

**Alabama  
Telecommunications  
Regulation Plan (ATRP)**

**Docket No. 28590 - Workshop**

**August 24, 2004**

**BellSouth Telecommunications, Inc.**

# Concerns with ATRP's Proposed BellSouth Price Flexibility Plan

- More complex & restrictive than 1995 Price Regulation & Local Competition Plan
- Inhibits Bellsouth's ability to respond quickly to the marketplace
- Imposes unnecessary regulatory requirements

# ATRP More Complex & Restrictive Than 1995 Plan

- Complexity Increased
  - 1995 Plan: 1 geographic area, 3 categories of services w/ pricing rules for each category
  - Modified Metro Plan: 2 geographic areas (w/ flexibility to transition to 1), 2 categories of services w/ pricing rules for each category
  - ATRP: Up to 3 geographic areas, 6 categories of services w/ pricing rules for each category

# ATRP More Complex & Restrictive Than 1995 Plan

- Geographic Areas
  - MSA concept effectively abandoned in ATRP
    - o Classifies wire centers into “Tiers” based on level of competitive activity
    - o Products/services are marketed by MSAs, not Tiers
    - o Restricts ability to effectively market consumer offerings
  - BellSouth’s serving area should not be subdivided into more than 2 geographic areas – Tier I MSAs and Tier II MSAs/Non-MSA Areas
  - Little if any distinction in competitive activity between Tier II MSAs and Non-MSA Areas
  - Wire center distinctions have little or no meaning to CLECs and cable providers

# ATRP More Complex & Restrictive Than 1995 Plan

- Flexibility Decreased

- 1995 Plan: Capped “Basic Services” for 5 years, ~~5%~~<sup>10%</sup> aggregate limit on Non-Basic Services
- Metro Plan: Maintains tightly regulated 1FR (w/ 2-year cap), increases pricing flexibility for Tier I MSAs, effectively continues 1995 Plan for Tier II MSAs/Non-MSA Areas
- ATRP: Continues tight regulation of 1FR & 1FB, creates “Basic Vertical Services” & “Non-Discretionary Services”, severely constrains pricing flexibility on all services, substitutes Commission’s judgment for consumer choice

# ATRP More Complex & Restrictive Than 1995 Plan

- Service Categories
  - Severely restricted pricing flexibility for all categories of services, particularly “Other Retail” & “Basic Vertical” services (applicable primarily to BellSouth & other ILECs)
  - Increase in number of service categories leads to more pricing rules (when combined with increased Tiers/geographic areas, result may be little pricing flexibility due to “lowest common denominator” effect – price increases limited to 5% per service per year)
  - Vertical features are competitive, optional services, not “Basic” (i.e., indispensable to a customer), nor are Directory Assistance and Listing Services “Non-Discretionary”
    - Only services that arguably may be “Non-Discretionary” and deserving of special treatment are Emergency Reporting Services and N11 Services (Lifeline & Link-up treated same as 1FR Service)
  - ATRP also limits pricing flexibility for Grandfathered/Obsoleted services

# Recommendations To Address Increased Complexity & Decreased Flexibility

- Adopt geographic areas proposed by BellSouth & AG
  - For any wire center where MSA classification is inconsistent w/ exchange boundary, LATA boundary, NPA area, etc., BellSouth and Staff jointly reassign
- Adopt service categories proposed by BellSouth & AG
  - Eliminate “Basic Vertical Services,” “Vertical Services,” and “Other Retail Telecommunications Services” as categories
  - If appropriate, create Non-Discretionary category composed of Emergency Reporting Services & N11 Services w/ specific filing requirements
  - Separate 1FR services from 1FB services
- Adopt pricing rules proposed by BellSouth & AG
  - If deemed necessary, initial pricing change following cap period for 1FR services could be collapsing rate groups
- Adopt pricing flexibility proposed by BellSouth & AG for Grandfathered/Obsoleted services

# ATRP Inhibits BellSouth's Ability To Respond Quickly To The Marketplace

- Commission retains ability to suspend tariffs, Promotions, Customer Value Programs, and/or Bundled Services
  - Commission may suspend tariffs for up to 90 days
    - Suspension unnecessary given terms in BellSouth/AG Proposed Plan
  - Commission may suspend Promotions, Customer Value Programs, Marketing/Technical Trials, & Bundled Services for up to 5 days
    - Lack of certainty for effective date could delay pro-consumer, pro-competitive benefits to Alabama consumers due to potential negative impact on a region-wide marketing campaign and/or launch date

# ATRP Inhibits BellSouth's Ability To Respond Quickly To The Marketplace

- Proposed definitions of Promotions and Bundled Services require clarification
  - In numerous instances, Promotions (and Customer Value Programs) and Bundled Services encompass more than just “Regulated Services”
  - Today’s marketplace is characterized by Promotions and Bundled Services (as will be tomorrow’s) – thus, proposed definitions ignore realities of marketplace
  - Inter-modal competitors (many which the Commission minimally regulates or does not regulate – VoIP-Only providers, CATV/VoIP providers, wireless providers, etc.) ignored while traditional providers handicapped
  - If concern is adequate safeguards against cross-subsidy and/or access to unregulated data, TSLRIC as cost floor for regulated components is sufficient (regulated components  $\geq$  TSLRIC, no cross-subsidy)

# ATRP Inhibits BellSouth's Ability To Respond Quickly To The Marketplace


- Requirement to resell regulated components of Bundled Services requires clarification
  - BellSouth allows the resale of tariffed, regulated, retail telecommunications services as required by the Act
  - Once regulated, retail telecommunications services are bundled with a non-telecommunications service, an affiliate's telecommunications or non-telecommunications service, or a non-affiliate's service, the bundle offer is not available for resale (nor are any regulated components available for resale at anything other than tariffed, retail price)

# Recommendations To Increase BellSouth's Ability to Respond Quickly To The Marketplace

- Adopt BellSouth's & AG's proposed process that replaces need for suspension of tariffs
  - Include language proposed to address tariff investigations initiated more than 60 days following effective date
- Eliminate potential for additional 5-day delay in implementing Promotions, Customer Value Programs, Marketing/Technical Trials, & Bundled Services
- Adopt definitions for Promotions (and Customer Value Programs) and Bundled Services that reflect realities of marketplace
- Eliminate resale requirement for Bundled Services

# ATRP Imposes Unnecessary Regulatory Requirements

- Requirement to expand toll-free local calling areas

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- ATRP requires BellSouth to provide toll-free calling to areas identified by Staff and Company prior to 2nd anniversary of Plan & prior to making any scheduled increases in 1FR/1FB prices
  - Market trends indicate customer preference for flat-rated, any distance packages w/ vertical features – EAS-like expansions may not address customers' demands
  - ATRP does not address funding for such expansions (particularly w/ Plan proposing severe pricing constraints)

- Requirement to meet service quality objectives and give credits when missed

- ATRP proposes that Company agree to customer credits (15% of monthly 1FR and/or 1FB prices & other local offerings for unspecified time) in any wire center failing requirements of T-21
- Tracking results & administering credits at wire center level is overly burdensome
- To extent service quality objectives needed, BellSouth recommends that Commission open rulemaking to update service quality standards
- Credits (and arguably service quality objectives) should not be required because market is sufficiently competitive such that customers may switch providers as remedy for poor service

# ATRP Imposes Unnecessary Regulatory Requirements

- Contract Service Arrangements (CSAs)
  - Secure database, accessible by Staff & AG, to be established for all CSAs, w/ data available in database no later than 5 days following effective date
  - Estimated initial cost \$300K to \$700K w/ ongoing annual costs
  - Proposed level of oversight unnecessary & counter to trends in other BellSouth states (FL, LA, & MS – no filing; GA, KY, NC, & SC – file monthly summary report)
- Monthly reporting requirements
  - Monthly reporting overly burdensome
  - If reports necessary, frequency of reports should be semi-annual or quarterly for following reasons:
    - Trends will be more evident
    - Less BellSouth & Staff resources required to produce & analyze

# ATRP Imposes Unnecessary Regulatory Requirements

- Multi-location customers
  - ATRP eliminated provisions treating all locations of multi-location customer the same (for pricing purposes)
  - Level of competition for such customers sufficiently high to warrant most flexible pricing treatment
- Use of LRIC vs. TSLRIC
  - BellSouth supports Long Run Incremental Cost (“LRIC”) as defined in BellSouth/AG Plan as appropriate price floor for retail services
  - If TSLRIC adopted, BellSouth proposes more economically correct definition be adopted

# ATRP Imposes Unnecessary Regulatory Requirements

- Marketing & Advertising
  - Proposed restriction at Section 6.G requires clarification as to intent & specific requirements
- Assessing competition (for purposes of reclassification of wire centers)
  - ATRP ignores impact of inter-modal competition  
*wireless*
- Posting of information to Internet
  - Market sufficiently competitive such that posting/customer communication methods should be decided by marketplace competition

# Recommendations To Reduce/Minimize Unnecessary Regulatory Requirements

- Eliminate new regulatory requirements and unnecessary existing regulatory requirements
- Eliminate requirements that are not applied to all competitors, that increase costs of compliance, and/or that are overly burdensome

# Conclusion

- Competition & technology dramatically changing the industry & the marketplace
- Today's environment demands new rules that permit all competitors to respond quickly to marketplace changes
- Commission should adopt items discussed today that were initially proposed in BellSouth's & AG's Metro Plan
- Commission should modify & finalize BellSouth Price Flexibility Plan & implement no later than 01/01/05