>RBOC Affiliates Aggregate</b>     | RBOC Telecommunications and all RBOC Affiliates (including the 272 Affiliate). Post sunset, comparable line of business (e.g., 272 line of business) will be included in this category.   |
| <b>Business Days</b>                 | Monday thru Friday (8AM to 5PM) excluding holidays  |
| <b>CPE</b>                           | Customer Provided or Premises Equipment   |
| <b>Customer Not Ready (CNR)</b>      | A verifiable situation beyond the normal control of the RBOC that prevents the RBOC from completing an order, including the following: CLEC or IXC is not ready to receive service; end user is not ready to receive service; connecting company or CPE supplier is not ready.                                |
| <b>Firm Order Confirmation (FOC)</b> | The notice returned from the RBOC, in response to an Access Service Request from a CLEC, IXC or affiliate, that confirms receipt of the request and creation of a service order with an assigned due date.  |
| <b>Unsolicited FOC</b>               | An Unsolicited FOC is a supplemental FOC issued by the RBOC to change the due date or for other reasons, e.g., request for a second copy from the CLEC/IXC, although no change to the ASR was requested by the CLEC or IXC.   |
| <b>Project or ICB</b>                | Service requests that exceed the line size and/or level of complexity that would allow the use of standard ordering and provisioning interval and processes. Service requests requiring special handling.   |
| <b>Repeat Trouble</b>                | Trouble that reoccurs on the same telephone number/circuit ID within 30 calendar days   |
| <b>Service Orders</b>                | Refers to all orders for new or additional lines/circuits. For change order types, additional lines/circuits consist of all C order types with "I" and "T" action coded line/circuit USOCs that represent new or additional lines/circuits, including conversions for RBOC to Carrier and Carrier to Carrier. |

**ATTACHMENT B**

| Metro Area   | CLLI     | Address                    | City         | State | Zip Code |
|--------------|----------|----------------------------|--------------|-------|----------|
| Atlanta      | ALPRGAVP | 5965 CABOT PKWY            | ALPHARETTA   | GA    | 30005    |
| Atlanta      | ATLNGABI | 2751 BUFORD HWY NE         | ATLANTA      | GA    | 30324    |
| Atlanta      | CHMBGAJG | 2013 FLIGHTWAY DR          | CHAMBLEE     | GA    | 30341    |
| Atlanta      | NRCRGAER | 6675 JONES MILL CT         | NORCROSS     | GA    | 30092    |
| Atlanta      | NRCRGAIJ | 4725 PEACHTREE CORNERS CIR | NORCROSS     | GA    | 30092    |
| Atlanta      | NRCRGANX | 3795 DATA DR NW            | NORCROSS     | GA    | 30092    |
| Atlanta      | NRCRGARC | 335 RESEARCH CT            | NORCROSS     | GA    | 30092    |
| Birmingham   | BRHMALKU | 101 LEAF LAKE PKWY         | BIRMINGHAM   | AL    | 35211    |
| Charlotte    | CHRMNXXI | 2605 WATER RIDGE PKWY      | CHARLOTTE    | NC    | 28217    |
| Chattanooga  | CHTGTNAC | 537 MARKET ST              | CHATTANOOGA  | TN    | 37402    |
| Jacksonville | JCVNFLHK | 10201 CENTURION PKWY N     | JACKSONVILLE | FL    | 32256    |
| Knoxville    | KNVLTNHB | 8057 RAY MEARS BLVD        | KNOXVILLE    | TN    | 37919    |
| Knoxville    | KNVNTN82 | 2160 LAKESIDE CENTER WAY   | KNOXVILLE    | TN    | 37922    |
| Miami        | BCRTFLAU | 851 NW BROKEN SOUND PKWY   | BOCA RATON   | FL    | 33487    |
| Miami        | BCRTFLCM | 501 E CAMINO REAL          | BOCA RATON   | FL    | 33432    |
| Miami        | DLBHFLDU | 360 N CONGRESS AVE         | DELRAY BEACH | FL    | 33445    |
| Miami        | JPTRFLAC | 100 MARQUETTE DR           | JUPITER      | FL    | 33458    |
| Miami        | JPTRFLBC | 1001 N USHWY 1             | JUPITER      | FL    | 33477    |
| Miami        | PLNBFLAZ | 1601 SW 80TH TER           | PLANTATION   | FL    | 33324    |
| Miami        | PLNBFLCQ | 1800 NW 69TH AVE           | PLANTATION   | FL    | 33313    |
| Miami        | SUNRFLCF | 720 INTERNATIONAL PKWY     | SUNRISE      | FL    | 33325    |
| Nashville    | BRWDTNEV | 210 WESTWOOD PL            | BRENTWOOD    | TN    | 37027    |
| Nashville    | NSVLTNIH | 1215 21ST AVE S            | NASHVILLE    | TN    | 37212    |
| Nashville    | NSVLTHWL | 28 OPRYLAND DR             | NASHVILLE    | TN    | 37204    |
| Nashville    | NSVNTNFO | 252 OPRY MILLS DR          | NASHVILLE    | TN    | 37214    |
| Nashville    | LDHLFLAC | 332 OPRY MILLS DR          | LAUDERHILL   | TN    | 33351    |
| Nashville    | SUNRFLBD | 427 OPRY MILLS DR          | SUNRISE      | TN    | 33325    |
| Nashville    | NSVNTNGG | 540 OPRY MILLS DR          | NASHVILLE    | TN    | 37214    |
| Miami        | NSVNTNGG | 4300 N UNIVERSITY DR       | NASHVILLE    | FL    | 37214    |
| Miami        | NSVNTNGG | 440 SAWGRASS CORP. PARKWAY | NASHVILLE    | FL    | 37214    |
| Orlando      | ORLFFLYL | 8350 PARKLINE BLVD         | ORLANDO      | FL    | 32809    |

Before the  
Federal Communications Commission  
Washington, D.C. 20554

|                                     |   |                     |
|-------------------------------------|---|---------------------|
| In the Matter of                    | ) |                     |
|                                     | ) |                     |
|                                     | ) |                     |
| AT&T Inc. and BellSouth Corporation | ) | WC Docket No. 06-74 |
| Application for Transfer of Control | ) |                     |
|                                     | ) |                     |
|                                     | ) |                     |

MEMORANDUM OPINION AND ORDER

Adopted: December 29, 2006

Released: March 26, 2007

By the Commission: Chairman Martin and Commissioner Tate issuing a joint statement;  
Commissioners Copps and Adelstein concurring and issuing separate statements;  
Commissioner McDowell not participating.

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## APPENDIX F

## Conditions

The Applicants have offered certain voluntary commitments, enumerated below. Because we find these commitments will serve the public interest, we accept them. Unless otherwise specified herein, the commitments described herein shall become effective on the Merger Closing Date. The commitments described herein shall be null and void if AT&T and BellSouth do not merge and there is no Merger Closing Date.

It is not the intent of these commitments to restrict, supersede, or otherwise alter state or local jurisdiction under the Communications Act of 1934, as amended, or over the matters addressed in these commitments, or to limit state authority to adopt rules, regulations, performance monitoring programs, or other policies that are not inconsistent with these commitments.

## MERGER COMMITMENTS

For the avoidance of doubt, unless otherwise expressly stated to the contrary, all conditions and commitments proposed in this letter are enforceable by the FCC and would apply in the AT&T/BellSouth in-region territory, as defined herein, for a period of forty-two months from the Merger Closing Date and would automatically sunset thereafter.

**Repatriation of Jobs to the U.S.**

AT&T/BellSouth<sup>1</sup> is committed to providing high quality employment opportunities in the U.S. In order to further this commitment, AT&T/BellSouth will repatriate 3,000 jobs that are currently outsourced by BellSouth outside of the U.S. This repatriation will be completed by December 31, 2008. At least 200 of the repatriated jobs will be physically located within the New Orleans, Louisiana MSA.

**Promoting Accessibility of Broadband Service**

1. By December 31, 2007, AT&T/BellSouth will offer broadband Internet access service (*i.e.*, Internet access service at speeds in excess of 200 kbps in at least one direction) to 100 percent of the residential living units in the AT&T/BellSouth in-region territory.<sup>2</sup> To meet this commitment, AT&T/BellSouth will offer broadband Internet access services to at least 85 percent of such living units using wireline technologies (the "Wireline Buildout Area"). AT&T/BellSouth will make available broadband Internet access service to the remaining living units using alternative technologies

<sup>1</sup> AT&T/BellSouth refers to AT&T Inc., BellSouth Corporation, and their affiliates that provide domestic wireline or Wi-Max fixed wireless services.

<sup>2</sup> As used herein, the "AT&T/BellSouth in-region territory" means the areas in which an AT&T or BellSouth operating company is the incumbent local exchange carrier, as defined in 47 U.S.C. § 251(h)(1)(A) and (B)(i). "AT&T in-region territory" means the area in which an AT&T operating company is the incumbent local exchange carrier, as defined in 47 U.S.C. § 251(h)(1)(A) and (B)(i), and "BellSouth in-region territory" means the area in which a BellSouth operating company is the incumbent local exchange carrier, as defined in 47 U.S.C. § 251(h)(1)(A) and (B)(i).

and operating arrangements, including but not limited to satellite and Wi-Max fixed wireless technologies. AT&T/BellSouth further commits that at least 30 percent of the incremental deployment after the Merger Closing Date necessary to achieve the Wireline Buildout Area commitment will be to rural areas or low income living units.<sup>3</sup>

2. AT&T/BellSouth will provide an ADSL modem without charge (except for shipping and handling) to residential subscribers within the Wireline Buildout Area who, between July 1, 2007, and June 30, 2008, replace their AT&T/BellSouth dial-up Internet access service with AT&T/BellSouth's ADSL service and elect a term plan for their ADSL service of twelve months or greater.

3. Within six months of the Merger Closing Date, and continuing for at least 30 months from the inception of the offer, AT&T/BellSouth will offer to retail consumers in the Wireline Buildout Area, who have not previously subscribed to AT&T's or BellSouth's ADSL service, a broadband Internet access service at a speed of up to 768 Kbps at a monthly rate (exclusive of any applicable taxes and regulatory fees) of \$10 per month.

#### Statement of Video Roll-Out Intentions

AT&T is committed to providing, and has expended substantial resources to provide, a broad array of advanced video programming services in the AT&T in-region territory. These advanced video services include Uverse, on an integrated IP platform, and HomeZone, which integrates advanced broadband and satellite services. Subject to obtaining all necessary authorizations to do so, AT&T/BellSouth intends to bring such services to the BellSouth in-region territory in a manner reasonably consistent with AT&T's roll-out of such services within the AT&T in-region territory. In order to facilitate the provision of such advanced video services in the BellSouth in-region territory, AT&T/BellSouth will continue to deploy fiber-based facilities and intends to have the capability to reach at least 1.5 million homes in the BellSouth in-region territory by the end of 2007. AT&T/BellSouth agrees to provide a written report to the Commission by December 31, 2007, describing progress made in obtaining necessary authorizations to roll-out, and the actual roll-out of, such advanced video services in the BellSouth in-region territory.

#### Public Safety, Disaster Recovery

1. By June 1, 2007, AT&T will complete the steps necessary to allow it to make its disaster recovery capabilities available to facilitate restoration of service in BellSouth's in-region territory in the event of an extended service outage caused by a hurricane or other disaster.

2. In order to further promote public safety, within thirty days of the Merger Closing Date, AT&T/BellSouth will donate \$1 million to a section 501(c)(3) foundation or public entities for the purpose of promoting public safety.

<sup>3</sup> For purposes of this commitment, a low income living unit shall mean a living unit in AT&T/BellSouth's in-region territory with an average annual income of less than \$35,000, determined consistent with Census Bureau data, see California Public Utilities Code section 5890(j)(2) (as added by AB 2987) (defining low income households as those with annual incomes below \$35,000), and a rural area shall consist of the zones in AT&T/BellSouth's in-region territory with the highest deaveraged UNE loop rates as established by the state commission consistent with the procedures set forth in section 51.507 of the Commission's rules. 47 C.F.R. § 51.507.

### Service to Customers with Disabilities

AT&T/BellSouth has a long and distinguished history of serving customers with disabilities. AT&T/BellSouth commits to provide the Commission, within 12 months of the Merger Closing Date, a report describing its efforts to provide high quality service to customers with disabilities.

### UNEs

1. The AT&T and BellSouth ILECs shall continue to offer and shall not seek any increase in state-approved rates for UNEs or collocation that are in effect as of the Merger Closing Date. For purposes of this commitment, an increase includes an increased existing surcharge or a new surcharge unless such new or increased surcharge is authorized by (i) the applicable interconnection agreement or tariff, as applicable, and (ii) by the relevant state commission. This commitment shall not limit the ability of the AT&T and BellSouth ILECs and any other telecommunications carrier to agree voluntarily to any different UNE or collocation rates.
2. AT&T/BellSouth shall recalculate its wire center calculations for the number of business lines and fiber-based collocations and, for those that no longer meet the non-impairment thresholds established in 47 CFR §§ 51.319(a) and (e), provide appropriate loop and transport access. In identifying wire centers in which there is no impairment pursuant to 47 CFR §§ 51.319(a) and (e), the merged entity shall exclude the following: (i) fiber-based collocation arrangements established by AT&T or its affiliates; (ii) entities that do not operate (*i.e.*, own or manage the optronics on the fiber) their own fiber into and out of their own collocation arrangement but merely cross-connect to fiber-based collocation arrangements; and (iii) special access lines obtained by AT&T from BellSouth as of the day before the Merger Closing Date.
3. AT&T/BellSouth shall cease all ongoing or threatened audits of compliance with the Commission's EELs eligibility criteria (as set forth in the *Supplemental Order Clarification's* significant local use requirement and related safe harbors, and the *Triennial Review Order's* high capacity EEL eligibility criteria), and shall not initiate any new EELs audits.

### Reducing Transaction Costs Associated with Interconnection Agreements

1. The AT&T/BellSouth ILECs shall make available to any requesting telecommunications carrier any entire effective interconnection agreement, whether negotiated or arbitrated, that an AT&T/BellSouth ILEC entered into in any state in the AT&T/BellSouth 22-state ILEC operating territory, subject to state-specific pricing and performance plans and technical feasibility, and provided, further, that an AT&T/BellSouth ILEC shall not be obligated to provide pursuant to this commitment any interconnection arrangement or UNE unless it is feasible to provide, given the technical, network, and OSS attributes and limitations in, and is consistent with the laws and regulatory requirements of, the state for which the request is made.
2. The AT&T/BellSouth ILECs shall not refuse a request by a telecommunications carrier to opt into an agreement on the ground that the agreement has not been amended to reflect changes of law, provided the requesting telecommunications carrier agrees to negotiate in good faith an amendment regarding such change of law immediately after it has opted into the agreement.
3. The AT&T/BellSouth ILECs shall allow a requesting telecommunications carrier to use its pre-existing interconnection agreement as the starting point for negotiating a new agreement.

4. The AT&T/BellSouth ILECs shall permit a requesting telecommunications carrier to extend its current interconnection agreement, regardless of whether its initial term has expired, for a period of up to three years, subject to amendment to reflect prior and future changes of law. During this period, the interconnection agreement may be terminated only via the carrier's request unless terminated pursuant to the agreement's "default" provisions.

#### Special Access

Each of the following special access commitments shall remain in effect until 48 months from the Merger Closing Date.

1. AT&T/BellSouth affiliates that meet the definition of a Bell operating company in section 3(4)(A) of the Act ("AT&T/BellSouth BOCs")<sup>4</sup> will implement, in the AT&T and BellSouth Service Areas,<sup>5</sup> the Service Quality Measurement Plan for Interstate Special Access Services ("the Plan"), similar to that set forth in the SBC/AT&T Merger Conditions, as described herein and in Attachment A to this Appendix F. The AT&T/BellSouth BOCs shall provide the Commission with performance measurement results on a quarterly basis, which shall consist of data collected according to the performance measurements listed therein. Such reports shall be provided in an Excel spreadsheet format and shall be designed to demonstrate the AT&T/BellSouth BOCs' monthly performance in delivering interstate special access services within each of the states in the AT&T and BellSouth Service Areas. These data shall be reported on an aggregated basis for interstate special access services delivered to (i) AT&T and BellSouth section 272(a) affiliates, (ii) their BOC and other affiliates, and (iii) non-affiliates.<sup>6</sup> The AT&T/BellSouth BOCs shall provide performance measurement results (broken down on a monthly basis) for each quarter to the Commission by the 45th day after the end of the quarter. The AT&T/BellSouth BOCs shall implement the Plan for the first full quarter following the Merger Closing Date. This commitment shall terminate on the earlier of (i) 48 months and 45 days after the beginning of the first full quarter following the Merger Closing Date (that is, when AT&T/BellSouth files its 16th quarterly report); or (ii) the effective date of a Commission order adopting performance measurement requirements for interstate special access services.

2. AT&T/BellSouth shall not increase the rates paid by existing customers (as of the Merger Closing Date) of DS1 and DS3 local private line services that it provides in the AT&T/BellSouth in-region territory pursuant to, or referenced in, TCG FCC Tariff No. 2 above their level as of the Merger Closing Date.

3. AT&T/BellSouth will not provide special access offerings to its wireline affiliates that are not available to other similarly situated special access customers on the same terms and conditions.

4. To ensure that AT&T/BellSouth may not provide special access offerings to its affiliates that are not available to other special access customers, before AT&T/BellSouth provides a new or modified contract tariffed service under section 69.727(a) of the Commission's rules to its own section 272(a)

<sup>4</sup> For purposes of clarity, the special access commitments set forth herein do not apply to AT&T Advanced Solutions, Inc. and the Ameritech Advanced Data Services Companies, doing business collectively as "ASI."

<sup>5</sup> For purposes of this commitment, "AT&T and BellSouth Service Areas" means the areas within AT&T/BellSouth's in-region territory in which the AT&T and BellSouth ILECs are Bell operating companies as defined in 47 U.S.C. § 153(4)(A).

<sup>6</sup> BOC data shall not include retail data.



affiliate(s), it will certify to the Commission that it provides service pursuant to that contract tariff to an unaffiliated customer other than Verizon Communications Inc., or its wireline affiliates.

AT&T/BellSouth also will not unreasonably discriminate in favor of its affiliates in establishing the terms and conditions for grooming special access facilities.<sup>7</sup>

5. No AT&T/BellSouth ILEC may increase the rates in its interstate tariffs, including contract tariffs, for special access services that it provides in the AT&T/BellSouth in-region territory, as set forth in tariffs on file at the Commission on the Merger Closing Date, and as set forth in tariffs amended subsequently in order to comply with the provisions of these commitments.

6. In areas within the AT&T/BellSouth in-region territory where an AT&T/BellSouth ILEC has obtained Phase II pricing flexibility for price cap services ("Phase II areas"), such ILEC will offer DS1 and DS3 channel termination services, DS1 and DS3 mileage services, and Ethernet services,<sup>8</sup> that currently are offered pursuant to the Phase II Pricing Flexibility Provisions of its special access tariffs,<sup>9</sup> at rates that are no higher than, and on the same terms and conditions as, its tariffed rates, terms, and conditions as of the Merger Closing Date for such services in areas within its in-region territory where it has not obtained Phase II pricing flexibility. In Phase II areas, AT&T/BellSouth also will reduce by 15% the rates in its interstate tariffs as of the Merger Closing Date for Ethernet services that are not at that time subject to price cap regulation. The foregoing commitments shall not apply to DS1, DS3, or Ethernet services provided by an AT&T/BellSouth ILEC to any other price cap ILEC, including any affiliate of such other price cap ILEC,<sup>10</sup> unless such other price cap ILEC offers DS1 and DS3 channel termination and mileage services, and price cap Ethernet services in all areas in which it has obtained Phase II pricing flexibility relief for such services (hereinafter "Reciprocal Price Cap Services") at rates, and on the terms and conditions, applicable to such services in areas in which it has not obtained Phase II pricing flexibility for such services, nor shall AT&T/BellSouth provide the aforementioned 15% discount to such price cap ILEC or affiliate thereof unless such ILEC makes generally available a reciprocal discount for any Ethernet service it offers outside of price cap regulation (hereinafter "Reciprocal Non-Price Cap Services"). Within 14 days of the Merger Closing Date, AT&T/BellSouth will provide notice of this commitment to each price cap ILEC that purchases, or that has an affiliate that purchases, services subject to this commitment from an AT&T/BellSouth ILEC. If within 30 days thereafter, such price cap ILEC does not: (i) affirmatively inform AT&T/BellSouth and the Commission of its intent to sell Reciprocal Price Cap Services in areas where it has received Phase II pricing flexibility for such services at the rates, terms, and conditions that apply in areas where it has

<sup>7</sup> Neither this merger commitment nor any other merger commitment herein shall be construed to require AT&T/BellSouth to provide any service through a separate affiliate if AT&T/BellSouth is not otherwise required by law to establish or maintain such separate affiliate.

<sup>8</sup> The Ethernet services subject to this commitment are AT&T's interstate OPT-E-MAN, GigaMAN and DecaMAN services and BellSouth's interstate Metro Ethernet Service.

<sup>9</sup> The Phase II Pricing Flexibility Provisions for DS1 and DS3 services are those set forth in Ameritech Tariff FCC No. 2, Section 21; Pacific Bell Tariff FCC No. 1, Section 31; Nevada Bell Tariff FCC No. 1, Section 22; Southwestern Bell Telephone Company Tariff FCC No. 73, Section 39; Southern New England Telephone Tariff FCC No. 39, Section 24; and BellSouth Telecommunications Tariff FCC No. 1, Section 23.

<sup>10</sup> For purposes of this commitment, the term "price cap ILEC" refers to an incumbent local exchange carrier that is subject to price cap regulation and all of its affiliates that are subject to price cap regulation. The term "affiliate" means an affiliate as defined in 47 U.S.C. § 153(1) and is not limited to affiliates that are subject to price cap regulation.

not received such flexibility, and to provide a 15% discount on Reciprocal Non-Price Cap Services; and (ii) file tariff revisions that would implement such changes within 90 days of the Merger Closing Date (a "Non-Reciprocating Carrier"), the AT&T/BellSouth ILECs shall be deemed by the FCC to have substantial cause to make any necessary revisions to the tariffs under which they provide the services subject to this commitment to such Non-Reciprocating Carrier, including any affiliates, to prevent or offset any change in the effective rate charged such entities for such services. The AT&T/BellSouth ILECs will file all tariff revisions necessary to effectuate this commitment, including any provisions addressing Non-Reciprocating Carriers and their affiliates, within 90 days from the Merger Closing Date.

7. AT&T/BellSouth will not oppose any request by a purchaser of interstate special access services for mediation by Commission staff of disputes relating to AT&T/BellSouth's compliance with the rates, terms, and conditions set forth in its interstate special access tariffs and pricing flexibility contracts or to the lawfulness of the rates, terms, and conditions in such tariffs and contracts, nor shall AT&T/BellSouth oppose any request that such disputes be accepted by the Commission onto the Accelerated Docket.

8. The AT&T/BellSouth ILECs will not include in any pricing flexibility contract or tariff filed with the Commission after the Merger Closing Date access service ratio terms which limit the extent to which customers may obtain transmission services as UNEs, rather than special access services.

9. Within 60 days after the Merger Closing Date, the AT&T/BellSouth ILECs will file one or more interstate tariffs that make available to customers of DS1, DS3, and Ethernet service reasonable volume and term discounts without minimum annual revenue commitments (MARC) or growth discounts. To the extent an AT&T/BellSouth ILEC files an interstate tariff for DS1, DS3, or Ethernet services with a varying MARC, it will at the same time file an interstate tariff for such services with a fixed MARC. For purposes of these commitments, a MARC is a requirement that the customer maintain a minimum specified level of spending for specified services per year.

10. If, during the course of any negotiation for an interstate pricing flexibility contract, AT&T/BellSouth offers a proposal that includes a MARC, AT&T/BellSouth will offer an alternative proposal that gives the customer the option of obtaining a volume and/or term discount(s) without a MARC. If, during the course of any negotiation for an interstate pricing flexibility contract, AT&T/BellSouth offers a proposal that includes a MARC that varies over the life of the contract, AT&T/BellSouth will offer an alternative proposal that includes a fixed MARC.

11. Within 14 days of the Merger Closing Date, the AT&T/BellSouth ILECs will give notice to customers of AT&T/BellSouth with interstate pricing flexibility contracts that provide for a MARC that varies over the life of the contract that, within 45 days of such notice, customers may elect to freeze, for the remaining term of such pricing flexibility contract, the MARC in effect as of the Merger Closing Date, provided that the customer also freezes, for the remaining term of such pricing flexibility contract, the contract discount rate (or specified rate if the contract sets forth specific rates rather than discounts off of referenced tariffed rates) in effect as of the Merger Closing Date.

### Transit Service

The AT&T and BellSouth ILECs will not increase the rates paid by existing customers for their existing tandem transit service arrangements that the AT&T and BellSouth ILECs provide in the AT&T/BellSouth in-region territory.<sup>11</sup>

### ADSL Service<sup>12</sup>

1. Within twelve months of the Merger Closing Date, AT&T/BellSouth will deploy and offer within the BellSouth in-region territory ADSL service to ADSL-capable customers without requiring such customers to also purchase circuit switched voice grade telephone service. AT&T/BellSouth will continue to offer this service in each state for thirty months after the "Implementation Date" in that state. For purposes of this commitment, the "Implementation Date" for a state shall be the date on which AT&T/BellSouth can offer this service to eighty percent of the ADSL-capable premises in BellSouth's in-region territory in that state.<sup>13</sup> Within twenty days after meeting the Implementation Date in a state, AT&T/BellSouth will file a letter with the Commission certifying to that effect. In all events, this commitment will terminate no later than forty-two months after the Merger Closing Date.
2. AT&T/BellSouth will extend until thirty months after the Merger Closing Date the availability within AT&T's in-region territory of ADSL service, as described in the ADSL Service Merger Condition, set forth in Appendix F of the *SBC/AT&T Merger Order* (FCC 05-183).
3. Within twelve months of the Merger Closing Date, AT&T/BellSouth will make available in its in-region territory an ADSL service capable of speeds up to 768 Kbps to ADSL-capable customers without requiring such customers to also purchase circuit switched voice grade telephone service ("Stand Alone 768 Kbps service"). AT&T/BellSouth will continue to offer the 768 Kbps service in a state for thirty months after the "Stand Alone 768 Kbps Implementation Date" for that state. For purposes of this commitment, the "Stand Alone 768 Kbps Implementation Date" for a state shall be the date on which AT&T/BellSouth can offer the Stand Alone 768 Kbps service to eighty percent of the ADSL-capable premises in AT&T/BellSouth's in-region territory in that state. The Stand Alone 768 Kbps service will be offered at a rate of not more than \$19.95 per month (exclusive of regulatory fees and taxes). AT&T/BellSouth may make available such services at other speeds at prices that are competitive with the broadband market taken as a whole.

### ADSL Transmission Service

AT&T/BellSouth will offer to Internet service providers, for their provision of broadband Internet access service to ADSL-capable retail customer premises, ADSL transmission service in the combined

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<sup>11</sup> Tandem transit service means tandem-switched transport service provided to an originating carrier in order to indirectly send intraLATA traffic subject to § 251(b)(5) of the Communications Act of 1934, as amended, to a terminating carrier, and includes tandem switching functionality and tandem switched transport functionality between an AT&T/BellSouth tandem switch location and the terminating carrier.

<sup>12</sup> The commitments set forth under the heading "ADSL Service" are, by their terms, available to retail customers only. Wholesale commitments are addressed separately under the heading "ADSL Transmission Service."

<sup>13</sup> After meeting the implementation date in each state, AT&T/BellSouth will continue deployment so that it can offer the service to all ADSL-capable premises in its in-region territory within twelve months of the Merger Closing Date.

AT&T/BellSouth territory that is functionally the same as the service AT&T offered within the AT&T in-region territory as of the Merger Closing Date.<sup>14</sup> Such wholesale offering will be at a price not greater than the retail price in a state for ADSL service that is separately purchased by customers who also subscribe to AT&T/BellSouth local telephone service.

### Net Neutrality

1. Effective on the Merger Closing Date, and continuing for 30 months thereafter, AT&T/BellSouth will conduct business in a manner that comports with the principles set forth in the Commission's Policy Statement, issued September 23, 2005 (FCC 05-151).

2. AT&T/BellSouth also commits that it will maintain a neutral network and neutral routing in its wireline broadband Internet access service.<sup>15</sup> This commitment shall be satisfied by AT&T/BellSouth's agreement not to provide or to sell to Internet content, application, or service providers, including those affiliated with AT&T/BellSouth, any service that privileges, degrades or prioritizes any packet transmitted over AT&T/BellSouth's wireline broadband Internet access service based on its source, ownership or destination.

This commitment shall apply to AT&T/BellSouth's wireline broadband Internet access service from the network side of the customer premise equipment up to and including the Internet Exchange Point closest to the customer's premise, defined as the point of interconnection that is logically, temporally or physically closest to the customer's premise where public or private Internet backbone networks freely exchange Internet packets.

This commitment does not apply to AT&T/BellSouth's enterprise managed IP services, defined as services available only to enterprise customers<sup>16</sup> that are separate services from, and can be purchased without, AT&T/BellSouth's wireline broadband Internet access service, including, but not limited to, virtual private network (VPN) services provided to enterprise customers. This commitment also does not apply to AT&T/BellSouth's Internet Protocol television (IPTV) service. These exclusions shall not result in the privileging, degradation, or prioritization of packets transmitted or received by AT&T/BellSouth's non-enterprise customers' wireline broadband Internet access service from the network side of the customer premise equipment up to and including the Internet Exchange Point closest to the customer's premise, as defined above.

<sup>14</sup> An ADSL transmission service shall be considered "functionally the same" as the service AT&T offered within the AT&T in-region territory as of the Merger Closing Date if the ADSL transmission service relies on ATM transport from the DSLAM (or equivalent device) to the interface with the Internet service provider, and provides a maximum asymmetrical downstream speed of 1.5Mbps or 3.0Mbps, or a maximum symmetrical upstream/downstream speed of 384Kbps or 416Kbps, where each respective speed is available (the "Broadband ADSL Transmission Service"). Nothing in this commitment shall require AT&T/BellSouth to serve any geographic areas it currently does not serve with Broadband ADSL Transmission Service or to provide Internet service providers with broadband Internet access transmission technology that was not offered by AT&T to such providers in its in-region territory as of the Merger Closing Date.

<sup>15</sup> For purposes of this commitment, AT&T/BellSouth's wireline broadband Internet access service and its Wi-Max fixed wireless broadband Internet access service are, collectively, AT&T/BellSouth's "wireline broadband Internet access service."

<sup>16</sup> "Enterprise customers" refers to that class of customer identified as enterprise customers on AT&T's website (<http://www.att.com>) as of December 28, 2006.

This commitment shall sunset on the earlier of (1) two years from the Merger Closing Date, or (2) the effective date of any legislation enacted by Congress subsequent to the Merger Closing Date that substantially addresses "network neutrality" obligations of broadband Internet access providers, including, but not limited to, any legislation that substantially addresses the privileging, degradation, or prioritization of broadband Internet access traffic.

### **Internet Backbone**

1. For a period of three years after the Merger Closing Date, AT&T/BellSouth will maintain at least as many discrete settlement-free peering arrangements for Internet backbone services with domestic operating entities within the United States as they did on the Merger Closing Date, provided that the number of settlement-free peering arrangements that AT&T/BellSouth is required to maintain hereunder shall be adjusted downward to account for any mergers, acquisitions, or bankruptcies by existing peering entities or the voluntary election by a peering entity to discontinue its peering arrangement. If on the Merger Closing Date, AT&T and BellSouth both maintain a settlement free peering arrangement for Internet backbone services with the same entity (or an affiliate thereof), the separate arrangements shall count as one settlement-free peering arrangement for purposes of determining the number of discrete peering entities with whom AT&T/BellSouth must peer pursuant to this commitment. AT&T/BellSouth may waive terms of its published peering policy to the extent necessary to maintain the number of peering arrangements required by this commitment. Notwithstanding the above, if within three years after the Merger Closing Date, one of the ten largest entities with which AT&T/BellSouth engages in settlement free peering for Internet backbone services (as measured by traffic volume delivered to AT&T/BellSouth's backbone network facilities by such entity) terminates its peering arrangement with AT&T/BellSouth for any reason (including bankruptcy, acquisition, or merger), AT&T/BellSouth will replace that peering arrangement with another settlement free peering arrangement and shall not adjust its total number of settlement free peers downward as a result.

2. Within thirty days after the Merger Closing Date, and continuing for three years thereafter, AT&T/BellSouth will post its peering policy on a publicly accessible website. During this three-year period, AT&T/BellSouth will post any revisions to its peering policy on a timely basis as they occur.

### **Forbearance**

1. AT&T/BellSouth will not seek or give effect to a ruling, including through a forbearance petition under section 10 of the Communications Act (the "Act") 47 U.S.C. 160, or any other petition, altering the status of any facility being currently offered as a loop or transport UNE under section 251(c)(3) of the Act.

2. AT&T/BellSouth will not seek or give effect to any future grant of forbearance that diminishes or supersedes the merged entity's obligations or responsibilities under these merger commitments during the period in which those obligations are in effect.

### **Wireless**

1. AT&T/BellSouth shall assign and/or transfer to an unaffiliated third party all of the 2.5 GHz spectrum (broadband radio service (BRS)/educational broadband service (EBS)) currently licensed to or leased by BellSouth within one year of the Merger Closing Date.

2. By July 21, 2010, AT&T/BellSouth agrees to: (1) offer service in the 2.3 GHz band to 25% of the population in the service area of AT&T/BellSouth's wireless communications services (WCS) licenses,

for mobile or fixed point-to-multi-point services, or (2) construct at least five permanent links per one million people in the service area of AT&T/BellSouth's WCS licenses, for fixed point-to-point services. In the event AT&T/BellSouth fails to meet either of these service requirements, AT&T/BellSouth will forfeit the unconstructed portion of the individual WCS licenses for which it did not meet either of these service requirements as of July 21, 2010; provided, however, that in the event the Commission extends the July 21, 2010, buildout date for 2.3GHz service for the WCS industry at large ("Extended Date"), the July 21, 2010 buildout date specified herein shall be modified to conform to the Extended Date. The wireless commitments set forth above do not apply to any 2.3 GHz wireless spectrum held by AT&T/BellSouth in the state of Alaska.

#### **Divestiture of Facilities**

Within twelve months of the Merger Closing Date, AT&T/BellSouth will sell to an unaffiliated third party(ies) an indefeasible right of use ("IRU") to fiber strands within the existing "Lateral Connections," as that term is defined in the *SBC/AT&T Consent Decree*,<sup>17</sup> to the buildings listed in Attachment B to this Appendix F ("BellSouth Divestiture Assets"). These divestitures will be effected in a manner consistent with the divestiture framework agreed to in the *SBC/AT&T Consent Decree*, provided that such divestitures will be subject to approval by the FCC, rather than the Department of Justice.

#### **Tunney Act**

AT&T is a party to a Consent Decree entered into following the merger of SBC and AT&T (the "Consent Decree"). The Consent Decree documents the terms under which AT&T agreed to divest special access facilities serving 383 buildings within the former SBC in-region ILEC territory (the "SBC Divestiture Assets"). In its Order approving the AT&T/SBC merger, the Commission also required the divestiture of these same facilities on the terms and conditions contained in the Consent Decree. The Consent Decree is currently under review pursuant to the Tunney Act in the U.S. District Court for the District of Columbia (the "Court") in *U.S. v. SBC Communications, Inc. and AT&T Corp.*, Civil Action No. 1:05CV02102 (EGS) (D.D.C.), where the Court is reviewing the adequacy of the remedy contained in the Consent Decree to address the competitive concerns described in the Complaint filed by the Department of Justice (DOJ).

If it is found in a final, non-appealable order, that the remedy in the Consent Decree is not adequate to address the concerns raised in the Complaint and AT&T and the DOJ agree to a modification of the Consent Decree (the "Modified Consent Decree"), then AT&T agrees that (1) AT&T/BellSouth will conform its divestiture of the BellSouth Divestiture Assets to the terms of the Modified Consent Decree; and (2) AT&T/BellSouth will negotiate in good faith with the Commission to determine whether the conditions imposed on AT&T/BellSouth in the Commission order approving the merger of AT&T and BellSouth satisfies, with respect to the BellSouth territory, the concerns addressed in the Modified Consent Decree.

#### **Certification**

AT&T/BellSouth shall annually file a declaration by an officer of the corporation attesting that AT&T/BellSouth has substantially complied with the terms of these commitments in all material

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<sup>17</sup> See *United States v. SBC Communications, Inc.*, Civil Action No. 1:05CV02102, Final Judgment (D.D.C. filed Oct. 27, 2005).

respects. The first declaration shall be filed 45 days following the one-year anniversary of the Merger Closing Date, and the second, third, and fourth declarations shall be filed one, two, and three years thereafter, respectively.

**Conditions  
ATTACHMENT A**

**Service Quality Measurement Plan  
For Interstate Special Access**

**Contents**

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## Section 1: Ordering

### **FOCT: Firm Order Confirmation (FOC) Timeliness**

#### **Definition**

Firm Order Confirmation (FOC) Timeliness measures the percentage of FOCs returned within the Company-specified standard interval.

#### **Exclusions**

- Service requests identified as "Projects" or "ICBs"
- Service requests cancelled by the originator
- Weekends and designated holidays of the service center
- Unsolicited FOCs
- Administrative or test service requests
- Service requests that indicate that no confirmation/response should be sent
- Other exclusions as defined by each RBOC to reflect system and operational differences

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#### **Business Rules**

Counts are based on the first instance of a FOC being sent in response to an ASR. Activity starting on a weekend or holiday will reflect a start date of the next business day. Activity ending on a weekend or holiday will be calculated with an end date of the last previous business day. Requests received after the company's stated cutoff time will be counted as a "zero" day interval if the FOC is sent by close of business on the next business day. The standard interval will be that which is specified in the company-specific ordering guide.

#### **Calculation**

**Firm Order Confirmation (FOC) Interval = (a - b)**

- a = Date and time FOC is returned
- b = Date and time valid access service request is received

**Percent within Standard Interval = (c / d) X 100**

- c = Number of service requests confirmed within the designated interval
- d = Total number of service requests confirmed in the reporting period

#### **Report Structure**

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
  - RBOC 272 Affiliates Aggregate

#### **Geographic Scope**

- State

**SQM Disaggregation (Percent FOCs returned within Standard Interval)**

- Special Access – DS0
- Special Access – DS1
- Special Access – DS3 and above

**Section 2: Provisioning****PIAM: Percent Installation Appointments Met****Definition**

Percent Installation Appointments Met measures the percentage of installations completed on or before the confirmed due date.

**Exclusions**

- Orders issued and subsequently cancelled
- Orders associated with internal or administrative (including test) activities
- Disconnect Orders
- Other exclusions as defined by each RBOC to reflect system and operational differences

**Business Rules**

This measurement is calculated by dividing the number of service orders completed during the reporting period, on or before the confirmed due date, by the total number of orders completed during the same reporting period. Installation appointments missed because of customer caused reasons shall be counted as met and included in both the numerator and denominator. Where there are multiple missed appointment codes, each RBOC will determine whether an order is considered missed.

**Calculation**

**Percent Installation Appointments Met = (a / b) X 100**

- a = Number of orders completed on or before the RBOC confirmed due date during the reporting period
- b = Total number of orders where completion has been confirmed during the reporting period

**Report Structure**

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
  - RBOC 272 Affiliates Aggregate

**Geographic Scope**

- State

**SQM Disaggregation**

- Special Access – DS0
- Special Access – DS1
- Special Access – DS3 and above

**NITR: New Installation Trouble Report Rate****Definition**

New Installation Trouble Report Rate measures the percentage of circuits or orders where a trouble was found in RBOC facilities or equipment within thirty days of order completion.

**Exclusions**

- Trouble tickets issued and subsequently cancelled
- Customer Provided Equipment (CPE) or customer caused troubles
- Troubles closed by the technician to disposition codes of IEC (Inter-exchange Carrier) or INF (Information)
- RBOC troubles associated with administrative service
- No Trouble Found (NTF) and Test OK (TOK)
- Other exclusions defined by each RBOC to reflect system and operational differences
- Subsequent trouble reports

**Business Rules**

Only the first customer direct trouble report received within thirty calendar days of a completed service order is counted in this measure. Only customer direct trouble reports that required the RBOC to repair a portion of the RBOC network will be counted in this measure. The RBOC completion date is when the RBOC completes installation of the circuit or order.

**Calculation**

**Trouble Report Rate within 30 Calendar Days of Installation = (a / b) X 100**

- a = Count of circuits/orders with trouble reports within 30 calendar days of installation
- b = Total number of circuits/orders installed in the reporting period

**Report Structure**

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
  - RBOC 272 Affiliates Aggregate

**Geographic Scope**

- State

**SQM Disaggregation**

- Special Access – DS0
- Special Access – DS1
- Special Access – DS3 and above

**Section 3: Maintenance & Repair****CTRR: Failure Rate/Trouble Report Rate****Definition**

The percentage of initial and repeated circuit-specific trouble reports completed per 100 in-service circuits for the reporting period.

**Exclusions**

- Trouble reports issued and subsequently cancelled
- Employee initiated trouble reports
- Trouble reports/circuits associated with internal or administrative activities
- Customer Provided Equipment (CPE) or customer caused troubles
- Troubles closed by the technician to disposition codes of IEC (Inter-exchange Carrier) or INF (Information)
- Tie Circuits
- No Trouble Found (NTF) and Test OK (TOK)
- Other exclusions as defined by each RBOC to reflect system and operational differences

**Business Rules**

Only customer direct trouble reports that require the RBOC to repair a portion of the RBOC network will be counted in this report. The trouble report rate is computed by dividing the number of completed trouble reports handled during the reporting period by the total number of in-service circuits for the same period.

**Calculation**

**Percent Trouble Report Rate = (a / b) X 100**

- a = Number of completed circuit-specific trouble reports received during the reporting period
- b = Total number of in-service circuits during the reporting period

**Report Structure**

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
  - RBOC 272 Affiliates Aggregate

**Geographic Scope**

- State

**SQM Disaggregation**

- Special Access – DS0
- Special Access – DS1
- Special Access – DS3 and above

**MAD: Average Repair Interval/Mean Time to Restore****Definition**

The Average Repair Interval/Mean Time to Restore is the average time between the receipt of a customer trouble report and the time the service is restored. The average outage duration is only calculated for completed circuit-specific trouble reports.

**Exclusions**

- Trouble reports issued and subsequently cancelled
- Employee initiated trouble reports
- Trouble reports associated with internal or administrative activities
- Customer Provided Equipment (CPE) or customer caused troubles
- Troubles closed by the technician to disposition codes of IEC (Inter-exchange Carrier) or INF (Information)
- Tie Circuits
- No Trouble Found (NTF) and Test OK (TOK)
- Other exclusions as defined by each RBOC to reflect system and operational differences

**Business Rules**

Only customer direct trouble reports that require the RBOC to repair a portion of the RBOC network will be counted in this measure. The average outage duration is calculated for each restored circuit with a trouble report. The start time begins with the receipt of the trouble report and ends when the service is restored. This is reported in a manner such that customer hold time or delay maintenance time resulting from verifiable situations of no access to the end user premise, other CLEC/IXC or RBOC retail customer caused delays, such as holding the ticket open for monitoring, is deducted from the total resolution interval ("stop clock" basis).

**Calculation**

**Repair Interval = (a - b)**

- a = Date and time trouble report was restored
- b = Date and time trouble report was received

**Average Repair Interval = (c / d)**

- c = Total of all repair intervals (in hours/days) for the reporting period
- d = Total number of trouble reports closed during the reporting period

**Report Structure**

- Non-Affiliates Aggregate
- RBOC Affiliates Aggregate
  - RBOC 272 Affiliates Aggregate

**Geographic Scope**

- State

**SQM Disaggregation**

- Special Access - DS0
- Special Access - DS1
- Special Access - DS3 and above

## GLOSSARY

|                                      |   |
|--------------------------------------|---|
| <b>Access Service Request (ASR)</b>  | A request to the RBOC to order new access service, or request a change to existing service, which provides access to the local exchange company's network under terms specified in the local exchange company's special or switched access tariffs.   |
| <b>RBOC 272 Affiliates Aggregate</b> | RBOC Affiliate(s) authorized to provide long distance service as a result of the Section 271 approval process.  |
| <b>RBOC Affiliates Aggregate</b>     | RBOC Telecommunications and all RBOC Affiliates (including the 272 Affiliate). Post sunset, comparable line of business (e.g., 272 line of business) will be included in this category.   |
| <b>Business Days</b>                 | Monday thru Friday (8AM to 5PM) excluding holidays  |
| <b>CPE</b>                           | Customer Provided or Premises Equipment   |
| <b>Customer Not Ready (CNR)</b>      | A verifiable situation beyond the normal control of the RBOC that prevents the RBOC from completing an order, including the following: CLEC or IXC is not ready to receive service; end user is not ready to receive service; connecting company or CPE supplier is not ready.                                |
| <b>Firm Order Confirmation (FOC)</b> | The notice returned from the RBOC, in response to an Access Service Request from a CLEC, IXC or affiliate, that confirms receipt of the request and creation of a service order with an assigned due date.  |
| <b>Unsolicited FOC</b>               | An Unsolicited FOC is a supplemental FOC issued by the RBOC to change the due date or for other reasons, e.g., request for a second copy from the CLEC/IXC, although no change to the ASR was requested by the CLEC or IXC.   |
| <b>Project or ICB</b>                | Service requests that exceed the line size and/or level of complexity that would allow the use of standard ordering and provisioning interval and processes. Service requests requiring special handling.   |
| <b>Repeat Trouble</b>                | Trouble that reoccurs on the same telephone number/circuit ID within 30 calendar days   |
| <b>Service Orders</b>                | Refers to all orders for new or additional lines/circuits. For change order types, additional lines/circuits consist of all C order types with "I" and "T" action coded line/circuit USOCs that represent new or additional lines/circuits, including conversions for RBOC to Carrier and Carrier to Carrier. |

Conditions  
ATTACHMENT B

Building List

| Metro Area   | CLLI                | Address                        | City                 | State         | Zip Code         |
|--------------|---------------------|--------------------------------|----------------------|---------------|------------------|
| Atlanta      | ALPRGAVP            | 5965 CABOT PKWY                | ALPHARETTA           | GA            | 30005            |
| Atlanta      | ATLNGABI            | 2751 BUFORD HWY NE             | ATLANTA              | GA            | 30324            |
| Atlanta      | CHMBGAJG            | 2013 FLIGHTWAY DR              | CHAMBLEE             | GA            | 30341            |
| Atlanta      | NRCRGAER            | 6675 JONES MILL CT             | NORCROSS             | GA            | 30092            |
| Atlanta      | NRCRGAUJ            | 4725 PEACHTREE CORNERS CIR     | NORCROSS             | GA            | 30092            |
| Atlanta      | NRCRGANX            | 3795 DATA DR NW                | NORCROSS             | GA            | 30092            |
| Atlanta      | NRCRGARC            | 335 RESEARCH CT                | NORCROSS             | GA            | 30092            |
| Birmingham   | BRHMALKU            | 101 LEAF LAKE PKWY             | BIRMINGHAM           | AL            | 35211            |
| Charlotte    | CHRMNCXI            | 2605 WATER RIDGE PKWY          | CHARLOTTE            | NC            | 28217            |
| Chattanooga  | CHTGTNAC            | 537 MARKET ST                  | CHATTANOOGA          | TN            | 37402            |
| Jacksonville | JCVNFLHK            | 10201 CENTURION PKWY N         | JACKSONVILLE         | FL            | 32256            |
| Knoxville    | <del>KNVLTNHB</del> | <del>8057 RAY MEARS BLVD</del> | <del>KNOXVILLE</del> | <del>TN</del> | <del>37919</del> |
| Knoxville    | KNVNTN82            | 2160 LAKESIDE CENTER WAY       | KNOXVILLE            | TN            | 37922            |
| Miami        | BCRTFLAU            | 851 NW BROKEN SOUND PKWY       | BOCA RATON           | FL            | 33487            |
| Miami        | BCRTFLCM            | 501 E CAMINO REAL              | BOCA RATON           | FL            | 33432            |
| Miami        | DLBHFLDU            | 360 N CONGRESS AVE             | DELRAY BEACH         | FL            | 33445            |
| Miami        | JPTRFLAC            | 100 MARQUETTE DR               | JUPITER              | FL            | 33458            |
| Miami        | JPTRFLBC            | 1001 N USHWY 1                 | JUPITER              | FL            | 33477            |
| Miami        | PLNBFLAZ            | 1601 SW 80TH TER               | PLANTATION           | FL            | 33324            |
| Miami        | PLNBFLCQ            | 1800 NW 69TH AVE               | PLANTATION           | FL            | 33313            |
| Miami        | SUNRFLCF            | 720 INTERNATIONAL PKWY         | SUNRISE              | FL            | 33325            |
| Nashville    | BRWDTNEV            | 210 WESTWOOD PL                | BRENTWOOD            | TN            | 37027            |
| Nashville    | NSVLTNIH            | 1215 21ST AVE S                | NASHVILLE            | TN            | 37212            |
| Nashville    | NSVLTNWL            | 28 OPRYLAND DR                 | NASHVILLE            | TN            | 37204            |
| Nashville    | NSVNTNFO            | 252 OPRY MILLS DR              | NASHVILLE            | TN            | 37214            |
| Nashville    | NSVPTNIJ            | 332 OPRY MILLS DR              | NASHVILLE            | TN            | 37214            |
| Nashville    | NSVPTN98            | 427 OPRY MILLS DR              | NASHVILLE            | TN            | 37214            |
| Nashville    | NSVPTNJX            | 540 OPRY MILLS DR              | NASHVILLE            | TN            | 37214            |
| Miami        | LDHLFLAC            | 4300 N UNIVERSITY DR           | LAUDERHILL           | FL            | 33351            |
| Miami        | SUNRFLBD            | 440 SAWGRASS CORP. PARKWAY     | SUNRISE              | FL            | 33325            |
| Orlando      | ORLFFLYL            | 8350 PARKLINE BLVD             | ORLANDO              | FL            | 32809            |

Eddie A. Reed, Jr.  
Director-Contract Management  
AT&T Wholesale Customer Care

AT&T Inc.  
311 S. Akard, Room 940.01  
Dallas, TX 75202  
Fax 800 404-4548



April 4, 2007

VIA OVERNIGHT MAIL

Mark G. Felton  
Sprint Nextel Access Solutions  
6330 Sprint Parkway  
Overland Park, KS 66251  
[Mark.G.Felton@sprint.com](mailto:Mark.G.Felton@sprint.com)

Re: Your Letter of March 20, 2007

Dear Mr. Felton:

Thank you for the above-referenced correspondence to Lynn Allen-Flood, which was referred to me on March 21, 2007. In your letter you indicate that pursuant to AT&T's merger commitment ("Commitment 7.4") regarding the extension of interconnection agreements ("ICAs"), Sprint has the right to extend its ICA (the "Sprint Agreement") for three years from the date of its extension request. As explained below, AT&T disagrees.

As you may know, the purpose of Commitment 7.4 is to allow carriers to reduce transaction costs associated with the allegedly "continuous" cycle of ICA renegotiations and arbitrations.<sup>1</sup> By extending their ICAs, rather than negotiating and possibly arbitrating successor agreements, carriers can avoid such costs by continuing to operate under their current agreements for a period of up to three additional years.

The Sprint Agreement, however, was entered into on January 1, 2001 and has already been in effect for a period of over six years. It initially expired on December 31, 2003, was amended twice to extend the term to December 31, 2004, and thereafter has been operating on a month-to-month basis while the parties have been negotiating a successor agreement. Those negotiations culminated in the successful negotiation and agreement in principle of all issues necessary to enter into a successor agreement, which AT&T was prepared to do, this past December. Inexplicably, however, Sprint declined to do so, and subsequently sought to extend its prior agreement for another three years pursuant to Commitment 7.4.

Sprint's proposed re-extension of its 2001 ICA is inconsistent with both the language and the purpose of that commitment. First, AT&T's commitment was to permit a requesting carrier to extend the term of its existing ICA for up to three years. In the case of Sprint's ICA, AT&T already has done so; indeed, AT&T has permitted Sprint to extend the original three-year term of its current ICA for over three more years, which is all that AT&T's commitment requires. This conclusion is not altered, as Sprint asserts, by the fact that the merger commitment applies "regardless of whether [the ICA's] initial term has expired." That language simply indicates that agreements are not *per se* ineligible for extensions under Commitment 7.4 because their initial terms have expired. It does not suggest—nor does the commitment anywhere state—that agreements may be extended for three years from the date of request. Indeed, the clause relied upon by Sprint indicates that what may be extended under Commitment 7.4 is an agreement's "initial term."

Second, AT&T proposed Commitment 7.4 to respond to CLEC claims that requiring CLECs to renegotiate ICAs every three years is burdensome. While AT&T does not necessarily agree with those claims, its commitment was intended to "reduce[e] transaction costs associated with interconnection agreements." Sprint's proposal would make a mockery of that purpose insofar as Sprint and AT&T already have incurred the transaction costs necessary to negotiate a new agreement – a result plainly at odds with AT&T's commitment.

In any event, if the Sprint Agreement were to be extended for a further three years from the date of Sprint's extension request—or until March 19, 2010, as Sprint asserts is appropriate—that agreement will have been in effect for over nine years, a result nowhere contemplated or authorized by either the purpose, history or wording of Commitment 7.4.

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<sup>1</sup> See, e.g., *Comments of Cable Companies*, WC Docket No. 06-74 at pp. 9-10 (Oct. 24, 2006).



Based on foregoing, AT&T cannot agree with Sprint's proposed three-year extension to its 2001 ICA. Nevertheless, we reiterate our offer to extend the Sprint Agreement until December 31, 2007, consistent with Commitment 7.4. By accepting such an extension, Sprint will have enjoyed not only several years since expiration of the Sprint Agreement during which it did not negotiate or arbitrate a successor agreement, it will also be able to operate under that agreement for the remainder of 2007.

If you would like to have further discussions regarding this matter, we would be happy to participate in order to bring these issues to a quick and amicable resolution.

Sincerely,

  
Eddie A. Reed



**Sprint Nextel Access Solutions**  
Mailstop KSOPHA0310-3B372  
6330 Sprint Parkway  
Overland Park, KS 66251  
Office: (913) 762-4133 Fax: (913) 523-0608  
Mark.G.Felton@sprint.com

**Mark G. Felton**  
Interconnection Solutions

March 20, 2007

**Electronic and Overnight Mail**

Ms. Lynn Allen-Flood  
AT&T Wholesale Markets  
675 W. Peachtree Street  
Room 34S91  
Atlanta GA, 30375

Re: Sprint request pursuant to FCC approved AT&T/BellSouth Merger Commitment No. 4 to extend Parties' Interconnection Agreement three years to March 19, 2010

Dear Lynn:

Prior to December 29, 2006, Sprint Communications Company L.P. and Sprint Spectrum L.P. (collectively "Sprint") were engaged with BellSouth Telecommunications, Inc. ("BellSouth") in 251/252<sup>1</sup> renegotiations of the Parties' Interconnection Agreement. The Parties' Interconnection Agreement is currently in effect and continues on a month-to-month term basis. By letter dated December 28, 2006, AT&T, Inc. ("AT&T") submitted voluntary merger commitments to the Federal Communications Commission ("FCC") in order to facilitate "the speediest possible approval of the merger" between BellSouth and AT&T by the FCC ("Merger Commitments"). On December 29, 2006 the FCC approved the AT&T and BellSouth (collectively "AT&T/BellSouth") merger in WC Docket No. 06-74 subject to the voluntary AT&T/BellSouth Merger Commitments.

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<sup>1</sup> See 47 U.S.C. §§ 251 and 252 of the Communications Act of 1934, as amended ("the Act").

The AT&T/BellSouth Merger Commitments are applicable to BellSouth, and it is Sprint's position that such Merger Commitments constitute BellSouth's latest offer for consideration within the Parties' current 251/252 negotiations that supersede or may be viewed in addition to any prior offers BellSouth has made to the contrary. For the purposes of this letter, Sprint relies upon the Merger Commitment identified as "Reducing Transaction Costs Associated with Interconnection Agreements" paragraph No. 4 ("Interconnection Merger Commitment No. 4"), which expressly provides:

"4. The AT&T/BellSouth ILECs ***shall permit a requesting telecommunications carrier to extend its current interconnection agreement, regardless of whether its initial term has expired, for a period up to three years***, subject to amendment to reflect prior and future changes of law. During this period, the interconnection agreement may be terminated only via the carrier's request unless terminated pursuant to the agreement's 'default' provisions". [Emphasis added].

Merger Commitment No. 4 does not refer to an agreement's "expiration date" as the start date for a carrier's requested three-year extension. To the contrary, whether an agreement may be expired or not is irrelevant. And, notwithstanding any discussion regarding expiration dates, Sprint's Agreement is not "expired" in light of the fact it currently "continue[s]" under Section 2.1 on a "month-to-month basis". The only stated time restriction applicable to Merger Commitment No. 4 is found in the first paragraph of the Commitments to the effect:

"For the avoidance of doubt, ***unless otherwise expressly stated to the contrary***, all conditions and commitments proposed in this letter ... apply ... for a period of forty-two months ***from the Merger Closing Date*** and would automatically sunset thereafter. [Emphasis added].

Please be advised that, pursuant to the express terms of Interconnection Merger Commitment No. 4, Sprint hereby requests an amendment to Section 2 of the Parties' current, effective month-to-month Interconnection Agreement that:

Ms. Allen-Flood  
March 20, 2007  
Page 3

- a) Converts the Agreement from its current month-to-month term and extends it three years from the date of this March 20, 2007 request to March 19, 2010; and,
- b) Provides that the Agreement may be terminated only via Sprint's request unless terminated pursuant to a default provision of the Agreement; and,
- c) Recognizes that all other provisions of the Agreement, as amended, shall remain in full force and effect since the Agreement has already been modified to be TRRO compliant and has an otherwise effective change of law provision.

Enclosed for BellSouth's execution are two copies of Sprint's proposed Amendment to implement Sprint's request regarding Interconnection Merger Commitment No. 4. Please sign and return both Amendment documents for receipt by me no later than Friday, March 30, 2007. Upon receipt I will have both documents executed by Sprint and return one fully executed Amendment to you.

Based on the foregoing, Sprint does not see a need to extend the Parties' current arbitration windows under Section 252(b)(1) another sixty (60) days as suggested in your February 21, 2007 e-mail to Mr. Jim Kite at Sprint. Sprint understands the enclosed Amendment may not reflect BellSouth's proffered interpretation of Interconnection Merger Commitment No. 4<sup>2</sup>; nevertheless, it is Sprint's position that BellSouth's stated interpretation of this provision is incorrect and fails to properly address the unambiguous language of the Merger Commitments. If BellSouth should not accept Sprint's straightforward interpretation based upon the express

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<sup>2</sup> Sprint understands BellSouth's position regarding Interconnection Merger Condition No. 4 to be that Sprint may extend its Interconnection Agreement for up to 3 years from the "expiration" of the specified term of the Sprint Interconnection Agreement to result in a term "expiration" date of December 31, 2004 and a new "expiration" date of December 31, 2007. BellSouth's interpretation, however, fails to acknowledge that, by virtue of Section 2.1, the Parties' "current" Interconnection Agreement "continue[s]" with a new, rolling "month-to-month" expiration date, or specific language of the Merger Conditions noting the extension is required "regardless of whether its [the interconnection agreement] initial term has expired" and, "unless otherwise expressly stated to the contrary, all conditions and commitments ... apply ... for a period of forty-two months from the Merger Closing Date".

Ms. Allen-Flood  
March 20, 2007  
Page 4

language contained in Interconnection Merger Condition No. 4, Sprint respectfully reserves the right to avail itself of its legal options under the Act.

Should BellSouth see any need to discuss Sprint's request any further before March 30, 2006 please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark G. Felton". The signature is written in a cursive style with a large, stylized initial "M".

Mark G. Felton

Enclosures

CC: Mr. Joseph M. Chiarelli, Sprint Counsel  
Mr. William R. Atkinson, Sprint Counsel

**Amendment to  
Interconnection Agreement**

**between**

**Sprint Communications Company Limited Partnership  
Sprint Communications Company L.P.  
Sprint Spectrum, L.P.**

**and**

**BellSouth Telecommunications, Inc.**

**Dated January 1, 2001**

Pursuant to this Amendment (the "Amendment") Sprint Communications Company Limited Partnership and Sprint Communications Company L.P., (collectively referred to as "Sprint CLEC"), a Delaware Limited Partnership, and Sprint Spectrum L.P., a Delaware limited partnership, as agent and General Partner for WirelessCo. L.P., a Delaware limited partnership, and SprintCom, Inc., a Kansas corporation, all foregoing entities jointly d/b/a Sprint PCS (Sprint PCS) (Sprint CLEC and Sprint PCS collectively referred to as "Sprint"), and BellSouth Telecommunications, Inc. (BellSouth), a Georgia corporation, hereinafter referred to collectively as the "Parties" hereby agree to amend that certain Interconnection Agreement between the Parties dated January 1, 2001 ("the Agreement").

WHEREAS, on December 29, 2006 the Federal Communications Commission ("FCC") approved the AT&T, Inc. and BellSouth Corp. (collectively "AT&T/BellSouth") merger in WC Docket No. 06-74 subject to certain voluntary AT&T/BellSouth merger commitments ("Merger Commitments"); and,

WHEREAS, the Merger Commitment identified as "Reducing Transaction Costs Associated with Interconnection Agreements" paragraph No. 4 ("Interconnection Merger Commitment No. 4") provides:

"4. The AT&T/BellSouth ILECs shall permit a requesting telecommunications carrier to extend its current interconnection agreement, regardless of whether its initial term has expired, for a period up to three years, subject to amendment to reflect prior and future changes of law. During this period, the interconnection agreement may be terminated only via the carrier's request unless terminated pursuant to the agreement's 'default' provisions"; and,

WHEREAS, BellSouth is an AT&T/BellSouth ILEC subject to the Merger Commitments; and,

WHEREAS, pursuant to Interconnection Merger Commitment No. 4, on March 20, 2007, Sprint requested an extension of the Parties' current month-to-month Agreement for three years from the date of Sprint's March 20, 2007 request.

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, Sprint and BellSouth hereby covenant and agree as follows:

1. The Parties agree to delete Section 2, General Terms and Conditions – Part A in its entirety and replace it with the following:
  2. Term of the Agreement
    - 2.1 Upon the date of the last signature of both Parties to this Amendment, the current term of this Agreement shall convert from a month-to-month term basis and be extended three years from March 20, 2007 to March 19, 2010.
    - 2.2 Upon mutual agreement of the Parties, the term of this Agreement may be extended. If, as of the expiration of this Agreement, a Subsequent Agreement (as defined in Section 3.1 below) has not been executed by the Parties, this Agreement shall continue on a month-to-month basis.
    - 2.3 Notwithstanding anything to the contrary in this Agreement, during the term of March 20, 2007 to March 19, 2010, this Agreement may be terminated only via Sprint's request unless terminated pursuant to a default provision within this Agreement.
2. All other provisions of the Agreement, dated January 1, 2001, as amended, shall remain in full force and effect.
3. Either or both of the Parties are authorized to submit this Amendment to the appropriate Commission for approval subject to section 252(e) of the Federal Telecommunications Act of 1996.
4. This Amendment shall be effective upon the date of the last signature of both Parties.

[Signatures continued on next page]

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

**BellSouth Telecommunications, Inc.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Sprint Communications Company  
Limited Partnership**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Sprint Spectrum L.P.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_





## STATE OF FLORIDA

CHARLIE CRIST  
ATTORNEY GENERAL

ORIGINAL

June 19, 2006

Ms. Lisa Polak Edgar, Chairwoman  
Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: Bell South/AT&T Merger – Docket #060308-TL

Dear Chairwoman Edgar:

I write to comment on the pending BellSouth/AT&T merger, in the interest of preserving competition and protecting Florida's seniors, small businesses and residential consumers. A merger can, of course, be very good for consumers. An efficient, multi-dimensional company can provide service levels and options customers both want and need. As such, my comments herein do not reflect any opposition to a merger in the telecommunications industry or otherwise. However, when evaluating the impact of any such merger, due regard must be given to the maintenance of competitive markets and the protection of all consumers.

The BellSouth/AT&T merger combines the territory, market share, and control of "last-mile" facilities of the largest incumbent local exchange company in Florida with the nation's largest provider of local voice, long distance, and broadband DSL. This will result in the creation of one of the nation's largest telecom services providers and the nation's largest wireless carrier. The combined entity will no doubt dominate the telecommunications markets in which it competes, particularly the wireline markets. Therefore, unless proper conditions are attached, the merger could indeed have a detrimental impact on competition.

Consistent with my position in the rate rebalancing debate, my concern here is that the merged company might squeeze out real competition to the detriment of consumers, particularly seniors and residential and small business customers. These customers seek reasonably priced dial tone and simple, affordable calling plans, not bundled service packages with unlimited wireless, cable and high-tech options. Unfortunately, these customers are rarely a priority for any corporate "Goliath," so other competitors must remain in the market to offer them real, cost-effective options.

DOCUMENT NUMBER 06-0308-TL

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FPSC-COMMISSION CLEAR

Ms. Lisa Polak Edgar, Chairwoman  
Page Two

By statute, this Commission is charged with ensuring the availability of service at reasonable prices, and encouraging competition in the wireline market so that consumers will have the widest possible range of choices among services and providers. While I recognize your authority in this matter is limited, you do have the ability to file comments with the FCC providing direction on the issues presented by the merger. Although the PSC Staff has submitted proposed comments, they do not, in my opinion, go far enough.

In the past, the FCC has attached a variety of conditions to telecommunications mergers of national significance, such as the AT&T/SBC merger, and the Verizon/MCI merger. Consistent with that approach, this Commission should advocate for the inclusion of similar conditions in the BellSouth/AT&T merger that will (1) ensure reasonable access to "last-mile" facilities by competitors, and (2) prevent anticompetitive conduct and pricing at both the wholesale and retail levels.

In closing, I urge this Commission to seek forcefully the adoption of appropriate merger conditions and thereby fulfill its statutory mandate to ensure the availability of service at reasonable prices and encourage competition in the wireline market. In this way, and only in this way, can Floridians, particularly seniors, small businesses and residential consumers, have confidence their interests, and the interests of the competitive marketplace, will be protected fully in the BellSouth/AT&T merger.

Sincerely,

A handwritten signature in black ink that reads "Charlie Crist". The signature is fluid and cursive, with a large initial "C" and a long, sweeping tail.

Charlie Crist

CC/kdm

cc: Commissioner J. Terry Deason  
Commissioner Isilio Arriaga  
Commissioner Matthew M. Carter, II  
Commissioner Katrina J. Tew