Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
2000 Biennial Regulatory Review -- Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 and 3	))))))	CC Docket No. 00-199
	)	
Local Competition and Broadband Reporting	))	CC Docket No. 99-301

REPLY COMMENTS OF BELLSOUTH CORPORATION

BellSouth Corporation, on behalf of its wholly owned affiliates ("BellSouth"), submits the following reply comments in the above-captioned proceeding.[1] In the initial comment round in this proceeding, BellSouth filed joint comments with a number of other incumbent local exchange carriers ("ILECs").[2] Although BellSouth is filing separate reply comments it generally concurs in the reply comments of the other ILECs who were a party to the Joint Comments.

I. The Issues Raised In the Comments Opposing Deregulation Are Without Merit

Several parties filed comments that oppose the deregulation of the accounting rules. None of these comments raise substantive issues that support maintaining the status quo. The

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1 *In the Matter of 2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2, et al.,* CC Docket Nos. 00-199, 97-212, 80-286, 99-301, in CC Docket Nos. 00-199, 97-212, and 80-286, 99-301, *Report and Order in CC Docket Nos. 00-199, 97-212, and 80-286*; (*"Phase 2 Order"*), *Further Notice of Proposed Rulemaking in CC Docket Nos. 00-199, 99-301, and 80-286* (*"Notice"*), 16 FCC Rcd 19911 (2001).

2 Joint Comments of BellSouth, SBC, Verizon, Qwest, Frontier, and CBT, (filed Apr. 8, 2002) ("Joint Comments").

Commission should therefore adopt the proposals set forth in the Joint Comments. BellSouth addresses several of these issues below.

A. The Commission Should Eliminate Its Accounting and Reporting Requirements Without Further Delay

In the *Notice*, the Commission specifically urged commenters, and in particular, state regulators, to provide detailed justification for why specific accounting and reporting rules should *not* be eliminated. BellSouth respectfully suggests that commenters did not meet that challenge; the majority of comments offer the same general "the sky will fall" reasons for why accounting and reporting rules should be maintained.[3]

A number of commenters argue that the accounting and reporting rules as a whole are critical to the development of competition and should not be removed until the ILECs have officially been found to be non-dominant.[4] These arguments are specious and are merely a smoke screen in an effort to continue to saddle the ILECs with burdensome and unnecessary regulation. NARUC and the California PUC even go so far as to suggest that the accounting rules should be the last Commission rules to be eliminated.[5] These arguments should be summarily rejected.

Most of the accounting and reporting rules at issue in this proceeding predate the 1996 Telecommunications Act and were never intended to promote competition. Their primary

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3 *See* Comments of AT&T at 2-3; General Services Administration ("GSA") at 6-7; National Association of Regulatory Utility Commissioners ("NARUC") at 5-9; Rural Utilities Service ("RUS") at 2; Sprint at 3-7; and California PUC at 8.

4 *See* Comments of GSA at 3-6; NARUC at 11-13; Michigan PSC at 5; Wisconsin PSC at 5-6; and WorldCom at 1-2.

5 NARUC Comments at 8, 24, California PUC at 3-4.

function was to protect ratepayers in a rate-of-return monopoly environment. That is clearly not the environment that exists today, as the ILECs explained fully in their Joint Comments.[6]

It is ironic that NARUC would argue that the Commission's accounting and reporting rules should be the last to be eliminated, since they are largely redundant. In the Joint Comments, the ILECs discussed how their accounting practices are already governed by other rules and standards that apply to all public entities.[7] The Commission should eliminate the accounting and reporting rules immediately and without further delay because numerous other controls are already in place.

B. The Comments Offer No Basis To Support Opposing the Elimination Of the Affiliate Transactions Rules

Few commenters addressed the Affiliate Transactions Rules, and, of those who did, most expanded their interpretations beyond the scope of the Rules. The Affiliate Transaction Rules only address how financial transactions with related parties are recorded on the carrier's books;[8] they do not address pricing of services to customers, the nondiscriminatory provision of services,[9] or the protection of customer proprietary network information ("CPNI").[10] Neither do the Affiliate Transaction Rules have an impact upon issues of carrier dominance or market

6 Joint Comments at 3-5.

7 *See Id.*, text and accompanying notes, at 6-8.

8 *In the Matter of Implementation of the Telecommunications Act of 1996; Accounting Safeguards Under the Telecommunications Act of 1996*, CC Docket no. 96-150, *Report and Order*, 11 FCC Rcd 17539, 17586, ¶ 107 (1996) ("*Accounting Safeguards Order*").

9 Some commenters seem to have the mistaken belief that changes in the Affiliate Transaction Rules would have an impact on regulations in Section 272 of the Telecommunication Act. *See* Sprint Comments at 10-11.

10 *See* California PSC Comments at 13.

competitiveness, because services provided, deployed, or managed by the carrier have no correlation with the Affiliate Transaction Rules.

The Wisconsin and Michigan PSCs state that the rules protect ratepayers from possible cross-subsidy resulting from transactions between related parties, but do not elaborate on how that could occur when a carrier is under "pure" price regulation, with no sharing and no ability to utilize the lower formula adjustment mechanism ("LFAM"). Wisconsin states that the affiliate transactions rules guard against cross-subsidy related to advanced services, but fails to explain how this is true when these advanced services are provided on an integrated basis by the carrier.

Additionally, state PSCs are mistaken in their belief that Affiliate Transaction Rules have an impact on predatory pricing. Wisconsin states that a price floor is one means of limiting the potential for predatory pricing. The Affiliate Transaction Rules, however, do not guard against a carrier understating a cost in order to facilitate predatory pricing. In fact, the current EFMV/FDC comparison rules actually force some transactions to be booked to the carrier below the economic value of the transaction. Thus, Affiliate Transactions Rules have virtually *no* impact on pricing.[11] Pricing of carriers' services in a price cap environment is a function of rules other than the Affiliate Transactions Rules.

Sprint states that "the Cost Allocation Manual and attestation audit required by the affiliate transactions rules can provide meaningful information to determine RBOC compliance with its nondiscrimination obligation."[12] This argument is misplaced. First, the CAM and the attestation audit are not required by the Affiliate Transactions Rules in Part 32, but by the Joint Costs Rules in Part 64. Elimination of the Affiliate Transactions Rules will not eliminate the

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11 Joint Comments at 23-25.

12 Sprint Comments at 12.

CAM or the CAM audit. Indeed, neither this Phase 3 proceeding nor the ILECs are suggesting that these requirements be changed via this rulemaking process. Second, the CAM does not disclose information regarding compliance with an "RBOC's" nondiscrimination obligations.[13] The CAM is a mechanism by which an ILEC discloses: (a) cost pool based methods used to allocate costs between its internal regulated and non-regulated operations; (b) the nature of the affiliate transactions it is involved in; and (c) various other cost allocation method overviews such as a general description of the time reporting methods it uses. The CAM was not designed to, nor would it, disclose information to determine whether RBOCs are complying with nondiscrimination obligations of Section 272(c). Congress established an audit process to help monitor Section 272 obligations. Affiliate Transactions Rules are not needed for that purpose.

BellSouth believes that the commenters have raised no issues that would prevent the Commission from eliminating all affiliate transactions rules immediately. At a minimum, however, the Commission should adopt the simplified affiliate transactions proposal offered in the Joint Comments.[14]

C. The CPR Rules Have Outlived Their Usefulness and Should Be Eliminated

BellSouth strongly supports the Commission's tentative conclusion to eliminate its current Continuing Property Record (CPR) rules. Many commenters equate the elimination of the Commission's CPR *rules* with carriers eliminating their asset tracking records or CPRs.[15] This is a misplaced assumption. As the ILECs explained in their Joint Comments,

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[13] BellSouth assumes that Sprint is referring to certain nondiscrimination provisions of Section 272(c) of the Telecommunications Act.

[14] Joint Comments at 28-30.

[15] *See* Comments of National Association of State Consumer Utility Advocates ("NASUCA") at 2-3; NARUC at 20-22; Michigan PSC at 8; Wisconsin PSC at 10.

telecommunications companies must track their investment to run their businesses and to comply with GAAP and other legal requirements such as tax laws. GAAP generally describes the methods by which costs are assigned to assets, and a section of GAAP relating to audits describes how the cost build-up and existence of assets are verified for external reporting.[16]

In addition, the Foreign Corrupt Practices Act requires entities to compare the physical existence of assets to their records on a periodic basis.[17] In order to comply with this law, the practices, procedures, and controls over the acquisition, construction, and management of telephone equipment must be thoroughly documented by the companies. These procedures and compliance with them are subject to audit for tax, financial, and regulatory purposes.

Finally, GAAP requires companies to keep records of actual costs for depreciation purposes. Depreciation is one area where the states and the Commission differ today. States will still retain the authority to set their own depreciation criteria. Carriers have worked closely with states on depreciation and they recognize that a reasonable transition period will be needed to transition from federal depreciation to GAAP. The data necessary for Group Depreciation

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16 *See* Accounting Research Bulletin ("ARB") No. 43, Ch. 9 and Accounting Principles Board ("APB") Opinion No. 6. *See also*, Statement of Financial Accounting Standards ("SFAS") No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets," which provides guidance on the measurement and recognition of the impairment of long-lived assets to be "held and used." SFAS 144 also provides guidance on the classification of assets planned for disposition, e.g., assets held for sale, including when depreciation on such assets should be suspended. Moreover, the SEC is proposing to add another new Item 302(d) of Regulation S-K to obtain certain information concerning tangible and intangible long-lived assets and related accumulated depreciation, depletion, and amortization. A new Item 8C would be added to the recently revised Form 20-F. The rule proposals are intended to provide improved detailed disclosures concerning the underlying accounting assumptions and more detailed information to assess the effects of useful lives assigned to long-lived assets. The SEC Proposal is referenced under Release No. 33-7793, 34-42354; File no. S7-03-00, issued January 2000, Supplementary Financial Information, 17 C.F.R. Parts 210, 229, and 249.

methodology (Asset and Accumulated Depreciation Reserve Balance at the Main Account level, date of placement, etc.) must be maintained since BellSouth uses the same basic methodology for both state and federal depreciation calculations.

State commenters argue that it is critical that the ILECs continue "tracking their largest assets." BellSouth agrees such tracking is critical to run its business and will continue to do so in full compliance with GAAP.[18] The Commission CPR rules are not necessary to achieve that goal.

D. Part 32 Requirements and ARMIS Reporting Should Be Eliminated

There are two separate issues related to Part 32 requirements. The first and most important issue pertains to the accounting procedures prescribed by Part 32. For example, Part 32.16, Changes in Accounting Standards, Part 32.17, Interpretation of Accounts, Part 32.18, Waivers, and Part 32.26, Materiality represent procedures over which GAAP and SEC regulations provide ample guidance. These are only examples; GAAP is sufficient for other Part 32 procedures as well. Therefore, Part 32 accounting procedures are no longer needed and should be eliminated for Price Cap ILECs that have achieved pricing flexibility. The second issue is the prescribed Chart of Accounts. While BellSouth believes that carriers should be allowed to establish their own charts of accounts, BellSouth is not opposed to maintaining the

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17 *See* 15 U.S.C. § 78m(b)(2)(B)(iv) ("the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.").

18 NASUCA appears to mistakenly assume that the CPR is used to locate and maintain network facilities and are thus important to "homeland security." NASUCA Comments at 4-6. BellSouth, and all ILECs, keep entirely separate engineering record systems used to manage, maintain and upgrade the network. These records are not regulated and would be unaffected by any change in the Commission's CPR rules. The historical investment data recorded in the CPR plays no role in network reliability or security.

existing Part 32 accounts as prescribed in the Commission's *Phase 2 Order* while transitioning to GAAP for all other procedures. This would appear to address a major concern of NARUC and other commenters.[19]

NARUC's and other commenters' contention that all Part 32 requirements should be retained for ILECs until they are fully deregulated is unreasonable. For BellSouth and other Price Cap ILECs that have achieved pricing flexibility, the link between costs and service prices has been eliminated. Moreover, the Commission stated in its *Phase 2 Order* that its goal was to eliminate unnecessary regulation. Based on these facts, Part 32 accounting procedures are no longer necessary for Price Cap ILECs because rates are no longer based on Part 32 costs. As stated in the Joint Comments, the use of GAAP instead of Part 32 procedures will help insure consistency in the accounting principles used by all companies, including ILECs, CLECs, IXCs, cable companies and others. Clearly, maintaining Part 32 procedures is unnecessary for Price Cap ILECs and should be eliminated immediately; however, at a minimum, the Commission should establish a sunset of three years for transitioning to GAAP.

In addition, NARUC's concern that without Part 32 procedures, uniform accounting and reporting requirements will disappear and perhaps lead to higher Universal Service Fund ("USF") support and higher unbundled network element ("UNE") prices is also incorrect. Federal USF support and UNE prices are based on forward-looking costs as prescribed by the Commission and the state PSCs, respectively.[20] Moreover, using GAAP will allow the carriers to adopt a consistent universally accepted set of accounting standards for maintaining their

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19 NARUC Comments at 6, 10-11; Michigan PSC Comments at 6; California PUC Comments at 10-11; GSA Comments at 6-7.

20 Joint Comments at 18-19, 21-22.

regulatory books. And since Part 32 is primarily based on GAAP, changing ILEC accounting procedures from Part 32 requirements to GAAP will not cause major changes in ILEC costs, nor will it undermine USF support or UNE prices.

Finally, BellSouth concurs with the reply comments of Qwest, SBC and Verizon regarding the elimination of ARMIS reporting. If the Commission believes data is needed for Universal Service and Pole Attachments, it should adopt the alternative reports provided in the Joint Comments.

II. Conclusion

As requested in the Joint Comments, the Part 32 Accounting Rules and ARMIS requirements should be eliminated by a date certain, not to exceed three years. During the transition period, carriers would continue to maintain a Chart of Accounts, simplified affiliate transaction rules, and the ARMIS financial reports (43-01, 43-02, 43-03, 43-04). Nothing presented in the Comments supports any other action by the Commission.

Respectfully submitted,

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Date: May 7, 2002

CERTIFICATE OF SERVICE

I do hereby certify that I have this 7th day of May 2002 served the parties of record to this action with a copy of the foregoing **REPLY COMMENTS OF BELLSOUTH** by Electronic Mail and U.S. Mail addressed to the parties listed on the attached service list.

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