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L. Hunter Limbaugh
State Director Law and Government Affairs
2725 Devine Street
Columbia SC 29205

October 1, 2001

Mr. Gary Walsh
Executive Director
Public Service Commission of South Carolina
P. O. Drawer 11649
Columbia, SC 29211

Re: Application of BellSouth Telecommunications, Inc. To Provide In-Region InterLATA Service Pursuant to Section 271 of the Telecommunications Act of 1996
Docket No. 2001-209-C

Dear Mr. Walsh:

Attached please find the original and 11 copies of AT&T's Motion to Continue Post-Hearing Briefing and Other Proceedings the above referenced matter.

Please let this letter serve as my certificate that all parties of record have been served with the attached Motion.

If you have questions, please call let me know. Thank you.

Sincerely,

L. Hunter Limbaugh

BEFORE THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

In re: Application of BellSouth Telecommunications, Inc. To Provide In-Region InterLATA Service Pursuant to Section 271 of the Telecommunications Act of 1996.	))))	Docket No. 2001-209-C

MOTION ON BEHALF OF AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC., TO CONTINUE POST-HEARING BRIEFING AND OTHER PROCEEDINGS

COMES NOW AT&T Communications of the Southern States, Inc. ("AT&T") and requests that the Public Service Commission of South Carolina ("Commission") continue the briefing schedule and defer making a decision on BellSouth Telecommunications, Inc.'s ("BellSouth's") Section 271 application for South Carolina (the "South Carolina Application") until after the Federal Communications Commission ("FCC") issues its decision regarding BellSouth's anticipated Section 271 application for Georgia (the "Georgia Application").

This Commission conducted a hearing July 23-27, August 27-31, and September 10-11, 2001, to consider BellSouth's South Carolina Application. Under the schedule set by the Commission, the parties' post-hearing briefs currently are due October 22, 2001. *See* Memorandum dated September 20, 2001, from Florence P. Belser, Deputy General Counsel, to All Parties of Record. For the reasons given below, the Commission should extend that deadline and defer making a decision on BellSouth's South Carolina Application.

Given past practice, AT&T fully expects that BellSouth will respond to this Motion by arguing that AT&T is seeking nothing more than additional delays to avoid an affirmative recommendation by this Commission supporting BellSouth's South Carolina Application. However, this Commission need look no further than BellSouth's own words of recent weeks in

Tennessee to fully discount BellSouth's delay argument. Specifically, in Tennessee, BellSouth recently filed not one, but two, Motions seeking a delay of the Section 271 proceedings until after the FCC decides the Georgia Application. Thus, based upon the logic of BellSouth's own request in Tennessee, this Commission should continue these proceedings as well.

Additionally, as explained in greater detail below, given BellSouth's fundamental reliance on various Section 271 proceedings from Georgia to support its Section 271 applications in both Tennessee and South Carolina, such a continuance clearly is warranted even without BellSouth's recent filings in Tennessee. To this point, there is no secret that BellSouth has suggested to all state commissions in its territory (except for Florida) that they should look to KPMG Consulting, Inc.'s ("KCI's") Georgia third-party test ("Georgia TPT") – not KCI's third-party test in Florida ("Florida TPT") – for information regarding whether BellSouth is meeting its obligations to provide nondiscriminatory access to its Operational Support Systems ("OSS").[1]

Assuming, *arguendo,* the Georgia Commission votes in favor of a Georgia application October 2nd and BellSouth files its Georgia application at the FCC a few days thereafter, by early January 2002 this Commission will be able to review for itself the FCC's decision regarding the adequacy of KCI's Georgia TPT. Logically, this Commission's review should take place when the parties are able to comment fully on the FCC's decision regarding Georgia. Moreover, to the extent this Commission moves forward with the post-hearing briefing and thereafter the FCC decides the Georgia Application in early January 2002, there is a strong probability that this Commission would need to consider additional testimony and briefing from the parties regarding the impact of this most recent FCC decision. This certainly would not be a good use of this

[1] There also is no secret that BellSouth missed its prediction of a mid-summer 2001 approval of its Georgia Application and that the Georgia Commission will not rule on that application until October 2, 2001.

Commission's resources, but instead would thwart the goal which BellSouth fully supports in Tennessee of promoting "judicial economy and better allocation of resources."[2]

I. BELLSOUTH HAS SOUGHT TO POSTPONE THE SECTION 271 PROCEEDING IN TENNESSEE BASED IN PART ON THE UNRESOLVED NATURE OF THE GEORGIA PROCEEDINGS; ACCORDINGLY, GIVEN THE SIMILARITY OF PROCEEDINGS IN SOUTH CAROLINA, THIS STATE DESERVES SIMILAR "TENNESSEE" TREATMENT FROM BELLSOUTH

As discussed above, support for AT&T's request to continue the post-hearing briefing can be found in BellSouth's own filings in Tennessee. On September 14, 2001, BellSouth filed a "Motion to Amend Procedural Schedule" in the Tennessee Section 271 proceedings (attached hereto as Exhibit 2). In its motion, BellSouth requested "that the Hearing Officer temporarily defer consideration of the remainder of the section 271 issues (including suspension of testimony filings) until after January 1, 2002."

BellSouth sought to defer proceedings in Tennessee based in part upon "the representations that BellSouth will not ask [the Tennessee Regulatory] Authority to hear this matter prior to an FCC decision in the Georgia 271 case." Given that BellSouth deems it appropriate to await the FCC's decision regarding the Georgia Application before going forward in Tennessee, there is no basis for moving forward with the post-hearing briefing or decision making in South Carolina. As in Tennessee, in South Carolina BellSouth seeks to rely upon the Georgia Service Quality Measurement plan ("SQM") and the Georgia TPT to support its Section 271 application. Accordingly, there is not much difference procedurally between these

[2] *See* Motion to Amend Procedural Order (filed by BellSouth in the Tennessee proceedings on September 18, 2001) (attached hereto as Exhibit 1), at 3.

two states given that BellSouth is proposing that both rely upon the Georgia SQM and the Georgia TPT.

Moreover, in the Tennessee proceeding, BellSouth filed yet another "Motion to Amend Procedural Order" on September 18, 2001. *See* Exhibit 1. In this second motion, BellSouth sought to consolidate all remaining Section 271 issues in Tennessee and schedule them to be heard in late February 2002 by the TRA. BellSouth justified this request by expressing its view that "the Tennessee 271 proceeding should run parallel with the Authority's OSS proceedings." In Tennessee, the TRA is evaluating the adequacy of BellSouth's OSS in an OSS proceeding separate and apart from the Section 271 proceeding. AT&T agrees that a determination that BellSouth's OSS are adequate is a necessary precursor to a Section 271 recommendation, but the fact of the matter is that the FCC has not yet determined that either the Georgia TPT or the Georgia SQM provides persuasive evidence of the adequacy of BellSouth's OSS. Accordingly, this Commission should wait until the FCC evaluates the Georgia TPT and the Georgia SQM in the context of the upcoming Georgia Application.

If past FCC decisions are predictive, when reviewing the Georgia Application, the FCC will provide guidance on the completeness and relevance of the Georgia TPT and the Georgia SQM as well as the reporting of BellSouth's data under the Georgia SQM. Such guidance will be forthcoming regardless of whether the FCC approves or disapproves BellSouth's Georgia Section 271 application.[3] That guidance can only assist this Commission in making its Section 271 recommendation for South Carolina. Additionally, if the FCC does not approve the Georgia

[3] Deferring these proceedings until the FCC reviews the BellSouth Georgia application also would have the added benefit of providing this Commission with much more complete results from the ongoing and more comprehensive Florida TPT.

application, then it would be a waste of this Commission's time and resources to review an application that the FCC ultimately determines is "noncompliant." To this point, just like BellSouth argued in Tennessee that it needed to conserve its "regulatory resources" and thus twice has moved to continue the Section 271 proceedings in that state, CLECs and the Commission should not be forced to waste their limited regulatory resources unnecessarily on preparing briefs and decision making respectively in South Carolina.

II. BELLSOUTH'S RELIANCE ON THE GEORGIA PROCEEDINGS TO ESTABLISH NONDISCRIMINATORY SUPPORT IS PREMATURE

As discussed above, in its effort to meet its burden of proof to support its Section 271 application in South Carolina, BellSouth has relied heavily on proceedings in Georgia claiming that: (1) its South Carolina actual commercial usage data is based on an allegedly Georgia SQM; and (2) its OSS provide nondiscriminatory access based on the results of the Georgia TPT despite the fact that this test has not yet been completed.[4] However, neither the Georgia SQM nor the Georgia TPT upon which BellSouth relies has yet been reviewed by the FCC, much less approved by the FCC. Accordingly, continuing the post-hearing briefing schedule will provide this Commission with an opportunity to fully review the FCC's decision on the Georgia Application before rendering a Section 271 decision in South Carolina.

To support its case in South Carolina, BellSouth has produced its commercial usage data in a format that BellSouth claims is produced in compliance with the Georgia SQM. *See* Direct Testimony of Alphonso J. Varner, Docket No. 2001-209-C, filed May 16, 2001 at 3-4, 8-9.

[4] BellSouth also asserts that its OSS are regional, thus providing support for its argument that this state commission need only look to the Georgia TPT to determine the adequacy of its OSS.

BellSouth witness Varner claims that these data reports contain information deemed adequate by the FCC. Indeed he states that the data are presented in "the FCC format." *Id.* at 9.

AT&T repeatedly has questioned the propriety of BellSouth's reliance on data produced in BellSouth's "Monthly State Summary" attached to witness Varner's testimony.[5] Evaluating BellSouth performance in South Carolina against the Georgia SQM makes little sense. Such action would require this Commission to resolve pending disputes regarding BellSouth's compliance with the Georgia Commission's Order on performance measures as well as determine the reliability of BellSouth's Georgia performance reporting and data even before the FCC completes its review of this information.

Furthermore, BellSouth's reliance on the Georgia TPT also is misplaced. Again, the FCC has yet to determine the adequacy of the Georgia TPT. Indeed, the Georgia TPT is not complete in that the important evaluation of BellSouth's ability to collect and report accurate performance data still has open exceptions. *See Norris Data Integrity Testimony* at 20-21.[6] Moreover, as summarized in the Third-party Test testimony of AT&T witness Norris, the Georgia TPT had numerous deficiencies in its design and execution, including the fact that the test was not as comprehensive as the test accepted by the FCC in New York or the ongoing Florida TPT, thus

[5] AT&T has presented evidence in this proceeding that the data is not produced in compliance with the SQM plan ordered by the Georgia Commission. *See* Rebuttal Testimony of Cheryl Bursh, Docket No. 2001-209-C, filed July 9, 2001 at 6-20. Instead, BellSouth unilaterally has modified the plan, contrary to the order of the Georgia Commission, and reports data under a modified plan of BellSouth's own choosing. *Id.* AT&T also has presented evidence that BellSouth cannot and does not produce accurate reliable data under the proposed plan. *See* Rebuttal Testimony of Sharon E. Norris, Docket No. 2001-209-C, filed July 9, 2001 ("*Norris Data Integrity Testimony*") at 4-20.

[6] The Georgia TPT continues in that KCI has uncovered discrepancies between the data collected directly out of BellSouth's legacy systems and the data BellSouth reports. KCI also has been unable to reconcile the data BellSouth collected on its performance for KCI as a pseudo-CLEC with the data KCI collected on that performance. *Norris Data Integrity Testimony* at 5.

calling into question its usefulness in South Carolina. *See* Rebuttal Testimony of Sharon E. Norris, Docket No. 2001-209-C, filed July 9, 2001 ("*Norris Third-Party Test Testimony*") at 5-20.

BellSouth, effectively disregarding the ongoing, more comprehensive Florida TPT, has asked this Commission to accept the Georgia TPT as persuasive evidence that BellSouth provides nondiscriminatory access to its OSS in South Carolina. *See* Transcript of Testimony of John Ruscilli, Docket No. 2001-209-C, July 23, 2001, at 354-55; Transcript of Testimony of David Scollard, Docket No. 2001-209-C, July 26, 2001, at 1680; *see also* Transcript of Testimony of Ronald M. Pate, Docket No. 2001-209-C, August 23, 2001, at 2336; Transcript of Testimony of Alphonso J. Varner, Docket No. 2001-209-C, August 27, 2001, at 3137. However, the Florida TPT, which is much more like the test the FCC accepted in New York and the recently accepted Pennsylvania test, is uncovering numerous deficiencies in areas not tested in Georgia and continues to list deficiencies upon which KCI provided a passing grade to BellSouth in the Georgia TPT. *See Norris Third-Party Test Testimony* at 6-7. Specifically, the latest results from the Florida test reveal that, as of September 12, 2001, there exist 64 open exceptions, or deficiencies, in BellSouth's OSS. In addition, there exist 38 additional observations, or potential deficiencies, in BellSouth's OSS. *See* Florida OSS Testing of BellSouth, Status of Observations and Exceptions as of September 12, 2001 (attached hereto as Exhibit 3).

Despite the numerous questions raised about the Georgia SQM and the Georgia TPT, BellSouth continues to ask this Commission to rely on various Georgia proceedings to the exclusion of ongoing activities in other states. Such reliance is not appropriate. Even assuming, *arguendo,* that the Georgia Commission votes to support BellSouth's Georgia application on

October 2nd, the adequacy of the Georgia SQM and Georgia TPT still must pass muster at the FCC. Accordingly, until the FCC has decided the Georgia Application, it would be premature for this Commission to rely solely upon the results of the Georgia SQM and Georgia TPT.

There is no dispute that, in the past, the FCC has approved a Regional Bell Operating Company's ("RBOC's") Section 271 application which relies upon the results of third-party tests conducted in other states.[7] However, the FCC only has relied upon third-party tests from other states when the FCC already had reviewed the applicability and adequacy of other states' third-party tests in the context of previous Section 271 applications. Moreover, it is abundantly clear from the FCC's *Kansas-Oklahoma Order* that the FCC will not rely upon another state's test data or other findings not previously reviewed by it in a previous Section 271 application. *See Kansas-Oklahoma Order*, ¶ 35 ("Where SWBT provides evidence that a particular system reviewed and approved in Texas is also used in Kansas and Oklahoma, our review of the same system in this proceeding will be informed by our findings in the *SWBT Texas Order*. . . While our review may be informed by our prior findings, we will consider all relevant evidence in the record . . . .") (emphasis added). *See also id.* ¶ 36 (applicant may "rely on findings made in a prior, successful section 271 application) and ¶ 37 ("we cannot simply rely on our findings

[7] *See* Memorandum Opinion and Order, *In the Matter of Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc. (d/b/a Southwestern Bell Long Distance) for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, 16 FCC Rcd. 6237 (F.C.C. January 22, 2001) (No. CC 00-217, FCC 01-29) ("*Kansas-Oklahoma Order*"), ¶ 35. *See also* Memorandum Opinion and Order, *In the Matter of Application of Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide in-Region, InterLATA Services in Connecticut*, FCC 01-208, CC Docket No. 01-100 (rel. July 20, 2001) ("*Verizon Connecticut Order*"). The FCC accepted the ILEC's Connecticut § 271 application based in part upon performance data from the ILEC's New York § 271 application that the FCC previously had reviewed and approved, together with the finding that the ILEC conducted its Connecticut operations out of New York "using the same systems and processes . . . ." *See id.* ¶¶ 6-7.

relating to an applicant's performance in an anchor state at the time we issued the determination for that state") (emphasis added).

Importantly, the FCC never has approved an application by an RBOC which relies upon unapproved test results or performance standards from a different state. Consequently, until the FCC reviews and approves the Georgia SQM (and results therefrom) and the Georgia TPT, it would be imprudent for this Commission to rely upon this information in deciding the pending Section 271 application for South Carolina. Thus, the Commission should defer its decision and continue the post-hearing briefing schedule until such time as the FCC rules on the Georgia Application.[8] This approach is no different than when BellSouth asked the TRA to delay the Section 271 proceedings pending in Tennessee.

III. A POSTPONEMENT PENDING RESOLUTION OF THE GEORGIA PROCEEDINGS WOULD ENABLE BOTH THE COMMISSION AND THE PARTIES TO CONSERVE RESOURCES

As explained above, BellSouth's reliance on the Georgia SQM and Georgia TPT requires a continuance of the post-hearing briefing schedule in this proceeding. As BellSouth recognized in its recent Tennessee motions, it makes no sense to proceed on the basis of the Georgia SQM and the Georgia TPT until after the FCC has reviewed and evaluated this Georgia-specific information.

[8] If the FCC approves the Georgia application, this Commission will have to determine whether the findings in Georgia apply equally to this state. The FCC accepted the relevance of its prior findings in Texas only upon the ILEC's demonstration that "many of its systems and processes used in Kansas and Oklahoma, as well as the legal obligations imposed by the Kansas and Oklahoma Commissions, are the same as those reviewed and approved in the Texas § 271 proceeding." *Kansas-Oklahoma Order* ¶ 35.

Fundamentally, the continuance requested by AT&T would conserve the limited resources of this Commission and the parties. It would be unnecessary and wasteful for BellSouth to continue to press this Commission to make a decision regarding its Section 271 application in South Carolina based upon only existing information from Georgia that has not yet been reviewed by the FCC. A better course would be to wait and review this upcoming decision of the FCC, which will occur in the very near term. By continuing the post-hearing briefing until that time, the Commission would promote efficiency and economy. Indeed, the FCC likely will provide definitive guidance on many of the issues currently in dispute in this proceeding.

Such a decision also would make it possible for the parties to conserve their own resources. As mentioned above, concern for its own "limited regulatory resources" was one of the reasons that BellSouth filed its Motions in Tennessee. *See* Exs. 1 and 2. This Commission and the parties also are entitled to conserve resources. In this respect, granting AT&T's request to continue the post-hearing briefing schedule and decision making until such time as the FCC issues a decision regarding the Georgia Application would have just such an effect.

CONCLUSION

BellSouth has chosen to make decisions and proceedings in Georgia an integral part of its Section 271 application in South Carolina. However, BellSouth treats those Georgia issues as if the FCC already has approved them. It has not.[9] Thus, review of BellSouth's Georgia-dependent application in this state before the FCC has decided the Georgia Application would be a waste of this Commission's resources. Continuing the post-hearing briefing should not create

[9] Indeed, the Florida TPT continues to reveal deficiencies of BellSouth's OSS and this will be a pivotal issue presented by many CLECs to the FCC in the context of the Georgia Application.

an unreasonable delay, and it will conserve resources and also provide this Commission with important additional information about the Florida TPT. Accordingly, based on all the foregoing, this Commission should continue the post-hearing briefing schedule and defer a decision on the South Carolina Application until the FCC decides the Georgia Application.

Respectfully submitted,

L. Hunter Limbaugh
2725 Devine Street
Columbia, South Carolina 29205
Cell Phone No. 803-463-9497

BELLSOUTH

BellSouth Telecommunications, Inc.
333 Commerce Street, Suite 2101
Nashville, TN 37201-3300

guy.hicks@bellsouth.com

Guy M. Hicks
General Counsel

615 214 6301
Fax 615 214 7406

September 18, 2001

VIA HAND DELIVERY

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *BellSouth Telecommunications, Inc.'s Entry Into Long Distance (InterLATA) Service in Tennessee Pursuant to Section 271 of the Telecommunications Act of 1996*
Docket No. 97-00309

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth's Motion to Amend Procedural Order. Copies of the enclosed are being provided to counsel of record.

Very truly yours,

Guy M. Hicks

GMH:ch
Enclosure

411297

Public Service Commission of
South Carolina
Docket No. 2001-209C, Exhibit 1

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *BellSouth Telecommunications, Inc.'s Entry Into Long Distance (InterLATA) Service In Tennessee Pursuant to Section 271 of the Telecommunications Act of 1996*

Docket No. 97-00309

BELLSOUTH'S MOTION TO AMEND PROCEDURAL ORDER

BellSouth Telecommunications, Inc. ("BellSouth") hereby files its Motion to Amend Procedural Schedule to request that proceedings on all remaining 271 issues be consolidated into one hearing to be held on or about February 18, 2002. BellSouth respectfully shows the Hearing Officer as follows:

On July 30, 2001, BellSouth filed its Section 271 Application with the Authority. On August 10, 2001, the Hearing Officer issued an Initial Order which, among other things, bifurcated the 271 hearings in the interest of judicial economy and efficiency. This action was apparently taken to expedite the 271 hearing, although no party had requested bifurcation of the 271 hearings.

On September 10, 2001 the Hearing Officer issued an Initial Order which clarified the Phase I issues in this matter. On September 14, 2001, BellSouth filed its Motion to Amend Procedural Schedule requesting that the Hearing Officer cancel the hearing scheduled for October 3 and move the Track A, Section 272 and public interest issues to the week of November 5, which the Hearing Officer previously asked the parties to reserve. BellSouth further requested that the

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Hearing Officer temporarily defer consideration of the remainder of the section 271 issues (including suspension of testimony filings) until after January 1, 2002.

On September 17, 2001, the Hearing Officer issued his Initial Order Resolving Discovery Disputes and Suspending Procedural Schedule. This Initial Order, in part, "[continued] all dates in this proceeding ... pending completion of discovery." Footnote 36 of the Initial Order stated: "[g]iven this Initial Order, BellSouth Telecommunications, Inc.'s Motion to Amend Procedural Schedule, filed September 14, 2001, is rendered moot."

Given the September 17, 2001 Initial Order and in consideration of several factors explained below, BellSouth files this Motion and requests that the Hearing Officer

1. cancel the hearings scheduled for October 3 and November 5 (presently continued pending completion of discovery) and move the Track A and public interest issues to a hearing on or about February 18, 2002, and
2. consolidate the remaining 271 issues on BellSouth's compliance with the 14-point checklist into the requested hearings on or about February 18, 2002.[1]

BellSouth makes this proposal based on several factors. First, BellSouth believes that the Tennessee 271 proceeding should run parallel with the Authority's

[1] BellSouth further proposes that the parties discuss and jointly propose to the Hearing Officer new dates for the filing of testimony for these consolidated issues.

OSS proceedings. BellSouth anticipates that Phase II hearings in the Tennessee OSS proceeding will likely take place in late January or February, 2002. Moving the 271 proceeding will keep the proceedings in parallel.

Second, this schedule would allow the Authority to complete Phase II of the OSS hearings prior to completion of the Tennessee 271 proceedings. Further, given the additional time this schedule would afford to the Authority, Staff and parties, bifurcation of 271 hearings is now unnecessary. A single 271 hearing in February would avoid having to coordinate schedules and filing dates for additional hearings and would allow the Authority to hear all remaining 271 issues during one hearing. Adopting this schedule would promote judicial economy and better allocation of resources.

For these reasons, BellSouth respectfully requests that the Authority (1) consolidate the 271 issues into one hearing; (2) move the 271 hearing to on or about February 18, 2002; and (3) extend the discovery schedule set in the Initial Order by 30 days.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

By: _____

Guy M. Hicks
333 Commerce Street, Suite 2101
Nashville, TN 37201-3300
615/214-6301

Fred McCallum, Jr.
Lisa Foshee
675 W. Peachtree Street, Suite 4300
Atlanta, Georgia 30375

BELLSOUTH

BellSouth Telecommunications, Inc.
333 Commerce Street, Suite 2101
Nashville, TN 37201-3300

guy.hicks@bellsouth.com

Guy M. Hicks
General Counsel

615 214 6301
Fax 615 214 7406

September 14, 2001

VIA HAND DELIVERY

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *BellSouth Telecommunications, Inc.'s Entry Into Long Distance (InterLATA) Service in Tennessee Pursuant to Section 271 of the Telecommunications Act of 1996*
Docket No. 97-00309

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth's Motion to Amend Procedural Schedule. Copies of the enclosed are being provided to counsel of record.

Very truly yours,

Guy M. Hicks

GMH:ch
Enclosure

411060

Public Service Commission of
South Carolina
Docket No. 2001-209C, Exhibit 2

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *BellSouth Telecommunications, Inc.'s Entry Into Long Distance (InterLATA Service) in Tennessee Pursuant to Section 271 of the Telecommunications Act of 1996*

Docket No. 97-00309

BELLSOUTH TELECOMMUNICATIONS, INC.'S MOTION TO AMEND PROCEDURAL SCHEDULE

BellSouth Telecommunications, Inc. ("BellSouth") hereby moves the Hearing Officer to amend the procedural schedule in the above-styled matter in light of the Hearing Officer's September 10, 2001, Order. BellSouth respectfully shows the Hearing Officer as follows:

On July 30, 2001, BellSouth filed its Section 271 Application with the Authority. BellSouth did not file testimony on section 272 or on public interest for the reasons set forth in its August 26, 2001 Motion for Clarification. On September 10, 2001, the Hearing Officer issued an Initial Order that clarified the Phase I issues in this matter. As part of the September 10, 2001 Order, the Hearing Officer held that he would consider BellSouth's compliance with section 272 as well as the public interest in the hearing scheduled for October 3, 2001. In accordance with that conclusion, the Hearing Officer gave BellSouth until September 14, 2001 to supplement its testimony.

Given the events of this week, the ordered timeline, and BellSouth's limited regulatory resources, BellSouth regretfully will not be able to comply with this schedule with the level of care and quality that it deems necessary. Further, given

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the representations that BellSouth will not ask this Authority to hear this matter prior to an FCC decision in the Georgia 271 case[1], BellSouth requests

1. Initially, that the Hearing Officer cancel the hearings scheduled for October 3, and move the Track A, section 272 and public interest issues to the week of November 5, which the Hearing Officer previously asked the parties to reserve, and

2. that the Hearing Officer temporarily defer consideration of the remainder of the section 271 issues (including suspension of testimony filings) until after January 1, 2002.

As to subparagraph 1 above, BellSouth further requests that it be granted additional time to file testimony on the section 272 and public interest issues. Specifically, BellSouth requests that it be granted until October 1, 2001, to file its direct testimony on these issues, and the CLECs be given until October 22, 2001, to file rebuttal testimony on these issues.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

Guy M. Hicks
Joelle Phillips
333 Commerce Street, Suite 2101
Nashville, Tennessee 37201-3300
(615) 214-6301

[1] The Georgia Public Service Commission has announced that it will vote on BellSouth's 271 application on October 3, 2001.

Fred McCallum, Jr.
Lisa Foshee
675 W. Peachtree Street, Suite 4300
Atlanta, Georgia 30375

Attachment 3

DATE: September 12, 2001
TO: William D. Talbott, Executive Director
FROM: Division of Regulatory Oversight (Hoppe, Harvey)
Division of Competitive Services (D'Haeseleer, Simmons)
Division of Legal Services (B. Keating)
RE: Florida Third-Party Testing of BellSouth's Operational Support Systems (OSS)

CRITICAL INFORMATION: Please place on the September 18, 2001 Internal Affairs

During the September 18, 2001 Internal Affairs, staff and KPMG would like to provide a short briefing on the status of BellSouth OSS third-party testing. Attached is a handout detailing the status of evaluation criteria, observations and exceptions.

LSH/bjm
Attachment
cc: Dan Hoppe
Walter D'Haesseleer
Bill Lowe
Beth Salak
Beth Keating
Sally Simmons

Florida OSS Testing of BellSouth
Status of Observations and Exceptions
as of September 12, 2001

OSS Observations			
	Total	Open	Closed
Performance Metrics	36	6	30
Repair, Provisioning and Maintenance	24	7	17
Relationship Management Infrastructure	10	3	7
Order Management	38	20	18
Billing	8	2	6
Total	116	38	78

Observations are potential deficiencies in BellSouth's OSS or a defect that hinders test execution.

OSS Exceptions			
	Total	Open	Closed
Performance Metrics	14	8	6
Repair, Provisioning & Maintenance	8	6	2
Relationship Management Infrastructure	19	7	12
Order Management	54	33	21
Billing	13	10	3
Total	108	64	44

Exceptions identify a deficiency that may result in a "not satisfied" condition in the final report if not remedied.

Attachment A

Florida OSS Testing of BellSouth
Status of Evaluation Criteria
as of September 12, 2001

Domain/Test	Total Evaluation Criteria	Total Eval Criteria Currently Passing	Total Eval Criteria Currently Failing/ Retesting	Total Eval Criteria Under Evaluation	Percent Currently Passing	Percent Currently Fail/ Retesting	Percent Currently Under Evaluation
[illegible]							
PMR1 Data Collection	48	24	0	24	50%	0%	50%
PMR2 Metric Definitions	574	562	12	0	98%	2%	0%
PMR3 Metric Change Mgt	7	0	4	3	0%	57%	43%
PMR4 Data Integrity	140	40	0	100	29%	0%	71%
PMR5 Metric Calculations	328	303	9	16	92%	3%	5%
[illegible]							
TVV4 Provisioning Verification	23	0	0	23	0%	0%	100%
TVV5 TAFI Functional	16	16	0	0	100%	0%	0%
TVV6 ECTA Functional	14	11	0	3	79%	0%	21%
TVV7 TAFI Performance	9	9	0	0	100%	0%	0%
TVV8 ECTA Performance	20	10	10	0	50%	50%	0%
TVV9 End-to-End Trouble Rpt	35	35	0	0	100%	0%	0%
PPR6 Collocation	17	17	0	0	100%	0%	0%
PPR9 Provisioning Process	82	66	0	16	80%	0%	20%
PPR14 End-to-End M&R	16	15	1	0	93.75%	6.25%	0%
PPR15 M&R Work Centers	19	19	0	0	100%	0%	0%
PPR16 Network Surveillance	6	6	0	0	100%	0%	0%
[illegible]							
PPR1 Change Management	8	2	5	1	25%	62.5%	12.5%
PPR2 Account Establishment	17	8	1	8	47%	6%	47%
PPR3 Interface Help Desk	13	2	5	6	15%	39%	46%
PPR4 CLEC Training	14	14	0	0	100%	0	0
PPR5 Interface Development	23	5	1	17	22%	4%	74%
[illegible]							
TVV1 POP Functional	100	0	30	70	0%	30%	70%
TVV2 POP Volume	37	0	13	24	0%	35%	65%
TVV3 Flow Through	20	0	4	16	0%	20%	80%
PPR7 POP Manual Ordering	14	12	1	1	86%	7%	7%
PPR8 POP Work Center	21	13	2	6	62%	9.5%	28.5%
[illegible]							
TVV10 Billing Functional	6	4	2	0	66.6%	33.4%	0%
TVV11 Carrier Bill Evaluation	20	13	3	4	65%	15%	20%
PPR10 Billing Work Center	19	18	1	0	95%	5%	0%
PPR12 Daily Usage Production	16	16	0	0	100%	0%	0%
PPR13 Bill Production	44	43	1	0	98%	0	2%
[illegible]							

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Date: October 15, 2001

BELLSOUTH TELECOMMUNICATIONS, INC.
LEGAL DEPARTMENT
1600 WILLIAMS STREET, SUITE 5200
COLUMBIA, SOUTH CAROLINA 29201

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BEFORE THE

PUBLIC SERVICE COMMISSION

OF SOUTH CAROLINA

S. C. PUBLIC SERVICE COMMISSION
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In the Matter Of	)	
	)	
Application of BellSouth Telecommunications, Inc. to Provide In-Region InterLATA Services Pursuant to Section 271 of the Telecommunications Act of 1996	)	DOCKET NO. 2001-209-C

BELLSOUTH TELECOMMUNICATIONS, INC.'S
RESPONSE TO AT&T'S MOTION TO CONTINUE POST-HEARING
AND OTHER PROCEEDINGS

BellSouth Telecommunications, Inc. ("BellSouth"), by and through undersigned counsel, respectfully files its Response to the Motion on Behalf of AT&T Communications of the Southern States, Inc. ("AT&T") to Continue the Post-Hearing Briefing Schedule in Section 271 Hearing.

AT&T's Motion to Continue is its most recent attempt to postpone this matter by requesting that the Public Service Commission of South Carolina ("PSC") consider any number of objections raised, including attempting to mislead this Commission into believing BellSouth has taken a position supporting AT&T's request in another state. Not only has

BellSouth *not* taken the position that AT&T purports that it has, but also, notably, there are *no* Motions supporting AT&T's position filed by the other intervenors.

It is so clear that AT&T's argument is in its own self-interest that AT&T anticipates the arguments that BellSouth will make and attempts to deny that self-interest is its sole motive. It is indisputable that any delay in a 271 proceeding is in AT&T's self interest. Delaying RBOC entry into the interLATA markets means millions of dollars in AT&T's pockets. Based on its experience in numerous dockets, BellSouth doubts that there would ever be a time that AT&T would agree that it is appropriate for a Bell Operating Company ("BOC") to bring a 271 application to state and federal agencies for approval.

On the other hand, a delay in the introduction of new competitive alternatives is not in the best interest of South Carolina consumers. As BellSouth stated in its Notice to this Commission of its Intent to File an Application for 271 Relief with the FCC, which was filed with this Commission on May 16, 2001:

> As a result of actions taken by the Commission, BellSouth and competitive local exchange companies ("CLECs"), since the passage of the Telecommunications Act of 1996 ("the 1996 Act"), it is clear that BellSouth's local markets in South Carolina have been irreversibly opened to competition on both a facilities-based and resale basis. As of March 31, 2001, CLECs in South Carolina serve approximately 9.4 percent of the total local access lines in BellSouth's

service area. This local market share is comparable to or exceeds CLEC market shares in states where other Regional Bell Operating Companies ("RBOCs") have gained long distance relief from the FCC.

BellSouth requests that this Commission complete such a review of the Section 271 requirements in order to facilitate South Carolinians in BellSouth's service area obtaining the benefits of broad-based competition in both the local and long distance markets. The customers of other local exchange carriers in South Carolina are not prohibited from buying interLATA long distance service from their local exchange carrier and, therefore, enjoy the benefits of "one-stop shopping". All of BellSouth's customers, including over 550,000 rural customers, should be allowed the same opportunity.[1] In its Order dated July 31, 1997 in Docket No. 97-101-C, the Commission concluded that BellSouth's entry into the interLATA long distance market in South Carolina was in the public interest and that BellSouth had satisfied the 14 items of Section 271's competitive checklist. Almost four years later, BellSouth requests that this Commission now review and reaffirm BellSouth's checklist compliance so that BellSouth may proceed again with its Section 271 application to the FCC.

RELEVANT BACKGROUND

Following the filing of BellSouth's notice, the Commission established a procedural schedule on June 7, 2001, to receive evidence to assess BellSouth's compliance with the requirements of Section 271 in order for the Commission to be prepared to fulfill its consultative role to the FCC under Section 271(d)(2)(B). The Commission set out a procedural schedule that included the filing of written testimony by BellSouth and intervenors and a hearing on July 23, 2001, in which the parties

[1] Determination of Rural and Urban based upon 1990 US Census Data.

would present their witnesses for cross-examination. (PSC Order 2001-209-C).

On the same day that Order was issued, Motions were filed with this Commission by many parties, including AT&T, to delay the hearing. The Commission considered all arguments and determined that the hearing should be bifurcated with a Phase I proceeding to review compliance with the competitive checklist and Phase II to review performance data and any comparison of the Georgia and Florida third party tests. (PSC Order No. 2001-647).

On July 27, 2001, AT&T filed a second request for delay. As a result of this request, the Commission determined that "it will not make a final decision on BellSouth's 271 application in South Carolina until the Georgia Public Service Commission has ruled upon BellSouth's 271 application in the State of Georgia." (PSC Order No. 2001-916).

Now that the Georgia Commission has approved BellSouth's 271 Application in Georgia, AT&T (for the third time) is requesting that the Commission delay these proceeding based upon another creative legal argument. However, AT&T's request is blatantly disingenuous because at no time during the Commission's determination of a procedural schedule did AT&T ever suggest that the Commission should postpone its hearing until the FCC made a determination of an application for

interLATA relief by BellSouth for the State of Georgia. In fact, the Georgia proceeding had been under way for a considerable time when this Commission set its procedural schedule, and AT&T was fully aware that a decision from the Georgia Commission would likely occur during the proceedings by this Commission in South Carolina. Only after the Louisiana Commission, the Mississippi Commission and the Georgia Commission all found that BellSouth has met the requirements of Section 271 did AT&T file for delay in the South Carolina proceedings. AT&T's Motion is a desperate attempt to thwart any pending state 271 proceedings,[2] betting on the outcome at the FCC. It is telling that, during this proceeding, AT&T never once suggested that "judicial economy" would be served by simply shelving the pending BellSouth's 271 proceedings to await the FCC's decision on the Georgia application--until after it became clear that the Georgia PSC would approve BellSouth's application.

AT&T HAS BEEN AFFORDED FULL OPPORTUNITY TO RAISE OBJECTIONS

In its Motion, AT&T raises a number of objections to BellSouth's OSS. Those objections have been made to, and

[2] See AT&T's motions to delay proceedings in North Carolina (filed September 27, 2001), in Kentucky (filed September 28, 2001), and in Alabama (filed October 1).

rejected by, three state commissions: Louisiana, Georgia, and Mississippi. [3]

AT&T has already raised its OSS objections in this docket. In all, the Commission conducted almost three weeks of hearings in this proceeding with full opportunity for cross examination and direct testimony by AT&T. That opportunity was fully utilized by AT&T in those proceedings. AT&T can similarly raise its objections in its brief. But instead, it again wishes to request that the entire matter be delayed. Rather than running the risk that this Commission (and other commissions) might similarly rule against it, AT&T has requested that this Commission (and the Kentucky, North Carolina, and Alabama commissions) just ignore all of the work that it has done, suspend any state decision, and wait for the FCC. The Commission should reject AT&T's self-serving motion for delay.

THE COMMISSION SHOULD NOT WAIT ON THE RESULTS OF THE FLORIDA THIRD PARTY TEST

BellSouth has the right to proceed with its 271 application and is prepared to defend its evidence of 271 compliance. The Telecommunications Act of 1996 (the Act) clearly indicates that it is the BOC's right to determine when it believes it has met the requirements of 47 U.S.C. 271 and when it will petition the

[3] It is interesting to note that NO state commission (other than Florida, obviously) has accepted AT&T's invitation to delay its section 271 proceedings to await the results of Florida's OSS testing. This Commission need not be the first.

FCC for authorization to provide interLATA services. See 47 U.S.C. 271(d). Therefore, the Act makes clear that the timing of a 271 application is in the hands of the BOC and is not controlled by an intervener. AT&T offers no reason why it cannot file its brief as scheduled and, indeed, has already filed briefs in Mississippi, Louisiana and Georgia. Throughout this proceeding, AT&T has argued that this Commission should await the Florida test results. No Commission in the BellSouth region has delayed a Section 271 review to await the final results of the Florida third party tests. In fact, as stated earlier, in Louisiana and Mississippi, those Commissions found BellSouth compliant with Section 271 requirements without the Florida test. Furthermore, AT&T's own witness Sharon Norris responded during cross-examination that the Georgia third party test met the minimum requirements of the FCC. (Tr. Vol. XIII, pp. 5139 l. 23 - 5140 l. 6.) Thus, there is no need to delay and await the conclusion of the Florida test. Nothing prevents AT&T from filing its brief on its view regarding the relevancy of the Florida test.

THE COMMISSION SHOULD NOT WAIT ON AN FCC RULING

AT&T also argues that the Commission should delay this proceeding until the FCC issues an Order on BellSouth's pending applications. This argument is flawed in one major respect. As this Commission is aware, it is incumbent on this Commission to

make its own assessment of BellSouth's compliance with Section 271 irrespective of the FCC's views. That the Commission is taking its role very seriously is undeniable in light of the enormous amount of time and effort the Commission already has put into this proceeding. To argue, as AT&T does, that all of the Commission's effort simply should be put on hold until the FCC rules on the Georgia application implies that AT&T wants the FCC to do the South Carolina Commission's job. The PSC's role is a consultative one. It is not to wait for direction from the FCC.

THE COMMISSION SHOULD NOT DELAY BECAUSE OF AN IRRELEVANT 271 HEARING SCHEDULE IN TENNESSEE

Finally, BellSouth's conduct of its 271 proceeding in Tennessee is not a basis for delay in South Carolina. First, contrary to AT&T's representations, BellSouth did not base any of its positions in Tennessee on the premise that the TRA must wait until after an FCC decision on Georgia. Rather, due to the current schedule in Tennessee, BellSouth simply proposed an alternative schedule it believes is more appropriate. Second, the procedural posture of the Tennessee case is completely different than this case. BellSouth's 271 case in Tennessee did not commence until July 30, 2001, and the posture of the proceedings in that state has developed on a much different track than those in other states. BellSouth's suggestion to the

Tennessee Regulatory Authority that multiple hearings spread over several months be consolidated into one hearing in February 2002 makes sense in the context of that state's proceeding. Never once in the two Tennessee pleadings cited by AT&T did BellSouth conclude that judicial economy would be served by simply waiting on the FCC to rule on the Georgia 271 application, although AT&T implies that this must have been the purpose of the filings and, therefore, should be a course this Commission should follow as well. In fact, in only one filing (dated September 14) did BellSouth even mention the existence of the Georgia 271 proceeding. BellSouth's reference to achieving judicial economy was clearly made in the context of combining all Section 271 issues into one hearing before the TRA. It is certainly not a basis for delay in South Carolina where all evidence has been submitted, a three-week hearing was conducted, and everything is in place except briefing and a Commission decision. AT&T's distorted comparison of the Tennessee and South Carolina 271 proceedings should be rejected.

AT&T'S REQUEST IS A THINLY VEILED REQUEST FOR ENDLESS DELAY

If AT&T's sole motivation for participating in this process has not been evident to the Commission until this point, this Motion should bring AT&T's goal into crystal clear focus: AT&T will say or do anything to delay for as long as possible

BellSouth's entry into AT&T's long distance market in this state. Period.

It should be clear now that there is nothing this Commission can do that will appease AT&T, short of never completing its Section 271 proceeding. Granting any further delay to AT&T will only cause AT&T to ask for more concessions and more delay at a later time. It simply has no economic incentive to do otherwise. AT&T's corporate, nationwide mission is to delay indefinitely RBOC entry into this nation's interLATA markets - markets still dominated by the Big Three long distance giants AT&T, WorldCom and Sprint. It is no stretch to conclude that this Commission could postpone consideration of BellSouth's 271 application for many years to come and still find AT&T at the door of the hearing room with any number of objections as to why BellSouth should not be allowed to compete with AT&T in its interLATA markets. AT&T would likely tell this Commission that an FCC order approving BellSouth's Georgia application is not controlling here because of minor differences between Georgia and South Carolina. Likewise, AT&T could assert that the FCC order is not "final", because AT&T plans an appeal. The possibilities are endless.

CONCLUSION

Without question, this Commission has control of its dockets and all procedural matters pertaining thereto.

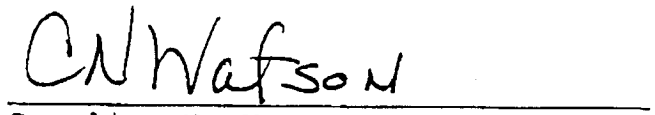
Nevertheless, it is BellSouth, not an intervenor, that has the option under 271 to determine when it is ready to defend its compliance with the requirement of Section 271 of the Act. This Commission has conducted almost three weeks of hearings. BellSouth has filed its evidence, has presented its witnesses for cross-examination and is prepared to submit its brief on October 22, 2001.

The FCC has provided through its decisions a "roadmap" of requirements that must be met in order to grant a long distance application. BellSouth is complying with the FCC's requirements. The local market is open. Every party in this docket is able to compete in the local market. CLECs are servicing over 150,000 lines representing over 21% of the business market. There is no reason to delay. BellSouth requests that this Commission deny AT&T's latest attempt to delay this Commission's determination in whether to bring additional competition into the interLATA long distance market that will benefit the people of South Carolina. AT&T presents no credible reason why it cannot file its brief on the date set by this Commission. For the

foregoing, BellSouth respectfully requests that AT&T's motion be denied.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.



Caroline N. Watson
Suite 821 - 1600 Hampton Street
Columbia, South Carolina 29201

Fred J. McCallum, Jr.
Lisa S. Foshee
675 West Peachtree Street, Suite 4300
Atlanta, Georgia 30375

William F. Austin
Austin, Lewis & Rogers
Post Office Box 11716
Columbia, South Carolina 29211

PC Docs 414634

STATE OF SOUTH CAROLINA)
) CERTIFICATE OF SERVICE
COUNTY OF RICHLAND)

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. ("BellSouth") and that she has caused BellSouth Telecommunications Inc.'s Response to AT&T's Motion to Continue Post-Hearing and Other Proceedings in Docket No. 2001-209-C, to be served by the method indicated below upon the following this October 11, 2001:

Elliott F. Elam, Jr., Esquire
S. C. Department of Consumer Affairs
3600 Forest Drive, 3rd Floor
Post Office Box 5757
Columbia, South Carolina 29250-5757
(Consumer Advocate)
(U. S. Mail and Electronic Mail)

L. Hunter Limbaugh, Esquire
1426 Main Street
Suite 1301
Columbia, South Carolina 29201
(AT&T)
(U. S. Mail and Electronic Mail)

Florence P. Belser, Esquire
Deputy General Counsel
S. C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(U. S. Mail and Electronic Mail)

Russell B. Shetterly, Esquire
Haynsworth Sinkler Boyd, P.A.
1201 Main Street
Suite 2400
Columbia, South Carolina 29201-3226
(Knology of Charleston and Knology of South Carolina, Inc.)
(U. S. Mail and Electronic Mail)

Darra W. Cothran, Esquire
Woodward, Cothran & Herndon
1200 Main Street, 6th Floor
Post Office Box 12399
Columbia, South Carolina 29211
(MCI WorldCom Network Service, Inc. MCI WorldCom Communications and MCImetro Access Transmission Services, Inc.)
(U. S. Mail and Electronic Mail)

John F. Beach, Esquire
John J. Pringle, Jr., Esquire
Beach Law Firm
1321 Lady Street, Suite 310
Post Office Box 11547
Columbia, South Carolina 29211-1547
(Resort Hospitality Services, Inc., NuVox Communications, Inc. and AIN)
(U. S. Mail and Electronic Mail)

Marsha A. Ward, Esquire
Kennard B. Woods, Esquire
MCI WorldCom, Inc.
Law and Public Policy
6 Concourse Parkway, Suite 3200
Atlanta, Georgia 30328
(MCI)
(U. S. Mail and Electronic Mail)

Frank R. Ellerbe, Esquire
Bonnie D. Shealy, Esquire
Robinson, McFadden & Moore, P.C.
1901 Main Street, Suite 1500
Post Office Box 944
Columbia, South Carolina 29202
(NewSouth Communications Corp., SCCTA and SECCA and KMC Telecom III, Inc.)
(U. S. Mail and Electronic Mail)

Andrew M. Klein
Kelley, Drye & Warren, LLP
1200 19th Street, N.W.
Washington, D.C. 20036
(KMC Telecom III, Inc.)
(U. S. Mail and Electronic Mail)

Jack H. Derrick
Senior Attorney
141111 Capital Blvd.
Wake Forest, NC 27587-5900
(Sprint/United Telephone)
(U. S. Mail and Electronic Mail)

Scott A. Elliott, Esquire
Elliott & Elliott
721 Olive Street
Columbia, South Carolina 29205
(Sprint/United Telephone)
(U. S. Mail and Electronic Mail)

Marty Bocock, Esquire
Director of Regulatory Affairs
1122 Lady Street, Suite 1050
Columbia, South Carolina 29201
(Sprint/United Telephone Company)
(U. S. Mail and Electronic Mail)

Faye A. Flowers, Esquire
Parker Poe Adams & Bernstein LLP
1201 Main Street, Suite 1450
Columbia, South Carolina 29202
(US LEC)
(U. S. Mail and Electronic Mail)

William R. Atkinson, Esquire
3100 Cumberland Circle
Cumberland Center II
Atlanta, Georgia 30339-5940
(Sprint Communications Company L.P.)
(U. S. Mail and Electronic Mail)

Andrew O. Isar
Director - State Affairs
7901 Skansie Avenue, Suite 240
Gig Harbor, WA 98335
(ASCENT)
(U. S. Mail and Electronic Mail)

Nanette Edwards, Esquire
ITC^DeltaCom Communications, Inc.
4092 S. Memorial Parkway
Huntsville, Alabama 25802
(U. S. Mail and Electronic Mail)

Timothy Barber, Esquire
Womble, Carlyle, Sandridge & Rice
3300 One First Union Center
301 South College
Suite 3300
Charlotte, North Carolina 20202
(AT&T)
(U. S. Mail and Electronic Mail)

Thomas Lemmer, Esquire
McKenna & Cuneo, LLP
370 Seventeenth Street, Suite 4800
Denver, CO 80202
(AT&T)
(U. S. Mail and Electronic Mail)

Traci Vanek, Esquire
McKenna & Cuneo, LLP
1900 K Street, N.W.
Washington, DC 20006
(AT&T)
(U. S. Mail and Electronic Mail)

Tami Azorsky, Esquire
McKenna & Cuneo, LLP
1900 K Street, N.W.
Washington, DC 20006
(AT&T)
(U. S. Mail and Electronic Mail)

Michael Hopkins, Esquire
McKenna & Cuneo, LLP
1900 K Street, N.W.
Washington, DC 20006
(AT&T)
(U. S. Mail and Electronic Mail)

William Prescott, Esquire
1200 Peachtree Street, N.E.
Suite 8100
Atlanta, Georgia 30309
(AT&T)
(U. S. Mail and Electronic Mail)

John A. Doyle, Jr., Esquire
Parker, Poe, Adams & Bernstein, L.L.P.
150 Fayetteville Street Mall, Suite 1400
Raleigh, North Carolina 27602
(US LEC of South Carolina)
(U. S. Mail and Electronic Mail)

Nyla M. Laney

PC Docs # 401224