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Florida Cable Telecommunications Association

Steve Wilkerson, President

September 23, 1997

VIA HAND DELIVERY

Ms. Blanco S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 960786-TL

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and fifteen (15) copies of Florida Cable Telecommunications Association, Inc.'s Posthearing Brief. Copies have been served on the parties of record pursuant to the attached certificate of service.

Also enclosed is a copy on a 3-1/2" diskette in WordPerfect format, version 6.1.

Please acknowledge receipt and filing of the above by date stamping the duplicate copy of this letter and returning the same to me.

Thank you for your assistance in processing this filing.

Yours very truly,

Laura L. Wilson
Vice President, Regulatory Affairs

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of BellSouth Telecommunications, Inc.'s entry into InterLATA services pursuant to Section 271 of the Federal Telecommunications Act of 1996.	Docket No. 960786-TP Filed: September 23, 1997

FLORIDA CABLE TELECOMMUNICATIONS ASSOCIATION, INC.'S POSTHEARING BRIEF

The Florida Cable Telecommunications Association, Inc. ("FCTA") pursuant to Order Nos. PSC-97-0945-PCO-TL, PSC-97-0703-PCO-TL, PSC-97-0792-PCO-TL and Rule 25-22.056, Florida Administrative Code, respectfully submits to the Florida Public Service Commission ("Commission") its posthearing brief in the above-captioned docket.

I. BASIC POSITION

BellSouth has not met its burden of demonstrating compliance with the terms for entry into the Florida interLATA market pursuant to Section 271 of the Telecommunications Act of 1996 (the "Act" or "1996 Act"). Section 271 represents a fundamental Congressional policy decision to promote competition in that the Bell Operating Companies (BOCs) are prohibited from providing in-region interLATA services until both business and residential consumers have a meaningful opportunity to choose among two or more facilities-based providers of local exchange service that are competing on a level playing field consistent with the 14 point checklist. Until these terms are met, BellSouth's entry into the in-region interLATA market is premature.

BellSouth's untenable position in this proceeding is that the 1996 Act permits it to enter the in-region, interLATA services market based on a combination of provisions set forth in interconnection agreements and its Statement of Generally Available Terms (SGAT). In truth, the

Act prohibits BellSouth from using its SGAT as a mechanism for demonstrating compliance with the competitive 14 point checklist since several Alternative Local Exchange Carriers (ALECs) have made timely requests for interconnection with BellSouth. Congress intended "Track A" and "Track B" approaches to be mutually exclusive. The Act and legislative history clarify that Track B was designed as a fallback approach that is foreclosed where, as here, an ALEC makes a timely request for interconnection from a BOC. Accordingly, BellSouth's case must stand or fall based on whether it meets the requirements of Track A.

BellSouth has fallen short of satisfying the Track A criteria. Contrary to BellSouth's assertions, there is no operational facilities-based competitor furnishing local exchange service exclusively or predominantly over its own facilities for both business and residential subscribers. While several ALECs in Florida have interconnection agreements with BellSouth, none are fully operational as to residential subscribers. The record suggests minimal business competition. Thus, the threshold requirement of actual facilities-based business and residential competition found in Section 271(c)(1)(A) is not met.

Further, BellSouth has not fully implemented the Act's competitive checklist through actually furnishing each of the 14 checklist items to a competitor(s) in accordance with the Act's requirements. The record demonstrates that BellSouth does not furnish several key checklist items to any competitor in Florida. Moreover, checklist items that are provided to ALECs are not provided according to the statutorily-prescribed, non-discriminatory manner. Under these circumstances, there is no basis for concluding that BellSouth has fully implemented the Act's competitive checklist.

Finally, the record demonstrates that BellSouth's entry into the interLATA market at this juncture would imperil the prospects for effective local competition in Florida. (Pacey, Tr. 2525-27). Congress intended that the opportunity to provide in-region interLATA services would induce the

BOCs to open their local exchange monopolies to facilities-based competitors as a result of the competitive checklist of Section 271[1]. As the FCC has recognized, BOCs "have no economic incentive, independent of the incentives set forth in Sections 271 and 274 of the 1996 Act, to provide potential competitors with opportunities to interconnect and make use of the incumbent LEC's network services."[2]

If authorized to provide in-region interLATA services, BellSouth would have a substantially reduced incentive to negotiate and fully implement interconnection terms that provide new entrants with a meaningful opportunity to compete. The record reflects that new entrants are experiencing unreasonable delays in the deployment and installation of trunks, the switch-over of new customers, the provisioning of number portability and the implementation of reasonable performance measures. BellSouth must not be permitted to take one more step toward interLATA authority until the competitive checklist has been demonstrated to be fully implemented.

By making BellSouth's entry into long distance contingent upon "full" implementation of interconnection agreements pursuant to Track A, Congress sought to ensure that BellSouth would carry out its duties in a timely and useful manner. That incentive disappears when BellSouth enters the long distance market. Absent countervailing incentives, monopolists will vigorously

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[1]In discussing the Senate version of Section 271, which was adopted by the Conference Committee, Senator Kerry noted "the way to overcome this ability of the RBOCs to thwart the open local markets is to give them a positive incentive to cooperate in the development of competition." See, e.g. 141 Cong. Rec. S8139 (daily ed. June 12, 1995)(statement of Sen. Kerry). Likewise, during House consideration of the Conference Report, Rep. Hastert stated that "[f]air competition means local telephone companies will not be able to provide long distance service in the region where they have held a monopoly until several conditions have been met to break that monopoly." 142 Cong. Rec. H1152 (daily ed. Feb. 1, 1996)(statement of Rep. Hastert)(emphasis supplied).

[2]In the matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98 (rel. August 8, 1996)("Local Competition Order") at par. 55.

resist efforts to open their markets to competition via litigation, negotiation delays, protracted provisioning of services, and other stall tactics.[3]

For all of these reasons, BellSouth's entry into the in-region interLATA market is premature. BellSouth should not be permitted to provide interLATA services in Florida until it demonstrates compliance that an actual facilities-based competitor is operational under an agreement that complies with Section 271 of the Act.

II. ISSUES

ISSUE 1.A: Has BellSouth met the requirements of section 271(c)(1)(A) of the Telecommunications Act of 1996?

(a) Has BellSouth entered into one or more binding agreements approved under section 252 with unaffiliated competing providers of telephone exchange service?

(b) Is BellSouth providing access and interconnection to its network facilities for the network facilities of such competing providers?

(c) Are such competing providers providing telephone exchange service to residential and business customers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities?

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[3]See e.g., United States v. American Tel. & Tel. Co., 524 F. Supp. 1336, 155-156 (D.D.C. 1981); United States v. American Tel. & Tel. Co., 552 F. Supp. 131, 161, 171, 187-88, 195, 223 (D.D.C. 1982); MCI Communications v. American Tel. & Tel. Co., 708 F. 2d 1081, 1132-1133, 1139-40, 1159; Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, 9 FCC Rcd 5408, 5450 (1194).

FCTA POSITION: (a) *Yes. BellSouth has entered into one or more binding agreements approved under Section 252 with unaffiliated providers.*

(b) *No. BellSouth is not providing access and interconnection to its network facilities for the network facilities of such competing providers according to the Act's requirements.*

DISCUSSION: Section 271 effectuates the 1996 Act's objective of "opening all telecommunications markets to competition" by using BellSouth's incentive to enter the long distance market as a means of encouraging BellSouth to take the necessary steps to engender competition. To that end, Section 271(c)(1)(A) provides that BellSouth's entry into the interLATA market may not occur absent the presence of at least one or more interconnection agreements with a facilities-based local competitor that implements the Act's competitive checklist in the matter prescribed by the Act. 47 U.S.C. §271 (c)(1)(A). The burden is on BellSouth to show that such conditions are met.

BellSouth has failed to demonstrate that all items in the competitive checklist are fully implemented in accordance with the Act's requirements. First, the "full implementation" criterion requires BellSouth to actually be furnishing to competitors all of the items in the competitive checklist. Second, checklist items must be implemented in accordance with the Act's requirements. BellSouth has failed to demonstrate compliance for the following reasons:

a. "Full Implementation." The Act precludes BellSouth from entering the interLATA market under Track A unless it has "fully implemented" all the items in the competitive checklist.[4] The Act

[4]See 47 U.S.C. §271(d)(3)(A)(I) (requiring full implementation of the competitive checklist); 47 U.S.C. §271 (d)(4) (barring the FCC from limiting the terms used in the competitive checklist).

requires BellSouth to fully implement all the checklist items in agreements with "operational" competitors (Varner, Tr. 117) in order to ensure that competition is not stifled by BellSouth's failure to provide, or inadequate provision of, any checklist item.[5] The checklist represents Congress' policy judgement regarding the essential prerequisites for the emergence of competitive alternatives to BellSouth's local exchange monopoly.

While subsection (c)(1)(A) conditions BellSouth's entry upon the presence of a predominantly facilities-based provider (see discussion of Issue 1.A. (c) below), subsection (c)(2) requires "full implementation" of all checklist items to ensure the feasibility of competition in all BellSouth markets in Florida, including those not presently served by a predominantly facilities-based provider. The presence of a facilities based-provider is an integral part of the checklist in that it is the "tangible affirmation that Florida is open to competition."[6] At the same time, full implementation of the competitive checklist with an operational competitor ensures the feasibility of entry throughout BellSouth territory in Florida, particularly in areas not served by a competitor triggering entry under Track A.

BellSouth makes two principle contentions regarding implementation of the checklist, both of which should be rejected. First, Witness Varner argues that a BOC can demonstrate checklist compliance through a combination of provisions in an interconnection agreement with an ALEC under Track A and an SGAT filed with the Commission under Track B. As previously demonstrated, BellSouth cannot "mix and match" agreement provisions with an SGAT. Tracks A

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[5]See Conference Report at 148.

[6]In the matter of Application of SBC Communications, Inc., Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Oklahoma, Docket No. 97-121, rel. June 26, 1997 at par. 25. ("SBC Order").

and B are mutually exclusive, as evidenced by Congress' decision to separate them through the use of the disjunctive. See 47 U.S.C. §271 (c)(1).

Second, BellSouth claims it would be at the mercy of its ALEC competitors if it was required to submit an agreement or agreements under which all checklist items are being furnished since BellSouth supposedly has no control over whether ALECs become fully operational. (Varner, Tr. 109). This argument must be rejected. The full implementation requirement is intended to ensure that BellSouth cannot frustrate "meaningful" local competition by obtaining interLATA authorization based upon a stripped-down interconnection agreement that may omit key checklist items but suffices for a competitor during its initial foray into the market. The requirement also ensures that the Commission conducts its consultative role based on a pragmatic assessment of BellSouth's actual performance in furnishing each checklist item. BellSouth would frustrate these objectives if permitted entry in Florida while failing to actually furnish one or more checklist items.

b. Requirements of the Act. Section 271 obligates BellSouth to implement the competitive checklist consistent with FCC rules. See generally 47 U.S.C. §271 (c)(2)(B). A number of checklist items are also subject to a non-discrimination condition. Id. BellSouth has failed to demonstrate compliance.

To satisfy the requirements of Section 271(c)(2)(B), BellSouth must demonstrate that prices for checklist items are based on cost studies conducted in accordance with FCC standards. (See, e.g. 47 U.S.C. §271 (c)(2)B)(I) - (ii) requiring that interconnection and unbundling be provided in accordance with pricing standards delineated in Section 252(d)). Interim prices for interconnection, unbundled elements, and other items not in accord with FCC rules are insufficient to demonstrate checklist compliance. Section 47 U.S.C. §252 (d)(1) requires rates for interconnection and unbundled elements based on the cost of providing interconnection or the network element.

FCTA POSITION: (c) *No. BellSouth has failed to demonstrate that there are qualified competing providers of business and residential local exchange service in Florida.*

DISCUSSION: Section 271(c)(1)(A) requires BellSouth to demonstrate that quantifiable competition exists in Florida. To satisfy the requirements of Track "A," BellSouth must be furnishing network access and interconnection to at least one unaffiliated competitor that provides telephone exchange service to both business and residential consumers exclusively or predominantly over its own facilities. 47 U.S.C. §271 (c)(1)(A). The competitor must have implemented an interconnection agreement with BellSouth and must be operational (Varner, Tr.117) in order to meet the pro-competitive objectives of the Federal Act.

BellSouth has failed to demonstrate that such a competitor(s) exists. The record is devoid of any concrete record evidence of actual competition in Florida. The Act's requirement that there be an operational competitor under Track "A" is crucial. The presence of an operational facilities-based competitor is tangible evidence that Florida is open to competition. SBC Order at par. 25. *Full implementation of the checklist by such a competitor(s) under Track A ensures the feasibility* of entry throughout BellSouth's Florida territory, particularly in those areas not yet served by a competitor triggering entry under Track A. Id. It means that any carrier in any part of the BellSouth region should be able to immediately take advantage of the interconnection agreement(s) and be operational fairly quickly. Compliance with the 14 point checklist through Track A interconnection *agreements means that competitive alternatives have an actual opportunity to flourish.*

The record reveals that these conditions are absent in Florida. BellSouth has failed to present credible evidence as to the existence of a facilities-based competitor for residential local exchange service. The only evidence BellSouth presented was Mr. Varner's conjecture and

speculation about activity engaged in by MediaOne in the residential market and Teleport in the business market. FCTA concurs with Teleport's posthearing brief on this issue as it relates to alleged competition in the business market.

With respect to the residential market, Mr. Varner speculated: that at least one "appears" to be providing residential local service over its own facilities to Multi-Dwelling Units. Varner, Tr. 126. Mr. Varner's deposition reveals that he is referring to alleged competition from MediaOne. Hearing Exhibit No. 8, deposition transcript at p. 121. However, on cross-examination, Mr. Varner admitted that he has no personal knowledge as to the level and/or extent of such competition. Varner, Tr. 295-96. Indeed, Mr. Varner:

(1) does not know whether MediaOne offers local service in more than one Multi-Dwelling Unit (MDU). (Varner, Tr. 294);

(2) can only speculate whether MediaOne's offering in one MDU is a test, promotional or otherwise. (Hearing Exhibit No. 8, deposition transcript at p. 120);

(3) has no personal knowledge as to how many alleged residential "customers" MediaOne has in the only MDU. (Varner, Tr. 294; Hearing Exhibit No. 8, deposition transcript at p. 120);

(4) does not know whether MediaOne is charging a fee for residential service. (Varner, Tr. 295-296; Hearing Exhibit No. 8, deposition transcript at p. 120);

(5) has no personal knowledge whether or when MediaOne intends to bill customers. (Id.);

(6) has no personal knowledge whether MediaOne has billing systems in place to charge for local phone service (Hearing Exhibit No. 8, deposition transcript at p. 120) and can only speculate about how MediaOne intends to bill. (Varner, Tr. 295); and

(7) has no personal knowledge as to the extent and/or level of any MediaOne marketing activity for residential customers, or whether MediaOne plans to expand its offering. (Hearing Exhibit No. 8, deposition transcript at p. 120).

Moreover, Mr. Varner is not an economist (Varner, Tr. 106-107). He presented no economic criteria for the Commission to utilize. (Pacey, Tr. 251b). BellSouth offered no marketing materials demonstrating that MediaOne is attempting to build a residential customer base and no bills demonstrating whether MediaOne charges a fee for service. These are the types of reliable or verifiable data concerning an actual residential competitor that the Commission should base its decision upon.

Contrary to BellSouth's assertions, the record evidence reveals that there is no operational residential competition in Florida as contemplated under Section 271 (c)(1)(A) of the Act. FCTA's rebuttal witness Dr. Pat Pacey, who holds a Ph.D. in Economics, supplies the tools for determining whether an ALEC is providing service in accordance with Section 271(c)(1)(A). As she explains, the Commission need not reinvent the appropriate economic criteria. (Pacey, Tr. 2509, 2516-17). The FCC's guidelines found in the SBC Order are appropriate. (Hearing Exhibit No. 83).

Mr. Varner, who is the only BellSouth witness discussing whether a residential competitor exists, encourages the Commission to assess market conditions (Varner, Tr. 132) but provides no verifiable criteria for doing so. (Pacey, Tr. 2515). In contrast, the SBC Order criteria are helpful. There the FCC finds that there must be "an actual commercial alternative to the BOC in order to satisfy the requirements of Section 271 (c)(1)(A)." SBC Order at par. 14. While the FCC declined to define the precise scope of the phrase "competing provider of telephone exchange service" (SBC Order at par. 14), it suggested the following criteria are appropriate to a determination of whether an actual commercial alternative exists as contemplated under the Act:

(1) Whether the competitor is providing exchange services to residential and business customers pursuant to an agreement approved under Section 252;

(2) The nature and size of the presence of the competing provider;

(3) Whether an actual competitor exists, i.e. whether the competitor has implemented the agreement and is operational versus whether the competitor has only paper commitments to provide service;

(4) Whether the competitor is functioning in the market as opposed to merely providing services on a test or promotional basis;

(5) Whether the competitor has an effective tariff or price list on file with the Commission by which it presently bills customers, i.e., whether billing systems are fully functional;

(6) Whether the competitor provide and offers services to the public at large as opposed to a select group of company employees; and

(7) The scope and nature of any marketing activity.

(SBC Order at pars. 13-22). FCTA's Witness Dr. Pacey concurs that these are appropriate and objective economic criteria. (Pacey, Tr. 2016-17).

Applying the above criteria, the record overwhelmingly reflects the lack of actual residential competition from MediaOne. First, MediaOne's agreement was negotiated pursuant to state law rather than Section 252. (Varner, Tr. 292; Hearing Exhibit No. 9 at p.2). There is no Commission order approving it pursuant to Section 252. (Id.) Moreover, the MediaOne agreement does not address all of the 14 checklist items (Hearing Exhibit No. 9 at p. 5; Varner, Tr. 293).

Second, the nature and size of MediaOne's alleged residential offering is infinitesimal in nature. BellSouth has presented no concrete evidence of any activity outside of one MDU. (Varner, Tr. 294).

Third, as to whether the MediaOne agreement has been fully implemented, the record reflects that it is not implemented as to all 14 checklist items. (Varner, Tr. 293; Hearing Exhibit No. 86). Moreover, MediaOne is experiencing delays in provisioning of interim number portability and interconnection trunks, and BellSouth has failed to provide nondiscriminatory access to numbering resources. (Hearing Exhibit No. 86 and attachments).

Fourth, with respect to whether MediaOne is operational, MediaOne has only offered service for a few months to less than 30 customers. Total local service billings are $0 per month. (Id.). Clearly, subscribers are not paying a fee for local service. There is no evidence as to whether MediaOne's offering is a test or a promotional or whether MediaOne intends to expand its "customer" base.

Fifth, BellSouth presented no evidence of an effective tariff for residential service and could only speculate as to whether MediaOne's billing systems are operational. (Varner, Tr. 295-6).

Sixth, BellSouth presented no evidence concerning the extent of MediaOne's marketing activity or intentions to expand service beyond one MDU. Perhaps the most revealing evidence of MediaOne's lack of market presence is BellSouth's refusal to compete with MediaOne by lowering BellSouth prices to consumers in the same MDU or by taking specific steps to increase service quality. (Varner, Tr. 293-294). Indeed, those are the intended benefits of competition and the indicia of meaningful choice that economists look to. (Pacey, Tr. 2517). In this case, BellSouth's actions (or lack thereof) speak louder than words.

Based on the foregoing, the Commission must conclude that the record provides no basis for a finding that MediaOne is providing residential competition to BellSouth in accordance with Section 271 (c)(1)(A). BellSouth has failed to demonstrate that an operational residential competitor exists.

ISSUE 1.B: Has BellSouth met the requirements of section 271(c)(1)(B) of the Telecommunications Act of 1996?

(a) Has an unaffiliated competing provider of telephone exchange service requested access and interconnection with BellSouth?

(b) Has a statement of terms and conditions that BellSouth generally offers to provide access and interconnection been approved or permitted to take effect under Section 252(f)?

FCTA POSITION: (a) *No. BellSouth has received requests for access and interconnection. Therefore, Track B is not available.*

DISCUSSION: Because several ALECs have made timely requests for interconnection agreements, the Act forecloses BellSouth from relying upon Track B. As previously stated, Tracks A and B are mutually exclusive. Congress intended a narrow exception to Track A. This exception is only operative if, any time ten months after the date of enactment (i.e. December 8, 1996), no competitive provider "requested the access and interconnection described in [Track A] before the date which is 3 months before the date the company makes its application. 47 U.S.C. Section 271 (c)(1)(B). BellSouth concedes that it executed several interconnection agreements by this date. (See, e.g. Prehearing Order No. PSC-97-1007-PHO-TL at p. 24.)

To support its reliance upon Track B as a supplement to Track A, BellSouth fundamentally misstates the requirements of Section 271. BellSouth's construction of the Act effectively renders Track A a nullity. Instead of construing Track B as an exception which only applies in the absence of a timely request for interconnection from a competitor seeking to become a facilities-based

provider, BellSouth turns the law on its head. BellSouth construes the statute so that, after December 8, 1996, Track B could virtually always be applied unless a competitor who already qualifies as a predominantly facilities-based provider to business and residential subscribers receives or requests access and interconnection three months before BellSouth's application. This interpretation effectively nullifies Track A interconnection agreements as a means of stimulating local competition.

The Commission should reject BellSouth's interpretation of Section 271. Track B applies only where there is a "failure to request access." 47 U.S.C. §271 (c)(1)(B). Here, as BellSouth admits, there has been no failure to request access by a facilities-based competitor. The fact that MediaOne, nor any other ALEC with whom BellSouth has either negotiated or completed interconnection agreements, has yet to emerge as a facilities-based provider of business and residential service does not resurrect Track B. It simply means that BellSouth's application is premature until Congress' policy of using the BOC's long distance entry incentive to facilitate meaningful local competition has been accomplished.

BellSouth contends that this reading of the statute is somehow unfair, since it denies them control over the timetable for their entry into long distance. (Varner, Tr. 138). Congress, however, expressly considered and took into account this issue in fashioning Section 271. Not only does Section 271 specify that if, ten months after enactment, there is a failure to request access, a BOC can proceed under Track B, it also provides that an ALEC's failure to negotiate in good faith or comply with a timetable specified in an interconnection agreement will be treated as a failure to request access. 47 U.S.C. §271 (c)(1)(B). Thus, Congress specifically considered and addressed the circumstances under which delay by ALECs would unfairly delay BOC entry into long distance within their home markets.

Tellingly, BellSouth's construction of Section 271 would mean that obstructionist and delaying tactics by the BOCs in the course of interconnection agreements would carry no penalty, since Track B would become automatically available any time after December 8, 1996. If BellSouth's reading of the statute prevails, no BOC would have any incentive to enter into, or faithfully execute, meaningful interconnection agreements with local competitors -- an outcome directly at odds with the policy objective underlying Section 271 and the Act as a whole. This result would be especially problematic in Florida, since ALECs have presented substantial evidence that they have encountered resistance from BellSouth in connection with the effective implementation of interconnection agreements. Moreover, AT&T and Teleport have indicated that they acquiesced to suboptimal agreements due to time constraints and an expectation that a most-favored nation clause within its agreement would permit the companies to benefit from better terms subsequently negotiated by other competitors in Florida. (Kouroupas, Tr. 3484-85, 3494-95, 3526-27; Hamman, Tr. 2736-37, 2759, 2781, 2784; see also Stacy, Tr. 1584). If BellSouth's view prevails, however, there would be no incentive for BellSouth to negotiate better terms with any other competitor in the State.

FCTA POSITION: (b) *No. BellSouth's SGAT has not been approved or permitted to take effect under Section 252(f).*

DISCUSSION: BellSouth's SGAT has not been approved or permitted to take effect under Section 252(f). However, BellSouth's SGAT is not relevant where, as here, BellSouth has received requests for access and interconnection from potential providers of facilities-based residential and business customers. BellSouth must proceed under Track A.

ISSUE 1.C:

Can BellSouth meet the requirements of section 271(c)(1) through a combination of track A (Section 271(c)(1)(A)) and track B (Section 271(c)(1)(B)? If so, has BellSouth met all of the requirement of those sections?

FCTA POSITION: *No. Tracks A and B are mutually exclusive as previously discussed in the Basic Position and Issue 1A above.*

ISSUE 2: Has BellSouth provided interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(I) and applicable rules promulgated by the FCC?

FCTA POSITION: *No. BellSouth has failed to meet its burden of demonstrating compliance with the Act and FCC rules.*

ISSUE 3: Has BellSouth provided nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(ii) and applicable rules promulgated by the FCC?

FCTA POSITION: *No. BellSouth has failed to meet its burden of demonstrating compliance with the Act and FCC 's rules.*

ISSUE 3.A. Has BellSouth developed performance standards and measurements? If so, are they being met?

FCTA POSITION: *No. BellSouth has failed to develop adequate performance standards and measurements. AT&T standards are not finalized and not adequate for facilities-based competitors.*

ISSUE 4: Has BellSouth provided nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by BellSouth at just and reasonable rates in accordance with the requirements of section 224 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(iii) and applicable rules promulgated by the FCC?

FCTA POSITION: *No. BellSouth has failed to meet its burden of demonstrating compliance with the Act and FCC's rules.*

ISSUE 5: Has BellSouth unbundled the local loop transmission between the central office and the customer's premises from local switching or other services, pursuant to section 271(c)(2)(B)(iv) and applicable rules promulgated by the FCC?

FCTA POSITION: *No. BellSouth has not met its burden of demonstrating compliance with the Act or FCC rules. See, e.g. evidence presented in Hearing Exhibit No. 86, attachment A.*

ISSUE 6: Has BellSouth unbundled local transport on the trunk side of a wireline local exchange carrier switch from switching or other services, pursuant to section 271(c)(2)(B)(v) and applicable rules promulgated by the FCC?

FCTA POSITION: *No position.*

ISSUE 7: Has BellSouth provided unbundled local switching from transport, local loop transmission, or other services, pursuant to section 271(c)(2)(B)(vi) and applicable rules promulgated by the FCC?

FCTA POSITION: *No position.*

ISSUE 8: Has BellSouth provided nondiscriminatory access to the following, pursuant to section 271(c)(2)(B)(vii) and applicable rules promulgated by the FCC?

(a) 911 and E911 services;

(b) directory assistance services to allow the other telecommunications carrier's customers to obtain telephone numbers; and

(c) operator call completion services?

FCTA POSITION: *No. BellSouth has not met its burden of demonstrating compliance with the Act or FCC rules.*

ISSUE 9: Has BellSouth provided white pages directory listings for customers of other telecommunications carrier's telephone exchange service, pursuant to section 271(c)(2)(B)(viii) and applicable rules promulgated by the FCC?

FCTA POSITION: *No position.*

ISSUE 10: Has BellSouth provided nondiscriminatory access to telephone numbers for assignment to the other telecommunications carrier's telephone exchange service customers, pursuant to section 271(c)(2)(B)(ix) and applicable rules promulgated by the FCC?

FCTA POSITION: *No position.*

ISSUE 11: Has BellSouth provided nondiscriminatory access to databases and associated signaling necessary for call routing and completion, pursuant to section 271(c)(2)(B)(x) and applicable rules promulgated by the FCC?

FCTA POSITION: *No position.*

ISSUE 12: Has BellSouth provided number portability, pursuant to section 271(c)(2)(B)(xi) and applicable rules promulgated by the FCC?

FCTA POSITION: *No. BellSouth has not met its burden of demonstrating compliance with the Act and FCC rules. See, e.g. Hearing Exhibit No. 86 at 9.

ISSUE 13: Has BellSouth provided nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xii) and applicable rules promulgated by the FCC?

FCTA POSITION: *No position.*

ISSUE 14: Has BellSouth provided reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) of the Telecommunications Act of 1996, pursuant to section 271(c)(B)(xiii) and applicable rules promulgated by the FCC?

FCTA POSITION: *No position.*

ISSUE 15: Has BellSouth provided telecommunications services available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xiv) and applicable rules promulgated by the FCC?

(a) Has BellSouth developed performance standards and measurements? If so, are they being met?

FCTA POSITION: *No position.*

ISSUE 16: By what date does BellSouth propose to provide interLATA toll dialing parity throughout Florida pursuant to section 271(e)(2)(A) of the Telecommunications Act of 1996?

FCTA POSITION: *No position.*

ISSUE 17: If the answer to issues 2-15 is "yes", have those requirements been met in a single agreement or through a combination of agreements?

FCTA POSITION: *Not applicable.*

ISSUE 18: Should this docket be closed?

FCTA POSITION: *FCTA adopts the position of Time Warner AxS and Digital Media Partners.*

III. CONCLUSION

For the reasons stated, BellSouth's entry into the interLATA market is premature at this time.

Respectfully submitted,

Laura L. Wilson
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Florida Cable Telecommunications Association's Posthearing Brief has been furnished by U.S. mail to the following parties of record, this 23rd day of September, 1997.

Monica Barone
Florida Public Service Commission
2540 Shumard Oak Blvd.
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