



May 19, 2006

**VIA ECFS**

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

**Re: Notice of Written Ex Parte: In the Matter of Review of AT&T Inc. and  
BellSouth Corp. Application for Consent to Transfer Control, WC Docket  
06-74**

Dear Ms. Dortch:

Throughout their application AT&T Inc. (“AT&T”) and BellSouth Corp. (“BellSouth”) assert that the merger will not harm competition, and that the merger will have no effect on the competitive capabilities of other providers, including competitive local exchange carriers (“CLECs”).<sup>1</sup> Specifically, the applicants argue that the concerns that prompted the Commission to place conditions on the 1999 SBC/Ameritech merger—that it “would increase the incentives and ability of the larger merged entity to discriminate against rivals...”—are not present in the pending application. The primary basis for the applicants’ amazing claims is that “ILECS today have...less ability to engage in technical discrimination” than in 1999 because facilities based-CLECs “typically need only to interconnect with ILECs without leasing underlying facilities.” However, as CLECs in California can attest, including Fones4All Corporation, AT&T California has both the incentive and the ability to discriminate and is actually doing so on a frequent basis.

An egregious example of AT&T’s willingness and ability to abuse its market power is currently playing out in California and offers some insight into what the future might hold to the extent the instant merger is approved without appropriate competitive safeguards. AT&T California is acting in direct defiance of an arbitration decision of the California Public Utilities Commission (“CPUC”) which addressed the post Triennial Review Remand Order (“TRRO”) contract amendment between AT&T California and CLECs. AT&T’ is effectively forcing CLECs to continue to engage in time consuming and expensive litigation merely to force AT&T to comply with the CPUC decision.

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<sup>1</sup> See *Description of Transaction, Public Interest Showing and Related Demonstration*, WC Docket 06-74 at 54-12; (Mar. 31, 2006); see also Declaration of Dennis W. Carlton and Hal S. Sider at 50-54 (Mar. 29, 2006).

Specifically, on January 26, 2006, the CPUC issued D.06-01-043, its final decision in the AT&T California post TRRO arbitration, resolving issues disputed among AT&T and the CLECs. In that decision, the CPUC approved CLEC-proposed contract language stipulating that in the event a CLEC is unable to submit a transition order for a line that it has been providing to an end-user under the UNE Platform, AT&T is authorized to charge only the total-service resale rate for such a line.<sup>2</sup> In making this finding, the CPUC specifically ruled that it would be “unduly punitive” to CLECs to allow AT&T to impose the “market-based” rates that it sought to charge for such lines. AT&T California sought a rehearing by the CPUC of this decision and the rehearing is still pending. AT&T however, is of the mind that the CPUC’s decisions don’t necessarily apply to AT&T if they are in disagreement with the outcome. Indeed, AT&T California is now simply ignoring the CPUC’s decision and has imposed its non-resale rates on CLECs anyway. The rates were imposed on the CLECs’ March bills.

On February 10, 2006, just two weeks after the CPUC issued D.06-01-043, AT&T filed a so-called “Emergency Motion” to enforce the requirement of the post TRRO interconnection agreement, approved in D.06-01-043, that CLECs submit their transition orders for UNE-P lines by March 10, 2006. In response to this Emergency Motion, the CLECs, including Fones4All, submitted oppositions, accompanied by declarations, that showed that the primary reason CLECs were unable to submit UNE-P transition orders by the March 11 deadline related to AT&T’s own failures and errors in managing the UNE-P transition, as well as severe limitations on AT&T’s system’s ability to handle bulk migrations (limitations not present, for example in BellSouth’s region).<sup>3</sup> In light of the many problems relating to the UNE-P-P transition, the Administrative Law Judge denied AT&T’s “Emergency Motion,” finding that, although “it is not my intention to determine where the fault lies[,] . . . after reviewing SBC’s motion and the CLECs’ responses, I find that it is unlikely that the fault is all on the CLECs’ side.”<sup>4</sup>

Nonetheless, days later, on March 10, 2006, AT&T sent a notice to each CLEC in California that had been unable to complete the submission of its UNE-P orders, indicating that AT&T would charge each such California CLEC \$37.24 per unconverted UNE-P line, in direct violation of the CPUC’s order in D. 06-01-043. Faced with interconnection agreements that require them to “pay and dispute” any charges that AT&T imposes under the agreements, on March 29, 2006, five CLECs, including Fones4All, filed with the CPUC a Motion for Enforcement of Decision 06-01-043, which was granted in part by the ALJ on April 13, 2006. Nonetheless, in comments before the CPUC on the ALJ’s decision, AT&T continues to insist upon its right to charge the non-resale based proxy rate, despite the CPUC’s previous order in the

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<sup>2</sup> CPUC D.06-01-043 at 47.

<sup>3</sup> The public version of the Opening Comments of Fones4All Corporation (U-6338-C) On Decision Confirming the Assigned Administrative Law Judge’s Ruling Granting in Part the Motion for Enforcement of Decision 06-01-043 (May 11, 2006) is attached hereto as **Exhibit A**; the Response of Fones4All Corporation to AT&T California’s Reply Comments on the Draft Decision of Administrative Law Judge’s Ruling Granting in Part the Motion for Enforcement of Decision 06-01-043 and the Reply Declaration of Tiffany Chesnosky are attached here to as **Exhibit B** (May 18, 2006).

<sup>4</sup> See *Administrative Law Judge’s Ruling Denying SBC California’s Emergency Motion to Compel UNE-P Transition*, Application A-05-07-024 (March 8, 2006).

arbitration. The CPUC will decide at its May 25, 2006 meeting whether to ratify or alter the ALJ's partial grant of the Motion to Enforce D. 06-01-043. In the meantime, AT&T's anticompetitive conduct continues to threaten to push Fones4All and other small competitors over the brink into financial ruin by forcing them to litigate and re-litigate discreet issues that have already been clearly and unequivocally resolved by state regulators.

The episode now playing out in California is relevant to the Commission's deliberations in this docket, as it considers the applicants' incredible claim that they will not have the incentive or ability to discriminate against small competitors if the merger is approved.

Sincerely,



Ross A. Buntrock

cc: Chairman Martin  
Commissioner Copps  
Commissioner Adelstein  
Commissioner Taylor Tate  
Daniel Gonzalez  
Ian Dillner  
Jessica Rosenworcel  
Scott Bergmann  
Aaron Goldberger  
Dana Shaffer  
Best Copy and Printing, Inc.

# **EXHIBIT A**

**BEFORE THE  
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of Pacific Bell Telephone Company,  
d/b/a SBC California for Generic Proceeding to  
Implement Changes in Federal Unbundling Rules  
Under Sections 251 and 252 of the  
Telecommunications Act of 1996

Application-A.05-07-024  
(Filed July 28, 2005)

**OPENING COMMENTS OF FONES4ALL CORPORATION (U-6638-C) ON DECISION  
CONFIRMING THE ASSIGNED ADMINISTRATIVE LAW JUDGE'S RULING  
GRANTING IN PART THE MOTION FOR ENFORCEMENT OF DECISION 06-01-043  
PUBLIC VERSION**

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May 11, 2006

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Fones4All Corporation (“Fones4All”) by counsel, pursuant to the Commission’s May 1, 2006 notice hereby submits its Opening Comments on the Decision Confirming The Assigned Administrative Law Judge’s Ruling Granting In Part the Motion for Enforcement of Decision 06-01-043 (“Ruling”).

### **INTRODUCTION AND SUMMARY**

AT&T California (“AT&T”) urges the Commission to adopt an inflated proxy “resale-based” rate of \$37.24 for all UNE-P lines—business and residential—that were not converted to alternative arrangements by the March 11, 2006 deadline. The only justification offered by AT&T for this grossly overblown one-size-fits all rate are the limitations of AT&T’s billing system to re-rate UNE-P lines to resale. But regardless of whatever those limitations might be, there is absolutely no justification for the Commission to adopt the “proxy rates” proposed by AT&T to the relatively small number of UNE-P lines that remain unconverted, most of which are owned by Fones4All.

All of Fones4All’s UNE-P lines which remained unconverted after March 11, 2006 are residential lines and the business line assumptions set forth in AT&T’s proxy rate and adopted by the Ruling do not apply to Fones4All. The justification offered by AT&T for its proxy rates should be rejected and the Commission should enforce its previous decision in the TRRO arbitration decision. With respect to Fones4All, the carrier with the most lines at issue, the most accurate and fair way to enforce the Commission’s decision mandating imposition of the total service resale rates is to look at the easily identifiable characteristics of both the lines that remain unconverted, and the resale lines ordered by Fones4All since March 11, 2005. This actual data will present a far clearer picture what the resale rate should be, and will obviate the need for the Commission to engage in setting ad hoc “proxy rates” that have no bearing in reality.

First, the Commission has already fully litigated and ruled on the issue of the appropriate rate to be charged in D. 06-01-043.<sup>1</sup> As AT&T acknowledges,<sup>2</sup> in that proceeding the Commission adopted the CLEC language which entitles CLECs to Total Service Resale pricing if the migration of their UNE-P customers was not completed by the March 11, 2006 deadline,<sup>3</sup> and the parties to the arbitration proceeding have negotiated language conforming the existing interconnection agreements to the Commission's decision. AT&T has sought rehearing by the Commission on that very issue, but even if the Commission were inclined to grant the relief AT&T seeks in that rehearing, grant of any such relief here would be completely inappropriate.

Second, the cost assumptions contained in AT&T's proxy rate methodology, and adopted in large part by the Ruling, simply to not apply to one hundred percent residential customer base of Fones4All, the carrier with largest number of unconverted UNE-P lines. All Fones4All lines leased from AT&T are used to provide only basic local service to ULTS customers. Not a single line leased from AT&T by Fones4All is used to provide long distance (exchange access service) to any end user, and only a very small percentage of the lines leased from AT&T have any custom calling features provisioned on them. Third, those lines that remain unconverted from UNE-P to alternate arrangements remain unconverted in large measure due to AT&T's own failures and the inherent limitations on AT&T's internal systems, which preclude the processing of large numbers of daily UNE-P to UNE-L migrations.

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<sup>1</sup> Decision Adopting Amendment to Existing Interconnection Agreements, D.06-01-043 (Cal. PUC Jan. 26, 2006).

<sup>2</sup> See AT&T California's Opposition to Motion for Enforcement of D. 06-01.043 at 3 (Apr. 5, 2006) ("AT&T Opposition").

<sup>3</sup> *Id.* at 47.

Accordingly the proposed AT&T proxy rate methodology—several components of which were adopted by the ALJ’s Ruling—do not apply to Fones4All. At bottom, the Commission need do nothing more than require AT&T to comply with the Commission’s ruling. In the case of Fones4All, that means that AT&T should not be allowed to charge Fones4All any more than the TSR rate for residential customers receiving only basic local service, with no long distance service. Under no circumstances should the Commission allow AT&T to charge Fones4All the \$37.24 per line business line proxy rate, as AT&T has already attempted to bill Fones4All. To allow AT&T to charge such an inflated rate would not only allow AT&T to circumvent the Commission’s previous order on this issue, but would also unfairly impose a financial hardship on Fones4All.

**I. IN D.06-01-043 COMMISSION RESOLVED THE ISSUE OF THE APPROPRIATE RATE TO BE CHARGED CLECS WITH UNCONVERTED LINES AND AT&T SHOULD NOT BE ALLOWED TO CIRCUMVENT THAT DECISION**

There is no reason for the Commission to adopt any component of AT&T’s inflated proxy “resale-based rate”<sup>4</sup> because the Commission has already clearly and unequivocally held in D. 06-01-043 that the appropriate rate to be applied to UNE-P lines that remained unconverted after March 11, 2006 is to be the Total Service Resale rate applicable to the line in question. There is no doubt that in D.06-01-043 the Commission squarely resolved the issue of the rate to be charged CLECs in the position of Fones4All, and AT&T’s attempt to impose its “resale proxy rate” of \$37.24 to Fones4All’s one hundred percent residential lines should be rejected.

D. 06-01-043 left no room for doubt regarding the Commission’s resolution of this issue. Issue 14 of the arbitration proceeding asked specifically: “What rates should apply to ULS/UNE-

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<sup>4</sup> AT&T couches its proposed rate as a “resale-based” rate, tacit admission that it is not the same as the tariffed TSR rates ordered by the Commission in D. 06-01-043. *See* AT&T Opposition at 1.

P services if the embedded base ULS/UNE-P customer's service has not been disconnected or migrated by the deadline to be specified in the amendment?" The Commission held that:

We find that adopting SBC's market based rates would be unduly punitive for failure to make the deadline to transition services from ULS/UNE-P arrangements. We will instead adopt the CLECs' TSR rates that we previously approved. The CLECs' proposed language in Section 2.1.3.4 is adopted.<sup>5</sup>

The Commission approved CLEC-proposed contract language stipulating that, in the event a CLEC is unable to submit a transition order for a line that it has been providing to an end-user under the UNE Platform, SBC is authorized to charge only the total-service resale rate for such a line.<sup>6</sup> As AT&T acknowledged in its Opposition to the Motion to Enforce D. 06-01-043, AT&T sought rehearing on this very issue.<sup>7</sup> Nonetheless, in direct defiance of the Commission's order, AT&T has already imposed upon carriers, including Fones4All, its inflated \$37.24 resale proxy rate.

The only justification offered by AT&T for imposition of its unreasonable proxy rate is administrative convenience. AT&T argues that "AT&T California would incur serious burdens and substantial expenses associated with extracting the necessary line-specific information from CABS in order to generate resale rates out of the CRIS billing system. AT&T's CABS and CRIS billing systems are unique and stand alone from each other." AT&T's solution is to shift the administrative cost of complying with the Commission's order to CLECs. The Commission should not countenance such gamesmanship. If the Commission wishes to revisit the decision to

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<sup>5</sup> D. 06-01-043 at 47.

<sup>6</sup> *Id.*

<sup>7</sup> AT&T Opposition at n.7.

require AT&T to charge TSR rates the only proper forum for that decision is in the context of some resolution of AT&T's pending petition for rehearing of D. 06-01-043.

**II. CONSISTENT WITH D. 06-01-043 THE COMMISSION SHOULD REQUIRE AT&T TO CHARGE FONES4ALL THE SAME RATE APPLICABLE TO RESALE LINES ORDERED BY FONES4ALL SINCE MARCH 11 2005 BECAUSE NEITHER THE PROXY RATE PROPOSED BY AT&T, NOR THE PROXY RATE ADOPTED BY THE RULING ARE APPROPRIATE**

As AT&T acknowledges, "resale rates vary by the type of customer and the number and type of features ordered."<sup>8</sup> Yet, the proxy rate that AT&T has attempted to assess on Fones4All, as well as the proxy rate adopted in ALJ Ruling, do not take into account the fact that none of the assumptions apply to Fones4All's homogenous low income one hundred percent residential local customer base.

Specifically neither the Ruling nor AT&T's proxy rate take into account the fact that: 1) all of the Fones4All lines leased from AT&T are residential; 2) all of the Fones4All lines leased from AT&T provide only local calling, with no long distance service; and 3) only a small percentage of the unconverted lines leased by Fones4All from AT&T provide any calling features leased from AT&T. For these reasons neither the proxy rate adopted in the Ruling, nor that proposed by AT&T apply to Fones4All's completely residential customer base. However, the Commission need not engage in this exercise of formulating a "proxy rate" when all it needs to do is look at the hard data associated with the thousands of resale lines that Fones4All has ordered from AT&T since March 11, 2005, the date that new UNE-P lines were no longer available. There is no need to guess, as AT&T has, about the applicable rates, or the types of features ordered by the typical Fones4All customer. Instead the Commission should simply apply the average resale rate Fones4All has paid to AT&T since March 11, 2005. Application of

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<sup>8</sup> AT&T Opposition at 4.

that rate would not only be exactly what the Commission ordered in D. 06-01-043, would eliminate entirely any need to kluge together some proxy rate that has no bearing in reality.

**A. Any Proxy Rate Utilizing A Business Line Pricing Component Should Not Be Applied to Fones4All's One Hundred Percent Residential Customer Base**

The proxy rate proposed by AT&T is flawed both on its face, as specifically as applied to Fones4All. The Ruling adopted core components of the AT&T single resale proxy rate, but as explained below the assumptions subsumed in AT&T's proposal, significant portions of which were adopted in the Ruling, are not appropriately applied to Fones4All. As described in the attached Declaration of Bettina Cardona, each and every one of Fones4All's customers is a residential customer. But AT&T's single proxy rate inappropriately includes a resale proxy rate of \$48.19 for business lines,<sup>9</sup> the bulk of which consists of charges are not appropriately assessed upon Fones4All's one hundred percent residential customer base.

**1. No Component of Business Line Pricing Should be Applied to Fones4All**

AT&T explains that it "developed a single resale proxy rate applicable to both residential and business customers. The rate takes into account usage, features, the EUCL charge and an access component. The blended rate consists of a proxy residential rate and a proxy business rate, weighted according to the relative number of unconverted UNE-P residential and business lines existing in California as of January 31, 2006, in order to come up with a single rate."<sup>10</sup> The bulk of AT&T's inflated single resale proxy rate arises from cost inputs associated with business lines, none of which Fones4All serves. Specifically, AT&T's \$48.19 resale proxy rate for business lines consists of: measured-rated service with three calling features at \$48.69, reduced

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<sup>9</sup> Smith Declaration at ¶ 18.

<sup>10</sup> See Declaration of Roman Smith on Behalf of AT&T California, ¶ 8

by the 17% resale discount rate, plus a EUCL charge of \$4.38 and a switched access charge of \$3.40.<sup>11</sup>

The Ruling adopted a number of the price components of AT&T's single resale proxy rate. Specifically, the Ruling:

adopted AT&T's assumptions in its model for the price for the access line, the number of custom calling features, and the inclusion of the EUCL. I have reduced the local usage charges for business customers to 500 minutes at \$2.70 per month, rather than the \$23.99 proposed by AT&T, which includes unlimited usage. I have also eliminated the access charges proposed by AT&T, since most CLECs use another carrier to provide long distance service. The result is a blended rate of \$25.19.

At a minimum, the part of the Ruling adopting AT&T's price for the access line, local usage charges for business customers to 500 minutes at \$2.70 per month, charges for three custom calling features do not properly apply to Fones4All.

**a. Only Residential Resale Rates Should Be Applied to Fones4All**

As the Cardona Declaration explains, Fones4All serves not even a single business line. All of Fones4All's end users, including all of those served using AT&T unconverted UNE-P lines, are residential end users. Accordingly, it is inappropriate to use any price for the access line that has a component of business pricing. In formulating its proposed resale proxy residential rate AT&T argues that the Commission should use "the Predominant rate in California for a retail residential Flat-rated access line" which AT&T says is \$10.69.<sup>12</sup> AT&T states that "This figure represents the *lowest* rate available for a retail residential Flat-rated access line" but the footnote number one of the sentence preceding this statement states that AT&T

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<sup>11</sup> *Id* at ¶¶ 18-24.

<sup>12</sup> Smith Declaration, ¶ 10.

argues that "The resale rate of \$8.87 can also be found in 175-T- 8<sup>th</sup> Revised Sheet 912."<sup>13</sup> AT&T argues that the \$10.29 flat rate used by AT&T is "plainly unassailable" but fails to offer any suggestion or explanation as to why the \$8.87 flat rate residential rate should not be used instead. In no case, however, should any rate other than a residential resale rate for the line be applied to Fones4All. Indeed, since it was precluded from ordering new UNE-P lines as of March 11, 2005, Fones4All has actually ordered thousands of resale lines from AT&T. The Commission need not entertain AT&T's folly by engaging in this exercise of trying to formulate a proxy rate based on assumptions when it would be far simpler for the Commission. Rather the Commission should use real numbers.

**b. Minute of Use Charges Are Not Appropriately Levied on Residential Resale Lines**

Again, as the Cardona Declaration states, one hundred percent of Fones4All's customers are residential. As AT&T acknowledges, residential resale rates include unlimited local calling and residential resale lines have no per minute fees for local calls.<sup>14</sup> Accordingly, the \$2.70 minutes-of-use charge adopted in the Ruling should not be applied to Fones4All, who provides only local service only to residential customers using AT&T's leased lines, and as AT&T admits, MOU charges do not apply to residential resale lines.

**c. An Assumption of Three Custom Calling Features Is Inappropriate and Not Supported by Over One Year of Empirical Data**

In formulating a proxy rate, both AT&T and the Ruling incorrectly assume that the average Fones4All subscriber subscribes to three vertical calling features: Caller ID Name and

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<sup>13</sup> Smith Declaration, footnote 1. See also April 21 and April 25 AT&T Ex Parte Presentations, page 3.

<sup>14</sup> AT&T Opposition, 8; AT&T April 21 and April 25 Ex Parte Presentation at 3; Smith Declaration at ¶19 ("the residential rate does not include a MOU component").

Number (\$6.17), Call Waiting (\$3.23), and Three-Way Calling Service (\$3.23). In adopting AT&T's assumptions, the Ruling relies on the fact that "Fones4All's own website makes clear that three features or more is common."<sup>15</sup> Again though, the Commission need not rely upon a proxy assumption when both Fones4All and AT&T know and can confirm: 1) exactly how many unconverted Fones4All UNE-P lines have features on them; 2) which features they are; and 3) how many resale lines with vertical features Fones4All has ordered from AT&T since March 11, 2005 as well as which features were ordered.

In fact, as set forth in the Cardona Declaration, \*\*\* subscribers served over unconverted UNE-P lines subscribe to Caller ID and three way calling and \*\*\* subscribers served over unconverted UNE-P lines subscribe to Caller ID, 3 Way Calling and Call Waiting. Accordingly, with actual data available it is both inappropriate and unnecessary to assume that all the approximately \*\*\* UNE-P lines that remained unconverted by Fones4All as of March 11, 2006 received the three custom calling features that AT&T utilized in formulating its proxy. The Commission should instead utilize the real data that it has at its disposal regarding how many of the unconverted Fones4All subscriber lines actually subscribe to which features, as well as what features have been provisioned over resale lines provisioned since the UNE-P cut-off in March 2005.<sup>16</sup>

**B. AT&T's Weighting Methodology, Adopted In Part By the Ruling, Is Flawed**

The Ruling adopted the access line cost portion of AT&T's single proxy rate which "reflects a blending of the proxy residential and proxy business rates, weighted according to the

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<sup>15</sup> Ruling at 5.

<sup>16</sup> Examination of that data would reveal that no resale lines ordered by Fones4All from AT&T since March 11, 2005 have been provisioned with any features. All new subscribers now receiving features from Fones4All receive them from Fones4All's own switching arrangements which have been in place since the Fall of 2005.

relative number of residential and business UNE-P lines in California as of the data ending January 31, 2006.” The weighting methodology used by AT&T to come up with its single resale proxy rate is flawed on its face, as it weights the number of business and residential lines almost equally, based upon 128,828 UNE-P lines in service in California as of January 31, 2006.<sup>17</sup> But even in the unlikely event that such an even split between business and residential lines existed as of January 31, 2006, it no longer does, and adoption of the proxy rate would be inappropriate now. In fact, today, the vast majority of the lines remaining to be converted are Fones4All’s residential lines, and accordingly, applying the proxy rate formulated utilizing the flawed assumption of a fifty-fifty business/residential split would needlessly and wrongfully penalize Fones4All.

According to SBC’s February 10, 2006 Emergency Motion to Compel UNE-P Transition, 107,000 UNE-P lines were at risk of being unconverted by the March 11, 2006 deadline.<sup>18</sup> AT&T did not offer any information regarding how many of those approximately 107,000 line were business lines and how many were residential lines. Nonetheless, the CLECs who filed the Motion giving rise to the Ruling accounted for approximately \*\*\* of the unconverted UNE-P lines as of March 29, 2006. Of those lines, as of March 29, \*\*\* of those lines belonged to Fones4All.<sup>19</sup> AT&T claims that as of January 31, 2006, 51% of the 128,828 were residential lines. This assertion by itself is highly suspect, but nonetheless the Commission and the parties know that the vast majority of the relatively small number of lines that remain to be converted are residential lines belonging to Fones4All. Accordingly, adopting a “proxy” rate

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<sup>17</sup> Smith Declaration at ¶26.

<sup>18</sup> See SBC California Emergency Motion to Compel UNE-P Transition (Feb. 10, 2006).

<sup>19</sup> See Declaration of Bettina Cardona in Support of Motion for Enforcement of D. 06-01-043 (Mar. 29, 2006).

that assumes that almost half of the unconverted lines are business lines is not only clearly inappropriate, it is completely at odds with the facts as we know them to exist today. Accordingly, as set forth in these comments, the Commission need only apply the average TSR rate that AT&T has been assessing Fones4All for the past twelve months. While a "proxy rate" clearly would serve AT&T's self-interest, it is wholly unnecessary and would be counter to the Commission's previous decision in the arbitration proceeding.

### **III. THE UNCONVERTED UNE-P ARRANGEMENTS REMAINING TODAY ARE UNCONVERTED IN LARGE MEASURE DUE TO AT&T'S OWN FAILURES AND THE INHERENT LIMITATIONS ON AT&T'S SYSTEMS**

Suffice it to say that at this point in time it is of little utility to rehash the issue of why Fones4All finds itself in these circumstances, though it is worth mentioning that the Administrative Law Judge who denied SBC's so-called "Emergency Motion," stated although "it is not my intention to determine where the fault lies[,] . . . after reviewing SBC's motion and the CLECs' responses, I find that it is unlikely that the fault is all on the CLECs' side."<sup>20</sup>

It cannot be denied that SBC bears a significant portion of the blame for the situation. As Fones4All and the other CLECs noted in their Motion, SBC's own failures and errors in managing the UNE-P transition were largely to blame. These failures and errors included:

- SBC's requirement that CLECs submit "as is" migrations as complicated "CLEC-to-CLEC conversion with change," which adds greatly to the time necessary to submit such orders and the high likelihood of the introduction of errors, diverting CLEC resources to follow-up on already-submitted orders;<sup>21</sup>
- SBC's lengthy lead-times and delays in providing collocation arrangements for CLECs migrating UNE-P lines to UNE-L provision,<sup>22</sup> as well as SBC's failure to meet national standards in maintaining collocation spaces in some of its central offices;<sup>23</sup>

<sup>20</sup> *Administrative Law Judge's Ruling Denying SBC California's Emergency Motion to Compel UNE-P Transition* (March 8, 2006), in the instant arbitration.

<sup>21</sup> CCT Opposition at 8-9 and referenced Declarations.

<sup>22</sup> Call America Opposition at 7, 8, and 12 and referenced Declarations; *Response of the California Association of Competitive Telecommunications Companies (CALTEL) on the Emergency Motion of SBC*

- SBC's refusal to negotiate regarding the unreasonable prices and terms in its so-called "Local Wholesale Complete" replacement arrangement for UNE-P lines;<sup>24</sup>
- SBC's "slow-rolling" of access to its Batch Hot Cut process that Fones4All used to facilitate its submission of conversion orders;<sup>25</sup>
- SBC's failure to deliver timely, or in working order, the circuits required to complete CLECs' transition to UNE-L;<sup>26</sup>
- changes in SBC's ordering systems that prevent CLECs from accessing the complete information on CLEC lines that CLECs need to submit valid transition orders;<sup>27</sup>
- SBC's erroneous rejection of valid transition orders, validly submitted, as well SBC's provision of erroneous completion orders on uncompleted or defective conversions;<sup>28</sup>

As noted in the Cardona Declaration, to this day Fones4All has been able to complete no more than \*\*\* \*\*\* migrations in a single day because Fones4All is forced to negotiate the daily number of conversions due to AT&T's inability to handle large volumes of migrations in a single day, even though Fones4All is the likely only carrier left in the state of California still attempting to complete its migrations. AT&T has every economic incentive to slow roll the migration process, especially if the Commission allows AT&T to impose its usurious \$37.24 proxy rate. Indeed, AT&T can't even squeeze this kind of price for basic service out of the average retail

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*California to Compel UNE-P Transition* ("CALTEL Opposition") (Feb. 24, 2006) at 4 and referenced Declaration.

<sup>23</sup> Call America Opposition at 12 and referenced Declaration. SBC's failure to adhere to national standards in maintaining a proper temperature in at least one of its central offices caused Call America equipment to fail repeatedly, despite Call America's repeated efforts to get SBC to lower the temperature in the office. These equipment failures, in turn, delayed Call America's submission of transition orders to SBC. See Declaration of Jeffrey Buckingham submitted in support of Call America Opposition, at ¶ 7.

<sup>24</sup> CCT Opposition at 5-8 and referenced Declarations; Call America Opposition at 9, 16 and referenced Declarations.

<sup>25</sup> *Response of Fones4All Corp. to Emergency Motion of SBC California to Compel UNE-P Transition* ("Fones4All Opposition") (Feb. 24, 2006), at 3 and referenced Declaration.

<sup>26</sup> Call America Opposition at 12-14 and referenced Declarations. The circuits that SBC has failed to deliver timely, or has delivered in a defective condition, include not only DS-1 UNE loops or T-1 special access loops (*Id.*, at 12-13), but also essential local interconnection trunks (*Id.*, at 14).

<sup>27</sup> Call America Opposition at 14-15 and referenced Declaration.

<sup>28</sup> Call America Opposition at 15-16 and referenced Declaration.

residential end user. At this point the Commission should order AT&T to put in place the necessary resources to complete the UNE-P migration as expeditiously as possible, and in so doing, obviate the need to engage in this exercise of establishing a "proxy" resale rate.

#### IV. CONCLUSION

For the foregoing reasons the Commission should reject the inflated proxy rate proposed by AT&T and adopted in part by the Ruling and make the following changes to the Ruling: (1) the Commission should require that AT&T charge Fones4All no more than the average of the TSR rate for the all of the residential resale lines ordered by Fones4All since March 11, 2005; (2) the Commission should reject the findings portions of the Ruling that adopted AT&T's assumptions in its model for the price for the access line, the number of custom calling features, and the inclusion of the EUCL and the application to Fones4All's residential customers local usage charges for business customers at the rate 500 minutes for \$2.70 per month. In other respects the Commission should confirm the Ruling.

Respectfully submitted,



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# **EXHIBIT B**

**BEFORE THE  
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of Pacific Bell Telephone Company,  
d/b/a SBC California for Generic Proceeding to  
Implement Changes in Federal Unbundling Rules  
Under Sections 251 and 252 of the  
Telecommunications Act of 1996

Application-A.05-07-024  
(Filed July 28, 2005)

**RESPONSE OF FONES4ALL CORPORATION (U-6638-C) TO AT&T CALIFORNIA'S  
REPLY COMMENTS ON THE DRAFT DECISION OF ALJ JONES CONFIRMING  
THE ASSIGNED ADMINISTRATIVE LAW JUDGE'S RULING GRANTING IN PART  
THE MOTION FOR ENFORCEMENT OF DECISION 06-01-043**

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May 18, 2006

Pursuant to leave granted by Administrative Law Judge Karen Jones in a May 16, 2006 in telephone conversation between Judge Jones and the undersigned counsel, Fones4All Corporation ("Fones4All") hereby provides the attached Reply Declaration of Tiffany Chesnosky ("Reply Declaration") on Behalf of Fones4All. The Reply Declaration is necessary to address a number of factual inaccuracies and mischaracterizations contained in the Declaration of Connie A. Hernandez, which accompanied AT&T California's Reply Comments on the Draft Decision of ALJ Jones Confirming the Administrative Law Judge's Ruling Granting In Part The Motion For Enforcement of Decision 06-01-043.

Respectfully submitted,



---

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**REPLY DECLARATION OF TIFFANY CHESNOSKY ON BEHALF OF  
FONES4ALL CORPORATION**

1. My name is Tiffany Chesnosky. My business address is 6320 Canoga Avenue, Suite 650, Trillium Building, Woodland Hills, California. On February 24, 2006 I provided a declaration in this proceeding in opposition to AT&T California's "Emergency Motion to Compel" and I hereby incorporate by reference the contents of that declaration.

2. The purpose of this Reply Declaration is to respond to the numerous factual inaccuracies and mischaracterizations contained in the Declaration of Connie A. Hernandez On Behalf of AT&T California ("AT&T"), which accompanied AT&T California's Reply Comments, filed in this proceeding on May 16, 2006.

3. I have worked with Ms. Hernandez since early March 2006, once AT&T finally began cooperating with Fones4All's efforts to transition Fones4All's UNE-P lines to UNE-L after having repeatedly ignored Fones4All's requests to begin the transition process, contrary to the claims of AT&T as set forth in the declarations of Ms. Hernandez and Ms. Cheryl Labat in this proceeding.

4. As I discussed in my previous declaration in this proceeding, AT&T's standard bulk migration process for UNE-P to UNE-L is labor intensive and is almost completely manual, rather than automated like other ILECs systems (as discussed herein). It requires carriers to write LSRs for every line being converted from UNE-P to UNE-L; it requires carriers verbally negotiate with AT&T due dates for bulk migration orders; it fails to provide automated notice of a rejected bulk order, and it rejects entire

bulk orders that have even one incorrect LSR. Aside from initial delays by AT&T, it is this arcane system that is causing the migration to proceed as slowly as it has.

5. In paragraph 5 of her declaration Ms. Hernandez indicates that as part of its “effort to facilitate the efficient transition” of Fones4All’s UNE-P lines “a process was initiated allowing Fones4All to first contact the LSC with central office locations, volumes of cuts and desired dates” rather than requiring Fones4All to use “the iterative process of negotiating a conversion date through AT&T California’s Reservation Tool interface.” The declaration of Ms. Hernandez on this point is true as far it goes, however, Ms. Hernandez neglects to mention a key fact: specifically that that it was Fones4All, not AT&T, who proposed the system described by Ms. Hernandez after Fones4All spent frustrating weeks attempting to utilize the manual AT&T California standard processes that were initially in place.

6. Specifically, the system that AT&T required be utilized by Fones4All to request due dates for bulk orders, the AT&T Reservation Tool, is so rudimentary in its functionality that it is not capable of automatically rejecting requests for bulk order due dates, it only accepts them. Despite having long been aware of this limitation, AT&T apparently has no intention of fixing it. Because of the inability of the AT&T Reservation Tool to automatically reject requested due dates for bulk orders, Fones4All had no way of knowing whether a batch due date reservation was accepted or rejected until someone from AT&T placed a phone call to Fones4All confirming or rejecting the date. In most instances prior to the institution of the new system proposed by Fones4All, AT&T would reject Fones4All’s bulk order reservations because of its admitted resource limitations, and instead propose an alternative desired due date that was convenient for

AT&T. Only once Fones4All agreed to the bulk order due dates proposed by AT&T would AT&T accept the order. In addition to having no ability to electronically schedule migrations, AT&T to date still has no automated way to allow a carrier to electronically monitor the status of an order. Specifically, AT&T has no automated way to notify a carrier who has submitted a bulk migration whether an order has been rejected, which can happen for any number of reasons, including PONs needing to be clarified, transposed numbers, invalid address information, etc. Instead the AT&T Verigate system merely gives the CLEC a message that states that the "Bulk Batch Results are not available at this time." Because the system has no automated ordering monitoring capabilities, the LSC has agreed to call Fones4All with reject notices. Nonetheless, if even one LSR in a bulk order is deficient, the entire bulk order is rejected and Fones4All must wait to re-submit the entire bulk order after it has re-negotiated a new due date. Obviously, this is a tedious and time consuming process.

7. I discussed with Connie Hernandez at the beginning of April 2006 whether Fones4All could get pre-approval for bulk order due dates before submitting them via the Reservation Tool to eliminate the time that was being wasted by having to attempt to electronically schedule orders only to have them rejected subsequently. Ms. Hernandez agreed that Fones4All would be allowed to negotiate dates before the orders were placed to ensure acceptance of all orders, as she described in paragraph 5 of her declaration. Under the revised process, Fones4All places calls to the LSC to request desired due dates for each CO. The LSC then contacts the specific CO manager to get obtain approval for the date and the number of lines that Fones4All has requested. The LSC then returns a call to Fones4All with either an acceptance of the dates Fones4All has

requested, or with a proposed alternative date that the CO manager deems better for their workload. Fones4All provisioners place bulk orders using the negotiated due dates. .

8. While this is an improvement over AT&T's original system, it too is nonetheless time consuming and labor intensive. The revised system works slightly better than the original process using the Reservation Tool because Fones4All need not guess as to which dates AT&T will accept, and Fones4All usually simply accepts the due date AT&T offers. However, in many cases central office managers will not allow Fones4All to schedule bulk orders for Monday or Fridays, basically leaving three days of the week available for orders to be scheduled. In addition, central office managers will not allow bulk orders to be scheduled on consecutive days of the week, presumably because of AT&T's lack of resources that are devoted to migrations.

9. The labor intensive system required by AT&T California is an industry anomaly, and stands in stark contrast to the highly automated system utilized by the company AT&T is in the process of acquiring, BellSouth. As the BellSouth UNE-P to UNE-L Bulk Migration CLEC Information Package, Version 5 August 22, 2005 (Attachment A to this Declaration) shows, the BellSouth system allows CLECs to migrate up to 200 lines per central office per day, in contrast to the 150 that AT&T purportedly allows. See page 4 of Attachment A. Furthermore, BellSouth's systems allow CLECs to schedule bulk orders via an automated system without the need to orally negotiate due dates, as AT&T California requires. Further, unlike AT&T California, BellSouth provides a true bulk conversion process which allows the migration of multiple UNE-P lines without requiring that the CLEC submit individual LSRs for each line. See Attachment A, p. 7, Section 4. Under BellSouth's system, CLECs use the automated

electronic scheduling interface to reserve dates and upon completion of the reservation, the CLEC submits a bulk order with the reserved dates. The entire bulk order is then mechanically validated, with any rejects mechanically generated to the CLEC. See Attachment A, p. 13, steps 2-3. Unlike AT&T California's manual "system," which requires CLECs to submit individual LSRs for each line, BellSouth's automated ordering systems accept bulk orders and "break the individual PONs into separate LSRs and populate the remaining LSR fields from OSS prior to sending the individual LSRs downstream to the Local Number Portability Gateway" *Id.* at 13, step 4. The LNP Gateway performs second level validations and any of the individual PONS that must be clarified are sent back to the CLEC, "business as usual," unlike the AT&T California process which rejects the entire order and requires it to be rescheduled by the CLEC with new due dates. *Id.* at 13, step 5. In addition, unlike AT&T California, which in effect allows migrations to occur on only three of the five working days of the week, BellSouth's systems allow CLECs to place orders not only on the five business days, but also to request after-hours and weekend migrations when needed. See Attachment A at 9. Furthermore, to the extent that BellSouth's system fails to perform, it is subject to the relevant Performance Assurance Plan in the state. The bottom line is that AT&T California's system is in the stone-age compared with the BellSouth system and it is unclear, why, other than an unwillingness to expend the resources, AT&T California has not implemented a similar system and why it apparently has no plans to do so.

10. In paragraph 6 of her declaration Ms. Hernandez, who had no involvement with Fones4All whatsoever until March 2006, provides her "understanding" about the steps taken by Fones4All to become a facilities based provider in 2005. Ms. Hernandez's

statements are not only irrelevant and based upon hearsay, but are they are also factually incorrect. I have already described in my previous declaration the steps taken by Fones4All and the actions and inactions of AT&T in response thereto, therefore there is no need to repeat those facts here.

11. In paragraphs 8 and 9 Ms. Hernandez states that the planning of the conversion has been complicated by Fones4All's cancellations of orders that had already been prepared by AT&T. While it is correct that in two recent isolated circumstances on May 9 and May 10 Fones4All was forced to cancel two 150 line bulk orders because of trouble a vendor was experiencing with turn up of a DS-3 circuit and line cards needed to complete an IDLC turn up were not available, Ms. Hernandez mischaracterizes the situation when she fails to mention that since the migration began, most of the orders that have been cancelled in the Fones4All migration have been cancelled by AT&T, not Fones4All. Specifically, in a March 9, 2006 call AT&T provided to Fones4All the parameters of the bulk orders it would accept from Fones4All and indicated that it could accommodate migrating 150 lines each in 8 different end offices with a desired due date of five days from date of the order. AT&T also committed to confirming acceptance or rejection of orders within 48 hours. Fones4All subsequently placed bulk orders in at least three different end offices under the conditions that were agreed upon by AT&T and all of the orders were rejected, within 48 hours, by AT&T with the stated reason that AT&T could not operationally handle this many migrations in the time frame Fones4All desired.

12. Further, Fones4All placed a bulk order on March 23 for LSANCA34 with a desired due date March 30 at 8:30 am for 85 lines. I received a phone call from the LSC that this order has been rejected because AT&T was not operationally ready. AT&T

requested that Fones4All resubmit the order with a due date of April 5. Fones4All resubmitted the order on March 29 with a due date of April 5 and the bulk order was approved.

13. Similarly, Fones4All placed a bulk order on March 27 for LSANCA38 with a due date of April 3 at 8:30 am for 150 lines. I subsequently received a phone call from the LSC that this order had been rejected because AT&T was not operationally ready. AT&T requested Fones4All resubmit the order with a due date of April 10; we did so on March 28 and the bulk order was approved.

14. Fones4All placed a bulk order on March 31 for SGATCA01 with a due date of April 7 at 8:30 am for 99 lines. I received a phone call from the LSC that this order had been rejected because the order was less than 100 lines, despite the fact that AT&T's bulk ordering guidelines allow carriers to submit bulk orders for any number of lines over 20. However, Fones4All was forced to resubmit the order that same day for 110 lines. Fones4All had requested a due date of April 7, however I subsequently received a phone call from the LSC that the order had been rejected because AT&T was not operationally ready, and they requested we resubmit the order with a due date for April 12. Fones4All did so, and the order was approved. Clearly, AT&T routinely has failed to put in place the necessary resources to complete this process in an efficient and timely, let alone automated, way.

15. On May 16, I sent an email to both Connie Hernandez and Peggy Francis in the LSC requesting due dates for the following offices on the listed due dates:  
LSANCA11 – 150 lines on June 5, 150 line on June 6, 150 lines on June 7, 150 lines on June 8, 150 lines on June 9, 150 lines on June 12, 150 lines on June 13, 150 lines on June

14, 150 lines on June 15, LSANCA02 - 150 lines on June 5; HWTHCA01 – 150 lines on June 5, LSANCA38 – 150 lines on June 5, 150 lines on June 6, 150 lines on June 7, 50 lines on June 8; IGWDCA01 - 150 lines on June 5, 150 lines on June 6, 150 lines on June 7, and 50 lines on June 8; HNPKCA01 – 150 lines on June 5, 150 lines on June 6, 150 on 6/7, 150 lines on June 8, 150 lines on June 9, 150 lines June 12, 150 lines on June 13, and 150 lines on June 14. On May 17, I received a call from Peggy Francis of the AT&T LSC stating that the CO Managers have requested that Fones4All submit these bulk orders for Mondays, Wednesdays, and Fridays instead of each day of the week. However, AT&T's inability to handle these migrations on the dates and its requirement that Fones4All only request due dates on three of the five days of the work week will significantly delay these migrations. Clearly AT&T is incapable of consistently completing migrations of 150 lines per day as it represented it could, and accordingly AT&T's limitations are not only slowing the migration process, they are imposing significant costs on Fones4All that will only be increased if the Commission adopts the "proxy rate" AT&T is proposing.

16. In paragraph 10 Ms. Hernandez incorrectly states that "Fones4All advised that...it will need to halt a majority of its UNE-P conversions until at least July 1, 2006." This statement is patently false. The fact is that at the beginning of May, Ms. Hernandez requested a conference call with Fones4All to discuss forecasting for the migration. Ms. Hernandez included on the call several of the AT&T CO managers that would be affected by the migration. The discussion on the call related to each CO where Fones4All has both UNE-P and resale customers to be migrated. We also discussed the fact that Fones4All would be asking for 150 cuts per CO per day on a going forward

basis where needed and I stated that Fones4All would have a large push for completing all migrations in July. I told Ms. Hernandez was that as of July 1 Fones4All's third party switch vendor will be fully capable of accepting all of Fones4All's capacity, and will have resolved capacity constraints in some central offices that have prevented Fones4All from migrating the 150 lines per day that AT&T is allegedly capable of. At no time did I indicate that Fones4All would be halting its conversions until July 1. Instead, I stressed to Ms. Hernandez the need for AT&T to be operationally capable of migrating on a daily basis 150 lines per CO per day and especially as of July 1 when capacity constraints by Fones4All's switch vendor will be resolved. Ms. Hernandez's statement in paragraph 10 is false.

17. In paragraph 11 of her declaration Ms. Hernandez suggests that "if Fones4All is interested in receiving a true resale rate for its embedded UNE-P bases, Fones4All could submit LSRs transitioning these customers to resale with reasonably limited effort." Ms. Hernandez is incorrect. First, in an order that AT&T is appealing, and has already violated by billing Fones4All a non-resale rate, the Commission ordered AT&T to provide a "true resale" rate for these unmigrated lines. Second, requiring Fones4All to submit LSRs to receive the rate that the Commission has ordered would force Fones4All to undertake double order entry for each line, first to order the resale line, then to reconvert the resale line to UNE-L in a few weeks. This does not make sense. AT&T should either re-price the lines in the same way it automatically re-prices UNE to access lines in "non impaired" COs using automated billing changes, or the other alternative is that AT&T should obtain from its acquisition target BellSouth the readily

available existing technology needed to provide a true bulk migration process. In any event, the burden should fall upon AT&T, not Fones4All.

18. This concludes my declaration.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Burlingame, California this 17th day of May, 2006.

/s/Tiffany Chesnosky

# **ATTACHMENT A**

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**UNE-P to UNE-L Bulk Migration**

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***Unbundled Network Element Platform (UNE-P) IDSO Wholesale  
Local Platform Service to UNE-Loop (UNE-L)  
Bulk Migration***

***CLEC  
Information Package***

**Version 5  
August 22, 2005**

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**UNE-P to UNE-L Bulk Migration**

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## UNE-P to UNE-L Bulk Migration

### 1. Introduction & Scope

This Product Information Package is intended to provide CLECs general ordering information specific to the *UNE-P/DSO Wholesale Local Platform Service to UNE-L Bulk Migration* process described herein. Any UNE-P references, USOC definitions and procedures describe in this document and in other guides on the BellSouth Interconnection Web Site will also apply to the equivalent DSO Wholesale Local Platform Services. The DSO Wholesale Local Platform Service was formerly known as DSO Wholesale Local **Voice** Platform Service. This Information Package applies to both services.

The information contained in this document is subject to change. BellSouth will provide notification of changes to the document through the CLEC Notification Process.

Please contact your BellSouth Local Support Manager if you have any questions about the information contained herein.

### 2. Contract Requirements

The CLEC must have an Interconnection Agreement (IA) that includes terms and conditions for Bulk Migration. The IA must also include the terms, conditions and rates for each loop type to which the UNE-P service is migrated. The IA must be in effect for all states where the CLEC plans to order these unbundled loops.

The information contained herein applies to Bulk Migration and is part of the standard IA. The general offering is in accordance with BellSouth policies, procedures and regulatory obligations as well as the IA. The general offering does not address specific contract issues within a CLEC's IA that may be different from the general offering. Where specific contract language differs from the information provided here, the contract provisions will prevail for the term of the specific CLEC IA. Otherwise, the general offering provisions will apply.

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## UNE-P to UNE-L Bulk Migration

### 3. Revisions

#### Version 5

- 1) **Section 5, Bulk Migration Requirements**, item 'u' – changed 24 hours to 96 hours for facility reservations.
- 2) **Section 6.4, Time Windows for Coordinated Conversions** – in the 'Note' changed reservation capacity from a maximum of 125 lines to 200 lines per day, per CLEC, per Central Office (CO). Changed lines per time window from 63 to 100 lines per time window.
- 3) **Section 8.2, Scheduling Tool Capabilities:**
  - a. updated to change reservation capacity from a maximum of 125 lines to 200 lines per day, per CLEC, per CO.
  - b. updated to change calendar of days available for due date reservation from 120 days to 200 days
- 4) Added new Section 9, **Rate Elements**

#### Version 4

- 1) **Section 4, Service Description** – modified to remove references to BellSouth Customer Care Project Manager providing due dates to the CLEC.
- 2) **Section 5, Requirements** – modified to remove references to the Project Notification form and to add references for the Bulk Migration Scheduling Tool.
- 3) **Section 6.2, After Hours/Weekend Migrations** – modified to include the Special Handling option in the Scheduling Tool for requesting after hours or weekend migrations; removed references to Project Notification form.
- 4) **Section 6.4, Time Windows for Coordinated Conversions** – modified to include Special Handling option in the Scheduling Tool for requesting time windows; removed references to Project Notification form.
- 5) **Section 6.5.1, Coordinated or Non-Coordinated 'Completed' UNE-L order** (Restoral Process section) – updated to remove Atlanta Fax server number.
- 6) **Section 6.6, Same-Day End-User Account Migrations** – modified to include Special Handling option in the Scheduling Tool for requesting same-day end-user migrations; removed references to Project Notification form.
- 7) **Section 6.7, CLEC to CLEC Migration of UNE-P to UNE-L** – modified to remove Project Notification form requirement for obtaining BOPI; included Scheduling Tool requirement for BOPI.
- 8) **Section 7, Bulk Migration Submission/Flow Process** – revised to remove Project Notification form requirement; added Scheduling Tool requirement.
- 9) Old **Section 8, BellSouth UNE-P to UNE-L Bulk Migration Project Notification Process** section deleted.
- 10) New **Section 8, Bulk Migration Scheduling Tool** – added new section that describes the Scheduling Tool.
- 11) **Section 11.1 & 11.2, Intervals** – deleted and replaced with **Section 11, Bulk Request Service Order Intervals** which references eight (8) business days as the interval.

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## UNE-P to UNE-L Bulk Migration

### Version 3

- 1) Modified **section 1 Introduction and Scope** to include the DSO Wholesale Local Platform Service reference.
- 2) Added **section 2 Contract Requirements** section.
- 3) Updated **sub-section 6.3 Two hour Go Ahead Notification** to include the Notification Tool reference.
- 4) Added new **sub-section 6.3.2 Web Based Notification Tool**.
- 5) Updated **section 11 Intervals** to reflect the reduction in the provisioning interval from 14 business days to 8 business days.

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## **UNE-P to UNE-L Bulk Migration**

### **Version 2**

1) Following are the revisions in section 5 "Bulk Migration Options" that are enhancements to the Bulk Migration process as referenced in Carrier Notification Letter SN91083967.

- After Hours/Weekend Migrations
- Two-Hour Go Ahead Notifications for SL1 non-coordinated migrations
- Time Windows for coordinated conversions
- Pre and Post order completion restoral process (Throwback)
- Same-Day end-user account migration
- CLEC to CLEC migration (UNE-P to UNE-L)

2) Additional revisions include interval reductions in the table in section 10.1 "Bulk Migration Project Notification Interval".

- For a "Maximum of 99" telephone numbers the CCPM interval has been reduced from 7 business days to 4 business days.
- For "100-200" telephone numbers, the CCPM interval has been reduced from 10 business days to 6 business days.

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## UNE-P to UNE-L Bulk Migration

### 4. Service Description

The Unbundled Network Element – Port/Loop Combination (UNE-P) to Unbundled Network Element – Loop (UNE-L) Bulk Migration process may be used by a CLEC when migrating existing multiple non-complex UNE-P Services to a UNE-L offering. This allows migration of multiple UNE-P end-users to a UNE-L offering without submitting individual Local Service Requests (LSRs). All Bulk Migration orders will be project managed by a BellSouth Project Manager.

UNE-P and UNE-L are defined below:

#### 4.1 UNE-P

UNE-P is a UNE Port/Loop Switched Combination that combines a UNE local switch port and UNE loop to create an end-user-to-end-user transmission path and provides local exchange service. The CLEC may also choose to use the vertical services that are available through the features and functions of the local switch.

#### 4.2 UNE-L

UNE-L is defined as the local loop network element that is a transmission facility between the main distribution frame (MDF) in BellSouth's central office and the point of demarcation at an end-user's premises. This facility will allow for the transmission of the CLEC's telecommunications services when connected to the CLEC's switch equipment. The local loop will require cross-connects for connection to the CLEC's collocation equipment. BellSouth does not provide telecommunications services with the UNE-L.

### 5. Bulk Migration Requirements

Major requirements for UNE-P to UNE-L Bulk Migration process are listed below. For complete requirements, refer to the **UNE to UNE Bulk Migration** section of the **Local Ordering Handbook (LOH)**.

- a) Bulk Migration is available for migrating existing **non-complex** Port/Loop Combination services to Unbundled Loops with Local Number Portability (LNP).
- b) A UNE Loop will be provided for each ported telephone number formerly associated with the UNE-P Service.
- c) Complex UNE-P accounts are prohibited on Bulk Requests. Examples of Complex UNE-Ps are 2 Wire ISDN/BRI Digital Loop & Port UNE Combination, 4 Wire ISDN/PRI Digital Loop & Port UNE Combination, UNE-P Centrex, Digital Direct Integration Termination Service (DDITS), etc.
- d) The UNE-Ps that can be migrated are listed in the **UNE-P USOC** section.
- e) UNE-Ps can be migrated to the UNE-Ls listed in the **UNE-L USOC** section.
- f) Bulk Requests that require a change in existing loop facilities to a type of facility that is not available, resulting in a Pending Facility (PF) status on Due Date –4 days, must be cancelled by the CLEC and removed from the Bulk Request.
- g) All Existing Account Telephone Numbers (EATNs) on the Bulk Request must use the existing Regional Street Address Guide (RSAG) valid end-user address.
- h) All EATNs must be served from the same BellSouth Serving Wire Center (SWC).
- i) All UNE-Ps on a Bulk Request must be migrated to a single UNE-L type.

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## **UNE-P to UNE-L Bulk Migration**

### **Requirements (continued)**

- j) No end-user moves or changes of address will be allowed on the Bulk Request.
- k) Non-Recurring rates for the specific loop type being requested will be charged.
- l) Service order charges for mechanized orders (SOMEK) will be charged based on the current rules for individual Local Service Requests (LSRs) created per EATN of a Bulk Request.
- m) CLEC must obtain a Bulk Order Package Identifier (BOPI) and reserve due dates and numbers of lines to be migrated through the Bulk Migration Scheduling Tool (see Section 8).
- n) A BellSouth Customer Care Project Manager (CCPM) will project manage the Bulk Request.
- o) A minimum of two (2) EATNs and up to a maximum of ninety-nine (99) EATNs can be placed on a single Bulk Request.
- p) A maximum of twenty-five (25) end-user telephone numbers per EATN can be placed on a Bulk Request.
- q) No additional EATNs or end-user telephone numbers may be added to the Bulk Request once it has been submitted with due dates and BOPI obtained from the Bulk Migration Scheduling Tool.
- r) Order Coordination-Time Specific option is not applicable for a Bulk Request.
- s) UNE-Ls that require a Service Inquiry and/or Unbundled Loop Modification are excluded from the Bulk Request process.
- t) A Reservation Identification (RESID) (also referred to as a Facility Reservation Number (FRN)) is required on the Bulk Request for Unbundled ADSL Compatible Loops, HDSL Compatible Loops and Unbundled Copper Loop - Designed (UCL-D). Refer to the Unbundled ADSL and Unbundled HDSL Compatible Loop, UCL-Designed CLEC Information Packages and Loop Make-Up CLEC Information Package for RESID/FRN requirements.
- u) When a Mechanized Loop Make Up with Facility Reservation Number (FRN) is requested, the CLEC must submit the Bulk Request with the FRN to BellSouth within 96 hours of receiving FRN.
- v) Firm Order Confirmation (FOC) will be sent on individual LSRs generated from the Bulk Request.
- w) Upon receipt of a Reject (1<sup>st</sup> level validation), CLEC must re-submit a corrected Bulk Request or submit a cancellation of the Bulk Request BOPI within the scheduling tool.

## UNE-P to UNE-L Bulk Migration

### 6. Bulk Migration Options

#### 6.1 Order Coordination (Coordinated Hot Cut)

- Order Coordination (OC) is available in situations where the UNE-L is provisioned over an existing circuit that is currently providing service (reuse of existing facilities) to the end-user.
- OC is included with the UVL-SL2, 2 Wire ADSL and 2/4 Wire HDSL Loops at no additional charge.
- OC is available as a chargeable option for conversions to UVL-SL1, UCL-Non Designed and UCL-Designed Loops. An OC charge will be applied to each loop on the EATN for which OC has been requested.

#### 6.2 After Hours/Weekend Migrations

- Migrations will typically be completed during normal working hours of 8 a.m. – 5 p.m. However, for CLECs that have customers who need cutovers completed outside of normal business hours, after hours/weekend migrations are available at the CLECs request.
- Bulk Requests for “out of normal business hours” migrations may be scheduled by use of the Special Handling option within the Scheduling Tool.
- The CLEC will identify the Bulk Migration Handling type as “Special Handling” by use of a drop-down box. The CLEC may then select one of the After Hours/Weekend Migrations Special Handling options according to the table below.
- The CCPM will recognize the Bulk Migration Request for Special Handling and contact the CLEC to coordinate the requested migration activity.

Days	After-hours Time-Windows	Minimum Lines	Maximum Lines	Special Considerations	Add'l charges
Mon – Fri <sup>1</sup>	7 a.m. – 8 a.m.	10	25	NA	Per CLEC's IA <sup>3</sup>
Mon – Fri <sup>1</sup>	5 p.m. – 7 p.m.	10	50	NA	Per CLEC's IA <sup>3</sup>
Saturday <sup>1</sup>	8 a.m. – 5 p.m.	50	100	UVL-SL1 Non-Coordinated only	Per CLEC's IA <sup>3</sup>
Mon-Fri <sup>2</sup>	7 p.m. – 12 midnight 6 a.m. – 7 a.m.	Individual Case Basis	Individual Case Basis	CO work only – no outside dispatches	Yes Overtime

<sup>1</sup> Extended Basic Hours

<sup>2</sup> Extended Overtime Hours

<sup>3</sup> Interconnection Agreement

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## UNE-P to UNE-L Bulk Migration

### Bulk Migration Options (continued)

#### 6.3 Two (2) Hour Go Ahead Notification (For Non-Coordinated Bulk Migrations)

The Go Ahead Notification can be provided using one of three methods. The first and second methods are by facsimile or email. The third method is through a web based Notification Tool. These methods are described below:

##### 6.3.1 Facsimile or Email

- For *non-coordinated* non-designed migrations, the CLEC will be notified within a maximum of two (2) hours of the cutover.
- A Go Ahead Notification will be sent to the CLEC by facsimile\* or email for UVL-SL1 and UCL-ND non-coordinated migrations.
- Once the CLEC is notified of the cutover completion, the CLEC can then complete the necessary number porting activities.

**\*Note:** To change from fax to email notification, the CLEC should contact its BellSouth Local Contract Manager (LCM) and provide its Alternate Exchange Carrier Number (AECN) and email address.

##### 6.3.2 Web Based Notification Tool

The Notification Tool provides service order provisioning status associated with a non-coordinated migration for Non-Designed UNE-Ls. Additional information and access to the Notification Tool is via the Operations Report menu within the Performance Measurement and Analysis Platform (PMAP) web site located at:

<http://pmap.bellsouth.com>

#### 6.4 Time Windows for Coordinated Conversions

Time Windows for Coordinated Conversions are available for bulk migration orders at the CLEC's request as follows:

- There are two (2) time window options:
  - 8 a.m. – 12 p.m.
  - 1 p.m. – 5 p.m.

**Note:** A single CLEC may schedule a maximum of 200 lines per CO per day. However, the total amount for all CLECs combined may not exceed 200 lines per day. If time windows are requested, (8:00a -12:00n or 1:00p - 5:00p) the 200 total must be divided between the 2 windows and not to exceed 100 lines per time window or 200 total per CO per day

- Bulk Requests for "Time Windows for Coordinated Conversions" may be scheduled by use of the Special Handling option within the Scheduling Tool.
- The CLEC will identify the Bulk Migration Handling type as "Special Handling" by use of a drop-down box. The CLEC may then select one of the Time Windows Special Handling options.
- The CCPM will recognize the Bulk Migration Request for Special Handling and contact the CLEC to coordinate the requested conversion activity.
- Prior to the due date, the BellSouth CCPM will coordinate with Customer Wholesale Interconnection Network Services (CWINS) to ensure that CWINS and Network forces are scheduled and loaded to perform the migration in the designated 4-hour time window.
- On the due date, the coordinated cutover will take place using current provisioning processes.

## UNE-P to UNE-L Bulk Migration

### Bulk Migration Options (continued)

#### 6.5 Pre and Post Order Completion Restoral Process (or Throwback Process)

- The restoral process (also referred to as a throwback process) is available at the CLEC's request due to out-of-service issues and when the CLEC requires a restoral/throwback back to the UNE-P service.
- **The restoral/throwback process can only occur within a twenty-four (24) hour window of the UNE-L order Due Date.**
- The CLEC will use follow the requirements in 6.5.1 or 6.5.2 or 6.5.3 below depending on whether the order is (1)coordinated/non-coordinated *completed* UNE-L order; (2)coordinated *not* completed UNE-L order; (3)non-coordinated *not* completed order:

##### 6.5.1 Coordinated or Non-Coordinated '*Completed*' UNE-L order

- CLEC submits Expedited LSR to the Local Carrier Service Center (LCSC) using the Birmingham Fax Server number 888-792-6271.
- The LSR Package requesting a throwback to UNE-P must contain the following information:

LSR Fields	Field Information
LSR Remarks	Restoral UNE-L to UNE-P
REQTYP	M
Local Service Request Page	ACT = V MI = C, D
Port Service Page	LNA = V, G FA=N UNE-P Telephone Number
Port Service Page - ECCKT Field	UNE-L associated Loop Circuit ID
Directory Listing	Fill out as any other ACT=V migration request
EXP	Y

- The CLEC must advise the BellSouth CCPM of the restoral/throwback request.
- UNE-P Non-Recurring, Recurring and Expedite rates will be charged if applicable.

##### 6.5.2 Coordinated '*Not Completed*' UNE-L Order

- CLEC calls the CWINS Provisioning Group to request restoral/throwback to the UNE-P and if the number porting has been completed, the CLEC requests port-back activity.
- Refer to the **CWINS Location and Hours** web site for CWINS telephone numbers.
- Orders will be placed in Missed Appointment (MA) status.
- CLEC submits supplemental (sup) order to cancel or reschedule conversion request.
- After receipt of the sup order FOC, the CLEC will create a new Subscription Version (SV).
- The CLEC must advise the BellSouth CCPM of the restoral/throwback request.

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## **UNE-P to UNE-L Bulk Migration**

### **Bulk Migration Options (continued)**

#### **6.5.3 Non-Coordinated 'Not Completed' UNE-L order**

- CLEC emails CWINS Enhanced Delivery (EnDI) Group to request restoral/throwback.
- CWINS EnDI email address is [cwins.lnp@bellsouth.com](mailto:cwins.lnp@bellsouth.com)
- Orders will be placed in MA status.
- If the number porting has been completed, the CLEC will call the Fleming Island LCSC Call Center at 800-872-3116 to request port-back activity before the CLEC submits a sup order.
- LCSC will advise the CLEC of port-back process.
- CLEC submits sup order to cancel or reschedule conversion request.
- After receipt of the sup order FOC, the CLEC will create a new Subscription Version (SV).
- The CLEC must advise the BellSouth CCPM of the restoral/throwback request.

#### **6.6 Same-Day End-User Account Migrations**

- Same day End-user Account Migrations are available upon CLEC request.
- Same day end-user account migration means that all lines associated with an end-user from the same Serving Wire Center will be assigned the same due date.
- CLEC will request Same-Day End-User migrations through the Special Handling option in the Scheduling Tool.
- After Scheduling Tool activities are completed, the BellSouth CCPM will contact the CLEC via email/telephone and will coordinate with the appropriate internal groups to ensure that all end-user account migration activity is performed on the same due date.

#### **6.7 CLEC to CLEC Migration of UNE-P to UNE-L**

This process is available with the Bulk Migration process as follows:

- CLEC (CLEC A) to CLEC (CLEC B) Migration of UNE-P to UNE-L is defined as a facility based CLEC (CLEC B) that is migrating the UNE-Ps, previously held by another CLEC (CLEC A), to UNE-Ls.
- CLEC B will utilize the Scheduling Tool to obtain a BOPI for input on their LSR using the same Bulk Migration requirements as specified within this document.
- CLEC B must have an end-user letter of authorization (LOA) on file (it must be available if requested).

## UNE-P to UNE-L Bulk Migration

### 7. Bulk Migration Submission/Flow Process

The Bulk Request must be submitted according to the guidelines contained in the *LOH*. Below are the steps in the process:

1	<p>The CLEC will first reserve due dates and schedule numbers of lines by Central Office through the Bulk Migration Scheduling Tool according to the guidelines in Section 8 below. CLEC will also obtain a Bulk Ordering Package Identifier (BOPI) per Bulk Migration request.</p> <p><i>Note: BellSouth recommends that before the Scheduling Tool is accessed to reserve due dates the CLEC should identify the current UNE-P facilities as IDLC or non-IDLC, for each of the UNE-P lines to be migrated. This will ensure the accurate scheduling of UNE-P-on-IDLC migrations.</i></p>
2	<p>Upon completion of the Scheduling Tool process to obtain the BOPI, CLEC then submits Bulk Request package with BOPI and reserved dates for each EATN/PON via the electronic ordering interface.</p>
3	<p>At this point, the Bulk Request package will be processed for 1<sup>st</sup> level validation and any rejects will be mechanically generated to the CLEC.</p>
4	<p>The electronic ordering systems will accept the Bulk Request package, break the individual PONs into separate LSRs and populate the remaining required LSR fields from Operation Support System (OSS) systems prior to sending the individual LSRs downstream to the Local Number Portability (LNP) Gateway.</p>
5	<p>The LNP Gateway will perform 2<sup>nd</sup> level validations and provide any fallout, per "business as usual" processes. The Local Carrier Service Center (LCSC) will handle all fallouts as normal. Any of the individual PONs that must be clarified will be sent back to the CLEC, business as usual.</p>
6	<p>After LNP Gateway issues the service orders, the LCSC will handle all manual service order fallouts as normal. The BellSouth Service Representative will send any PF and Missed Appointments (MA) to the CLEC via a jeopardy notice.</p>
7	<p>LNP Gateway will send a FOC on each individual PON associated with the Bulk Request package, to the CLEC.</p>
8	<p>If the CLEC wants to supplement (SUP) (01,02,03) an individual PON, the request <u>must</u> be sent through the same electronic ordering system as the original Bulk Request.</p>
9	<p>The Project Manager will monitor PON, Service Order and Porting Statuses associated with the Bulk Request package. BellSouth's Service Representative and Project Manager will monitor the LNP gateway for the "Number Ported" messages and the Service Representative will handle manual port out order processing if required</p>

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## UNE-P to UNE-L Bulk Migration

### 8. Bulk Migration Scheduling Tool

#### 8.1 Scheduling Tool Description

The Bulk Migration Scheduling Tool is a web-based tool that replaces the Project Notification Form spreadsheet process to schedule Bulk Migration due dates. The CLEC will select the due dates based on BellSouth Bulk Migration Network availability that will be displayed in the Scheduling Tool. The Tool will also allow the CLEC to request special handling options such as time windows, after- hours cutovers, etc., as described in section 6.

#### 8.2 Scheduling Tool Capabilities

- Bulk Migration capacity for each CO per business day is as follows:
  - 200 lines total per day per CO for all CLECs combined
  - A single CLEC may schedule a maximum of 200 lines of the 200 total per day per CO
  - Of the 200 total, IDLC conversions may not exceed 70 per CO, per day, for all CLECs combined
- The tool will display a calendar of days for the next 200 days that can be scheduled for that CO. Clicking on a date within the calendar will display the number of lines available for that day.
- Special Handling request options may be selected for the following:
  - After-hours or Saturday cutovers (Saturday cuts are for non-coordinated migration only)
  - Same-Day End-User Account Migrations
  - Time Windows – AM or PM (coordinated only)

**Note:** A single CLEC may schedule a maximum of 200 lines per CO per day. However, the total amount for all CLECs combined may not exceed 200 lines per day. If time windows are requested, (8:00a -12:00n or 1:00p - 5:00p) the 200 total must be divided between the 2 windows and not to exceed 100 lines per time window or 200 total per CO per day

#### 8.3 Scheduling Tool Process

CLECs using the Bulk Migration process must access the Scheduling Tool to obtain due dates and a single BOPI per Bulk Migration request. To access the Scheduling Tool, follow the steps below:

- Access the PMAP web site at:  
<http://pmap.bellsouth.com/>
- After logging in to PMAP, choose the Bulk Migration Tool option on the Welcome page
- The Welcome page will include a description of the Scheduling Tool and will also provide a link to the 'Scheduling Tool Tutorial'
- The CLEC should review the Tutorial for information to help the CLEC navigate and use the Tool
- After the CLEC provides the necessary information in the required Scheduling Tool fields, a BOPI will be returned to the CLEC for input to the Bulk Request mechanized system in the Project Id field.

## UNE-P to UNE-L Bulk Migration

### 9. Rate Elements

The following rate elements are applicable for migrating UNE-P to UNE-L:

- Unbundled Loop Recurring and Non-recurring
- Order Coordination Non-recurring – chargeable option for UVL-SL1 & UCL-ND (included in UVL-SL2)
- Electronic Service Order – SOMECS Non-recurring
- Cross-Connect Recurring and Non-recurring
- Appropriate charges associated with number porting

### 10. UNE-P USOCs

The UNE-P Services that can be migrated to UNE-L are represented by the Port USOCs listed in the table below:

Port USOC	Unbundled Port/Loop Combination Element	Description of Combinations using an Unbundled Exchange Port (UEP):
UEPBX	UEPLX	UEP, Business, 2 Wire Analog Business Line Port, UNE=P Basic Class of Service
UEPRX	UEPLX	UEP, Residence, 2 Wire Analog Residence Line Port, UNE-P Basic Class of Service
UEPCO	UEPLX	UEP, Coin Basic Class of Service UNE-P
UEPBV	UEPLX	UEP, Remote Call Forwarding, Business Basic Class of Service
UEPVR	UEPLX	UEP, Remote Call Forwarding, Residence Basic Class of Service

### 11. UNE-L USOCs

Below are the UNE-L types and associated USOCs to which the UNE-Ps can be migrated:

Loop USOC	Description
UEAL2	2 Wire Unbundled Voice Loop – SL1
UEAL2, UEAR2	2 Wire Unbundled Voice Loop – SL2
UCLPW	2 Wire Unbundled Copper Loop – Designed without manual Service Inquiry
UCL4W	4 Wire Unbundled Copper Loop – Designed without manual Service Inquiry
UEQ2X	2 Wire Unbundled Copper Loop – Non-Designed
UAL2W	2 Wire Unbundled ADSL Loop without manual Service Inquiry
UHL2W	2 Wire Unbundled HDSL Loop without manual Service Inquiry
UHL4W	4 Wire Unbundled HDSL Loop without manual Service Inquiry

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## **UNE-P to UNE-L Bulk Migration**

### **12. Bulk Request Service Order Intervals**

The BellSouth interval requirement is the eight (8) business day provisioning interval. The CLEC must submit the Bulk Request and it must be accepted by the mechanized system at least eight (8) business days in advance of the earliest scheduled due date.

*Note: With the implementation of the Scheduling Tool, the prior requirement for a pre-order CCPM interval to obtain a due date has been eliminated. After the CLEC accesses the Scheduling Tool referenced in Section 8, the CLEC may schedule their desired due date(s) and obtain the Bulk Request BOPI for input on the LSR.*

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## UNE-P to UNE-L Bulk Migration

### 13. Acronyms

AECN	Alternate Exchange Carrier Number
ADSL	Asymmetrical Digital Subscriber Line
BOPI	Bulk Order Package Identifier
CCPM	Customer Care Project Manager
CHC	Coordinated Hot Cut
CLEC	Competitive Local Exchange Carrier
CWINS	Customer Wholesale Interconnection Network Services
DDD	Desired Due Date
EATN	Existing Account Telephone Number
EnDI	Enhanced Delivery
FOC	Firm Order Confirmation
FRN	Facility Reservation Number
HDSL	High-Bit-Rate Digital Subscriber Line
LCSC	Local Carrier Service Center
LNP	Local Number Portability
LSR	Local Service Request
MDF	Main Distribution Frame
OC	Order Coordination
OSS	Operation Support System
PON	Purchase Order Number
RESID	Reservation Identification
RSAG	Regional Street Address Guide
SUP	Supplemental
SWC	Serving Wire Center
UCL-D	Unbundled Copper Loop – Designed
UCL-ND	Unbundled Copper Loop – Non-Designed
UNE-P	Unbundled Network Element-Port/Loop Combination
UNE-L	UNE Loop

**CERTIFICATE OF SERVICE**

I, Edilma Carr, hereby certify that a true and correct copies of the foregoing **“Response of Fones4All Corporation (U-6638-C) to AT&T California’s Reply Comments on the Draft Decision of ALJ Jones Confirming the Assigned Administrative Law Judge’s Ruling Granting in Part the Motion for Enforcement of Decision 06-01-043”** in Application A.05-07-024 were served to the following parties by electronic mail and U.S. Mail unless otherwise noted:

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