

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Petition of BellSouth Corporation)
For Special Temporary Authority)
And Waiver to Support Disaster)
Planning and Response)

Federal Communications Commission
Office of Secretary

WC Docket No. 06-63

PETITION OF BELLSOUTH

The Federal Emergency Management Agency recently described Hurricanes Katrina and Rita as the “most destructive and costly natural disasters in U.S. history” that caused unprecedented damage in a single state, Louisiana.¹ The scope and size of these tragic events not only required extraordinary and inventive responsive actions, but also initiated a review by industry and government officials alike to identify steps that could be taken to improve preparedness and responsiveness in the face of catastrophic events.

In this regard, on March 10, 2006, AT&T Inc. (“AT&T”) filed a request for Special Temporary Authority (“STA”) and waiver of Commission rules to engage in integrated disaster planning and response without regard to structural separation and other requirements of Section 272 of the Communications Act. BellSouth endorses AT&T’s request. Based on BellSouth’s experience in responding to Hurricanes Katrina and Rita, the relief requested by AT&T is critical to disaster preparedness. Accordingly, BellSouth Corporation, on behalf of itself and its wholly-owned affiliates, is filing this petition and seeking the same STA and waiver set forth in AT&T’s

¹ “Six Months after the Storms,” FEMA News, Release Number: 1603-374 (Feb. 28, 2006).

petition. BellSouth requests that the Commission grant this petition expeditiously, but in any event no later than May 1, 2006, so that BellSouth can avail itself of such relief in preparation for the 2006 hurricane season.²

I. INTRODUCTION

The national imperative to seize upon the lessons of Hurricanes Katrina and Rita and improve disaster preparedness and response is unquestionable. AT&T's petition documents the Administration's hopes and efforts to use the recent experience to transform the state of preparedness and to better enable the nation to respond to a catastrophic event regardless of whether the event is a natural disaster, terrorist attack, pandemic, or some other event that poses a significant threat to public safety and well-being.³ It is unnecessary to repeat here the strong policy commitment to take steps that enable a faster, more efficient and effective response to calamitous events.

The focus here should be on the lessons learned and the actions that could and should be taken now in order to make a difference in disaster preparedness. Hurricane Katrina, the most destructive hurricane of the season, caused severe disruption to communications services throughout the Gulf coast region. Katrina was different from any hurricane that BellSouth had faced previously. Initial damage associated with the storm's landfall was compounded by the

² Although the STA and waiver requested by AT&T and BellSouth would improve disaster planning and response by these individual companies, such relief would not allow AT&T and BellSouth to: (i) share effectively their unique emergency response expertise and assets; (ii) establish a unified service restoration plan following a disaster; and (iii) deploy readily Cingular facilities and capabilities to supplement AT&T's and BellSouth's landline networks. These enhancements to AT&T's and BellSouth's ability to prepare for and respond to natural disasters and other emergencies are benefits that can only be realized with the approval of the AT&T and BellSouth merger.

³ *Petition of AT&T Inc. for Special Temporary Authority and Waiver to Support Disaster Planning and Responses*, WC Docket No. 06-63, Petition of AT&T Inc. at 2-6 (filed Mar. 10, 2006).

severe flooding that followed when the levees failed. Despite the precautions taken by *BellSouth, the impact on the network was substantial and unprecedented.*⁴

The devastation following the storm impacted not only BellSouth's network but the network of every communications carrier providing service in the area. In responding to this crisis, BellSouth's mission was to re-establish communications on its network and to assist other carriers in doing the same. With the Commission's cooperation, BellSouth crafted unusual solutions to advance the restoration process. Using its corporate network, BellSouth provided an unaffiliated interexchange carrier an interLATA facility route that enabled the interexchange carrier to bypass its disabled switch in New Orleans.⁵ BellSouth also used the same network to bypass its own disabled local switches to provide temporary local service in the New Orleans area via switches in Baton Rouge.

Cellular carriers were also significantly impacted by the storm. BellSouth established a special team of technicians to inspect and repair circuits to wireless cell sites in Louisiana and Mississippi. Where repair was not possible the team looked for alternative arrangements, such as microwave technology, to restore service. In one instance, where the cellular provider's switch in Metairie, Louisiana went out of service, BellSouth technicians designed and installed a complex transport arrangement from Louisiana to Texas in order to reroute traffic.

Further, in order to restore service as quickly as possible and repair the considerable damage to BellSouth's outside plant and central office equipment, BellSouth was required to make changes to its network components. Copper cables were replaced with fiber; some

⁴ In BellSouth's local operating territory 33 central offices and 15,722 poles were damaged. In addition 48,485 spans and 63,555 drops were downed.

⁵ The interexchange carrier's switch in New Orleans not only handled interexchange calls originating and terminating in the New Orleans area but also was an aggregation center and provided the switching function for calls originating in other states.

subscribers were connected to different central offices via subscriber line carrier facilities; and tandem arrangements were changed to insure efficient routing of network traffic.

BellSouth's restoration activities could not have gone forward without the Commission's cooperation and support. The Commission recognized that existing rules, designed to operate under normal conditions, can have unintended consequences in emergency situations. In the wake of Hurricane Katrina, the imperative was to re-establish communications channels. Without the STAs and rule waivers that the Commission granted, BellSouth could not have used its internal corporate network or provided interLATA transport alternatives. Nor would BellSouth have been able to change network facilities or network routing quickly. Instead, such efforts would have been delayed by the notice of network change rules.

Although the Commission's willingness to assist BellSouth in taking extraordinary measures to respond to the disaster was unquestionably important to the restoration efforts, the process by which BellSouth received permission to act, in hindsight, could be improved. The experience gained from the recent disaster demonstrates that catastrophic events require exceptional responses, and rules and regulations designed to function in conventional business circumstances can block or delay, albeit unintentionally, the emergency actions demanded by the exigencies of the situation.

The relief requested by this petition would put in place a process that would permit BellSouth to do the following: (1) engage in unified planning for disasters across all BellSouth affiliates; (2) implement disaster recovery measures upon reasonable notice to the Commission; and (3) invoke its disaster recovery plan for a brief period without prior approval in the case of an unpredicted event. In the case of an unpredicted event, BellSouth would notify the

Commission within twenty-four hours that it had begun implementing its disaster recovery measures.

BellSouth's request is identical to the relief requested by AT&T. As explained below, the request for specific rules waivers and STA will provide BellSouth the ability to engage in integrated disaster planning and response across all BellSouth affiliates. Granting BellSouth's request will ensure that BellSouth is better prepared to respond to any catastrophic contingency.

II. Discussion

In order for BellSouth to plan efficiently and effectively for a disaster, it must be able to share certain local operating company non-public information with its affiliate that operates under the Act's Section 272 structural safeguards.⁶ Section 272(b)(1) requires that the local operating company (*i.e.*, Bell Operating Company ("BOC")) operate independently of the Section 272 affiliate.⁷ Section 272(c) provides that the BOC cannot discriminate between its Section 272 affiliate and an unaffiliated provider of service including the "provision . . . of . . . information."⁸ Under these statutory provisions as implemented by the Commission, BellSouth's operating company cannot directly share any non-public information with BellSouth's Section 272 affiliate.

⁶ Although the requirement that BellSouth provide interLATA telecommunications services through a structurally separate affiliate has sunset, the Commission has not determined the rules and regulations by which BellSouth could provide local and interLATA services on an integrated basis and continue to be treated as non-dominant with respect to its interexchange business. Accordingly, while BellSouth voluntarily continues to offer interLATA services through a structurally separate affiliate in full compliance with the Section 272(b)(1) and (c) limitations, BellSouth requests the Commission to make clear that BellSouth would not have to comply with those statutory limitations with respect to the limited circumstances of disaster planning and response.

⁷ 47 U.S.C. § 272(b)(1).

⁸ 47 U.S.C. § 272(c)(1).

The sharing of information that Section 272 requirements preclude is critical to effective disaster planning. BellSouth believes that *sharing of information is essential to the development* of and continuous updates to disaster plans. Through the sharing of such information, BellSouth would be able to evaluate and establish alternate retreat points and paths for the routing of traffic in the case of a catastrophe. Significantly, planning is not a one-time event. Networks change and such changes have to be evaluated and considered in light of any previously created disaster plan. Further, in some instances, such as a hurricane, where there is advance warning of the pending disaster, preexisting plans may need to be updated to take into account current forecasts and other data. Accordingly, BellSouth seeks an STA to engage in information sharing notwithstanding Section 272(c). It is abundantly clear that the authority requested will better enable BellSouth to plan for a disaster and such planning is in the public interest.

As critical as effective planning may be, equally important is the ability to execute measures in response to a disaster. In responding to a disaster, time is of the essence. The lesson learned from Katrina is that flexibility in the use of available network facilities to re-establish communications channels or create new channels is paramount. In this petition, BellSouth, like AT&T has in its petition, requests the Commission grant it an STA that would authorize BellSouth to use its corporate network and other facilities in its entire region. The authorization that BellSouth requests is the same that the Commission granted BellSouth in connection with Hurricane Katrina. Specifically, granting BellSouth's request would enable BellSouth to use all of its facilities (*e.g.*, local, corporate network and interLATA) "without regard to section 272 and the Commission's rules governing compliance with section 272, and without filing tariffs or contracts (or complying with related requirements) associated with these restoral services that would otherwise apply to interstate telecommunications services provided by BellSouth on an

integrated basis. Similarly, to the extent that compliance with section 272 is a condition precedent to BellSouth's authority to carry in-region interLATA traffic in its nine-state region under section 271 of the Act, this condition is also temporarily waived for this limited special purpose."⁹

Like AT&T, the relief requested under the STA would only be for a period of 45 days. If additional time were needed, BellSouth would make a separate request to the Commission. Further, before implementing any response measure in its disaster plan, BellSouth would provide the Commission with advance notice unless an unpredicted event arises. In the case of an unpredicted event, BellSouth would notify the Commission within 24 hours of implementing its disaster plan.

In addition to the STA regarding the use of BellSouth network facilities, BellSouth is also requesting the Commission waive its network disclosure rules. An effective response to network disruptions caused by a disaster must include the ability to make on-the-spot determinations to change equipment types or reroute traffic. Hurricane Katrina demonstrated the importance of such flexibility. The network disclosure rules, which impose a time delay before any network change can be made, are incompatible with rapid and effective disaster recovery measures.

⁹ *Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Florida and Tennessee, Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina, and Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Georgia and Louisiana*, WC Docket Nos. 02-307 & 02-150; CC Docket No. 02-35, *Order*, 20 FCC Rcd 14657, 14659, ¶ 4 (2005) (footnote omitted).

Granting BellSouth an STA and a waiver of the network disclosure rules would enable BellSouth to factor such authority into its disaster planning. In other words, BellSouth could then fashion a disaster response plan that deploys its resources, such as personnel, network equipment, or generators, in a manner that makes the most sense given the situation at hand. The flexibility that was a quintessential characteristic of effective responses to Hurricanes Katrina and Rita could become part of future disaster planning efforts.

BellSouth believes that the relief it requests will have positive operational consequences. BellSouth will be able to develop an integrated corporate response team with common training and response procedures. Resource management will be more effective through centralized control functions. As a result, BellSouth will be better positioned as a company to develop mitigation strategies and planning contingencies that should reduce the time of service outages.

III. Conclusion

The relief requested by BellSouth provides a reasonable approach to disaster planning and recovery. It is limited in scope but the potential benefit to the public is significant. Accordingly, the Commission should grant BellSouth's request expeditiously, but no later than May 1, 2006, so that BellSouth could take advantage of such relief in preparation for the 2006 hurricane season.

Respectfully submitted,

BELLSOUTH CORPORATION

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Date: April 4, 2006

CERTIFICATE OF SERVICE

I do hereby certify that I have this 4th day of April 2006 served a copy of the foregoing
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