

MCWHIRTER REEVES
ATTORNEYS AT LAW

TAMPA OFFICE:
400 NORTH TAMPA STREET, SUITE 2450
TAMPA, FLORIDA 33602
P. O. BOX 3350 TAMPA, FL 33601-3350
(813) 224-0866 (813) 221-1854 FAX

PLEASE REPLY TO:

TALLAHASSEE

TALLAHASSEE OFFICE:
117 SOUTH GADSDEN
TALLAHASSEE, FLORIDA 32301
(850) 222-2525
(850) 222-5606 FAX

September 7, 1999

VIA HAND-DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: Docket Number 990691-TP

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and fifteen copies of the following:

- ▶ ICG Telecom Group, Inc.'s (ICG's) Prehearing Statement; 10715-99
- ▶ ICG's Response to BellSouth's Motion to Remove Issues from Arbitration; 10716-99
- ▶ ICG's Motion to Strike; 10717-99
- ▶ Request for Oral Argument; 10718-99
- ▶ Rebuttal Testimony of Michael Starkey o/b/o ICG; 10719-99
- ▶ Rebuttal Testimony of Bruce Holdridge o/b/o ICG; 10720-99
- ▶ Rebuttal Testimony of Cindy Z. Schonhaut o/b/o ICG; and 10721-99
- ▶ Rebuttal Testimony of Philip W. Jenkins o/b/o ICG.

Please acknowledge receipt of the above on the extra copy of each enclosed herein and return the stamped copies to me. Thank you for your assistance.

Yours truly,

Joe McGlothlin
Joseph A. McGlothlin

AFA _____
 APP _____
 CAF _____
 CMU *Favor*
 CTR _____
 EAG _____
 LEG _____
 MAS *3/2/99*
 OPC _____
 PAI _____
 SEC _____
 WAW _____
 OTH _____

cc/enc: ICG Group

McWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, DECKER, KAUFMAN, ARNOLD & STEEN, P.A.

ORIGINAL
RECEIVED-FPSC
SEP - 7 PM 4: 24
RECORDS AND REPORTING

10715-99

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of ICG Telecom Group, Inc. for arbitration of unresolved issues in interconnection negotiations with BellSouth Telecommunications, Inc.

Docket No. 990691-TP

Filed: September 7, 1999

RECEIVED-FPSC
SEP-7 11 4:19
RECORDS AND REPORTING

ORIGINAL

ICG Telecom Group, Inc.'s Prehearing Statement

Pursuant to Order Establishing Procedure, Order No. PSC-99-1532-PCO-TP, ICG Telecom Group, Inc. (ICG) files its Prehearing Statement.

A. APPEARANCES:

JOSEPH A. MCGLOTHLIN and VICKI GORDON KAUFMAN, McWhirter Reeves McGlothlin Davidson Decker Kaufman Arnold and Steen, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301

On Behalf of ICG Telecom Group, Inc.

B. WITNESSES:

<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
<u>Direct</u>		
Cindy Schonhaut	reciprocal compensation	1
Michael Starkey	reciprocal compensation, volume and term discounts, compensation at the tandem rate, performance standards and remedies	1, 5, 6, 7, 18-25
Bruce Holdridge	packet switching, EEL, performance standards and remedies	3, 4, 5, 6, 18-25
<i>Philip Jenkins</i>	binding forecasts	10

- AFA _____
- APP _____
- CAF _____
- CMU 1
- CTR _____
- EAG _____
- LEG 1
- MAS 3
- OPC _____
- PAI _____
- SEC 1
- WAW _____
- OTH _____

RECEIVED & FILED

MW
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

10715 SEP-7 99

FPSC-RECORDS/REPORTING

Karen Notsund	performance measures	5, 18-25
<u>Rebuttal</u>		
Cindy Schonhaut	reciprocal compensation, packet switching, EEL	1, 3, 4
Michael Starkey	reciprocal compensation, compensation at the tandem rate	1, 7
Bruce Holdridge	packet-switching, EEL, performance standards and remedies	3, 4, 5, 18-25
Philip Jenkins	binding forecasts	10

C. EXHIBITS:

<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
Exhibit No. ___ (MS-1)	Starkey	Resume
Exhibit No. ___ (MS-2)	Starkey	Diagram 1
Exhibit No. ___ (MS-3)	Starkey	Diagram 2
Exhibit No. ___ (MS-4)	Starkey	Diagram 3
Exhibit No. ___ (BH-1)	Holdridge	Discussion paper on performance measures
Exhibit No. ___ (KN-1)	Notsund	BellSouth proposal to FCC
Exhibit No. ___ (KN-1)	Notsund	Colorado federal court decision

D. STATEMENT OF BASIC POSITION:

ICG's Statement of Basic Position: While ICG and BellSouth have settled many issues that led to the filing of ICG's arbitration petition, those that remain are critical to ICG's ability to provide competitive and innovative local services. For instance, ICG's ability to nurture the growing ISP market would be hampered--or worse--by BellSouth's refusal to pay reciprocal compensation for ISP

traffic. If the Extended Enhanced Link (EEL) is not available, or is available only at prohibitive prices, ICG will be forced to collocate at every central office from which it hopes to serve customers, which would be exorbitantly expensive and would unnecessarily use scarce CO space. The absence of performance standards--and consequences for failing to meet those standards--is so important to competition that ICG proposes a generic proceeding on that topic.

E. STATEMENT OF ISSUES AND POSITIONS:

1. **ISSUE:** Until the FCC and the FPSC adopt a rule with prospective application, should dial-up access to the Internet through Internet Service Providers (ISPs) be treated as if it were a local call for purposes of reciprocal compensation?

ICG: Yes. The FCC has clearly determined that, until its rule takes effect on a prospective basis, state commissions may determine that reciprocal compensation should be paid for ISP traffic; moreover, it has stated its view that state commissions have an obligation to require ILECs to compensate ALECs for ISP traffic. Physical and policy reasons compel the result that BellSouth provide reciprocal compensation for calls to ISPs at a rate that reflects the network functions ICG performs in delivering traffic to all customers, including ISPs.

2. Withdrawn.

3. **ISSUE:** Should the following packet-switching capabilities be made available as UNEs:

a) user-to-user interface (UNI) at 56 kbps, 64 kbps, 128 kbps, 384 kbps, 1.544 Mbps and 44.736 Mbps;

b) network-to-network interface (NNI) as 56 kbps, 64 kbps, 1.544 Mbps and 44.736 Mbps;

c) data link control identifiers ("DLCIs") at committed information rates ("CIRs") of 0 kbps, 8 kbps, 9.6 kbps, 16 kbps, 19.2 kbps, 28 kbps, 32 kbps, 56 kbps, 64 kbps, 128 kbps, 192 kbps, 256 kbps, 320 kbps, 384 kbps, 448 kbps, 512 kbps, 576 kbps, 640 kbps, 704 kbps, 768 kbps, 832 kbps, 896 kbps, 960 kbps, 1.024 Mbps, 1.088 Mbps, 1.152 Mbps, 1.216 Mbps, 1.280 Mbps, 1.344 Mbps, 1.408 Mbps, 1,472 Mbps, 1.536 Mbps, 1.544 Mbps, 3.088 Mbps, 4.632 Mbps, 6.176 Mbps, 7.720 Mbps, 9.264 Mbps, 10.808 Mbps, 12.350 Mbps, 13.896 Mbps, 15.440 Mbps, 16.984 Mbps, 18.525 Mbps and 20.072 Mbps.

ICG: Yes. It now appears that BellSouth will provide packet-switching capabilities as UNEs. However, BellSouth wants to provide them at "modified" TELRIC rates. BellSouth should be required to provide these capabilities at TELRIC rates, including the capability to connect at TELRIC rates a BellSouth central office where ICG is collocated (but which does not have a

BellSouth frame relay packet switch) with a BellSouth central office that does have a BellSouth frame relay packet switch.

4. ISSUE: Under the Telecommunications Act of 1996, should "Enhanced Extended Link" Loops (EELs) be made available to ICG in the interconnection agreements as UNEs?

ICG: Yes. BellSouth has refused to provide the EEL to ICG on a UNE basis. ICG needs the ability to obtain the unbundled elements that comprise the services its customers seek at TELRIC-based rates. BellSouth's provision of the EEL at retail prices would undercut ICG's ability to offer services to its customers. Further, provision of the EEL on a UNE basis will obviate the need for ICG to incur the exorbitant expense of collocating at each central office from which it hopes to serve customers. Availability of the EEL will also free up valuable collocation space.

5. ISSUE: Should liquidated damages be imposed when BellSouth fails to meet time intervals for provisioning UNEs?¹

ICG: As described in Ms. Notsund's testimony, the Commission should initiate a generic proceeding to consider appropriate performance measures and enforcement mechanisms.

6. ISSUE: Should volume and term discounts be available to ICG for UNEs?

ICG: Yes. ICG should receive the benefit of any reduced costs that BellSouth experiences from provisioning service either in high volumes within a specified period or for extended terms.

7. ISSUE: For purposes of reciprocal compensation, should ICG be compensated for end office, tandem, and transport elements of termination where ICG's switch serves a geographic area comparable to the area served by BellSouth's tandem switch?

ICG: Yes. In Florida, ICG is in a start-up mode. In states in which ICG has an established business, it employs a network configuration in which its switch serves a geographical area comparable to that served by a tandem switch and it provides comparable functionality. As ICG grows its business in Florida, it intends to develop the type of network that typifies its approach to network design in other jurisdictions.

¹ICG suggests that Issue Nos. 5, 18-25 be combined into a single issue, worded as follows: Should the Commission initiate a generic proceeding in regard to performance standards and appropriate consequences for failing to comply with such standards? ICG's position on this issue is: Yes. The current lack of performance measures as well as effective remedies for failing to meet such measures is of critical importance to the development of local competition. Therefore, the Commission should initiate a generic proceeding to address these critical issues.

8. Withdrawn.

9. Withdrawn.

10. ISSUE: Should BellSouth be required to commit to provisioning the requisite network buildout and necessary support when ICG agrees to enter into a binding forecast of its traffic requirements in a specified period?

ICG: Yes. ICG believes its traffic requirements will continue to grow. It must have the requisite capacity on BellSouth's network as its traffic requirements grow. BellSouth has nothing to lose in agreeing to a binding forecast because ICG will pay BellSouth for the increased capacity whether or not it actually uses it.

11. Withdrawn.

12. Withdrawn.

13. Withdrawn.

14. Withdrawn.

15. Withdrawn.

16. Withdrawn.

17. Withdrawn.

18. ISSUE: Should liquidated damages be imposed when BellSouth fails to install, provision, or maintain any service in accordance with the due dates set forth in the parties' interconnection agreement?

ICG: As described in Ms. Notsund's testimony, the Commission should initiate a generic proceeding to consider appropriate performance measures and enforcement mechanisms.

19. ISSUE: Should BellSouth continue to be responsible for any cumulative failure in a one-month period to install, provision, or maintain any service in accordance with the due dates specified in the interconnection agreement with ICG?

ICG: As described in Ms. Notsund's testimony, the Commission should initiate a generic proceeding to consider appropriate performance measures and enforcement mechanisms.

20. ISSUE: Should liquidated damages be imposed when BellSouth's service fails to meet the

requirements imposed by the interconnection agreement with ICG (or the service is interrupted causing loss of continuity or functionality)?

ICG: As described in Ms. Notsund's testimony, the Commission should initiate a generic proceeding to consider appropriate performance measures and enforcement mechanisms.

21. ISSUE: Should BellSouth continue to be responsible when the duration of service failure exceeds certain benchmarks?

ICG: As described in Ms. Notsund's testimony, the Commission should initiate a generic proceeding to consider appropriate performance measures and enforcement mechanisms.

22. ISSUE: Should liquidated damages be imposed when BellSouth's service fails to meet the grade of service requirements imposed by the interconnection agreement with ICG?

ICG: As described in Ms. Notsund's testimony, the Commission should initiate a generic proceeding to consider appropriate performance measures and enforcement mechanisms.

23. ISSUE: Should BellSouth continue to be responsible when the duration of service's failure to meet the grade of service requirement exceeds certain benchmarks?

ICG: As described in Ms. Notsund's testimony, the Commission should initiate a generic proceeding to consider appropriate performance measures and enforcement mechanisms.

24. ISSUE: Should liquidated damages be imposed when BellSouth fails to provide any data in accordance with the specifications of the interconnection agreement with ICG?

ICG: As described in Ms. Notsund's testimony, the Commission should initiate a generic proceeding to consider appropriate performance measures and enforcement mechanisms.

25. ISSUE: Should BellSouth continue to be responsible when the duration of its failure to provide the requisite data exceeds certain benchmarks?

ICG: As described in Ms. Notsund's testimony, the Commission should initiate a generic proceeding to consider appropriate performance measures and enforcement mechanisms.

F. STIPULATED ISSUES:

None, though as indicated above, ICG and BellSouth have agreed on a number of issues and have withdrawn those issues from this proceeding.


G. PENDING MOTIONS:

ICG's Motion to Strike;

BellSouth's Motion to Remove Issues.

H. OTHER MATTERS:

ICG requests permission to make an opening statement at the outset of the hearing.



Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter Reeves McGlothlin Davidson
Decker Kaufman Arnold & Steen, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301
(850) 222-2525

Attorneys for ICG Telecom Group, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing ICG Prehearing Statement was furnished by (*) hand delivery or U.S. Mail to the following parties of record this 7th day of September, 1999:

*Lee Fordham
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Gunter Building, Room 370
Tallahassee, Florida 32399

Nancy B. White
Michael P. Goggin
c/o Nancy Sims
BellSouth Telecommunications, Inc.
150 South Monroe Street, Suite 400
Tallahassee, Florida 32301


Joseph A. McGlothlin