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**BELLSOUTH**

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March 25, 1998

EX PARTE

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, NW, Room 222  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: CC Docket No.96-262

Dear Ms. Salas:

Yesterday, Bill Taylor from NERA and Pete Martin and the undersigned representing BellSouth met with Rich Lerner, Tamara Preiss, Aaron Goldschmidt, Jay Atkinson, Jason Kerben and David Konuch of the Common Carrier Bureau and Mike Riordan and Pat DeGraba of the Office of Plans and Policy to discuss the need for pricing flexibility for interstate access services. The attached material was discussed during these meetings. Dr. Taylor addressed the need for pricing flexibility, the principles for pricing flexibility and triggers for pricing flexibility. Mr. Martin addressed BellSouth's proposal for pricing flexibility.

Pursuant to Section 1.1206(a)(2) of the Commission's rules, two copies of this notice are filed.

Please call me if you have any questions.

Yours truly,



W.W. (Whit) Jordan  
Vice President - Federal Regulatory

Attachment

cc: Rich Lerner	Tamara Preiss
Aaron Goldschmidt	Mike Riordan
Pat DeGraba	Jay Atkinson
Jason Kerben	David Konuch

No. of Copies rec'd CIT 2  
List ABCDE

# The Need for Pricing Flexibility

- Competition comes in different degrees for different services in different geographic markets.
- Regulation must adapt twice in each service and geographic market:
  - when market is opened to competition
  - when market forces prevent the exercise of market power.

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# The Need for Pricing Flexibility

- Actual and potential market developments for switched and special access
  - spread of facilities-based competition, particularly for special access and high capacity services.
  - increased potential competition from removal of entry barriers due to availability of UNEs.

# Pricing Flexibility Principles

- Imperfect competition is better than imperfect regulation.
- Delayed flexibility is costly in terms of efficiency.
- Competition is important; competitors--incumbents and entrants--are not.
- Prices should approximate market levels under competitive conditions.

# BellSouth's Market Based Access Reform Proposal

<u>Baseline (Immediately)</u>	<u>Phase 1 (Potential Competition)</u>	
<u>Baseline Reforms</u>	<u>Triggers</u>	<u>Reforms</u>
<ol style="list-style-type: none"> <li>1. Minimum Part 69 rate structure requirements which provides the ability to offer alternative or optional service packages, rebundling of services, etc., and which eliminates inefficient limitations on services.</li> <li>2. New services filing relief. No public interest or other requirements. Core rate structure maintained.</li> <li>3. Geographic deaveraging of Multi-line business rates (SLC, PICC and residual per minute charge).</li> </ol>	<ol style="list-style-type: none"> <li>1. Availability of unbundled network rate elements pursuant to state approved contract or arbitration agreements.</li> <li>2. Transport and termination charges based on additional cost of transporting and terminating another carrier's traffic pursuant to state approved contract or arbitration agreements.</li> <li>3. Wholesale prices for retail services excluding marketing, billing, collection, and other costs that will be avoided by the LEC pursuant to state approved contract or arbitration agreements.</li> <li>4. Interconnection pursuant to state approved contract or arbitration agreements.</li> <li>5. Access to Operational Support Systems, such as:               <ul style="list-style-type: none"> <li>- Companies certify that their systems can handle 5,000 orders per day.</li> </ul> </li> <li>6. At least 5 competitors certified to provide local service in a state. [Vary based on MSA characteristics in state.]</li> </ol>	<ol style="list-style-type: none"> <li>1. Geographic deaveraging of all carrier access charges not previously addressed.</li> <li>2. Volume and term discounts.</li> <li>3. Contract tariffs through individual RFP responses.</li> <li>4. Price cap services afforded minimal or no Part 69 rate element codification requirements.</li> <li>5. Price cap services afforded simplified price cap basket and banding structure treatment.</li> </ol>

# BellSouth's Market Based Access Reform Proposal

<u>Phase 2 (Actual Competition)</u>		<u>Phase 3 (Substantial Competition)</u>	
<u>Triggers</u>	<u>Reforms</u>	<u>Triggers</u>	<u>Reforms</u>
<p>Demonstrated evidence of competition:</p> <p><u>Transport (including HICAP special access)</u></p> <p>1. Minimum of 4 facilities based competitors in an area (area based on a grouping of wire centers or exchanges designated by the LEC).</p> <p><u>Or</u></p> <p>1. 50% of the demand in an area is addressable by competitors and at least 1 customer is utilizing a competitive alternative.</p> <p><u>Or</u></p> <p>3. Number of DS1 equivalent cross connects is greater than 5% of the total DS1 equivalent demand in a given area.</p> <p><u>Switching</u></p> <p>1. At least 4 operational CLECs in an area (area based on a grouping of wire centers or exchanges designated by the LEC).</p> <p><u>Or</u></p> <p>2. At least 18 months have passed since 2 competitors have begun operation in a designated area.</p> <p><u>Or</u></p> <p>3. There is at least 1 competitor network with switching capability serving the area.</p>	<p>1. Services removed from price cap regulation for the given area.</p> <p>2. No cost support requirements.</p>	<p>Demonstrated evidence of substantial competition:</p> <p>Illustrative example for transport (including HICAP special access): <u>(Satisfy 1 below)</u></p> <ul style="list-style-type: none"> <li>• At least 4 fiber optic based competitors are operating in the defined area, and dry fiber is offered allowing buildout to any customer in the defined area.</li> <li>• Competitors have capacity to immediately take 50% of the ILEC's HICAP demand in the given area, or the ability to upgrade their networks to capture 100% of ILEC's HICAP demand within 6 months.</li> <li>• Competitors are using collocation in wire centers that collectively have at least 75% of the DS1 equivalent demand in the defined area.</li> <li>• Competitors have taken at least 25% of the demand, on a DS1 equivalent basis, within the defined area, or have increased market share by 5% within a recent 6 month period.</li> <li>• Competitors have at least 1000 DS1 equivalent cross-connects within the defined area, comprising at least 10% of the demand within the area.</li> </ul> <p>This would satisfy Section 10(a) of the 1996 Act (just and reasonable rates, consumer protection, and in the public interest) pursuant to an affirmative finding by the FCC based upon filed forbearance petitions.</p>	<p>1. Forbearance from remaining regulations.</p>

# Triggers for Pricing Flexibility

- For Phase I: is the market open?
  - Triggers:
    - ease of entry in theory or fact
  - Relief:
    - geographic deaveraging,
    - volume and term discounts,
    - contract tariffs through RFPs,
    - basket reform.

# Triggers for Pricing Flexibility

- For Phase II: does actual competition constrain market pricing?
  - evidence of actual competition
  - sufficient addressable capacity of entrants to ensure competitive market pricing.

# Specific Triggers for Special Access Forbearance

- Markets with no regulatory or technical barriers to entry.
- Minimal need for ubiquity: less reliance on UNEs and interconnection.

# Specific Triggers for Special Access Forbearance

- Criterion is absence of market power.
- BUT:
  - need objective trigger rather than full market power showing in each service/geographic market.
  - key to absence of market power is supply elasticity:
    - capacity adjusted for addressability
    - accounting for skewed nature of demand

# Forbearance for HICAP Services

- 4 fiber-based competitors and dark fiber available to reach any customer.
- Competitors have current capacity to serve 50% of ILEC demand and ability to serve 100% within 6 months.
- Competitors collocate in wire centers that collectively serve 75% of DS1-equivalent demand.

# Forbearance for HICAP Services

- Competitors serve at least 25% of DS1-equivalent demand or have increased market share by 5 percentage points within a 6 month period.
- Competitors have at least 1000 DS1-equivalent cross-connects, serving at least 10% of demand.

**COMPETITIVE INFORMATION ON HICAP SERVICES IN SELECTED  
BELLSOUTH-SERVED MARKETS**

**Table 1. Competitive Presence and Capacity Share Impact**

<b>Competition Measure/Indicator</b>	<b>Atlanta Market</b>	<b>Miami (S. Florida) Market</b>
CAP/CLEC Competitor	MFS/WorldCom MCI Metro Media One (ATI) ICG WinStar TCG (entering) Others (ICI, US LEC, MGCC, MFN, Kiewit)	MFS/WorldCom MCI Metro Media One TCG ICI WinStar DeltaCom
BellSouth Share of HICAP (Overall) in 2Q97, and Change in Share from 3Q96	65.9%, -4.0%	71.4%, -4.7%
BellSouth Share of Special Access in 2Q97, and Change in Share from 3Q96	64.0%, -4.5%	68.9%, -5.3%
BellSouth Share of Point-to-Point in 2Q97, and Change in Share from 3Q96	70.7%, -2.4%	76.8%, -2.9%

**Table 2. Indicators of Competitor Entry and Performance**

<b>Performance Indicator</b>	<b>Atlanta Market</b>		<b>Miami (S. Florida) Market</b>	
	<b>CAP/CLEC</b>	<b>Performance</b>	<b>CAP/CLEC</b>	<b>Performance</b>
Route Miles	MFS	150 existing; 20 under construction	MFS	65 existing; more under construction
	MCI Metro	70 existing; 15 under construction	MCI Metro	30 existing; 25 under construction
	Media One	1,000 existing; 5,000 under construction	TCG	400 existing; more under construction
	ICG	100 under construction	ICI	10 existing
Fiber Optic Architecture	MFS	3 SONET backbone loops; 1 under construction	MFS	5 SONET backbone loops; 1 fiber ring under construction
	MCI Metro	3 SONET rings	MCI Metro	1 SONET loop; 1 under construction
	Media One	Hybrid Fiber/Coax network	TCG	SONET cable and aerial leased cable
	WinStar	30 licenses in 38 GHz bandwidth (wireless fiber)	ICI	3 SONET backbone loops
Office Buildings Connected	MFS	Approx 170		
	MCI Metro	Approx 115		
	Media One	Can serve significant majority of large office centers in metro area		
NXX Codes Activated	MFS	9 (90,000 numbers)		
	MCI Metro	26 (260,000 numbers)		
	Media One	10 (100,000 numbers)		