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Ex Parte Filing

February 27, 2004

Steve Morris, Deputy Chief
Pricing Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: WC Docket No. 03-173

Dear Mr. Morris:

In our February 23, 2004 meeting, we discussed the relationship of the lack of competition in the local services market to price increases for local service. Data from the Federal Communications Commission (“FCC” or “Commission”) show that, since 1996 and the general opening of all markets to competition, prices for local service have generally increased, even as prices for long distance and mobile services have by and large declined.¹ Americatele Corporation (“Americatele”) believes that the upward trend in prices for local telephone service, in the face of downward trends for long distance and mobile service prices, is a strong indication that the local exchange market is simply not competitive, contrary to the claims of the Bell Operating Companies (“BOCs”).

You had asked whether these price increases for local service are simply attributable to the shift of costs from long distance and exchange access services to local services, especially for residential customers. Americatele, while acknowledging that cost shifts have contributed somewhat to the increase in prices for basic local service, nevertheless, shows herein that the BOCs have also been increasing other local service rates that are not affected by the deloading of costs from long distance and exchange access services and their re-allocation to basic local service. The BOCs have been increasing local service prices because competition in that market simply is insufficient to check the BOCs’ pricing power.

¹ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993 and Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Eighth Report, 18 FCC Rcd 14783, 14899, at Table 8 (2003) (“*Eighth Report*”).

A very good example of the BOCs' local service price increases is Custom Calling services, *e.g.*, Call Waiting, Speed Dialing and Call Forwarding.² Despite the fact that the incremental costs for providing Custom Calling services are miniscule in amount, LECs have generally charged residential consumers several dollars per month, per feature, for those services.³

Moreover, the BOCs have been raising prices for Custom Calling services to residential customers despite their rhetoric about the intensity of local competition. BellSouth, for example, has raised its price for various Custom Calling services to residential customers at least eleven times, in various states within its operating territory, since 2001: Alabama – File Package AL2003-059, effective August 18, 2003; Florida – File Package Nos. FL2001-051 and FL2004-014, effective June 2, 2001 and February 2, 2004 respectively; Georgia – File Package GA2002-130, effective January 2, 2003; Kentucky – File Package No. KY2002-126, effective January 16, 2003; Louisiana – File Package No.: LA2001-054, effective July 22, 2001; North Carolina – File Package NC2003-091, effective August 22, 2003, South Carolina – File Package Nos. SC2002-032 and SC2004-003, effective June 20, 2002 and February 1, 2004 respectively; and Tennessee – File Package Nos. TN2001-006 and TN2002-590, effective March 15, 2001 and December 5, 2002 respectively.⁴

Nor has BellSouth's local service-related price increases been limited to residential Custom Calling services. For example, both business and residential customers in Florida have seen a number of price increases for vertical features and ancillary local services since 2000. BellSouth raised monthly vertical service rates for business customers in 2000 (File Package No. FL1999-298, effective January 15, 2000). Business customers were charged more for MemoryCall service (File Package No. FL2000-025, effective February 15, 2000). BellSouth raised its monthly rate for inside wire maintenance for residential consumers from \$3.95 to \$4.50 (File Package No. FL2000-032, effective March 4, 2000). Local Directory Assistance charges were increased from \$0.85 to \$0.95 (File Package No. FL2000-037, effective April 19, 2000). BellSouth raised its prices for Local Operator Assistance services (File Package No. FL2000-044, effective May 18, 2000). Business Custom Calling services were increased in price (File Package No. FL2000-147, effective October 2, 2000).⁵

A second MemoryCall service price increase for business customers occurred in 2001 (File Package No. FL2000-194, effective March 1, 2001). On the same day, BellSouth's monthly price to business customers for the Voice Mail Companion Services Package rose from \$8.25 to \$11.25 (File

² Custom Calling services, sometimes referred to as "vertical features," are special services and functionalities that a local exchange carrier ("LEC") provides with its Central Office Switch to customers without the need for any special terminal equipment. Harry Newton, *NEWTON'S TELECOM DICTIONARY*, 15th ED. 220 (1999).

³ The Bureau of Labor Statistics, the FCC's source for its telephone service price increase data set forth in the *Eighth Report*, has confirmed informally that price increases for vertical services are included in its local telephone service price indices.

⁴ Available online at <http://cpr.bellsouth.com/index2.html> (visited February 25, 2004).

⁵ *Id.*, at <http://cpr.bellsouth.com/pdf/fl/filings/flfiling.htm> (visited February 25, 2004).

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Package No. FL2000-195, effective March 1, 2001). Local Operator services rates were again raised in 2001 (File Package No. FL2001-037, effective May 18, 2001). BellSouth successfully increased the rate for Directory Assistance (File Package No. FL2001-043, effective May 23, 2001).⁶

Residential customers who subscribed to MemoryCall service had their monthly rates increased from \$5.25 to \$5.75 (File Package No. FL2002-109, effective July 13, 2002). Directory Assistance rates were increased in 2002 also (File Package No. FL2002-077, effective July 22, 2002).⁷

In 2003, BellSouth even raised Custom Calling rates for customers who purchased one of its bundled service packages, Prestige® Communications Package (File Package No. FL2003-001, effective January 17, 2003). Rates for residential MemoryCall subscribers were raised further in 2003 (File Package No. FL2003-126, effective July 4, 2003). Consumers purchasing BellSouth's Complete Choice® package who also purchased Privacy Director® service saw rate increases, as did users of Local Directory Assistance service and vertical features on per-use basis (File Package No. FL2003-132, effective August 1, 2003).⁸

These local service-related price increases are consistent with BellSouth's still considerable market power in the local exchange. The ability of BellSouth and the other BOCs to increase rates for local services constitutes strong evidence that the local market simply is not competitive. Accordingly, the FCC should decline to make any significant changes in its TELRIC pricing rules that could result in increases in prices for unbundled network elements ("UNEs"), which, in turn, would likely result in even less local competition.

If you have any questions about this letter, please contact me.

Sincerely,

/s/

Robert H. Jackson
Counsel for Americatel Corporation

cc: Marvin Sacks
Richard Kwiatkowski
Monica Desai

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*