

# Alabama Public Service Commission

## Orders

**IN RE: IMPLEMENTATION OF THE DOCKET 25980  
UNIVERSAL SERVICE REQUIREMENTS OF  
SECTION 254 OF THE (CERTIFICATION OF NON-RURAL CARRIERS  
TELECOMMUNICATIONS ACT OF 1996. RECEIVING FEDERAL HIGH-COST SUPPORT)**

### FURTHER REPORT AND ORDER

**BY THE COMMISSION:**

#### I. Introduction and Background

On November 2, 1999, the Federal Communications Commission (the FCC) released two companion orders addressing federal high-cost universal support for non-rural carriers. In those orders, the FCC concluded that it was most appropriate for state Commissions to determine how the federal high-cost universal service support for which non-rural carriers in their jurisdictions are eligible can be used to advance the goals of universal service set forth at §254(e) of the Telecommunications Act of 1996. The FCC noted that states may, among other things, require that federal high-cost universal service funding received by non-rural carriers in their jurisdictions be used to adjust intrastate rates, to replace implicit intrastate universal service support to certain high-cost rural areas, or to upgrade facilities in rural areas to ensure that services provided in those areas are reasonably comparable to services provided in urban areas.

The FCC noted its confidence that the states would take the appropriate steps to account for the receipt of federal high-cost support and ensure that such support is being applied in a manner consistent with §254(e). As a regulatory safeguard, however, the FCC adopted rules requiring states that have non-rural incumbent local exchange carriers (LECs) who are eligible to receive federal high-cost universal service support to file a certification with the FCC stating that all federal high-cost funds flowing to non-rural carriers in that state will be used in a manner consistent with §254 (e). Said certification requirements were also made applicable to competitive Eligible Telecommunications Carriers seeking high-cost support in the service areas of such non-rural LECs.

The FCC concluded that the certification discussed above must be filed annually with the FCC as well as the Administrator of the Universal Service Administrative Company. The FCC emphasized that carriers in a particular state will not receive federal high-cost support until the FCC receives an appropriate certification from that state. The FCC established a deadline of April 1, 2000 for completion of the certification process for the year 2000. The FCC indicated that year 2000 certifications received after that date would result in funding losses for all non-rural carriers for which appropriate certifications were not received.

#### II. PROCEDURAL HISTORY

As a result of its Methodology and Inputs Orders, the FCC initially determined that Alabama's non-rural carriers were

eligible for an estimated \$67,688,527 in federal high-cost universal service support for the year 2000. In particular, the FCC estimated that BellSouth Telecommunications, Inc. (BellSouth) was eligible for \$43,744,119 in federal high-cost universal service support for the year 2000, while Contel of the South, Inc., d/b/a GTE Systems of the South (Contel) and GTE South, Inc. (GTE) (Contel and GTE are also collectively referred to as GTE) were eligible for \$13,890,747 and \$10,053,661 respectively.

In an effort to move the certification process required by the FCC toward completion by the April 1, 2000 deadline, the Commission entered an Order on December 22, 1999 requiring BellSouth and GTE to submit plans and procedures detailing their intended utilization of the federal high-cost universal service funding for which the FCC had determined they were eligible in the year 2000. Said plans were due to be filed with the Commission no later than January 14, 2000. The Commission afforded interested parties the opportunity to submit comments in response to the filings of BellSouth and GTE and provided for a reply comment cycle as well.

BellSouth and GTE each submitted plans detailing their proposed utilization of the federal high-cost universal service support for the year 2000 as required by the Commission's December 22, 1999 Order. Those plans were based on the estimates contained in the FCC's Orders released on November 2, 1999.

On January 20, 2000, however, the FCC released a notice revising and reducing the amount of federal high-cost support for which Alabama's non-rural carriers will be eligible in the year 2000. The FCC cited previous computer programming and transcription errors as the reason for its decision to revise the amounts of high-cost support for which non-rural carriers such as BellSouth and GTE are eligible.

Pursuant to the FCC's revisions, BellSouth, Contel and GTE are respectively eligible for \$30,080,288, \$11,095,938 and \$7,830,008 in federal high-cost universal service funding for the year 2000. All of the funding for which BellSouth is eligible constitutes support which has not been previously available. Of the funding for which GTE is eligible, \$6,855,711 constitutes funding for which GTE was eligible under the prior funding mechanisms employed by the FCC. Similarly, \$2,966,951 of the funding for which Contel is eligible constitutes money which Contel was eligible for pursuant to previous funding mechanisms. Accordingly, GTE and Contel are collectively eligible for an estimated \$9,103,284 in "new" forward-looking support.

In light of the FCC's updated calculations, the Commission entered on January 27, 2000, a Notice Extending Filing Deadlines (the "Notice") in this cause. That Notice instructed BellSouth and GTE to revise their previous filings detailing their intended utilization of the federal high-cost universal service support for which they are eligible. BellSouth and GTE were also advised that the Commission staff had identified certain aspects of their original filings which needed further clarification, and in some cases additional justification.

In particular, BellSouth was advised that further justification and explanation should be provided for its initial infrastructure proposals to: (1) complete self healing inter-office diversity, (2) to replace copper inter-office routes to independent telephone companies with fiber, (3) to deploy self healing diversity between itself and GTE, and (4) to improve testability and surveillance. BellSouth was additionally advised that the staff had preliminarily determined that the deployment of Privacy Director Service in universal service wire centers as outlined in BellSouth's initial proposal was not an appropriate utilization of the federal high-cost universal support for which BellSouth is eligible. Staff recommended that BellSouth remove that item from its list of infrastructure improvements in its revised filing.

With regard to the initial utilization proposal submitted by GTE, the staff advised that GTE was required to submit additional justification for a number of its proposals as well. In particular, GTE was required to submit additional clarification and justification for: (1) its inter-office facilities route diversity proposal, (2) its bonding and grounding proposal, (3) its aerial terminal closure replacement proposal, (4) its express dial tone proposal, and (5) its proposal to deploy technicians to rural areas. The Notice reflected the Staff's sentiment that the focus of GTE should be on the implementation of infrastructure upgrades aimed at improving the availability and transmission quality of services provided to the rural areas of Alabama served by GTE. To that end, the staff also recommended that GTE exclude from its revised proposal the access charge reductions included in its initial proposal.

The Commission's January 27, 2000 Notice required BellSouth and GTE to submit their revised plans detailing their proposed utilization of the federal high-cost universal service support for the year 2000 no later than February 4, 2000. Interested parties were instructed to submit comments in response to the revised filings of BellSouth and GTE no later

than February 14, 2000. The Commission advised that reply comments would be accepted if received on or before February 25, 2000.

### **III. THE REVISED PLAN OF BELLSOUTH**

BellSouth submitted its revised plan on February 4, 2000. In its revised filing, BellSouth removed its previous proposal to deploy Privacy Director Service as well as its initial proposal to replace existing copper facilities to independent telephone companies with fiber. BellSouth's revised filing also provided additional clarification and justification for its other proposals as requested by the Commission.

The Commission Staff nonetheless sought additional clarification concerning BellSouth's revised proposal and formally served on BellSouth a Request for Clarification on March 3, 2000. BellSouth filed its response to the Staff's Request for Clarification on March 9, 2000.

Although the Commission is currently certifying BellSouth's utilization of federal high-cost universal service support for the year 2000 only, the revised plan submitted by BellSouth on February 4, 2000 is a four year proposal. Said proposal is attached hereto as Appendix A. A summary of the major elements of BellSouth's revised filing are set forth below:

- Deploy Loop Fiber and Next Generation Digital Loop Carrier to Implement CSA Design: 2000 - \$20.7M, 2001 - \$21.0M, 2002 - \$21.5M, 2003 - \$21.8M
- Replace Non-Compliant Switches DMS10s & DCOs: 2000 - \$3.7M, 2001 - \$4.0M, 2002 - \$3.5M, 2003 - \$2.7M
- Complete Self-Healing Interoffice Diversity: 2000 - \$1.9M, 2001 - \$1.4M, 2002 - \$1.4M, 2003 - \$2M
- Deploy Self-Healing Interoffice Diversity Between BellSouth and GTE: 2000 - \$.3M, 2001 - \$.3M, 2002 - \$.3M, 2003 - \$.3M
- Deploy ISDN/PRI in USF Wire Centers: 2001 - \$1.0M, 2002 - \$1.0M, 2003 - \$1.0M
- Improve Testability, Surveillance & Replace Technology that Limits Service Delivery: 2000 - \$3.5M, 2001 - \$2.4M, 2002 - \$2.4M, 2003 - \$2.3M

### **IV. THE REVISED PLAN OF GTE**

The revised plan submitted by GTE on February 4, 2000 is a one year plan for the year 2000. In its revised filing, GTE eliminated its prior proposals concerning bonding and grounding and access charge reductions. GTE also provided additional justification and clarification concerning its remaining proposals as requested by the Commission Staff.

The Staff nonetheless sought additional information from GTE concerning the company's revised proposal and served GTE with a Request for Clarification on March 3, 2000. GTE responded to the Staff's Request for Clarification on March 10, 2000.

GTE's February 4, 2000 filing is attached hereto as Appendix B. Set forth below is a summary of the major provisions of the revised GTE filing:

- Interoffice Facilities Route Diversity: \$3,073,648
- Buried Air Core Cable Replacement: \$2,571,449
- Fiber to Remotes: \$2,035,300
- Aerial Terminal Closure Replacement: \$105,200

- Express Dial Tone: \$781,074
- Deployment of Technicians to Rural Areas: \$536,613

## **V. THE COMMENTS OF THE PARTIES**

Comments concerning the revised plans of BellSouth and GTE were received from the Southeastern Competitive Carriers Association (SECCA); AT&T Communications of the South Central States, Inc. (AT&T); Sprint Communications Company, L.P. (Sprint); and the Attorney General of Alabama (the AG). BellSouth and GTE each submitted comments in reply to the filings submitted by SECCA, AT&T, Sprint and the AG.

In its comments, SECCA generally characterized the proposals of BellSouth and GTE as attempts to utilize "new" universal service money for capital improvements to their commercial networks. SECCA contended that such an approach amounted to the utilization of a public subsidy to fund private investment. SECCA asserted that such use was wholly inappropriate since the subsidy funds were principally collected for purposes of reducing implicit subsidies, not to expand them. Rather than fund the private investment programs of BellSouth and GTE, SECCA asserted that the "new" universal service funding available should be utilized to reduce the subsidies currently collected from Alabama carriers and consumers via intrastate access charge reductions.

AT&T asserted in its comments that the Commission should not certify BellSouth's proposal to utilize federal universal service high-cost support unless BellSouth committed to allocating a portion of the support it received towards a reduction in the intrastate access charges it imposes on interexchange carriers. AT&T asserted that reductions in intrastate access charges are the fairest and most prudent method of ensuring that Alabama consumers receive benefit from the new universal service funds which are available. AT&T indicated that it would flow through the access charge reductions it encountered in the form of lower long distance charges to its Alabama customers.

Sprint argued in its comments that universal service money should not be a source of funding for an ILEC's construction budget, or a source of new profits for ILECs. According to Sprint, funds directed to infrastructure developments such as those proposed by BellSouth and GTE have an uncertain payoff for Alabama consumers. Sprint asserted that neither BellSouth nor GTE had sufficiently quantified the benefits of their proposals or identified when they would begin to accrue. Sprint accordingly argued that all universal service funding should presently be applied toward the reduction of intrastate access charges in Alabama.

In the event of a finding by the Commission that federal high-cost support should be applied to infrastructure projects such as those proposed by BellSouth and GTE, Sprint argued that the higher revenues and lower costs stemming from such projects should be netted out of those projects' initial costs when funding is computed. Sprint, therefore, urged the Commission to closely monitor the expenditures of the ILECs on projects explicitly being undertaken under the auspices of the federal universal service fund.

In its comments, the AG contended that both BellSouth and GTE had failed to sufficiently explain or justify in their respective written proposals the reasons their projects complied with §254 of the 1996 Act. The Attorney General asserted that BellSouth and GTE must provide additional information to the Commission so that all funds may be accounted for as additional carrier revenues in the intrastate rate making process and to ensure that the proposed expenditures are consistent with, and further the goals of §254(e) of the 1996 Act. The Attorney General recommended that the Commission consider a rate adjustment to the prices Alabama consumers pay for any service that presently contains implicit universal service support. The AG also supported a program of advising consumers about any high-cost universal service rate credits with an explicit notation on their telephone bills.

In its reply comments, BellSouth asserted that the 1996 Act clearly contemplated that the principle goal of universal service is to ensure that quality service is available at affordable rates to all consumers, both those in rural areas and in urban areas. In keeping with that goal, BellSouth maintained that the network infrastructure upgrades it had proposed would promote the realization of parity between service to customers in rural areas and customers in urban areas.

BellSouth represented that past studies performed on the network infrastructure upgrades included in its proposal revealed that the projects in question did not generate the level of return on investment required to meet BellSouth's internal standards for the allocation of funding. As a result, BellSouth explained that none of the initiatives included in

its revised universal service proposal had been previously funded, nor would they be funded if conditions did not change. BellSouth further represented that if circumstances do change in the future such that any of the initiatives outlined in its plan for infrastructure upgrade do qualify for internal funding, those projects will be incorporated into the normal company funding plans and the federal universal service funds previously allocated to those projects will be utilized for other qualifying initiatives.

BellSouth further disputed the AG's apparent conclusion that the receipt of federal high-cost universal service funding must in every instance be offset by a comparable reduction of rates. BellSouth argued that the imposition of such a requirement would have the net effect of nullifying altogether funding for infrastructure upgrades which would not otherwise receive internal funding. BellSouth asserted that such a result would be inconsistent with the universal service purposes set forth by §254 of the 1996 Act and the policy objectives stated by the FCC.

With regard to the comments submitted by AT&T, Sprint and SECCA concerning access charge reductions, BellSouth asserted that neither of the aforementioned Interexchange Carriers (IXCs) had guaranteed that reduced access charges would be flowed through to consumers. BellSouth, therefore, contended that there was a possibility, or perhaps even a likelihood, that the only parties that would benefit from the utilization of universal service funding for the reduction of access charges would be those carriers.

BellSouth also challenged the assertions raised by the Interexchange Carriers referenced above that the use of federal funding for infrastructure development is contrary to the 1996 Act. BellSouth asserted that this contention flies directly in the face of the FCC's orders which specifically note infrastructure development as an example of the type of initiative that is appropriate for the utilization of federal universal service funding. BellSouth further pointed out that the commenting carriers may themselves take steps necessary to qualify as Eligible Telecommunications Carriers such that they will be in a position to benefit by directly receiving federal funding in future years.

In its reply comments, GTE South spoke only to the comments of Sprint. GTE generally agreed with Sprint's assessment that access charge rate reductions are an appropriate use for federal support as suggested by the FCC. GTE noted that it did not include access rate reductions as part of its revised plan for the year 2000 due to the current estimates of federal support available and the Commission's stated objective that GTE's federal support should be utilized in a manner "aimed at improving the availability and transmission quality of services provided to rural areas" in GTE's service territory.

GTE disputed Sprint's contention that federal support should be offset by any potential cost savings or increased revenues reportedly generated from the implementation of the infrastructure improvements proposed by GTE. GTE argued that although a benefit of the infrastructure improvements it proposed would be the additional capability of introducing new services, the deployment of such new services would likely require additional investment. GTE further argued that such new services would only be deployed when sufficient market demand for them existed.

GTE also maintained that Sprint's arguments ignored the risk associated with the portability of universal service support when that support is used for infrastructure improvements. GTE maintained that in situations where a competitor wins a GTE customer, GTE will lose the per-line support although GTE will have already made the necessary investment for the proposed infrastructure improvements. GTE pointed out that it would also lose all revenues generated from those prior customers, including any potential new revenues.

## **VI. THE RECOMMENDATIONS OF STAFF**

At the March 13, 2000 meeting of the Commission, Staff from the Commission's Advisory, Telecommunications and Legal Divisions presented recommendations concerning the February 4, 2000 filings of BellSouth and GTE which detailed the revised plans of those companies regarding the utilization of the federal high-cost universal service funding each company is eligible for in the year 2000. The Staff recommended that the GTE plan of February 4, 2000 be adopted and certified to the Federal Communications Commission as compliant with the provisions of §254(e) of the Telecommunications Act of 1996.

With regard to the plan which BellSouth submitted on February 4, 2000, the Staff recommended approval with one revision. More specifically, the Staff recommended that BellSouth be required to submit no later than March 20, 2000 a revised version of its February 4, 2000 filing which incorporated therein an intrastate terminating switched access

charge reduction of \$.0025. The Staff noted that BellSouth should be required to adjust its previous proposal delineating the expenditure of year 2000 federal high-cost support to accommodate said access charge reduction and to specifically identify the area or areas from which the funding necessary to implement the required access charge reduction will be derived.

The Staff further recommended that in the event that intrastate access charges in Alabama are reduced in the context of the Commission's Local Competition Proceedings (Joint Dockets 24499, 24472, 24030 and 24865) prior to the end of the year 2000, BellSouth be allowed to reallocate to its infrastructure construction budgets under review herein all federal high-cost universal service funds required to implement the \$.0025 terminating switched access charge reduction recommended.

The Staff further recommended the adoption of language requiring all Interexchange Carriers to flow through to their customers rate reductions reflecting the entirety of the cost savings which accrue to them through the BellSouth access charge reduction recommended. The Staff indicated that such a provision was necessary to ensure that end users reap the benefit of the access charge reduction recommended.

Upon BellSouth's timely filing of a proposal consistent with the requirements discussed herein, the Staff recommended that the Commission enter an order certifying to the FCC the compliance of the BellSouth and GTE proposals with the requirements of §254(e) of the Telecommunications Act of 1996. The staff advised that said order should specify that the Commission is only certifying the GTE and BellSouth plans for the year 2000 and that auditing procedures will be implemented to determine the status of the projects delineated in the BellSouth and GTE plans.

## **VII. DISCUSSION AND CONCLUSIONS**

The Commission unanimously voted to accept the aforementioned recommendations of the Staff at the March 13, 2000 meeting of the Commission. By Order entered on March 15, 2000, BellSouth was ordered to submit a revised proposal which incorporated those recommendations.

BellSouth complied with the Commission's March 15, 2000 Order by filing a revised plan on March 17, 2000. The March 17, 2000 plan submitted by BellSouth incorporated the \$.0025 reduction in terminating switched access ordered by the Commission. BellSouth indicated that said reduction represented an annual value of approximately \$2.8 million.

BellSouth proposed to implement the terminating switched access reduction required by the Commission in a separate filing with an effective date of July 1, 2000. Given that effective date, BellSouth indicated that the impact for the year 2000 access charge reduction would be approximately \$1.4 million, leaving approximately \$28.7 million to be applied toward the company's proposed infrastructure improvements. BellSouth further noted that should similar universal service fund monies be available in years subsequent to 2000, the \$2.8 million annual value of the reduced access charges would be reflected in the company's proposals for such years.

We have reviewed the revised filing of BellSouth and find it compliant with our Order of March 15, 2000. The proposed implementation date of July 1, 2000, for the \$.0025 terminating switched access charge reduction ordered by the Commission appears reasonable given the fact that the forward-looking federal high cost support under consideration herein will not begin to flow until July 1, 2000. The propriety of utilizing any federal high-cost funding in future years for access charge reductions will be assessed during the annual certification proceedings we will undertake for those years.

With regard to the terminating switched access charge reductions which inure to the benefit of the interexchange carriers in Alabama, we find that all such reductions should be flowed through by the interexchange carriers equally to each class of their customers in the form of rate reductions. We find that such an approach will best ensure that the consumers of Alabama receive the benefit intended by such reductions. We specifically note that in the event that intrastate switched access charges in Alabama are reduced in the context of the Commission's Local Competition proceedings in Joint Dockets 24499, 24472, 24030 and 23865 prior to the end of the year 2000, BellSouth will be allowed to reallocate to its infrastructure construction budgets approved herein all funds required to implement the \$.0025 terminating switched access charge reduction herein ordered.

In conclusion, we hereby certify the compliance of the March 17, 2000, revised proposal of BellSouth and the February

4, 2000, revised proposal of GTE with §254(e) of the 1996 Act. We note that said certification applies only to the year 2000 proposals of said companies. Proposals for future years will be evaluated independently based on the availability of funding.

The Commission recognizes that the federal high-cost funding levels for the year 2000 and future years are subject to quarterly adjustments. To that end, the Commission will implement auditing procedures to account for the actual funding amounts received in any given year and the allocation of such funding to approved projects. In particular, the Commission staff will perform job order accounting to track each project approved to receive the funding discussed herein and may require such projects to be separately coded. To assist the Commission staff in its auditing efforts, BellSouth and GTE are hereby instructed to file within thirty (30) days of the close of each calendar quarter reports which delineate the status of each project approved herein to receive forward-looking federal high-cost support and the level of such funding expended on those projects.

The Commission's certification of the BellSouth and GTE proposals for the year 2001 are due at the FCC on or before October 1, 2000. In order to allow for adequate review of such proposals, BellSouth and GTE shall submit their proposals for the utilization of the estimated amount of federal high-cost support for which they are eligible in the year 2001 no later than July 5, 2000. Interested parties may submit comments in response to those filings no later than July 21, 2000. Reply comments will be considered by the Commission if received on or before August 4, 2000.

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the March 17, 2000, revised proposal of BellSouth Telecommunications, Inc., delineating BellSouth's intended utilization of the federal high-cost universal service support for which it is eligible during the year 2000, is hereby approved and certified as compliant with the provisions of §254(e) of the Telecommunications Act of 1996.

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the February 4, 2000, revised proposal of Contel of the South, Inc., d/b/a GTE Systems of the South and GTE South, Inc. (collectively "GTE") delineating GTE's intended utilization of the forward-looking federal high-cost support for which it is eligible during the year 2000, is hereby approved and certified as compliant with the provisions of §254(e) of the Telecommunications Act of 1996.

IT IS FURTHER ORDERED BY THE COMMISSION, That BellSouth Telecommunications, Inc. and Contel of the South, Inc., d/b/a GTE Systems of the South and GTE South, Inc. shall file with the Commission within thirty (30) days of the close of each calendar quarter a report delineating the status of each project approved herein to receive federal high-cost support and the level of such funding expended on said projects.

IT IS FURTHER ORDERED BY THE COMMISSION, That all interexchange carriers operating in Alabama shall flow through the access charge reductions they encounter as a result of this Order equally to each class of their customers in the form of rate reductions.

IT IS FURTHER ORDERED BY THE COMMISSION, That BellSouth Telecommunications, Inc. and Contel of the South, Inc., d/b/a GTE Systems of the South and GTE South, Inc. shall file their proposals for the utilization of the federal high-cost universal service support for which they are eligible in the year 2001 no later than July 5, 2000. Interested parties may submit comments in response to those filings no later than July 21, 2000. Reply comments will be considered by the Commission if received on or before August 4, 2000.

IT IS FURTHER ORDERED BY THE COMMISSION, That jurisdiction in this cause is hereby retained for any further order or orders as may appear to be just and reasonable in the premises.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 24th day of March, 2000.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary

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