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

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CC Docket No. 95-116

In the Matter of)
)
Long-Term Telephone Number Portability)
Tariff Filings)
)
BellSouth Telecommunications, Inc.)
Tariff F.C.C. No. 1, Transmittal No. 502)
)
)

PETITION TO REJECT OR SUSPEND TARIFF

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SUMMARY

BellSouth's local number portability ("LNP") filing is facially noncompliant with the Commission's orders, and accordingly should be rejected. At a minimum, the tariff raises substantial questions of lawfulness and should be suspended and set for investigation. Rejection or suspension of BellSouth's proposed tariff is particularly appropriate in light of the fact that it suffers from many of the same flaws as previous ILEC LNP tariffs that the Commission has suspended and set for investigation.

First, BellSouth fails to comply with the LNP Cost Classification Order's requirements governing recovery of OSS costs by seeking to include costs of modifications to billing, customer service, and other systems which that order expressly held are not "carrier-specific costs directly related to providing number portability."

Second, BellSouth fails to comply with the LNP Cost Classification Order's requirements governing recovery of advancement and upgrade costs by disregarding the Commission's directive that ILECs may recover via their LNP tariffs only the incremental difference between such items with LNP functionality and without that capability.

Third, the instant tariff would permit BellSouth double recover its embedded costs. BellSouth calculates a purported cost per octet and then multiplies that figure by the total number of octets it asserts will be devoted to LNP. This methodology produces an average cost figure that includes substantial embedded costs, and that accordingly fails to comply with the Commission's directive that ILECs may recover through their LNP tariffs only their actual incremental costs that would not have been incurred "but for" and "for the provision of" LNP.

Fourth, BellSouth includes a number of impermissible additives in its rate calculations. The instant tariff filing makes no attempt to justify the difference between its

claimed costs and proposed query rates, but simply seeks to inflate BellSouth's already bloated cost figures by a shocking factor of more than 2.5. BellSouth also adds costs based on factors for inflation, land and buildings even though it provided no evidence that the introduction of LNP actually will generate any new costs in these areas.

Finally, in part due to the errors described above, BellSouth's query and surcharge rates are substantially higher than those of Bell Atlantic -- the only RBOC whose rates have been permitted to take effect without suspension. As it did in the case of U S West's LNP tariff, the Commission should require BellSouth to explain why its proposed rates are far higher than those of other ILECs. In addition, the Commission should, as it has in each of its orders to date setting ILEC LNP tariffs for investigation, direct BellSouth to explain how it dealt with LNP costs in the separations process, and how it intends to correct any distortions introduced by the inclusion of LNP costs in that process.

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PETITION TO REJECT OR SUSPEND TARIFF

Pursuant to Section 1.773 of the Commission's Rules, 47 C.F.R. § 1.773, and the Procedural Order¹ issued on December 8, 1998, AT&T Corp. ("AT&T") hereby requests that the Commission reject, or suspend for one day and investigate the above-captioned tariff filing by BellSouth Telecommunications, Inc. ("BellSouth") seeking to establish rates for local number portability ("LNP") query services and LNP end-user surcharges.

It is clear on the face of the instant filing that it fails to comply with the Commission's LNP orders, and accordingly it should be rejected.² At a minimum, the tariff raises substantial questions of lawfulness that cannot be dispelled in the highly abbreviated "streamlined" process afforded by this proceeding.

¹ Order, Long-Term Telephone Number Portability Tariff Filings, CC Docket No. 95-116, RM 8535 (released January 8, 1999) ("Procedural Order").

² A tariff is subject to rejection when it is prima facie unlawful, in that it demonstrably conflicts with the Communications Act or a Commission rule, regulation or order. See, e.g., American Broadcasting Companies, Inc. v. AT&T, 663 F.2d 133, 138 (D.C. Cir.

(footnote continued on next page)

The limited review afforded by this streamlined proceeding and the other ILEC tariff reviews that are ongoing represent the Commission's first opportunity to scrutinize ILECs' proposed end-user surcharges. In December 1998, the Commission promulgated its LNP Cost Classification Order,³ which provided significant new guidance to ILECs seeking to recover their costs of implementing LNP. In light of the importance and complexity of LNP cost allocation, that order recognized that "the need to distinguish between eligible LNP costs and general upgrade costs will require that LECs provide substantially more detail in filing their [LNP] tariffs than is customary when filing new services tariffs under the price caps recovery mechanism."⁴ The Commission's caution is well-justified. In the earlier rounds of ILEC LNP query tariff filings and the investigations that followed them the ILECs failed even to make a serious attempt to carry their burden of proof.⁵ As the LNP Cost Classification Order found, "the cost support submitted with the initial query service tariffs filed by several ILECs was inadequate to enable the Commission, or interested parties, to ascertain that only eligible LNP costs had been included in

(footnote continued from previous page)

1980); MCI v. AT&T, 94 F.C.C.2d 332, 340-41 (1983). Suspension and investigation are appropriate where a tariff raises substantial issues of lawfulness. See AT&T (Transmittal No. 148), Memorandum Opinion and Order, FCC 84-421, released September 15, 1984; ITT (Transmittal No. 2191), 73 F.C.C.2d 709, 716, n.5 (1979) (citing AT&T (Wide Area Telecommunications Service), 46 F.C.C.2d 81, 86 (1974)).

³ Memorandum Opinion And Order, Telephone Number Portability Cost Classification Proceeding, CC Docket No. 95-116, RM 8535 (released December 14, 1998) ("LNP Cost Classification Order").

⁴ Id., ¶ 19.

⁵ 47 U.S.C. § 204(a)(1) makes plain that the ILECs bear the burden of proving the lawfulness of their tariff filings.

the end-user and query service charges."⁶ Accordingly, despite the long history of this proceeding, neither the Commission nor potential commenters have previously had a meaningful opportunity to evaluate ILECs' claimed LNP costs.

Against this backdrop, the Commission would be ill-advised to permit the instant tariff to take effect without the more complete review an investigation will allow.⁷ As the January 29th Suspension Order observed in suspending and setting for investigation five ILEC LNP tariffs: "The rate proposals and the issues raised in the tariff filings for long-term number portability are novel and complex."⁸ Indeed, by suspending almost every LNP query service and end-user surcharge tariff filed to date, the Commission implicitly has recognized that suspension is appropriate to ensure that any LNP query charges or end-user surcharges comply with its new cost recovery rules.

I. BELLSOUTH FAILS TO COMPLY WITH THE COMMISSION'S REQUIREMENTS FOR RECOVERY OF OSS COSTS

The LNP Cost Classification Order imposed a two-part test to determine whether a cost purportedly incurred by an ILEC is "directly related to the implementation and provision of

⁶ LNP Cost Classification Order, ¶ 19.

⁷ The importance of such review is heightened because, under the Commission's current interpretation of § 402 of the 1996 Act, if the instant tariff is not suspended carriers taking service pursuant to the tariff will have no effective right to damages in the event the instant filing later proves inconsistent with the Commission's orders. See Report and Order, Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996, CC Docket No. 96-187, FCC 97-23 (released January 31, 1997), ¶¶ 18-23.

⁸ Memorandum Opinion And Order, Long-Term Telephone Number Portability Tariff Filings of Ameritech, GSTC, GTOC, Pacific and Southwestern Bell, CC Docket No. 99-35 (released January 29, 1999) ("Suspension Order").

telephone number portability," and therefore eligible for LNP cost recovery pursuant to the Commission's rules:

Under this test, to demonstrate that costs are eligible for recovery through the federal charges recovery mechanism, a carrier must show that these costs: (1) would not have been incurred by the carrier "but for" the implementation of number portability; and (2) were incurred "for the provision of" number portability service.⁹

The Commission has made plain that under this test, ILECs may not seek to recover their costs to modify pre-ordering, ordering, maintenance and other systems that, while potentially affected by LNP, are not used to provide that service.

We recognize that as LECs prepare their tariffs, there will be a number of issues regarding which specific costs qualify as eligible LNP costs. For example, the definition of "for the provision of number portability" is likely to be an issue during review of the LNP tariffs. Several LECs argue that all costs that would not have been incurred but for portability should be included as eligible LNP costs. In effect, these LECs would define "for the provision of portability" as including all costs related to any changes made necessary as a consequence of LNP. We disagree. In our view, the Commission adopted a very narrow definition of this phrase in the Third Report and Order, stating that the only eligible LNP costs are "costs carriers incur specifically in the provision of number portability services, such as for the querying of calls and the porting of telephone numbers from one carrier to another." The Commission specifically rejected the proposition that eligible LNP costs include all costs that carriers incur as an "incidental consequence of number portability." For this reason, in submitting their tariffs, we require LECs to distinguish clearly costs incurred for narrowly defined portability functions from costs incurred to adapt other systems to implement LNP, such as repair and maintenance, billing, or order processing systems.¹⁰

Although BellSouth alleges that it did not seek to recover OSS costs that violate the LNP Cost Classification Order, its transmittal cannot be reconciled with that order's

⁹ LNP Cost Classification Order, ¶ 10.

¹⁰ Id., ¶ 12 (footnotes omitted, emphasis added) (quoting Third Report and Order, Telephone Number Portability, CC Docket No. 95-116, FCC 98-82 (released May 12, 1998), ¶¶ 72, 74 ("LNP Cost Recovery Order")).

requirements. Table 1 of BellSouth's D&J identifies various systems, the costs of updating which BellSouth claims are properly recoverable. However, BellSouth itself admits in the "Description of the LNP Modification" column of Table 1 that most of the modifications at issue were made simply to adapt existing systems to an LNP-enabled environment.¹¹ The instant tariff seeks to recover BellSouth's purported costs to modify myriad OSS that address billing, maintenance, operator services, and other functions that cannot plausibly be said to be "for the provision of" LNP. For example, BellSouth seeks to recover the cost of changes to its DDNS system, which it uses to manage deliveries of printed telephone directories, and for LIST, which handles subscriber listing information used to provide directory assistance and other operator services. AT&T's Exhibit 1 lists the many systems modifications for which BellSouth seeks cost recovery that do not satisfy the criteria established in the Commission's orders.¹²

While the OSS modifications listed in BellSouth's Table 1 may potentially satisfy the Commission's "but for" criterion, many plainly are not "costs [BellSouth] incur[s] specifically in the provision of number portability services, such as for the querying of calls and the porting of

¹¹ Number portability breaks the link between the first three digits of a customer's seven-digit telephone number (the "NXX") and the carrier that provides his or her local service. Once LNP is in place, customers in the same NXX can be served by different LECs, and carriers must modify their internal systems to account for this fact. The Commission's orders make clear, however, that such modifications are not recoverable via LNP tariffs unless they are "for the provision of" portability.

¹² Exhibit 1 necessarily is based only on the limited information BellSouth has provided in its tariff filing. AT&T reserves the right to challenge BellSouth's attempts to recover the costs of other OSS in the event that information disclosed in the course of a subsequent tariff investigation reveals that such recovery would violate the Commission's LNP orders.

telephone numbers from one carrier to another."¹³ The Commission's January 29th Suspension Order expressly noted that other ILECs' attempts to recover similarly improper OSS costs raised substantial questions of lawfulness warranting suspension and investigation, and that same result is clearly required here.¹⁴

II. BELLSOUTH FAILS TO COMPLY WITH THE COMMISSION'S REQUIREMENTS REGARDING ADVANCEMENT AND UPGRADE COSTS

BellSouth contends that it should be permitted to increase its recoveries to account for the fact that implementation of LNP will cause it to make some investments earlier than it otherwise might have.

The provision of LNP services also required BellSouth to perform upgrades to certain switches. These upgrades are a prerequisite for introduction of the LNP feature software and were performed solely for the purpose of providing LNP services. Some upgrades were advanced in order to accommodate the provision of LNP services. The cost of money incurred for advancing the upgrade is treated as a fully recoverable cost.¹⁵

The LNP Cost Classification Order expressly addressed this issue -- and expressly rejected the argument BellSouth offers here.

Several commenters suggest that all costs related to advancing the deployment date of switches and software should be included as eligible number portability costs, even though the advanced deployments also benefit other services. We disagree. As we found in considering what portion of generic upgrades should be eligible LNP costs recoverable through the federal LNP charges, we do not agree that the entire costs of an "advancement" should be recovered as number portability costs, especially where those costs were incurred for software generics switch hardware, OSS, SS7 or AIN. Although the costs of planned upgrades may

¹³ LNP Cost Classification Order, ¶ 12 (emphasis added) (quoting LNP Cost Classification Order, ¶ 72).

¹⁴ See Suspension Order, ¶ 4.

¹⁵ BellSouth D&J, p. 9.

have been advanced by LNP requirements and LECs would not have deployed the upgrades early "but for" the Commission's portability implementation schedule, the associated upgrades provide general enhancements to the LECs' networks. As such, we find that only the incremental portion of such costs directly related to the provision of number portability may be recoverable as eligible LNP costs. Thus, LECs may claim only the advancement costs associated with the difference between the costs of the upgrade with the LNP functionality and its costs without that functionality. In such cases, LECs should provide evidence clearly demonstrating that the replacement or "advancement" is actually due to number portability and would not have occurred otherwise.¹⁶

Similarly, BellSouth attempts to assign the costs of upgrades to LNP in a manner that is directly foreclosed by the Commission's orders, stating at page 9 of its D&J that:

Software was purchased that provides the feature to expand the number of Subsystem Numbers (SSNs) that can be assigned in the 5ESS switch. The use of SSNs in BellSouth has increased to include new CLASS services, new AIN services and LNP. LNP, however, triggered the immediate need to expand the SSN capability in the 5ESS switch. A portion of the joint cost is allocated to LNP as a percentage of the number of SSNs forecasted to be used through the year 2004.

The LNP Cost Classification Order made clear that ILECs may recover through their LNP tariffs only that portion of an upgrade that is calculated by subtracting the cost of the upgrade without LNP functionality from its cost with that capability.

We interpret the Commission's language regarding incremental costs as requiring that incumbent LECs subtract the costs of an item without the telephone number portability functionality from the total costs of that item with the telephone number portability functionality. Only the difference, the incremental costs incurred for the provision of portability, is an eligible long-term portability cost.

This methodology assigns the "base portion" of joint costs to the non-portability services and identifies only the incremental costs incurred specifically for telephone number portability functions as eligible LNP costs. All other costs support non-

¹⁶ LNP Cost Classification Order, ¶ 30 (footnotes omitted, emphasis added).

portability services and must be considered general network upgrade costs, rather than costs of providing telephone number portability, even though these costs may not have been incurred absent telephone number portability.¹⁷

In addition, the LNP Cost Classification Order specified that in order to justify its LNP tariff an ILEC "must demonstrate that all avoided costs and incremental revenues made possible by the upgrade will not cover the costs of the upgrade."¹⁸ BellSouth does not even attempt to make such a showing.

In light of BellSouth's admitted failure to follow the LNP Cost Classification Order's clearly stated requirements, the Commission should not hesitate to reject or suspend the instant tariff.

III. BELLSOUTH'S TARIFF SEEKS TO DOUBLE-RECOVER ITS EMBEDDED COSTS

Page 17 of BellSouth's D&J describes that RBOC's calculation of its purported signaling costs:

The SCIS model was used to determine the levelized unit material prices for the end or tandem office. The SS7 requirements for Call Routing Service were determined by applying the unit material investment per Octet from a SS7 Fundamental Study by the number of Octets times the 1999 Call Routing Service demand. The material investments and expenses associated with the STP and Integrated Digital Service Terminal (IDST) were handled in the same manner the end office component.

The STP to SCP ports and links and SCP are shared with the End User Line Charge rate elements, Call Routing Service and Query Service. In addition to the allocated amounts, facilities (circuit equipment and fiber cable) between the STP and SCP are required. The number of circuits and fiber miles were calculated to support the number SCPs installed and multiplied by the material investment per termination and per circuit mile. The unit material investments were developed using SONET price calculator and spreadsheets.

¹⁷ Id., ¶¶ 23-24 (footnotes omitted).

¹⁸ Id., ¶ 29.

The SCIS model and the "SONET price calculator" calculated BellSouth's total purported SS7, STP and other investments and costs, and then divided those costs by the total number of octets processed to determine BellSouth's claimed cost and investment per octet. In order to calculate its claimed LNP costs and investments, BellSouth then multiplied its investment-per-octet figure by the total number of octets BellSouth claims are required for LNP.

If all investments and costs varied directly with the number of octets processed, then BellSouth's approach potentially could provide an adequate estimate of the incremental impact of the additional messages generated by LNP. However, many of BellSouth's claimed costs plainly do not vary in this fashion. Therefore, these fixed/joint investments made prior to implementation of LNP are embedded costs, and if included as incremental LNP costs would result in double recovery.¹⁹

In its February 26, 1998 Order Designating Issues for Investigation, the Commission directed Ameritech, Pacific, and SWBT to include in their direct cases concerning their LNP tariffs information documenting their

actual expenditures, including expenditures to date and planned actual expenditures within the recovery period, for the number portability costs which have been developed utilizing CCSCIS or SCIS. The companies must explain the basis of each calculation of actual expenditures.

Where Ameritech, Pacific, and SWBT intend to continue to rely on the information produced by the cost models in support of their tariffs, we further direct the LECs to explain how the use of cost models would produce more accurate estimates of the incremental costs generated by number portability than would be produced by

¹⁹ See generally Opposition of AT&T Corp., filed April 19, 1999 in Long-Term Number Portability Tariff Filings, CC Docket No. 95-116, RM 8535, pp. 11-21. AT&T hereby incorporates its aforesaid April 19, 1999 opposition to the direct cases of Ameritech, Pacific Bell, Southwestern Bell and GTE into the instant pleading by reference.

an analysis of actual and planned expenditures. These LECs also must demonstrate that the use of the models does not produce double recovery of embedded costs already being recovered through other cost recovery mechanisms. This demonstration must also include, at a minimum, a comparison of the model's calculation of average costs of number portability-type queries and the model's incremental costs of these queries. The LECs also must demonstrate their total network switching and signaling costs with and without long-term number portability, or explain why their models cannot do so.²⁰

The Designation Order correctly isolated the problem inherent in using LNP cost assignment cost models such as BellSouth's when it required the ILECs to provide information concerning "the total network switching and signaling costs with and without long-term number portability."²¹ The LNP Cost Classification Order recognized that average cost methodologies such as that BellSouth seeks to employ would potentially allow ILECs to double recover embedded costs. To guard against such double recovery the order held:

[W]e agree with AT&T that only new costs can be claimed as eligible LNP costs. AT&T maintains that investments made by an incumbent LEC prior to LNP implementation cannot be considered direct costs incurred to provide number portability. AT&T states that an incumbent LEC's use of embedded facilities cannot give rise to costs directly related to LNP unless the incumbent LEC can show that the use of the facilities for the provision of LNP gave rise to new costs. Otherwise, AT&T argues, allowing incumbent LECs to claim embedded investments as eligible LNP costs would grant them double recovery. We agree. We find it reasonable to bar recovery of costs incurred by LECs prior to LNP implementation and concur that permitting embedded investments to be eligible LNP costs would amount to double recovery through standard mechanisms.

Because, as discussed above, existing cost recovery mechanisms already provide for the recovery of embedded costs, we conclude that LECs may recover through

²⁰ Order Designating Issues For Investigation, Long-Term Number Portability Tariff Filings, CC Docket No. 99-35 (released February 26, 1999), ¶¶ 19-20 (emphasis added) ("Designation Order").

²¹ Id., ¶ 20.

the federal LNP charges only those costs that are demonstrably incremental costs LECs incur in the provision of long-term portability.²²

BellSouth does not even attempt to argue that its models comport with the Commission's rules. The instant tariff improperly seeks to recover embedded costs in essentially the same fashion as the previously suspended LNP tariffs filed by Ameritech, Southwestern Bell and Pacific Bell, and should be rejected or suspended on that ground.

IV. BELLSOUTH INCLUDES IMPERMISSIBLE ADDITIVES IN ITS RATE CALCULATIONS

A. **BellSouth's Proposed Rates Are Not Based on Its Claimed Actual Costs**

Appendix A, page 1 of the instant tariff filing provides BellSouth's ratio of its claimed costs to its projected revenues. BellSouth states that its unit cost/unit price ratio for end user line charges is 99.5%. For call routing service, its unit cost/unit price ratio is 39%, while that ratio for query service is 63%.

BellSouth's D&J asserts that it included an overhead factor of only 3.98% in calculating its proposed rates.²³ Despite this claim, however, BellSouth adjusted its direct costs of performing LNP queries by a factor of more than 2.5 -- and that factor, in effect, works as a general overhead additive.

²² LNP Cost Classification Order, ¶¶ 18, 21 (footnotes omitted, emphasis added).

²³ BellSouth D&J, p. 7.

BellSouth's only rationale for the difference between their rates and costs is that "Rates for Call Routing Service and Query Service include overhead amounts consistent with overheads in other recent BellSouth filings."²⁴ This claim -- and BellSouth's methodology -- runs directly counter to the LNP Cost Recovery Order's unequivocal instruction that:

Because carrier-specific costs directly related to providing number portability only include costs carriers incur specifically in the provision of number portability, carriers may not use general overhead loading factors in calculating such costs. Carriers already allocate general overhead costs to their rates for other services, and allowing general overhead loading factors for long-term number portability might lead to double recovery. Instead, carriers may identify as carrier-specific costs directly related to providing long-term number portability only those incremental overheads that they can demonstrate they incurred specifically in the provision of long-term number portability.²⁵

Moreover, the Commission has expressly rejected the argument that different standards should apply for recovery of overhead costs in LNP query charges versus surcharges:

We disagree, however, with Ameritech's proposal to use general allocation factors in identifying incremental overheads to be applied in identifying costs to be recovered through query service charges to other carriers. The Third Report and Order prohibited use of general overhead loading factors in identifying eligible LNP costs, and did not distinguish between end-user and query services charges in this respect.²⁶

BellSouth's unexplained additive alone is larger than the query rates charged by Bell Atlantic -- the only RBOC whose rates the Commission permitted to take effect without suspension -- as well as the rates proposed by most other RBOCs. Moreover, although Bell Atlantic, Southwestern Bell, and Pacific Bell initially sought to impose an factor similar to that BellSouth proposes, those RBOCs all subsequently removed their proposed additives. U S West

²⁴ Id., p. 22.

²⁵ LNP Cost Recovery Order, ¶ 74 (emphasis added, footnotes omitted).

²⁶ LNP Cost Classification Order, ¶ 35.

is the only RBOC other than BellSouth that now seeks to impose a non-cost-based factor on its LNP costs, and the Commission's March 25, 1999 Order Designating Issues for Investigation concerning U S West's tariff

designate[d] for investigation whether US West's use of a 1.89 factor to adjust its estimated "forward looking incremental" query cost constitutes use of a general overhead factor. We direct US West to explain why use of this factor does not result in recovery of embedded costs rather than incremental costs of number portability.²⁷

BellSouth seeks to utilize an additive 75% greater than even the bloated 1.89 factor proposed by U S West, and does so without even attempting to show that its resulting rate reflects its actual costs. This issue alone provides ample basis for rejection or suspension of BellSouth's LNP tariff.

B. BellSouth Includes Impermissible Loadings in Its Cost Calculations

BellSouth states in its D&J that

Various loadings and factors for inflation, Telco engineering, hardwire [sic], land and buildings are applied to the annual capital amounts for Network and OSS to determine installed investments.²⁸

Once again, BellSouth simply disregards the Commission's two part test that only costs actually incurred that would not have incurred "but for" LNP and are used "for the provision of" portability are recoverable through the end user surcharge and query charges.

Paragraph 21 of the Commission's February 26th Designation Order required Ameritech, Pacific and SWBT to provide further information concerning their actual expenditures "for all land, buildings, administration, and maintenance expenses that are claimed." Specifically, that order directed those ILECs to "identify costs that were derived either from model output or

²⁷ Order Designating Issues For Investigation, Long-Term Number Portability Tariff Filings, CC Docket No. 99-35 (released March 25, 1999), ¶ 26 ("U S West Designation Order").

²⁸ BellSouth D&J, pp. 18, 19.

an allocation factor applied to actual costs on the basis that new investment has an impact on overall requirements."²⁹ This instruction makes clear that ILECs may not simply apply factors to their claimed actual investments attributable to LNP, but instead must identify the incremental costs created by their implementation of portability. In fact, BellSouth has provided no evidence that it made any new investments in land or buildings in order to provide LNP.

Further, BellSouth's attempt to use an inflationary factor simply ignores the fact that, due to productivity enhancements, its costs are decreasing year over year, as the Commission's use of an "X" factor in access tariffs recognizes. If anything, BellSouth's inflation factor should be replaced by a net factor that adjusts for the impact of productivity enhancements.

V. BELLSOUTH'S PROPOSED RATES GREATLY EXCEED THOSE PROPOSED BY OTHER RBOCS

The Commission's March 25th U S West Designation Order observed that U S West's LNP rates were far in excess of other RBOCs, and designated as an issue for investigation whether U S West had claimed costs that it could not properly recover via its LNP tariffs.

[B]ased on our preliminary review, we find that U S West's end-user and query service charges are high relative to other RBOCs that have made long term number portability tariff filings. The substantially higher charges proposed in U S West's tariff filings and U S West's inclusion of administrative and business costs in rates for its query services raise substantial issues of lawfulness that warrant an investigation. We designate for investigation whether U S West's end-user and query service charges are reasonable. As part of this issue, we designate for investigation whether the costs U S West claims for these services are eligible number portability costs. We further designate for investigation whether it is reasonable to allow U S West to recover higher number portability

²⁹ Designation Order, ¶ 21 (emphasis added).

implementation costs than those incurred and recovered by LECs with more modern networks.³⁰

As the instant petition has shown, BellSouth also seeks to tariff LNP rates far beyond those of Bell Atlantic, the only RBOC whose LNP tariffs have been permitted to take effect without an accounting order. BellSouth's end user surcharge is approximately 70% higher than Bell Atlantic's. BellSouth's query rates are even more grossly out of line -- its call routing rate is more than five times Bell Atlantic's, and approximately twelve times that proposed by Pacific Bell.

While valid reasons may exist for differentials in the LNP query and surcharge rates charged by various ILECs, the magnitude of the differences between BellSouth's proposed rates and those of Bell Atlantic strongly suggest those discrepancies are the result of BellSouth's failure to adhere to the Commission's orders -- particularly in light of the serious BellSouth errors described in this petition.

VI. BELLSOUTH HAS NOT DEMONSTRATED THAT IT EXCLUDED LNP EXPENSES AND INVESTMENTS FROM ITS INTRASTATE RESULTS

In both of its most recent designation orders, the Commission directed the ILECs whose tariffs were under investigation to explain how they had treated their LNP-related investments and expenses in the separations process. For example, the U S West Designation Order directed that RBOC to:

... file an explanation of how prior year costs related to long-term number portability implementation were treated with respect to jurisdictional separations. U S West should demonstrate that the number portability costs booked in past periods and included in the development of federal number portability charges have

³⁰ U S West Designation Order, ¶ 14.

not been recovered already in the state jurisdiction. Alternatively, U S West should explain how state ratepayers will be made whole if the Commission allows federal recovery of costs previously assigned to the intrastate jurisdiction and included in the state ratemaking process. We also direct U S West to file an explanation of how costs related to long-term number portability implementation will be treated prospectively with respect to jurisdictional separations. U S West should demonstrate that long-term number portability costs included in the development of federal number portability charges will not be recovered prospectively in the state jurisdiction.³¹

In response to the Commission's inquiry, most of the ILECs responded that they had indeed included LNP-related investments and costs in the separations process.

The Commission's LNP Cost Recovery Order clearly held that long-term number portability costs and recoveries are exclusively federal and must be excluded from jurisdictional separations.

[W]e find that section 251(e)(2) authorizes the Commission to provide the distribution and recovery mechanism for all the costs of providing long-term number portability. We conclude that an exclusively federal recovery mechanism for long-term number portability will enable the Commission to satisfy most directly its competitive neutrality mandate, and will minimize the administrative and enforcement difficulties that might arise were jurisdiction over long-term number portability divided. Further, such an approach obviates the need for state allocation of the shared costs of the regional databases, a task that would likely be complicated by the databases' multistate nature. Under the exclusively federal number portability cost recovery mechanism, incumbent LEC's number portability costs will not be subject to jurisdictional separations. Instead, we will allow incumbent LECs to recover their costs pursuant to requirements we establish in this Third Report and Order.³²

Although the RBOCs whose tariffs are currently under investigation have argued that the inclusion of LNP costs did not materially impact the intrastate rates they charged, they have not indicated that they have made any efforts to correct their overstated rates or to refund

³¹ Id., ¶ 36.

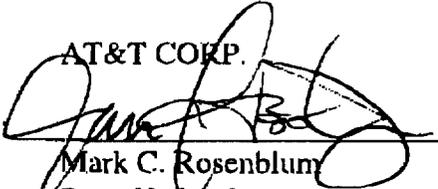
³² LNP Cost Recovery Order, ¶ 29.

access and end user charges overbillings. ILECs that have included LNP-related charges in the separations process should be required to make the accounting adjustments necessary to remove those charges and any associated revenues from their intrastate investments and expenses. Future intrastate rate cases may make use of historical investments and expenses, and intrastate figures are currently overstated by virtue of the inclusion of LNP-related costs. The Commission should require BellSouth to explain how it dealt with separations for its LNP related investments and expenses, and how it intends to correct any distortions introduced by the inclusion of LNP costs in that process.

CONCLUSION

For the reasons stated above, AT&T urges the Commission to reject or, alternatively, to suspend and investigate BellSouth's Transmittal No. 502.

Respectfully submitted,

AT&T CORP.
By 
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May 7, 1999

AT&T Exhibit 1

AT&T Exhibit 1 -- BellSouth's Claimed OSS Modifications That
Do Not Satisfy The Commission's LNP Cost-Recovery Requirements

- I. The following systems are not utilized "for the provision of LNP," as that requirement is defined by the LNP Cost Recovery Order and LNP Cost Classification Order. BellSouth improperly claims that 100% of the cost of modifying these systems should be recovered via its LNP tariffs.

ATLAS
BONIS
CABS
CARE
COFFI
DIS
DDNS
DPRO
E911-IREIS/BSSDI
HAL
IBIS
IBISDI
ISP
LCCAM
LEACS
LEAP/TAP
LIST
LMOS HOST-ALRU
MISOP
NETTS
ORION
OVERTURE/ROS
P/SIMS
RE-LOG
RICC (DBAS II Interface)
RIGHTTOUCH
SNECS
TAFI
TCN
TRAFFIC-WISE
COSMOS
DBAS II
LIDB
NETPILOT
NSDB
SOAC INTERFACE TO ATLAS
SOAC
WFA/C

AT&T Exhibit 1 -- BellSouth's Claimed OSS Modifications That
Do Not Satisfy The Commission's LNP Cost-Recovery Requirements

WFA/DI
WFA/DO
SSCAS
PREDICTOR (LET)

- In addition, BellSouth seeks to recover its costs for to hire Telecordia (formerly Bellcore) for consulting, support and coordination for updating the above-listed systems. Because updates to the above OSS are not recoverable through LNP tariffs, the expense attributable to Telecordia's assistance in modifying them also may not be recovered via the instant tariff.

- II.** BellSouth also seeks to recover a variety of costs that it claims were created because implementation of LNP required it to add capacity, memory or functionalities to its existing maintenance and provisioning hardware. These costs generally were allocated to LNP based on usage. However, as shown in AT&T's petition, that allocation method does not comport with the Commission's rules. Instead, BellSouth may recover only the difference between the costs of these upgrades with LNP functionality, and their cost without that capability. In addition, an ILEC "must demonstrate that all avoided costs and incremental revenues made possible by the upgrade will not cover the costs of the upgrade."

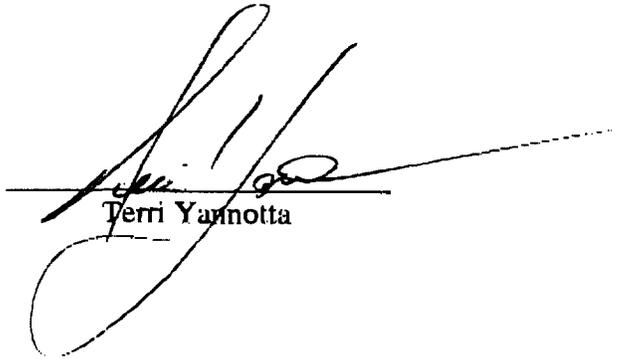
FCAS
MLT
MTS
NTMOS
STM
TDMS
TMN
K2 Upgrade
PREDICTOR
ARTS
MATV
MTAS
VERBATIM
AIN-SMS

- As discussed above, BellSouth seeks to recover costs for Telecordia's support of its modifications of these systems. These costs may not properly be allocated to BellSouth's LNP tariffs based on usage.

CERTIFICATE OF SERVICE

I, Terri Yannotta, do hereby certify that on this 7th day of May, 1999, a copy of the foregoing "Petition To Reject Or Suspend Tariff" was mailed by U.S. first class mail, postage prepaid, and sent via facsimile to the party listed below:

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BellSouth Corp.
Suite 1700
1155 Peachtree Street
Atlanta, GA 30309-3910
Facsimile (404) 249-2118


Terri Yannotta

May 7, 1999