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Before the

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FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

FCC MAIL ROOM

In the Matter of:

**Application by BellSouth Corporation,
BellSouth Telecommunications, Inc.,
and BellSouth Long Distance, Inc.
for Provision of In-Region, InterLATA
Services in Louisiana.**

CC Docket No. 97-231

**COMMENTS OF THE
LOUISIANA PUBLIC SERVICE COMMISSION**

The Louisiana Public Service Commission ("LPSC") submits these Comments to fulfill its statutorily mandated consultative duties pursuant to Section 271(d)(2) of the Telecommunications Act of 1996 (the "Act"). As set forth more fully below, the LPSC determined that: (1) the Application of BellSouth Corporation, BellSouth Telecommunications, Inc. ("BST"), and BellSouth Long Distance, Inc. ("BSLD"), together called "BellSouth," satisfies the Act's requirements under 47 U.S.C. Section 271(c) for authority to provide interLATA services in Louisiana; and (2) BellSouth's entry into the interLATA long distance market in Louisiana is in the public interest. Thus, the FCC should approve the above-referenced Application.

I. SUMMARY OF THE LPSC'S COMMENTS

The LPSC thoroughly and completely reviewed BellSouth's application to provide interLATA services in Louisiana. This review consisted of establishing a docket solely for that purpose, multiple technical conferences, and hearings. After this lengthy and complete review, the LPSC determined that BellSouth's application complied with the Act's requirements and served the public interest.

Through the LPSC's 271 hearings, the LPSC reviewed BellSouth's SGAT and found that it

satisfied the 14-point checklist set forth in 47 U.S.C. § 271(c)(2)(B), subject to specified modifications. BellSouth complied with the LPSC's requirements. Consequently, the LPSC found that BellSouth's SGAT completely satisfied the 14-point checklist.

The Act's goal of ensuring that consumers benefit from competition is furthered by allowing BellSouth to enter the long distance market. The LPSC has taken many steps to encourage competition in Louisiana. By approving BellSouth's application, the LPSC removes yet another barrier to entry and allows greater choice for Louisiana's consumers.

With respect to BellSouth's cost-based rates, the LPSC conducted an extensive proceeding to ensure that BellSouth's rates were reasonable and nondiscriminatory for interconnection, unbundled network elements, call transport and termination, interim number portability solutions, and collocation. Further, the cost-based rates reflect the most recent decision by the Eighth Circuit which rejected the platform approach for unbundled elements.

The LPSC conducted an extensive and thorough review of BellSouth's Operational Support System. After attending a technical conference where parties were allowed to demonstrate the effectiveness, or lack thereof, of BellSouth's system, the LPSC determined that it functions properly and allows potential competitors full, nondiscriminatory access to BellSouth's system.

Throughout the 271 proceedings, the courts continued to issue rulings with respect to many of the issues before the LPSC. Each time a relevant ruling was issued, the LPSC ordered BellSouth to comply with the court's mandates. Consequently, BellSouth's application is consistent with the most recent Eighth Circuit's ruling in *Iowa Utilities Board v Federal Communications Commission*, Case No. 96-3321, Eighth Circuit Court of Appeals.

The LPSC has always promoted local competition in Louisiana. The issues surrounding local competition were discussed in Louisiana as early as 1994 and an aggressive set of competition rules were effectuated in March 1996 and continues to be pursued today. The LPSC is well informed and well prepared to assess BellSouth's application and willing to promote local competition in Louisiana.

II. THE LPSC CONDUCTED A THOROUGH EVALUATION OF BELL SOUTH'S APPLICATION.

The Act mandates the LPSC to advise the Federal Communications Commission ("FCC") on BellSouth's Application. 47 U.S.C. Section 271(d)(2)(B). To fulfill this obligation, the LPSC established Docket No. U-22252 in December 1996 (the "271 Proceeding"). This docket was initiated specifically to create a record concerning BellSouth's compliance with Section 271 of the Act.

Notice of the 271 Proceeding was published in the January 1, 1997 edition of the LPSC's Official Bulletin, and parties were allowed to intervene.¹ Pursuant to the procedural schedule

¹The following parties intervened in the proceeding: BellSouth Telecommunications, Inc. ("BellSouth"); BellSouth Long Distance, Inc. ("BSLD"); AT&T Communications of the South Central States, Inc. ("AT&T"); Sprint Communications Company, L. P. ("Sprint"); MCI Telecommunications Corporation ("MCI"); Louisiana Cable Telecommunications Association, Inc. ("LCTA"); WorldCom, Inc. d/b/a LDDS WorldCom ("WorldCom"); American Communication Services of Baton Rouge, Inc., American Communication Services of Louisiana, Inc., and American Communication Services of Shreveport, Inc. ("ACSI");* and Access Network Services, Inc. **, ***.

*ACSI's motion for late intervention was granted following an opportunity for other parties to object. No objections were filed, and the intervention was granted on March 27, 1997.

**Access Network Services, Inc. timely intervened, but did not participate thereafter.

***The Competitive Telecommunications Association ("CompTel") filed an untimely motion for leave to intervene on May 8, 1997, to which BellSouth objected. CompTel was granted permission to intervene on a limited, conditional basis. Unwilling to meet the condition imposed, the disclosure of its membership to the Commission, CompTel

established for the proceeding, the parties pre-filed testimony of their witnesses and conducted extensive discovery, through written data requests and depositions of witnesses.

On February 24, 1997, BellSouth filed a notice of its intent to file a Section 271 application with the FCC no earlier than June 24, 1997. However, in conjunction with a stipulated amendment to the procedural schedule, BellSouth filed an "Amended Notice," advising of its intent to file its FCC application on or after July 16, 1997.

The hearing in the 271 Proceeding convened on May 19, 1997. On the first day of the hearing, BellSouth filed its Statement of Generally Available Terms and Conditions for Interconnection, Unbundling and Resale Offered by BellSouth in Louisiana (the "SGAT" or "Statement") into the record of this proceeding, initiating the 60-day review period by the Commission.² The scope of the 271 Proceeding had not previously encompassed the Commission's specific consideration of BellSouth's SGAT under Section 252(f) of the Act.³ However, in the pursuit of efficiency and a complete record, the LPSC allowed BellSouth to file the SGAT in the 271 Proceeding.

To provide an opportunity to participate (specifically and only) in the LPSC's consideration

withdrew its intervention.

²BellSouth had previously filed a draft of its SGAT as an exhibit to the March 14, 1997 pre-filed testimony of Robert C. Scheye.

³In fact, another proceeding before the Commission, Docket Number U-22100, was instituted on July 15, 1996 for the specific purpose of considering BellSouth's SGAT under Section 252(f) of the Telecommunications Act of 1996. In light of the change in scope of this proceeding to encompass the Commission's consideration of BellSouth's SGAT, the proceeding docketed as U-22100 was closed.

of BellSouth's SGAT to those not already a party to the 271 Proceeding, the LPSC published notice of the broadened scope of the proceeding in the LPSC's May 30, 1997 Official Bulletin of the LPSC. Also published were the deadlines for intervention, comments, pre-filed testimony, and requests for the opportunity to present testimony and cross-examine BellSouth's witnesses concerning the SGAT at an additional hearing to be scheduled for that purpose.⁴ Although several new parties intervened at this point in the proceeding and some submitted comments, none responded to the LPSC's offer of additional hearing dates.⁵ On June 11, 1997, the Administrative Law Judge issued a notice stating that the additional hearing, previously scheduled for June 12, and 13, 1997, was canceled.

On July 9, 1997, the Administrative Law Judge issued her recommendation to the Commissioners. The Administrative Law Judge recommended that the LPSC reject BellSouth's SGAT at that time, under the provisions of Section 252(f) of the Telecommunications Act, due to its noncompliance with pricing requirements of Section 252(d) of the Act. Specifically, the recommendation concluded that Section 252(f) conditions the LPSC's approval of the SGAT upon its compliance with Section 252(d) and that Section 252(d) requires a determination by the LPSC that

⁴The following parties filed timely interventions in response to the notice published on May 30, 1997: Global Tel*Link; Intermedia Communications, Inc.; Radiofone, Inc.; Cox Fibernet Louisiana, Inc.; Entergy Hyperion Telecommunications, Inc.; and Telecommunication Resellers Association. WorldCom, already a party to this proceeding at the time BellSouth filed its SGAT, intervened, again, specifically to participate in the Commission's consideration of BellSouth's SGAT. Communications Workers of America ("C.W.A.") filed a motion to file late intervention. C.W.A.'s motion was granted with the limitation that it would be allowed only to file a post-hearing brief, as all other deadlines had passed.

⁵None of the new intervenors filed testimony or requested the opportunity to present testimony at the additional hearing. Two of the intervenors initially requested the opportunity to cross-examine BellSouth's witnesses, but subsequently withdrew their requests.

the rates for interconnection and unbundled network elements contained within the SGAT are based on BellSouth's costs of providing the interconnection and network elements. Because the LPSC had not yet completed its dockets instituted to determine those costs and establishing those rates, the recommendation concluded that the LPSC must reject BellSouth's SGAT at that time. As the 14-point checklist in Section 271 similarly requires compliance with Section 252(d), the recommendation concluded that further analysis of the SGAT under either the Section 252(f) or the Section 271 requirements would be speculative and premature at that time.

At its July 16, 1997 Open Session, the LPSC voted to reject the Administrative Law Judge's July 9, 1997 recommendation. This rejection was tied to the Commission directive, memorialized as Order Number U-22252, that Dockets Numbered U-22022 and U-22093 (proceedings begun by the LPSC for analyzing costs and setting rates BellSouth would use in offering interconnection and unbundled network elements) must be completed within sufficient time to permit the LPSC to consider those matters at its October 1997 Open Session⁶. In Order Number U-22252, issued on July 28, 1997, following an additional Open Session called to clarify the LPSC's directives, the LPSC ordered that this matter be "remanded to the Administrative Law Judge and the staff for their recommendation limited to whether [BellSouth's] . . . SGAT complies with the 14-point checklist set forth in 47 U.S.C. §271(c)(2)(B)." Further, the LPSC's Order confirmed that BellSouth granted a thirty-day extension of time (or until the Commission's August 1997 Open Session) for the LPSC to act on its SGAT, noticed an opportunity for intervenors to file allegations regarding BellSouth's operational support systems (OSS), scheduled a "technical demonstration" concerning BellSouth's

⁶See further discussion on cost based rates, Section IV(B), *infra*.

OSS, and advised that the LPSC would vote in August 1997 on whether the SGAT complies with the requirements of the Act.

As evidenced by the above described activities, the LPSC conducted a thorough and complete evaluation of BellSouth's application. From this evaluation, the LPSC determined that BellSouth's application satisfies the Act's requirements and serves the public interest.

III. SUMMARY OF THE LPSC'S FINDINGS IN THE 271 PROCEEDING.

Through the 271 proceedings, the LPSC found that BellSouth's SGAT satisfied the 14-point competitive checklist in 47 U.S.C. §271(c)(2)(B), subject to specified requirements. Specifically, the LPSC directed BellSouth to modify its SGAT as follows: (1) to add a provision that the SGAT shall be subject to revision to the extent necessary to comply with any legislative, regulatory or judicial orders or rules that affect the rights and obligations created by the SGAT; (2) to revise its Price List to provide that the price of any local interconnection established, or of any unbundled network element (UNE) may only be adjusted downward as a result of the true-up process; (3) to delete the language in the Price List that the price of unbundled local switching does not include retail services, and that retail services are available at wholesale rates and substitute the following language: "Vertical switching features such as caller I.D., call forwarding and call waiting are network elements that are subject to unbundling requirements of the Act"; (4) to delete the language regarding the combining of network elements and to substitute language complying with provisions consistent with those outlined by the Eighth Circuit Court of Appeals in its *Iowa Utilities Board v Federal Communications Commission* decision; (5) to modify the SGAT to provide that selective routing will be provided through BellSouth's proposed AIN-based Selective Carrier Routing Service, upon

successful completion of the trial of that service; and in the interim through line class codes to any requesting carrier; (6) to revise the SGAT to provide that a CLEC shall have electronic access through BellSouth's electronic interfaces in the pre-ordering phase to customer service record information; (7) to add a provision that BellSouth's Local Interconnection and Facility Based Ordering Guide, its Resale Ordering Guide, and its Negotiations Handbook for Collocation shall be filed with and maintained by the LPSC and that any and all changes to these documents shall also be on file with the LPSC; and (8) to add a provision to Section 1.7 of the Bona Fide Request Process to read as follows: "If at any time an agreement cannot be reached as to the terms and conditions or the price of the request, or if BellSouth responds that it cannot or will not offer the requested item in the Bona Fide Request and the CLEC deems the item essential to its business operations, and deems BellSouth's position to be inconsistent with the Act, the FCC or Commission regulations and/or requirements of this Section, then the CLEC shall have the right to petition the Louisiana Public Service Commission or any other court or agency of competent jurisdiction to resolve the item or items of disagreement."

Further, on July 18, 1997, after the close of the period for comments in the 271 Proceeding, the United States Court of Appeals for the Eighth Circuit released its opinion in the *Iowa Utilities Board v Federal Communications Commission* proceeding. Because of the timing of the ruling's release and its impact on the LPSC's 271 Proceeding, the LPSC allowed any party to file written comments on the SGAT, as modified by the LPSC, as it related to the Eighth Circuit ruling.

On September 9, 1997, BellSouth filed a revised SGAT according to the LPSC's directives as specified above, and as set forth in LPSC Order No. U-22252-A.

IV. THE LPSC FOUND THAT BELL SOUTH'S SGAT SATISFIED THE FOURTEEN POINT CHECKLIST

Based on its thorough analysis, the LPSC found that BellSouth's SGAT would comply with each of the 14-point competitive checklist items of the Act, upon the entry of certain modifications. While not directly relating to any individual checklist item, the LPSC noted that BellSouth's SGAT did not provide for prospective regulatory changes. As such, the LPSC ordered that BellSouth modify the SGAT to provide that it is subject to revision to comply with any legislative, regulatory or judicial orders or rules that affect the rights and obligations created by the SGAT.

As to the specific elements of the Fourteen Point Competitive Checklist, the LPSC addressed each item in turn:

1) *Interconnection in accordance with the requirements of Section 251(c)(2) and 252(d)(1):*

Section 251(c)(2) requires ILECs to provide for the interconnection of the facilities of a CLEC with the ILEC's network at any technically feasible point at least equal in quality to that provided by the ILEC to itself or any other party to which the ILEC provides interconnection, on rates, terms and conditions that are just and reasonable and nondiscriminatory. Section 252(d)(1) provides that the just and reasonable rate for interconnection must be based on the cost of providing interconnection, nondiscriminatory and may include a reasonable profit.

The LPSC found that BellSouth's SGAT would meet the requirements of this checklist item upon entry of the modifications detailed below. BellSouth made these modifications to its SGAT on September 7, 1997. First, the LPSC ordered BellSouth to revise Section II of the SGAT to provide that a CLEC shall have electronic access through BellSouth's electronic interfaces in the pre-

ordering phase to customer service record information, as reflected on the pre-ordering screens demonstrated at the OSS technical demonstration held on August 13, 1997. BellSouth complied with this mandate. Second, the LPSC ordered BellSouth to include within the SGAT the relevant provisions currently contained in its "Local Interconnection and Facility Based Ordering Guide" and "Negotiations Handbook for Collocation." BellSouth complied with this mandate. Third, BellSouth was ordered to add a provision to the SGAT stating that BellSouth's Local Interconnection and Facility Based Ordering Guide, its Resale Ordering Guide, and its Negotiations Handbook for Collocation shall be filed with, and maintained by, the LPSC and that any and all changes to these documents shall also be on file with the LPSC. BellSouth complied with this mandate. Further, the LPSC ordered that these documents are to be public records, available for inspection by any person.

Finally, the LPSC ordered BellSouth to modify Section 1.7 of the Bona Fide Request Process to provide that: "If at any time an agreement cannot be reached as to the terms and conditions or the price of the request, or if BellSouth responds that it cannot or will not offer the requested item in the Bona Fide Request and the CLEC deems the item essential to its business operations and deems BellSouth's position to be inconsistent with the Act, the FCC or LPSC regulations and/or requirements of this Section, then the CLEC shall have the right to petition the Louisiana Public Service Commission or any other court or agency of competent jurisdiction to resolve the item or items of disagreement." BellSouth complied with this mandate.

BellSouth made all of the required changes to its Statement. Accordingly, the LPSC found

that BellSouth's SGAT complied with this checklist requirement, the LPSC Regulations⁷ and the FCC regulations.

2) ***Nondiscriminatory access to network elements in accordance with the requirements of Section 251(c)(3) and 252(d)(1):***

Under this checklist item, BellSouth has an obligation to provide nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable and nondiscriminatory. Additionally, BellSouth must provide the unbundled network elements in a manner that allows the requesting carrier to combine them to provide telecommunications services.

This issue was the subject of scrutiny in the Eighth Circuit Court of Appeals decision in *Iowa Utilities Board v Federal Communications Commission*, cited above. In accordance with this ruling, the LPSC found that BellSouth's SGAT would comply with this checklist item if BellSouth deleted the language in Section II.F of the Statement regarding the combining of network elements. The LPSC ordered BellSouth to substitute the following language: "A requesting carrier is entitled to gain access to all of the unbundled elements that, when combined by the requesting carrier, are sufficient to enable the requesting carrier to provide telecommunications service. Requesting carriers will combine the unbundled elements themselves. BellSouth has no duty under the Act to do the actual combining of network elements." The LPSC specifically noted that although BellSouth has no duty

⁷ LPSC Regulations refers to a comprehensive set of regulations adopted by the LPSC in March of 1996 in order to set the framework to aggressively open the Louisiana local exchange market to competition. The regulations were adopted pursuant to LPSC General Order, dated March 15, 1996, as amended October 16, 1996 and March 19, 1997, Regulations for Competition in the Local Telecommunications Market (the "LPSC Competition Regulations").

under the Act to do the actual combining of network elements, it has stated its willingness to do so, when feasible.

Finally, to ensure nondiscriminatory access to UNEs, the LPSC ordered BellSouth to delete the language in its Price List stating that the price of unbundled local switching does not include retail services and that retail services were available at wholesale rates. The LPSC ordered BellSouth to substitute the following language: "Vertical switching features such as call I.D., call forwarding and call waiting are network elements that are subject to unbundling requirements of the Act." With the above described modifications, the LPSC found that the SGAT complies with this checklist item.

3) *Nondiscriminatory access to the poles, ducts, conduits, and rights of way owned and controlled by the Bell operating company at just and reasonable rates in accordance with the requirements of Section 224:*

This item requires BellSouth to provide to competing carriers the same access to poles, ducts and conduits that it provides to itself or its affiliates. BellSouth's SGAT states that it will provide nondiscriminatory access to poles, ducts, conduits and rights-of-way under standard license agreement for poles, ducts, conduits and rights-of-way, which is a 35-page agreement attached as Attachment "D" to its SGAT. BellSouth's SGAT and licensing agreement, as well as the pole attachment and conduit occupancy rates included thereunder, are consistent with the orders of the LPSC and the Act. Consequently, the LPSC found that BellSouth's SGAT complies with this checklist item.

4) *Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services:*

The LPSC's Competition Regulations require the ILEC to provide unbundled loops at Section 1001.B. The Regulations also provide for NID-to-NID connectivity with CLECs at Section 1001.U.

The FCC regulations define a local loop as a transmission facility between a distribution frame, or its equivalent, in an ILEC central office, and the network interface device at the customer premises. This definition includes 2-wire and 4-wire analog voice-grade loops, and services such as ISDN, ADSL, HDSL and DS1-level signals. The FCC states that a CLEC is entitled to connect its own loops via its own NID to the ILEC's NID. The FCC does not require that an ILEC permit a CLEC to connect its loops directly to the ILEC's NID.

BellSouth's SGAT offers the UNE consistently with the Act, the LPSC Competition Regulations and the FCC regulations. The SGAT includes the requirement to provide 2-wire and 4-wire voice grade analog and 4-wire DS1 digital grade loops, as well as subloop elements, i.e., cross connect facilities and NID. Thus, the LPSC found that BellSouth's SGAT complies with this checklist item.

5) *Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services:*

The LPSC Competition Regulations at Section 1001.C requires ILECs to provide unbundled common and dedicated transport links upon request by a TSP. Local transport is one of the UNEs that the FCC requires to be unbundled. The FCC requires that access to dedicated and shared transport facilities be provided as unbundled network elements. The FCC requires unbundled access to common transport facilities between end offices and the tandem switch and to dedicated transport facilities between ILEC central offices or between such offices and those of CLECs. The ILEC must provide all technically feasible transmission capabilities, such as DS1, DS3, and optical cable, that the CLEC could use to provide telecommunications services. Additionally, ILECs must provide CLECs with access to digital cross-connect systems functionality.

BellSouth's SGAT offers dedicated and common transport (including DS0, DS1, DS3 and optical cable), and tandem switching as required by the Act, the LPSC Competition Regulations and the FCC regulations. Additional transport options are available through the bona fide request process. Thus, the LPSC found that BellSouth's SGAT complies with this checklist item.

6) *Local switching unbundled from transport, local loop transmission, or other services:*

The FCC defines the local switching element to include line-side and trunk-side facilities plus the features, functions and capabilities of the switch. The FCC describes the features, functions and capabilities of the local switch to include the same basic capabilities that are available to the ILEC's customers, such as, a telephone number, directory listing, dial tone, signaling, and access to 911, operator services, directory assistance, and all vertical features that the switch can provide. According to the FCC, when a competing provider purchases the unbundled local switching element, the CLEC obtains all switching features in a single element on a per-line basis.

The FCC concluded that the features, functions, and capabilities of the local switch include its vertical features and that a CLEC obtains such features when it purchases the local switch. In its *Iowa Utilities Board* decision, the Eighth Circuit Court agreed with the FCC that vertical features qualify as network elements that are subject to the unbundled elements pricing provisions of Section 251(c)(3) of the Act.

As noted in discussion of Checklist Item 2, the LPSC required BellSouth to delete the language in the Price List of the Statement originally stating that the price of unbundled local switching does not include retail services. The LPSC mandated this change to ensure

nondiscriminatory access to UNEs. BellSouth complied with this mandate. The LPSC also mandated that BellSouth make retail services available to CLECs at wholesale rates. The LPSC ordered BellSouth to insert the following language in the Statement: "Vertical switching features such as call I.D., call forwarding and call waiting are network elements that are subject to the unbundling requirements of the Act." BellSouth complied with this order. Accordingly, the LPSC found that the SGAT complies with this checklist item.

7) *Nondiscriminatory access to (a) 911 and E911 services; (b) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and (c) operator call completion services:*

The LPSC Competition Regulations at Sections 901.J and 901.K require nondiscriminatory access to 911 databases, directory assistance databases, and certain other service databases. The LPSC Competition Regulations also require the unbundling of operator systems upon request in Section 1001.C.

The FCC regulations provide that ILECs must provide nondiscriminatory and unbundled access to directory assistance and operator call completion services and underlying databases. BellSouth's SGAT states that it offers nondiscriminatory access to 911/E911, directory assistance services and operator call completion services. Therefore, the SGAT is consistent with the Act, the LPSC and FCC Regulations. Consequently, the LPSC found BellSouth's SGAT complies with this checklist item.

8) *White pages directory listings for customers of the other carrier's telephone exchange service:*

Sections 1001.G, H and I of the LPSC Competition Regulations require BellSouth to include, on a nondiscriminatory basis, the telephone numbers of CLEC customers in BellSouth's white pages,

yellow pages, blue pages and directory assistance databases. BellSouth's SGAT provides that BellSouth will include CLEC subscriber listings in its directories at no charge if the CLEC provides subscriber listing information to BellSouth at no charge. The SGAT states that BellSouth, or its agent, shall deliver white pages directories to CLEC customers at no charge. BellSouth will also include and maintain CLEC subscriber listings in its directory assistance databases at no charge. Thus, the LPSC found that BellSouth's SGAT complies with this checklist requirement.

- 9) *Until the date by which telecommunications numbering administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan or rules:*

The LPSC Competition Regulations require BellSouth, at Section 1101.G, to provide on-line access to numbering administration systems and to numbering resources. BellSouth's SGAT states that as long as BellSouth is serving as the Numbering Plan Administrator, it will ensure that CLECs have nondiscriminatory electronic access to telephone numbers for assignment to their customers under the same terms that BellSouth has access to telephone numbers. BellSouth provides numbering resources pursuant to the BellCore guidelines regarding number assignment. Therefore, the LPSC found that BellSouth's SGAT complies with this checklist item.

- 10) *Nondiscriminatory access to databases and associated signaling necessary for call routing and completion:*

The checklist item requires BellSouth to provide nondiscriminatory access to the unbundled network element consisting of the databases and associated signaling necessary for call routing and completion. According to BellSouth, this item only applies to facilities-based CLECs that have their own switch.

The LPSC Competition Regulations at Section 1001.B require BellSouth to provide nondiscriminatory unbundled access to signaling links, signaling transfer points and signaling control points. At Section 901.L, the LPSC Competition Regulations require nondiscriminatory access to other databases, including the LIDB, 800 database and AIN databases.

The FCC regulations provide that signaling and call-related databases are one of its mandatory list of unbundled network elements. BellSouth's SGAT states that it offers nondiscriminatory access to signaling and signaling databases as unbundled network elements. The databases include the LIDB, 800 database, and AIN databases.

The LPSC took administrative notice of BellSouth's July 28, 1997 filing in Docket U-20145 concerning its proposed Selective Carrier Routing Service. In light of this filing, the LPSC found that BellSouth's SGAT will in fact provide for nondiscriminatory access to signaling and signaling databases as unbundled network elements upon the following modification, which BellSouth is ordered to make: BellSouth shall modify Sections VI.A.2, VII.B.3 and VII.C.5 of the SGAT to provide that selective routing will be provided through BellSouth's proposed AIN-based Selective Carrier Routing Service, upon successful completion of the trial of that service; and in the interim through line class codes to any requesting carrier. Thus, the LPSC found that BellSouth's SGAT complies with this checklist item.

- 11) *Until the date by which the FCC issues regulations pursuant to Section 251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations:*

The LPSC Competition Regulations at Sections 801.D, G and H, as stated in the Act,

mandate that ILECs shall provide interim number portability using remote call forwarding and direct inward dialing trunks. Section 801.I states that all TSPs are to cooperate and use their best efforts to design, develop and deploy permanent number portability solutions at the earliest possible date.

BellSouth's SGAT states that it offers, on an interim basis until an industry-wide permanent solution is adopted, number portability using remote call forwarding and direct inward dialing trunks. Therefore, the LPSC found that BellSouth's SGAT complies with this checklist item.

12) *Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3):*

The LPSC Competition Regulations at Section 901.A state that interconnection of local telephone networks must be such that customers can place calls that terminate on another's network without dialing extra digits. The SGAT states that CLEC customers will not have to dial any greater number of digits than BellSouth customers to complete the same calls. Thus, the LPSC found that BellSouth's SGAT complies with this checklist item.

13) *Reciprocal compensation arrangements in accordance with the requirements of Section 252(d)(2):*

Section 252(d)(2) of the Act sets forth the pricing standard for the transport and termination of traffic between carriers (reciprocal compensation). The Act calls for the mutual and reciprocal recovery by each carrier of costs associated with call transport and termination based on a reasonable approximation of the additional costs of terminating calls. 252(d)(2)(A). Further, the Act specifically allows for arrangements that waive mutual recovery of cost such as a "bill and keep" arrangement between carriers. 252(d)(2)(B)(I). The LPSC's Competition Regulations state at Section 901.C.4 that TSPs shall use the "bill and keep" methodology as an

interim compensation method, pending establishment of permanent rates in Docket U-22022/22093.

The Commission has established permanent, nondiscriminatory, cost-based rates in the cited docket, and BellSouth has revised the Statement to include all such rates as established by the LPSC. Therefore, BellSouth's SGAT complies with this checklist item.

14) *Telecommunications services are available for resale in accordance with the requirements of Sections 251(c)(4) and 252(d)(3):*

Section 252(d)(3) of the Act sets forth the wholesale pricing standard for the resale of local services based on cost that a LEC will avoid when a competing carrier resales its retail services. The LPSC determined that BellSouth's avoided cost discount percentage is 20.72% for business and residential services. *LPSC Order No. U-22020, dated November 12, 1996.* BellSouth's Statement at Attachment "H" accurately reflects the Commission ordered wholesale discount. Thus, the LPSC found that BellSouth's SGAT complies with this checklist item.

V. BELLSOUTH'S ENTRY INTO THE INTERLATA MARKET SERVES THE PUBLIC INTEREST.

The LPSC found that the approval of BellSouth's SGAT and its entry into the long distance market is in the public interest. BellSouth's entry into the long distance market will further the Act's goal of ensuring that consumers reap the full benefits of competition.

Serious questions have been raised, at both the national level and within Louisiana, regarding abuse in the long distance market. The LPSC has instituted its own investigation into whether long distance companies currently operating in Louisiana have properly passed access charge reductions on to their ratepayers. Given the overriding goal of bringing competition to the

consumer presented by the Act and the potential for immediate long-distance consumer rate reductions should BellSouth enter the long distance market, the evidence presented mandates a finding that consumers in Louisiana, both local and long distance, would be well served by BellSouth's entry into the long distance market.

Delaying BellSouth's entry into long distance until effective competition exists in the local market will only serve to delay the benefits of vigorous local competition. The entities with the financial and marketing resources to provide effective local competition are the incumbent interexchange carriers that have a direct financial interest in delaying BellSouth's competing in their market. Once full long distance competition is opened up in Louisiana, the major competitive providers of local exchange service will take notice and adjust their respective business plans to move Louisiana closer to the top of their schedules, resulting in faster and broader local exchange competition for Louisiana consumers. Lowering this barrier will create real incentives for the major interexchange carriers to enter the local market in Louisiana, because they will no longer be able to pursue other opportunities secure in the knowledge that BellSouth cannot invade their market until they build substantial local facilities. Thus, allowing BellSouth to provide long distance service to Louisiana consumers is in the public interest because it would accomplish Congress's objective of creating a competitive market that includes real investment by AT&T, MCI and others in the local market.

VI. BELLSOUTH'S SGAT CONTAINS COST-BASED RATES.

Initially, BellSouth's SGAT offered interim rates. However, the LPSC recently completed a costing docket where it set reasonable, nondiscriminatory cost-based rates of interconnection,

unbundled network elements, call transport and termination, interim number portability solutions, and collocation. The LPSC conducted an extensive proceeding in order to set these cost-based rates in compliance with the mandates of the Act and the LPSC Competition Regulations (LPSC Docket Nos. U-22022/22098 consolidated, the "LPSC Costing Docket"). BellSouth's SGAT contains these rates.

The LPSC initiated the Costing Docket pursuant to Section 901.C of its Local Competition Regulations. The LPSC directed BellSouth to file total service long run incremental cost ("TSLRIC") and long run incremental cost ("LRIC") cost studies, which the LPSC would use to set reasonable, nondiscriminatory cost-based tariff rates of interconnection, call transport and termination, unbundled network elements ("UNEs") and interim number portability solutions.⁸

The Costing Docket was instituted upon BellSouth's filing of a tariff introducing interconnection and unbundled services with rates, terms, and conditions for such service offerings (Docket U-22093) and supporting cost studies for the tariff (Docket U-22022). BellSouth filed its tariff on April 1, 1996,⁹ notice of which was published in the LPSC's Official Bulletin on April 5, 1996. On June 25, 1996, BellSouth filed its supporting cost studies, notice of which was

⁸ See LPSC Regulations at Sections 901.C.1 (interconnection rates), 901.C.4 (call transport and termination rates), 1001.E (unbundled network element rates), and 801.E (interim number portability rates).

⁹ BellSouth subsequently filed partial amendments of its tariff on July 3, 1996 and July 15, 1996. Then on July 11, 1997, BellSouth filed a revised tariff, which amended and replaced, in total, its April 1, 1996 tariff and July, 1996 amendments.

published in the LPSC's Official Bulletin on July 12, 1996.¹⁰

Hearing dates in January, 1997 were scheduled and a pre-hearing procedural schedule was established, pursuant to which discovery was conducted and testimony was filed. Following several postponements of the hearing, including a continuance ordered by the Commissioners in February 1997,¹¹ a status conference was held on April 7, 1997 to resume the progress of the Costing Docket. At that conference, BellSouth advised that it desired to amend its tariff to comply with amendments to the LPSC Competition Regulations ordered by the LPSC in its General Order dated April 1, 1997. The parties agreed, at that conference, to establish a new pre-hearing schedule, allowing for BellSouth's filing of an amended tariff, BellSouth's filing of revised and additional cost studies in support of the amended tariff, intervenors' filing of revised cost studies, and the filing of testimony by all parties with regard to the amended tariff and the revised cost studies. At that status conference, dates for BellSouth's filing of its revised tariff and

¹⁰Intervenors in the consolidated proceedings include, in the order of their filing, Small Company Committee of the Louisiana Telephone Association, excluding Kaplan Telephone Company; AT&T Communications of the South Central States, Inc. ("AT&T"); MCI Telecommunications Corporation ("MCI"); World Com, Inc. ("WorldCom"); Radiophone, Global Tel*Link; Cameron Telephone Company; Sprint Communications Company, L.P. ("Sprint"); American Communications Services of Baton Rouge, American Communications Services of Louisiana, and American Communications of Shreveport ("ACSI"); EATEL; Centennial Cellular Corporation; Louisiana Cable Telecommunications Association Inc.; Paramount Wireless; Louisiana Cellular Telecommunications Association; and Cox Louisiana TelCom II, L.L.C. ("Cox").

¹¹The Commissioners voted at the February 19, 1997 Open Session to continue the consolidated proceedings, to await the United States Court of Appeals for the Eighth Circuit's decision in *Iowa Utilities Board, et al v. Federal Communications Commission*, 120 F.3d 753 (8th Cir. 1997). As of the Commission's March 19, 1997 Open Session, the Eighth Circuit still had not issued its decision, and the Commission voted to move forward with the Consolidated Proceedings.

revised cost studies were established.

Shortly after BellSouth filed its testimony and revised cost studies in support of its amended tariff on July 11, 1997, the Commissioners directed, in Order No. U-22252,¹² issued on July 28, 1997, that the Costing Docket be completed within sufficient time to permit the LPSC to consider the matter at its October 1997 Open Session. At a status conference held on July 31, 1997, the parties established the remainder of the procedural schedule, to ensure readiness for the LPSC's October 1997 Open Session. The procedural schedule provided the opportunity for discovery, the filing of revised cost studies by AT&T and MCI, tutorials by BellSouth, AT&T, and MCI regarding their cost studies, the filing of testimony by the intervenors concerning the cost studies, and the filing of rebuttal testimony by BellSouth concerning its cost studies. Eight days in September 1997 were set aside for hearing, after which the procedural schedule called for the filing of testimony by the LPSC Staff and a final day of hearing, on September 24, 1997, to receive Staff testimony and allow for cross-examination by all other parties regarding that testimony.

¹²Order U-22252 was issued in Docket U-22252, *Louisiana Public Service Commission, Ex Parte. In re: Consideration and review of BellSouth's preapplication compliance with Section 271 of the Telecommunications Act of 1996, including, but not limited to, the fourteen requirements set forth in Section 271(c)(2)(B) in order to verify compliance with Section 271 and provide a recommendation to the Federal Communications Commission regarding BellSouth Telecommunication, Inc.'s application to provide interLATA services originating in-region.*

The scope of Docket U-22252 additionally extended to consideration by the Louisiana Public Service Commission, pursuant to Section 252(f) of the Telecommunications Act of 1996, of BellSouth Telecommunications, Inc's "Statement of Generally Available Terms and Conditions for Interconnections, Unbundling and Resale offered by BellSouth Telecommunications, Inc. in Louisiana," filed in the proceeding on May 19, 1997 (the "SGAT").

During the first eight days of hearing, BellSouth, AT&T, MCI, ACSI, WorldCom, and Cox presented a total of 34 witnesses. The sole witness testifying at the final day of hearing was LPSC consultant, Ms. Kimberly Dismukes, whom the LPSC retained in the Costing Docket. All parties were permitted to file post-hearing briefs. Following hearing and briefing by the parties, the Administrative Law Judge presiding over the Costing Docket issued her Final Recommendation on October 17, 1997.

The Act, at Section 252(d)(1), states that determinations by a State Commission of just and reasonable rates for interconnection and UNEs "shall be based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and nondiscriminatory, and may include a reasonable profit."¹³

The LPSC established standards for interconnection and UNE cost studies in Section 901.C.1 of its Competition Regulations, which provides:

C. Physical Interconnection for purposes of utilizing unbundled network components of ILEC networks:

1. Physical interconnect charges between and among TSPs shall be tariffed and based on cost information. The cost information derived from both TSLRIC and LRIC studies shall be provided to the Commission. This information will be used by the Commission to determine a reasonable tariffed rate. There is no mandate that interconnection services be provided by the ILEC to TSPs at its TSLRIC or LRIC of providing such services. As an interim measure, until such cost studies are completed and a decision

¹³ In *Iowa Utilities Board v. FCC*, 120 F.3d 753 (8th Cir. 1997), the United States Court of Appeals, Eighth Circuit determined that pursuant to Section 252(d) of the Act, Congress gave the State Commissions exclusive jurisdiction to set the rates of interconnection and UNEs of the ILECs according to the standards set forth by Congress in the Act.

rendered thereon by the Commission in Docket No. U-22022, consolidated with Docket No. U-22093, or other pertinent Commission proceeding, interim rates for unbundled network elements are hereby established as listed on attached Appendix "D." At such time as a final order issues in Docket No. U-22022, consolidated with Docket No. U-22093, rates will be re-calibrated accordingly.

The LPSC then cites a methodology to determine long run incremental costs developed by the Michigan Public Service Commission.¹⁴

LPSC consultant, Ms. Kimberly Dismukes, testified that the purpose of her analysis in the Costing Docket was to evaluate BellSouth's cost studies to provide the LPSC with alternative TSLRIC/TELRIC cost estimates. Ms. Dismukes testified that this included evaluating BellSouth's studies to ensure compliance with the Act and the LPSC's Competition Regulations.¹⁵

Ms. Dismukes explained in her testimony that the rates adopted by the LPSC in this Costing Docket should comply with the nine costing principles adopted by the Michigan Commission. These principles are:

- 1) Long-run implies a period long enough that all costs are variable;
- 2) Cost causation is a key concept in incremental costing;
- 3) The increment being studied should be the entire quantity of the service provided, not some small increase in demand;
- 4) Any function necessary to produce a service must have an associated cost;
- 5) Common overheads are not part of a long run incremental cost study. Recovery of those costs is a pricing issue;
- 6) Technology used in a long run incremental cost study should be the least-cost most efficient technology that is currently available for purchase. This assumes existing

¹⁴ Section 901.C.2, note 5 of the LPSC Regulations, Re: A Methodology to Determine Long Run Incremental Cost, 156 PUR 4th, at page 1, Michigan Public Service Commission, Case No. U-10620, September 8, 1994.

¹⁵ Pre-filed Testimony of Kimberly Dismukes, at page 2, lines 6 - 10, and at page 6, lines 7 - 15. (September 22, 1997).