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The Public Service Commission State of South Carolina

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July 11, 2002

Marlene H. Dortch, Secretary
Office of the Secretary
445 12th Street, SW, CY-B402
Washington D.C. 20554

Dear Ms. Dortch:

The Public Service Commission of South Carolina ("South Carolina Commission") recommends that the Federal Communications Commission ("FCC") approve BellSouth Telecommunications, Inc.'s ("BellSouth's") application to provide interLATA services originating in South Carolina. Our recommendation, made after a rigorous proceeding investigating BellSouth's compliance under Section 271(c) of the Telecommunications Act of 1996 ("1996 Act") and after careful deliberation – and resulting in a unanimous vote of all seven commissioners – is based on years of overseeing the transition to local competition in South Carolina.

Over the past year, the South Carolina Commission has held weeks of hearings on section 271 compliance and reviewed tens of thousands of pages of testimony and filings by all interested parties. After that thorough review, we are confident that the conclusions in our *271 Compliance Order*¹ are correct and that, as the FCC found in the Georgia/Louisiana proceeding, BellSouth has satisfied its legal obligations under Section 271 of the 1996 Act. We are also confident that competitors can compete in areas of South Carolina served by BellSouth. We therefore believe that granting BellSouth's Application will significantly enhance competition and will be in the interest of all South Carolinians by bringing savings and innovation to the people of our State. The South Carolina Commission appreciates the FCC's consideration of our views on section 271 compliance. These Comments should be understood as an addition to our *271 Compliance Order*. It does not replace that order. Accordingly, the findings in that detailed decision will not be repeated here.

¹ Order Addressing Statement and Compliance with Section 271 of the Telecommunications Act of 1996, *Application of BellSouth Telecommunications, Inc. to Provide In-Region InterLATA Services Pursuant to Section 271 of the Telecommunications Act of 1996*, Order No. 2002-77, Docket No. 2001-209-C (Feb. 14, 2002).

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The FCC has emphasized that states may “facilitate the development of successful section 271 applications” by “conduct[ing] proceedings concerning . . . section 271 compliance with opportunities for participation by third parties.” *SWBT-KS/OK Order* ¶ 3. The South Carolina Commission has fulfilled that role. The decisions we reached in our *271 Compliance Order* were based on an enormous amount of information, gathered both through paper filings and live hearings. We believe that the findings made in our 271 Compliance Order are correct and that those findings provide significant assistance to the FCC in this proceeding. As the FCC has said in prior instances, it “will look to the states to resolve factual disputes wherever possible.” *SWBT-Texas Order* ¶ 51. Where “the state has conducted an exhaustive and rigorous investigation into the BOC’s compliance with the checklist, we may give evidence submitted by the state substantial weight in making our decision.” *Id.* Those statements by the FCC apply fully here, and the South Carolina Commission respectfully submits that our findings of checklist compliance deserve “substantial weight” in this proceeding.

The South Carolina Commission has actively supervised the transition to local competition through a series of different proceedings. We have supervised arbitrations between BellSouth and a number of CLECs, and through these arbitrations, we have resolved a long list of discrete issues. The South Carolina Commission has also established separate dockets to address, among other things, the appropriate resale discount for contract service arrangements (Docket 98-378-C); deaveraged rates for UNEs (Docket 2000-122-C); collocation (Docket 2000-498-C); and UNE pricing (Docket 2001-65-C). The South Carolina Commission takes pride in doing its part to foster local competition in the State and pledges to continue to do so after section 271 approval is granted by the FCC.

Although the FCC has not required the adoption of a penalty plan as a prerequisite to section 271 approval, it has considered the existence of such a plan to be “probative evidence that the BOC will continue to meet its section 271 obligations and that its entry would be consistent with the public interest.” *SWBT – Texas Order* ¶ 420. Indeed, every section 271 application which the FCC has thus far granted has included an enforcement mechanism. As part of our section 271 proceeding, we concluded that BellSouth’s Self-Effectuating Enforcement Mechanism (“SEEM”) plan (which we renamed the Incentive Payment Plan or “IPP”) is designed to meet the FCC’s standards for such plans. We thus required that BellSouth include this plan as part of its SGAT. The IPP is a voluntary, multi-tiered, self-effectuating penalty plan similar to that used in other states where the FCC has granted Section 271 approval. It penalizes BellSouth significantly for backsliding in the level of service it offers its competitors after it enters the long-distance market. The South Carolina Commission believes that the amounts are sufficient to serve

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as meaningful and significant penalties for backsliding (and hence a powerful incentive for BellSouth to provide nondiscriminatory performance), as well as sufficient to deter CLECs from gaming the system so as to capture BellSouth's penalty payments as a major revenue stream.

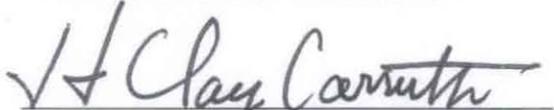
The South Carolina Commission did, however, require modification to the IPP. As modification to the IPP, we mandated that the IPP include at least one payment category concerning the metrics the South Carolina Commission has ordered BellSouth to develop and implement concerning its responsiveness to CCP requests from the CLECs. Additionally, to ensure that the IPP continues to serve its purpose of preventing backsliding far into the future, the South Carolina Commission will reassess the IPP's payment calculations beginning with its first six-month review of the plan. Thereafter, at six month intervals the South Carolina Commission may review and make changes to the IPP after consultation with the CLECs and BellSouth. Finally, we ordered BellSouth to incorporate the IPP into its SGAT. The IPP is not meaningfully different from the plans that the FCC found adequate in the Georgia/Louisiana proceeding.

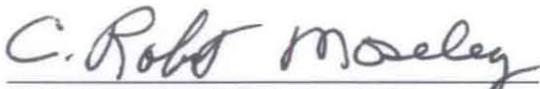
The South Carolina Commission has undertaken its consultative role under section 271 and has spent considerable time reviewing BellSouth's statutory compliance. It is our considered judgment that the South Carolina market is open and that BellSouth has met all legal requirements. We urge the FCC to reach the same result, so that South Carolina consumers may reap the benefits of competition, including the anticipated savings of money and the introduction of new technologies and services.

Sincerely,

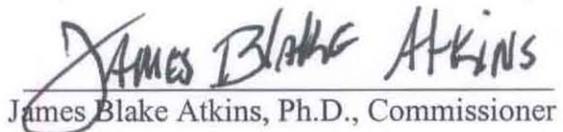

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