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April 27, 2004

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, TW-A325
Washington, DC 20554

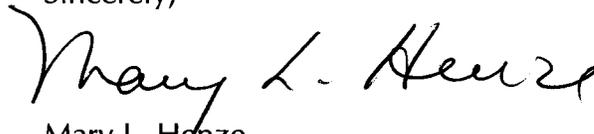
***Re: Pick and Choose NPRM; CC Dkts 01-338, 96-98, and 98-147; Review of
Sec. 251 Unbundling Obligations of Incumbent Local Exchange Carriers.***

Dear Ms. Dortch,

On April 26, 2004 the undersigned, Parkey Jordan, Michael Willis, and Lisa Brooks of BellSouth met with Jon Minkoff and Christi Shewman of the Wireline Competition Bureau. The purpose of the meeting was to present a BellSouth proposal for meeting the requirements of Sec. 252(i) that the company believes would foster more meaningful negotiations, absent forbearance. BellSouth reiterated its concern that the current pick and choose rules allow "gaming" that harms the market, and noted that its proposal is specifically designed to address some of the most common problems. In addition, BellSouth provided answers to a number of staff questions regarding issues raised in this proceeding. All material provided during the meeting is attached.

This notice is being filed pursuant to Sec. 1.1206(b)(2) of the Commission's rules. If you have any questions regarding this filing please do not hesitate to contact me.

Sincerely,


Mary L. Henze

Attachments

cc: J. Minkoff
C. Shewman

BellSouth's 252(i) Proposal Absent Forbearance

If an ILEC has a state approved SGAT or similar "Foundation Agreement"¹ then the following rules apply with respect to Section 252(i) adoption requests.² A CLEC may choose **one** of the following two adoption options:

A. Purchase services from the SGAT/Foundation Agreement (i.e., "adopt" the SGAT).

- (i) The CLEC would utilize the ILEC's SGAT for any interconnection arrangements, services or network elements it wishes to purchase from the ILEC.
- (ii) The CLEC could not select individual interconnection arrangements, services or network elements from the SGAT for incorporation in another interconnection agreement.
- (iii) The general terms and conditions and administrative provisions of the SGAT would apply to any services purchased from the SGAT.
- (iv) Timelines should be imposed so that states review and approve updates to SGATs regularly and in a timely manner. For example, states should have in place an expedited process to ensure updates to the SGATs are approved within thirty (30) to sixty (60) days after submission of the updates to the state commission.

¹ A "Foundation Agreement" is an interconnection agreement which could be designated by any ILEC (BOC or non-BOC) as their SGAT-equivalent and filed with their state for approval.

² A CLEC may also opt to negotiate an agreement "whole cloth" instead of adopting the SGAT/Foundation Agreement or an existing agreement.

B. Adopt all interconnection arrangements, services and network elements from an existing filed and approved interconnection agreement (i.e., adopt the agreement "in its entirety," subject to the limitations of Section 252(i)).

- (i) Per Section 252(i) of the Act, only interconnection arrangements, services and network elements, and terms and conditions related thereto, are available for adoption. Thus, the adopting CLEC would adopt all interconnection, services and network elements available in the requested agreement.
- (ii) Per the express language of Section 252(i), general contract terms and administrative provisions (including but not limited to billing dispute procedures, deposits, and dispute escalation) are not available for adoption but are available in the ILEC's standard agreement, or may be negotiated.
- (iii) Consistent with the FCC's current rules regarding Section 252 (i), any agreement being adopted must be adopted within a reasonable period of time after it has been approved by the applicable state commission. Such a rule is necessary to avoid gaming and arbitrage in the adoption process. As such, BellSouth proposes that:
 - agreements remain available for adoption for one year following the date approved by the state commission.
 - in the event of a change of law during the time period in which an agreement is otherwise available for adoption, the adopting CLEC may not adopt the agreement until it has been amended to take into account changes in the law, or, alternatively, the CLEC must, at the time of adoption, execute an amendment to take into account changes in the law. An adoption cannot be deemed to have occurred within a reasonable period of time if the law has changed since the agreement was approved.
- (iv) Agreements may be modified simultaneously with the adoption to the extent any provisions are inapplicable to the adopting CLEC (e.g., ISP compensation).

BellSouth's Responses to FCC's Questions Regarding Pick and Choose NPRM

1. SGATS

In how many states does BellSouth have filed SGATs? When were they filed? And how often are they updated?

BellSouth currently has SGATs filed in seven out of the nine states in our region. These SGATs were all filed in early 2004 (see dates below) and will be updated on a quarterly basis.

State	Filed
AL	1/28/04
FL	TBD ¹
GA	1/29/04
KY	1/23/04
LA	1/29/04
MS	1/22/04
NC	TBD ²
SC	1/16/04
TN	TBD ³

2. Standard Interconnection Agreement

Does BellSouth have an internal "standard interconnection agreement" that serves as a starting point for negotiations with CLECs? If so, how often is the standard agreement updated?

BellSouth has a standard Interconnection Agreement that is offered to CLECs as a starting point for negotiations. The BellSouth standard Interconnection Agreement is posted on BellSouth's web site and updated quarterly to ensure it is consistent with state and federal laws; this includes making updates to UNE ordered rates, product and services offerings, business rules and procedures, and industry standards. The SGATs recently filed by BellSouth were identical to BellSouth's standard Interconnection Agreement at the time of filing.

¹ The Florida SGAT was filed on 1/15/04, but was subsequently pulled down pending inclusion of language effectuating the D.C. Circuit Court's Opinion, once the stay is lifted.

² Because the NC SGAT had not been filed when the D.C. Circuit Court's Opinion issued, decision was made to not file it until the appropriate language could be included to reflect the Circuit Court's Opinion.

³ *Ibid.*

3. Data on Existing Interconnection Agreements (ICA)

On a company-wide basis, how many ICAs does BellSouth enter into using: A. pick and choose; B. opting wholly into another agreement; C. negotiating from "whole cloth" ; and D. arbitration

Total Number of ICAs as of April 1, 2004 = 545

- Total Number of current ICAs that were negotiated = 360
 - Total Number of current ICAs that were negotiated from BellSouth's standard agreement with no changes (this includes minor non-substantive changes) = 236
 - Total Number of current ICAs that were negotiated from BellSouth's standard agreement with changes = 124
 - Of the 360 negotiated ICAs, 12 were the result of arbitration. Of these 11 arbitrations, 10 began negotiations with BellSouth's standard Agreement
- Total Number of current ICAs that resulted from adoptions of existing agreements = 185
 - Total Number of Adoptions of existing agreements without any substantive changes = 61
 - Total Number of Adoptions of existing agreements with substantive changes = 124
- Prior to adoption of an existing agreement, the following are typical changes:
 - ISP reciprocal compensation provisions removed if the carrier does not meet the guideline outlined in the FCC's Reciprocal Compensation Order
 - Ensure the collocation intervals are consistent with the most recent collocation orders
 - Some CLECs attach their BAPCO agreement as an exhibit to their interconnection agreement. If there is a BAPCO agreement attached, the agreement must be removed as it is a separate agreement that is negotiated by the parties with another BellSouth entity

- Deposit provisions based on the original parties financial standing or referencing their financial reports
 - Notice Provisions
 - Add ODUF and EODUF to the resale attachment
 - Update with changes in law, i.e. TRO, state UNE rate orders
- CLECs that currently have arbitrated agreements:

AT&T
MCI
DeltaCom
Cinergy
XO
Covad
Allegiance
Supra
Birch
FDN
Sprint
Alltel

4. Facilities-based CLECs vs. UNE-P CLECs

What is BellSouth's experience with facilities-based carriers in terms of whether those carriers want more highly specialized and tailored ICAs versus the experience with UNE-P carriers?

First, BellSouth notes that many CLECs that might traditionally be thought of as true facilities-based carriers (i.e., self-provide some portion of the network (such as switching) used to provide local service to end users) are also using UNE-P to serve some end users. Consequently, there are few ICAs that can be termed as either "facilities-based" or "UNE-P." BellSouth's experience with CLECs who use both methods to provision local service has been that BellSouth is able to successfully negotiate ICAs with some CLECs without going to arbitration, while others go to arbitration for some number of issues. Historically, these CLECs have not relied on section 252(i) to adopt existing agreements or portions of agreements, choosing instead to negotiate and sometimes arbitrate.

5. California Procedural Rule

What does BellSouth think about the CLEC proposal that the FCC adopt California's procedural rule?

In its ex parte on December 17, 2003, MCI proposed that the FCC consider adopting the California Public Utilities Commission's (CPUC's) October 5, 2000, ruling on pick and choose. BellSouth is opposed to this proposal.

BellSouth believes that the CPUC's procedural rule creates undue risk for the ILEC in that it enables a CLEC to quickly adopt an existing ICA (or portions of an existing ICA) without any regard for whether the terms of that agreement comport with current law. BellSouth's standard Interconnection Agreement is available for "quick" adoption, and the standard agreement is kept up-to-date.

MCI stated in its ex parte that the FCC's current pick and choose rules are not broken and, thus, do not need to be fixed. Interestingly, at least in BellSouth's region, MCI (the parent company) has never used section 252(i) to adopt either an entire existing agreement, or portion(s) of existing agreements. BellSouth and MCI have gone through two cycles of ICAs, both of which were arbitrated. Currently, negotiations are under way for the 3rd ICA between BellSouth and MCI, and we appear headed to arbitration with many unresolved issues. Of the 545 current ICAs BellSouth has, MCI is the only CLEC that refused to start negotiations with BellSouth's standard Interconnection Agreement, insisting instead on beginning with MCI's current agreement. The inherent difficulty in proceeding in this manner is that MCI's current agreement did not reflect the current state of the law. Section 252(i) has been used by MCI affiliates to adopt MCI's arbitrated agreements.