consistency of advance payments with §94(4) of the Public Service Law, which requires carriers to offer customers the option of spreading charges for the initiation or installation of residential service over a one-year period. Advance payments, however, are consistent with this section of the Public Service Law because an advance payment, as distinguished from a charge for service installation or initiation, is not a charge, but simply a method of billing. To ensure that such payments are not unduly burdensome, we will propose that advance payments should be no more than $75, applied immediately to subsequent bills until liquidated; and advance payments may not be requested from lifeline customers.

In a related matter, PULP questioned an existing informal policy which allows New York Telephone to request an advance payment from an applicant requesting service at a premises where there are existing arrears, if the applicant is unable to demonstrate he or she was not living there when the charges were accrued. PULP maintains that such a requirement imposes a credit restriction on one person merely because of another's poor credit standing, in violation of credit and civil rights statutes. PULP proposes instead to permit denial of service if there are arrears at the premises and the applicant cannot give positive proof of identity. This remedy, however, does not address the problem, identified by the companies, of customers switching the bill into another name while the previous customer of record still resides at the premises.

We conclude that this practice does not unduly burden customers, and that to do otherwise may burden competition between New York Telephone and new entrants. Accordingly, other carriers will be allowed to implement the same practices pending further review of Part 633.

3. <u>Customer Information and Privacy</u>

There has been no need to exchange payment information because there was only one local exchange provider in each location. However, in a multi-provider environment, it is reasonable for local exchange companies to exchange limited information. Staff has developed a proposal which does not unduly expand the amount or type of consumer information used by local exchange companies today under Part 633. Rather, it expands the use of such information so that new entrants can make the same determinations as the incumbents.

In order to protect both customer privacy and the proprietary specifics of a company's collections practices, shared information must be limited by whether the specific information which would trigger action under Part 633, rather than whether any specific collections action has been taken by another company. For example, information that a customer has been terminated for non-payment within the past six months (and therefore can be asked for a deposit) may be shared, but not whether the customer's existing carrier has requested the deposit. To implement this, staff recommends adding a definition of "past due charges" to Part 633 to act as the specific point at which an unpaid bill would trigger reporting to other carriers. This will indicate when a customer is substantially late in paying a bill, without indicating whether or not termination or other collection actions have been commenced by another carrier. Past due charges may be defined as charges unpaid 45 days after the date of the bill. This definition is based on the earliest time at which service can be terminated for nonpayment under the present rules. The proposed definition will exclude amounts which are the subject of a deferred payment agreement whose terms are being kept by the customer This proposal does not affect the current rules with respect to termination of service.

As we have generally required, customer-specific information should only be shared with the customer's consent. Such consent may be inferred from a bona fide request to a carrier from a customer who is informed that the carrier will be checking the applicant's payment history with other carriers to determine eligibility for caps, advance payments, or deposits. Carriers would be required to release the approved information upon request from another local exchange company.

Carriers have expressed interest in using an independently operated database for the exchange of this information. The working group reports it has met with vendors of such databases and begun discussions of using an interim system to be in place by October and developing a full scale database in 1997. We have allowed similar databases on a pilot basis with certain conditions[1].

Such a database option should be explored. It may, in fact, be easier to monitor privacy protections, restrict access to the data, and ensure data quality through a central location. Similar databases are operating successfully in other states and regions. They are operated pursuant to by-laws agreed upon by all participants; some are telephone companies only, while some include gas and electric utilities. While all carriers participating in this proceeding have expressed interest in an independently operated database, some view it as desirable, while New York Telephone views it as a necessity. New York Telephone states that direct information exchange between carriers, which initially will mean requests to New York Telephone and the other incumbents, would be neither legally advisable nor administratively feasible. They believe direct data exchange raises serious anti-trust concerns and may make carriers subject to all the provisions of a credit clearing house under fair credit reporting statutes. In addition, they doubt they could have the processes in place to handle such requests by October.

The parties should continue discussions of this option and submit a specific proposal to protect customer privacy by requiring, at a minimum, that the data is not co-mingled with other data; is used only for approved purposes; is available only to participating local exchange companies; that ownership of the data remains with the providing utility; and that nonpublished phone numbers not be revealed to any party.

---

[1] Case 91-M-0744 - Collection Practices, Order Requiring Data Gathering (issued May 17, 1993).

4. Elimination of Filing and Record Retention Requirements

Staff has identified three other modifications to Part 633 that will reduce regulatory burdens on carriers and streamline the regulatory process, as many more companies enter this market, without diminishing customer protections. Specifically, we will propose the elimination of the requirement that all telephone companies file their complaint procedures with us, the requirement that the Commission approve the contents and distribution plan of each company's annual notification of customer's rights and responsibilities, and the requirement that carriers retain for one year all records related to a denial of service. In practice, a complaint with respect to a service denial tends to be resolved shortly after the denial. With respect to the annual notification of rights, the competitive market can be expected to ensure that customer communications are clear. New York Telephone's present notification, which is plain and readable, will likely be a model in this area. Moreover, it would be unwieldy for the Commission to approve the substance of each company's notification in a market with many competing firms.

OPERATIONAL SYSTEMS TO DELIVER RESALE AND LINKS

Purpose and Goals

The operations group reports its purpose was to ensure that New York Telephone implements adequate processes and systems to enable resale to operate on par with New York Telephone's retail services. Its guiding principle is that new entrants should have access to the same New York Telephone information, processes, systems, and service quality (e.g., pre-ordering information, service order processes, service provisioning and repair intervals, trouble reporting and monitoring mechanisms) as New York Telephone employs to serve its own end-use customers. This will afford new entrants the opportunity to compete effectively with the incumbent local exchange carrier. We expect both the incumbent and the new entrants to continue this process going forward from the commitments memorialized in this order.

As the operations group agreed, wherever possible New York Telephone will provide new entrants with real-time, electronic access to its systems in order to improve their ability to transact business with their customers promptly and efficiently. This approach will also minimize the need for New York Telephone personnel in transactions involving new entrants and their customers and thus allow New York Telephone to avoid some costs.

The operations group reports investing substantial time since February 1996 identifying the operational needs of new entrants with respect to access to New York Telephone information, data bases, and systems; reviewing New York Telephone's responses, and working on the various interfaces. In addition, five subgroups were established to focus on each of the following areas: (1) Service Ordering, (2) Trouble Administration, (3) Credit and Collections, (4) Billing and Usage Detail, and (5) Local Exchange Company Requirements. The operations group and its five sub-groups report considerable progress addressing the host of requirements presented by new entrants. A summary of the operations group's report of the most significant new entrant requirements and New York Telephone's responses, including its commitments to respond to new entrant requests, follows.

1. <u>Service Ordering</u>

New York Telephone's service offerings change from time to time and are not always available in all geographical areas. Before negotiating service orders with their customers and transmitting them to New York Telephone, new entrants want to know what services are available and whether there are any geographical limitations. New York Telephone has agreed to make such information available, and the parties are working on how this will be accomplished.

New entrants want to be able to forward their service orders electronically to New York Telephone, to have New York Telephone promptly confirm that orders have been received, and to be able to query New York Telephone's systems regarding the status of each order. New York Telephone will provide such capabilities. The parties are working on the data formats, business rules, and transmission media that will be used to exchange this information electronically.

A difficult issue is the data format that will be used to exchange service order information. AT&T and others want to use a national industry standard, so they will not have to build different systems in different market areas. Although an industry standard has not yet been adopted, a data format called EDI is preferred by most telecommunications companies including New York Telephone. However, New York Telephone's systems are currently designed for an EIF data format, and the company has insisted that new entrants access its service ordering systems via this format, until the industry standard becomes clearly defined and its systems can be reliably changed. Parties should continue to collaborate on a resolution.

The parties are also working on the specific data elements and business rules that will be used to exchange service order information. New York Telephone has developed data elements and business rules for the top three dozen transactions and is reviewing them with the new entrants. This work should continue.

Some new entrants have requested enhancements of New York Telephone's current system capabilities. For example, they want the ability to assign telephone numbers to customers during initial service order contact while the customer is still on the line. New York Telephone will provide this capability by either giving new entrants electronic access to telephone numbers, providing a block of numbers to new entrants in advance, or via a telephone call to the company.

New entrants also want the ability to query the status of pending orders, including when the physical work has been completed and each of the requested services is working. However, New York Telephone's own representatives do not have access to such information. Its systems only identify when billing has been established, usually 24 hours after the physical work has been completed. New York Telephone has agreed to examine what can be done to satisfy the new entrants' need for this information.

There is agreement that new entrants are responsible for obtaining and retaining authorization from customers wishing to change telephone companies. When New York Telephone receives a service order from a new entrant it will assume that the new entrant has obtained the customer's authorization to change local exchange companies. Also, New York Telephone has indicated that it may want to audit new entrants' records of authorization. Some new entrants oppose New York Telephone auditing, but this issue has not been fully aired yet. Finally, the parties have agreed to follow the FCC's current rules for switching interLATA toll companies pending the outcome of the Commission's "slamming" proceeding.[1]

2. Trouble Administration

New entrants want the ability to transmit customer trouble reports to New York Telephone, assign repair appointments, and monitor the status of each trouble report through closure, electronically. They also want New York Telephone to acknowledge the receipt of trouble reports and to inform them (so they can inform their customers) when repair appointments are in jeopardy of being missed. These capabilities are available to New York Telephone's service representatives, and New York Telephone will make them available to new entrants as well.

New entrants want access to their customers' trouble report histories to assist them in evaluating and discussing repeated service problems with customers. New York Telephone's representatives have access to customer trouble report histories

[1] Case 95-C-0806, Unauthorized Switching of Telephone Customers from One telephone Carrier to Another-- "Slamming", Notice Soliciting Comments (issued October 26, 1995).

for the last 30 days, and the company has agreed to provide the same access to new entrants.

New entrants want to be notified of any scheduled maintenance by New York Telephone and of any major network problems (e.g., switch failures or major cable cuts) that could impact their customers' service. They also want to have emergency procedures in place that will enable them to continue to transact business with New York Telephone in the event the company's electronic interfaces fail. New York Telephone has agreed to comply with these requirements, and the parties are discussing how this will be accomplished.

New entrants want New York Telephone to provide them with monthly service quality performance data which will enable them to compare the service quality they are receiving from New York Telephone with the service quality that New York Telephone is providing to other new entrants and to its general body of customers. New York Telephone has agreed to provide such service quality data electronically. In the event a new entrant's customer calls New York Telephone's repair bureau by mistake, new entrants want New York Telephone to direct the call to the correct company. New entrants also want New York Telephone to use a new entrant's brand name when the new entrant's customer is contacted on a repair and to bill the new entrant, rather than the end user, for repairs involving special charges. New York Telephone agrees that it and new entrants have to develop mutual procedures for handling such transactions and is developing proposals for discussion with new entrants.

3. <u>Billing and Usage Detail</u>

New entrants want New York Telephone to provide call usage details, so they can bill their subscribers according to their own rate structures. They also want to receive bills which include both summarized and detailed charges for all services provided by New York Telephone. New York Telephone has generally agreed to these requests, and the parties are working on the implementation details. A key agreement reached by the parties is the data format that will be used to exchange usage and billing information. New entrants requested a data format known as EMR. Although New York Telephone does not currently use this format, it has agreed to accommodate the new entrants in this regard. The parties have also agreed on how the usage and billing data will be transmitted between companies.

4. Credit & Collections

The credit and collections subgroup has been meeting to establish the processes to be used to implement collections efforts (blocking, suspension, termination and subsequent reconnection for service) and to address fraud detection procedures. The subgroup has been discussing how orders will be taken to block categories of service, and to suspend, terminate and reconnect service, and how fraud detection reports will be supplied to new entrants. New entrants are interested in round-the-clock capability in all of these areas. New York Telephone does not currently conduct these efforts for itself on that basis, but is working toward that end and has committed to make that service available to new entrants when it is adopted by New York Telephone.

5. Competitive Local Exchange Carrier or Partial Reseller Requirements

This sub-group was established to consider the operational needs of companies that resell New York Telephone's unbundled links and ports. Many of the operational needs of these firms are similar to those of service resellers. They generally involve functionalities relating to the service ordering process which will be addressed by a new direct customer access system being developed by New York Telephone to facilitate and streamline service ordering for link and port resellers. Competitive local exchange carriers (CLECs) also have some unique requirements, because they are not simply reselling New York Telephone's local exchange service but are interconnecting components of New York Telephone's network (links and ports) with their own facilities. Some of these requirements are described below.

When CLECs co-locate their facilities in New York Telephone's central offices, they rely on New York Telephone to provide the intraoffice cables necessary to connect their facilities with New York Telephone's. As CLECs gain customers, the utilization of intraoffice cables will increase, and New York Telephone will eventually have to augment the cables. If New York Telephone fails to do so in a timely manner, CLECs will be unable to serve new customers. The CLECs want New York Telephone to commit to adding capacity well before existing capacity is exhausted. New York Telephone acknowledges the need to address this issue, but also says it needs timely forecasts of CLEC demand.

CLECs want New York Telephone to provide certain information about the physical make-up of each ordered link. New York Telephone says it does not maintain this information for individual lines, but would have to derive it from outside plant engineering records, which would be time-consuming and expensive. But the company has agreed to investigate alternative ways of meeting the CLECs' needs.

Also, CLECs object to the time (up to ten days) it takes to have links installed. They want links installed within the same five day interval available to New York Telephone's local exchange service customers. New York Telephone attributes the delay to the coordination required to ensure that customers who already have telephone service and are merely switching to a different local service provider, do not experience any lapse of service. New York Telephone assures the CLECs that its new system will improve the process and reduce the interval from ten to seven days, and also notes that links are installed within five days when the new CLEC customer is receiving service for the first time.

RESALE SERVICE QUALITY

Some parties are concerned that New York Telephone could stifle resale competition by providing new entrants with service quality inferior to that provided other New York Telephone customers. They want the company to guarantee its service quality by agreeing to credit new entrants' bills when certain service quality performance thresholds are not met. New York Telephone opposes this.

Service quality is governed by our telephone service standards and by informal special services guidelines. These provisions do not differentiate between services provided to end users and services provided to new entrants. Thus, new entrants are entitled to the same service quality as New York Telephone's end users. New entrants are also entitled to the same protections as end users when the company fails to meet certain performance criteria. Such protections include credits for service interruptions and maintenance and installation rebate plans set forth in the company's tariffs, as well as the service quality penalty provisions contained in the company's long-term performance regulatory plan approved in Case 92-C-0665.

The electronic service ordering and trouble reporting systems being developed in this case are designed to provide parity of service quality between new entrants and other New York Telephone customers. Service orders and trouble reports generated by new entrants should be handled the same way, and given the same priority, as service orders and trouble reports generated by other New York Telephone customers. Also, New York Telephone has agreed to provide new entrants and staff with detailed service quality data, so New York Telephone's performance to new entrants vis-a-vis its other customers can be monitored.

The idea of developing carrier-to-carrier performance standards has been raised in several prior cases, including looking toward the third year competitive checkpoint in the New York Telephone incentive plan. In Case 94-C-0095, staff urged that parties be encouraged to negotiate mutually acceptable service quality measures. If they fail and seek regulatory intervention, they would be expected to specify the types of carrier-to-carrier standards they would have us consider, for example, standards similar to the local exchange service standards in terms of services, capabilities, administrative, operational, and network requirements, Objective and Weakspot performance criteria, or something entirely different. If rebates or penalties are sought for non-compliance with requirements or performance thresholds, proponents would be expected to explain how such sanctions would be determined and applied and whether the carrier-to-carrier service standards and sanctions should apply just to the incumbents or to all carriers regardless of their market share or dominance.

A service quality proceeding will be instituted to reevaluate telephone service standards in light of staff's audit recommendations, technological advancements, and changes in market structure. Parties may demonstrate in that proceeding why carrier-to-carrier service standards and sanctions for substandard performance are warranted and what form such provisions might take.

CONCLUSION

The measures approved herein are intended to facilitate widespread resale of local exchange service by October 1996. Large-scale provision of links and ports also will be possible by that date, consistent with our mandate that this capability proceed in tandem with resale.

Temporary rates for resale of New York Telephone's and, if appropriate, Rochester Telephone's local exchange service will be in place by July 1996; permanent rates will be set in October 1996, accompanied by the necessary supporting operational systems and processes. For New York Telephone, this will be augmented by tariffed offerings of several unbundled services and elements requested by new entrants to complement resale.

A notice of proposed rulemaking will be issued concerning Part 633 of our rules. Proposed amendments concern three new situations created by the multi-provider environment: applicants for service who owe a different carrier money from a previous account; applicants who are currently customers of another company, but are not current in paying their bills; and applicants who apply for service at an address where there are unpaid charges from a previous account in another name.

The Commission orders:

1. All prohibitions on resale currently in local exchange company tariffs, with the exception of prohibitions on resale of a service limited to a certain classification of customers to customers not in that classification, are declared void as inconsistent with the Act, except for restrictions enumerated herein.

2. The filing by local exchange companies, other than New York Telephone and Rochester Telephone, of detailed tariff provisions implementing residential resale, is extended until January 1, 1997 unless a bona fide request for resale is received by a local exchange company before that date.

3. New York Telephone is directed to file on July 1, 1996 a tariff making available for resale all currently offered New York Telephone retail services (except promotional and public coin telephone offerings).

4. Parties to this proceeding are directed to continue collaboration on requests, presented in these proceedings, for specific unbundled services and network elements and any other outstanding issues that need resolution in order to facilitate October 1996 resale, including identification of potentially restrictive provisions in New York Telephone's retail tariffs.

5. New York Telephone is directed to file tariffs to provide ISDN links, extended links, riser cable, combined physical/virtual collocation, branded directory assistance/operator services, and self-provisioned (unbundled) directory assistance/operator services, on August 1, 1996 to be effective October 1, 1996.

6. Issues involving carrier-to-carrier service standards are remanded to the appropriate proceeding being instituted from Module IV of the Competition II proceeding.

7. Resolution of Rochester Telephone's resale tariff terms and conditions and permanent resale rates (Case 93-C-0103) is referred to this proceeding.

8. New York Telephone is to produce a list of customer class restrictions in its retail tariffs, to be filed with the July 1 total service resale tariff.

9. New York Telephone is directed to provide new entrants with call detail information for calls originated by the new entrants' flat rate and measured rate customers, at tariffed rates set to recover the costs it incurs to provide such information.

10. These proceedings are continued.

By the Commission,

(SIGNED) JOHN C. CRARY
Secretary

Georgia Public Service Commission

244 WASHINGTON STREET, S.W.
ATLANTA, GEORGIA 30334-5701
(404) 656-4501 OR 1 (800) 282-5813

DOCKET NO. 6352-U

IN RE: **Petition of AT&T for the Commission to Establish Resale Rules, Rates, Terms and Conditions and the Initial Unbundling of Services**

Record Submitted: March 4, 1996
March 5, 1996
April 1, 1996
April 2, 1996
April 3, 1996

Decided: May 29, 1996

RECEIVED

JUN 11 1996

Executive Secretary
Ga. Public Service Commission

APPEARANCES

On Behalf of the Commission Staff:

Nancy Gibson, Special Assistant Attorney General
David L. Burgess, Director, Rates and Tariffs

On Behalf of the Consumers' Utility Counsel:

Jim Hurt, Attorney
Bill Atkinson, Attorney

On Behalf of AT&T of the Southern States, Inc.

Roxanne Douglas, Attorney

On Behalf of BellSouth Telecommunication, Inc.

William J. Ellenberg, II, Attorney
Douglas Lackey, Attorney
Tom Alexander, Attorney

On Behalf of Cable Television Association of Georgia:

Laura Nix, Attorney

On Behalf of BellSouth Advertising and Publishing Company:

Michael S. Bradley, Attorney

On Behalf of MCI Telecommunications Corporation:

David Adelman, Attorney
Marsha Ward, Attorney

On Behalf of Sprint Communications Company, L.P. :

Benjamin Fincher, Attorney
Carolyn Tatum Roddy, Attorney

On Behalf of MFS Intelenet of Georgia, Inc. :

James Falvey, Attorney

On Behalf of ACSI:

James Rice, Attorney

On Behalf of Southern Directory and Georgia Public Communications Association:

Dean R. Fuchs, Attorney

BY THE COMMISSION:

INTRODUCTION

The Georgia Public Service Commission ("Commission") is charged with implementing and administering Georgia's new Telecommunications and Competition Development Act of 1995, O.C.G.A. § 46-5-160 *et seq.* (hereafter "the Georgia Act"). As a part of this responsibility, the Commission shall determine the reasonable rates, terms or conditions for the purchase or resale of local exchange service, and the Commission shall have the authority to require local exchange companies to provide additional interconnection services and unbundling.

Under O.C.G.A. § 46-5-164(e), any local exchange company or telecommunications company desiring to purchase or resell services purchased from another local exchange company may petition the Commission for the authorization to purchase or resell such services. On December 21, 1995, AT&T Communications of the Southern States, Inc. ("AT&T") filed a petition with the Commission requesting the establishment of rules, rates, terms and conditions for the resale of telecommunications services as provided by the Georgia Act. AT&T also sought an initial unbundling of services pursuant to the Commission's express authority under O.C.G.A. § 46-5-164(g).

On February 6, 1996, the Commission adopted a Procedural and Scheduling Order in this docket which outlined the manner in which this proceeding would be conducted. Subsequent to AT&T filing its petition in this docket, on February 8, 1996, the Telecommunications Act of 1996 ("the Federal Act") became law. Pub. L. No. 104-104, 110 Stat. 56 (Feb. 8, 1996). The 1996 Federal Act makes sweeping changes in telecommunications, laying the groundwork for competition to grow nationally in the local exchange market. The Federal Act requires incumbent Local Exchange Carriers (LECs) to "offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers." (Section 251(c)(4)(A)). The Federal Act further requires that a State Commission shall determine wholesale rates for those incumbent LEC services available for resale.(Section 252(d)(3)).

The Consumers' Utility Counsel ("CUC"), BellSouth Telecommunications Inc. ("BellSouth"), Cable Television Association of Georgia ("CTAG"), BellSouth Advertising and Publishing Company ("BAPCO"), MCI Telecommunications Corporation ("MCI"), Sprint Communications Company ("Sprint"), ATA Communications, Inc. ("ATA"), MFS Intelenet of Georgia, Inc. ("MFS"), American Communications Services of Columbus ("ACSI"), Competitive Telecommunications Association ("COMPTEL"), Southern Directory and Georgia Public Communications Association ("GPCA") filed intervention notices in this docket. Hearings were held March 4-5, 1996, and April 1-3, 1996. Post-hearing briefs were filed on April 16, 1996, by AT&T, CUC, BellSouth, MCI, COMPTEL, Sprint, MFS and BAPCO.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISIONS OF REGULATORY POLICY

Based upon the entire record in this proceeding, including those matters incorporated by reference, the Commission hereby renders the following findings of facts, conclusions of law, and decisions of regulatory policy:

JURISDICTION

Jurisdiction is proper with the Commission and the Commission has authority to render a decision in this matter pursuant to O.C.G.A § 46-5-164(e) and § 46-5-164(g).

AT&T's petition specifically requests that the Commission (1) establish resale rules, (2) establish the rates, terms and conditions for resale as authorized by the Georgia Act, including the appropriate wholesale rates and the guidelines for operational interfaces, (3) require the initial unbundling of operator services, directory assistance and appropriate routing of repair calls, and (4) adopt the Total Wholesale Service tariff for providing wholesale services to resellers as proposed by AT&T.

The Company's petition rightfully notes that unlike interconnection services, the Georgia Act does not require negotiations to establish the rates, terms and conditions for resale of telecommnunications services prior to petitioning the Commission for these purposes. AT&T and BellSouth have engaged in multiple negotiations sessions over a four month period concerning resale and other matters pertinent to local competition in Georgia. AT&T has been unable to reach an agreement with BellSouth that will allow AT&T to enter the local exchange market. The Commission finds that AT&T filed this petition seeking relief from the Commission after unsatisfactory lengthy negotiations with BellSouth.

On March 12, 1996, the Commission issued a memorandum to all parties of record requesting that they submit to the Commission their assessment of the impact of the Federal Act on the Commission's ability to grant the relief sought by AT&T in the manner set forward in the Company's petition and supporting prefiled testimony. Several parties responded to the Commission's request.

Section 251(c)(1) of the Federal Act provides that an incumbent LEC has the duty to negotiate in good faith on various local competition issues including resale of services and the unbundling of network elements. Under Section 251(c)(4) of the Federal Act, incumbent local exchange carriers must offer for resale any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers. Section 252(d)(3) of the Federal Act requires the Commission to arbitrate failed negotiations on resale and directs the Commission to determine wholesale rates for services to be resold. With regard to unbundling, an incumbent LEC has a duty under Section 251(c)(3) of the Federal Act to provide any requesting telecommunications carrier, nondiscriminatory access to network elements at any technically feasible point on an unbundled basis at rates, terms, and conditions that are just, reasonable, and nondiscriminatory.

O.C.G.A. § 46-5-164(e) provides that in cases where the purchase or resale of services purchased is authorized by the Commission, the Commission shall determine the reasonable rates, terms, or conditions for the purchase or resale. O.C.G.A. § 46-5-164(g) further provides that the Commission shall have the authority to require local exchange companies to provide additional interconnection services and unbundling.

The Federal Act states at Section 261(b) that: "[n]othing in this part shall be construed to prohibit any State Commission from enforcing regulation prescribed prior to the date of the enactment of the Telecommunications Act of 1996, or from prescribing regulations after such date of enactment, in fulfilling the requirements of this part, if such regulations are not inconsistent with the provisions of this part." The Commission finds that no material conflicts exist between the two Acts with regard to resale and to unbundling. Generally the Federal Act is more specific with regard to the requirements for resale and unbundling, while the Georgia Act leaves these matters for the Commission to decide.

SERVICES AVAILABLE FOR RESALE

Several parties presented testimony regarding what services should be made available for resale. Specifically, AT&T requested that all existing retail services, including grandfathered service offerings and new services as they are available be offered for resale. MCI presented testimony which stated that services available for resale should also include any discounted retail service, discount package, or promotional offering. BellSouth advocated that grandfathered services, promotional offerings, and certain discount packages should not be made available for resale. Other parties encouraged the Commission to adopt the standard contained in Section 251(c)(4)(A) of the Federal Act.

The Commission finds that all existing retail services sold to non-telecommunications providers except those services which are presently grandfathered shall be made available for resale. This includes any discounted retail service, discounted package, and new service offerings as they become available. Promotions are not included because they are not tariffed offerings. Grandfathered services shall not be available for resale. These services by definition are no longer available to any new subscription. To allow grandfathered services to be resold would serve to undermine this basic definition. The Commission finds that it shall continue to monitor the grandfathered provision and the offering of special promotions to insure that they are implemented in a way that is consistent with existing Commission policy

RESTRICTIONS ON RESOLD SERVICES

AT&T advocated that the Commission impose limited restrictions on services resold. All parties presented similar testimony requesting that the Commission adopt certain class of service restrictions and the interLATA joint marketing restriction contained in the Federal Act. Generally, parties agreed that it would be necessary for the Commission to impose a restriction on resale between classes of local service, such as resale of residential local exchange service to business customers. Sprint noted in its prefiled testimony that: "[t]he price differential between business and residential customers would collapse unless resale between these classes is restricted or until local rates are rebalanced to eliminate the differential between business and residential customers." (Tr. at pp. 657-658)

Section 271(e)(1) of the Federal Act provides that until a Bell operating company is authorized to provide interLATA services in an in-region State, or until 36 months have passed since the date of enactment of the Telecommunications Act of 1996, whichever is earlier, a telecommunications carrier that serves greater than 5 percent of the nation's presubscribed access lines may not jointly market in such State telephone exchange service obtained from such company with interLATA services provided by that telecommunications carrier

The Commission finds that it shall impose class of service restriction on the resale of all retail service offerings. In addition the Commission finds that it shall adopt the interLATA joint marketing restriction contained in the Federal Act.

WHOLESALE SERVICES TARIFF

AT&T witness Guedel included as an attachment to his prefiled testimony an "illustrative" Total Wholesale Services Tariff for providing wholesale services to resellers as proposed by the Company. The proposed tariff included limited terms and conditions for the wholesale provisioning of resold services. AT&T requested that the Commission adopt specific provisions which included a 90 day advance notice on new offerings and 30 day advance notice on promotions. Several parties presented testimony requesting that a separate wholesale tariff be established

The Commission finds that AT&T's "illustrative" Total Wholesale Tariff is simply that, "illustrative" and therefore incomplete, inadequate and shall not be adopted. The Commission further finds that AT&T's request to establish a 90 day advance notice on new service offerings has not been adequately supported. BellSouth shall be required to file a separate complete Wholesale Tariff containing the rates, terms and conditions for all services provided. This initial filing as well as proposed revisions shall be subject to Commission approval. All proposed revisions to this tariff shall comply with the existing 30 day filing requirement. BellSouth shall continue to comply with the existing provision in its General Subscriber Service Tariff which requires a 30 day notice to the Commission on all promotional offerings

AVOIDED COST METHODOLOGY

The Federal Act provides that State Commissions shall set wholesale prices for telecommunications services on the basis of retail rates charged to subscribers for the telecommunications services requested, excluding the portion thereof attributable to any costs that will be avoided by the local exchange carrier. (Section 252(d)(3))

All parties generally agreed that the Federal Act standard is the appropriate basis for the Commission to determine wholesale rates; however several parties did provide their own unique interpretation of what that standard means. Sprint witness Key advocated that the Commission determine "net" avoided cost utilizing Total Service Long Run Incremental Cost (TSLRIC). Several parties recommended the Commission determine avoided cost using readily available embedded cost information. MFS and CUC also recommended the Commission adopt a "net" avoided cost approach. Under this approach, determination of avoided cost would include any added costs of providing a service at wholesale. BellSouth witness Maddox presented testimony that: "[i]n our study, we looked at the costs that BellSouth would avoid making services available for resale. We did not take into account the increased costs that would occur for offering the services on a resale basis." (Tr. at pp. 523-524) MCI witness Dr. Ankum's prefiled testimony indicated that any "net" avoided cost should be recovered in the service mark-up. (Tr. at pp. 842).

ATA witness Schwartz recommended that the Commission establish a lower wholesale rate for an extended term agreement than for a short-term arrangement. ATA advocates that "[t]he wholesale rate in an extended resale agreement must reflect the downward pressure on retail price and the upward pressure on marketing and sales costs that will result from increased competition in the local exchange market." (Tr. at pp. 708). MFS and Sprint also recommended wholesale rates be established service by service. Testimony presented by BellSouth and Sprint encouraged the Commission to establish separate discounts for residential and business wholesale services to reflect the current differentials which exist between similar retail offerings.

The Commission finds that the Federal Act standard is the appropriate method to determine avoided cost. The Commission rejects the argument of "net" avoided cost forwarded by several parties. Evidence presented in this docket indicates that TSLRIC studies for the items in question have not been conducted and to do so would require several months. The Commission shall initially use embedded cost information to determine avoided cost as specified in the Federal Act. The Commission further finds that a separate discount shall be determined for each customer class and the discount shall apply equally to all services in BellSouth's wholesale tariff. The Commission finds that negotiated agreements may reflect additional discounts for longer terms.

WHOLESALE DISCOUNT RATE

AT&T and BellSouth were the only parties who presented an avoided cost study in this docket. AT&T's study yielded an overall wholesale discount rate of 28.3%. BellSouth's study resulted in a 11% discount for residential wholesale offerings and a 9.5% discount for business services. MCI, ATA, and COMPTEL did not conduct their own study, but generally supported AT&T' s avoided cost study results. CUC recommended that the Commission establish a floor level discount reflective of the BellSouth cost study results, and maintain a ceiling discount of 20% as ordered by the Illinois Commerce Commission. MFS did not conduct its own study, but cautioned the Commission that deep discounts discourage the beneficial development of facilities-based competition. MFS further stated that BellSouth's estimate of avoided cost are more consistent with the underlying principles of the Federal Act.

A review of AT&T's avoided cost study finds the Company utilizes embedded expense and revenue data which BellSouth reported to the Federal Communications Commission (FCC) in the 1994 Automated Report Management Information System (ARMIS), specifically Reports 43.03 and 43.04. AT&T's cost model removes all or some portion of direct and indirect costs which AT&T believes are avoided when selling services wholesale. The AT&T study shows direct costs avoided as follows: 100% of the cost for uncollectibles, 100% of the expenses associated with marketing, sales, and advertising and billing, and 20% of the Operator-Testing and Operator-Plant Administration expenses. AT&T's study also shows avoided cost to include 100% of operator related costs, such as call completion and number services functions. AT&T maintains that these functions will be performed by the Company's own operators.

There are also indirect costs which AT&T's Cost Model shows as avoided. These include 21.73% of various General and Administrative expenses--including corporate expenses, finance, regulatory, legal, taxes, depreciation, general support, network support, research and development, and other general and administrative expenses. AT&T's Cost Model yields a 28.3% wholesale discount.

BellSouth's Avoided Cost Model used that company's actual 1995 year-end financial data for the state of Georgia as reflected in the FR-1 report and the MR-5. BellSouth's study reflects avoided cost in the categories of uncollectibles, marketing, sales, and customer service. BellSouth's Cost Model does not reflect any avoided cost in advertising, product management, call completion services, number services, or indirect cost. BellSouth's study contains avoided cost of $12,396,537 for uncollectibles, $39,906,057 for marketing and sales, and $84,823,776 for customer services. The total avoided costs included in BellSouth's study are $137,126,370. This computed level of avoided cost represents only 6.7% of the total expenses ($1,995,838,130) incurred by BellSouth for its Georgia operations during 1995. In other words, the Company has deemed 93.3% ($1,881,747,721) of its total expenses as unavoidable. BellSouth maintains that the appropriate wholesale discounts are 11% for residential and 9.5% for business.

Herein lies the fundamental difference between the parties regarding the cost that should be reflected in the determination of BellSouth's wholesale discount. BellSouth, MFS, and other supporting parties argue that the discount should reflect the costs that are actually <u>avoided</u> when provisioning wholesale local services. AT&T, MCI, ATA and COMPTEL advocate that all costs that are <u>avoidable</u>, whether or not they are actually avoided, should be reflected in the determination of the wholesale discount.

The Federal Act states that a resale discount should reflect the:

> "[r]etail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and any other costs that will be avoided by the local exchange carrier." (Section 252(d)(3)).

BellSouth has interpreted the relevant portion of the Federal Act relating to the determination of a wholesale discount in a very strict manner. BellSouth maintains that many functions now performed for the provisioning of retail services will not be avoided in a resale environment. The Company believes that significant advertising, sales, and other related expenses will not be avoided in a wholesale situation. BellSouth's position reflects a narrow, constrained view of an avoided cost approach.

AT&T and its supporting parties have taken a broader interpretation of the language in the Federal Act arguing that avoidable cost is the standard mandated by the recently passed Federal legislation. Under this approach avoidable cost include not only direct cost, but also indirect cost and resulting overheads associated with an avoided job function. AT&T's position supports the inclusion of expenses such as depreciation, administrative expense and corporate overhead to the extent that they are avoidable.

While neither approach is inherently precise, the Commission finds that in this instance a forward-looking avoidable cost approach yields more relevant and reliable results than a historical based avoided cost approach. This view holds particularly true in light of the sweeping changes taking place in the telecommunications industry. ATA witness Schwartz noted: "[I]s it not true that BellSouth has been downsizing and that the very downsizing they're doing should and is being created by competition and resale, and that this cost should be reflected in deriving that avoided cost? I think it's an important issue and I think it's one that should be taken into consideration as part of the wholesale rate." (Tr. at pp. 699). BellSouth's strict avoided cost approach would potentially inhibit or otherwise severely limit the development of a competitive local exchange market. The Commission's endorsement of such an approach would provide BellSouth with little incentive to reduce or shed costs which are actually avoidable. These potentially avoidable costs would continue to be subsidized by the Company's competitors; thereby virtually eliminating any form of meaningful competition.

AT&T's response to CUC's Hearing Request (hereinafter referred to as "AT&T Hearing Resonse"), filed April 1, 1996, reflects the status of the Rochester Telephone Company (RTC) trial where AT&T has ceased marketing its competing local services. On October 3, 1995, AT&T filed a complaint with the New York Commission seeking relief for reasons of price and service provisioning. The Complaint states: "[t]he RTC 5% wholesale discount on local service is precisely such a commercially unreasonable discount. It is noteworthy that the discount is so patently inadequate that only AT&T has even attempted to offer services on a resale basis pursuant to its terms." (Petition of Rochester Telephone Corporation for Approval of Restructing Plan Case 93-C-0103 N.Y.P.S.C., Petition of Rochester Telephone Corporation for Approval of a New Multi Year Rate Stability Agreement Case 93-C-0033 N.Y.P.S.C., AT&T Communications of New York, Inc. Complaint, Petition For Declaratory Judgement and for Reconsideration of Opinion No. 94-25 N.Y.P.S.C., page 5).

The Commission finds that BellSouth's Avoided Cost Model represents a sound mathematical approach toward computing a wholesale discount. The data utilized to compile the study represents the most recent year-end information available for BellSouth's Georgia operations. The Commission finds that BellSouth does not properly account for certain expenses that are reasonably avoidable. The Commission finds that the data contained in the AT&T Cost Model is dated information and to some degree jurisdictionally mixed. The Commission finds that the AT&T study overstates certain avoidable costs. The Commission finds that it is both necessary and prudent to revise the avoided cost contained in BellSouth's study to determine an appropriate wholesale discount.

Appendix 1 reflects the calculations supporting the wholesale discount adopted by the Commission and a narrative explaining the adjustments made to BellSouth's Avoided Cost Model. Based on the results of the computation, the Commission finds that the appropriate wholesale discount is 20.3% for residential services and 17.3% for business services. The Commission finds that these discounts shall apply to all recurring, non-recurring and intrastate toll retail offerings. The Commission finds that the currently tariffed non-recurring charges for primary and secondary services with the appropriate discount will apply to resellers (See BellSouth's Response to Staff Hearing Request No. 3 to Lorraine Maddox, page 1 of 1). The Commission finds that these levels shall remain in effect for a 12 month period. At the end of this 12 month period, the Commission shall conduct a review to determine if the need exists to modify these initial discount levels.

OPERATIONAL INTERFACES

AT&T has specifically requested that the Commission require BellSouth to establish electronic operational interfaces for pre-service ordering, service ordering and provisioning, directory listing and line information databases, service trouble reporting and customer daily usage data. The Company has also requested that the Commission apply an additional 10% discount for BellSouth's failure to comply with the establishment of electronic interfaces. AT&T is supported in its request by MCI, ATA, and Sprint. AT&T's Hearing Response reflects service provisioning concerns raised by the Company in its October 3, 1995 complaint filed against RTC with the New York Commission "AT&T is severely disadvantaged due to the fact that RTC has failed to provide procedures for resellers to access the RTC databases for on-line queries needed to perform basic service functions as scheduling customer appointments." (Petition of Rochester Telephone Corporation for Approval of Restructing Plan Case 93-C-0103 N.Y.P.S.C., Petition of Rochester Telephone Corporation for Approval of a New Multi Year Rate Stability Agreement Case 93-C-0033 N.Y.P.S.C., AT&T Communications of New York Inc. Complaint, Petition For Declaratory Judgement and for Reconsideration of Opinion No. 94-25 N.Y.P.S.C., page 12). ATA witness Schwartz testified: "[m]y concern is how do we now proceed to interface into their system, how do we provision those customers now with them. If we can't do it electronically, it's just going to be a disaster." (Tr. at pp. 721).

BellSouth witness Scheye acknowledges that "[n]o one is happy, believe me, with a system that is not fully electronic." (Tr. at pp. 430). Further testimony by Scheye indicates that "[i]n the initial stages we plan to use fax machines...." (Tr. at pp. 429). MFS and BellSouth recommended that the Commission delay the establishment of electronic interfaces until after national standards are set