

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BELLSOUTH TELECOMMUNICATIONS, INC.
REBUTTAL TESTIMONY OF ALPHONSO J. VARNER
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 990149-TP

MAY 4, 1999

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS ADDRESS.

A. My name is Alphonso J. Varner. I am employed by BellSouth as Senior Director for State Regulatory for the nine-state BellSouth region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

A. Yes. I filed direct testimony and four exhibits on April 1, 1999.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My testimony rebuts portions of the direct testimony filed by MediaOne witness Gary Lane with the Florida Public Service Commission ("Commission") on February 9, 1999 and received by BellSouth on February 25, 1999.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. ON PAGE 11, MR. LANE DISCUSSES THE OBLIGATIONS FOR
RECIPROCAL COMPENSATION FOR LOCAL TRAFFIC IN THE
CURRENT STIPULATION AND PROPOSED INTERCONNECTION
AGREEMENT. IS HIS UNDERSTANDING CORRECT?

A. Yes. BellSouth and MediaOne are obligated to compensate one another for the
termination of one carrier's local traffic over the network of the other.
However, the pertinent part of this obligation is that reciprocal compensation
applies only to the termination of local traffic. ISP traffic is not local traffic;
and therefore, is not covered by this obligation.

Q. MR LANE ALSO STATES (PAGE 11) THAT THE 1996 ACT REQUIRES
INTERCONNECTED CARRIERS TO COMPENSATE ONE ANOTHER
FOR TERMINATING TRAFFIC. DOES THIS REQUIREMENT APPLY TO
INTERSTATE TRAFFIC?

A. No. The portion of the Act that Mr. Lane alludes to in his testimony is
contained in Section 251(b)(5). Since ISP traffic is interstate traffic, the
requirements of this section of the Act would not apply. Neither Section 251
nor Section 252 governs interstate inter-carrier compensation arrangements.
The duty to negotiate under Section 251 pertains only to fulfilling the duties set
forth in subsections (b) and (c) of Section 251. Section 251(b) relates to local
exchange carriers' obligations regarding resale, number portability, dialing
parity, access to rights-of-way, and reciprocal compensation. Inter-carrier

1 compensation for jointly provided interstate services is unrelated to any of
2 these Section 251(b) obligations. The FCC concluded in its Declaratory
3 Ruling that “section 251(b)(5) of the Act and our rules promulgated pursuant to
4 that provision concern inter-carrier compensation of interconnected local
5 telecommunication traffic. We conclude in this Declaratory Ruling, however,
6 that ISP-bound traffic is non-local interstate traffic. Thus, the reciprocal
7 compensation requirements of section 251(b)(5) of the Act and Section 51,
8 Subpart H (Reciprocal Compensation for Transport and Termination of Local
9 Telecommunications Traffic) of the Commission’s rules do not govern inter-
10 carrier compensation for this traffic.” *Declaratory Ruling* at n.87.

11
12 Likewise, there is no link between Section 251(c) and interstate inter-carrier
13 compensation. The duty to negotiate under Section 251(c) pertains to the
14 terms and conditions that relate to interconnection, access to unbundled
15 network elements, resale, and collocation. There is nothing in Section 251(c)
16 that would govern interstate inter-carrier compensation.

17
18 Q. WHAT AUTHORITY DO THE STATE COMMISSIONS HAVE TO
19 ARBITRATE COMPENSATION FOR ISP TRAFFIC?

20
21 A. A state commission’s arbitration authority under Section 252 extends only to
22 agreements negotiated pursuant to the requirements of Section 251. Because
23 inter-carrier compensation for interstate services is not governed by Section
24 251, state commissions are without the statutory authority to arbitrate disputes
25 over such matters.

1

2 Q. IS IT APPROPRIATE FOR THE FCC TO DELEGATE ITS AUTHORITY
3 REGARDING ISP COMPENSATION ISSUES TO STATE
4 COMMISSIONS?

5

6 A. No. The FCC does not have the authority to rewrite the Communications Act
7 and vest the state commissions with the power to regulate matters relating to
8 interstate communications that, under the Act, are specifically reserved to the
9 FCC. As I indicated in my direct testimony, the FCC apparently authorized
10 state commissions to arbitrate compensation matters for ISP traffic for a
11 temporary period. However, it's unclear whether the FCC could delegate this
12 undertaking. If the FCC were to delegate, such delegation would only be valid
13 until the FCC completes its rulemaking on the subject. If states actually
14 arbitrated the issue, the FCC could overturn any state ruling when the FCC's
15 rulemaking is completed. Consequently, states don't appear to have any real
16 authority to resolve this issue. They can simply issue interim rulings that may
17 only be applicable until the FCC's rulemaking is complete.

18

19 Nonetheless, any arbitration of ISP compensation issues would be separate
20 from Section 252 arbitration, which is the subject of this proceeding. Because
21 it is not appropriate to pay local reciprocal compensation for ISP traffic, there
22 is no basis for including the compensation determination for such traffic as a
23 subject of arbitration under Section 252 of the Act. Although the FCC's Order
24 authorized states to arbitrate the issue of inter-carrier compensation for ISP
25 traffic, the FCC cannot simply expand the scope of Section 252 to cover such

1 arbitrations. BellSouth's comments and reply comments filed with the FCC
2 relating to these issues are attached as Exhibits AJV-1 and AJV-2.

3

4 Q. BEGINNING ON PAGE 11, MR. LANE ADDRESSES MEDIAONE'S
5 POSITION REGARDING RECIPROCAL COMPENSATION FOR ISP
6 TRAFFIC. IS MEDIAONE'S POSITION CONSISTENT WITH THE FCC'S
7 RECENT RULING?

8

9 A. No. Mr. Lane's testimony was filed prior to the FCC's recent Declaratory
10 Ruling, in which it declared that Internet traffic is jurisdictionally mixed and
11 appears to be largely interstate in nature. Contrary to MediaOne's position
12 that the call is completed when it connects to the ISP's equipment, the FCC
13 concluded the calls at issue do not terminate at the ISPs' location, but rather
14 continue to their ultimate destination, specifically at websites that may reside
15 in other states or countries. As stated in my direct testimony, the FCC's
16 decision makes plain that no part of an Internet communication terminates at
17 the facilities of an ISP. Once it is understood that Internet traffic "terminates"
18 at distant websites, which rarely reside in the same exchange as the end-user, it
19 is evident that these calls are not local.

20

21 Q. ON PAGE 12, MR. LANE ADDRESSES BELLSOUTH'S POSITION
22 REGARDING ISP TRAFFIC. IS HIS UNDERSTANDING CORRECT?

23

24 A. Yes. BellSouth's position has always been that ISP traffic is interstate traffic
25 and as such, would not be included in the reciprocal compensation arrangement

1 in the proposed Interconnection Agreement. The language BellSouth put forth
2 during negotiations with MediaOne pertaining to the definition of “Local
3 Traffic” specifically excludes “traffic that originates from or terminates to an
4 Enhanced Service Provider (ESP) or Information Serviced Provider (ISP) until
5 the Commission, FCC or a court of competent jurisdiction determines in a final
6 and nonappealable order that such traffic is Local Traffic.” See Proposed
7 Agreement, General Terms and Conditions – Part B, Page 2. The FCC has
8 resolved this matter – ISP traffic is not local. Furthermore, it’s apparent from
9 this language that BellSouth has never had any intention of including ISP
10 traffic in the definition of local traffic in the MediaOne Interconnection
11 Agreement.

12
13 Q. IS ISP-BOUND TRAFFIC ANALOGOUS TO OTHER ACCESS
14 SERVICES?

15
16 A. Yes. For ISP-bound traffic, the ISP is purchasing an access service to receive
17 communications from its subscribers and recovers its costs through fees
18 charged to those subscribers. For dial-up connections, the ISP is obtaining a
19 service that is analogous to a Feature Group A access service.

20
21 Q. PLEASE DESCRIBE HOW ISP-BOUND TRAFFIC IS ANALOGOUS TO
22 FEATURE GROUP A ACCESS SERVICE.

23
24 A. As I discussed in my direct testimony, Feature Group A access service was
25 predominately used by Interexchange Carriers prior to the implementation of

1 Equal Access. Feature Group A access service enabled end users of an
2 Interexchange Carrier to dial a seven digit telephone number in order to access
3 the IXC's long distance network. The end user was then connected to the
4 IXC's network of completion of the long distance call. ISP service is
5 analogous to Feature Group A access service in that it obtains a dial tone
6 service that has a 7/10 digit local number associated with it. The primary
7 difference between Feature Group A and the ISP dial-up connection is that
8 Feature Group A is based on two-way usage sensitive prices, whereas the FCC
9 has limited the price for a one-way ISP dial-up connection to the equivalent
10 business exchange service rate. Notwithstanding the pricing differences, the
11 Feature Group A and the ISP dial-up services provide the customers of these
12 services with the ability to communicate with their subscribers, and the fees
13 paid by these customers (e.g., IXCs or ISPs) are supposed to compensate the
14 LEC(s) for providing the service.

15

16 Q. HOW DOES TREATING ISP TRAFFIC AS INTERSTATE ACCESS
17 SERVICE AFFECT THE ACCESS CHARGE EXEMPTION?

18

19 A. Further, the FCC has correctly found that the preponderance of ISP
20 communications is jurisdictionally interstate. There is no practical means of
21 distinguishing intrastate and interstate components of ISP communications. As
22 such, the dial-up connection obtained by the ISP should be considered
23 jurisdictionally interstate. Such jurisdictional assignment does not implicate
24 the access charge exemption for enhanced service providers. An interstate
25 dial-up access connection for ISPs can be provided by simply adding a

1 regulation for ISP dial-up connections to the interstate access tariff that cross-
2 references the applicable business exchange rates that ISPs obtain from
3 intrastate tariffs. Thus, ISPs would retain the current rate treatment of paying a
4 rate that is no higher than a business exchange rate, but the service revenues
5 and costs would properly be assigned to the interstate jurisdiction. Use of a
6 cross-reference would have the further beneficial effect of making the
7 jurisdictional alignment of service, revenues and costs transparent to the ISPs.

8

9 Q. BEGINNING ON PAGE 12, MR. LANE DISCUSSES COMPENSATION
10 FOR INTERSTATE TRAFFIC BETWEEN LOCAL EXCHANGE
11 CARRIERS AND LONG DISTANCE PROVIDERS. MR. LANE'S
12 POSITION IS THAT THE CURRENT INTER-CARRIER COMPENSATION
13 MODEL IS NOT APPROPRIATE FOR ISP TRAFFIC. DO YOU AGREE?

14

15 A. No. Mr. Lane incorrectly concludes that the FCC does not allow a
16 compensation mechanism for ISP-bound traffic that is similar to the inter-
17 carrier compensation mechanism used for other interstate traffic. To the
18 contrary, the FCC's Notice of Proposed Rule Making (NPRM) in CC Docket
19 No. 99-68 regarding inter-carrier compensation for ISP-bound traffic seeks
20 comments to do just that.

21

22 Q. WHY IS AN INTER-CARRIER COMPENSATION ARRANGEMENT
23 APPROPRIATE FOR ISP TRAFFIC?

24

25

1 A. The interstate connection that permits an ISP to communicate with its
2 subscribers falls within the scope of exchange access and, accordingly,
3 constitutes an access service as defined by the FCC:

4 *Access Service* includes services and facilities provided for the
5 origination or termination of any interstate or foreign
6 telecommunications. (Emphasis added)

7 The fact that the FCC has exempted enhanced service providers, including
8 ISPs, from paying interstate access charges does not alter the fact that the
9 connection an ISP obtains is an access connection. Instead, the exemption
10 limits the compensation that a LEC in providing such a connection can obtain
11 from an ISP. Further, under the access charge exemption, the compensation
12 derived by a LEC providing the service to an ISP has been limited to the rates
13 and charges associated with business exchange services. Nevertheless, the
14 ISP's service involves interstate communications. The ISP obtains a service
15 that enables a communications path to be established by its subscriber. The
16 ISP, in turn, recovers the cost of the telecommunications services it uses to
17 deliver its service through charges it assesses on the subscribers of the ISP's
18 service.

19
20 Where two or more carriers are involved in establishing the communications
21 path between the ISP and the ISP's subscriber, the access service to the ISP is
22 jointly provided. Such jointly provided access arrangements are not new or
23 unique nor are the associated mechanisms to handle inter-carrier compensation.
24 The services ISPs obtain for access to their subscribers are technically similar
25 to the line side connections available under Feature Group A. For such line

1 side arrangements, the FCC has relied on revenue sharing agreements for the
2 purpose of inter-carrier compensation. The long history and precedent
3 regarding inter-carrier compensation for interstate services are instructive and
4 relevant to the FCC's determinations in this proceeding.

5
6 Q. WHAT WOULD BELLSOUTH PROPOSE TO BE A PROPERLY
7 CONSTRUCTED ISP COMPENSATION PLAN?

8
9 A. With regard to inter-carrier compensation for jointly-provided Internet access
10 service, the LEC providing dialtone to the ISP is the primary LEC and receives
11 the interstate equivalent of a business exchange rate. The non-dialtone LEC, or
12 secondary LEC, receives no interstate revenues other than the subscriber line
13 charge. Nevertheless, the secondary LEC incurs switching and trunking costs
14 associated with the provision of this interstate service. Consistent with FCC
15 precedent, the primary LEC, which has the relationship with the ISP, should
16 compensate or share revenues with the secondary LEC.

17
18 Any adopted inter-carrier compensation approach should: (1) recognize that
19 ISP traffic is interstate; (2) call for negotiations between the carriers jointly
20 providing the Internet access service; (3) be based on revenue sharing with the
21 primary carrier sharing revenue with the secondary carrier; and (4) use
22 negotiation to determine the amount of inter-carrier compensation. Such an
23 inter-carrier compensation approach promotes FCC goals and objectives. First
24 and foremost, the approach does not disrupt the enhanced service providers
25 access charge exemption. Next, while the enhanced service provider

1 exemption remains intact, the mechanism crafted by BellSouth follows the
2 same path that the FCC has unwaveringly pursued over the last fifteen years
3 when it addressed LEC inter-carrier compensation matters. Finally, but
4 equally important, the approach is procompetitive. It avoids creating
5 regulatory incentives that artificially reward carriers that only serve selected
6 customers. It promotes efficient networks and encourages carriers to compete
7 across a broad range of services and customers because it ensures that carriers
8 are compensated fairly. For example, the mechanism proposed by BellSouth
9 would share the revenues derived from the services provided to ISPs. If such
10 services are flat-rated, then the inter-carrier compensation would not be usage
11 based.

12

13 Q. IN LIGHT OF YOUR COMMENTS WHAT ACTION ARE YOU
14 RECOMMENDING TO THE FLORIDA PSC?

15

16 A. The FCC has determined that ISP-bound traffic is interstate and has asserted
17 jurisdiction. Consistent with this Commission's comments with the FCC,

18 If the Commission determines that federal rules are necessary, then the
19 Commission should also be responsible for enforcement of those rules.

20 This would include arbitrating, or arranging for independent arbitration
21 of, any disputes regarding this traffic. The states should not be
22 obligated to enforce FCC rules on this matter. [FPSC Comments in CC
23 Docket No. 96-98 and CC Docket No. 99-68, p. 6.]

24 This issue is not arbitrable under Section 252 of the Act and it would serve no
25 purpose for this Commission to enter an interim ruling subject to the whims of

1 the FCC. Parties should be instructed to negotiate a revenue sharing
2 arrangement for this traffic just as has been done for jointly-provided access
3 service since divestiture. If those negotiations are not fruitful (however, this
4 has not occurred in the past) they should be referred to the FCC.

5

6 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

7

8 A. Yes.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

In the Matter of)
)
Inter-Carrier Compensation) CC Docket No. 99-68
for ISP-Bound Traffic)

COMMENTS

**BELLSOUTH CORPORATION
BELLSOUTH TELECOMMUNICATIONS, INC.**

M. Robert Sutherland
Richard M. Sbaratta

Their Attorneys

BellSouth Corporation
Suite 1700
1155 Peachtree Street, N. E.
Atlanta, Georgia 30309-3610
(404) 249-3386

Date: April 12, 1999

TABLE OF CONTENTS

Summary	i
I. Introduction.....	1
II. Inter-Carrier Compensation for ISP-Bound Interstate Traffic.....	3
A. The Commission Should Not Adopt The Alternative Set Forth In The <i>NPRM</i>	4
B. The Parameters Of A Properly Crafted Inter-Carrier Compensation Mechanism.....	7
C. ISP-Bound Traffic Cannot Practically Be Separated Into Its Interstate and Intrastate Components.....	10
III. Conclusion	12

SUMMARY

The purpose of the *NPRM* is to consider the adoption of a rule “regarding the compensation for ISP-bound traffic.

BellSouth suggests that the Commission should adopt an inter-carrier compensation approach that: (1) recognizes that ISP traffic is interstate; (2) calls for negotiations between the carriers jointly providing the Internet access service; (3) is based on revenue sharing with the primary carrier sharing revenue with the secondary carrier; and (4) uses negotiation to determine the amount of inter-carrier compensation. Such an inter-carrier compensation approach promotes the Commission’s goals and objectives.

Further, the Commission should find that ISP-bound traffic cannot be separated into its interstate and intrastate components. Any single Internet session can result in an Internet user accessing information in his/her own state, another state, or another country. The same user could “chat” online with people across the street or on the other side of the world. The inability to distinguish the jurisdictional nature of each communication that travels across the Internet leads to the conclusion that Internet traffic is inseparable and must be considered jurisdictionally interstate.

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

In the Matter of)	
)	
Inter-Carrier Compensation)	CC Docket No. 99-68
for ISP-Bound Traffic)	

COMMENTS

BellSouth Corporation and BellSouth Telecommunications, Inc. ("BellSouth") hereby submit the following comments on the *Notice of Proposed Rulemaking*, released on February 26, 1999,¹ regarding inter-carrier compensation for ISP-bound traffic.

I. INTRODUCTION

In its *Declaratory Ruling*, the Commission found that Internet-bound communications do not terminate at an Internet Service Provider's ("ISP") local server but "continue to the ultimate destination or destinations, specifically at an Internet website that is often located in another state."² The Commission also concluded that a substantial portion of Internet traffic involves accessing interstate or foreign websites and hence is jurisdictionally interstate.³ The purpose of

¹ *In the Matter of Inter-Carrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68, *Notice of Proposed Rulemaking*, FCC 99-38, released February 26, 1999 ("NPRM").

² *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *Declaratory Ruling*, FCC 99-38, released February 26, 1999 at ¶ 12 ("*Declaratory Ruling*").

³ *Id.* at ¶¶ 18 and 20.

the *NPRM* is to consider the adoption of a rule governing inter-carrier compensation for ISP-bound traffic.⁴

As a preliminary matter, it is necessary to establish the framework within which the issue of inter-carrier compensation should be considered. The interstate connection that permits an ISP to communicate with its subscribers falls within the scope of exchange access and, accordingly, constitutes an access service as defined by the Commission:

Access Service includes services and facilities provided for the origination or termination of any interstate or foreign telecommunication.⁵ (emphasis added)

The fact that the Commission has exempted enhanced service providers, including ISPs, from paying interstate access charges does not alter the fact that the connection an ISP obtains is an access connection. Instead, the exemption limits the compensation that a local exchange carrier (“LEC”) in providing such a connection can obtain from an ISP.⁶ Further, under the access charge exemption, the compensation derived by a LEC providing the service to an ISP has been limited to the rates and charges associated with business exchange services. Nevertheless, the ISP’s service involves interstate communications. The ISP obtains a service that enables a communications path to be established by its subscriber. The ISP, in turn, recovers the cost of the telecommunications services it uses to deliver its service through charges it assesses on the subscribers of the ISP’s service.

⁴ *NPRM* at ¶ 28.

⁵ 47 C.F.R. § 69.2(b).

⁶ The access charge exemption only applies to LECs that are subject to the Commission’s access charge rules (47 C.F.R. § 69.1 *et. seq.*).

Where two or more carriers are involved in establishing the communications path between the ISP and the ISP's subscriber, the access service to the ISP is jointly provided. Such jointly provided access arrangements are not new or unique nor are the associated mechanisms to handle inter-carrier compensation. The services ISPs obtain for access to their subscribers are technically similar to the line side connections available under Feature Group A. For such line side arrangements, the Commission has relied on revenue sharing agreements for the purpose of inter-carrier compensation. The long history and precedent regarding inter-carrier compensation for interstate services are instructive and relevant to the Commission's determinations in this proceeding.

II. INTER-CARRIER COMPENSATION FOR ISP-BOUND INTERSTATE TRAFFIC

The *NPRM* expresses the Commission's preference that any rule pertaining to inter-carrier compensation be based upon negotiations entered into by the respective carriers.⁷ BellSouth supports a federal rule that calls for negotiation between the carriers to determine inter-carrier compensation for jointly provided interstate-services. Negotiation has long been a mechanism employed by the Commission with regard to other jointly provided access arrangements that involved potential revenue sharing. Relying on the negotiation process enables agreements to reflect the differing circumstances that arise and permits carriers to craft agreements that are particular to those circumstances.

⁷ *NPRM* at ¶ 28.

The *NPRM* presents an approach to inter-carrier compensation based on the negotiation process established in Sections 251 and 252 of the Communications Act.⁸ As explained more fully below, such an approach is not acceptable because the Commission does not have the statutory authority to adopt it. In response to the *NPRM*'s invitation, BellSouth submits an alternative approach that is consistent with the revenue sharing approaches followed by the Commission in connection with jointly provided access service.

A. The Commission Should Not Adopt The Alternative Set Forth In The *NPRM*

The approach for interstate inter-carrier compensation set forth in the *NPRM* would make the negotiations for such compensation subject to the negotiation process established by Sections 251 and 252 of the Communications Act. The proposal contemplates that a failure on the part of the parties to reach an agreement would be subject to the arbitration procedures set forth in Section 252 of the Communications Act, wherein state commissions would have the responsibility of arbitrating any unresolved issues. Under this proposal, the Commission would have no oversight role unless the state commission failed to act in accordance with the provisions of Section 252. This proposal is fundamentally flawed.

Neither Section 251 nor Section 252 governs interstate inter-carrier compensation arrangements. The duty to negotiate under Section 251 pertains only to fulfilling the duties set forth in subsections (b) and (c) of Section 251. Section 251(b) relates to local exchange carriers' obligations regarding resale, number portability, dialing parity, access to rights-of-way, and reciprocal compensation. Inter-carrier compensation for jointly provided interstate services is

⁸ 47 U.S.C. §§ 251 and 252.

unrelated to any of these Section 251(b) obligations.⁹ Likewise, there is no nexus between Section 251(c) and interstate inter-carrier compensation. The duty to negotiate under Section 251(c) pertains to the terms and conditions that relate to interconnection, access to unbundled network elements, resale, and collocation. There is nothing in Section 251(c) that would govern interstate inter-carrier compensation.

A state commission's arbitration authority under Section 252 extends only to agreements negotiated pursuant to the requirements of Section 251. Because inter-carrier compensation for interstate services is not governed by Section 251, state commissions are without the statutory authority to arbitrate disputes over such matters. Further, the Commission does not have the authority to rewrite the Communications Act and vest the state commissions with the power to regulate matters relating to interstate communications that, under the Act, are specifically reserved to the Commission.¹⁰

⁹ Indeed, of the five obligations enumerated in Section 251(b), only reciprocal compensation could be remotely relevant. The Commission's *Declaratory Ruling*, however, is dispositive:

As noted, section 251(b)(5) of the Act and our rules promulgated pursuant to that provision concern inter-carrier compensation for interconnected *local* telecommunications traffic. We conclude in this Declaratory Ruling, however, that ISP-bound traffic is non-local interstate traffic. Thus, the reciprocal compensation requirements of section 251(b)(5) of the Act and Section 251, Subpart H (Reciprocal Compensation for Transport and Termination of Local Telecommunications Traffic) of the Commission's rules do not govern inter-carrier compensations for this traffic.

Declaratory Ruling at n. 87.

¹⁰ See 47 U.S.C. §§ 151 and 152(a). Similarly, the Commission does not have the statutory authority to vest federal district courts with the authority to review decisions regarding inter-carrier compensation for interstate communications. Under Section 252, federal district courts only have jurisdiction to review state commission actions "to determine whether the agreement

As an alternative to relying on Sections 251 and 252, the *NPRM* proposes that the Commission adopt “a set of federal rules governing inter-carrier compensation for ISP-bound traffic pursuant to which parties would engage in negotiations concerning rates, terms and conditions applicable to delivery of interstate ISP-bound traffic.”¹¹ Without question, the only type of mechanism that can govern inter-carrier compensation for interstate services must be one over which the Commission has oversight. Federal rules that bind interstate inter-carrier compensation obligations would be appropriate.

The *NPRM*, however, assumes that for federal rules to operate properly, an arbitration-like process needs to be in-place. Arbitration is not an essential element for effective negotiation of interstate inter-carrier compensation agreements. Further, while the Commission has considerable latitude in managing its proceedings, it must be mindful that in conducting its affairs, it must do so in a manner that is consistent with the Administrative Procedures Act and the Communications Act. Thus, the Commission cannot divest the courts of appeal of jurisdiction to review final Commission orders or to force carriers to engage in binding arbitration. To the extent disputes arise during the inter-carrier compensation negotiations, the statutory complaint process and the Commission’s implementing rules already provide an effective dispute resolution mechanism.

or statement meets the requirements of section 251 and this section.” 47 U.S.C. § 252(e)(6). Inter-carrier compensation for interstate services is unrelated to the requirements of Sections 251 or 252.

¹¹ *NPRM* at ¶ 31.

B. The Parameters Of A Properly Crafted Inter-Carrier Compensation Mechanism

At the outset, the Commission must recognize that any interstate inter-carrier compensation mechanism adopted in this proceeding gives rise to interstate costs that must be recovered through interstate rates. As obvious as this principle is, nothing in the *NPRM* indicates that the Commission has given any consideration to this basic concept. Yet, Commission precedent regarding inter-carrier compensation, *i.e.*, primary/secondary carrier agreements, revenue sharing agreements and meet point billing, firmly establishes that compensation between one carrier and another is for the purpose of recovering costs of jointly provided services and the cost of such compensation is borne by the subscriber of the jointly provided service.

For ISP-bound traffic, the ISP is purchasing an access service to receive communications from its subscribers. It uses the telecommunications service to provide its enhanced services and recovers its costs through fees charged to its subscribers. For dial-up connections, the ISP is obtaining a service that is analogous to a Feature Group A access service in that it obtains a dial tone service that has a 7/10 digit local number associated with it. The primary difference between Feature Group A and the ISP dial-up connection is that Feature Group A is based on two-way usage sensitive prices, whereas the Commission has limited the price for an ISP dial-up connection to the equivalent business exchange service rate.¹² Notwithstanding the pricing differences, the Feature Group A and the ISP dial-up services provide the customers of these services with the ability to communicate with their subscribers, and the fees paid by these

¹² For BellSouth, exchange rates are generally flat-rated.

customers (*e.g.*, Interexchange carriers or ISPs) are supposed to compensate the LEC(s) for providing this service.¹³

Further, the Commission has correctly found that the preponderance of ISP communications is jurisdictionally interstate. As discussed below, there is no practical means of distinguishing intrastate and interstate components of ISP communications. For this reason the dial-up connection obtained by the ISP should be considered jurisdictionally interstate.¹⁴ Such jurisdictional assignment does not implicate the access charge exemption for enhanced service providers. An interstate dial-up access connection for ISPs can be provided by simply adding a regulation for ISP dial-up connections to the interstate access tariff that cross-references the applicable business exchange rates that ISPs obtain from intrastate tariffs. Thus, ISPs would retain the current rate treatment of paying a rate that is no higher than a business exchange rate, but the service revenues and costs would properly be assigned to the interstate jurisdiction. Use of a cross-reference would have the further beneficial effect of making the jurisdictional alignment of service, revenues and costs transparent to the ISPs.

With regard to inter-carrier compensation for jointly-provided Internet access service, the LEC providing dial-tone to the ISP is the primary LEC and receives the interstate equivalent of a business exchange rate. The non-dial-tone LEC, or secondary LEC, receives no interstate revenues other than the subscriber line charge. Nevertheless, the secondary LEC incurs

¹³ The interstate cost components of the service include the subscriber's common line, the subscriber's switch, interoffice transport, the customer's dial-tone switch and the transport to the customer's location.

¹⁴ At a minimum, a substantial portion of the dial-up connection must be considered jurisdictionally interstate in light of the Commission's finding in the *Declaratory Ruling*.

switching and trunking costs associated with the provision of this interstate service. Consistent with Commission precedent, the primary LEC, which has the relationship with the ISP, should compensate or share revenues with the secondary LEC.¹⁵

The Commission, accordingly, should adopt an inter-carrier compensation approach that: (1) recognizes that ISP traffic is interstate; (2) calls for negotiations between the carriers jointly providing the Internet access service; (3) is based on revenue sharing with the primary carrier sharing revenue with the secondary carrier; and (4) uses negotiation to determine the amount of inter-carrier compensation. Such an inter-carrier compensation approach promotes Commission goals and objectives. First and foremost, the approach does not disrupt the enhanced service providers access charge exemption. Next, while the enhanced service provider exemption remains intact, the mechanism crafted by BellSouth follows the same path that the Commission has unwaveringly pursued over the last fifteen years when it addressed LEC inter-carrier compensation matters. Finally, but equally important, the approach is procompetitive. It avoids creating regulatory incentives that artificially reward carriers that only serve selected customers. It promotes efficient networks and encourages carriers to compete across a broad range of services and customers because it ensures that carriers are compensated fairly.¹⁶

¹⁵ Prior to revenue sharing for Feature Group A, the Commission had established guidelines applicable to primary carrier/secondary carrier agreements.

¹⁶ For example, the mechanism proposed by BellSouth would share the revenues derived from the services provided to ISPs. If such services are flat-rated, then the inter-carrier compensation would not be usage based.

C. ISP-Bound Traffic Cannot Practically Be Separated Into Its Interstate and Intrastate Components

In the *Declaratory Ruling*, the Commission determined that ISP-bound traffic was substantially interstate in nature. The Commission, however, reserved until this proceeding any determination regarding the severability of such traffic into intrastate and interstate components. It is beyond dispute that no carrier involved in delivering ISP-bound traffic has any way of determining how an ISP's subscriber is using the connection established between himself and the ISP. The only party that could theoretically track the jurisdictional use of the connection is the ISP itself. In BellSouth's opinion the tools to transform a theoretical possibility into a practical reality do not exist.

Hosts that are connected to the Internet can be located anywhere. Indeed, the fact that they are not tied to a particular geographic location represents one of the fundamental values of the Internet. Neither the IP address of the host nor its domain name links the host to a specific geographical location. Hence, there is no practical means to identify where the host is physically located. Neither the ISP's subscriber nor the ISP has any technical or operational tools that would enable them to determine which communications initiated by the subscriber or received by the subscriber are related to hosts that are located within the same local area as the ISP's local server or in another state or in another country. The dispersion of servers world-wide and the lack of duplication attests to the fact that use of the Internet will invariably involve substantial interstate communications.¹⁷

¹⁷ The WWW Consortium has compiled an extensive list of servers by geographic locations. The list is available at <http://vlib.stanford.edu/Servers.html>.

In addition, an ISP's subscriber typically communicates with more than one destination point on (or beyond) the Internet during a single Internet session and may do so either sequentially or simultaneously. For example, an ISP's subscriber in a single Internet session may access websites that reside on servers located in various states or in foreign countries; communicate directly with another Internet user; and "chat" online, in real time, with a group of Internet users located around the corner or around the world. Standard Internet "browsers" enable an ISP's subscriber to do all of these things simultaneously. In another example, an ISP's subscriber may download incoming e-mail from the ISP's server (which may or may not be located in the same state as the user), while accessing his stockbroker's website in another state, and listen to an audio feed that originates from a radio station in another country.¹⁸ The dynamic capabilities of the Internet render it impossible to segregate intrastate from interstate communications.¹⁹

¹⁸ Indeed, one website, www.broadcast.com, offers an Internet user access to 984 different radio and television stations. With real-time audio and video streaming capabilities, which are available for most web browsers, Internet users can listen to radio stations and watch TV broadcasts from around the world.

¹⁹ In a working paper, the FCC Office of Plans and Policy explained that:

[B]ecause the Internet is a dynamically routed, packet-switched network, only the origination point of an Internet connection can be identified with clarity. Users generally do not open Internet connections to "call" a discreet recipient, but access various Internet sites during the course of a single conversation.... One Internet "call" may connect the user to information both across the street and on the other side of the world.

The paper concludes that Internet traffic "has no built-in jurisdictional divisions." Kevin Werbach, *Digital Tornado: The Internet and Telecommunications Policy*, FCC, OPP Working Paper No. 29 (March 1997) at 45.

The inability to distinguish the jurisdictional nature of each communication that traverses an Internet connection coupled with the predominant interstate nature of Internet communications lead to the inescapable conclusion that Internet traffic is inseverable and must be considered jurisdictionally interstate.

III. CONCLUSION

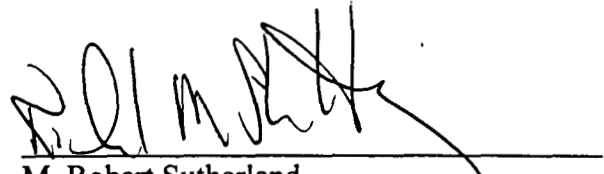
ISP-bound traffic is inherently and inseverably interstate traffic. As such, it requires an interstate inter-carrier compensation mechanism over which the Commission maintains oversight authority. BellSouth has provided an approach to address inter-carrier compensation for ISP-

bound traffic that recognizes the interstate character of such traffic and is consistent with Commission policies and goals.

Respectfully submitted

BELLSOUTH CORPORATION
BELLSOUTH TELECOMMUNICATIONS, INC.

By:



M. Robert Sutherland
Richard M. Sbaratta

Their Attorneys

BellSouth Corporation
Suite 1700
1155 Peachtree Street, N.E.
Atlanta, Georgia 30306-3610
(404) 249-3386

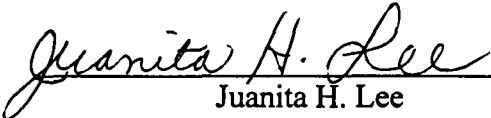
Date: April 12, 1999

CERTIFICATE OF SERVICE

I do hereby certify that I have this 12th day of April 1999 served the following parties to this action with a copy of the foregoing COMMENTS by hand delivery or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed below.

*Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S. W.
Room TW-A325
Washington, DC 20554

*ITS
1231 20th Street, N. W.
Washington, DC 20036



Juanita H. Lee

* VIA HAND DELIVERY

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

In the Matter of)
)
Inter-Carrier Compensation) CC Docket No. 99-68
For ISP-Bound Traffic)

REPLY COMMENTS

BellSouth Corporation and BellSouth Telecommunications, Inc. ("BellSouth") hereby submit their Reply Comments in the above referenced proceeding.

I. INTRODUCTION

In this proceeding the Commission is considering adopting rules to govern inter-carrier compensation for interstate ISP-bound traffic. For some commenters, this proceeding is an opportunity for the Commission to "show me the money" and make inter-carrier compensation a euphemism for corporate welfare. Inter-carrier compensation becomes an excuse for transfer payments from ILECs to CLECs.

Inter-carrier compensation is more complex. The underlying concept is one in which all carriers participating in the provision of a jointly provided service are compensated for the jointly provided service. Thus, inter-carrier compensation necessarily involves consideration of the revenues associated with the jointly provided service because it is from such revenues that inter-carrier compensation is derived. In the case of ISP-bound traffic, the issue is more difficult because the Commission's access charge exemption policy constrains the prices that can be charged for ISP-bound traffic.

Calls for the Commission to emulate local reciprocal compensation schemes simply ignore the realities surrounding ISP-bound traffic. The decision the Commission must make in

this proceeding requires a more thoughtful and analytical approach if the Commission is going to foster fair competition and encourage the development of advanced services and technologies.

II. THE PARADIGM FOR INTER-CARRIER COMPENSATION

The CLECs and some enhanced service providers portray the Commission's decision here to be one of simply adopting an approach that mirrors the reciprocal compensation mechanisms reflected in local interconnection agreements.¹ All of these comments share the same fundamental shortcoming. These parties apparently believe that the only task before the Commission is simply to establish an interstate payment mechanism between carriers. None of these parties consider the interstate revenue sources from which such payments must come. It is the height of folly to suggest, as these parties do, that a usage-based compensation scheme that is not accompanied by a usage sensitive charge that would be assessed on either the ISP or the ISP's subscriber could be imposed by the Commission.

Interstate compensation and interstate revenue sources are two sides of the same coin. The revenue sources for interstate ISP-bound traffic are two: (1) the subscriber line charge assessed to the ISP's subscriber and (2) the service charge assessed to the ISP.² The subscriber line charge, however, does not even cover of the full interstate nontraffic sensitive costs associated with facilities between the subscriber's premises and the serving central office of that subscriber. The remaining interstate nontraffic sensitive costs, as well as the switching and

¹ See e.g., RCN at 6; CompTel at 2-5; Choice Communications 2-3; Focal at 14; AOL at 10; AT&T at 8.

² As further discussed below, the comments in this proceeding make clear that all ISP traffic should be treated as interstate. Even if there is some jurisdictionally intrastate components of ISP traffic, such components cannot be severed from interstate communications that predominate ISP traffic. Accordingly, the services used by ISPs should be treated as interstate with the revenues associated with such services considered interstate revenues.

trunking costs associated with the communications path to the ISP, in the interstate jurisdiction, would typically be recovered from the ISP. Indeed, the Commission has recognized that the main source of revenue for LECs transporting ISP-bound traffic are from the service charges that ISPs pay to use local exchange facilities.³

In light of these facts, it is remarkable that CLECs that serve ISPs contend that the Commission should implement an inter-carrier compensation scheme that would result in usage-based payments being made to the carrier that provides service to the ISP. In an arrangement where two carriers are providing service to establish the connection between the ISP and its subscriber, the carrier serving the ISP's subscriber currently receives no interstate revenue for its switching and trunking facilities that are used in making the connection to the ISP. It is patently absurd to impose a compensation obligation on the carrier that serves the ISP's subscriber unless the Commission concomitantly creates a new mechanism for that carrier to recover these additional costs.

In stark contrast to the proposals that call for the Commission to mimic local reciprocal compensation is BellSouth's revenue sharing approach. BellSouth's proposal is guided by and consistent with Commission precedent regarding inter-carrier compensation for jointly provided interstate services.⁴ It recognizes, as the Commission does, that the primary revenue source for ISP-bound traffic is derived from the service provided to the ISP. Equally important, BellSouth's proposal ties the level of inter-carrier compensation directly to the level of

³ See In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing and End User Common Line Charges, CC Docket Nos. 96-262, 94-1, 91-213 and 95-72, *First Report and Order*, 12 FCC Rcd 15982, 16133-16134 (1997).

⁴ Numerous commenters urge the Commission to use the compensation mechanisms established for jointly provided access services.

compensation that carriers derive from the jointly provided service. The link between revenue and compensation has always been fundamental to the Commission's determinations regarding inter-carrier compensation for jointly provided access. This link is of no less importance to the ultimate resolution of the issue of inter-carrier compensation for ISP-bound traffic. Indeed, given the Commission's policies that surround enhanced services, the revenue/compensation link is a paramount consideration that cannot be ignored by the Commission.

A. The Commission Should Establish Guidelines Regarding Inter-Carrier Compensation

The comments reveal a consensus across a broad spectrum of parties participating in this proceeding that it is the Commission's responsibility to oversee inter-carrier compensation for interstate traffic and to adopt rules governing such compensation.⁵ While there is a diversity of opinion regarding the specific content of the Commission's rules, most parties agree that the rules should provide guidelines including general principles governing such inter-carrier compensation and the procedures to be followed to establish compensation agreements.

Among the general principles to which most parties agree is that inter-carrier compensation agreements for ISP-bound traffic should be a product of negotiations. Negotiations have the benefit of enabling parties to recognize differing circumstances. With properly structured guidelines promulgated by the Commission, the concerns of some parties that negotiations would not be effective or fair are removed.⁶ In its comments, BellSouth's proposed

⁵ See *e.g.*, Focal at 8; RCN at 5; GSA at 12; CIX at 4; GST Telecom at 13.

⁶ See *e.g.*, Cox at 3; CT Cube and Leaco at 2; GST Telecom at 11-13.

a revenue sharing plan. The revenue sharing plan provides the foundation for the Commission to use in promulgating inter-carrier compensation guidelines. It would provide the parameters to be considered in the negotiation process, and, thus, provide a structured base upon which negotiations could take place.

B. Sections 251 And 252 Have No Applicability

One of the most significant differences among the parties arises in the context of the applicability of the negotiation and arbitration process set forth in Sections 251 and 252 of the Communications Act. Many CLECs argue that inter-carrier compensation agreements regarding interstate ISP-bound traffic should be governed by the same process as local interconnection agreements.⁷ Most just assert that the local interconnection agreements form the appropriate foundation for interstate ISP-bound traffic, and, thus, believe that the same process, including state commission arbitration of disputes, should apply.⁸ A few attempt to rationalize having the state commissions oversee the negotiation and arbitration of inter-carrier compensation agreements because of a perceived inability of the Commission to fulfill its statutory obligations.⁹ None of these parties, however, provide any legal basis that would support the application of Sections 251 and 252 to interstate ISP-bound traffic.

⁷ There are some parties, such as MCIWorldCom, that dispute the Commission's jurisdictional determination regarding the interstate nature of ISP-bound traffic. They presume the traffic to be local and view the process regarding inter-carrier compensation to be no different than that for reciprocal compensation.

⁸ See e.g., KMC Telecom at 2-5; CTSI at 11-13.

⁹ See e.g., Focal at 7-8; ALTS at 8.

In its Comments, BellSouth demonstrated that neither Section 251 nor Section 252 govern interstate inter-carrier compensation.¹⁰ The Act simply does not provide state commissions with any authority regarding interstate inter-carrier compensation. Nor can the Commission rewrite the Communications Act and vest state commissions with the power to regulate matters relating to interstate communications that, under the Act, are specifically reserved to the Commission.

The Commission has the responsibility to regulate interstate communications. It cannot delegate that responsibility to state commissions. Even if the Commission had the statutory authority to do so, which it does not, delegation to the state commissions would constitute poor public policy. ISP-bound traffic falls within the Commission's access charge exemption, a federal policy. The access charge exemption creates an interstate subsidy that clearly can be impacted by inter-carrier compensation. Accordingly, these matters require a cohesive, singular administration of policy. Such administration can and should only take place at the federal level.

C. Interstate Inter-carrier Compensation Should Not Mirror Local Reciprocal Compensation

Many of the CLECs urge the Commission to follow the local reciprocal compensation model, claiming that there is no difference between the transport and termination of local calls and jointly providing interstate service for ISP-bound traffic.¹¹ In these parties' view, a minute is a minute and there should be symmetry between these types of calls.

¹⁰ BellSouth at 4-5. Many parties share BellSouth's view. *See e.g.*, Frontier at 5-6; ICG at 3-5; SBC at 4-7.

¹¹ *See e.g.*, ALTS at 12-18; AT&T at 8; AOL at 10; CTSI at 5-7; Time Warner at 3-8; CompTel at 2.

These arguments are makeweight. There are minutes associated with local traffic, with access traffic and with toll traffic. These minutes are treated differently by regulators for policy reasons and more importantly, they are treated differently in interconnection agreements. To suggest that ISP-bound traffic should be treated as local traffic amounts to little more than an argument of convenience for the CLECs.

It would be the epitome of absurdity to contend that local exchange rates take into account and fully compensate the originating LEC for ISP-bound traffic. Despite the arguments by some that ISP-bound traffic has always been considered local, the fact remains that ISP-bound traffic characteristics were never considered when local rates were established. Further, the comments show that ISP-bound traffic bears little resemblance to local traffic.¹² Indeed, for BellSouth the typical call duration for a local call is between 3 and 4 minutes. On the other hand, an Internet session, on average, is between 20 and 25 minutes. There is simply no similarity between local exchange traffic and ISP-bound traffic.

A companion argument asserted by CLECs is that, like local exchange traffic, CLECs save incumbent LECs the costs for the portion of ISP-bound communication that they handle.¹³ The fallacy in this argument is two-fold. First, the CLECs ignore the fact that they displace the primary revenue source for ISP-bound traffic. Next, they omit any mention of the additional costs that originating LECs have been incurring as a result of ISP-bound traffic. TANE, for example, pointed out the additional trunking costs the LECs are incurring because of the increase in ISP-bound traffic.¹⁴ This proceeding is not the first time that the Commission was made

¹² See e.g., NTCA at 3; TANE at 2.

¹³ See e.g., RCN at 11.

¹⁴ TANE at 2.

aware that ISP-bound traffic was increasing public switched network costs and increasing network congestion. Three years ago the Commission was advised during its review of the access charge exemption that ISP-bound traffic was causing network congestion and that the exemption would continue to cause ISP use of the public switched network to grow and would require additional network investment if network quality was to be maintained.¹⁵ The comments in this proceeding confirm prior LEC predictions. There is nothing that CLECs have done to lessen the additional cost burden associated with ISP-bound traffic. There is no substance to claims that incumbent LECs have experienced cost savings because CLECs serve ISPs. To the contrary their network costs are increasing because of the exponential growth of ISP-bound traffic with its peculiar traffic characteristics and these too are costs to be considered for compensation purposes.

The symmetry that CLECs want the Commission to establish is achieved, not by treating ISP-bound traffic like local, but rather by recognizing that interstate ISP-bound traffic is no different than any other interstate traffic that uses local exchange facilities. When ISP-bound traffic is considered in its proper context, it becomes evident that compensation is not an issue that is reserved to the carrier serving the ISP. It pertains to the entire connection between the ISP subscriber and the ISP. An inter-carrier compensation mechanism must consider not only costs but also the revenue sources for such compensation. This is precisely how BellSouth's revenue sharing proposal operates.

¹⁵ See Comments and Reply Comments filed in connection with the Commission's proceeding, In the Matter of Usage of the Public Switched Network by Information Service and Internet Access Providers, CC Docket No. 96-263, *Notice of Inquiry*, 11 FCC Rcd 21354 (1996).

D. ISP-Bound Traffic Is Jurisdictionally Inseverable

Some commenters use this proceeding to indirectly question the Commission's declaratory ruling that ISP-bound traffic is primarily interstate. Thus, often in arguing in favor of replicating the local reciprocal compensation model for ISP-bound traffic, some commenters describe the traffic as terminating at an ISP location. Others contend that an end-to-end analysis does not fit with Internet communications.

The Commission's declaratory ruling is not at issue here. Parties have adequate remedies, reconsideration or judicial review, to challenge the Commission's ruling. Nevertheless, it is clear that the Commission's jurisdictional determination is unassailable. The Commission's ruling reflects a consistent application of past Commission and judicial precedent. No party has shown otherwise.

What is clear from the comments, however, is that interstate and intrastate components of an Internet communication are inseverable.¹⁶ No party's comments contradict the fact the ISP's do not track the jurisdictional nature of Internet traffic. Further, no commenter has shown that a practical mechanism with widespread availability exists for tracking the jurisdiction of Internet traffic. The inability to distinguish the jurisdictional nature of the communications that traverse Internet connections and the predominate interstate nature of Internet communications lead to the inescapable conclusion that Internet traffic is inseverable and must be considered jurisdictionally interstate.

¹⁶ ISP-bound traffic can be identified. Where two LECs jointly provide the ISP connection, the two LECs would have to cooperate and exchange information in order to identify ISP-bound traffic. For example, the LEC serving the ISP would have to provide the originating LEC with the ISP dial-up numbers. The Commission, in its order here, should unequivocally make clear that LECs jointly providing services must work cooperatively and share information that is necessary or required to properly identify ISP-bound traffic.

IV. CONCLUSION

The Commission must reject the call for inter-carrier compensation for interstate ISP-bound traffic to emulate local reciprocal compensation. Such an approach would be inconsistent with existing Commission policies such as the access charge exemption for enhanced services. To reconcile its access charge exemption and inter-carrier compensation for ISP-bound traffic, the Commission will have to consider not only the costs of providing interstate services, but also the revenues derived from providing such services. The revenue sharing approach presented by BellSouth in its comments takes these factors into account and, accordingly, should be adopted by the Commission.

Respectfully submitted,

BELLSOUTH CORPORATION
BELLSOUTH TELECOMMUNICATIONS, INC.

By: /s/ Richard M. Sbaratta
M. Robert Sutherland
Richard M. Sbaratta

Their Attorneys

BellSouth Corporation
Suite 1700
155 Peachtree Street, N. E.
Atlanta, Georgia 30306
(404) 249-3386

Date: April 27, 1999

CERTIFICATE OF SERVICE

I do hereby certify that I have this 27th day of April 1999 served the following parties to this action with a copy of the foregoing REPLY COMMENTS by hand delivery or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed on the attached service list.

/s/ Juanita H. Lee

Juanita H. Lee

Service List CC Docket No. 99-68

*Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S. W., Room TW-A325
Washington, DC 20554

Mark Stachiw, Esquire
AirTouch Paging
Three Forest Plaza
12221 Merit Drive, Suite 910
Dallas, TX 75251-2243

William Page Montgomery
Montgomery Consulting
2903 Alta Laguna Blvd
Laguna Beach, California 92651

Emily M. Williams
ALTS
Suite 900, 888 17th Street, N. W.
Washington, DC 20006

George Vradenburg, III
Jill A. Lesser
Steven N. Teplitz
America Online, Inc.
1101 Connecticut Avenue, N.W.
Suite 400
Washington, DC 20036

Donna N. Lampert
America Online, Inc.
Donna N. Lampert Associates, P.C.
701 Pennsylvania Avenue, N.W.
Suite 200
Washington, D.C. 20004

Gary Phillips
Counsel for Ameritech
1401 H Street, NW
Suite 1020
Washington, DC 20005

David L. Lawson
James P. Young
Daniel Meron
Rudolph M. Kammerer
AT&T Corporation
Sidley & Austin
1722 Eye Street, N.W.
Washington, DC 20006

Mark C. Rosenblum
Stephen C. Garavito
AT& T Corporation
Room 325G1
295 North Maple Avenue
Basking Ridge, NJ 07920

David Ellen
Senior Counsel
Cablevision Lightpath, Inc.
1111 Stewart Avenue
Bethpage, NY 11714-3581

Cherie R. Kiser
Gil M. Strobel
Cablevision LightPath, Inc.
Mintz, Levin, Cohn, Ferris, Glovsky and
Popeo, P. C.
701 Pennsylvania Avenue, N. W.
Suite 900
Washington, DC 20004-2608

Christopher J. Wilson
Cincinnati Bell Telephone Company
201 East 4th Street
Room 102-620
Cincinnati, Ohio 45201

Dana Frix
Pamela S. Arluk
Choice One Communications, Inc.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N. W., Suite 300
Washington, DC 20007-5116

Barbara A. Dooley
Mark J. O'Connor, Ronald L. Plesser
Commercial Internet eXchange Association
Piper & Marbury, LLP
1200 Nineteenth Street, N. W., Suite 700
Washington, DC 20036

Carol Ann Bischoff
Terry Monroe
The Competitive Telecommunications Assoc.
1900 M Street, NW
Suite 800
Washington, DC 20036

Robert J. Aamoth
Steven A. Augustino
John J. Heitmann
The Competitive Telecommunications Assoc
Kelley Drye & Warren LLP
1200 19th Street, NW, Fifth Floor
Washington, DC 20036

Laura H. Phillips
J. G. Harrington
Cox Communications, Inc.
Dow Lohnes & Albertson, PLLC
1200 New Hampshire Avenue, NW
Suite 800
Washington, DC 20036

Peter Arth, Jr.
Lionel B. Wilson
Ellen S. Levine
People of the State of California and
The California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Eric J. Branfman
CoreComm Limited
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N. W., Suite 300
Washington, DC 20007

Kenneth C. Johnson
CT Cube Inc and Leaco Rural
Telephone Cooperative, Inc.
Bennet & Bennet, PLLC
1019 Nineteenth St., NW, Suite 500
Washington, DC 20036

Lawrence W. Katz
Donna M. Epps
Bell Atlantic Telephone Companies
1320 North Court House Road
Eighth Floor
Arlington, VA 22201

Richard M. Rindler
Patrick J. Donaovan
CTSI, Inc.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007

Cynthia B. Miller
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Richard Metzger
Focal Communications Corporation
1120 Vermont Avenue, NW
Terrace Level
Washington, DC 20005

Richard M Rindler
Patrick J. Donovan
Focal Communications, Inc.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007

Michael J. Shortley, II
Frontier Corporation
180 South Clinton Avenue
Rochester, NY 14646

Kathy L. Shobert
Director, Federal Affairs
General Communication, Inc.
901 15th Street, NW, Suite 900
Washington, DC 20005

Christopher W. Savage
Karlyn D. Stanley
Global Naps, Inc.
Cole, Raywid & Braverman, L.L.P.
1919 Pennsylvania Avenue, NW, Suite 200
Washington, DC 20006

William J. Rooney, Jr.
General Counsel
Global NAPS Inc.
Ten Merrymount Road
Quincy, MA 02169

George N. Barclay
Michael J. Ettner
General Services Administration
1800 F Street, N.W., Room 4002
Washington, DC 20405

Snavely King Majoros O'Connor
& Lee, Inc.
Economic Consults of
General Services Administration
1220 L Street, N. W., Suite 410
Washington, D.C. 20005

Barry Pineles
GST Telecom Inc.
4001 Main Street
Vancouver, WA 98663

Thomas R. Parker
John F. Raposa
GTE Service Corporation
600 Hidden Ridge, HQE03J27
Irving, Texas 75038

Gail L. Polivy
GTE Service Corporation
1850 M Street, NW., Suite 1200
Washington, DC 20036

Kenneth T. Burchett
GVNW Consulting, Inc.
8050 S.W. Warm Springs Street
Tualatin, Oregon 97062

Cindy Z. Schonhaut
ICG Communications, Inc.
161 Inverness Drive W., 6th Floor
Englewood, CO 80112

Albert H. Kramer
Robert F. Aldrich
ICG Communications, Inc.
Dickstein Shapiro Morin
& Oshinsky, LLP
2101 L Street, N. W.
Washington, DC 20037-1526

Jan F. Reimers
ICORE, Inc.
326 S. Second Street.
Emmaus, PA 18049

Jonathan Jacob Nadler
Brian J. McHugh
Information Technology Assoc. of America
Squire, Sanders & Dempsey L.L.P.
1201 Pennsylvania Avenue, N.W.
Washington, DC 20044

Douglas M. Meredith
Senior Economist
John Staurulakis, Inc.
6315 Seabrook Road
Seabrook, Maryland 20706

Angela D. Ledford
Keep America Connected
P. O. Box 27911
Washington, DC 20005

Carmen L. Nieves
Federation of Hispanic Organizations
Of Baltimore Metropolitan Area, Inc.
15 Charles Street, Suite 1701
Baltimore, MD 21201

Sol Del Ande Eaton
Latin American Women and Supporters
4501 Havelock Road
Lanham, MD 20706

Richard M. Rindler
Michael L. Shor
KMC Telecom Inc.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N. W., Suite 300
Washington, DC 20007

Susan M. Eid
Richard A. Karre
MediaOne Group, Inc.
1919 Pennsylvania Avenue, NW
Suite 610
Washington, DC 20006

Richard S. Whitt
MCI WorldCom, Inc.
1801 Pennsylvania Avenue, N.W.
Washington, DC 20006

Dana K. Joyce
Marc D. Poston
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

L. Marie Guillory
Jill Canfield
National Telephone Cooperative Association
2626 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

Lawrence G. Malone
Public Service Commission of the
State of New York
Three Empire State Plaza
Albany, NY 12223-1350

Robert L. Hoggarth
Angela E. Giancarlo
Personal Communications Industry Assoc.
500 Montgomery Street, Suite 700
Alexandria, VA 22314-1561

Randall B. Lowe
Julie A. Kaminski
Renee Roland Crittendon
Prism Communications Services, Inc.
Piper & Marbury, L.L.P.
1200 Nineteenth Street, N. W., Suite 700
Washington, DC 20036

Douglas S. Denny-Brown
RNK, Inc.
1044 Central Street
Stoughton, MA 02072

Joseph Kahl
Director of Regulatory Affairs
RCN Telecom Services, Inc.
105 Carnegie Center
Princeton, NJ 08540

Richard M. Rindler
Michael W. Fleming
RCN Telecom Services, Inc.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, DC 20007

Lorinda Ackley-Mazur
Richmond Telephone Company
1416 State Road
Richmond, MA 01254

Robert M. Lynch
Roger K. Toppins
Michael H. Zpevak
Kathleen E. Palter
SBC Communications, Inc.
One Bell Plaza, Room 3014
Dallas, TX 75202

Leon M. Kestenbaum
Jay C. Keithley
H. Richard Juhnke
Sprint Corporation
1850 M Street, NW, 11th Floor
Washington, DC 20036

David Cosson
Telephone Association of New England
2120 L Street, N.W., Suite 520
Washington, DC 20037

Pat Wood, III
Judy Walsh
Brett A. Perlman
Public Utility Commission of Texas
1701 N. Congress Avenue, P. O. Box 13326
Austin, TX 78711-3326

Tim Sefton
CEO, Invivo
Birmingham, Michigan

Brian Conboy
Thomas Jones
Time Warner Telecom
Willkie Farr & Gallagher
Three Lafayette Centre
1155 21st Street, N. W.
Washington, DC 20036

Charles C. Hunter
Catherine M. Hannan
Telecommunications Resellers Assoc.
Hunter Communications Law Group
1620 I Street, N. W., Suite 701
Washington, DC 20006

Lawrence E. Sarjeant
Linda Kent
Keith Townsend
John W. Hunter
USTA
1401 H Street, N. W., Suite 600
Washington, DC 20005

William T. Lake
John H. Hardwood III
Lynn R. Charytan
Jonathan J. Frankel
U S West, Inc.
Wilmer, Cutler & Pickering
2445 M Street, N. W.
Washington, DC 20037

Robert B. McKenna
Jeffry A. Brueggeman
U S West, Inc.
1010 19th Street, N.E.
Washington, DC 20036

Cheryl A. Tritt
Charles H. Kennedy
Verio Inc.
Morrison & Foerster LLP
2000 Pennsylvania Avenue, N. W.
Washington, DC 20006-1888

Peter Bluhm, Esq.
The Vermont Public Service Board
112 State Street, Drawer 20
Montpelier, VT 05620-2701

Samuel E. Ebbsen
Virgin Islands Telephone Company
P. O. Box 6100
St. Thomas, USVI 00801-6100

Ray J. Riordan, Jr.
Wisconsin State Telecommunications Assc.
6602 Normandy Lane
Madison, Wisconsin 53719

Lynda L. Dorr
Public Service Commission of Wisconsin
610 North Whitney Way
P. O. Box 7854
Madison, WI 53707-7854

* International Transcription Service
1231 20th Street, N. W.
Washington, DC 20036

* **VIA HAND DELIVERY**

ORIGINAL

RECEIVED-PPSC

Legal Department

J. PHILLIP CARVER
General Attorney

99 MAY 4 PM 4:35

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(404) 335-0710

RECORDS AND
REPORTING

May 4, 1999

Mrs. Blanca S. Bayo
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

RE: Docket No. 990149-TP

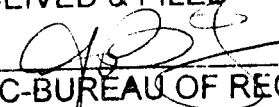
Dear Mrs. Bayo:


Enclosed are an original and 15 copies of BellSouth Telecommunications, Inc.'s Rebuttal Testimony of David A. Coon, Jerry Hendrix, W. Keith Milner and Alphonso J. Varner. Please file these documents in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served on the parties shown on the attached Certificate of Service.

RECEIVED & FILED

Sincerely,


FPSC-BUREAU OF RECORDS


J. Phillip Carver

- AFA _____
- APP _____
- CAF _____
- CMD King _____
- CTR _____
- EAG _____
- LEG 2 _____
- MAS 2/orig _____
- OPC _____
- RRR _____
- SEC 1 _____
- WAW _____
- OTH _____

Enclosures

cc: All Parties of Record
M. M. Criser, III
N. B. White
W. J. Ellenberg



DOCUMENT NUMBER-DATE

05624 MAY-4 99

FPSC-RECORDS/REPORTING



DOCUMENT NUMBER-DATE

05625 MAY-4 99

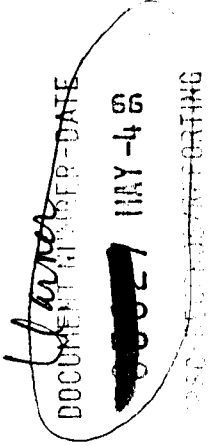
FPSC-RECORDS/REPORTING



DOCUMENT NUMBER-DATE

05626 MAY-4 99

FPSC-RECORDS/REPORTING



CERTIFICATE OF SERVICE
Docket Nos. 980946-TL, 980947-TL, 980948-TL, 981011-TL
981012-TL, and 981250-TL

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

U.S. Mail this 4th day of May, 1999 to the following:

Beth Keating, Esq.
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Charles J. Pellegrini *
Wiggins & Villacorta, P.A.
2145 Delta Boulevard
Suite 200
P.O. Drawer 1657
Tallahassee, FL 32302
Tel. No. (850) 385-6007
Fax. No. (850) 385-6008

Steve Brown
Intermedia Communications, Inc.
3625 Queen Palm Drive
Tampa, FL 33619-1309
Tel. No. (813) 829-0011
Fax. No. (813) 829-4923

Floyd R. Self, Esq. *
Messer, Caparello & Self, P.A.
215 South Monroe Street
Suite 701
Tallahassee, FL 32301-1876
Tel. No. (850) 222-0720
Fax. No. (850) 224-4359

Mr. Brian Sulmonetti *
MCI WorldCom, Inc.
Concourse Corporate Center Six
Six Concourse Parkway, Suite 3200
Atlanta, GA 30328

David V. Dimlich, Esq. *
Legal Counsel
Supra Telecommunications &
Information Systems, Inc.
2620 S.W. 27th Avenue
Miami, FL 33133
Tel. No. (305) 476-4235
Fax. No. (305) 443-1078

Amanda Grant
BellSouth Telecommunications, Inc.
Regulatory & External Affairs
675 West Peachtree Street, N.E.
Room 38L64
Atlanta, Georgia 30375

Norman H. Horton, Jr. *
Messer, Caparello & Self, P.A.
215 S. Monroe Street
Suite 701
Tallahassee, Florida 32301-1876
Tel. No. (850) 222-0720
Fax. No. (850) 224-4359
Represents e.spire

James C. Falvey, Esq.
e.spire™ Communications, Inc.
133 National Business Parkway
Suite 200
Annapolis Junction, Maryland 20701
Tel. No. (301) 361-4298
Fax. No. (301) 361-4277

Kenneth A. Hoffman, Esq. *
John R. Ellis, Esq.
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
P.O. Box 551
Tallahassee, FL 32301
Tel. No. (850) 681-6788
Fax. No. (850) 681-6515

Steven Gorosh
Vice President and General Counsel
NorthPoint Communications, Inc.
222 Sutter Street, 7th Floor
San Francisco, CA 94108
Tel. No. (415) 659-6518
Fax. No. (415) 658-4190

Charles A. Hudak, Esq.
Jeremy D. Marcus, Esq.
Gerry, Friend & Sapronov, LLP
Three Ravinia Drive, Suite 1450
Atlanta, GA 30346-2131
Tel. No. (770) 399-9500
Fax. No. (770) 395-0000
Attys. for ACI Corp.

Jeffrey Blumenfeld, Esq.
Elise P.W. Kiely, Esq.
Blumenfeld & Cohen
1615 M Street, NW
Suite 700
Washington, DC 20036
Tel. No. (202) 955-6300
Fax. No. (202) 955-6460
Attys. for ACI Corp.

Peter M. Dunbar, Esq. *
Marc Dunbar, Esq. *
Pennington, Moore, Wilkinson
Bell & Dunbar, P.A.
Post Office Box 10095
Tallahassee, FL 32302-2095
Tel. (850) 222-3533
FAX (850) 222-2126
Attys for Time Warner Telecom

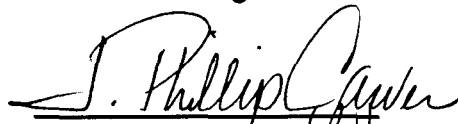
Carolyn Marek *
VP of Reg. Affairs
Time Warner Communications
233 Bramerton Court
Franklin, TN 37069
Tel. (615) 376-6404
Fax (615) 376-6405

Monica M. Barone *
Sprint Communications Company
Limited Partnership
3100 Cumberland Circle
Mailstop GAATLN0802
Atlanta, GA 30339

James D. Earle, Esq. *
Covad Communications, Inc. d/b/a
DIECA Communications
700 Thirteenth Street NW
Suite 950
Washington, DC 20005
Tel: (202) 434-8902
Fax: (202) 434-8932

Richard D. Melson *
Gabriel E. Nieto
Hopping Green Sams & Smith
Post Office Box 6526
Tallahassee, FL 32314
Attys. for ACI Corp.

* Protective Agreements


J. Phillip Carver