

**Before the  
Federal Communication Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of BellSouth Telecommunication	)	
For Forbearance Under 47 U.S.C. 160(c) From	)	WC Docket No. 04-405
Application of Computer Inquiry and Title II	)	
Common-Carriage Requirements	)	

Computers-N-Service Internet, Inc., by its president, hereby submits its opposition to the October 27, 2004, Petition for Forbearance filed by BellSouth Telecommunications, Inc.

**STATEMENT OF OPPOSITION**

1. Computers-N-Service is a rural ISP in south Louisiana. We opened Internet operations as a dialup service in 1996. In 2001 we added DSL to our product offering. We were not able to gain access to broadband technology except through Bellsouth as a wholesaler. We were the first to offer any local internet options in several rural communities.
  
2. If Bellsouth's position in the market is accurate, it is by design or greed. They chose not to deploy technology timely and effectively. They have a history of not deploying new technology that can adversely affect other tariffed "Cash Cows" when used creatively by consumers, aggregators or wholesalers.

3. In particular DSL has had a negative impact on Bellsouth's T1 market, forcing T1 demand down. Bellsouth responded by bundling Voice T1 with Data (a product that an independent ISP cannot offer). The delays in deploy allowed Bellsouth to continue to service customer with T1 services which could have and should have been serviced by other technologies namely DSL which would have been much more cost effective for the consumer.

4. Bellsouth offers the argument that there are alternative platforms, such as wireless, satellite and power-line. Wireless – very clumsy at this point in deployment, due to spectrum limitations, in addition one or two providers can effectively lockout other competition or interrupt service of existing deployments. Satellite- latency is of major concern and power line- not even a blip on the radar. These alternatives equal less than 1% of the market.

5. Bellsouth contends that cable is not required to comply the same regulations. Whether they should or should not is not to be argued here. What I am stating is that open access in its current implementation does not work. By “does not work” I mean when and if a cable operator chooses to allow open access it is usually open to a single ISP and terms of the deal are normally sealed. My source asked not to be named stating concerns of non-disclose. However, in general discussion with this ISP they say the terms are not amicable. This being said, if open access is not working to accomplish it goals why should the Commission want to place the ILEC on equal footing with something that is not working? If

the commission must forbear then first open access then consider this point, not before.

6. An example of Bellsouth negative impact on the consumer can be demonstrated by their self-imposed killing or crippling of the DSL VC platform structure. The VC based deployment which most independent ISP's were using in the Bellsouth territory was effectively made obsolete by Bellsouth with their announcement that no additional speeds or features would be deployed on the VC platform. Efforts and pricing structure would be focused on the EUA (BBG) platform therefore forcing ISP's to move their customers the EUA platform. On the technical side EUA is slower-(more latency) and the data has more network travel time in the BellSouth network as opposed the VC platform, which makes trouble shooting by the ISP much more complicated and sometime impossible. Forced session "Time-out" of the customer connection by Bellsouth has taken away control and product offerings from the ISP and transferred the control to Bellsouth. This is a direct reduction of a customer's ability to utilize the network creatively. It effectively takes the "always on" function of DSL and turns into fast dialup. This is great for the company managing the switch, in that it allows for over subscription; we as dialup ISPs know the power of over subscription. Without the "always on" function the customer has to spend more on equipment and software and the connection becomes less reliable as a sub-rate T1 replacement.

7. BellSouth states that its Broadband offering is 200kbps or higher. The broadband upstream is stated at 256kps and works out to be about 212kbps real world. However, this is only true for the TCP traffic, VoIP traffic is UDP and only gets about 59Kbps. Why is BellSouth not providing equal throughput for technology that competes with its regulated services, namely Voice.

8. Referencing the petitions comment "Congress has decided that markets should replace regulation except where actually necessary to protect consumer or to maintain just, reasonable and nondiscriminatory rates, terms and conditions." ISP's are consumers and we aggregate consumers while being creative in the innovation of new technologies and testing consumer acceptance of new communication methods. This comment is a gross case of using the commission's statements out of context. In this case Bellsouth is utilizing the infrastructure built under a government sanctioned monopoly and is asking to use the sponsored resource to compete unfairly. Competition is the last thing on Bellsouth's agenda. When and if left to their own greed and selfish motivations Bellsouth will provide only minimal advancement in new technologies that will erode traditional higher margin product despite any public good that would come to pass.

9. Bellsouth statement "If consumers do not need the majority providers to open their lines to independent ISPs in order to ensure just, reasonable, and nondiscriminatory rates and practices, it cannot possibly be the case that it is

necessary that the minority providers open their lines to ensure the same thing.”  
is so comedic that it is a tragedy that Bellsouth is serious in referring to  
themselves as minority provider in this statement.

10. Fogle submits “Many smaller ISPs have only recently started purchasing Bellsouth’s tariffed EUA service instead of its Virtual Circuit (“VC”) based DSL service (nearly two (2) years after it was originally tariffed). This is because Bellsouth has continued to work its way through the regulatory complexities described above and offered a number of smaller ISPs friendly enhancements to this platform.”

11. We are one of the “smaller ISPs” to which Mr. Fogle refers; however his assumptions as to why we did not adopt the product soon are fallacious. We choose not to use the EUA product for multiple reasons. First it was introduced only at the DS3 level which we could not afford; secondly it did not offer us any advantage over the existing VC product. In fact it has a number of disadvantages, namely a higher latency and less control by the ISP. We cannot seamlessly deploy some products like VPN and VoIP across EUA. What finally caused us to move to EUA despite the problems with the product was Bellsouth telling us that no additional product offerings would be made available on the “VC” platform. To further push us into their preferred product, they began to reduce price prices only on the EUA products. This further shows BellSouth’s

self-interest, not the public or consumers interest. On either product Bellsouth does not allow us to pick the speed of transport but only their selected speeds and symmetry. The currently deployed equipment is capable of speeds up to 6Mbps and higher but Bellsouth chooses only to allow access at limited speeds. These speeds can be obtained on both the VC and EUA product but again they refuse to offer any additional products on the VC platform.

12. If Bellsouth were to receive forbearance of Part 64, it is most surely going to result in the cross-subsidy of DSL based offerings to artificially reduce the cost to its own Bellsouth.Net in order to gain market share. This would be an unfair advantage of leveraging regulated and unregulated services. While Bellsouth maintains that the competitors could negotiate their own terms, when negotiating an agreement both parties have to have something the other wants, in negotiations between Bellsouth and the independent non regional ISP's Bellsouth wants them to go away. What power does that leave the ISP? Bellsouth has one and only one interest, which is Self-interest. Bellsouth's petition should be renamed the "Petition to Shutout innovation and competition in wire line DSL"

### **SUMMARY**

In conclusion, I understand that the commission's existence and mandate is to protect the public interest not the interest of an individual person or company. However, if Bellsouth acts or treats its customers that spend large amounts of

money per month will little or no regard for their needs, how then will it treat the masses that don't know what the telecommunication networks are capable of providing. It is incumbent on the commission to assure that we the knowledgeable and innovative continue to exist in order to hold ILECs in check otherwise the public as a whole will suffer.

Respectfully Submitted,  
Computers-N-Service Internet, Inc.  
By its President on December 20, 2004

A handwritten signature in blue ink, appearing to read 'Troy Bourque', is written over a light blue horizontal line.

Troy Bourque, CCNA  
President  
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