

Bennett L. Ross
General Attorney

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ORIGINAL

March 31, 2000

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MARCH 31 PM 4:54
RECORDS AND REPORTING

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)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Motion to Compel Discovery Responses from US LEC of Florida, Inc., 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 on the parties shown on the attached Certificate of Service.

Sincerely,



Bennett L. Ross (lw)

Enclosures

- AFA _____
- APP _____
- CAE _____
- CMW March
- CTR _____
- EAG _____
- LEG 1
- MAS 3
- OPC _____
- RRR _____
- SEC 1
- WAW _____
- OTH _____

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

RECEIVED & FILED
MARCH 31 2000
FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

04009 MAR 31 8

FPSC-RECORDS/REPORTING

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 and telecopier (*) this 31st 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

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Bennett L. Ross (BW)

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

ORIGINAL

Filed: March 30, 2000

BELLSOUTH TELECOMMUNICATIONS, INC.'S
MOTION TO COMPEL DISCOVERY RESPONSES
FROM U.S. LEC OF FLORIDA, INC.

I. INTRODUCTION

BellSouth Telecommunications, Inc. ("BellSouth") hereby moves the Florida Public Service Commission ("Commission") for an order compelling US LEC of Florida, Inc. ("US LEC") to respond fully and completely to BellSouth's Interrogatories 17 and 19 and Requests For Production of Documents 2, 3, 12, and 14. Although US LEC objected to these requests, its objections are without merit. Equally without merit are US LEC's attempts to avoid responding to discovery by asserting unsubstantiated claims that responding would be "unduly burdensome" or by insisting that documents responsive to BellSouth's requests should not be produced because they are allegedly in some way not "accurate." Although BellSouth has attempted to resolve these discovery issues informally with US LEC without involvement of the Commission and even though US LEC has provided some information in response to BellSouth's discovery requests, US LEC has not fully and completely done so. See BellSouth Exhibit 1. This Commission, therefore, should grant BellSouth's motion to compel and order US LEC to prepare complete responses to BellSouth's discovery requests as more fully discussed below.

DOCUMENT NUMBER-DATE
04009 MAR 31 8
FPSC-RECORDS/REPORTING

II. DISCUSSION

Interrogatory No. 17

State the number of minutes of use from BellSouth to US LEC in Florida for each month since November 1996 for which US LEC is seeking the payment of reciprocal compensation that are attributable to what US LEC has described as “information processing.” (Docket 9577-U, Tr. at 124).

Response

US LEC objects to this interrogatory on the grounds that the information it seeks is completely irrelevant to the dispute between the parties. In addition, US LEC objects on the ground that the request is overly broad and unduly burdensome in that it would require US LEC to spend unreasonable amounts of time and to commit substantial resources attempting to ascertain information that has no bearing on the dispute between the parties. In addition, US LEC objects to this interrogatory because it seeks disclosure of highly competitive confidential, proprietary, and trade secret information.

Through this Interrogatory, BellSouth is seeking to discover the amount and nature of the minutes of use for which US LEC is demanding the payment of reciprocal compensation. US LEC’s contention that such information is not relevant is without merit. US LEC is demanding the payment of reciprocal compensation from BellSouth for approximately 540 million minutes of use. *See* US LEC’s Response to BellSouth’s Interrogatory No. 23. Because only a portion of those minutes (albeit a significant one) are attributable to Internet traffic, *see* US LEC’s Response to BellSouth’s Interrogatory No. 12, BellSouth is entitled to discover the specific basis for US LEC’s reciprocal compensation claims. Furthermore, US LEC provides “information processing” or what US LEC calls “IP traffic,” which, according to US LEC, includes “chat lines.” *See* US LEC’s Response to BellSouth’s Interrogatory No. 18. BellSouth is entitled to discover the nature of such traffic and the extent to which IP traffic is different from Internet or ISP traffic.

US LEC's unsubstantiated claim that responding to BellSouth's interrogatory would be "unduly burdensome" cannot be sustained. First, claims of undue burden "have little meaning without substantive support." *First City Development of Florida, Inc. v. The Hallmark of Hollywood Condominium Association, Inc.*, 545 So. 2d 502 (Fla. Dist. Ct. App. 1989) (a party objecting to discovery on grounds that a request is unduly burdensome "must be able to show the volume of documents, or the number of man-hours required in their production, or some other quantitative factor that would make it so"). Here, US LEC has made no quantitative showing to support its claims of "undue burden." Second, US LEC has admitted in a similar proceeding in Georgia that it pays commissions to a company called Eagle Communications, Inc. based on the total minutes of use for traffic generated by end-users secured by Eagle. BellSouth Exhibit 2. Because the commission rates vary for ISP traffic versus IP traffic, US LEC must have some means to capture the minutes associated with IP traffic, which is all BellSouth is seeking here.

US LEC's concerns about the confidential nature of the information requested is misguided because the parties have executed a Confidentiality Agreement that should more than adequately protect US LEC. Accordingly, US LEC should be required to respond to this request.

Interrogatory No. 19

Identify the customers that US LEC serves in Florida that offer "information processing" for which US LEC is seeking reciprocal compensation from BellSouth.

Response

US LEC objects to this request because it requires the identification of specific customers and the production of customer information which is highly competitive proprietary and trade secret information of US LEC. US LEC further objects because such information is not relevant to these proceedings nor likely to lead to the discovery of admissible evidence. US LEC should not be required to provide specific customer information which BellSouth can use to compete directly with US LEC.

Through this Interrogatory, BellSouth is seeking to discover the nature of the minutes of use for which US LEC is demanding the payment of reciprocal compensation. That such information may be confidential is hardly grounds for withholding such information since the parties have executed a Confidentiality Agreement that should more than adequately protect US LEC. Accordingly, US LEC should be required to respond to this Interrogatory.

US LEC's contention that such information is not relevant is without merit. US LEC is demanding the payment of reciprocal compensation from BellSouth for approximately 540 million minutes of use. *See* US LEC's Response to BellSouth's Interrogatory No. 23. Because only a portion of those minutes (albeit a significant one) are attributable to Internet traffic, *see* US LEC's Response to BellSouth's Interrogatory No. 12, BellSouth is entitled to discover the specific basis for US LEC's reciprocal compensation claims. Furthermore, US LEC provides "information processing" or what US LEC calls "IP traffic," which, according to US LEC, includes "chat lines." *See* US LEC's Response to BellSouth's Interrogatory No. 18. BellSouth is entitled to discover the nature of such traffic and the extent to which IP traffic is different from Internet or ISP traffic.

Request for Production No. 2

Produce all documents that refer or relate to or were generated in connection with US LEC's negotiation or execution of the November 1996 Agreement.

Objection

US LEC objects to producing documents that refer to relate to or were generated in connection with any interconnection agreement with BellSouth that do not concern the matters at issue in these proceedings.

Response

Subject to, and without waiving the foregoing objections, US LEC will produce non-privileged documents, if any, responsive to this request that relate to the issue of reciprocal compensation for ISP traffic, in accordance with the schedule agreed to by the parties or, as the case may be, upon the execution of an acceptable Confidentiality Agreement or Protective Order.

Request for Production No. 3

Produce all documents that refer or relate to or were generated in connection with US LEC's negotiation or execution of the June 1998 Agreement.

Objection

US LEC objects to producing documents that refer to relate to or were generated in connection with any interconnection agreement with BellSouth that do not concern the matters at issue in these proceedings. Further, US LEC objects to this request because US LEC and BellSouth did not conduct a detailed negotiation of the June 1998 Agreement. Rather, US LEC "opted into" the existing agreement between BellSouth and ALEC, Inc. Under 47 U.S.C. § 252(i), the intent of ALEC and BellSouth when the actual language of the interconnection agreements was negotiated controls the issue in this lawsuit. The intent of US LEC and BellSouth when US LEC opted into the ALEC Interconnection Agreement is irrelevant to these proceedings. Therefore, US LEC objects to producing documents in response to this request because any such documents are immaterial in this proceeding.

Response

Subject to, and without waiving the foregoing objections, US LEC will produce non-privileged documents, if any, responsive to this request that relate to the issue of reciprocal compensation for ISP traffic, in accordance with the schedule agreed to by the parties or, as the case may be, upon the execution of an acceptable Confidentiality Agreement or Protective Order.

These document requests seek all US LEC documents referring or relating to or were generated in connection with the negotiation and execution of two of the three interconnection agreements at issue in this proceeding. Notwithstanding its objections to these discovery requests, US LEC has indicated that it would produce any non-privileged documents, but limited

its response to documents “that relate to this issue of reciprocal compensation for ISP traffic.” US LEC’s purported limitation is improper. For example, assume US LEC created a document in 1996 in negotiating the first interconnection agreement that identified the areas of concern, and reciprocal compensation was not mentioned. Or assume US LEC has a document which outlines the need for reciprocal compensation but makes no mention of reciprocal compensation for ISP traffic. These two documents would clearly be relevant to ascertaining the intent of the parties, but would not be produced by US LEC since they do not “relate to the issue of reciprocal compensation for ISP traffic.” US LEC should not be permitted to dictate what documents it created in connection with the interconnection agreements at issue are “relevant” to this case.

Furthermore, notwithstanding its attempt to limit the scope of production, US LEC has not produced a single internal document that refers or relates to either the parties’ first or second interconnection agreement. While US LEC has produced letters to and from BellSouth, it is beyond the pale of reason to believe that US LEC did not create a single internal memorandum or e-mail in connection with negotiating or executing the first two interconnection agreements at issue. Accordingly, US LEC should be ordered to respond fully and completely to BellSouth’s requests for production.

Request for Production No. 12

Produce all documents that refer or relate to any projections, estimates, studies, calculations, or budgets developed by or on behalf of US LEC that reflect the amount of reciprocal compensation US LEC expected to receive from BellSouth.

Objection

US LEC objects to this request because it seeks disclosure of highly competitive confidential, proprietary, and trade secret information from US LEC's budgets and financial information. US LEC further objects on the basis that such request seeks information that is not relevant to these proceedings nor likely to lead to the discovery of admissible evidence. US LEC did not prepare any budgets or similar documents reflecting amounts of reciprocal compensation for 1996 or 1997. Documents containing US LEC's projections, estimates, or budgets of amounts of reciprocal compensation prepared *after* 1996 are irrelevant to any matter in this proceeding because they do not reflect the intent of US LEC in 1996.

Response

Subject to and without waiving the foregoing objection US LEC will produce a non-privileged, redacted copy of its budget document for 1999 for Florida upon the execution of an acceptable Confidentiality Agreement or Protective Order. US LEC further responds that budgets for 1998 and 2000 are not responsive to this request because the projections of revenue from reciprocal compensation in those documents are predicated on US LEC's estimated revenue from all ILECs in Florida, with no separate projections for any one incumbent. US LEC also notes that the 1999 budget does not accurately reflect the amount of reciprocal compensation US LEC expected to receive from BellSouth since the interconnection agreement between BellSouth and US LEC was set to expire at the end of June 1999 and, at the time the budget was prepared, it was unclear whether an agreement would be negotiated or adopted and, if so, the rate that would be paid for reciprocal compensation in such new agreement.

The documents BellSouth seeks are directly relevant to the issues in this proceeding, notwithstanding US LEC's claims to the contrary. For example, US LEC claims that at the time the second interconnection agreement with BellSouth was executed US LEC understood that calls to ISPs constituted local traffic and were subject to the reciprocal compensation provisions of the agreement. BellSouth seeks to discover documents such as projections, estimates, studies, calculations, or budgets developed by or on behalf of US LEC that reflect the amount of reciprocal compensation US LEC expected to receive from BellSouth, which bear directly on the veracity of this claim. For example, a 1998 budget reflecting that US LEC did not anticipate receiving reciprocal compensation from BellSouth, even though US LEC planned on providing

service to a substantial number of ISPs, would seriously undermine US LEC's position in this case, which may explain its reluctance to produce such documents.

That such budgets may not be "accurate" is immaterial. BellSouth did not request that US LEC produce only "accurate" budgets. Furthermore, budgets often times turn out in retrospect not to be particularly accurate, but nevertheless bear directly on the state of mind and expectations of the party at the time the budget was prepared. While the "accuracy" of US LEC's budgets may go to the weight of the evidence, it cannot be used to prevent BellSouth from obtaining copies of such budgets during discovery.

Although US LEC has produced a redacted copy of a 1999 budget, the document has been so significantly redacted to make it indecipherable and almost worthless. US LEC should be required to produce the unredacted budgets subject to the Confidentiality Agreement, which should more than adequately protect US LEC's interests.

Request for Production No. 14

Produce all documents that refer or relate to any arrangement or agreement between US LEC and any other person that involves the sharing of any reciprocal compensation received by US LEC from BellSouth.

Objection

US LEC objects to this document request because the information it seeks is completely irrelevant to the dispute between the parties. In addition, US LEC objects on the ground that the request is overly broad and unduly burdensome in that it would require US LEC to spend unreasonable amounts of time and to commit substantial resources attempting to isolate documents which have no bearing on the dispute between the parties. In addition, US LEC objects to this request because it seeks disclosure of highly competitive confidential, proprietary, and trade secret information.

Response

Subject to, and without waiving the foregoing objections, US LEC states that there are not documents that are responsive to this request as framed. However, US LEC will produce a copy of the contract between US LEC of Florida and Eagle Communications, Inc. upon the execution of an acceptable Confidentiality Agreement or Protective Order.

US LEC acknowledges that it has entered into at least one arrangement with a company called Eagle Communications by which US LEC pays Eagle a portion of reciprocal compensation US LEC receives from BellSouth. If US LEC is purposefully engaging in arrangements designed to generate reciprocal compensation, such as the sharing arrangement with Eagle, this Commission should consider whether awarding reciprocal compensation for ISP traffic under such circumstances is in the public interest. In somewhat analogous circumstances, the Federal Communications Commission found that calls placed by payphone providers using autodialing machines in order to generate commission payments were against public policy and adopted rules prohibiting the practice.¹ Similarly, BellSouth is entitled to discover information in this proceeding that may show US LEC's reciprocal compensation request is nothing more than a subsidy designed to line US LEC's pockets. Thus, the documents BellSouth seeks are relevant to this case.

US LEC's unsubstantiated claim that responding to BellSouth's request would be "unduly burdensome" cannot be sustained. First, claims of undue burden "have little meaning without substantive support." *First City Development of Florida, Inc. v. The Hallmark of Hollywood Condominium Association, Inc.*, 545 So. 2d 502 (Fla. Dist. Ct. App. 1989) (a party objecting to discovery on grounds that a request is unduly burdensome "must be able to show the volume of documents, or the number of man-hours required in their production, or some other


¹ See FCC Report and Order, Docket Nos. 96-128, 91-35, ¶65 (Sept. 20, 1996).

quantitative factor that would make it so"). Here, US LEC has made no quantitative showing to support its claims of "undue burden." Second, US LEC claims that the only "sharing arrangement" it has entered into is with Eagle. Thus, since there is only a single company at issue, US LEC's claims of "undue burden" ring hollow.

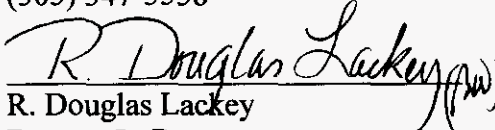
US LEC's concerns about the confidential nature of the information requested is misguided because the parties have executed a Confidentiality Agreement that should more than adequately protect US LEC. Accordingly, US LEC should be required to respond to this request.

For the foregoing reasons, the Commission should grant BellSouth's Motion To Compel.

Respectfully submitted this 31st day of March, 2000.



Nancy B. White (pw)
c/o Nancy Sims
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(305) 347-5558



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Atlanta, GA 30375
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COUNSEL FOR BELL SOUTH
TELECOMMUNICATIONS, INC.

203558

EXHIBIT 1

Bennett L. Rose
General Attorney

BellSouth Telecommunications, Inc.
Legal Department - Suite 4300
675 West Peachtree Street
Atlanta, Georgia 30375-0001
Telephone: 404-335-0793
Facsimile: 404-658-9022

March 1, 2000

VIA TELECOPIER

Mr. Charles J. Pellegrini
Wiggins & Villacorta
2145 Delta Boulevard
Suite 200
Tallahassee, FL 32303

RE: *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*

Dear Charlie:

I am in receipt of US LEC's objections to BellSouth's First Set of Interrogatories and Requests for Production of Documents in the above-referenced matter. While I am troubled by the fact that US LEC has objected to nearly every discovery request propounded by BellSouth, I am hopeful that these objections were simply raised to preserve US LEC's rights and that US LEC will provide the responsive information requested by BellSouth. It is in that spirit that I am writing so that we might attempt to resolve our differences without involvement of the Florida Public Service Commission.

INTERROGATORIES

Interrogatories 1 and 4. In response to your objections to these interrogatories, BellSouth is not asking US LEC to identify clerical or administrative staff persons. BellSouth's requests only seek information about individuals who had substantive participation in answering BellSouth's discovery requests or who had substantive involvement in the negotiations of the three interconnection agreements at issue.

Interrogatories 5, 6, 7, 8, 9 and 10. US LEC objected to responding to these discovery requests because they purportedly involve information that is the subject of US LEC's pre-filed testimony. I am not familiar with the legal basis for such an objection and would appreciate your directing me to the relevant section of the Florida Rules of Civil Procedure or the rules of the Florida Public Service Commission upon which this objection is based. Even assuming that this objection were well founded as a legal matter, I did not see any mention in Mr. Grefrath's testimony identifying any documents that allegedly support US LEC's position in this case. Consequently, I do not agree that the answers to BellSouth's interrogatories can be "found in US LEC's pre-filed testimony which BellSouth has already received." US LEC also has objected to providing any information about US LEC's and BellSouth's intent when they executed their second and third interconnection agreements on the grounds that such information is "irrelevant to these proceedings." This objection is impossible to reconcile with recent decisions of the Florida Commission, most notably the Florida Commission's Order No. PSC-99-2526-PCO-TP in which the Commission expressly rejected US LEC's interpretation of 47 U.S.C. § 252(i). I also would direct your attention to the Florida Commission's September 15, 1998 Order in Docket 98-0495-TP in which the Florida Commission made clear that, in interpreting a contract like the ones at issue here, it is appropriate to "consider circumstances that existed at the time the contract was entered into, and the subsequent actions of the parties." Here, BellSouth entered into interconnection agreements with US LEC in June 1998 and June 1999, and BellSouth believes that, consistent with the Florida Commission's decisions previously cited, US LEC should respond to BellSouth's discovery requests that seek information about the circumstances surrounding the execution of those agreements.

Interrogatories 11, 13 and 14. While objecting to these interrogatories as "ambiguous," US LEC did not identify in what respect these requests were unclear. BellSouth is prepared to provide whatever additional guidance may be needed to allow US LEC to provide the requested information. As to US LEC's other objections to these requests, Mr. Grefrath discusses the "termination" of a call for reciprocal compensation and jurisdictional purposes in his pre-filed testimony, and BellSouth is entitled to explore the basis for his testimony, regardless of whether it involves a "legal conclusion as opposed to facts and evidence." Furthermore, much of the information requested in these interrogatories specifically relate to facts, such as dates when US LEC first recognized the alleged distinction at issue and documents referring or relating to such a distinction. None of this information is contained in Mr. Grefrath's testimony.

Interrogatories 13, 14, 15 and 16. In addition to the objection previously discussed above, US LEC also objected to these interrogatories on grounds that it would be unduly burdensome to provide the requested information since US LEC allegedly "does not maintain this information in the regular course of business." While I obviously cannot speak to what information US LEC does or does not regularly maintain, US LEC provided this precise information for the State of Georgia in response to BellSouth's discovery requests in Docket No. 9577-U, with which I know you are familiar. In that case, in response to BellSouth's Request for Production No. 9, which asked for all documents reflecting the total number of ISP minutes of use from BellSouth to US LEC for each month since September 1996, US LEC provided monthly ISP minutes of use in lieu of producing the requested documents. It is not clear why US LEC could not do the same for Florida.

Interrogatories 17, 18, 19 and 20. US LEC has objected on several grounds to providing any information about its so called "information processing" service in response to these interrogatories. To the extent the requested information is proprietary, BellSouth is willing to enter into an appropriate protective agreement. With respect to US LEC's relevancy objection, BellSouth is entitled to discover the distinction that US LEC apparently draws between ISP traffic and so-called "IP traffic." BellSouth seeks to discover the extent to which IP minutes of use as well as ISP minutes of use are included in the minutes of use at issue for which US LEC is seeking reciprocal compensation in this proceeding. The topic of "information processing" was discussed in Docket 9577-U and was referenced in several documents introduced into the record in that proceeding without objection from US LEC.

Interrogatories 21 and 22. These interrogatories seek information concerning arrangements by which US LEC has agreed to share reciprocal compensation received from BellSouth. To the extent the requested information is proprietary, BellSouth is willing to enter into an appropriate protective agreement. With respect to US LEC's relevancy objection, BellSouth believes that the requested information is relevant on several fronts. First, as you know, the issue of US LEC's reciprocal compensation sharing arrangements is the subject of a proceeding in North Carolina in Docket No. P-561, Sub 10, in which a US LEC witness acknowledged that state commissions may properly consider the public interest in enforcing interconnection agreements. The Florida Commission may determine that it is not in the public interest to award reciprocal compensation to an alternative local exchange carrier like US LEC that has entered into such a sharing arrangement, particularly if the arrangement is with a company affiliated with US LEC. Second, the existence of these sharing arrangements, the terms of such arrangements, and the date when such arrangements were entered into is relevant to US LEC's understanding of the various interconnection agreements at issue. Finally, I am at a loss to understand US LEC's objection that identifying

documents referring or relating to such reciprocal compensation sharing arrangements "would require US LEC to spend unreasonable amounts of time and to commit substantial resources" This objection suggests that US LEC has entered into numerous sharing arrangements, which BellSouth did not previously understand to be the case. However, if US LEC would give BellSouth some idea of the types of documents that are responsive to this request, BellSouth is willing to discuss narrowing this request so as to reduce any hardship on US LEC.

Interrogatories 24, 25, 29, 30 and 31. US LEC has raised several objections to these interrogatories, notwithstanding the fact that US LEC provided information in response to similar interrogatories in Georgia in Docket No. 9577-U. In particular, I would direct your attention to US LEC's Supplemental Responses to BellSouth's Request for Production Nos. 11, 13, 14, 17 and 18 dated December 22, 1999. That US LEC was able to answer similar interrogatories in another state belies US LEC's claim that they are "vague and ambiguous." In any event, BellSouth is willing to provide whatever clarification is necessary so that US LEC can provide the requested information. As to the relevancy of the information requested, BellSouth is entitled to discover the extent to which US LEC has made or intends to make reciprocal compensation a separate line of business in the state of Florida. As you may be aware, in Docket No. U-23839, the Louisiana Public Service Commission relied upon similar evidence in holding that BellSouth was not required to pay reciprocal compensation for ISP-bound traffic to KMC.

Interrogatory No. 34. US LEC has objected to responding to this interrogatory, which seeks information concerning the cost to US LEC of handling ISP traffic. To the extent the requested information is proprietary, BellSouth is willing to enter into an appropriate protective agreement. As to US LEC's objection that the request is unduly burdensome because US LEC "does not maintain this information in the regular course of business," BellSouth would note that US LEC pays commissions to sales agents for minutes of use, including ISP traffic, generated by end users secured by those agents. Presumably, US LEC had enough information to determine whether or not the particular commission percentages to which US LEC has agreed would allow US LEC to still recover its costs. It seems unlikely that US LEC does not have any idea about its margins on handling ISP traffic, particularly when it is willing to pay commissions to agents to generate such traffic. BellSouth believes that this information is relevant to the parties' intent in executing the interconnection agreements, particularly the dispute over the appropriate reciprocal compensation rates in the third agreement. The Florida Commission may very well conclude that it would be inequitable to require BellSouth to pay US LEC a rate for ISP-bound traffic that greatly exceeds US LEC's cost of handling the traffic.

REQUESTS FOR PRODUCTION

Requests Nos. 2, 3, 4, 5, 6, 7, 8, 9, and 10. US LEC has objected to providing documents in response to these requests to the extent they "do not concern the matters at issue in these proceedings." BellSouth would like to know what US LEC believes are the "matters at issue in these proceedings" so that BellSouth can be assured that US LEC is not taking an unduly narrow view of the documents that should be produced. As to US LEC's objection to providing any information about US LEC's and BellSouth's intent when they executed their second and third interconnection agreements, I again would direct your attention to Order No. PSC-99-2526-PCO-TP and the Florida Commission's September 15, 1998 Order in Docket 98-0495-TP. These decisions make clear that the circumstances surrounding execution of the second and third interconnection agreements in June 1998 and June 1999, respectively, are indeed relevant, and BellSouth believes US LEC should produce the requested documents.

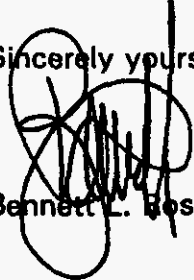
Request No. 11. BellSouth is at a loss to understand what is "ambiguous" about the request that US LEC produce "all documents that support or refer or relate to US LEC's allegations in the Complaint." Presumably, US LEC is familiar with its allegations in this proceeding that BellSouth and US LEC mutually agreed to pay reciprocal compensation for ISP-bound traffic and can readily produce all documents supporting, referring, or relating to such allegations.

Requests Nos. 12 and 13. To the extent they exist, BellSouth believes that US LEC should produce the requested internal budgets and the like, as US LEC did in Georgia in Docket No. 9577-U. That such documents may be confidential is hardly grounds for not producing them, since such documents can always be produced subject to a protective agreement. Notwithstanding US LEC's objection to the contrary, the documents BellSouth seeks are directly relevant to the issues in this proceeding. For example, in order to prevail on its claims, US LEC must establish that at the time the interconnection agreements with BellSouth were executed the parties intended that ISP-bound calls constituted local traffic and were subject to the reciprocal compensation provisions of the agreements. BellSouth seeks to discover documents such as projections, estimates, studies, calculations, or budgets developed by or on behalf of US LEC that reflect the amount of reciprocal compensation US LEC expected to receive from BellSouth, which bear directly on the veracity of this claim. For example, a 1997 budget reflecting that US LEC did not anticipate receiving reciprocal compensation from BellSouth, even though US LEC planned on providing service to a substantial number of ISPs, would seriously undermine US LEC's position in this case, which may explain US LEC's reluctance to produce such documents. Obviously, BellSouth is not asking US LEC to produce documents that do not exist. However, US LEC's narrow view of relevancy is untenable.

Requests Nos. 14 and 15. These requests seek documents concerning arrangements by which US LEC has agreed to share reciprocal compensation received from BellSouth and the amount of reciprocal compensation US LEC is seeking from BellSouth in this proceeding that is subject to such sharing arrangements. To the extent the requested information is proprietary, BellSouth is willing to enter into an appropriate protective agreement. As to US LEC's remaining objections, which are the same as US LEC's objections to Interrogatories Nos. 21 and 22, I would direct your attention to the discussion above outlining BellSouth's position on these issues.

I apologize for the length of this letter, but I wanted you to understand clearly the basis for BellSouth's concerns about the merits of US LEC's objections. I would appreciate your calling me at your earliest convenience to discuss these issues in greater detail. To the extent we cannot amicably resolve our differences, BellSouth intends to bring this matter to the Commission's attention.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Bennett L. Ross", written over the typed name below.

Bennett L. Ross

cc: Nancy B. White
Michael Goggin

199079

EXHIBIT 2

BEFORE THE
GEORGIA PUBLIC SERVICE COMMISSION
ATLANTA, GEORGIA

IN RE: COMPLAINT OF US LEC OF GEORGIA INC. AGAINST BELL SOUTH TELECOMMUNICATIONS, INC., AND REQUEST FOR IMMEDIATE RELIEF	DOCKET NO. 9577-U
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US LEC OF GEORGIA INC.'S
RESPONSE TO HEARING OFFICER'S DATA REQUEST NO. 1

Filed: February 7, 2000

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Hearing Officer's Data Request No. 1
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Request: Are the commissions that US LEC has agreed to pay to Eagle Communications to be paid at a higher rate for ISP traffic than for other traffic? (Tr. 119)

Response: US LEC has agreed to pay Eagle Communications a commission based on total minutes of use for all traffic generated by end-users secured by Eagle. The commission rate associated with "ISP Local and Toll" traffic is _____ than the rate associated with "IP Local and Toll" traffic, as shown in the following table:

Monthly MOU & 800 Origination	ISP Local and Toll MOU Commission	IP Local & Toll MOU Commission
_____	_____ %	_____ %
_____	_____ %	_____ %
_____	_____ %	_____ %

Commissions are non-incremental and apply retroactive to the first dollar of revenue for that month's usage.

As discussed at the hearing, the reference to IP is "an abbreviation for information processing, and those are conferencing[,] time and temperature[,] chat line type of services." (Tr. 124)

The actual payment of commissions is contingent upon US LEC collecting the reciprocal compensation from the appropriate ILEC. (Tr. 118)