Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 80-286
Jurisdictional Separations Seeks Comment	)	ET Docket No. 04-295
On Communications Assistance for Law	)	
Enforcement Act (CALEA) Issues	)	

COMMENTS

BellSouth Corporation, on behalf of itself and its wholly owned subsidiaries ("BellSouth"), submits these comments in response to the *Public Notice* released by the Wireline Competition Bureau ("Bureau") on behalf of the Federal-State Joint Board on Jurisdictional Separations ("Joint Board") on March 2, 2005.[1]

I. THE JOINT BOARD SHOULD NOT JEOPARDIZE THE CURRENT FREEZE OR DELAY THE ELIMINATION OF SEPARATIONS.

As this Commission has noted, the jurisdictional separations regime is one of a number of "outdated regulatory mechanisms that are out of step with today's rapidly-evolving telecommunications marketplace."[2] Because price cap carriers do not use separations to establish prices, or to improve service quality, separations are incompatible with, and unsuitable

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[1] *Federal-State Join Board on Jurisdictional Separations Seeks Comment on Communications Assistance for Law Enforcement Act (CALEA) Issues, CC Docket No. 80-286, ET Docket No. 04-295, Public Notice*, DA 05-535 (rel. Mar. 2, 2005).

[2] *In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, *Report and Order*, 16 FCC Rcd 11382, 11383, ¶ 1 (2001) ("*Report and Order*").

in, a competitive market. As a carrier operating under price cap regulation, BellSouth seeks elimination of jurisdictional separations in order to ensure that issues related to universal service funding, rate balancing, new services deployment and regulatory arbitrage can be addressed directly.

The elimination of jurisdictional separations is the best way to both simplify complex requirements and to remove regulatory uncertainty, and it is the clear direction in which the Commission should proceed. The current freeze has benefited BellSouth by its simplicity and predictability, while, at the same time, maintaining a reasonable delineation between federal and state jurisdictional responsibilities. The Joint Board should not make any recommendation to the Commission that would upset the current freeze, add unnecessary complexity and costs to carriers, or delay the elimination of jurisdictional separations.

II. THE JOINT BOARD SHOULD NOT RECOMMEND ANY CALEA-SPECIFIC RULES.

There simply is no need for CALEA costs and CALEA reimbursements to be separated into or identified by CALEA-specific accounts. The existing Part 32 accounts are sufficient to record CALEA-related transactions when they occur. For instance, current accounting and separations rules have enabled BellSouth to assign CALEA-related expenses to Part 32 expense accounts 6532 and 6720 and CALEA-related investment to Part 32 asset accounts 2212 and 2124. To the extent BellSouth ever realizes any revenue related to CALEA compliance, the appropriate accounting treatment will be determined upon actual receipt of the revenue in accordance with established accounting practices, as is the case today with all revenue received by the company. The costs and burdens of establishing new and separate CALEA-specific accounts or CALEA-specific separations rules may, for BellSouth, exceed certain compliance expenses associated with implementing CALEA itself. To the extent that this is the case for

other carriers as well, it makes no sense to impose unnecessary costs and inefficiencies on the market. To the extent these regulatory requirements impose costs and burdens asymmetrically, there simply is no justifiable basis for handicapping BellSouth in the vigorously competitive marketplace with the unnecessary relic of an outmoded regulatory regime.

That no CALEA-specific separations rules serve the public interest is borne out by the fact that the impact of CALEA-related expenses on BellSouth to date pales in comparison to other federal mandates for which no special jurisdictional categories, or specific separations tracking within Part 32 accounts, was required. For instance, the costs to BellSouth to implement local number portability ("LNP") were at least $545.6 million. The costs to implement thousands-block number pooling ("TBNP") were at least $72.2 million, which under current requirements (non-specific to TBNP) were allocated $64.2 million at the federal level with the remainder allocated in the appropriate state jurisdictions under the "frozen" rules. Finally, the minimum cost to implement wireless number portability ("WLNP") for BellSouth was $39.2 million. By contrast, it has cost BellSouth a fraction of the combined minimum cost impacts of these other three major federal mandates to implement CALEA to date.

BellSouth estimates that it saves at least $750,000 in annual loaded labor and system-related costs as a result of the current jurisdictional separations freeze. Thawing the freeze for the limited and questionable purpose of establishing CALEA-specific rules and obligations will negate the efficiencies obtained as a result of the freeze thus far and delay the efficiencies and streamlining that ultimately will occur when the Commission eliminates jurisdictional separations requirements altogether. Under the 1996 Act, the Commission has a congressional

mandate to forbear from unnecessary regulation.[3] Imposing unnecessary and anticompetitive regulatory burdens runs directly afoul of this congressional mandate.

III. CONCLUSION

The Commission should, ultimately, eliminate jurisdictional separations. The simplicity and predictability associated with the current separations freeze are the appropriate glide path to the total elimination of jurisdictional separations. Because CALEA-specific separations rules are unnecessary, the Joint Board should take no action that would (1) upset the current freeze; (2) delay the elimination of jurisdictional separations; or (3) impose CALEA-specific separations rules.

Respectfully submitted,

BELLSOUTH CORPORATION

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[3] 47 U.S.C. § 160.

CERTIFICATE OF SERVICE

I do hereby certify that I have this 1st day of April, 2005, served the following parties to this action with a copy of the foregoing **COMMENTS** by electronic filing addressed to the parties listed below.

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