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JUN 1 3 1997

Federal Communications Commission
Office of Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of	)	
	)	
Request for Clarification of FCC's Rules re:	)	
Interconnection Between Local Exchange	)	
Carriers and Commercial Mobile	)	CC Docket Nos. 95-185, 96-98
Radio Service Providers	)	
	)	

To: Common Carrier Bureau

COMMENTS OF BEST COMMUNICATIONS

Frederick M. Joyce
Its Attorney

JOYCE & JACOBS, Attys. at Law, LLP
1019 19th Street, N.W.
14th Floor, PH-2
Washington, D.C. 20036
(202) 457-0100

Date: June 13, 1997

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SUMMARY

Five of the nation's largest paging carriers have disputed Southwestern Bell's ("SWB") interpretation of the FCC's Rules and of applicable statutory provisions. They contend that the FCC's Rules do not allow any local exchange carriers ("LECs") to charge carriers for "traffic" or "facilities" with respect to LEC-originated local traffic. The Paging Companies also characterize SWB's "request for clarification" as an untimely request for reconsideration of Rule Section 51.703(b).

Best Comm concurs with the Paging Companies: the FCC's interconnection rules, and the Communications Act as amended by the Telecommunications Act of 1996, preclude LECs from charging paging carriers for traffic or facilities used to transport LEC-originated local traffic to a paging network. The Bureau should use this proceeding to clarify that LECs cannot charge paging carriers for local transport of LEC-originated traffic, and to clarify some other related issues concerning the FCC's interconnection rules.

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To: Common Carrier Bureau

COMMENTS OF BEST COMMUNICATIONS

Merryville Investments, Inc., d/b/a Best Communications ("Best Comm") through its undersigned counsel and pursuant to the FCC's May 22, 1997 Public Notice (CCB/CPD 97-24), respectfully submits these Comments. The Common Carrier Bureau has sought comments in response to Southwestern Bell Telephone Company's ("SWB") request for clarification of the FCC's local exchange carrier ("LEC")/commercial mobile radio service ("CMRS") interconnection rules.[1]

I. Statement of Interest

Best Comm is a relatively small, start-up paging company operating on the 931.2125 MHZ frequency throughout the State of Georgia; it is also an applicant for 929 MHZ frequency licenses throughout Georgia. Merryville's principal, John Knight, Sr., has been in the paging business since 1988, when he founded Sig-Net Paging of Charlotte, Inc.

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[1] The FCC's Part 51 interconnect rules were adopted in "Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, et al.", First Report and Order, CC Docket Nos. 96-98; 95-185 (August 8, 1996), appeal pending, Iowa Utilities Board v. FCC, No. 96-3321, *et seq.* (the "Interconnect Order").

Although Best Comm is not one of the paging companies that is directly involved in the subject interconnect billing dispute with SWB, Best Comm is facing similar problems with the Regional Bell Operating Company (Bell South) that serves its calling areas, and with some independent telephone companies. Despite repeated requests from Best Comm, these LECs have continued to charge Best Comm for local transport of LEC-originated traffic, and, they have even charged Best Comm for local numbers. Hopefully, the FCC's resolution of SWB's questions will establish favorable precedents for, and have an immediate impact on, Best Comm's interconnection arrangements with these LECs. Consequently, Best Comm has standing as a party in interest to submit these Comments.

II. Summary of this Inquiry

SWB has initiated this proceeding to ask the FCC for clarification concerning its LEC/CMRS interconnection rules. In particular, SWB has asked the Bureau to determine: "where in the Commission's rules LECs are permitted to recover costs associated with paging interconnection or, alternatively, whether a change in the rules needs to be made to allow LECs to recover such reasonable costs." (SWB letter to R. Keeney, Chief, April 25, 1997, at p. 4). SWB seems to concede that Rule Section 51.703(b) would preclude LECs from recovering these costs from paging carriers.[2] Nevertheless, SWB suggests that Rule Section 51.709(b) provides

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[2] Section 51.703(b) states in full as follows: "A LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network."

alternative authority for the LECs to charge paging carriers for local traffic "facilities".[3]

Five of the nation's largest paging carriers (the "Paging Companies") have disputed SWB's interpretation of the FCC's Rules and of applicable statutory provisions. They contend that the FCC's Rules do not allow any LECs to charge carriers for "traffic" or "facilities" with respect to LEC-originated local traffic. (Paging Companies' letter to R. Keeney, May 16, 1997, at pp. 4-5). The Paging Companies also characterize SWB's "request for clarification" as an untimely request for reconsideration of Rule Section 51.703(b).

Best Comm concurs with the Paging Companies: the FCC's interconnection rules, and the Communications Act as amended by the Telecommunications Act of 1996, preclude LECs from charging paging carriers for traffic or facilities used to transport LEC-originated local traffic to a paging network. The Bureau should use this proceeding to clarify that LECs cannot charge paging carriers for local transport of LEC-originated traffic, and to clarify some other related issues concerning the FCC's interconnection rules.

III. The Intent of the FCC's LEC/CMRS Interconnection Rules

The FCC's LEC/CMRS interconnection rules accurately reflect the statutory obligations imposed on *all* LECs by the Telecommunications Act of 1996's ("Telecom Act") amendments to the Communications Act of 1934 (the "Act"). In adopting the Telecom Act, Congress sought to break-down the local telephone network to its basic elements, thereby promoting competitive access to that local market. See Conference Report, accompanying Senate Bill 652 (the Telecom

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[3] Section 51.709(b) states in full as follows: "The rate of a carrier providing transmission facilities dedicated to the transmission of traffic between two carriers' networks shall recover only the costs of the proportion of that trunk capacity used by an interconnecting carrier to send traffic that will terminate on the providing carrier's network. Such proportions may be measured during peak periods."

Act). Consistent with that goal, Section 251(b) of the Telecom Act, upon which the FCC's interconnect rules are based in part, states that LECs have the "duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications." See 47 U.S.C. §251(b).

FCC Rule Section 51.703(c) accurately interpreted this statutory provision to mean that, in fulfilling their reciprocal compensation obligations, LECs could not charge other telecommunications carriers (including paging carriers) for traffic that they originate. The FCC concluded that "a LEC may not charge a CMRS provider or other carrier for terminating LEC-originated traffic", and, as of the "effective date" of that FCC Order (August 30, 1996), the LEC "must provide that [LEC-originated] traffic to the CMRS provider or other carrier without charge." [4]

Nevertheless, SWB contends that with respect to LEC/paging traffic, the FCC's rules result in an inequitable situation: paging carriers receive "free" local telephone service, and the LECs have to absorb the costs of landline to paging traffic and facilities. Best Comm disagrees with that entire premise. If the LECs were giving away their local phone services, SWB's conclusions might be valid; however, SWB ignores one essential fact: the LECs charge their local customers for the right to make local calls to paging networks. So, when SWB asks how it will be "permitted to recover [its local calling] costs", the answer should be obvious: the calling party should pay for those costs, just as they pay for any other local calls.

SWB is entitled to recover its legitimate costs in transporting local calls to a paging network or any other called party; but, they have no right to unilaterally transfer the costs of

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[4] Interconnect Order at ¶ 1042 (emphasis added).

those calls to paging carriers. Until recently, LECs routinely billed paging carriers for the *entire* end-to-end call; and many LECs routinely added on to paging carriers' telephone bills monthly recurring charges for telephone numbers, NXX codes, and "call termination" charges. Indeed, in Best Comm's local calling areas, Bell South has continued to engage in these unlawful billing practices. Congress and the FCC intended to eliminate these patently inequitable billing practices beginning in 1993. In amending Section 332 of the Act, Congress explicitly granted CMRS operators "co-carrier" status with the LECs.

The FCC incorporated those statutory requirements into Part 20 of its Rules, which now states in pertinent part as follows: "A local exchange carrier must provide the type of interconnection reasonably requested by a mobile service licensee or carrier, within a reasonable time after the request ...." 47 C.F.R.§ 20.11(a)(1993). Those rules also require LECs to compensate CMRS operators for "terminating traffic that originates on facilities of the local exchange carrier." Id.

Contrary to SWB's assertions, Rule Section 51.709(b) does not provide the LECs with independent authority to charge paging carriers for LEC-originated local traffic *or* facilities. Section 51.709 is a "mutual compensation" rule, which expressly pertains to the "rate structures for transport and termination". This rule simply expresses the FCC's guidelines for calculating what costs may be included in the rates carriers charge each other for traffic that flows *"between"* two carriers' networks. See 47 C.F.R. 51.709(b). Traffic does not flow "between" the LECs and a paging network; it flows only one way, into a paging network; hence, this rule simply does not apply to LEC/CMRS traffic patterns.

Despite these laws that evidently support the Paging Companies' contentions, SWB

seems to be asking the Bureau to reconsider the FCC's LEC/CMRS interconnection rules. Of course, the statutory period for reconsideration of the LEC/CMRS interconnection rules has long since expired, and SWB's request for a, to put it charitably, "different" interpretation of those rules is also untimely. See, *e.g.*, Commercial Realty St. Pete, Inc., 4 CR 1409, ¶ 7 (1996) (opposition of licensee to notice of apparent liability for violation of anti-collusion and IVDS auction rules, challenging the legality of those rules, was an untimely petition for reconsideration); Association of College and University Telecommunications Administrators, 8 FCC Rcd. 1781, ¶¶ 5-6 (1993) (petition for declaratory ruling concerning definition of "call aggregators" was in substance a petition for reconsideration of rule making adopting definition; petition dismissed as untimely where it was filed nearly nine months after the statutory reconsideration deadline).

In addition to the procedural infirmities of SWB's request, SWB is mistaken on the facts. SWB contends that paging carriers are "cost causative" (SWB letter at p. 2, n.2); the facts are to the contrary. Paging "switches" (the paging terminal), installed and maintained at the paging carriers' expense, complete all of these local calls for the LECs at no charge to the LECs. There is simply no other example extant wherein the LECs get a "free ride" on another carriers' facilities; SWB is most certainly compensated for traffic that is terminated on its switches. Indeed, to Best Comm's knowledge, no LEC has ever paid a paging company a single penny for completing any of these local calls. Although the FCC's rules require the LECs to compensate paging carriers for call termination, the LECs have simply ignored that requirement since the rules' passage in 1993.

Also, the majority of paging units in service are used for business purposes. Thus, it is

reasonable to assume that the majority of calls placed to paging units are over "business" lines; SWB presumably reaps substantial message unit revenues from each short-duration call placed to a paging network. It is somewhat disingenuous for SWB to ignore these essential facts in its letters to the Bureau. Moreover, paging "traffic" is probably the most efficient telephone traffic extant, and typically does not require additional LEC facilities expenditures. In short, even if SWB's request for reconsideration of these interconnect rules was not so patently untimely, it is unsupported by any objective facts.

Regardless of what it actually costs the LECs to deliver a call to a paging network, the fact is that as a matter of federal law the LECs are barred from passing those costs on to the terminating carrier. If SWB wants to reconsider its local calling rates in light of federal law and changes in local calling patterns, so be it; nevertheless, it has no right or legal authority to shift those costs to paging carriers.

IV. The FCC Should Order all LECs to Comply with its Rules

Attached hereto are copies of letters sent from BestComm to BellSouth, and BellSouth's response. See Exhibits One -Three, attached hereto. BestComm sent to BellSouth copies of its recent telephone bills; they show that BellSouth continues to bill BestComm monthly local trunking charges for telecommunications traffic that originates on BellSouth's network, in violation of the FCC's rules and Orders. See Exhibit One (BestComm letter to BellSouth, March 20, 1997). In addition, BellSouth is apparently billing BestComm recurring charges for Type 1 and DID numbers. That practice has been contrary to FCC regulations and policies for many years.

BellSouth's response is instructive of the problems facing paging carriers in LEC/CMRS

billing disputes. BellSouth, citing Sections 251 and 252 of the Telecom Act, asked BestComm whether it was requesting "interconnection, services, or network elements" under the Telecom Act. See Exhibit Two (BellSouth letter to BestComm, March 27, 1997). BestComm replied that it was simply asking BellSouth to comply with Parts 20 and 51 of the FCC's rules, and cease from charging BestComm for BellSouth-originated local traffic. See Exhibit Three (BestComm letter to BellSouth, May 13, 1997). BellSouth's tactics seem to be this: rather than immediately comply with the FCC's Interconnection Order, this RBOC hopes to lure paging carriers into interconnection negotiations which, assuming they do not eliminate these unlawful charges, would then proceed to arbitration or mediation proceedings before the local PUC.

BestComm cannot believe that the FCC intended this result when it adopted Section 51.703(b) of its Rules. That rule should be exclusively enforced by the FCC; paging carriers should not have to engage in futile and expense interconnection proceedings before PUCs to get the LECs to comply with the FCC's Orders. BellSouth, like SWB, should be ordered by the FCC to immediately cease and desist from charging paging carriers for transport and termination of LEC-originated traffic within the paging carrier's MTA, and to eliminate all unlawful recurring charges for numbers, including DIDs and NXX codes.

V. The FCC Should Assert Jurisdiction over These Matters

Best Comm firmly believes that the FCC should use this inquiry to remind all LECs that the FCC has primary jurisdiction over LEC/CMRS interconnection disputes, including, but not limited to, disputed interpretations of Part 51 of the FCC's Rules. Many LECs have kowtowed paging carriers into paying these unlawful local charges, by threatening to disconnect their service, or tie them up in local interconnection/arbitration proceedings before local public

utilities commission. In light of the multi-state, wide-area nature of most paging services, this is an invitation to disaster. Assuming the LECs fail to eliminate local calling charges in their proposed interconnection agreements (a fair assumption), paging carriers will be forced to spend enormous amounts of time and money engaged in unnecessary arbitration/mediation proceedings before every public utility commission in which they provide wide-area paging services. That result cannot possibly be squared with the Act, the FCC's Rules, and decades' worth of FCC precedents.

By legislative mandate and historical precedent, LEC/CMRS interconnection terms and conditions are subject to the FCC's primary jurisdiction. If that was not clear to the LECs prior to 1993, the FCC should have eliminated all doubts in its Commercial Mobile Radio Service rulemaking proceedings. Therein it adopted, among other rules, Rule Section 20.11 which states in pertinent part as follows: "A local exchange carrier must provide the type of interconnection reasonably requested by a mobile service licensee or carrier, within a reasonable time after the request ...." See 47 C.F.R.§ 20.11(a)(1993). The FCC therein also stated that any alleged violations of the FCC's interconnection rules could be brought before the FCC in a Section 208 [of the Act] complaint. Id.

Three years prior to the adoption of the Telecom Act, this rule section also required LECs to "pay reasonable compensation to a commercial mobile radio service provider in connection with terminating traffic that originates on facilities of the local exchange carrier." See 47 C.F.R. 20.11(b)(1).

Best Comm and many other carriers have been reluctant to initiate compensation negotiations with the RBOCs and independent LECs, due to the implicit threat that these

negotiations would end up in 50 different "rate" proceedings before 50 different PUCs. SWB's inquiry confirms these fears, and sends a clear signal that some of the RBOCs and LECs will not willingly comply with the FCC's mutual compensation rules. The FCC ought to take this opportunity to remind the LECs that, as with any violation of the FCC's interconnect rules, any violations of the FCC's "mutual compensation" rules could be resolved in formal complaint proceedings before the FCC, and, that such complaints will be expeditiously resolved.

VI. Other FCC Clarifications are Needed

SWB's inquiry raises related questions that the FCC should resolve in this proceeding. For example, there is considerable dispute between LECs and CMRS operators as to the applicable effective date for FCC Rule Section 51.703(b). Clarification of this issue will have an enormous impact on the credits owed by LECs to paging carriers for local transport charges. Most of the LECs have taken the position that this rule was at least temporarily stayed by the Eighth Circuit Court of Appeals, and that the "Effective Date" should not be until November 1, 1996, when that stay was lifted.

Best Comm disagrees with that position, and submits that this interconnection rule became effective when published by the FCC. First of all, the Eighth Circuit has never explained whether its "temporary stay" of Rule Section 51.703(c) was inadvertent or not; hence, the LECs cannot legitimately argue that there has been some adjudication of this issue. Moreover, the LECs did not appeal this particular interconnection rule (indeed, they did not even address this rule until CMRS intervenors asked the Court to lift the stay regarding the LEC/CMRS rules). Consequently, the LECs cannot sincerely argue that they are entitled to a 30-60 day "credit" from local transport charges, since they never asked for relief from this FCC

Rule. The FCC should clarify that its local transport interconnect rules became effective on their publication date.

Also, the FCC did not previously answer another LEC/paging interconnect question posed by some of the Paging Companies. Some carriers had previously asked the Bureau whether the FCC would enjoin a LEC from disconnecting service if a paging carrier stopped paying these unlawful local transport charges. The Bureau never answered that question. An answer to that question seems particularly necessary and appropriate in light of this on-going payment dispute between the Paging Companies and SWB, and in light of BellSouth's response to BestComm's request that it cease from charging for local trunks.

Best Comm and other paging companies have continued to pay these LECs, under protest, because the LECs did not voluntarily stop charging for local traffic/transport. The FCC should take this opportunity to clarify how the FCC will assist paging carriers in obtaining rebates or credits for these payments, dating back to the effective date of the FCC's interconnection rules. For instance, it would make little sense, and squander substantial agency and carrier resources, if paging carriers were required to file formal Section 208 Complaints before the FCC to recover these back-payments for local transport. A more equitable and reasonable solution would be for the FCC to simply issue a public notice to all LECs ordering them to credit paging carriers for these charges as of the effective date of the FCC's rules.

Conclusion

For all the foregoing reasons, Best Comm respectfully requests that the Bureau order all LECs to immediately cease and desist from charging paging carriers for local transport of LEC-originated traffic, and order the LECs to credit or issue rebates to all paging carriers for these charges dating back to the effective date of the FCC's LEC/CMRS interconnection rules, and to take such other actions as are consistent with the forgoing comments.

Respectfully submitted,

MERRYVILLE INVESTMENTS, Inc.
d/b/a BEST COMMUNICATIONS

By: _____
Frederick M. Joyce
Its attorney

JOYCE & JACOBS, Attorneys at Law, LLP
1019 19th Street, N.W.
14th Floor, PH #2
Washington, D.C. 20036
(202) 457-0100

Date: June 13, 1997

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CERTIFICATE OF SERVICE

I, Regina Wingfield, a legal secretary in the law firm of Joyce & Jacobs, Attys. at Law, LLP, do hereby certify that on this 13th day of June, 1997, copies of the foregoing Comments of Best Communications were mailed, postage prepaid, to the following:

Ms. Wanda Harris* (2 Copies)
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, DC 20554

Kathleen Abernathy
AirTouch Communications, Inc.
1818 N Street, N.W., 8th Floor
Washington, D.C. 20036

Mark A. Stachiw
AirTouch Paging
12221 Merit Drive
Suite 800
Dallas, TX 75251

Regina Keeney, Chief*
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Rob Hoggarth
Angela Giancarlo
PCIA
Personal Communications Industry Association
500 Montgomery Street, Suite 700
Alexandria, VA 22314-1561

ITS *
1919 M Street, N.W., Room 246
Washington, DC 20554

Cathleen A. Massey
AT&T Wireless Services, Inc.
1150 Connecticut Ave., N.W., 4th Floor
Washington, D.C. 20036

Judith St. Ledger-Roty
Kelley, Drye & Warren, LLP
(for Page Net, Inc.)
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036

Edward Krachmer*
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, D.C. 20554

Paul E. Dorin, Esq.
Southwestern Bell Telephone
One Bell Center, Room 3534
St. Louis, MO 63101

Regina Wingfield

Regina Wingfield

* Denotes Hand Delivery

EXHIBIT ONE

JOYCE

JACOBS

ATTORNEYS AT LAW LLP

March 20, 1997

via Certified Mail/Return Receipt

David M. Falgoust, Esq.
Legal Department - Suite 4300
Bell South Telecommunications, Inc.
675 Peachtree Street
Atlanta, GA 30375

Re: Best Communications/BellSouth Interconnection

Dear Mr. Falgoust:

On behalf of Best Communications, Inc. ("BestComm"), a local paging company, we are writing to you concerning BellSouth's charges to BestComm for local telecommunications traffic. Attached hereto are copies of BestComm's recent telephone bills from BellSouth. They show that BellSouth continues to bill BestComm monthly local trunking charges for telecommunications traffic that originates on BellSouth's network, in violation of Federal Communications Commission ("FCC") rules and Orders. In addition, BellSouth is apparently billing BestComm recurring charges for Type 1 and DID numbers. That practice has been contrary to FCC regulations and policies for many years.

By this letter, BestComm hereby formally requests that BellSouth cease and desist from charging BestComm for local transport and termination, and, that BellSouth enter into a new interconnection agreement with BestComm that is consistent with the FCC's recent rules and orders, and Section 252 of the Telecommunications Act of 1996 (the "Telecom Act"). In particular, we would expect that new BellSouth/BestComm interconnection agreement to eliminate all local transport and termination charges, and eliminate all monthly recurring charges for telephone numbers. The following authorities support such revisions.

As you are probably aware, the FCC recently adopted its First Report and Order ("Interconnect Order") and enacted several new rules, to begin implementing the local competition provisions and interconnection provisions of the Telecom Act. Although the U.S. Court of Appeals for the Eight Circuit has "stayed" certain aspects of the FCC's Interconnect Order, the FCC's Rules and those aspects of the Interconnect Order that govern LEC/CMRS interconnection arrangements were expressly exempted from that stay order.

The FCC made several findings that are of particular relevance to BestComm/BellSouth's

INTERNET: jandjlaw@aol.com

Main Office
1019 19th Street, NW
Fourteenth Floor

Potomac, MD.
Alexandria, VA

interconnection arrangements. First, the FCC declared that "LECs are obligated ... to enter into reciprocal compensation arrangements with all CMRS providers, including paging providers, for the transport and termination of traffic on each other's networks ...."[1] The FCC concluded that any CMRS provider that is operating under an interconnection agreement that was entered into prior to August 8, 1996, may renegotiate that contract if the agreement does not provide reciprocal compensation. The FCC noted that the LECs' "mutual compensation" obligations predate the Telecom Act, and are required under Section 20.11 of the FCC's rules.[2]

Second, the FCC concluded that "a LEC may not charge a CMRS provider or other carrier for terminating LEC-originated traffic", and, as of the "effective date" of that FCC Order (August 30, 1996), the LEC "must provide that [LEC-originated] traffic to the CMRS provider or other carrier without charge." [3]

Third, the FCC defined "local" traffic to include CMRS/LEC traffic that originates and terminates within the same Major Trading Area ("MTA"). See 47 C.F.R.§ 51.701(b)(2). Thus, BestComm's "local" calling area might now be substantially larger than the applicable LATA boundaries that BellSouth has employed in the past.

In a related Order, the FCC concluded that LECs must "provide telephone numbers to permit competing providers access to these numbers that is *identical* to the access that the LEC provides to itself."[4] The FCC determined that the LECs' non-discriminatory access to number obligations apply to CMRS service providers.

Recently, the FCC's Common Carrier Bureau reaffirmed in writing, in response to inquiries from various paging companies, that "a LEC is prohibited by section 51.703(b) [of the FCC's Rules] from assessing charges on CMRS providers 'for local telecommunications traffic that originates on the LEC's network.'" See R. Keeney, Chief, Common Carrier Bureau, March 3, 1997 letter, attached hereto as Attachment One.

With regard to monthly number charges, the FCC has held for more than a decade that

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[1] "Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, et al.", First Report and Order, CC Docket Nos. 96-98; 95-185 at ¶ 1008 (August 8, 1996).

[2] Id. at ¶ 1094.

[3] Id. at ¶ 1042 (emphasis added).

[4] Second Report and Order and Memorandum Opinion and Order, CC Docket No. 96-98, et al., at ¶ 106 (August 8, 1996)(emphasis added).

"telephone companies may not impose recurring charges solely for the [radio common carrier's] use of NXX codes and telephone numbers." See e.g., Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services, 63 RR 2d 7 (1987) (citations omitted). Telephone companies are forbidden from charging anything more than a "reasonable initial connection charge" to cover the costs of assigning new numbers. Id.

In short, effective at least as of last fall, BellSouth should have ceased and desisted from billing BestComm for any local LEC/landline based termination or transport charges (such as those assessed under Type 1, Type 2 and Type 3 service agreements), including "trunking" charges, and, BellSouth, must cease and desist from assessing monthly recurring charges for all telephone numbers. These new service terms and conditions should be contained in an interconnection agreement, as required by the Telecom Act. Please forward to us a copy of an interconnection agreement that contains these terms. If BellSouth will not negotiate such an agreement and intends to continue assessing these unlawful charges, please let us know as soon as possible so that BestComm may initiate the legal remedies available to it under the Telecom Act and the FCC's Rules.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact BestComm's undersigned attorneys.

Sincerely,

Frederick M. Joyce
Counsel to Best Communications

FMJ/rw
cc: John Knight, Pres.
Paul Platus, Regional Manager/Wireless Interconnection

EXHIBIT TWO

David M. Falgoust
General Attorney

BellSouth Telecommunications, Inc.
Legal Department - Suite 4300
675 West Peachtree Street
Atlanta, Georgia 30375-0001
Telephone: 404-335-0767
Facsimile: 404-614-4054

March 27, 1997

Via Facsimile and Certified Mail/Return Receipt

Frederick M. Joyce, Esq.
Joyce & Jacobs
1019 19th Street, NW
Fourteenth Floor
Washington, DC 20036

Re: Best Communications/BellSouth Interconnection

Dear Rick:

I have received your letter to me dated March 20, 1997 concerning Best Communications, Inc.'s (Best) interconnection arrangement with BellSouth Telecommunications, Inc. In order to avoid any misunderstanding, please confirm at your earliest convenience whether your letter constitutes a request by Best for interconnection, services, or network elements pursuant to sections 251 and 252 of the Telecommunications Act of 1996.

Thanking you in advance for your prompt attention to this matter, I am

Very truly yours,

David M. Falgoust

cc: Mr. Randy Ham

EXHIBIT THREE

JOYCE
JACOBS

May 13, 1997

via Certified Mail/Return Receipt

David M. Falgoust, Esq.
Legal Department - Suite 4300
Bell South Telecommunications, Inc.
675 Peachtree Street
Atlanta, GA 30375

Re: Best Communications/BellSouth Interconnection

Dear Mr. Falgoust:

You have asked for clarification concerning Best Communications, Inc.'s ("BestComm"), March 20, 1997 request for interconnection, and whether that request is for "interconnection, services, or network elements pursuant to sections 251 and 252 of the Telecommunications Act of 1996" ("Telcom Act"). Allow me to clarify BestComm's request.

BestComm is a commercial mobile radio service ("CMRS") provider. Hence, its interconnection request does not stem from any of the Telcom Act's recent statutory provisions. Rather, BestComm's interconnection request was made pursuant to Section 20.11 of the FCC's Rules, which states in pertinent part as follows: "A local exchange carrier must provide the type of interconnection reasonably requested by a mobile service licensee or carrier, within a reasonable time after the request ...." 47 C.F.R. § 20.11(a)(1993). The manner in which LECs must honor CMRS interconnection requests is addressed in FCC Rule Part 51, *et seq.*, and was explained in our previous letters to BellSouth.

As compared to the Telcom Act's provisions to which you alluded in your letter, the FCC expressly states in Part 20 of its rules that CMRS carriers may file formal complaints with the FCC for any LEC violations of its LEC/CMRS interconnection rules. Id. Those rules also require LECs to compensate CMRS operators for "terminating traffic that originates on facilities of the local exchange carrier." Although we are certainly not anticipating any problems with BellSouth in this matter, any questions concerning BellSouth's compliance with the FCC's CMRS/LEC interconnection rules will be brought before the FCC, not before a state PUC arbitration panel.

To repeat BestComm's request: BestComm has requested that BellSouth provide it with Type 1 and DID interconnect service, and that it immediately cease from charging BestComm

INTERNET: jandjlaw@aol.com

Main Office
1019 19th Street, NW
Fourteenth Floor
Washington, DC 20036

Potomac, MD
Alexandria, VA

for all traffic that originates on BellSouth's "facilities" and terminates at BestComm's paging network. BellSouth should also cease from charging BestComm any recurring charges for local telephone numbers, as required by the FCC's Rules and its Interconnection Order. We are indifferent as to whether BellSouth provides these services pursuant to an interconnection agreement, or, by revising its Tariffs to delete any previously applicable interconnection charges.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact BestComm's undersigned attorneys.

Sincerely,

Frederick M. Joyce
Counsel to Best Communications

FMJ/rw
cc: John Knight, Pres.
Paul Platus, Regional Manager/Wireless Interconnection