

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth Telecommunications, Inc. for arbitration of an interconnection agreement with US LEC of Florida, Inc. pursuant to the Telecommunications Act of 1996.

DOCKET NO. 000084-TP
ORDER NO. PSC-00-2183-PHO-TP
ISSUED: November 16, 2000

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on November 8, 2000, in Tallahassee, Florida, before Commissioner Lila A. Jaber, as Prehearing Officer.

APPEARANCES:

T. MICHAEL TWOMEY, ESQUIRE, NANCY B. WHITE, ESQUIRE, and MICHAEL P. GOGGIN, ESQUIRE, C/O NANCY SIMS, 150 S. Monroe Street, #400, Tallahassee, Florida 32301
R. DOUGLAS LACKEY, ESQUIRE, and E. EARL EDENFIELD JR., ESQUIRE, 675 West Peachtree Street, #4300, Atlanta, Georgia 30375
On behalf of BELLSOUTH TELECOMMUNICATIONS, INC.

KENNETH A. HOFFMAN, ESQUIRE, and JOHN R. ELLIS, ESQUIRE, Rutledge, Ecenia, Purnell & Hoffman, P.A., P.O. Box 551, Tallahassee, Florida 32302
RUSSELL M. BLAU, ESQUIRE, and MICHAEL L. SHOR, ESQUIRE, Swidler, Berlin, Shereff, Friedman, LLP, 3000 K Street, N.W., Suite 300, Washington, DC 20007, and
On behalf of US LEC of Florida, Inc.

DIANA W. CALDWELL, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

II. CASE BACKGROUND

On January 25, 2000, BellSouth Telecommunications, Inc. (BellSouth) filed a Petition for Arbitration of certain unresolved issues in its negotiations with US LEC of Florida, Inc. (US LEC). This matter is currently set for an administrative hearing. Opening statements, if any, shall not exceed ten minutes **per party**.

III. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

2. In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- a) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- b) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- c) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- d) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- e) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has

been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

IV. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct and Rebuttal*</u>		
Cynthia K. Cox	BellSouth	All
Timothy J. Gates	US LEC	3, 4, 5, 6a, 6b, 7, 8, and 9
Wanda Montano	US LEC	1, 2, 3, 6b

* Direct and rebuttal will be taken up together.

VII. BASIC POSITIONS

US LEC: On or about June 22, 1999, BellSouth Telecommunications, Inc. ("BellSouth") and US LEC, through the adoption provisions of Section 252(i) of the Telecommunications Act of 1996 ("1996 Act"), entered into an interconnection agreement which was subsequently approved by the Commission. The agreement expired on December 31, 1999. BellSouth and US LEC have agreed to continue service pursuant to its terms until such time as a new interconnection agreement is in effect. The new interconnection agreement resulting from this arbitration proceeding will be retroactive to January 1, 2000.

Since the filing of BellSouth's Petition for Arbitration on January 25, 2000, BellSouth and US LEC have continued to negotiate the rates, terms and conditions for a new interconnection agreement. The parties remain in negotiations. Absent a resolution of the open issues remaining between BellSouth and US LEC, US LEC requests the Commission to approve its positions and proposed language for the issues which remain in dispute between the two parties.

BELLSOUTH:

The Commission's goal in this proceeding is to resolve each issue in this arbitration consistent with the requirements of Section 251 of the Telecommunications Act of 1996 ("1996 Act"), including the regulations prescribed by the Federal Communications Commission ("FCC"), and to establish rates for interconnection services and network elements in accordance with Section 252(d) of the 1996 Act. The Commission should adopt BellSouth's positions on the issues in dispute. BellSouth's positions on these issues are reasonable and consistent with the 1996 Act, which cannot be said about the positions advocated by US LEC of Florida, Inc. ("US LEC").

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

ISSUE A: What is the Commission's jurisdiction in this matter?

POSITIONS

BELLSOUTH:

Section 252(b)(1) of the Telecommunications Act of 1996 empowers the Commission to arbitrate open issues in an interconnection agreement upon the filing of a Petition for Arbitration by either party. For purposes of this arbitration, the relevant limitations on the Commission's 252(b)(1) jurisdiction are found in sections 252(b)(4)(A), 252(b)(4)(C), 252(c)(1)-(3), and 252(e).

Under section 252(b)(4)(A), the scope of the Commission's consideration in an arbitration proceeding is limited to the issues set forth in the petition and in the response. The provisions of 252(b)(4)(C) require the Commission to resolve the open issues within nine (9) months of the filing of the Petition for Arbitration. Under sections 252(c)(1)-(3), the Commission is required to ensure that

the arbitration decision: (a) meets the requirements of section 251, including FCC regulations prescribed pursuant to section 251; (b) comply with the pricing standards of section 252(d); and (c) provides a schedule for implementation of the agreement. Finally, section 252(e) sets forth the time frames for the Commission to accept or reject negotiated arbitrated agreements, specifically delineating the circumstances under which the Commission can reject an agreement.

BellSouth consents that the Commission has jurisdiction to consider the issues raised in this arbitration proceeding. There are a number of issues US LEC has raised (Issues 1 and 2), however, that are not requirements imposed upon BellSouth under section 251. Thus, while the Commission has the jurisdiction to consider these issues, BellSouth submits that under section 252(c)(1) the Commission should determine that those issues are not requirements imposed by section 251 and are therefore inappropriate to include in an interconnection agreement. There are other issues raised in this proceeding on which the FCC has opined (Issues 7 and 9). Again consistent with the requirements of section 251(c)(1), the Commission's decision on these issues must comply with FCC regulations concerning the subject matter encompassed in these issues.

US LEC: The Commission has jurisdiction to arbitrate the issues identified in BellSouth's Petition for Arbitration and US LEC's Response to BellSouth's Petition, as clarified by the Order Establishing Procedure, pursuant to Section 252 of the Act and Section 364.01, Florida Statutes.

STAFF: Section 252 of the Federal Telecommunications Act of 1996 sets forth the procedures for negotiation, arbitration, and approval of agreements.

Section 252(b)(4)(C) states that the State commission shall resolve each issue set forth in the petition and response, if any, by imposing the appropriate conditions as required. This section requires this Commission to conclude the resolution of any unresolved issues not later than nine months after the date on which the local

exchange carrier received the request under this section. Because US LEC requested two extensions of time and BellSouth did not object, the requirement to conclude the resolution of any unresolved issues within nine months is deemed waived.

ISSUE 1: Should BellSouth be required to include US LEC's logo on the cover of BellSouth's White Page and Yellow Page Directories?

POSITIONS

BELLSOUTH:

No. Neither the Telecommunications Act of 1996 ("the Act") nor the FCC rules require BellSouth to place an Alternative Local Exchange Carrier ("ALEC's") logo on the cover of BellSouth's White Page or Yellow Page directories. This issue was addressed previously by the Commission in its December 31, 1996 Joint Order in the MCI, AT&T, and ACSI arbitrations with BellSouth (Order Nos. PSC-96-1579-FOF-TP, Dockets 960833-TP, 869846-TP, and 960916-TP). In the Joint Order at page 97, the Commission concluded that, "We find that the obligation of BellSouth to provide interconnection with its network, unbundled access to network elements, or to offer telecommunications services for resale to the competitive LECs does not embrace an obligation to provide a logo appearance on its directory covers. In the absence of any express or implied language in either the Act or the rules to impose such an obligation we will not grant AT&T's and MCI's requests on this issue. Therefore, we find it appropriate that it be left for AT&T and MCI to negotiate with the directory publisher for an appearance on the cover of the white page and yellow page directories."

US LEC: Yes. Placement of US LEC's logo on BellSouth's White Page and Yellow Page Directories is required under Section 251(b)(3) of the 1996 Act. To the extent BellSouth or its publishing affiliate charges US LEC for access to these directories, it should also charge BellSouth for such access.

STAFF: Staff has no position at this time.

ISSUE 2: Should BellSouth be required to provide US LEC's subscriber listing information (SLI) to third parties? If so, under what terms?

POSITIONS

BELLSOUTH:

No. BellSouth is not required under the Act or FCC rules to furnish an ALEC's SLI to third party independent publishers, and no such requirement should be imposed. BellSouth's only obligation with respect to directory listings under Sec. 251 of the Act is as stated in FCC Rule 51.217. Neither the Act nor the FCC Rules obligate BellSouth to furnish SLI to third parties. Thus, it is the ALEC'S responsibility to provide its customers' SLI to independent directory publishers, not the ILEC's responsibility. Unlike provision of listings to directory assistance providers, BellSouth is not obligated to act as a clearinghouse to provide ALECs' listings to directory publishers.

US LEC: Yes. Provision of US LEC's subscriber listing information to third parties is required under Sections 222(e) and 252(b)(3) of the 1996 Act and applicable FCC rules. To the extent BellSouth receives any compensation from the sale of subscriber lists that include US LEC listings to third parties, BellSouth should share that revenue with US LEC on a proportionate basis.

STAFF: Staff has no position at this time.

ISSUE 3: Should BellSouth be permitted to designate more than one Point of Interface in the same LATA for BellSouth originated traffic to be delivered to US LEC? If so, under what conditions?

POSITIONS

BELLSOUTH:

Yes. BellSouth has the right to designate the point(s) of interconnection for BellSouth originating traffic at any technically feasible point in the local calling area.

Thus, while US LEC can choose to build its own facilities to connect with BellSouth at a single technically feasible point in the LATA, US LEC cannot impose a financial burden on BellSouth to deliver BellSouth's originating traffic outside the local calling area to that single point. If US LEC wants calls completed between BellSouth's customers and US LEC's customers using this single Point of Interconnection, that is fine, provided that US LEC is financially responsible for the additional costs US LEC causes. The fact that US LEC chooses to physically interconnect with BellSouth at a single point cannot overcome the fact that the single point of interconnection cannot, by itself, constitute an interconnection with every single BellSouth local network in the LATA.

US LEC: No. BellSouth should not be permitted to impose network inefficiencies on US LEC. BellSouth should only be able to designate more than one Point of Interface per LATA if it has sufficient traffic terminating to US LEC at each Point of Interface to utilize at least 75% of the interconnection facility's capacity. BellSouth's proposal to identify multiple points of interconnection and require US LEC to provide transport from these multiple points of interconnection to US LEC's network is inconsistent with the 1996 Act and FCC orders implementing the 1996 Act.

STAFF: Staff has no position at this time.

ISSUE 4: For the purposes of the interconnection agreement between BellSouth and US LEC, what is the appropriate definition of "serving wire center" for purposes of defining transport of the parties' respective traffic?

POSITIONS

BELLSOUTH:

Consistent with the definitions in FCC Tariff No. 1, Florida state access tariffs, and Newton's Telecom Dictionary, BellSouth proposes to define serving wire center as "the wire center owned by one Party from which the other Party would normally obtain dial tone for its

Point of Presence." This is the same definition used to develop prices approved by this Commission.

The location of the serving wire center defines the rate elements that apply when dedicated transport services are used to transport and terminate traffic. Such transport services typically consist of two sets of rate elements. The first set is a flat-rated local channel which is the charge for the facility that connects the ALEC's physical location, i.e., Point of Presence or Point of Interconnection, to the BellSouth wire center that serves that location, or the serving wire center. The second set of rate elements is distance sensitive charges that apply for facilities that are provided between BellSouth wire centers.

The rate center cannot be used as a substitute for the location of the physical serving wire center as the parties would not be able to determine what call transport and termination rates to apply. Thus, no interoffice transport could be billed under call transport and termination, regardless of whether such transport is used in the exchange.

US LEC: BellSouth's definition of serving wire center and the use of that definition for determining compensation for leased facility interconnection is inappropriate and results in an artificial increase in costs for US LEC. BellSouth's proposal would cause US LEC to incur costs that BellSouth does not incur given the configuration of their networks. US LEC has proposed language that would insure that symmetrical compensation is achieved for leased facility interconnection for traffic carried over the same route.

STAFF: Staff has no position at this time.

ISSUE 5: For the purposes of the interconnection agreement between BellSouth and US LEC, should parties be required to provide facilities for the transport of traffic from a Point of Interface (POI) to their own end users?

POSITIONS

BELLSOUTH:

Based on the arguments in Issue 3 above, BellSouth simply requests that the Commission find that US LEC is required to bear the cost of facilities used to connect a BellSouth local calling area to the US LEC point of interconnection located outside that local calling area.

US LEC:

Yes. BellSouth should be required to provide its own facilities to carry BellSouth's originated traffic to the US LEC network. The FCC has confirmed that each local exchange company bears the responsibility of operating and maintaining the facilities used to transport and deliver traffic on its side of the Point of Interface. It is inappropriate to impose any charges for local interconnection on US LEC for BellSouth interconnection trunks terminating at US LEC's network which provide mutual benefits for both parties through the exchange of traffic. US LEC should be similarly responsible for local interconnection trunks up to its Point of Interface with BellSouth's network.

STAFF:

Staff has no position at this time.

ISSUE 6A: For the purposes of the interconnection agreement between BellSouth and US LEC, which rates should apply for the transport and termination of local traffic: composite or elemental?

POSITIONS

BELLSOUTH:

The Commission should apply the elemental rates previously approved in Order No. PSC-96-1579-FOF-TP (12/31/96) for the transport and termination of local traffic. This way, BellSouth and US LEC would be compensated only for the functionality and components (i.e., end office switching, interoffice transport and/or tandem switching) each actually uses to complete a call.

In order for US LEC to appropriately charge BellSouth for tandem switching on any call, US LEC must demonstrate to the Commission that: 1) its switches serve a comparable geographic area to that served by BellSouth's tandem

switches and that 2) its switches perform local tandem functions. Even after meeting the above criteria, US LEC should only be compensated for the functions that it actually provides on a call-by-call basis. US LEC is not entitled to the tandem rate because its switches in Florida do not perform a local tandem function or cover a geographic area comparable to the area served by BellSouth's tandem.

US LEC: The Commission should order a composite rate for transport and termination that reflects the long-run incremental costs of providing those services. FCC Rule 51.711(a) requires that US LEC be allowed to charge BellSouth a symmetrical rate of compensation based upon the rate that BellSouth charges US LEC for terminating traffic on the BellSouth network. The Commission should order a symmetrical tandem termination rate equal to BellSouth's tariffed rates for tandem switching, one tandem transport termination, tandem transport mileage and end office switching.

STAFF: Staff has no position at this time.

ISSUE 6B: For the purposes of the interconnection agreement between BellSouth and US LEC, if elemental rates apply, should US LEC be compensated for the tandem switching elemental rates for purposes of reciprocal compensation?

POSITIONS

BELLSOUTH:

The Commission should apply the elemental rates previously approved in Order No. PSC-96-1579-FOF-TP (12/31/96) for the transport and termination of local traffic. This way, BellSouth and US LEC would be compensated only for the functionality and components (i.e., end office switching, interoffice transport and/or tandem switching) each actually uses to complete a call.

In order for US LEC to appropriately charge BellSouth for tandem switching on any call, US LEC must demonstrate to the Commission that: 1) its switches serve a comparable geographic area to that served by BellSouth's tandem switches and that 2) its switches perform local tandem functions. Even after meeting the above criteria, US LEC

should only be compensated for the functions that it actually provides on a call-by-call basis. US LEC is not entitled to the tandem rate because its switches in Florida do not perform a local tandem function or cover a geographic area comparable to the area served by BellSouth's tandem.

US LEC: Yes. Consistent with FCC Rule 51.711(a)(3), US LEC's switch serves a geographic area comparable to the area served by BellSouth's tandem switch. Accordingly, US LEC should be compensated pursuant to BellSouth's tandem interconnection rate. Although not required under the FCC rule, US LEC's central switch in each Florida market provides the same functionality over the same geographic area as BellSouth's tandem and end office switches.

STAFF: Staff has no position at this time.

ISSUE 7: **For the purposes of the interconnection agreement between BellSouth and US LEC, should ISP-bound traffic be treated as local traffic for the purposes of reciprocal compensation, or should it be otherwise compensated?**

POSITIONS

BELLSOUTH:

No. This issue addresses the applicability of ISP-bound traffic in the following instances: (1) the general applicability of reciprocal compensation to ISP-bound traffic; (2) the applicability when utilizing distance Phone-to-Phone Internet Protocol ("IP") Telephony; and (3) the exclusion of "false" traffic from the local traffic definition.

As to general applicability, reciprocal compensation should not apply to ISP-bound traffic. Based on the Act and the FCC's First Report and Order, reciprocal compensation obligations under Section 251(b)(5) only apply to local traffic. ISP-bound traffic constitutes exchange access service, which is clearly interstate and not local traffic. Nevertheless, without waiving its rights, BellSouth is willing to abide by the prior Commission decisions on this issue until the FCC establishes an inter-carrier compensation mechanism for ISP-bound traffic.

Regarding IP Telephony, the jurisdiction of a call is determined by the end points of a call, not the technology used to transport the call. Therefore, phone-to-phone calls using IP Telephony that originate and terminate in different local calling areas are long distance and subject to switched access today. Under no circumstance would such calls be subject to reciprocal compensation

Finally, BellSouth challenged the compensability of traffic known as "false" traffic through a complaint filed with the North Carolina Utilities Commission (NCUC) by BellSouth against US LEC in Docket No. P-561, Sub 10. Generally speaking, the traffic at issue in that proceeding was router-to-router traffic originated by Metacomm, a company affiliated with US LEC and with whom US LEC agreed to share the reciprocal compensation it received from BellSouth when it terminated that traffic. Irrespective of any actual use of the network connections originated by its routers, these connections were kept open between the BellSouth network and the US LEC network on essentially a 24 hour-a-day basis so as to generate reciprocal compensation payments from BellSouth to US LEC. The NCUC Order dated March 31, 2000, found that, "No reciprocal compensation is due for any minutes of use attributable to Metacomm or MCNC." By proposing to specifically exclude "false" traffic from the definition of local traffic, BellSouth has attempted to describe, albeit in a shorthand fashion, the type of traffic Metacomm originated--either for itself or on behalf of its own end-user customers--on BellSouth's network and for which US LEC attempted to collect reciprocal compensation from BellSouth. It remains BellSouth's position that "false" traffic is not local traffic subject to payment of reciprocal compensation.

US LEC: The Commission repeatedly has found ISP-bound calls are to be treated as local calls and there is no reasonable method or reason to distinguish those calls from other local calls. Consistent with public policy, economic objectives, this Commission's decisions in prior cases, and the decision of the D.C. Circuit Court of Appeals reversing and remanding portions of the FCC's Declaratory Ruling on this subject, BellSouth should pay US LEC reciprocal compensation for calls to those customers who

happen to be ISPs - - at the same composite rate utilized for all other local traffic.

STAFF: Staff has no position at this time.

ISSUE 8: For the purposes of the interconnection agreement between BellSouth and US LEC, should US LEC be allowed to establish its own local calling areas and assign its NPA-NXX for local use anywhere within such areas, consistent with applicable law, so long as it can provide information permitting BellSouth as the originating carrier to determine whether reciprocal compensation or access charges are due for any particular call?

POSITIONS

BELLSOUTH:

Yes, provided that US LEC will separately identify such traffic for purposes of inter-carrier compensation, BellSouth would not object to permitting US LEC to assign numbers out of an NPA/NXX to end users located outside the local calling area with which that NPA/NXX is associated. Because of this freedom, US LEC can elect to give a telephone number to a customer who is physically located in a different local calling area than the local calling area where that NPA/NXX is assigned. If US LEC, however, chooses to give out its telephone numbers in this manner, calls originated by BellSouth end users to those numbers are not local calls. Consequently, such calls are not local traffic under the agreement and no reciprocal compensation applies.

US LEC:

Yes. US LEC should be allowed to establish its own local calling areas and assign its NPA-NXX for local use anywhere within such areas. Consistent with BellSouth's long-standing and Commission approved foreign exchange service, calls originated by a BellSouth customer to a US LEC NPA-NXX within BellSouth's local calling area are rated as and should be construed to be local calls subject to reciprocal compensation. The calls are handled the same and cost the same regardless where US LEC's customers are located and the fact that US LEC may incur additional costs to transport a call once it has been handed off to US LEC is a business decision of US

LEC that has no impact on the proper rating of the call as a local subject to reciprocal compensation.

STAFF: Staff has no position at this time.

ISSUE 9: For the purposes of the interconnection agreement between BellSouth and US LEC, should ISP-bound traffic be considered local traffic for the purposes of calculating Percent Local Usage (PLU)?

POSITIONS

BELLSOUTH:

No. ISP-bound traffic is not local traffic, and should not be considered local traffic for purposes of calculating the PLU. BellSouth reiterates its arguments made in conjunction with Issue 7 above.

US LEC: ISP-bound traffic is clearly local traffic if the call is originated by a BellSouth customer to an NPA-NXX within the BellSouth local calling area and should be included in the PLU calculation.

STAFF: Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
			<u>Direct</u>
Cynthia K. Cox	BellSouth	_____	Network Diagrams
		CKC-1	
Cynthia K. Cox	BellSouth	_____	Decision of the Maine
		CKC-2	Public Utilities
			Commission dated June
			30, 2000

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Rebuttal</u>			
Cynthia K. Cox	BellSouth	_____ CKC-3	Local Tandem Coverage Maps
Cynthia K. Cox	BellSouth	_____ CKC-4	ISP Traffic Study Reports
Timothy J. Gates	US LEC	_____ TJG-1	Decision of Arbitration Panel designated by Michigan PSC, in Case No. U-12382, issued July 5, 2000
Timothy J. Gates	US LEC	_____ TJG-2	Order of Michigan Public Service Commission adopting arbitrated agreement, in Case No. 12382, issued August 17, 2000.
Wanda Montano	US LEC	_____ WM-1	Description of US LEC's network and points of inter- connection with BellSouth's network.

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. RULINGS

A. The Motion for Extension of Time to file Staff's Prehearing Statement filed on October 31, 2000, is hereby granted.

B. The parties shall provide in their briefs a statement identifying any decision or pending decision of the FCC or any court that has or may either preempt or otherwise impact the Commission's ability to resolve any of the issues presented or the relief requested in this matter.

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C. T. Michael Twomey, Counsel for BellSouth Telecommunications, Inc. is hereby granted status as qualified representative.

Based on the foregoing, it is

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Lila A. Jaber as Prehearing Officer, this 16th day of November, 2000.



LILA A. JABER
Commissioner and Prehearing Officer

(S E A L)

DWC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.