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March 19, 2002

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Ex Parte Submission**

Mr. William Caton, Acting Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room TW-B-204  
Washington, D.C. 20554

Re: *Joint Application by BellSouth Corporation, et al., for Provision of  
In-Region, InterLATA Services in Georgia and Louisiana,  
CC Docket No. 02-35*

Dear Mr. Caton:

In response to a request from the Common Carrier Bureau Staff, BellSouth is providing this letter to address (1) BellSouth's policies regarding the conversion of lines with DSL service to the UNE-P and (2) BellSouth's alleged practice of placing DSL service on a customer's primary line. BellSouth will address these issues in turn.

**1. DSL Service and the UNE-P**

This Commission has long established that an ILEC has no duty to provide DSL service over a line over which an end user is receiving UNE-P service from a CLEC. The *Texas Order*<sup>1</sup> is explicit on this point. There, the Commission expressly "reject[ed] AT&T's argument that we should deny this application on the basis of SWBT's decision to deny its xDSL service to customers who choose to obtain their voice service from a competitor that is using the UNE-P. Under our rules, the incumbent LEC has no obligation to provide xDSL service over this UNE-P carrier loop." *Texas Order* ¶ 330.

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<sup>1</sup> Memorandum Opinion and Order, *Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas*, 15 FCC Rcd 18354 (2000) ("*Texas Order*").

Such a policy, the Commission stressed, is in no way “discriminatory.” *Id.* The Commission further noted that CLECs that wish to provide voice and data over such a loop are free to engage in line-splitting arrangements. *See id.*

Consistent with Commission precedent, BellSouth’s longstanding policy is not to offer its wholesale DSL service to an ISP or other network services provider (“NSP”) on a line that is provided by a competitor via the UNE-P. *See BellSouth Reply Aff. of Eric Fogle, CC Docket 01-277, ¶ 5 (filed Nov. 13, 2001).* BellSouth will, however, continue to offer wholesale DSL to the NSP if the competitor resells BellSouth’s voice service on that line. *See id.* ¶¶ 3-4. CLECs that wish to provide voice and data over a UNE-P loop are free to engage in line splitting. BellSouth provides for electronic ordering of line splitting.

Many of the CLEC arguments here are simply quarrels with this plainly lawful BellSouth policy. Thus, without even noting the Commission’s on-point precedent rejecting its argument, AT&T claims that BellSouth’s actions are “patently anticompetitive and discriminatory” because BellSouth will not continue to provide DSL on a UNE-P line. *See AT&T Comments at 42 (stressing that it is “technically feasible” for a “CLEC to provide UNE-P service and for a BellSouth DSL NSP to provide the DSL service”).* Similarly, CompTel incorrectly contends that there is something improper with BellSouth’s practice of refusing “to provide DSL service on UNE loops, including the UNE Platform.” CompTel Comments at 6; *see also* KMC Comments at 14; Xspedius Comments at 7.

Nor is there any merit to claims that BellSouth implements its lawful policy in an improper manner. Until November 3, 2001, when a CLEC ordered UNE-P over a line on which BellSouth was providing wholesale DSL service to an NSP, BellSouth would simply strip the DSL service off the line. This process gave the CLEC UNE-P service priority over the existing DSL service. However, because this process resulted in some customers losing DSL service without their prior knowledge, WorldCom submitted a change request under which BellSouth would not strip the DSL service from the line that the CLEC seeks to convert to UNE-P, but instead would clarify the order back to the CLEC. BellSouth implemented this request in November 2001. Under the procedures developed in response to WorldCom’s request, after an order is clarified back to the CLEC, the CLEC is responsible for contacting the end user so that the end user may cancel DSL service with its ISP. The ISP then sends a disconnect order to BellSouth. BellSouth then stops providing DSL service over the line, and the CLEC can then resubmit the LSR for the UNE-P service.

The process developed in response to WorldCom’s request ensures that end users will not have their DSL service disconnected without their knowledge. At the same time, however, that process does add time and effort to the ordering process. On January 27, 2002, Birch submitted a change request (CRO625) through the flow-through task force suggesting a fix to this issue. Under the Birch proposal, by submitting a specially

configured LSR that specifies DSL removal as part of the conversion process, CLECs will have orders flow through without clarification. This solution should limit delay and manual handling and, because of the need to submit a special LSR, should ensure that the CLEC's agent does not inadvertently strip away the DSL service without notifying the end user. Once details of this proposal have been worked out and it has been prioritized by CLECs, BellSouth will proceed with development and deployment of this solution. BellSouth is thus working diligently to implement a process that is responsive to CLEC needs.

Some CLECs also argue that a DSL USOC – that is, a code indicating that BellSouth is providing wholesale DSL service to an NSP – appears on some customer service records even though no DSL service is being provided. *See Birch Comments at 30; KMC Comments at 15.* A DSL USOC is placed on a customer service record only if an NSP has ordered DSL service to be provided to that customer. The USOC is never simply a “placeholder,” as the CLECs appear to allege. Where the USOC is on the line, an NSP is being billed for the service to that customer. However, in limited instances, the DSL USOC could appear on an end user's record even though the end user is not being provided DSL service by the NSP. In some cases, BellSouth has provisioned DSL on a line, as requested by the NSP, but the NSP has not yet completed installing the end user's service.<sup>2</sup> In this case, BellSouth is billing the NSP for DSL but the customer is not yet receiving service. In other cases, the end user has disconnected service with the NSP but the NSP has not placed the DSL disconnect order with BellSouth or BellSouth has not completely processed the disconnect order.

In all events, the percentage of lines with a DSL USOC where no DSL service is being provided to an end user is small. BellSouth has found that, in January 2002, of all the UNE-P conversions, **only 0.3%** were clarified because of a DSL USOC where an end user did not appear to be receiving DSL on the line. That does not mean, however, that BellSouth is ignoring this issue. In a few days, BellSouth will begin trialing with one CLEC (Birch) an interim process by which a CLEC, after receiving a clarification, would have the option to call a dedicated group at BellSouth's Local Carrier Service Center (“LCSC”) to inform them that the end user is not receiving DSL. The LCSC would then remove the DSL USOC from the end user's account. This new procedure should allow

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<sup>2</sup> For example, under its current provisioning process BellSouth activates DSL-based Internet access service automatically after the end user receives the DSL modem. This activation could occur several days after BellSouth equips the line with DSL and places the DSL USOC on the end user's record. Under procedures that were discontinued in October 2001, BellSouth did not activate its DSL-based Internet access service until the end user “registered” through successful installation and activation of the DSL modem. If the end user was not successful in attempts to install and activate the modem, BellSouth would not have initiated the service. In some instances this condition did occur but was not immediately recognized by BellSouth, resulting in its failure to pass an order disconnecting the wholesale service and removing the DSL USOC from the line.

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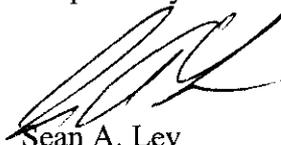
orders to be processed in approximately 72 hours. If the trial is successful, BellSouth will explore implementation of this for all CLECs. Even before this improvement, however, these clarifications have not come close to depriving CLECs of a meaningful opportunity to compete.

**2. Alleged Practice of Placing DSL on the Customer's Primary Line**

KMC and Birch have also alleged that BellSouth has a "policy" of placing its FastAccess® DSL-based Internet access service on a customer's main billing number or the main line of a hunt group. *See* KMC Comments at 12-13; Birch Comments at 31-32. That is incorrect. In fact, BellSouth's policy is to place DSL on whichever line the customer requests. Thus, the sales training used by BellSouth FastAccess® sales agents prompts the agent to ask the customer which phone number the customer would like to use for its service. BellSouth will send a notice to its sales agents reminding them of this policy. If the telephone number provided by the customer qualifies for DSL, then the agent is instructed to place the DSL order on the line requested by the customer. Moreover, if the first choice of the customer does not currently qualify for DSL service, a common suggestion used by agents is to recommend provisioning the DSL service on the customer's fax line.

Pursuant to the Commission's rules governing ex parte communications, I am enclosing two copies of this letter. Please file-stamp and return the additional copy.

Respectfully submitted,



Sean A. Lev

Attachment

cc: Renee Crittendon  
Susan Pié  
Cynthia Lewis  
James Davis-Smith  
Leon Bowles  
Arnold Chauviere  
Qualex