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May 18, 2004

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

Re: Written *Ex Parte; Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996* (CC Docket No. 96-128)

Dear Ms. Dortch:

On May 6, 2004, BellSouth met with the Wireline Competition Bureau ("WCB") staff to discuss the new payphone compensation rules scheduled to become effective July 1, 2004 in the above-captioned proceeding.[1] This letter discusses in greater detail some of the issues addressed during that meeting.

I. CERTIFICATION BY CHIEF FINANCIAL OFFICER

In its meeting with the staff, BellSouth expressed its support for reconsideration and/or clarification of its new rule (Section 64.1310(a)(3)), which requires the chief financial officer ("CFO") to certify that the compensation paid to a payphone service provider ("PSP") is accurate and based on 100% of all completed calls. *Report and Order*, Appendix C-Final Rules (47 C.F.R. § 64.1310(a)(3)). In a petition for reconsideration, Sprint asked the Commission to amend its rules to allow any corporate officer, not just the CFO, to submit this certification.[2]

While BellSouth does not object to requiring a CFO to provide the certification, BellSouth asks the Commission to clarify which CFO of a large corporation has that responsibility. The existence of multiple CFOs is not uncommon in many large corporations, such as BellSouth, which have a number of separate subsidiaries and affiliates, each with their

[1] *The Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996,* CC Docket No. 96-128, *Report and Order*, 18 FCC Rcd 19975 (2003).

[2] Sprint Corporation's Petition for Reconsideration, CC Docket No. 96-128, at 2-4 (filed Dec. 8. 2003).

own CFO. For BellSouth, there are multiple CFOs even within the same individual affiliate or subsidiary company.

New Section 64.1310(a)(3) makes the "chief financial officer of the Completing Carrier" responsible for certifying the accuracy of payments each quarter. BellSouth Telecommunications, Inc. ("BST"), a wholly-owned subsidiary that provides local exchange and exchange access service, is the "Completing Carrier" for intraLATA services. Within BST, there are a number of different business units that have their own CFOs. For example, Interconnection Services ("ICS") is the BST business unit that provides services to and interconnection with competitive local exchange carriers, interexchange carriers ("IXCs"), independent telephone companies, and PSPs. ICS is responsible for developing the products and services for these customers as well as managing the associated business relationships. As such, ICS also is responsible for identifying, tracking, reporting and compensating for those payphone calls identified in the *Report and Order*. BellSouth believes that the CFO of the affected business unit, in this case ICS, is the appropriate person to certify payment accuracy. This particular CFO is the closest CFO to the product line and the work required to comply with the Commission's new payphone rules.

The logic of BellSouth's position is further demonstrated in the following example. Until recently, BST had an affiliate that provided payphone equipment to end-user locations on a retail basis. This unit, BellSouth Public Communications ("BSPC"), purchased the same services from BST's Interconnection Services unit that independent payphone providers competing with BSPC purchased. BSPC had its own CFO. It appears that the Commission's new certification rule would have required the CFO of BST to certify the claims of both units, BST and BSPC, even though BSPC was a separate affiliate with its own customers and business relationships. This situation could lend itself to a perception of impropriety.

In light of the above, the Commission should amend new Section 64.1310(a)(3). Specifically, the Commission should allow a corporate officer, a corporate CFO, or a CFO of the business unit most narrowly defined within the corporate structure to certify the accuracy of the compensation. This modification would not only take into account the variations among corporate structures but also allow carriers to align responsibility for payment accuracy with the particular business unit directly involved with identifying, tracking, reporting, and compensating for payphone calls.

II. CONSENT OF PAYPHONE SERVICE PROVIDERS

BellSouth also supports AT&T's request for clarification regarding PSP consent to contractual arrangements between switch-based resellers ("SBRs") and interexchange carriers

("IXCs") to pay compensation on behalf of the SBRs. Paragraph 48 of the *Report and Order* states as follows:

> For example, a PSP and SBR may agree by contract that the SBR may rely upon the interexchange carrier to track data and compensate the PSP directly in exchange for SBR payment for all calls that pass to the SBR's platform, completed or otherwise. Accordingly, we permit SBRs to rely upon any current or future contractual arrangements they may have with interexchange carriers or PSPs provided that the PSP concurs.[3]

AT&T requests that the Commission clarify that this paragraph does not require the concurrence of PSPs where an IXC and an SBR enter into a contractual agreement in which the IXC pays compensation to the PSPs on behalf of the SBR for 100% of the calls delivered to the SBR.[4] Under these circumstances, there is no need to obtain concurrence from the PSPs. Given that the PSP is being compensated on all calls delivered, regardless of whether or not they are completed, there is no legitimate business reason for PSPs to oppose such arrangement. Accordingly, the Commission should conclude that, as long as PSPs are notified of an arrangement in which an IXC agrees to compensate PSPs on behalf of an SBR, affirmative approval from each PSP is not warranted. The Commission should further find that notification of such an arrangement to PSPs via an Internet website is adequate.

III. OPERATOR CALLS

Finally, in its meeting with WCB staff, BellSouth confirmed with the Commission that, consistent with the Commission's previous conclusion, coinless payphone calls such as "0" (operator) and "411" directory assistance are not subject to the tracking, reporting and auditing requirements as set forth in the *Report and Order*.[5]

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[3] *Report and Order*, 18 FCC Rcd at 20000-01, ¶ 48.

[4] AT&T Petition for Clarification or, in the Alternative, Reconsideration, CC Docket No. 96-128, at 4-6 (filed Dec. 8, 2003).

[5] *See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996; RBOC/GTE/SNET Payphone Coalition Petition for Clarification,* CC Docket No. 96-128, NSD File No. L-99-34, *Further Notice of Proposed Rulemaking*, 18 FCC Rcd 11003, 11013, n.50 (2003) (citing *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, et al.,* CC Docket Nos. 96-128 & 91-35, *Report and Order*, 11 FCC Rcd 20541, 20551, 20569 (1996)).

Respectfully submitted,

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