Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of	)	
	)	
BellSouth Telecommunications, Inc.	)	WC Docket No. 02-304
Tariff FCC No. 1, Transmittal No. 657	)	
	)	
	)	
	)	

ORDER

Adopted: September 18, 2002 **Released: September 18, 2002**

Direct Case Due by: October 10, 2002
Oppositions to Direct Case Due by: October 24, 2002
Rebuttal Due by: October 31, 2002

By the Chief, Pricing Policy Division:

I. INTRODUCTION

1. In this order, we designate for investigation, pursuant to sections 204 and 205 of the Communications Act of 1934, as amended (the Act),[1] certain issues regarding the rates, terms, and conditions in tariff Transmittal No. 657 that BellSouth Telecommunications, Inc., (BellSouth) filed to become effective August 3, 2002.[2] We suspended Transmittal 657 for five months on August 2, 2002, and initiated this investigation.[3] As discussed below, we designate issues relating to BellSouth's provisions for security deposits contained in tariff Transmittal No. 657 for investigation to ensure that the proposed tariff provisions are not unjust, unreasonable, or unreasonably discriminatory in violation of sections 201 and 202 of the Act.[4]

II. BACKGROUND

2. A brief overview of the Commission's policies concerning security deposits and treatment of uncollectibles would be useful to the discussion of the issues presented by the present tariff revisions. Existing incumbent local exchange carrier (LEC) interstate access tariffs contain protections for uncollectibles. In 1984, the Commission rejected incumbent LECs'

1 47 U.S.C. §§ 204 and 205.

2 BellSouth Telecommunications, Inc., Tariff FCC No. 1, Transmittal No. 657 (July 19, 2002).

3 *BellSouth Telecommunications, Inc.*, Tariff FCC No. 1, Transmittal No. 657, Order, DA 02-1886 (released Aug. 2, 2002).

4 47 U.S.C. §§ 201 and 202.

proposed security deposit tariff language and instead permitted dominant LECs to require security deposits from: (1) those carriers that have a proven history of late payments to the LEC; and (2) those carriers that have no established credit.[5] These provisions since have become a standard term in interstate access tariffs.[6] In 1987, the Commission addressed a BellSouth proposal to reduce the notice it must give to terminate service for nonpayment to 15 days from 30 days. The Commission allowed a 15-day notice period only if the customer received its bill within three days after the billing date.[7]

3. The Commission's ratemaking policies for incumbent LECs also account for interstate uncollectibles and provide for their recovery through interstate access charges. As a price cap carrier, BellSouth's rates at the time it entered price caps included a factor reflecting wholesale uncollectibles.[8] Under price caps, the permitted price indexes are annually adjusted for changes in general economic conditions as reflected in the GDP-PI inflation index.[9] Price cap carriers experiencing a rise in uncollectibles resulting in interstate rates of return below 10.25% may, if eligible, seek a low-end adjustment, permitting the carrier to target a 10.25% rate of return.[10] Price cap carriers that are not eligible for a low-end adjustment because they have exercised pricing flexibility retain the right to demonstrate that earnings are low enough to warrant an above cap filing, or to seek an exogenous cost change, either of which would allow them to charge rates that exceed the current price caps.[11]

4. BellSouth's existing interstate access tariff requires only "a customer which has a proven history of late payments to the Telephone Company or does not have established credit to make a deposit prior to or at any time after the provision of a service to the customer."[12] The existing tariff further provides that a deposit "will be refunded or credited to the customer's account when the customer has established credit or, in any event, after the customer has established a one-year prompt payment record at any time prior to the termination of the provision of the service to the customer."[13]

5. The tariff revisions proposed in Transmittal No. 657 would allow BellSouth to require security deposits not only from an existing customer that has a proven history of late payments, but from an existing customer "if that existing Customer's credit worthiness decreases

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5 *Investigation of Access and Divestiture Related Tariffs*, Phase I Order, CC Docket No. 83-1145, 97 FCC 2d 1082, 1169 (1984).

6 In general, existing tariffs also provide that deposits may not exceed the actual or estimated rates and charges for service for a two-month period.

7 *Annual 1987 Access Tariff Filings,* Memorandum Opinion and Order, 2 FCC Rcd 280, 304-05. BellSouth apparently never implemented this provision.

8 For rate-of-return carriers, uncollectibles are reflected in the rate base that they use to calculate the 11.25% allowed rate of return. An increase in uncollectibles will result in higher rates the following year. Upon a proper showing of an extraordinary rise in uncollectibles, rate-of-return carriers may file mid-term corrections to raise their rates to target an 11.25% rate of return. *See* 47 C.F.R. § 69.3(b).

9 47.C.F.R. § 61.45(b).

10 47 C.F.R. § 61.45(d)(1)(vii).

11 47 C.F.R. § 61.45(d).

12 BellSouth Telecommunications, Inc., Tariff FCC No. 1, section 2.4.1(A).

13 BellSouth Telecommunications, Inc., Tariff FCC No. 1, section 2.4.1(A).

to a commercially significant extent as compared to the level of credit worthiness determined by BellSouth when that Customer's service was established."[14] Further, the revision would allow BellSouth to require a security deposit from an existing customer if the customer's gross monthly billing has increased as compared to the billing level used to determine the initial security deposit.[15] The revision would also allow BellSouth to require a security deposit from a new customer not only if the new customer lacks established credit, but also based on BellSouth's review of the new customer's credit worthiness.[16] The revision states that BellSouth will use a "commercially acceptable credit scoring tool applied in a commercially reasonable manner to determine a Customer's credit worthiness."[17] Finally, the revision outlines a procedure to resolve disputes regarding deposits, and provides that deposits will be refunded only on written request and if the customer is credit worthy.[18]

6. As justification for this revision, BellSouth states that its uncollectible bills due to bad debt increased by more than 200 percent during the year 2001, as compared to the year 2000, and that the potential for bad debts continues to rise in 2002. Thus, according to BellSouth, the revision is necessary to safeguard its interests.[19] On July 26, 2002, AT&T Corp. (AT&T); Sprint Communications Company, L.P. (Sprint); WorldCom, Inc. (WorldCom); US LEC Corp. (US LEC); and ITC^DeltaCom Communications, Inc., KMC Telecom Holdings, Inc., NewSouth Communications Corp., NuVox Communications, Inc., and XO Communications, Inc. filed petitions to reject, or, in the alternative, to suspend and investigate BellSouth's tariff.[20] BellSouth filed its reply on August 1, 2002.[21]

III. ISSUES DESIGNATED FOR INVESTIGATION

A. Basis for Requiring a Deposit from a Customer

1. Background

7. Under its proposed revisions, BellSouth could require a security deposit from a new customer: (1) based on its review of the customer's credit worthiness; (2) if the customer has a

[14] Tariff FCC No. 1, Second Revised Page 2-21.1, section 2.4.1(A).

[15] *Id.*

[16] *Id.* at Sixth Revised Page 2-21, section 2.4.1(A).

[17] *Id.*

[18] *Id.* at Original Page 2-21.2, section 2.4.1(A).

[19] BellSouth Telecommunications, Inc., Tariff FCC No. 1, Transmittal No. 657, Description and Justification at 2.

[20] BellSouth Telecommunications, Inc., Tariff FCC No. 1, Transmittal No. 657, Petition of AT&T Corp. (July 26, 2002) (*AT&T Petition*); Petition of Sprint to Reject or Alternatively Suspend and Investigate (July 26, 2002) (*Sprint Petition*); WorldCom Petition to Reject or, in the Alternative, Suspend and Investigate (July 26, 2002) (*WorldCom Petition*); Petition to Reject or Suspend and Investigate Proposed Tariff Revisions (July 26, 2002) (*US LEC Petition*); and Petition to Reject or, Alternatively, to Suspend and Investigate of ITC^DeltaCom Communications, Inc., KMC Telecom Holdings, Inc., NewSouth Communications Corp., NuVox Communications, Inc., and XO Communications, Inc. (July 26, 2002) (*Joint Petition*).

[21] BellSouth Telecommunications, Inc., Tariff FCC No. 1, Transmittal No. 657, Reply (Aug. 1, 2002).

proven history of late payments on undisputed charges to BellSouth; or (3) if the customer does not have established credit.[22] BellSouth states that it will "use a commercially acceptable credit scoring tool applied in a commercially reasonable manner to determine a Customer's credit worthiness."[23]

8. The revisions in Transmittal No. 657 would also permit BellSouth to require a security deposit from an existing customer "if that existing Customer's credit worthiness decreases to a commercially significant extent as compared to the level of credit worthiness determined by BellSouth when that Customer's service was established. In addition, if that Customer's credit worthiness is still determined by BellSouth to be at a level that requires a security deposit, BellSouth reserves the right to require an additional deposit from an existing Customer whose gross monthly billing has increased as compared to the billing level used to determine the initial security deposit. In any case, such deposits collected will not exceed in total the rates and charges for two months of the Customer's estimated billing for service(s), calculated by using an average of the most recent three (3) months of undisputed charges."[24]

9. Several carriers petitioned against the BellSouth Transmittal No. 657.[25] These parties allege that the tariff revisions: (1) are unjust and unreasonable in violation of section 201(b) of the Act;[26] (2) are vague and ambiguous in violation of sections 61.2 and 61.54 of the Commission's rules;[27] (3) permit BellSouth too much discretion in determining whether a customer is credit worthy;[28] and (4) have the potential to be anticompetitive because BellSouth could impose unnecessary and burdensome credit requirements on its carrier customers that are also its competitors.[29] US LEC states that a requirement for two months' cash deposit by all network providers could trigger bank covenants jeopardizing a competitive LEC's financial stability.[30] Some parties suggest that alternatives exist, such as improved billing practices by BellSouth and advanced payment plans that would cover the allegedly at risk period.[31]

2. Discussion

10. The initial issue designated for investigation is whether the revised security deposit provisions applicable to interstate access customers, both new and existing, are reasonable and

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22 Tariff FCC No. 1, Second Revised Page 2-21.1, section 2.4.1(A).

23 *Id.*

24 Tariff FCC No. 1, Second Revised Page 2-21.1, section 2.4.1(A).

25 AT&T and WorldCom allege that BellSouth's tariff filing violates a Commission prescription from 1984. *See supra*, note 5; AT&T Petition at 2-4; WorldCom Petition at 2-4. Even if these parties are correct, a tariff investigation is a valid means of reviewing a Commission prescription. *Pacific Northwest Bell Telephone Company*, Revisions to Tariff FCC No. 9, Transmittal No. 159, Memorandum Opinion and Order, (released Oct. 11, 1985).

26 47 U.S.C. § 201(b).

27 47 C.F.R. §§ 61.2, 61.54. *See, e.g.*, WorldCom Petition at 2-3, 8-13, 4-8; AT&T Petition at 2-3, 6-9; Joint Petition at 9-12.

28 *See, e.g.*, US LEC Petition at 2-3.

29 *See, e.g.*, Sprint Petition at 4-5; WorldCom Petition at 10.

30 US LEC Petition at 6.

31 US LEC Petition at 6-7.

not so vague as to permit BellSouth to discriminate unreasonably among its interstate access customers, whether they be interexchange carriers, competitive LECs, or business end-user subscribers. The interstate access market has two distinct characteristics -- BellSouth must provide access services to IXCs and competitive LECs requesting such service, and those carriers must use BellSouth's access services to originate or terminate many of their interstate calls. The proposed revisions to the security deposit terms significantly alter the balance between BellSouth and its interstate access customers with respect to the risks of nonpayment of interstate access bills that was struck in the early 1980s when access charges were instituted. The revisions raise the question whether circumstances have changed so as to warrant the imposition of additional security deposits. The tariff also raises concerns about whether the tariff language clearly and unambiguously sets forth a standard that can be objectively administered in a nondiscriminatory manner. We therefore direct BellSouth to respond to the matters discussed below and provide the requested information in its direct case. Nonetheless, BellSouth may, as part of its direct case, seek to justify its expansion of the instances in which security deposits may be required of interstate access customers.

11. As part of its direct case, BellSouth shall explain why it believes its rates under price caps do not adequately compensate it for the risk of uncollectibles. BellSouth's rates include a revenue requirement component for uncollectible debts that is based on the amount of uncollectibles permitted as an interstate revenue requirement at the time BellSouth became subject to price cap regulation. BellSouth is directed to submit the level of uncollectible debts from interstate access services for the years 1990 to the present and indicate the level of uncollectibles that was included in its initial price cap rates. It shall then address whether the variation in uncollectible levels for 2000 and 2001 is merely a normal fluctuation in uncollectibles, which would be covered by the business risks anticipated to be endogenous to price caps, or whether it reflects some long term trend that warrants expanded security deposits from customers meeting BellSouth's proposed standards. BellSouth shall provide the Commission with the total amount uncollected by year from January 2000 to July 31, 2002. BellSouth shall also provide the totals of each of the individual defaults grouped into the following ranges: less than $250,000; $250,001-$500,000; $500,001-$1,000,000; $1,000,000-$5,000,000; and more than $5,000,000. For each range, BellSouth shall indicate the number of defaulting entities. BellSouth shall also indicate the total dollar amount of security deposits it holds that are attributable to interstate access services and the percentage relationship of that amount to average monthly interstate access billings. The changes in the security deposit provisions of BellSouth's interstate access tariff would increase customer-supplied funding as well as reduce BellSouth's exposure to defaults. BellSouth should accordingly address what modifications should be made to its price cap indexes and service band indexes to account for these changes to the capital and risk parameters of price caps.

12. To assist the Commission in understanding the increase in the level of uncollectibles, BellSouth should describe its billing and collection procedures and explain any changes in its billing and collection procedures or the accounting treatment of disputed amounts on bills within the past two years that could have affected the levels of uncollectibles. BellSouth shall indicate the average length of time from the bill date until the bill is sent to the carrier customer and what percentage of those bills, by number of entities and by billed amount, is sent electronically. In addition, BellSouth shall provide the Commission with the number of customers that have been sent non-payment, discontinuance of service, or refusal of new orders letters in the past year and the average length of time from a bill's being delinquent until the letter was sent. To provide

information on possible changes in customer behavior, BellSouth shall provide the Commission with the percent of carrier bills disputed, the percent of carrier-billed revenues disputed, and the percentage of the disputed amounts that were successfully disputed by the carrier for billing periods beginning with January 2000 to the present. BellSouth should also indicate if it deducts disputed amounts from amounts billed for purposes of determining whether a carrier has complied with a deadline.

13. BellSouth shall indicate which services in its interstate access tariff, including the subscriber line charge and other common line services, are billed in advance and those that are billed in arrears. It shall indicate the percentage of interstate billings that are billed in advance, how this level has changed over the past five years, and how this change has affected the risk BellSouth faces. In this connection, BellSouth should discuss whether different security deposit provisions should apply depending upon whether the service is billed in advance or billed in arrears. BellSouth shall also discuss the extent to which it has a debtor relationship with its customers and how that may affect BellSouth's credit risk. BellSouth should indicate the amount of unpaid bills of defaulting customers that have gone into bankruptcy since January 2000 and the percentage of that amount that it has recovered through bankruptcy proceedings.

14. If BellSouth believes that the risk of uncollectible debts has increased permanently, it should explain what accounts for this change, *e.g.*, the general economic climate or some structural change in the market. If the change is a structural one, are there methods other than the BellSouth proposal that would adequately address this additional risk, *e.g.*, is there a subset of carriers that can be identified that are the major cause of the increased risk? Alternatively, is there some means of accelerated billing that could, if there were a nonpayment, trigger the existing security deposit provisions and thus offer some additional protection to BellSouth? BellSouth should also discuss any other steps, other than requiring additional security deposits, it might take to mitigate the risk. For example, could it adopt some form of advance payment for services currently billed in arrears and, if so, what modifications to its tariff and billing programs would be necessary? How difficult would such changes be to implement? BellSouth's tariff revisions increasing the security deposits would impose additional costs on carriers that are also BellSouth's competitors at a time when access to capital markets is extremely limited. This could adversely affect the competitiveness of telecommunications markets. Thus, if some measures are necessary, an approach that has the fewest adverse effects on the competitive market while protecting BellSouth's interests would be preferred.

15. BellSouth's proposed security deposit revisions also raise questions about whether they are sufficiently clear and unambiguous to preclude discriminatory or anticompetitive application. Section 61.54(j) of the Commission's rules provides that "[t]he general rules (including definitions), regulations, exceptions, and conditions which govern the tariff must be stated clearly and definitely."[32] BellSouth's proposed tariff revisions provide that it shall judge credit based on a "commercially acceptable scoring tool applied in a commercially reasonable manner." The tariff indicates that the credit scoring tool may consider "number of years in business; management history; liens, suits and judgments; payment history with third parties; payment history with BellSouth (on undisputed amounts); publicly available information."[33] The

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[32] 47 C.F.R. § 61.54(j).

[33] Tariff FCC No. 1, Sixth Revised Page 2-21, section 2.4.1(A).

tariff also provides that BellSouth "will use a commercially acceptable financial scoring tool applied in a commercially reasonable manner to consider financial data evidencing the degree of financial stability including, but not limited to, debt ratings, debt performance, net worth, cash flow, debt/net worth, profitability and financial statements, if available."[34] BellSouth has not shown that these factors are valid predictors of the likelihood of a customer paying its access bill, or that they are better predictors of whether a customer will pay its bills in the future than the customer's past payment history. As part of its direct case, BellSouth shall explain how each of these factors is a valid predictor of whether the carrier will pay its interstate access bill. BellSouth shall also explain how such varied data can be applied in a manner that will not produce arbitrary and/or discriminatory results. This is especially important because in most cases the entity upon which BellSouth would impose the security deposit would also be a competitor of BellSouth itself, or of its long-distance affiliate. In this connection, BellSouth shall provide the Commission with information concerning the security deposits that it has required of any of its long-distance affiliates. BellSouth shall also indicate how those affiliates would score under its proposed credit-rating procedures and what actions BellSouth would take in response to that rating. BellSouth shall also indicate how it would score under its credit-rating methodology. We note that most of these criteria relate to ratings for carriers and large businesses. BellSouth should discuss its intentions, if any, with respect to residential end users.

16. BellSouth shall provide the Commission with data on the payment characteristics of defaulting interstate access customers during the year prior to the time the account was 90 days overdue. BellSouth shall present the data in terms that will enable the Commission to identify patterns that may exist in a customer's payment practices prior to default that may permit alternatives to security deposits to be identified and evaluated. BellSouth shall also explain why the factors it intends to examine are better indicators of the probability of timely payment by an existing customer than is a customer's previous payment record with BellSouth. In addition, BellSouth shall explain the differences between the evaluative criteria it intends to apply to existing customers and those applied to new customers for judging credit worthiness and the rationale for those differences.

17. Finally, we ask BellSouth to provide data, to the extent available, on the level of uncollectibles of other regulated utilities, or in the broader marketplace. It should also discuss the means those businesses use to address the risks of default, especially how they manage bad credit risks while continuing to provide goods or services to the customer.

B. Refund of Deposits

1. Background

18. The proposed tariff revision provides that, "at the Customer's written request, BellSouth shall refund Customer's security deposit(s) if BellSouth's review determines the Customer is now credit worthy. When conducting it's [*sic*] review to consider refund of security deposit(s), BellSouth will apply the same methodology it used to determine that a security deposit was required."[35]

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[34] *Id*.

[35] Tariff FCC No. 1, Second Revised Page 2-21.2, section 2.4.1(A).

19. The Joint Petitioners assert that the refund language is vague and ambiguous, and they argue that BellSouth should be required to refund a security deposit to any customer with a good payment record after twelve months.[36]

2. Discussion

20. The second issue designated for investigation is the reasonableness of the deposit refund provision. The refund provision requires a written request for a refund and ties the refund obligation to the initial analysis conducted to determine if a security deposit is required. We direct BellSouth to explain why it should not include provisions that provide it will periodically review the need for a security deposit and why it should not make refunds after timely payments had been received for twelve months. Furthermore, because somewhat less stringent standards appear to apply to new customers than apply to existing customers, BellSouth should explain why, at some predefined point, a new customer's credit worthiness determination should not be the same as that for an existing customer. Finally, we direct BellSouth to explain why the proposed refund provision is not vague and ambiguous for the same reasons identified for issue A, above. Nonetheless, BellSouth may, as part of its direct case, seek to justify the security deposit refund provisions in its proposed tariff revision.

C. Dispute Resolution

1. Background

21. BellSouth's proposed tariff revisions provide for arbitration of any disputes concerning the reasonableness of BellSouth's credit worthiness determinations. The proposed revisions state that the arbitration shall be on an expedited basis, with the losing party paying all the costs of arbitration.[37]

22. Several parties oppose the use of expedited arbitration procedures, claiming that the American Arbitration Association (AAA) rules generally disfavor such steps except in cases involving relatively small sums.[38] Parties also oppose the imposition of all the costs of the arbitration on the losing party, referring to AAA rules providing that costs should be split between the parties.[39]

2. Discussion

23. The third issue designated for investigation is whether the requirement that arbitrations be conducted on an expedited basis and the requirement that the losing party pay all the costs of arbitration are just and reasonable. These provisions are alleged to be inconsistent with the AAA rules and may have disproportionate effects on smaller customers. We direct BellSouth to respond to the matters discussed below and provide the requested information in its direct case. Nonetheless, BellSouth may, as part of its direct case, seek to justify the arbitration provisions in its proposed tariff revision.

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36 Joint Petition at 10.

37 Tariff FCC No. 1, Second Revised Page 2-21.2, section 2.4.1(A).

38 *See, e.g.*, WorldCom Petition at 12.

39 Joint Petition at 11-12 (citing AAA rule 52); WorldCom Petition at 12.

24. With respect to the expedited arbitration procedures, BellSouth is clearly interested in receiving a security deposit promptly once it determines that a deposit is warranted under the proposed credit worthiness standards and precluding a customer from delaying providing a deposit through an extended arbitration proceeding. As part of its direct case, BellSouth shall provide an explanation of the timing of and any procedural differences between expedited and regular arbitration proceedings. BellSouth shall also address the additional costs, if any, an expedited arbitration would impose and whether the expedited procedures will in any way adversely affect a customer's ability to present its case before an arbitrator.

25. The requirement that the losing party pay all the arbitration costs could significantly alter the balance between BellSouth and the customer. The potential high costs of paying all the costs of the arbitration could cause a small customer to forego arbitration. BellSouth shall explain why it believes that the losing party should pay the costs of arbitration despite the rules of the AAA, paying special attention to the chilling effects of such a requirement on smaller customers. BellSouth is directed to submit as part of its direct case an estimate of the costs it would incur and what the shared costs would be in an arbitration proceeding to resolve a credit worthiness determination. BellSouth should also discuss whether the possible costs of the arbitration might be excessive in relation to the size of the potential deposit. BellSouth should address in its direct case how its tariff language provides an unambiguous standard by which the arbitrator could render a decision and how the losing party would be determined if the arbitrator did not rule entirely in favor of one party.

D. Application of Revised Deposit Requirements to Term Plan Customers

1. Background

26. Several petitioners assert that BellSouth has not demonstrated substantial cause for a material change in a provision of a term plan, citing *RCA Communications, Inc.*[40] For example, US LEC states that the revisions fail the substantial cause test, under which the Commission measures the reasonableness of a tariff modification during a term plan by weighing two principal considerations: the carrier's explanation of the factors necessitating the desired changes at that particular time; and the position of the relying customer.[41] WorldCom asserts that BellSouth has not shown that it has experienced any material change in its business circumstances, much less a change that would constitute an injury to BellSouth that would outweigh the existing customers' legitimate expectations of stability.[42] Moreover, WorldCom states that the increase in uncollectibles is merely the normal effect of the business cycle, constituting only 1.4 percent of BellSouth's access revenues, and with only a negligible effect on BellSouth's financial performance, which produced an interstate return of 21.22 percent in 2001.[43]

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40 *RCA Communications, Inc., Revisions to FCC Tariff Nos. 1 and 2,* CC Docket No. 80-766, Transmittal Nos. 191 and 273, Memorandum Opinion and Order, 94 FCC 2d 1338 (1983); *see, e.g.*, Joint Petition at 8-9; US LEC Petition at 5-6; WorldCom Petition at 13-17.

41 US LEC Petition at 5-6.

42 WorldCom Petition at 16-17.

43 *Id.*

2. Discussion

27. The fourth issue designated for investigation is whether the imposition of revised security deposit provisions constitutes a material change to BellSouth's term contracts, and, if so, whether it is reasonable for BellSouth to apply the revised deposit provisions to term plans. If a carrier would have to provide a new or increased security deposit to BellSouth, its operating capital would be significantly reduced. This could affect other capital or loan commitments it had, potentially causing the carrier to need to restructure or terminate some services that would then trigger a termination penalty. This would be a serious destabilizing event in the competitive marketplace. We direct BellSouth to respond to the matters discussed below and provide the requested information in its direct case. Nonetheless, BellSouth may, as part of its direct case, seek to justify applying the revised security deposit provisions to term plans.

28. BellSouth shall explain in its direct case the reasons increased security deposits should be required of customers with existing term plans and how that is consistent with the Commission's decision in *RCA Communications, Inc.* This could have significant financial and competitive consequences for existing term plan customers that, in most cases, would also be competitors of BellSouth. BellSouth shall provide the Commission with data on the share of interstate access revenues that are received from services subject to term plans and, of that amount, what portion is attributable to services that are paid in advance. If the majority of term plans require prepayment, the risk to BellSouth would appear to be much less than if they were all paid in arrears. Moreover, we recognize that when customers' existing term plans expire BellSouth will be able to apply prevailing security deposit provisions to new plans taken by such carriers.

E. Requirement for Service Application for New Customers

1. Background

29. In Transmittal No. 657, BellSouth proposes that it "may . . . require a new customer to complete an application for service provided by the Company."[44]

2. Discussion

30. The fifth issue designated for investigation is whether it is reasonable for BellSouth to establish a new application for customers seeking new service. We direct BellSouth to respond to the matters discussed below and provide the requested information in its direct case. Nonetheless, BellSouth may, as part of its direct case, seek to justify establishing a new service application.

31. BellSouth should specify in its direct case the additional information it seeks and why the additional information is necessary. BellSouth should also indicate how the new information differs from the information it currently obtains from a new customer subscribing to one of BellSouth's interstate access services. BellSouth should explain what information on the service application would result in denial of service to, or trigger a deposit requirement from, a new

[44] Tariff FCC No. 1, Second Revised Page 2-21, section 2.4.1(A).

customer.

IV. PROCEDURAL MATTERS

A. Filing Schedules

32. This investigation is designated WC Docket No. 02-304. BellSouth Telecommunications, Inc., is designated a party to this investigation. BellSouth shall file its direct case no later than October 10, 2002. The direct case must present BellSouth's position with respect to the issues described in this Order. Pleadings responding to the direct cases may be filed no later than October 24, 2002, and must be captioned "Oppositions to Direct Case" or "Comments on Direct Case." BellSouth may file a "Rebuttal" to oppositions or comments no later than October 31, 2002.

33. An original and four copies of all pleadings shall be filed with the Secretary of the Commission. In addition, parties shall serve with three copies: Pricing Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 6-C222, Washington, D.C. 20554, Attn: Julie Saulnier. Parties shall also serve with one copy: Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893. Members of the general public who wish to express their views in an informal manner regarding the issues in this investigation may do so by submitting one copy of their comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554. Such comments should specify the docket number of this investigation, WC Docket No. 02-304. Parties are also strongly encouraged to submit their pleadings via the Internet through the Electronic Comment Filing System at <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number, which in this instance is WC Docket No. 02-304. Parties may also submit an electronic comment via Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to <ecfs@fcc.gov>, and should include the following words in the body of the message: "get form <your e-mail address>." A sample form and directions will be sent in reply.

34. Interested parties who wish to file comments via hand-delivery are also notified that effective December 18, 2001, the Commission will only receive such deliveries weekdays from 8:00 a.m. to 7:00 p.m., via its contractor, Vistronix, Inc., located at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. **The Commission no longer accepts these filings at 9300 East Hampton Drive, Capitol Heights, MD 20743.** Please note that all hand deliveries must be held together with rubber bands or fasteners, and envelopes must be disposed of before entering the building. In addition, this is a reminder that as of October 18, 2001, the Commission no longer accepts hand-delivered or messenger-delivered filings at its headquarters at 445 12th Street, SW, Washington, DC 20554. Messenger-delivered documents (*e.g.*, FedEx), including documents sent by overnight mail (other than United States Postal Service (USPS) Express and Priority Mail), must be addressed to 9300 East Hampton Drive, Capitol Heights, MD 20743. This location is open weekdays from 8:00 a.m. to 5:30 p.m. USPS First-Class, Express, and Priority Mail should be addressed to the Commission's headquarters at 445 12th Street, SW, Washington, DC 20554. The following chart summarizes this information:

TYPE OF DELIVERY	PROPER DELIVERY ADDRESS
Hand-delivered paper filings	236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (Weekdays - 8:00 a.m. to 7:00 p.m.)
Messenger-delivered documents (*e.g.*, FedEx), including documents sent by overnight mail (this type excludes USPS Express and Priority Mail)	9300 East Hampton Drive, Capitol Heights, MD 20743 (Weekdays - 8:00 a.m. to 5:30 p.m.)
USPS First-Class, Express, and Priority Mail	445 12th Street, SW Washington, DC 20554

35. All relevant and timely pleadings will be considered by the Commission. In reaching a decision, the Commission may take into account information and ideas not contained in pleadings, provided that such information, or a writing containing the nature and source of such information, is placed in the public file, and provided that the fact of reliance on such information is noted in the order.

***Ex Parte* Requirements**

36. This investigation is a permit-but-disclose proceeding and is subject to the requirements of section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required.[45] Other rules pertaining to oral and written presentations are also set forth in section 1.1206(b).

37. Interested parties are to file any written *ex parte* presentations in this proceeding with the Commission's Secretary, Marlene Dortch, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554, and serve with three copies: Pricing Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 6-C222, Washington, D.C. 20554, Attn: Julie Saulnier. Parties shall also serve with one copy: Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893.

Paperwork Reduction Act

38. This order designating issues for investigation contains no new or modified information collections subject to the Paperwork Reduction Act of 1995, Pub. Law 104-13.

ORDERING CLAUSES

39. ACCORDINGLY, IT IS ORDERED that, pursuant to sections 4(i), 4(j), 201-205, and 403 of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), 201-205, and 403, and pursuant to the authority delegated by sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, the issues set forth in this Order ARE DESIGNATED FOR INVESTIGATION.

40. IT IS FURTHER ORDERED that BellSouth Telecommunications, Inc. SHALL BE a

45 *See* 47 C.F.R. §1.1206(b)(2), as revised.

party to this proceeding.

41. IT IS FURTHER ORDERED that BellSouth Telecommunications, Inc., SHALL INCLUDE, in its direct case, a response to each request for information that it is required to answer by this Order.

FEDERAL COMMUNICATIONS COMMISSION

Tamara L. Preiss
Chief, Pricing Policy Division
Wireline Competition Bureau