

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

In the Matter of)	
)	
NewSouth Communications Corp.,)	
)	
Complainant,)	File No. EB-03-MD-012
)	
v.)	
)	
BellSouth Telecommunications, Inc.,)	
)	
Defendant.)	
)	

ORDER OF DISMISSAL

Adopted: November 10, 2008

Released: November 10, 2008

By the Chief, Market Disputes Resolution Division, Enforcement Bureau:

1. On August 8, 2003, NewSouth Communications Corp. (“NewSouth”)¹ filed a formal complaint² against BellSouth Telecommunications, Inc. (“BellSouth”)³ pursuant to section 208 of the Communications Act of 1934, as amended (the “Act”).⁴ In brief, the Complaint alleges that BellSouth violated the parties’ interconnection agreement and sections 201(b) and 251(c)(3) of the Act⁵ by failing to provide to NewSouth in a timely manner the economic benefit of converting special access circuits to combinations of loops and dedicated transport. BellSouth denied NewSouth’s allegations.⁶

2. On November 6, 2008, NewSouth and BellSouth filed a Notice and Joint Stipulation of Dismissal of Claims in which they notified the Commission that they “stipulate and agree” that “New South dismisses, with prejudice, its claims in this action against BellSouth, with each party to bear its own costs.”⁷ In light of this stipulation, we are satisfied that dismissing the Complaint with prejudice will service the public interest by promoting the private resolution of disputes and by eliminating the need for further litigation and the expenditure of further time and resources of the parties and this Commission.

¹ As a result of transactions consummated in 2004, NewSouth is now NuVox Communications, Inc. Notice and Joint Stipulation of Dismissal of Claims, File No. EB-03-MD-012 (filed Nov. 5, 2008) (“Joint Stipulation”), at 1 n.1.

² Amended Formal Complaint of NewSouth Communications Corp., File No. EB-03-MD-012 (filed Aug. 8, 2003) (“Complaint”).

³ As a result of transactions consummated in 2006, BellSouth is now part of AT&T, Inc. Joint Stipulation at 2 n.2.

⁴ 47 U.S.C § 208.

⁵ 47 U.S.C. §§ 201(b), 251(c)(3).

⁶ See, e.g., Answer of BellSouth Telecommunications, Inc., File No. EB-03-MD-012 (filed Sept. 10, 2003).

⁷ Joint Stipulation at 1.

3. Accordingly, it is hereby ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 208, and sections 1.720-1.736 of the Commission's rules, 47 C.F.R. §§ 1.720-1.736, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that NewSouth's Complaint against BellSouth in the above-captioned proceeding IS DISMISSED WITH PREJUDICE.

FEDERAL COMMUNICATIONS COMMISSION

Alexander P. Starr
Chief, Market Disputes Resolution Division
Enforcement Bureau