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Legal Department

BENNETT L. ROSS
General Attorney

00 MAR 20 PM 4:37

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(404) 335-0793

RECORDS AND
REPORTING

March 20, 2000

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 990874-TP (US LEC Complaint)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Prehearing Statement, which we ask that you file 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 to the parties shown on the attached Certificate of Service.

Sincerely,



Bennett L. Ross *(BWR)*

- AFA _____
- APP _____
- CAE _____
- CMW 2 _____
- GTR _____
- EAG _____
- LEG 2 _____
- MAS 5 _____
- OPC _____
- RRR _____
- SEC 1 _____
- WAW _____
- OTH _____

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White

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CERTIFICATE OF SERVICE
Docket No. 990874-TP (US LEC Complaint)

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

U.S. Mail this 20th day of March, 2000 to the following:

Donna Clemons
Staff Counsel
Florida Public Service
Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Aaron D. Cowell, Jr.
General Counsel
US LEC Corp.
401 N. Tryon Street
Suite 1000
Charlotte, N.C. 28202
Tel. No. (704) 319-1117
Fax. No. (704) 319-3098

Charles Pellegrini
Wiggins & Villacorta
2145 Delta Boulevard
Suite 200
Tallahassee, FL 32303
Tel. No. (850) 385-6007
Fax. No. (850) 385-6008

Richard M. Rindler
Michael L. Shor
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
Tel. No. (202) 424-7775
Fax. No. (202) 424-7645


Bennett L. Ross (s)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Complaint of US LEC of Florida, Inc. against)
BellSouth Telecommunications, Inc. for)
Breach of Terms of Florida Interconnection)
Agreement under Sections 251 and 252 of the)
Telecommunications Act of 1996, and Request)
For Relief)
_____)

Docket No. 990874-TP

Filed: March 20, 2000

PREHEARING STATEMENT OF
BELLSOUTH TELECOMMUNICATIONS, INC.

In accordance with the provisions of the Order Establishing Procedure (Order No. PSC-99-2144-PCO-TP), issued November 1, 1999, BellSouth Telecommunications, Inc. ("BellSouth") submits its Prehearing Statement.

WITNESSES

BellSouth proposes to call the following witness to offer testimony on the issues in this docket, as enumerated in Appendix A of the Order Establishing Procedure:

<u>Witness</u>	<u>Issue</u>
Jerry Hendrix (Direct and Rebuttal)	1
David Scollard (Direct)	1

On March 3, 2000, BellSouth filed a motion for leave to file the surrebuttal testimony of Robert C. Scheye or, in the alternative, to strike the rebuttal testimony of Wanda Montano filed by US LEC of Florida, Inc. ("US LEC") on February 18, 2000. Although BellSouth does not believe that Ms. Montano's testimony is relevant to the issues in this proceeding, in the event the Commission concludes otherwise, BellSouth proposes to call Mr. Scheye to offer surrebuttal testimony. BellSouth also reserves the right to call additional witnesses, witnesses to respond to Commission inquiries not addressed in direct or rebuttal testimony and witnesses to address

issues not presently designated that may be designated by the Prehearing Officer at the prehearing conference to be held on April 3, 2000. BellSouth has listed the witnesses for whom BellSouth believes testimony will be filed, but reserves the right to supplement that list if necessary.

EXHIBITS

Jerry Hendrix (Direct)	JDH-1 JDH-2 JDH-3	ISP Traffic Diagram August 12, 1997 Letter from Ernest Bush Internet Usage Documents
Jerry Hendrix (Rebuttal)	JDH-1	June 30, 1999 Letter from Ida Bourne

BellSouth reserves the right to file exhibits to any testimony that may be filed under the circumstances identified in Section "A" above. BellSouth also reserves the right to introduce exhibits for cross-examination, impeachment, or any other purpose authorized by the applicable Florida Rules of Evidence and Rules of this Commission.

STATEMENT OF BASIC POSITION

US LEC has brought this breach-of-contract action, contending that BellSouth breached three interconnection agreements – the first executed by US LEC and BellSouth in November 1996, the second executed in June 1998, and the third executed in June 1999 – by failing to pay reciprocal compensation for Internet Service Provider ("ISP-bound traffic"). BellSouth's position is that the Commission should find that US LEC and BellSouth did not mutually agree to pay reciprocal compensation for ISP-bound traffic under any of the interconnection agreements at issue and should dismiss US LEC's complaint.

BELLSOUTH'S POSITION ON THE ISSUES OF LAW AND FACT

Issue 1: Under the reciprocal compensation provision of their Interconnection Agreements, are US LEC of Florida, Inc. and BellSouth Telecommunications, Inc. required to compensate each other for delivery of traffic to Enhanced Service Providers, including Internet Service Providers?

Position: The unambiguous language of all three interconnection agreements between BellSouth and US LEC only requires the payment of reciprocal compensation for traffic that originates and terminates within the local calling area, which – as the Federal Communications Commission (“FCC”) has made abundantly clear – is not the case with ISP-bound traffic. Declaratory Ruling, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket 96-98 (Feb. 26, 1999). Furthermore, US LEC had no plans to serve Enhanced Service Providers and did not even expect to receive any reciprocal compensation from BellSouth when the November 1996 Agreement was negotiated, and BellSouth repeatedly proposed language to exclude expressly ISP-bound traffic from the definition of local traffic in negotiating the June 1998 and June 1999 Agreements. Accordingly, based on the unambiguous language in the contracts and the circumstances surrounding the execution of each of the three interconnection agreements at issue, it is clear US LEC and BellSouth did not mutually agree to pay reciprocal compensation for ISP-bound traffic.

STIPULATIONS

None


PENDING MOTIONS


On March 3, 2000, BellSouth filed a motion for leave to file the surrebuttal testimony of Robert C. Scheye or, in the alternative, to strike, which is currently pending.

BellSouth also is reviewing US LEC's responses to BellSouth's discovery requests served on March 13, 2000. BellSouth previously wrote US LEC challenging the merits of some

of US LEC's objections to those requests, and, unless the parties are able to resolve their differences amicably, BellSouth expects to file a motion to compel.

Respectfully submitted this 20th day of March, 2000.


Nancy B. White
c/o Nancy Sims (207)
Suite 400
150 South Monroe Street
Tallahassee, FL 32301
(305) 347-5558


R. Douglas Lackey (207)
Bennett L. Ross
Suite 4300, BellSouth Center
675 W. Peachtree Street, N.E.
Atlanta, GA 30375
(404) 335-0747

COUNSEL FOR BELL SOUTH
TELECOMMUNICATIONS, INC.

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