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October 21, 2005

EX PARTE

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

Re: *BellSouth Corporation's Petition For Waiver of Tariffing and Price Cap Rules
and Of Accounting Requirements, WC Docket No. 05-277*

Dear Ms. Dortch:

This letter supplements BellSouth Corporation's ("BellSouth") Petition for Waiver by providing additional details concerning the negative impacts of the structural separation requirements in Section 272 of the Telecommunications Act of 1996. These negative impacts are best illustrated by the extent to which the structural and transactional requirements in Section 272(b) and the nondiscrimination safeguards in Section 272(c) unduly hamper and complicate BellSouth's ability to serve its customers using innovative offerings, such as Internet protocol ("IP") services, and utilizing a converged broadband network.

Section 272(b) mandates, among other things, that BellSouth Telecommunications, Inc. ("BST") and BellSouth Long Distance, Inc. ("BSLD") be operated "independently" and that all transactions between BST and BSLD be conducted "on an arm's length basis with any such transactions reduced to writing and available for public inspection."¹ Likewise, Section 272(c) requires that BST, in its dealings with BSLD, "not discriminate between that company or affiliate and any other entity in the provision or procurement of goods, services, facilities, and information"² These requirements apply to all transactions and dealings between BST and BSLD, including efforts to jointly design and implement the broadband and IP network capabilities necessary to deploying advanced services efficiently throughout BellSouth's region.

¹ 47 U.S.C. § 272(b)(1) & (5).

² 47 U.S.C. § 272(c)(1).

A good service-specific example of the negative impacts of the Section 272 structural separation requirements involves BellSouth's efforts to utilize Voice over Internet Protocol ("VoIP") gateways and softswitches to provide voice service to its customers. BellSouth is currently evaluating a network platform that would add VoIP gateway functions to other network components, including Digital Subscriber Line Access Multiplexers ("DSLAMs"), fiber-to-the-curb Host Digital Terminals, and Digital Loop Carrier Remote Terminals. This equipment would be used in conjunction with a softswitch IP network and would allow customers to receive either VoIP service or Plain Old Telephone Service ("POTS") through the same serving arrangement, which could result in significant savings both to BellSouth and its customers.

Due to the nature of the service and the involvement of both BST and BSLD, however, the necessary planning for and coordination of the service is hindered by the need to comply with the requirements of Section 272. For example, BST could not deploy a soft-switch enabled voice gateway to support VoIP service without developing a wholesale service offering that could be utilized by BSLD or any other carrier. As part of this offering, it would be necessary for BST to develop and provide a complex multi-carrier wholesale operations interface capable of being used by other carriers, including BSLD, whether the wholesale offering is of interest to BSLD or any other carrier. In addition to increasing costs, compliance with these 272 requirements would delay the introduction of this promising service.

The negative impacts of the Section 272 structural separation requirements also are illustrated by the regulatory hoops through which BST and BSLD must jump as part of BellSouth's corporate efforts to design and deploy a converged corporate-wide broadband network, which would utilize the latest technologies and eliminate many of the inefficiencies inherent in the operation of multiple network platforms. BellSouth has structured the planning and implementation of this project to limit the information shared with both BST and BSLD to ensure compliance with Section 272. For example, BSLD employees participating on the converged network project can only attend project meetings at the invitation of the team leader and only for very limited purposes, such as providing information in response to questions from other team members. Similarly, project meetings at which both BST and BSLD employees are present are carefully managed, and no documents containing BST information are distributed to or retained by any BSLD representative attending the meeting and no documents containing any BSLD information are distributed to or retained by any BST representative attending the meeting. Likewise, personal note-taking during project meetings is restricted, and all documents distributed to project team members – whether written or electronic – must be reviewed for Section 272 compliance to ensure that BST or BSLD information has been redacted. These procedures, while necessary to ensure Section 272 compliance, are hardly conducive to a free exchange of information and ideas. Furthermore, they otherwise complicate an already complicated undertaking and add inefficiencies to a project intended to increase efficiency.³

³ BellSouth has structured and managed this project so that its activities do not constitute dealings or transactions between BST and BSLD within the meaning of Section 272 because BellSouth generally wants to avoid triggering a disclosure obligation of information related to its converged corporate-wide broadband network, much of which is proprietary internal business information, until that information must be disclosed, if at all, for other non-272 related reasons such as BST's network disclosure rules.

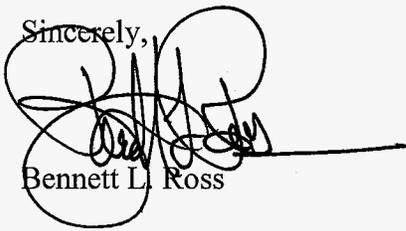
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As BellSouth's Petition and this ex parte demonstrate, the artificial separation between local and long distance operations mandated by Section 272 – to which no carrier other than the Bell Operating Companies (“BOCs”) must adhere – causes BellSouth to struggle unnecessarily with the deployment of IP and broadband services in a cost effective and timely manner. The Commission has previously recognized the additional costs and numerous inefficiencies created by separate affiliate requirements when it acted to eliminate such requirements in other contexts.⁴

Please include a copy of this letter in the record in the above-referenced proceedings. Thank you for your attention to this matter.

Sincerely,

Bennett L. Ross

BLR:kjw
#606663

cc: Tamara Preiss
Terri Natoli
Bill Kehoe
Jay Atkinson

⁴ See *In re: Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry); and Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Thereof; Communications Protocols under Section 64.702 of the Commission's Rules and Regulations*, CC Docket No. 85-229, *Report and Order*, 104 F.C.C.2d 958, 1004, ¶ 81 (1986) (eliminating the structural separation requirements associated with the provision of enhanced services, noting the “costs of foregone opportunities for new services and scope economies” and the “direct costs of duplicating personnel and facilities”).