Levine Blaszak
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February 6, 2007

<u>ELECTRONICALLY FILED</u>
Ms. Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Ex Parte Notice

Re: Petition of BellSouth Telecommunications, Inc. For Forbearance Under 47 U.S.C. § 160 From Enforcement of Certain of the Commission's Cost Assignment Rules - WC Docket No. 05-342

Dear Ms. Dortch:

Yesterday, the undersigned on behalf of the AdHoc Telecommunications Users Committee, Karen Reidy on behalf of COMPTEL, Chris Frentrup on behalf of Sprint/Nextel, and Jonathan Lechter on behalf of Time Warner Telecom met with Scott Deutchman, Legal Advisor to Commissioner Copps, regarding the matter referenced above. The attachment hereto reflects the matters discussed at the meeting.

Respectfully submitted,

Colleen Boothby

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cc: Scott Deutchman, Legal Advisor to Commissioner Copps

BellSouth Petition for
Forbearance from Cost Allocation Rules
(WC Docket No. 05-342)

- If BellSouth's Petition were granted, or were deemed granted, on March 6, 2007, BellSouth would be free to price gouge for switched and special access services.
    - Merger conditions prevent some special access price increases for a limited time, but the data that have revealed existing price gouging and that could disclose future profit margins would no longer be available.
    - Earnings from interstate *switched* access would also be undetectable from publicly available data.
    - Market forces will not prevent price gouging.
        - GAO has confirmed that in many instances competitive alternatives for special access do not exist.
        - Data in this docket and other Commission proceedings are consistent with GAO's findings.
        - Buyers of switched access cannot use market forces to control pricing. The Commission has recognized the market failure and has never suggested deregulating switched access charges.

- Price caps regulation does not eliminate the need for Commission mandated cost allocations.
    - Without properly allocated revenue and cost data, the Commission cannot know whether its price caps prescriptions are properly specified, *i.e.,* whether they are producing a competitive result.
    - Elimination of the sharing requirement does not equate to Commission approval of price gouging.
    - In 2001 the Commission retained cost reporting requirements, and in 2004 convened a Federal-State Joint Conference on Accounting issues to review the requirements that BellSouth seeks to eliminate.
    - Grant of Bellsouth's' petition would violate section 254(k) of the Act.
    - Exogenous costs
    - Non-RLEC USF subsidies

- Elimination of cost and revenue allocations would allow unfettered cross-subsidizations.
    - The Commission recognized in 2001 that, "[p]ayments from other carriers may enable a carrier to offer service to its customers at rates that bear little relationship to its actual

costs, thereby gaining an advantage over its competitors." *ISP Remand Order,* 16 FCC Rcd 9151, para. 68 (2001)

  - In its opposition to the Missoula Plan, Verizon recognizes that cross-subsidization disadvantages competitors and hurts consumers.

- Digital networks do not preclude rational cost allocations. Neither analog nor digital carrier networks are single use/service networks.