

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of)	
)	
BellSouth Telecommunications, Inc.'s)	ASD File No. 00-42
Permanent Cost Allocation Manual)	
Waiver of Section 32.27)	
of the Commission's Rules)	

ORDER

Adopted: October 26, 2000

Released: October 27, 2000

By the Chief, Accounting Safeguards Division:

1. On February 10, 2000, BellSouth Telecommunications, Inc. (BellSouth) filed a petition for waiver of the Commission's affiliate transactions rules, as codified in Section 32.27.¹ In its petition, BellSouth seeks permission to record the costs for specific services that it receives from certain of its nonregulated affiliates at "less than fully distributed cost" or "no charge." On March 29, 2000, BellSouth filed a supplementary petition for waiver, seeking to record an additional category of affiliate transaction,² at "less than fully distributed cost." By this order, we approve the two waiver petitions.³

2. Section 32.27 of the Commission's rules requires an incumbent LEC to record transactions received from its affiliated entities at the lesser of fully distributed cost or fair market value when, as here, no tariff rate, prevailing price or publicly filed agreement exists. "Fully distributed cost" includes the direct and indirect cost of providing a service. This assures that the captive telephony ratepayer receives the most reasonably advantageous result from the transaction and protects the ratepayer from subsidizing the LECs affiliate activities. Thus, if BellSouth is allowed, per its waiver request, to record services received from nonregulated affiliates at less than fully distributed cost on its regulated books of account, BellSouth's cost of service would be reduced, and the ratepayer will not incur unwarranted costs associated with the various affiliate transactions.

3. The transactions BellSouth seeks to record at less than fully distributed cost fall into the following broad categories: general and administrative services, marketing services, billing and customer

¹ See 47 C.F.R. 32.27.

² See BellSouth Waiver Request, March 29, 2000. In this request BellSouth seeks permission to record sales services it receives from a nonregulated affiliate at "Less Than Fully Distributed Cost."

³ The United States Telecom Association filed comments in support of BellSouth's waiver petition. See Comments of United States Telecom Association.

services and computer and other technical support services.⁴ In addition, BellSouth seeks to record sublicense, trademark, and patent services it receives from a nonregulated affiliate at “no charge.” In support of its waiver request, BellSouth argues that the Commission previously granted permission for BellSouth to use the three non-standard terms - “less than fully distributed cost,” “no charge” - and “fully distributed cost” to record certain affiliate transactions.⁵ BellSouth maintains that the affiliate transactions it lists in its current waiver petition correspond to that same three non-standard terms approved by the Commission’s previous order.

4. Waiver of the Commission's rules is appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.⁶ In addition, a waiver request must be consistent with the principles underlying the rule for which a waiver is requested. After reviewing the transactions listed in BellSouth’s waiver petition, we find that allowing BellSouth to record these services received from affiliates at “no charge” and “less than fully distributed cost” benefits ratepayers by enabling BellSouth to obtain services in a cost-effective manner. Moreover, such accounting treatment is consistent with previous waivers granted for similar affiliate transactions.⁷ Because BellSouth's proposed accounting treatment benefits ratepayer interests, we find that it is fully consistent with the public interest and the underlying policy goals. Accordingly, we grant BellSouth’s waiver request at this time.

⁴ See Attachment 1 for complete description of affiliate transactions listed in BellSouth’s waiver requests.

⁵ See BellSouth Waiver Request, February 10, 2000 at 3, citing, BellSouth Telecommunications, Inc. Permanent Cost Allocation Manual Waiver of Section 32.27 of the Commission’s Rules, *Order*, AAD File No. 93-80, DA 99-0106, released on January 24, 2000 (granting BellSouth permission to use non standard language to records affiliate transactions related to directory services).

⁶ See *Northeast Cellular Tel. Co. v. FCC*, 897 F. 2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F. 2d 1153, 1159 (D.C. Cir. 1969); 47 C.F.R. § 1.3.

⁷ See BellSouth Telecommunications, Inc. Permanent Cost Allocation Manual Waiver of Section 32.27 of the Commission’s Rules, AAD File No. 93-80, DA 99-0106, released on January 24, 2000; See also United Telephone Companies' Permanent Cost Allocation Manual Waiver of Section 32.27 of the Commission's Rules, *Order*, 13 FCC Rcd 24255 (Com. Car. Bur. 1998) (*United Waiver Order*); see also U S West, Inc.'s Permanent Cost Allocation Manual Waiver of Section 32.27 of the Commission's Rules, *Order*, 13 FCC Rcd 24257 (Com. Car. Bur. 1998).

5. Accordingly, IT IS ORDERED, pursuant to Sections 1, 4(i), 4(j), 201-205, and 218-220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, and 218-220, and Sections 0.91, 0.291, 1.3, 1.106, and 32.27 of the Commissions rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, 1.106, and 32.27, that the Petition for Waiver filed by BellSouth IS HEREBY GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Kenneth P. Moran
Chief, Accounting Safeguards Division

ATTACHMENT 1

1. In its waiver petition, BellSouth proposes to apply the term “less than fully distributed cost” to the following services that BellSouth receives from its nonregulated affiliates:

From Bell South Corporation

Air and Ground Transportation
Executive Support
Treasury and Accounting
Regulatory Support
Internal Auditing
Legal
Personnel Services and Human Resources
Technical Support
Public Relations
Security
Support Services

From BCS

Digital Networking Professional Services
Sales (Equipment)

From BAT

Billing and Customer Services
Product Trial and Market Support
System Integration and Support

From BSCC

Joint Marketing
Paging Fulfillment

From LMB

Joint Marketing
Advertising
Project Management

From IMVI

Advertising

From MNS

Network Professional Services
Access and Web Hosting
Router Management Services
Customer Support

From HC

Joint Marketing

From BBI

Billing and Customer Services

ATTACHMENT 1

“Less Than Fully Distributed Cost” cont.

From Select
Joint Marketing

From .NET
Internet Protocol Network Services/support

From BRI
Executive Support

From BIS
Information and Technology Services

From BCAT
Business Travel Services

From NTA
Emergency Preparedness Services

From BSGI
Customer Support

From BASC
Treasury and Accounting
Project Management

From BARM
Customer Billing Services

From BCCM
Customer Support

From BSPC
Sales

2. In its waiver petition, BellSouth proposes to apply the term “no charge” to the following service BellSouth receives from its nonregulated affiliate:

From HC
Sublicense trademarks, trade names and patents