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WILLKIE FARR &amp; GALLAGHER

Mr. Tolson  
Mr. Ladd  
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Mr. Sullivan  
Mr. Tavel  
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Tele. Room  
Miss Holmes  
Miss Gandy

EX PARTE

RECEIVED

May 20, 1998

MAY 20 1998

Federal Communications Commission  
Office of Secretary

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

Re: Ex Parte Filing - CC Docket No. 96-115

Dear Ms. Salas:

The Association of Directory Publishers ("ADP") hereby brings to the Commission's attention the following materials demonstrating that BellSouth supports incremental cost pricing (plus a 1,300% profit) for basic subscriber list information ("SLI"). ADP also includes a Prehearing Statement of the Louisiana PSC Staff recommending rejection of BellSouth's tariff for updates because such tariff was not based on cost.

**A. BellSouth Has Stated That Incremental Cost is the Correct Starting Point For Pricing Subscriber List Information.**

BellSouth offers SLI via tariff in Florida, Louisiana, Mississippi, and Kentucky. As shown below, BellSouth uses incremental cost pricing (pus an unreasonable 1,300% profit) for basic SLI in those four states.

Shortly after BellSouth filed its prospective SLI tariff (the "DPDS tariff") in Florida, the Florida PSC filed a data request asking: (1) the methodology which BellSouth used to calculate its prices; (2) whether such methodology was appropriate; and (3) what specific costs went into the tariff. See Exhibit A. BellSouth responded by informing the PSC that "[i]ncremental cost methodology was used to develop costs for DADS [Directory Assistance] and DPDS." See Exhibit B at 2. According to BellSouth, "[p]rices for discretionary services should be set at a level which at least covers the direct costs incurred, therefore incremental cost methodology provides the proper test for pricing decisions." Id. (emphasis added).

Three Lafayette Centre  
115 21st Street, NW  
Washington, DC 20036-3384  
202 328 8000

Telex: RCA 229800  
WF 69 2762  
Fax: 202 887 8979

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In its attached cost study, BellSouth reiterated that point: "[t]his cost study is performed to identify the incremental cost of Directory Assistance Database Service (DADS) and Directory Publishers Database Service (DPDS)." Id. at 3 (emphasis added). BellSouth explained that the "cost of both services includes, where appropriate, the labor cost for system development and maintenance, computer processing cost for to produce the listing data, and material/packaging [and] delivery cost[s] for the magnetic and paper media." Id. at 5. BellSouth also provided information as to the methods employed to estimate (1) the number of programmer hours for program development, (2) the computer processing unit hours for extracts, and (3) material costs for tapes and paper output along with delivery. Id. at 3. These estimates yielded an incremental cost of 0.003¢ per basic listing. Id. at 5.

Similar information was provided concerning the pricing of BellSouth's update offering. According to BellSouth, the "costs associated with providing [] Daily Updates are auditing costs, program maintenance, data processing, tape packaging and delivery and gross receipts tax." Id. at 21.

**B. SLI Prices Must Be Cost Based; BellSouth's New Update Offerings Are Not Cost-Based.**

ADP has noted previously that BellSouth is offering new update services in Florida that are not cost-based (daily updates are \$1.50 and new connects \$2.00 per listing) and therefore fail to conform to Section 222(e). Recently, BellSouth sought to offer these same new update services in Louisiana. On May 11, 1998, the Louisiana PSC Staff stated that BellSouth's new SLI updates tariff "should be rejected because the prices are not cost based." See Exhibit C (emphasis added). According to the Staff:

Section 222(e) of the Act, 47 U.S.C. § 222(e), mandates that local exchange carriers such as BellSouth provide their subscriber list information to telephone directory publishers at "reasonable rates," terms and conditions. The Federal Communications Commission has consistently held that a reasonable rate is one based on cost. On the issue of cost, the Staff

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adopts the position of the Intervenors in recommending to the Commission that the DPDS Tariff should be rejected because the prices are "overpriced, anti-competitive and unreasonable."

Id. Given the above, it is clear that the Commission must issue rules stating that SLI prices must be cost based.

**C. BellSouth's Discriminates Among Publishers By Charging Different Rates in Different States.**

As shown in Exhibit D, BellSouth discriminates in the pricing of its Weekly Business Activity Report ("WBAR").<sup>1</sup> In those states where it sells SLI under tariff -- Florida, Louisiana, Mississippi, and Kentucky -- BellSouth charges .006 cents per listing. In five other states -- Alabama, Georgia, North Carolina, South Carolina, and Tennessee -- BellSouth charges .09 cents per listing plus a processing fee of \$100 per NXX. See Exhibit D. In short, BellSouth discriminates based upon the State for which the WBAR request is made. Such pricing violates Section 222(e)'s prohibition on discriminatory rates and must be forbidden by the Commission in its Report and Order in this docket.

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<sup>1</sup> The WBAR is a report containing every listing in the NXX. By comparing the WBAR to the previous WBAR or base file, a publisher may discern what changes, if any, have occurred during the week, *i.e.*, new listings, change of address, etc.

Ms. Magalie Roman Salas  
May 20, 1998  
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Pursuant to the Commission's rules, two copies of this document are being filed with your office. Should you or the Commission staff require further information concerning the attached documents, please feel free to contact the undersigned at (202) 429-4786.

Sincerely,



Michael F. Finn

Enclosure

cc: Jim Schlichting  
Richard Welch  
Bill Kehoe  
Pat Donovan  
Jay Atkinson  
Doug Galbi  
Dave Konuch  
Tanya Rutherford  
Dorothy Attwood

# **EXHIBIT A**

**State of Florida**



*\* Important*  
Commissioners:  
J. TERRY DEASON, CHAIRMAN  
THOMAS M. BEARD  
SUSAN F. CLARK  
LUIS J. LAUREDO  
JULIA L. JOHNSON

DIVISION OF COMMUNICATIONS  
WALTER D'HAESELEER  
DIRECTOR  
(904) 488-1280

**Public Service Commission**

January 25, 1993

George Frazee  
Southern Bell Telephone  
and Telegraph Company  
150 South Monroe Street, Suite 400  
Tallahassee, FL 32301-1556

Dear Mr. Frazee:

With reference to Docket Number 921317-TL - Proposed tariff filing to add Directory Assistance Database (DADS) and Directory Publishers Database Service (DPDS) by Southern Bell Telephone and Telegraph Company (T-92-927 filed October 29, 1992), please respond to the following data request:

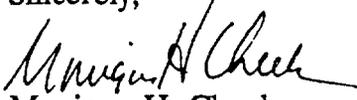
1. What are all the costs for providing DADS and DPDS. Provide the cost study.
2. How were these costs developed (i.e., method) and why are they appropriate.
3. Explain how DADS and DPDS work independently and dependently.
4. Can a customer subscribe to DPDS and not subscribe to DADS? Why or Why not.
5. Provide a working example of ~~how~~ DADS and DPDS.
6. Is this service offered in any other states? If so where and what is the rate structure.
7. Provide a sample of a customer bill.
8. How does a customer access DADS and DPDS?
9. Provide a network diagram DADS and DPDS?

January 25, 1993  
Mr. Frazee  
Page Two

10. What prevents a customer from reselling DPDS for purposes of solicitation?
11. Are the data bases strictly limited to COs and not geographical areas. If so, explain why.
12. DADS and DPDS was not proposed in your over earning review. Why.
13. What is included in the administrative fee? Provide a breakdown of all administrative costs.
14. Do you consider DA (411, HNPA, FNPA) a competitive service? Why.
15. Do you consider directory assistance access service a competitive service?
16. Section A38, Original page 3 of the proposed tariff, it states, "Prior to receipt of the Base File the customer must provide the Company with a written plan outlining the method used to record and accumulate the amount of usage to be reported to the Company." How will this usage be determined?
17. When a customer subscribes to DPDS, who produces the directory, Southern Bell or the customer?
18. Why is Southern Bell proposing a 12 month minimum subscription period?

Please provide your responses no later than February 8, 1993.

Sincerely,

  
Monique H. Cheek  
Rates, Economics, and  
Policy and Planning

cc: Barbara Bailey

Date: 2/19/93

Memorandum To: George Frazee, Regulatory/Florida

From: Terry Orman, Regulatory/Pricing

Subject: Answer to Florida Staff's DADS/DPDS Question

Q1. What prevents a DPDS customer from using DPDS data for the purpose of providing DA Type service, which is reserved to customers who subscribe to DADS? How do the data provided by DPDS and DADS differ?

A1. The only measures which Southern Bell can take and has taken to prevent a customer from using DPDS for purposes reserved for DADS customers are restrictions stated in the tariff. There is no practical way that the Company can implement technical restrictions. A customer could, in violation of the tariff, provide directory assistance type services using DPDS data. If DPDS customer used DPDS data to provide DA Type services, his DA service would not be on a par with the DA service provided by Southern Bell because DPDS data is not updated on a daily basis.

The format of the listing information provided via DADS and DPDS are not the same. The DADS and DPDS databases are created via extractions from the same source, but differ in the following ways:

1. DADS provides the following: Listed Name, Listed Address, Telephone Number, Account NPA, Account NXX, Exchange Code, Date of Extract, Directory Indicator, Directory Name, Unique Bus/Res/Gov Indicator and Phrase Codes.
2. DPDS provides the following: Listed Name, Listed Address, Listed Telephone Number, Billing Name, Billing Address and Primary Business Classification.
3. DADS is updated daily while there is no update for DPDS.
4. DPDS has an optional Business Weekly Activity Report.

Please call me if you have a question concerning this response.

Terry (via e-mail)

# **EXHIBIT B**



**Southern Bell**

Suite 400  
150 South Monroe Street  
Tallahassee, Florida 32301-15561  
904 222-1201  
FAX 904 222-8640

**Marshall M. Criser III**  
Operations Manager  
Regulatory Relations

8 February 1993

Mr. Walter D'Haeseleer  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32399-0866

Re: DADS and DPDS Data Request

Dear Mr. D'Haeseleer:

Attached is Southern Bell's response to the above noted request.

If I can be of any further assistance, please advise.

Yours very truly,

*for* Operations Manager - Regulatory Relations

Attachment

COST STUDY  
DIRECTORY ASSISTANCE DATABASE SERVICE  
DIRECTORY PUBLISHERS DATABASE SERVICE

\*

1. Introduction and Overview

This cost study is performed to identify the incremental cost of Directory Assistance Database Service (DADS) and Directory Publishers Database Service (DPDS).

DADS provides a base file of directory listings and a daily update file of directory listing changes. These files are provided by Central Offices (by central office prefix, i.e., NNX) via magnetic media. This data is intended for customers providing alternate directory assistance service.

DPDS provides an extract of directory listings by requested Central Offices (by central office prefix, i.e., NNX). It also provides optional weekly reports of Central Office Business Activity.

The cost of both services includes, where appropriate, the labor cost for system development and maintenance, computer processing cost to produce the listing data, and material/packaging/delivery cost for the magnetic and paper media.

\* 3. Description of Procedures

The estimated programmer analyst's hours for program development was divided by the number of requests over the initial three years to develop the average hours per file/extract. Similarly, the annual maintenance hours were divided by the average annual requests. The respective software costs were produced by multiplying these results by the appropriate directly assigned labor cost.

The Computer Processing Unit (CPU) hours required for the extracts were multiplied by the CPU cost per hour to develop the data processing costs

Material cost for the magnetic tapes and the paper output, along with delivery, were added to the software and data processing costs. This result was divided by the average listings that will be billed each month to produce the cost per listing for each service.

For the Weekly Business Reports, the CPU hours were negligible.

DIRECTORY ASSISTANCE DATABASE SERVICE (DADS)  
DIRECTORY PUBLISHERS DATABASE SERVICE (DPDS)  
1993 INCREMENTAL UNIT COST

STATE: FLORIDA  
DATE: 04 JAN 1993  
SUMMARY

=====

DADS  
BASE FILE

COST PER LISTING \$0.001

FILE UPDATES

COST PER CO FILE PER MONTH \$11.81



DPDS

CENTRAL OFFICE EXTRACT  
COST PER LISTING \$0.003

BUSINESS ACTIVITY REPORT  
COST PER LISTING \$0.004

LINE	DESCRIPTION	SOURCE	AMOUNT
----- CENTRAL OFFICE EXTRACT -----			
1	PROGRAM DEVELOPMENT, HOURS PER CO EXTRACT		0.51
2	DIRECTLY ASSIGNED LABOR COST PER HOUR		\$44.35
3	PROGRAM DEVELOPMENT COST PER CO EXTRACT	LN1xLN2	\$22.62
4	PROGRAM MAINTENANCE, HOURS PER CO EXTRACT		
5	DIRECTLY ASSIGNED LABOR COST PER HOUR		0.75
6	PROGRAM MAINTENANCE COST PER CO EXTRACT	LN4xLN5	\$44.35 \$33.26
7	DATA PROCESSING COST PER CO EXTRACT		\$17.25
8	MAG TAPE, PACKAGING AND DELIVERY COST PER CO EXTRACT		\$39.00
9	GROSS RECEIPTS (GRT) TAX		1.0138
10	TOTAL COST PER CO EXTRACT	(LN3+LN6+LN7+LN8)LN9	\$113.68
11	AVERAGE LISTING PER CO EXTRACT		35,900
12	TOTAL COST PER LISTING	LN10/LN11	\$0.003
----- CENTRAL OFFICE BUSINESS ACTIVITY REPORT -----			
13	ADMINISTRATION, PACKAGING AND DELIVERY COST ASSOCIATED WITH LISTING PRINTOUT PER CO BUSINESS ACTIVITY REPORT		\$129.39
14	TOTAL COST PER CO BUSINESS ACTIVITY REPORT	LN13xLN9	\$131.18
15	AVERAGE LISTINGS PER CO EXTRACT		35,900
16	TOTAL COST PER CO LISTING	LN14/LN15	\$0.004

DIRECTORY ASSISTANCE DATABASE SERVICE (DADS)  
1993 INCREMENTAL UNIT COST

STATE: FLORIDA  
DATE: 04 JAN 1993  
WORKPAPER 1  
PAGE 1 OF 1

LINE	DESCRIPTION	SOURCE	AMOUNT
	BASE FILE		
1	PROGRAM DEVELOPMENT, HOURS PER CO FILE		0.13
2	DIRECTLY ASSIGNED LABOR COST PER HOUR		\$44.35
3	PROGRAM DEVELOPMENT COST PER CO FILE	LN1xLN2	\$5.77
4	DATA PROCESSING COST PER CO FILE		\$2.30
5	MAG TAPE, PACKAGING AND DELIVERY COST PER CO FILE		\$0.40
6	GROSS RECEIPTS (GRT) TAX		1.0138
7	TOTAL COST PER CO	(LN3+LN4+LN5)LN6	\$8.58
8	AVERAGE LISTINGS PER CO FILE		14372
9	TOTAL COST PER LISTING	(LN7/LN8)	\$0.001

DIRECTORY ASSISTANCE DATABASE SERVICE (DADS)  
1993 INCREMENTAL UNIT COST

STATE: FLORIDA  
DATE: 04 JAN 1993  
WORKPAPER 2  
PAGE 1 OF 1

LINE	DESCRIPTION	SOURCE	AMOUNT
FILE UPDATES			
1	PROGRAM MAINTENANCE, HOURS PER CO FILE PER MONTH		0.01
2	DIRECTLY ASSIGNED LABOR COST PER HOUR		\$44.35
3	PROGRAM MAINTENANCE COST PER CO FILE PER MONTH	LN1xLN2	\$0.44
4	DATA PROCESSING COST PER CO FILE PER MONTH		\$2.41
5	MAG TAPE, PACKAGING AND DELIVERY COST, CO FILE PER MONTH		\$8.80
6	GROSS RECEIPTS (GRT) TAX		1.0138
7	TOTAL COST PER CO FILE PER MONTH	(LN3+LN4+LN5)LN6	\$11.81

Southern Bell Telephone & Telegraph Company  
FPSC Staff's Data Request  
DADS/DPDS  
08 February 1993  
Item No. 2  
Page 1 of 1

Item No. 2: How were these costs developed (i.e., method) and why are they appropriate.

Response: Incremental cost methodology was used to develop costs for DADS and DPDS. These are the costs resulting directly from providing additional units of service. Prices for discretionary services should be set at a level which at least covers the direct costs incurred, therefore, incremental cost methodology provides the proper test for pricing decisions. A description of the specific cost development is contained in the cost study provided in response to item number 1.

Southern Bell Tel. & Tel. Co.  
FPSC Staff's Data Request  
DADS/DPDS  
February 8, 1993  
Item No. 3

REQUEST: Explain How DADS and DPDS work independently and dependently.

RESPONSE: DADS and DPDS are separate and discrete services. They are not dependent upon one another in any way. The DADS and DPDS tariffs require that the listing information provided by each service offering be used for different purposes.

Subscribers may use DADS listing information solely for the purpose of providing Directory Assistance type services. Subscribers may use DPDS listing information solely for the purpose of publishing directories and selling advertising to be contained in the directories they publish.

Southern Bell Tel. & Tel. Co.  
FPSC Staff's Data Request  
DADS/DPDS  
February 8, 1993  
Item No. 4

REQUEST: Can a customer subscribe to DPDS and not subscribe to DADS? Why or Why not.

RESPONSE: Yes, a customer may subscribe to DPDS and not subscribe to DADS. These two distinct tariff offerings are contained in different tariff Sections; A38.1 for DADS and A38.2 for DPDS. Each service has its own Description of Service, Regulations, Rates and Charges.

Southern Bell Tel. & Tel. Co.  
FPSC Staff's Data Request  
DADS/DPDS  
February 8, 1993  
Item No. 5

REQUEST: Provide a working example of DADS and DPDS.

RESPONSE: An interexchange carrier, for example, may request DADS listing information for customers located in the town of Hypothetical, Florida, which is served by ten Southern Bell Central Offices (COs). This customer would request DADS listing information for all ten COs in Hypothetical, a total of 100,000 listings. The Company would ship to the customer magnetic tapes containing the DADS Base File listing information. Each day following, the Company would ship to the customer magnetic tapes containing DADS Daily Updates. The customer would be billed according to the rates and charges defined in the tariff. For each Base File, the customer would pay \$.04; a total non-recurring charge of \$4,000. For the Daily Updates, the customer would pay the \$13.59 per month. For each time that the customer uses a DADS listing to provide his directory assistance service, the customer would pay \$.15. Assuming that this customer uses each DADS listing once a month, the customer would pay \$15,000 per month.

A Directory Publisher, for example, wanting to subscribe to DPDS for the the same jurisdiction as the DADS subscriber above would pay \$.04 per listing for his Base File; a total non-recurring charge of \$4,000. This customer may opt to receive the Weekly Business Activity Report. Assuming that there would be 500 updates to the listings in Hypothetical per month, the customer would pay \$30 per month.

Southern Bell Tel. & Tel. Co.  
FPSC Staff's Data Request  
DADS/DPDS  
February 8, 1993  
Item No. 6

REQUEST: Is this service offered in any other states? If so where and what is the rate structure.

RESPONSE: Southern Bell knows of no other states where a DADS offering is being provided. DPDS is presently being offered under contract in all Southern Bell states. The contract charges for DPDS are similar to those proposed in the tariff filing. Southern Bell is planning to file tariffs for both services in all states it serves.

Southern Bell Tel. & Tel. Co.  
FPSC Staff's Data Request  
DADS/DPDS  
February 8, 1993  
Item No. 7

REQUEST: Provide a sample of a customer bill.

RESPONSE: An example of a customer bill follows as an attachment.  
(See Attachment 1)

02. 03. 93 05:30PM

P 02



### SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY

FORM 5761A  
MARCH 1977

FORWARD PAYMENT TO

P. O. BOX 1234  
JACKSONVILLE, FL 55555-1234

ACCOUNT OR BILL NUMBER MA011-1234-567

DATE OF BILL 03-16-93

Directory Publishing Company  
1624 Brake ST  
Jacksonville, FL 12345

TOTAL AMOUNT DUE \$ 1,402.08

(PLEASE RETURN THIS PORTION OF BILL WITH YOUR PAYMENT)

ACCOUNT OR BILL NUMBER MA011-1234-567

DATE OF BILL 03-16-93

CHARGES FOR DPDS LISTING INFORMATION PROVIDED TO DA PUBLISHING COMPANY FOR USE IN PUBLISHING ITS JACKSONVILLE, FL DIRECTORY.

CHARGE FOR 32,552 LISTINGS AT \$.04 PER LISTING - - -

PROCESSING FEE - - - - -

1,302.08  
100.00  
1,402.08

*old contract rate  
- not tariffed*

XXXXX SAMPLE BILL ONLY FOR DPDS XXXXX

PLEASE DEDUCT FROM "TOTAL AMOUNT DUE" ANY PORTION OF THIS AMOUNT ALREADY PAID

BALANCE FROM LAST BILL

PLEASE PAY BY APRIL 5, 1993

TOTAL AMOUNT DUE 1,402.08

Southern Bell Telephone & Telegraph Company  
FPSC Staff's Data Request  
DADS/DPDS  
08 February 1993  
Item No. 1  
Page 1 of 1

Item No. 1: What are the costs for providing DADS and DPDS. Provide the cost study.

Response: See Attached.

Southern Bell Tel. & Tel. Co.  
FPSC Staff's Data Request  
DADS/DPDS  
February 8, 1993  
Item No. 8

REQUEST: How does a customer access DADS and DPDS?

RESPONSE: DADS and DPDS are not network services. Both DADS and DPDS are provisioned by delivering magnetic tape and paper materials to the subscribing customer via courier.