

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re:

Petition for Arbitration of BlueStar Networks,
Inc. with BellSouth Telecommunications,
Inc. Pursuant to the Telecommunications
Act of 1996.

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Docket No. 991838-TP

Filed: February 14, 2000

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OF
CARTY HASSETT
ON BEHALF OF
BLUESTAR NETWORKS, INC.

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4 **CARTY HASSETT**

5 **ON BEHALF OF BLUESTAR NETWORKS, INC.**

6 **DOCKET NO. 991838-TP**

7 **I. INTRODUCTION**

8 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

9 A. My name is Carty Hassett. My business address is L & C Tower, 401 Church Street,
10 24th Floor, Nashville, Tennessee 37219. I am Vice President of Service Delivery for
11 BlueStar Networks, Inc. (BlueStar).

12 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

13 A. I am testifying on behalf of BlueStar.

14 **Q. HAVE YOU SUBMITTED TESTIMONY EARLIER IN THIS PROCEEDING?**

15 A. Yes. I submitted direct testimony.

16 **II. OVERVIEW**

17 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

18 A. The purpose of my rebuttal testimony is to respond to the direct testimony of
19 BellSouth on the following issues: Issue 3 (information for rejected loops), Issue 4
20 (when Issue 3 information should be provided), Issue 6 (real-time access to loop make-
21 up databases, etc.), Issue 9 (expedited repair procedures), and Issue 15 (need for
22 alternative dispute resolution).

1 Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.

2 A. 1. **Loop Make-Up Information**: BellSouth currently rejects numerous loop orders
3 BlueStar places for many reasons. BlueStar needs access to the information BellSouth
4 reviewed, whether manual or electronic, in rejecting a loop order so that BlueStar can
5 formulate appropriate responses to the rejections. Many of these rejections could
6 easily be avoided if BlueStar had access to the same loop make-up and qualification
7 information and databases that BellSouth and its affiliates have. In addition, BlueStar
8 could avoid many of the costs and delays of rejected loop orders if BlueStar had access
9 to on-line databases when they are made available. With this information, BlueStar can
10 review a loop's make-up and determine quickly whether that loop is adequate to serve
11 a BlueStar customer's needs. BellSouth should make loop make-up information
12 available immediately to BlueStar on a manual basis and should make on-line
13 databases available by June 5, 2000, which is more than a reasonable period of time.

14 2. **Expedited Repair Procedures**: BlueStar has customers whose businesses and
15 operations depend on access to data and their networks provided by BlueStar's
16 services. BlueStar believes that BellSouth should be able to provide for expedited
17 repairs in some instances for such customers. Indeed, BellSouth's own "operations
18 manual" contemplates expedited repairs for certain types of customers, such as
19 hospitals, and mentions that BellSouth and the ALEC can agree to other customers
20 eligible for expedited repairs. BlueStar wants a firm contractual commitment that
21 BellSouth will allow for expedited repairs, with appropriate payments, for a broader
22 group of customers.

1 BellSouth's Engineer Work Order ("EWO"). EWO stores data
2 required for Map Viewer to calculate the loop make-up.

3 BellSouth's testimony and interrogatory responses also clarify that BellSouth
4 sometimes reviews paper records, such as loop plats, to decide whether a requested
5 loop type is available.

6 **Q. WHAT TYPE OF INFORMATION DOES BLUESTAR NEED BELLSOUTH**
7 **TO PROVIDE WHEN BELLSOUTH REJECTS A LOOP ORDER?**

8 A. BlueStar needs access to what BellSouth reviews, regardless of whether it is an
9 electronic database or paper copies of loop plats. BlueStar wants to see what
10 BellSouth sees when it makes a loop qualification decision. When BellSouth rejects
11 a BlueStar loop order, it often provides BlueStar with inadequate information or poor
12 details to explain why a loop order was rejected. For example, BellSouth will make
13 statements such as "too long" or "no facilities" without indicating if any other facilities
14 are available that might meet BlueStar's needs or how existing facilities with
15 modification can provide service. BlueStar needs access to the information BellSouth
16 uses to reject a loop order so that BlueStar can make appropriate arrangements to serve
17 a customer's needs in a timely fashion. Until BellSouth develops electronic interfaces
18 to its databases, BlueStar wants BellSouth to provide copies of the information that
19 BellSouth reviewed in rejecting a BlueStar loop order. Specifically, BlueStar wants
20 BellSouth to provide printouts of the information in the databases that BellSouth
21 reviewed to reject the request. In addition, BlueStar wants a copy of the loop plats
22 reviewed or other paper records used by BellSouth to reject the request. Clearly, this

1 is the type of information that is available to and used by BellSouth and its affiliates
2 when it determines whether it can serve a customer with DSL services. That same
3 type of information should be made available to BlueStar and should be provided
4 within the three to five day period BellSouth has offered as a best efforts commitment
5 on service inquiries.

6 **IV. ON-LINE ACCESS**

7 **Q. WHAT TYPE OF ON-LINE INFORMATION DOES BELLSOUTH HAVE**
8 **CONCERNING LOOP MAKE-UP?**

9 A. BellSouth, in Mr. Pate's testimony and in its interrogatory responses admitted that it
10 has access to a number of loop make-up databases, such as the Loop Facility
11 Assignment Control System (LFACS), which is used to determine if an unbundled
12 loop is qualified for DSL; Map Viewer, which is used when the loop make-up
13 information does not appear in LFACS; and the Loop Qualification System (LQS), a
14 mechanized loop qualification system that indicates whether a loop is qualified for
15 ADSL. BellSouth may have access to a number of other databases that BlueStar is
16 unaware of which would provide additional valuable loop make-up information.

17 **Q. WHAT TYPE OF ON-LINE ACCESS TO LOOP MAKE-UP INFORMATION**
18 **DOES BLUESTAR NEED?**

19 A. To provide a level playing field, BlueStar must have on-line access to these same
20 databases as BellSouth and its affiliates. Without this access, BlueStar is placed at a
21 severe competitive disadvantage in comparison with BellSouth. It cannot select loops
22 as quickly, efficiently, or accurately as BellSouth or its affiliates who have access to

1 these databases. BlueStar needs on-line, electronically bonded access to the following
2 databases listed in the interrogatory answers and BellSouth's testimony: LFACS, Map
3 Viewer, and LQS. BlueStar also needs a precise list of the databases that contain loop
4 make-up information and a description of those databases. BlueStar will then be in a
5 more suitable position to decide which other databases, if any, provide necessary and
6 valuable loop make-up information and seek electronic access to them. In addition,
7 BlueStar believes it should receive access, without a separate wholesale contract as
8 BellSouth requires, to the LQS. There is no reason why BlueStar needs another
9 contract in addition to its interconnection agreement to gain access to LQS. This loop
10 qualification information should be made available to BlueStar and other ALECs so
11 they can have a fair chance to compete with BellSouth.

12 Finally, the LQS database should be revised so that it can be searched based
13 on circuit IDs and not based solely on telephone numbers. BellSouth told BlueStar
14 that LQS currently can only be searched based on telephone numbers associated with
15 a loop. Consequently, LQS can only search loops currently being used for voice
16 service. This results in a limited search that leaves out a large number of loops that are
17 dedicated to data only or that are not in use that could potentially be used by BlueStar
18 or other ALECs. In other words, if LQS searched a broader universe of loops than just
19 loops currently being used by voice, than many loop rejections and delays could be
20 avoided or at least reduced. Updating the database to allow searches without telephone
21 numbers would provide ALECs a broader selection of loops. In addition, allowing this
22 database to be searched without telephone numbers will benefit both BellSouth (it

1 would have to deal with less paperwork, search time, and disputes) and ALECs.
2 BlueStar believes that on-line access to the various electronic databases should be
3 made available by June 5, 2000. This is a reasonable amount of time for BellSouth to
4 make its databases accessible to the ALECs. In the interim, BlueStar should have
5 manual access to loop make-up information.

6 **V. EXPEDITED REPAIRS**

7 **Q. WHAT IS BELL SOUTH'S RESPONSE TO BLUESTAR'S REQUEST FOR** 8 **EXPEDITED REPAIR PROCEDURES?**

9 A. BellSouth's testimony recognizes the need for some customers to have their lines
10 repaired more rapidly than others. For example, the Operational Understanding
11 Between BellSouth Maintenance Centers and CLEC Maintenance Centers referenced
12 by BellSouth provides for expedited repairs for some types of emergency customers,
13 such as hospitals. Similarly, as Mr. Milner states in his testimony, "other factors, such
14 as the use to which the service or UNE is being put, are also considered" when
15 determining repair priorities.

16 As a general matter, BlueStar does not disagree with this approach. What
17 BlueStar seeks, however, is a commitment from BellSouth that other customers who
18 need constant telecommunications access be allowed to receive expedited repairs. For
19 example, BlueStar believes that a two-hour interval is appropriate for a broader group
20 of customers, such as financial firms and others who need 24-hour instant access to
21 data. Clearly, such customers would not take precedence over a hospital or a fire
22 station. Nor would they interfere with a disaster scenario. However, because a

1 brokerage house's entire business depends on access to the stock exchange during
2 trading hours, it would be appropriate to request an expedited repair for such a
3 customer. BlueStar wants a contractual commitment to expedite repairs for certain
4 customers or groups of customers rather than rely on a suggestion to trust BellSouth
5 and its manual.

6 **Q. HOW WILL BELLSOUTH KNOW WHICH BLUESTAR CUSTOMERS NEED**
7 **EXPEDITED REPAIRS?**

8 A. BellSouth appears to claim that it cannot expedite repairs for an ALEC's customers
9 because BellSouth does not know who those customers are. BlueStar is not going to
10 leave BellSouth guessing. BlueStar will simply request that certain customers receive
11 expedited treatment, either in advance of an outage or during the outage.

12 **Q. WOULD BLUESTAR BE WILLING TO PAY A FEE FOR EXPEDITED**
13 **REPAIRS?**

14 A. Yes. BlueStar would pay a reasonable fee for an expedited repair.

15 **VI. ALTERNATIVE DISPUTE RESOLUTION**

16 **Q. WHAT IS BLUESTAR'S POSITION ON ALTERNATIVE DISPUTE**
17 **RESOLUTION?**

18 A. BlueStar believes there is a critical need for an expedited dispute resolution process.
19 BellSouth has no real incentive to resolve any disputes with BlueStar, whether it
20 concerns collocation, delayed orders, or repairs. In fact, because BellSouth suffers no
21 consequences for delays and other failures, such disputes clearly work to its business
22 advantage. BlueStar's business and reputation suffer while BellSouth continues to

1 operate free of harm and free from paying damages to its competitors for its conduct.
2 It is becoming more and more clear that expedited dispute resolution is a key issue for
3 the future of true competition in this industry.

4 **Q. PLEASE DESCRIBE BELL SOUTH'S RESPONSE TO BLUE STAR'S**
5 **PROPOSAL FOR EXPEDITED DISPUTE RESOLUTION.**

6 A. BellSouth's testimony underscores the need for expedited dispute resolution. Even
7 under the best circumstances and with the full expertise and efforts of the Commission
8 and the Staff, current procedures just do not allow ALECs to resolve disputes quickly
9 enough to justify filing a complaint with the Commission. For example, BlueStar had
10 a collocation dispute with BellSouth in Jacksonville, where we filed our collocation
11 applications in May 1999, that delayed BlueStar's ability to serve certain customers.
12 It is my understanding that BlueStar filed a complaint with the Commission on
13 September 17, 1999 and that a hearing date was set for April 21, 2000 -- some 6
14 months later. In the fast-paced world of telecommunications, such a timeline is
15 unworkable, and provides no incentive for BellSouth to work with an ALEC on a just
16 and speedy resolution of a problem. Thus, a more expeditious process is necessary.

17 BellSouth's testimony and statements also indicate that no matter how fair,
18 ordinary or justified an ALEC's complaint, BellSouth does not want to resolve
19 anything rapidly. Rather than use an expedited private dispute resolution process,
20 BellSouth would rather insist on using large complex processes to delay everything.
21 First, it is my understanding that BellSouth has argued that the Commission has no
22 authority to use private arbitrators, though, of course, the parties could agree to do so.

1 It is also my understanding that BellSouth has interconnection agreements containing
2 private dispute resolution provisions. In response to BellSouth's concern about private
3 arbitrators, BlueStar proposed an alternative approach -- similar to an expedited
4 complaint procedure, such as the one that I understand has been proposed by the
5 Commission to resolve consumer complaints. BellSouth now argues in the testimony
6 of Mr. Varner that this proposed procedure to resolve consumer complaints rapidly
7 does not meet the needs of complex interconnection problems. In addition, BellSouth
8 claims that using the Commission Staff to resolve such disputes expeditiously would
9 consume the Commission Staff's time. To the contrary, BlueStar suggests an
10 expedited process would result in less Staff time than is involved in a lengthy
11 complaint process.

12 But the point is, no matter what expedited process BlueStar suggests, BellSouth
13 rejects it. To summarize, BellSouth first says we cannot use private arbitrators
14 because there is no authority for such a procedure (and, besides, BellSouth claims that
15 commercial arbitrators cannot understand such complex telecommunications disputes,
16 even though most disputes are simply matters of enforcing contract provisions). Then,
17 when BlueStar proposes using an expedited Commission procedure, BellSouth states
18 that process is unsuitable for complex disputes between telecommunications carriers
19 and would burden the Commission. It appears that the bottom line is that BellSouth
20 will oppose any process that expedites dispute resolution and that gives competitors,
21 such as BlueStar, an opportunity to level the competitive playing field by quickly
22 resolving disputes.

1 **Q. HAVE THERE BEEN ANY RECENT EXAMPLES OF BELL SOUTH**
2 **CONDUCT THAT INTERFERES WITH BLUE STAR'S PROVISIONING OF**
3 **SERVICE AND WHICH WOULD BENEFIT FROM AN EXPEDITED**
4 **DISPUTE RESOLUTION PROCESS?**

5 A. Yes. BellSouth continues to act in ways that may eventually require the action of a
6 state commission, but that would clearly benefit from an expedited dispute resolution
7 procedure. Just recently, BellSouth refused to fill more than fifteen orders in Kentucky
8 because the loops requested were allegedly too long. On a number of the rejections,
9 BellSouth claimed that BlueStar had not signed a proposed amendment to the contract
10 that allowed BlueStar to order and provide long UCLs, even though it is my
11 understanding that BellSouth admitted that the issue was resolved. On one order,
12 BellSouth denied a request, claiming that the loop to the customer was too long to
13 provide DSL service. This claim was completely fictitious considering that the
14 customer was already receiving BellSouth's ADSL service. This is not an isolated
15 incident. I mention these recent Kentucky incidents because the process for ordering
16 loops in Florida is the same as the Kentucky process, and these orders are reviewed by
17 the same BellSouth center. These are just typical examples of the disputes occurring
18 throughout the BellSouth region. BlueStar has not placed as many loop orders in
19 Florida because of the collocation delays, such as the one I mentioned above. Thus,
20 the lack of a mechanism to quickly resolve problems is interfering with local market
21 entry in Florida.

22 The bottom line is this: regardless of whether it is private or through the

1 Commission or some other mechanism, this Commission needs to devise a process for
2 expedited dispute resolution and include it in the interconnection contract so that
3 BellSouth stops delaying and interfering with BlueStar's business activity.

4 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

5 A. Yes.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Rebuttal Testimony of Carty Hassett on behalf of BlueStar Networks, Inc. has been furnished by (*) hand delivery this 14th day of February, 2000, to the following:

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