

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

<b>Complaint of US LEC of Florida Inc.</b>	)	<b>Docket No. 990874-TP</b>
<b>against BellSouth Telecommunications, Inc.</b>	)	
<b>for Breach of Terms of Florida</b>	)	<b>Filed: March 20, 2000</b>
<b>Interconnection Agreement under Sections</b>	)	
<b>251 and 252 of the Telecommunications</b>	)	
<b>Act of 1996, and Request For Relief</b>	)	

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**US LEC OF FLORIDA INC.'S RESPONSE TO BELL SOUTH TELECOMMUNICATIONS, INC.'S MOTION TO FILE SURREBUTTAL TESTIMONY OR, IN THE ALTERNATIVE, TO STRIKE**

US LEC of Florida Inc. ("US LEC"), by its undersigned counsel, hereby submits its response to the Motion of BellSouth Telecommunications, Inc. ("BellSouth") to File Surrebuttal Testimony Or, in the Alternative, To Strike (the "Motion").

US LEC has no objection to the filing of Surrebuttal Testimony of Mr. Robert C. Scheye. BellSouth seeks to file the surrebuttal testimony of Mr. Robert C. Scheye in response to the rebuttal testimony of Ms. Wanda Montano, filed by US LEC. The testimony of both witnesses is relevant to the issues to be decided in this case and, therefore, should be admitted and both witnesses should be available for cross-examination.

US LEC filed the testimony of Ms. Montano to rebut suggestions made by BellSouth's principal witness, Mr. Jerry Hendrix, that he had no reason to discuss with US LEC or, by implication, any other ALEC, whether ISP-bound traffic fit within the definition of local traffic or was eligible for reciprocal compensation because BellSouth didn't know that any ALEC viewed it differently. In particular, Mr. Hendrix testified as follows:

AFA \_\_\_\_\_  
 APP \_\_\_\_\_  
 CAF \_\_\_\_\_  
 CMA \_\_\_\_\_  
 CTR \_\_\_\_\_  
 EAG \_\_\_\_\_  
 LEG \_\_\_\_\_  
 MAS \_\_\_\_\_  
 OPC \_\_\_\_\_  
 RRR \_\_\_\_\_  
 SEC \_\_\_\_\_  
 WAW \_\_\_\_\_  
 OTH \_\_\_\_\_

[H]ad BellSouth understood that US LEC considered ISP-bound traffic to be local traffic under the Agreement, the issue would have been discussed at length.

... BellSouth has entered into hundreds of agreements with ALECs across its region and has included in those agreements language discussing payment of reciprocal compensation. Nowhere in those agreements has BellSouth acknowledged or agreed to define ISP-bound traffic as local traffic for reciprocal compensation purposes.

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BellSouth's interconnection agreements intend for reciprocal compensation to apply, if at all, only when local traffic is terminated on either party's network in a local calling area or LATA, as evidenced by the language of the first Agreement.

Direct Testimony of Jerry Hendrix, filed January 31, 2000, at 14-15.

Ms. Montano's testimony directly rebuts this testimony. Ms. Montano testifies that, at least two to three months prior to US LEC's negotiations with BellSouth, Ms. Montano, as chief negotiator for TCG, another ALEC, expressly told BellSouth's negotiator, Mr. Scheye, that TCG considered ISP bound traffic as local and as eligible for reciprocal compensation. (Rebuttal Testimony of Wanda Montano, filed February 18, 2000, at 3-5).

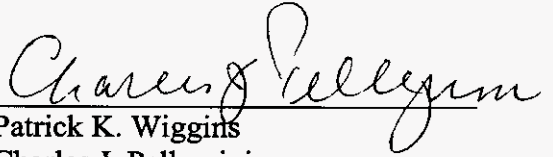
Ms. Montano's testimony is directly relevant to what BellSouth knew or should have known about the position of ALECs on this issue and, as such it is directly relevant to what BellSouth intended in the November 1996 Agreement with BellSouth. Similarly, to the extent that Mr. Scheye takes issue with Ms. Montano's recollections, his testimony, too, is relevant and should be admitted, subject to cross-examination.

WHEREFORE, for these reasons, US LEC respectfully submits that, to the extent BellSouth's motion seeks leave to file the surrebuttal testimony of Mr. Scheye, it should be granted and, conversely, to the extent that it seeks to have Ms. Montano's testimony stricken, it should be denied.

Dated this 20th day of March 2000.

**US LEC OF FLORIDA INC.**

**By:**



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CERTIFICATE OF SERVICE  
Docket No. 990874-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by hand delivery\* and by Federal Express\*\* this 20th day of March, 2000 upon the following:

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