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UNITED STATES GOVERNMENT

memorandum

TO: Magalie Roman Salas, Secretary

FROM: Jessica Rosenworcel, Policy Division, Common Carrier Bureau

SUBJECT: BellSouth October 2, 2000 Letter

DATE: October 16, 2000

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Please place the attached letter from Robert Sutherland, General Attorney, BellSouth, to Dorothy Attwood, Chief, Common Carrier Bureau, Federal Communications Commission, dated October 2, 2000, in **CC Docket Nos. 96-98 & 98-147**. If you have any questions regarding this request, please contact Jessica Rosenworcel at 418-2764.

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To: Michelle Carey

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M. Robert Sutherland
General Attorney

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October 2, 2000

Dorothy Attwood
Chief, Common Carrier Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 30554

RE: Implementation of Line Sharing Order

Dear Ms. Attwood:

BellSouth is filing this letter to inform you of a change in BellSouth's position regarding the matters raised in BellSouth's *ex parte* letter of June 19, 2000 ("*Ex Parte* Letter"). BellSouth filed the *Ex Parte* Letter as a result of uncertainty arising from the *Line Sharing Order*[1] as it relates to voice service disconnects. The *Ex Parte* Letter focused on the situation in which a competitive local exchange carrier ("Data CLEC") is providing data service under a line sharing arrangement with an incumbent local exchange carrier ("ILEC"), and the end-user desires to change voice providers. At issue is which carrier, the Data CLEC or the Voice CLEC, should have the first right to the loop. In the *Ex Parte Letter*, BellSouth asserted that the Data CLEC should have the superior right to the existing loop as long as there is a spare loop for the Voice CLEC. If, however, there is no spare loop, BellSouth's position was that the voice provider should have the superior right to the existing loop.

As a result of concerns raised by the Data CLECs, practical considerations, and a careful review of the *Line Sharing Order*, BellSouth has revised its position. BellSouth now believes that the Data CLEC should have the right to remain on the shared line irrespective of whether there is a spare facility available for use by a voice provider.

[1] *In The Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147 and *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, *Third Report and Order in CC Docket No. 98-147* and *Fourth Report and Order in CC Docket No. 96-98*, 14 FCC Rcd 20912 (1999) ("*Line Sharing Order*").

The principal concern with allowing the voice provider to have the first right of refusal when there is no spare loop is that it removes the Data CLEC from a loop that is capable of providing xDSL service. This outcome seems particularly unfair if the Data CLEC has paid the ILEC to have the shared line conditioned. The Data CLEC would be in the position of having paid to condition a shared facility only to then be forced off that facility because the end-user elected to change voice providers. Moreover, the end-user may experience a significant interruption of its ability to obtain xDSL service.

BellSouth interprets the *Line Sharing Order* as supporting the proposition that there should be no interruption in the Data CLEC's service when the end-user cancels ILEC service and migrates to a Voice CLEC. In Paragraph 73 of the *Line Sharing Order*, the Commission stated:

> If the incumbent carrier has disconnected the customer's voice service in compliance with applicable federal, state and local law, then there is no longer an incumbent voiceband service with which the competitor LEC can share the loop. The same holds true if the customer voluntarily cancels incumbent LEC provided voiceband services on the shared loop. In those situations, in order to continue to provide data services to that customer, the competitive LEC must purchase the entire unbundled loop and must pay the incumbent LEC the forward looking cost for that unbundled network element. We would find it **unacceptable, and potentially discriminatory under Section 201 or a violation of Section 251 obligations, for the incumbent to cause or require any interruption of the competitive LEC's service** in order to execute such a loop access status change. [emphasis added]

Because BellSouth must offer the existing loop to the data LEC, BellSouth's process, when an end-user wishes to switch voice providers on a line shared loop, will be to accept only a request for a new voice loop from the Voice CLEC.[2] BellSouth will reject any Voice CLEC's request to reuse the existing line shared loop. BellSouth will provide a reject code that will advise the Voice CLEC that the requested loop is being line shared. The requesting Voice CLEC provider then has the opportunity to order a "new" voice loop, without existing facility reuse, or to contact the end-user to determine if the data service will be continued. The end-user may then elect to disconnect the data service or transition the data service to the new voice provider. If the end-user elects to change the data service, the

[2] This assumes that the Voice CLEC and Data CLEC have not entered into a line splitting arrangement between themselves.

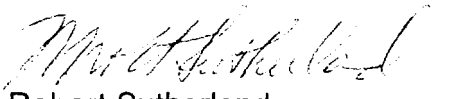
existing data service must be disconnected. After it is disconnected, the Voice CLEC would then be able to reuse the existing loop.

In the event the Data CLEC maintains control of the existing end-user loop, the Data CLEC is required to purchase the full stand-alone loop. BellSouth will remove its splitter from the existing loop.

Finally, while BellSouth believes allowing the Data CLEC to remain on the shared facility is consistent with the Commission's intent in the *Line Sharing Order*, one consequence of this policy is that in order to accommodate the voice service being on a new loop, the end-user will be required to perform re-wiring work on the customer side of the demarcation point.[3] Voice service will not be available from the new voice provider to the end-user until this customer premises re-wiring is completed. Upon the establishment of a new voice loop to the end-user's premises, the end-user will need to connect the inside wiring to the entrance bridge network provided in the Network Interface Device.[4] The end-user will also need to rearrange one or more of the jacks throughout the premises to connect the new line to the appropriate CPE devices. Other work may be necessary to ensure continuity of the inside wiring as a result of the lack of standards for the installation of inside wiring.

BellSouth regrets any inconvenience this change in position may have caused. BellSouth welcomes any guidance the Commission may choose to provide on this issue.

Very truly yours,



Robert Sutherland

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[3] Since work performed on the customer's side of the interface is de-regulated work, it will be the end user's responsibility to do the re-wiring work himself, or in most cases to pay someone, such as the new voice provider, to do the work for him.

[4] Of course, even if BellSouth were to follow a contrary policy in which the voice provider took possession of the original loop, when the Data CLEC is moved to a new loop, re-wiring at the Network Interface Device and one or more jacks will still be necessary.