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May 16, 2003

EX PARTE

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> St. SW  
Washington, D.C. 20554

**Re: CC Docket 01-92**

Dear Ms. Dortch:

This is to notify you that yesterday BellSouth met with Commission staff to discuss a number of issues raised in the above docket relating to interconnection and intercarrier compensation between CMRS carriers and independent local exchange carriers. Representing BellSouth at these meetings were Randy Ham, Parkey Jordan and the undersigned. Commission staff in attendance were William Maher, Jane Jackson, Josh Swift, Tamara Preiss, Steve Morris, Jay Atkinson, Victoria Schlesinger, Stacy Jordan and Peter Trachtenberg.

The attached presentation formed the basis for this discussion. In addition, we provided the staff a copy of the attached letter responding to recent ex partes from rural carriers relating to these issues.

Pursuant to Commission rules, please include this notice and attachments in the record of the proceeding identified above.

Sincerely,



Glenn Reynolds

cc: William Maher  
Jane Jackson  
Josh Swift  
Tamara Preiss  
Steve Morris

Jay Atkinson  
Victoria Schlesinger  
Stacy Jordan  
Peter Trachtenberg

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May 15, 2003

Mr. William Maher  
Chief, Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Room 5-C450  
Washington, D.C. 20554

RE: Ex Parte Presentation in CC Docket No. 01-92

Dear Mr. Maher:

This is in response to the Notices of Ex Parte Presentation filed by Mr. Stephen G. Kraskin on April 29, 2003, and May 2, 2003, on behalf of the Alliance of Incumbent Rural Telephone Companies, the Georgia Telephone Association, the Kentucky Independent Telephone Group, the Mississippi Rural Independent Telephone Company Group, and the Tennessee Rural Independent Coalition (collectively, the "Independents").

The ex parte presentation of the Independents, as well as that of Verizon Wireless in the same Docket, highlights the need for the Commission to issue rules relating to intercarrier compensation associated with indirect interconnection and transiting functions. Pursuant to the Act, the Independents are obligated to accept calls from carriers who have chosen to interconnect indirectly with the Independents through a third party transiting company, such as BellSouth. Further, the Independents must recognize that compensation due them for local calls from other carriers is the responsibility of the originating carrier, not the transiting company.

The Independents, in their objection to meet point billing arrangements being utilized to provide the Independents with the necessary information to bill the originating carrier for local traffic terminated on the Independents' networks, fail to mention that the industry standard call detail records BellSouth provides to the Independents for CLEC and CMRS originated local traffic are the same records the Independents have received and used for billing interexchange carriers in connection with access services jointly provided by the Independents and BellSouth. Thus, BellSouth has not "unilaterally imposed" meet point billing arrangements on the Independents. Further, while it is true that BellSouth

compensated Independents in the past for CMRS originated traffic that transited BellSouth's network and was delivered to the Independents for termination, BellSouth did so only because CMRS providers' accounts had not been established originally in the industry standard CABS billing system and BellSouth could not generate the industry standard billing records that would enable the Independents to bill the CMRS providers.<sup>1</sup> As CMRS providers have converted to meet point billing with BellSouth, BellSouth has provided advance notice to the Independents. While the Independents have objected to BellSouth's discontinuance of payment for CMRS traffic, they have never claimed that they are unable to utilize the billing records provided to bill the CMRS providers directly. Further, as the Independents utilize the same billing records to bill interexchange carriers in meet point billing arrangements with BellSouth, BellSouth had no reason to believe the Independents would agree to meet point billing only where they could bill access rates. It appears that the Independents simply prefer to classify this traffic as BellSouth's toll traffic, for which the independent companies throughout BellSouth's region charge from \$0.01 to \$0.20 per minute of use.

BellSouth has attempted to negotiate new agreements with the Independents, but the Independents have resisted. As the only local service provider in their service areas, and as the Independents for the most part have not provided toll services, the Independents have never had to pay intercarrier compensation, but have always been the recipient of such compensation. Further the Independents have always charged originating or terminating access, rather than cost-based reciprocal compensation, when exchanging traffic with other carriers. Thus, it appears that the Independents would rather not exchange local traffic with any carrier because to do so would reduce the amount of money the Independents collect for terminating traffic, and would cause the Independents to be responsible for payment to another carrier for originated traffic. By insisting that BellSouth, as a transiting company, continue to pay them access charges for CMRS traffic, the Independents are: (1) ignoring the reality that pursuant to current law they are obligated to terminate traffic on their networks that may be "local" as defined by the originating carrier; (2) charging access rates for termination of local traffic in violation of Section 251(b)(5) of the Act; and (3) attempting to shift the burden of payment for originating traffic from the originating carrier to the transiting carrier. Although BellSouth has agreed to act as a transiting company, it is not willing to assume the costs of reciprocal compensation or access for traffic it neither originates nor terminates. If, when performing this transiting function, BellSouth is forced to pay the originating or terminating carrier, or if BellSouth is not allowed to recover cost of using its network for transit functions, BellSouth will be unwilling to agree to perform transiting services for carriers.<sup>2</sup> The issues that the Independents raise must be fully addressed in the Commission's intercarrier compensation docket.

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<sup>1</sup> In Mississippi and Georgia, BellSouth and the Independents entered into agreements prior to the Telecommunications Act of 1996 whereby BellSouth agreed to compensate Independents in those states for CMRS traffic at the Independents' access rates. Those agreements have been terminated in accordance with the terms thereof. BellSouth has reached a settlement with the Georgia Telephone Association and certain CMRS providers regarding compensation for CMRS transit traffic.

<sup>2</sup> BellSouth fully agrees with the comments of SBC Communications, Inc. filed in CC Docket No. 01-92 relating to transit traffic and charges therefor.

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With regard to the US LEC Petition, the Independents claim that they should receive access charges when terminating any traffic from "an interexchange or toll carrier utilizing an established access interconnection arrangement." In today's environment, interexchange or toll carriers may also be local service providers or transit service providers. The Independents, like other telecommunications carriers, must consider the jurisdiction of the traffic and the origination thereof (as established through industry standard call detail records in the case of transit traffic). The Independents' position on this issue jeopardizes the transit function and ignores the fact that the Act permits multiple local service providers in any given territory.

Neither the Act nor any Commission precedent obligates BellSouth to provide transit service in order to facilitate interconnection between CMRS providers and Independents. While BellSouth is willing to offer such transit service, it will do so only to the extent that it is (1) fairly compensated for this service, and (2) not forcibly placed in the shoes of either the originating or terminating carriers with respect to responsibilities for intercarrier compensation. For these reasons, the Commission should clearly articulate these responsibilities in the context of this proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn Reynolds", written in a cursive style.

Glenn Reynolds

490661

BELLSOUTH EXPARTE

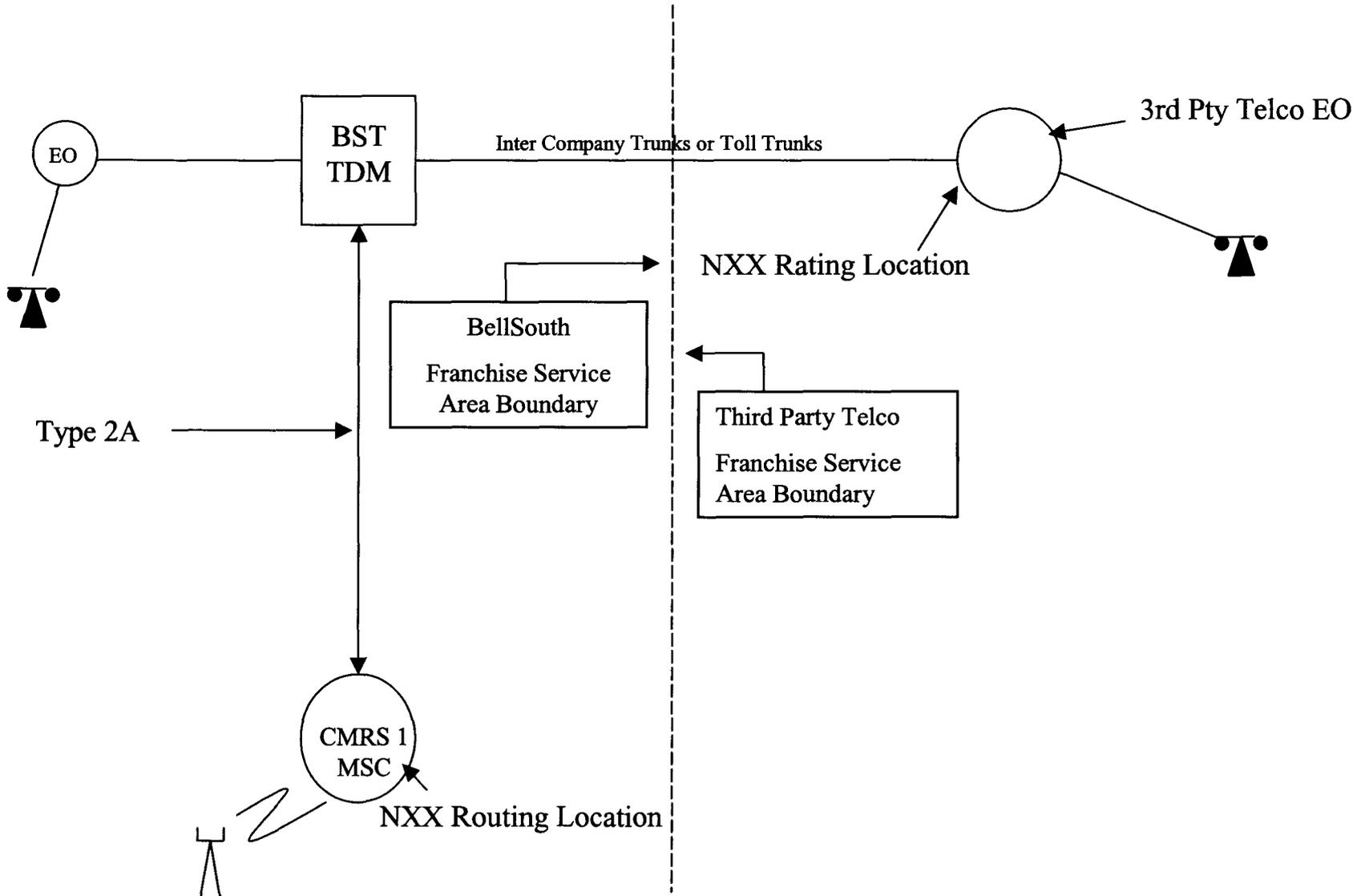
May 15, 2003

CMRS NPA/NXX ARRANGEMENTS  
WITH THIRD PARTY ILEC RATE CENTERS  
(VIRTUAL NXX RATE CENTERS)

 **BELLSOUTH**



**NXX With 3<sup>rd</sup> Party Rate Center  
&  
Routing To BST Interconnection**



Interconnection  
Services

FCC DOCKET 01-92  
May 15, 2003



## >> Sprint PCS Issue

Sprint's Complaint Limited to a Single Scenario: Request from CMRS carrier to load numbers ROUTED to the BellSouth Tandem but RATED in the rate center of an Independent ILEC ("ICO").

- Sprint acknowledges that BellSouth never refused to load different rating and routing points so long as both points are located within BellSouth franchise service area.
- Despite problems discussed below, BellSouth continues to load rating and routing information as requested by CMRS carriers pending the FCC's decision in this proceeding.

## **>> Sprint PCS Issue**

Sprint PCS acknowledges that its Intent is to be able to Provide LOCAL SERVICE within the ICO service area Without entering into an Interconnection Agreement with the ICO.

- Sprint wants the RATING point to be in the ICO rate center so that calls between ICO end-users and Sprint PCS end-users will be LOCAL.
- Implicit in this is Sprint's assumption that calls originating and terminating to the particular NXX will be predominantly between the CMRS end-user and the ICO end-user.
- Although, Sprint claims that "a large portion of the traffic at issue is traffic originating on the BellSouth network," this is clearly not the case. Sprint wants to RATE the calls in the ICO territory so that as many calls as possible are treated as LOCAL.

This Fact Belies Sprint's claim that there is Too Little Traffic to Make Negotiating Interconnection Agreements Directly with the ICO Economical. Sprint is Marketing Service to these ICO service areas and Choosing to Treat it as Local because that is where its Customers are Located.

# >> Sprint PCS Issue

By establishing Rating and Routing Points in Different ILEC Territories, Sprint is Shifting Costs to BellSouth by Utilizing BellSouth to provide Transit Service in order to Obtain Indirect Interconnection with the ICO.

- Same Argument would Apply to Interconnection Between CMRS-CLEC or CLEC-ICO.
- Such a Rule Would allow ICOs, CMRS carriers and CLECs to decide not to enter into Interconnection Agreements and look to the BOC to provide Indirect Interconnection in a situation where the BOC may not be compensated appropriately.
- BellSouth has no Legal Obligation under Section 251 to provide Transit Service. BellSouth has agreed to provide Transit Service to Sprint but has no Transit Agreement with the ICOs. BellSouth's agreement to provide Transit Service was based upon an Assumption that NPA/NXX codes would be both Rated and Routed in the same ILEC franchise service area.
- Ignores obligations of Section 251 requiring carriers *–including ICOs–* to negotiate in good faith terms of interconnection. Sprint's use of BellSouth's Transit Services does not relieve originating and terminating carriers of the obligation to enter into agreements to compensate each other for the exchange of traffic.

Verizon Wireless argues that “whether tandem operators have a duty to provide transiting service is not pivotal to the case; rather, the Commission must merely resolve carriers’ obligation to load numbers as directed.” Verizon Wireless ex parte, April 23, 2003.

- THE ISSUES ARE ONE AND THE SAME--If BellSouth Is Required to Accede to a Request to Separate the Rating and Routing in the Manner Requested by Sprint PCS, Then it IS Being Required to Provide Transit Service in a manner that was not contemplated and that Distorts Intercarrier Compensation Obligation.

# >> Inter-Carrier Compensation Issues

Calls between Sprint and BellSouth End Users generally Do Not Raise Compensation Issues.

Calls Between Sprint and other carriers potentially create hundreds of compensation problems. Some examples of Compensation Issues are:

- CMRS originated call to ICO customer in area CMRS targeting (*i.e.*, Rate Center Area) – ICO may bill BellSouth access; ICO may see same rate centers and not bill anyone; if ICO has call detail info the ICO may be able to bill CMRS provider But many ICOs are not utilizing call detail records to bill appropriately
- ICO originated call to CMRS – ICO must transport call to BST tandem but because call is “local,” ICO gets no compensation for transport. ICOs do not have or want Transit Agreements with BellSouth, so BellSouth will not be compensated for use of its network.
- CMRS originated call to the CLEC – If Non-Meet Point Billing CMRS the call likely gets billed to BST. If it is a MPB CMRS and if both companies bill correctly then billing could be done correctly.
- CMRS originated call to another ICO – ICO typically would bill BST access charges since call appears to have come from the first ICO territory.

## **>> Relief Requested**

BellSouth has never agreed to Sprint's routing and rating assignments for NXX codes over the objection of other ILECs to allow Sprint to serve end users.

The FCC should clarify that routing points and rating points must be assigned only within the service territory of the ILEC and within the LATA. Such clarification will resolve intercarrier compensation issues associated with differing routing and rating assignments, as Sprint will be required to interconnect directly with ILECs where intends to serve customers.

If the FCC finds that carriers may assign rating points in a different ILEC territory from the routing points, the FCC must address the myriad of intercarrier compensation issues caused by such assignment.

# >> T-Mobile Petition

- T-Mobile Petition explicitly raises only the question of whether the Act requires ICOs to negotiate interconnection agreements with CMRS providers that include reciprocal compensation, rather than obtain compensation for such traffic through state tariffs.
- BellSouth interest in this question is limited to where it is acting as transit provider (*i.e.*, indirect interconnector) between CMRS and ICO.
- CMRS commenters appear to assume that BOC must provide indirect interconnection.
  - Raises same fundamental issue as Sprint Petition
  - Similar factual circumstances of CMRS and/or ICO choosing not to negotiate interconnection agreement and instead shift costs to BOC.
  - Also raises same resulting intercarrier compensation questions.
- Commission should affirm that:
  1. BOC no obligated to provide transit
  2. Where it does so, it is not responsible for charges of terminating carrier

## **>> Rural ICO Ex Partes**

The FCC must address transit and compensation issues that arise when a transit service provider transits calls to and from Independent Companies so that the transiting company is compensated for its services and the originating and terminating carriers compensate each other directly at appropriate rates.