

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

In the Matter of)
Request by BellSouth Telecommunications)
And BellSouth Corporation for Limited)
Modification of LATA Boundaries to Provide)
Extended Area Service Between the Montpelier and) WC Docket No. 04-321
Greensburg Exchanges in the Baton Rouge LATA)
and the Kentwood, Amite, and Independence)
Exchanges in the New Orleans LATA, in the State)
of Louisiana)

MEMORANDUM OPINION AND ORDER

Adopted: November 19, 2004

Released: November 19, 2004

By the Chief, Competition Policy Division:

I. INTRODUCTION

1. On July 29, 2004, BellSouth Telecommunications, Inc. and BellSouth Corporation ("BellSouth"), pursuant to section 3(25) of the Communications Act of 1934, as amended (the Act),¹ filed a petition (BellSouth Petition) to provide flat-rate, two-way, non-optional, extended area service (EAS) between certain exchanges in Louisiana.² The BellSouth Petition requests a limited modification of a local access and transport area (LATA) boundary to provide EAS between the Montpelier and Greensburg exchanges in the Baton Rouge LATA and the Kentwood, Amite, and Independence exchanges in the New Orleans LATA, as

¹ See 47 U.S.C. § 153(25). Section 3(25) of the Act defines a LATA as a contiguous geographic area (1) established prior to enactment of the 1996 Act by a Bell Operating Company (BOC) such that no exchange area includes points within more than one metropolitan statistical area, consolidated metropolitan statistical area, or state, except as expressly permitted under the AT&T Consent Decree; or (2) established or modified by a BOC after such date of enactment and approved by the Commission. Id.

² See Request by BellSouth Telecommunications and BellSouth Corporation for Limited Modification of LATA Boundaries to Provide Extended Area Service Between the Montpelier and Greensburg Exchanges in the Baton Rouge LATA and the Kentwood, Amite, and Independence Exchanges in the New Orleans LATA, in the State of Louisiana, WC Docket No. 04-321 (filed July 29, 2004) (BellSouth Petition). See Comments Sought on BellSouth Request for Limited Modification of LATA Boundary to Provide Extended Area Service Between the Montpelier and Greensburg Exchanges in the Baton Rouge LATA and the Kentwood, Amite and Independence Exchanges in the New Orleans LATA, in the State of Louisiana, WC Docket No. 04-321, Public Notice, DA No. 04-2598 (rel. Aug. 20, 2004). We note that all of the exchanges are in Louisiana.

required by the Louisiana Public Service Commission (Louisiana Commission).³ We grant BellSouth's petition for the reasons stated below.

II. BACKGROUND

2. Requests for new EAS routes are generally initiated by local subscribers.⁴ Although intraLATA EAS routes can be ordered by a state commission,⁵ pursuant to section 3(25)(B) of the Act requests for interLATA EAS routes fall within the Federal Communications Commission's (Commission's) exclusive jurisdiction.⁶ Applying a two-part test, the Commission will grant a request for a LATA boundary modification where: (1) the applicant proves that the requested LATA modification would provide a significant public benefit; and (2) granting the petition would not remove the BOC's incentive to receive authority to provide in-region, interLATA service pursuant to section 271.⁷ The BellSouth Petition proposes to establish two-way, non-optional EAS, and is accompanied by an *ex parte* issued by the Louisiana Commission approving the EAS request.⁸ No party filed comments opposing the BellSouth Petition.

III. DISCUSSION

3. We conclude that BellSouth's petition satisfies the Commission's two-part test. Applying the first prong of the test, we find that BellSouth has shown that a significant public benefit would result from the EAS because a sufficient community of interest exists among the affected exchanges to justify treatment as a local calling area.⁹ In reaching this finding, we note that BellSouth proposes to offer

³ See BellSouth Petition at Exhibit A; Louisiana Public Service Commission, *Implementation of InterLATA EAS Service Within the Parish of St. Helena and Authority to Request LATA Relief from the FCC*, Special Order No. 43-2004 (rel. May. 12, 2004) (Louisiana Order).

⁴ The BellSouth Petition was initiated by leaders in St. Helena Parish raising concerns regarding the classification of certain calls within the Parish as toll calls due to LATA boundary definitions. See Louisiana Order at 1. BellSouth Telecommunications, Inc. is the incumbent LEC in the Kentwood, Amite and Independence exchanges; Century Telephone Company is the incumbent LEC in the Montpelier and Greensburg exchanges. Polls from both companies indicate that of customers indicating a preference, 54% approved the plan and 46% disapproved. See BellSouth Petition at 2. Kentwood has 4,000 access lines, Amite has 8,000 access lines, Independence has 4,900 access lines, Greensburg has 2,375 access lines and Montpelier has 940 access lines. See *id.*

⁵ *United States v. Western Electric Company, Inc.*, 569 F. Supp. 990, 995 (D.D.C. 1983). "The distance at which a local call becomes a long distance toll call has been, and will continue to be, determined exclusively by the various state regulatory bodies." *Id.*

⁶ *Application for Review and Petition for Reconsideration or Clarification of Declaratory Ruling Regarding U S WEST Petitions to Consolidate LATAs in Minnesota and Arizona*, File No. NSD-L-97-6, Memorandum Opinion and Order, 14 FCC Rcd 14392-99 (1999).

⁷ See *SBC Telecom, Inc. Petition for Modification of Certain LATA Boundaries in Ohio*, File No. NSD-L-00-25, Memorandum Opinion and Order, 18 FCC Rcd 26398 (2003), paras. 2, 6-8.

⁸ BellSouth Petition, Exhibit A at 2.

⁹ See *Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations, CC Docket 96-159*, Memorandum Opinion and Order, 12 FCC Rcd 10646, 10653 (1997) (*July 1997 LATA Order*).

traditional, two-way, non-optional local service in the EAS,¹⁰ which is a type of service that the Commission has determined to be consistent with the public interest.¹¹ Further the BellSouth Petition demonstrates a community of interest between the affected exchanges based on location in the same magisterial district, shared schools and public services, cooperation between public safety agencies, and personal communications between friends, relatives, and churches.¹² We find, therefore, that the petition is based on a significant community of interest, and thus satisfies the first prong of the Commission's two-part test.

4. BellSouth also satisfies the second prong of the two-part test because it has already opened its market to competition in Louisiana and, accordingly, has been granted authority under section 271 to offer interLATA service in that state.¹³ Thus, granting the requested modification has no bearing on Verizon's incentive to receive such authority. Moreover, we conclude that the LATA boundary modification would have a minimal effect upon competition because modification of the LATA boundary would affect only a small number of access lines.¹⁴ As a result, we believe that granting BellSouth's petition serves the public interest by permitting a minor LATA modification where such a modification is necessary to meet the needs of local subscribers. Accordingly, we approve BellSouth's petition for a limited LATA boundary modification.

5. We grant this relief solely for the limited purpose of allowing BellSouth to provide EAS between the specific exchanges or geographic areas identified in this request. The LATA boundary is not modified to permit BellSouth to offer any other type of service, including calls that originate or terminate outside the specified areas. Thus, two-way, non-optional EAS between the specified exchanges will be treated as intraLATA service.

IV. ORDERING CLAUSE

6. Accordingly, IT IS ORDERED, pursuant to sections 3(25) and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 153(25), 154(i), and authority delegated by sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the request of BellSouth Telecommunications, Inc. and BellSouth Corporation for a LATA boundary modification for the limited purpose of providing

¹⁰ BellSouth Petition at 2-3.

¹¹ See *July 1997 LATA Order*, 12 FCC Rcd at 10646.

¹² See BellSouth Petition at 2-3. Louisiana Order at 2-3.

¹³ *Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Georgia and Louisiana*, CC Docket No. 02-35, Memorandum Opinion and Order, 17 FCC Rcd 9018 (2002) (*BellSouth Georgia/Louisiana Order*).

¹⁴ As noted previously, the Kentwood exchange has 4,000 access lines, the Amite exchange has 8,000 access lines, and the Independence exchange has 4,900 access lines. See BellSouth Petition at 2. We consider BellSouth's number of access lines in the Kentwood, Amite, and Independence exchanges to be well within Commission precedent. See BellSouth Petition at 3; *April 1998 LATA Order*, 13 FCC Rcd at 11046, para. 8 (granting an Extended Local Calling Service (ELCS) petition affecting over 30,000 access lines).

two-way, traditional, non-optional EAS between specific locations in Louisiana, as identified in WC Docket No. 04-321, IS APPROVED.

FEDERAL COMMUNICATIONS COMMISSION

Thomas Navin
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Wireline Competition Bureau