September 10, 2003

The Honorable Mignon L. Clyburn, Chairman
South Carolina Public Utilities Commission
101 Executive Drive
Columbia, SC 29211

RE: State Triennial Review Proceedings

Dear Madam Chairman:

The purpose of this letter is to supplement the presentation made by representatives of BellSouth and CompSouth[1] during the SEARUC breakfast in Denver. At that time, BellSouth and CompSouth reported that we were in discussions in an attempt to arrive at a region-wide proposal for the scheduling and conduct of the state proceedings that have been required by the FCC's recent Triennial Review Order ("TRO"). As you know, the FCC's TRO requires the states to conduct and conclude certain proceedings within the next nine months. Because every state will have to engage in this process simultaneously, there has been considerable concern about avoiding scheduling and other potential conflicts among the various state proceedings in the BellSouth region, since these cases will often involve the same parties, issues, and witnesses.

We are pleased to report that BellSouth and CompSouth have developed a proposal that we believe will allow these state proceedings to occur in a manner that will avoid the inevitable conflicts that would occur if every state proceeded independently. The attached spreadsheet lays out our proposal in the form of a schedule that sets out dates for the filing of testimony, holding hearings, the filing of post-hearing briefs, and the presentation of oral arguments. If this proposal is adopted by all of the states in the BellSouth region, we should be able to avoid any major conflicts in scheduling among the states.

You will note that the schedule does not identify the order in which the states would proceed. While we do not intend to be presumptuous, and we understand fully that each state establishes its own calendar, based on what we understood the sentiments to be in Denver, we suggest that Florida and Georgia should be the first two states, followed by North Carolina, Tennessee, Alabama, South Carolina, Louisiana, Mississippi, and Kentucky. We understood that the order of the first three states and the last two were discussed in Denver. We arranged the

[1] CompSouth members include: ITC DeltaCom; MCI; Business Telecom Inc.; NewSouth Communications Corp.; AT&T; Nuvox Communications Inc.; Access Integrated Networks, Inc.; Birch Telecom; Talk America; Cinergy Communications Company; Z-Tel Communications; Network Telephone Corp.; Momentum Business Solutions; Covad; KMC Telecom; IDS Telcom and Xspedius Corp.

middle four states in a manner that would minimize travel between the states, as we have proposed hearings to run week after week, with no real break for the participants.

As you will note, our proposal envisions lengthier hearings in the initial states and stages of these proceedings based on our experience that has shown that multistate hearings generally take longer during the first hearings than during later hearings. This is because in multi-state proceedings, the parties often find that they can enter into agreements to stipulate testimony and records in the latter states and stages of the proceedings, which tends to shorten the needed hearing dates and time necessary to conduct the proceedings. As the hearings in the latter states and stages become more truncated as a result of these stipulations, however, the need for the parties to be able to present oral argument to summarize the stipulated record increases in importance.

We also propose that these state proceedings be conducted either in two separate dockets, or one docket with two sub-dockets in each state for the reasons described below.

Essentially these state proceedings, which are required to be conducted in nine months, are going to be concerned with discharging the Commission's responsibilities in implementing the unbundling requirements of Rule 51.319 in determining principally (1) the continued availability of unbundled local switching for the mass market (the "UNE-P case"), and (2) the continued availability of unbundled high capacity transport on certain routes and unbundled high capacity loops at certain locations (the High Capacity Loop Transport case). The FCC has provided an analytical framework and specific triggers for each of these determinations and cases. We have determined that some CLECs have an interest in the UNE-P portion of the case but not the High Capacity Loop Transport portion of the case, and vice versa. Given this, together with the fact that the data to be analyzed in the two situations are completely separate, there will be a need to create a different record for each portion of the case.

Furthermore, it appears that the issues raised by the High Capacity Loop Transport portion of the case will be much more fact specific, dealing with individual route- and location specific facilities. Given that the Commission must conduct and complete these proceedings in nine months, our schedule proposes that the hearings be bifurcated for each specific case/subject matter, with the High Capacity Loop Transport portion of the case to follow immediately after the conclusion of the UNE-P portion of the case. In addition, given the different nature of the UNE-P and High Capacity Loop Transport portions of the case, the schedule proposes that there will be three rounds of testimony (Direct, Rebuttal and Surrebuttal) for the UNE-P portion of the case, and two rounds of testimony (Direct and Rebuttal) for the High Capacity Loop and Transport portion of the case. As you will see from the attached schedule, the Direct testimony in the High Capacity Loop Transport portion of the case is to be filed at the same time as the Rebuttal testimony in the UNE-P portion of the case, and the Rebuttal testimony in the High Capacity Loop Transport portion of the case is to be filed at the same time as the Surrebuttal testimony in the UNE-P portion of the case.

We have also proposed that Week 32 (the week of May 10, 2004) be reserved across the region for "overflow" hearings. We anticipate that these "overflow" hearings could be necessitated by (1) the need to conclude the High Capacity Loop Transport portion of the case in any particular state or (2) the presentation of evidence concerning the potential deployment of certain high capacity loops and transport where the wholesale and self-provider triggers are not satisfied. (See Rules 51.319 (a)(5)(ii); 51.319 (a)(6)(ii); 51.319 (e)(2)(ii); and 51.319 (e)(3)(ii)). Until the completion of discovery, BellSouth cannot determine whether it will elect to present evidence concerning the "potential deployment" of certain high capacity loops and transport pursuant to these rules, but if it does, the parties anticipate that the time afforded by the period set aside for the "overflow" hearings may be necessary. The parties hope that the time scheduled for hearings in each state will accommodate all of these needs in the first instance, but should that not be the case, BellSouth and CompSouth believe it would be prudent to set aside time now for these "overflow" hearings. BellSouth has committed to notify the parties as soon as it makes a determination about how it intends to proceed in the High Capacity Loop Transport portion of the case with regard to presenting evidence on the potential, as opposed to actual, deployment of facilities under the FCC's rules. BellSouth anticipates making that decision very soon after the completion of discovery in these proceedings.

We are also able to report to the Commission that neither BellSouth nor CompSouth, on behalf of its members, intends to request that the Commission conduct a 90-day case regarding access to unbundled local switching for DS1 and above loops. (See Rule 51.319 (d)(3)(i)). However, if another party requests that the Commission conduct such a review, BellSouth and CompSouth, on behalf of its members, reserve the right to participate in such a proceeding.

In addition to the attached proposed schedule for the 9 months following the October 2nd effective date of the TRO, we are also working on, and have substantially completed, an agreement that deals with how region-wide discovery will be conducted; how the parties to these proceedings will serve each other with discovery, testimony, and other pleadings; and how region-wide confidentiality agreements will be handled. Because of the number of parties expected to participate and the short time in which these proceedings will have to conclude, we anticipate agreeing upon shortened discovery periods and electronic, rather than paper, service of everything we file in these proceedings, at least to the extent possible. If the schedule we propose is acceptable to the Commission, we will follow up with our proposal regarding these matters in short order.

In conclusion, let us reiterate that in making this proposal, we do not intend to compromise this Commission's authority in these matters. Rather, we are merely offering a proposal that we believe will facilitate the conduct and resolution of the proceedings that the FCC's TRO has delegated to the 9 state Commissions in the BellSouth region. We recognize that this proposed schedule leaves some matters open, such as pre-hearing and issue identification conferences if they are required. However, we believe that the proposed schedule captures all of the major activities that will be required. Consequently, we respectfully request that you treat this letter as a request to the Commission to open generic proceedings to address these issues and that the Commission adopt the schedule that we have proposed.

wk beginning	week		FL State 1	GA State 2	NC State 3	TN State 4	BL State 5	SC State 6	LA State 7	MS State 8	KY State 9
6-Oct	1										
13-Oct	2										
20-Oct	3										
27-Oct	4										
3-Nov	5										
10-Nov	6										
17-Nov	7										
24-Nov	8										
1-Dec	9										
8-Dec	10										
15-Dec	11		Direct (F)								
22-Dec	12			Direct (Tu)							
29-Dec	13										
5-Jan	14				Direct (Th)						
12-Jan	15					Direct (F)					
19-Jan	16		Reb/Dir (F)				Direct (Tu)				
26-Jan	17			Reb/Dir (F)				Direct (Th)			
2-Feb	18								Direct (F)		
9-Feb	19		Surreb/Reb (F)							Direct (W)	
16-Feb	20			Surreb/Reb (W)	Reb/Dir (F)						Direct (Tu)
23-Feb	21		Hearings (M-F)			Reb/Dir (F)					
1-Mar	22		Hearings (M-W)				Reb/Dir (F)				
8-Mar	23			Hearings (M-F)	Surreb/Reb (W)			Reb/Dir (F)			
15-Mar	24			Hearings (M-W)		Surreb/Reb (W)			Reb/Dir (F)		
22-Mar	25				Hearings (M-F)		Surreb/Reb (W)			Reb/Dir (Th)	Reb/Dir (F)
29-Mar	26		Direct brief (Tu)			Hearings (M-F)		Surreb/Reb (W)			
5-Apr	27			Direct brief (Tu)			Hearings (M-F)		Surreb/Reb (W)		
12-Apr	28		Reply Brief (F)		Direct brief (Tu)			Hearings (M-F)		Surreb/Reb (Tu)	Surreb/Reb (Th)
19-Apr	29			Reply Brief (F)		Direct brief (Tu)			Hearings (M-F)		
26-Apr	30				Reply Brief (F)		Direct brief (Th)			Hearings (M-W)	Hearings (Th-F)
3-May	31					Reply Brief (W)		Direct brief (Tu)			Hearings (M)
10-May	32		Reserve for Overflow hearings		Reserve for Overflow hearings		Reply Brief (F)		Direct brief (W)	Reserve for Overflow hearings	
17-May	33		Oral Arguments (M)	Oral Arguments (Tu)	Oral Arguments (W)			Reply Brief (Tu)		Direct brief (Th)	Direct brief (F)
24-May	34								Reply Brief (W)	Reply Brief (Th)	Reply Brief (F)
31-May	35					Oral Arguments (Tu)	Oral Arguments (W)	Oral Arguments (Th)			
7-Jun	36								Oral Arguments (M)	Oral Arguments (Tu)	Oral Arguments (W)
14-Jun	37										
21-Jun	38										
28-Jun	39		Decision	Decision	Decision	Decision	Decision	Decision	Decision	Decision	Decision

Notes

Yellow shading indicates Holiday weeks

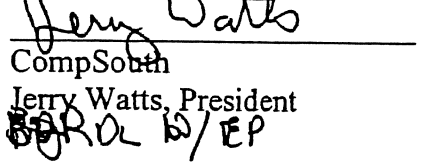
First round of testimony presents direct case on switching impairment

Second round of testimony presents rebuttal case on switching impairment and separate testimony for direct case on hi-cap loop and transport impairment

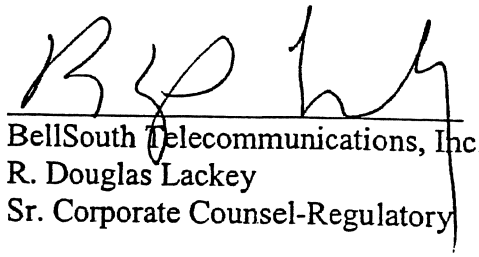
Third round of testimony presents surrebuttal case on switching impairment and separate testimony for rebuttal case on hi-cap loop and transport impairment

We are available to discuss this proposal either individually with each state Commission or collectively with the SEARUC Commissions.

Sincerely,



CompSouth
Jerry Watts, President
BDR DL W/ EP



BellSouth Telecommunications, Inc.
R. Douglas Lackey
Sr. Corporate Counsel-Regulatory

Attachment

cc: Commissioner Randy Mitchell, Vice Chairman
Commissioner James Blake Atkins, Ph.D
Commissioner H. Clay Carruth, Jr.
Commissioner C. Robert Moseley
Commissioner William (Bill) Saunders
Commissioner Nick Theodore
Gary Walsh – Executive Director
Florence Belser, Esquire – Executive Assistant
F. David Butler, Esquire – General Counsel