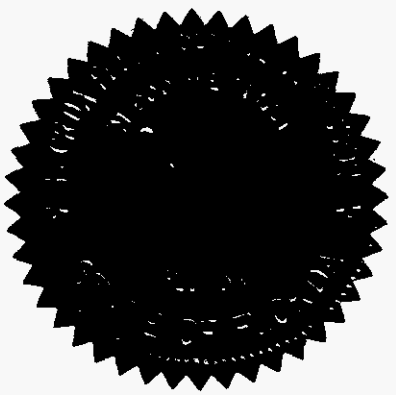


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO. 991534-TP

REQUEST FOR ARBITRATION CONCERNING:
 COMPLAINT OF INTERMEDIA
 COMMUNICATIONS, INC. AGAINST
 BELLSOUTH TELECOMMUNICATIONS, INC.:
 FOR BREACH OF TERMS OF
 INTERCONNECTION AGREEMENT UNDER
 SECTIONS 251 AND 252 OF THE
 TELECOMMUNICATIONS ACT OF 1996,
 AND REQUEST FOR RELIEF



VOLUME 1
Pages 1 through 165

 *
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 * AND DO NOT INCLUDE PREFILED TESTIMONY. *

PROCEEDINGS: HEARING

BEFORE: COMMISSIONER J. TERRY DEASON
 COMMISSIONER SUSAN F. CLARK

DATE: Tuesday, June 13, 2000

TIME: Commenced at 9:30 a.m.
 Concluded at 1:15 p.m.

PLACE: Betty Easley Conference Center
 Room 148
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: KORETTA E. STANFORD, RPR
 Official FPSC Reporter

1 APPEARANCES:

2 CHARLIE PELLEGRINI and PATRICK WIGGINS,
3 Wiggins & Villacorta, P. A., Post Office Drawer
4 1657, 2145 Delta Boulevard, Tallahassee, Florida
5 32302, and SCOTT SAPPERSTEIN appearing on behalf of
6 Intermedia Communications, Inc.

7 JONATHAN CANIS, Kelley Drye & Warren LLP, 1200
8 19th Street, N.W., Suite 500, Washington D.C 20036,
9 appearing on behalf of Intermedia Communications, Inc.

10 KIP EDENFIELD AND NANCY B. WHITE,
11 BellSouth Telecommunications, Inc., c/o Nancy Sims,
12 150 South Monroe Street, Suite 400, Tallahassee,
13 Florida 32301, appearing on behalf of BellSouth
14 Telecommunications, Inc.

15 MARLENE STERN AND C. LEE FORDHAM, Florida
16 Public Service Commission, Division of Legal
17 Services, 2540 Shumard Oak Boulevard, appearing on
18 behalf of the Commission Staff.

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I N D E X

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COMMISSIONER DEASON: Call the hearing to order.
Can we have the notice read, please?

MS. STERN: By notice issued May 2nd, 2000, this time and place has been set for a hearing in docket 991534TP, the request for arbitration concerning the complaint of Intermedia Communications against BellSouth Telecommunications for breach of their interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

COMMISSIONER DEASON: Appearances.

MR. EDENFIELD: Kip Edenfield on behalf of BellSouth. I have with me also Nancy White, general counsel of Florida, on behalf of BellSouth.

MR. CANIS: Jonathan Canis from Kelley Drye & Warren, Washington D.C., on behalf of Intermedia Communications.

MR. PELLIGRINI: Charles Pelligrini, Wiggins & Villacorta, on behalf of Intermedia Communications. I would like to enter an appearance also for Scott Sapperstein, Intermedia Communications, Tampa, and for Patrick Wiggins, Wiggins & Villacorta, Tallahassee.

MS. STERN: I'm Marlene Stern for the Commission and Lee Fordham for the Commission.

COMMISSIONER DEASON: I'm sorry, could you

FLORIDA PUBLIC SERVICE COMMISSION

1 repeat that?

2 MS. STERN: Marlene Stern and Lee Fordham on
3 behalf of the Commission.

4 COMMISSIONER DEASON: Okay. I'm sorry, sir,
5 could you repeat your name?

6 MR. CANIS: John Canis, C-A-N-I-S.

7 COMMISSIONER DEASON: Thank you.

8 Do we have any preliminary matters.

9 MS. STERN: Yes, there are two preliminary
10 matters. There's a stipulated recognition list that we'd
11 like to enter into evidence, and Intermedia indicated they
12 wanted to make an opening statement, which was not
13 discussed at the prehearing conference.

14 COMMISSIONER DEASON: Okay. Let's take one item
15 at a time. Where is the official recognition list?

16 MS. STERN: I have copies.

17 COMMISSIONER DEASON: Okay. Could you
18 distribute those, please. Have all parties had the
19 opportunity to review this prior to today?

20 MR. PELLIGRINI: Yes, Intermedia's in agreement
21 with the list.

22 MR. EDENFIELD: BellSouth has had the
23 opportunity to review it and is in agreement with it.

24 COMMISSIONER DEASON: Very well. Then this
25 shall be identified as Exhibit Number 1 and without

1 objection shall be admitted.

2 (Exhibit 1 was marked for identification and
3 admitted into evidence.)

4 COMMISSIONER DEASON: Okay, the second preliminary
5 matter concerned opening statements; is that correct?

6 MS. STERN: Yes.

7 COMMISSIONER DEASON: Okay. Before we get to
8 that, I have a question. I noticed in the appearing order
9 there was a -- under pending motions there was a
10 description of a motion to file surrebuttal testimony.
11 What's the status of that at this point?

12 MS. STERN: That's been disposed of. An order
13 has been issued on that motion.

14 COMMISSIONER DEASON: Okay, very well.

15 Okay. Question of opening statements; I did not
16 -- in my review of the preliminary order, I did not see
17 where that was discussed. Was it discussed at the
18 prehearing --

19 MS. STERN: No, it was not.

20 COMMISSIONER DEASON: Okay. There's been a
21 request to have opening statements?

22 MR. CANIS: Yes, there has, Your Honor.

23 Mr. Pelligrini, in the discussions with BellSouth,
24 indicated our interest in making an opening statement to
25 clarify issues and to kind of set the stage for the

1 hearing.

2 And Mr. Pelligrini suggested that BellSouth and
3 Intermedia cosponsor a motion. And BellSouth demurred on
4 that, and that's why we're in the position of making this
5 request ourselves.

6 COMMISSIONER DEASON: Okay. BellSouth?

7 MR. EDENFIELD: Actually, it was a little more
8 than a deferral. I talked to Mr. Pelligrini and advised
9 him that it was not in the prehearing order, that we did
10 not think that opening statements would add anything to
11 this proceeding, as far as providing clarity to the
12 Commission, and that we objected to having opening
13 statements, and we maintain that objection.

14 COMMISSIONER DEASON: Okay. Staff have a
15 position?

16 MS. STERN: We think it should have been
17 addressed at the prehearing.

18 COMMISSIONER DEASON: Okay. I agree. If
19 there's to be opening statements, it should be discussed
20 at the prehearing conference. It was not done in this
21 case; therefore, the request for opening statements is
22 denied. Any other preliminary matters?

23 MS. STERN: No.

24 COMMISSIONER DEASON: Okay.

25 MR. EDENFIELD: From BellSouth, Commissioner

1 Deason, I'm not sure if this is the appropriate time to
2 take it up, but I was provided yesterday from Intermedia a
3 number of corrections that Intermedia proposes to the
4 depo-- I'm sorry, to the direct testimony of Edward
5 Thomas. I'm not sure if that's better served when he
6 takes the stand or if you would like to take that up now,
7 but they provided me with a writing setting forth those
8 proposed changes.

9 COMMISSIONER DEASON: Mr. Pelligrini?

10 MR. PELLIGRINI: Commissioner Deason, I'm not
11 sure whether this is the appropriate time or when
12 Mr. Thomas is on the stand, if that's the appropriate
13 time.

14 We prepared this list of the changes that
15 Mr. Thomas will make to his testimony in order to, in
16 order to facilitate following Mr. Thomas as he makes those
17 changes to his testimony. Some of them are fairly long
18 and would be difficult to follow and to mark down as he
19 went along. And that's simply the purpose of the
20 materials that we've handed out to you and to BellSouth.

21 COMMISSIONER DEASON: I take it these changes
22 are more than just minor corrections.

23 MR. PELLIGRINI: No. I wouldn't describe them
24 as minor or major. They're changes to passages in his
25 testimony. One of them is a change to a passage to his

1 testimony that's rather lengthy. The change itself is
2 not.

3 COMMISSIONER DEASON: Mr. Edenfield, do you
4 object to these changes?

5 MR. EDENFIELD: Well, I do not have an option to
6 1, 2, 3, 4 and 6. I don't know if the Commission has this
7 sheet in front of them or not, this sheet that was passed
8 out. Those are more typical corrections, but it appears
9 to me what Mr. -- well, what Intermedia's trying to do
10 here is -- let me back up a step.

11 They had filed a motion for surrebuttal, which
12 was denied. It looks like to me what they're trying to do
13 is these are more than just, you know, a word without a
14 place. They're adding entire paragraphs and passages to
15 direct testimony that I have not seen before and that my
16 witness has not had a chance to review to provide rebuttal
17 testimony on these changes.

18 Again, if it was just a, you know, "and," that
19 should have been "the," is one thing, but these are
20 multi-sentence paragraphs that are being added into the
21 testimony, is what it appears to me.

22 And certainly, I would object to the extent that
23 they're trying to come in on the day before the hearing
24 and add supplemental direct testimony which is, again,
25 with the exception of 1, 2, 3, 4 and 6, appears to be

1 exactly what they're trying to do.

2 In addition, there are -- they're trying to
3 change out the exhibits that were attached to the direct
4 testimony and supplement those or replace those with brand
5 new exhibits.

6 Now, they look somewhat similar, but they are
7 not the same. And again, my witnesses have not had a
8 chance to look at these to see what the subtle
9 distinctions are between the exhibits that were attached
10 to the original direct and what they're trying to attach
11 now. It seems like to me that we're kind of at the ninth
12 hour to be modifying direct testimony.

13 COMMISSIONER DEASON: Well, Mr. Edenfield, I
14 appreciate you bringing this to the attention of the
15 Commissioners and the parties. We will take up this
16 matter when witness Thomas takes the stand. And it will
17 need to be clarified before we begin summary of testimony.

18 So, I suppose that we can do that at that time.
19 Mr. Edenfield, to the extent that you can precisely
20 identify changes or additions with which you object, and
21 the reasons for that, please do so. And Mr. Pelligrini,
22 you have been put on notice that you may likely have an
23 objection, and we'll deal with it at that time.

24 MR. PELLIGRINI: Yes, sir.

25 COMMISSIONER CLARK: I only have one sheet. I

1 have a sheet that says 5, 7, and 8. Is there more?

2 COMMISSIONER DEASON: Apparently, those are the
3 only --

4 MR. PELLIGRINI: Commissioner Clark, those are
5 the only changes that I thought would require a handout.
6 The other changes are rather brief in nature and you would
7 have no difficulty in following Mr. Thomas as he makes
8 them.

9 COMMISSIONER CLARK: Okay.

10 COMMISSIONER DEASON: Anything before we swear
11 in witnesses?

12 MR. EDENFIELD: The last thing is, Commissioner
13 Deason -- I'm sorry, I'm not trying to delay the start.
14 We have a number of witnesses that are direct and
15 rebuttal. We have some that are only rebuttal.

16 If it would be appropriate, I would like to
17 let's just deal with all the witness's testimony at one
18 time, if that's the Commission's pleasure. It might make
19 it move a little faster.

20 COMMISSIONER DEASON: Mr. Pelligrini?

21 MR. PELLIGRINI: Commissioner Deason, we object
22 to that. At the prehearing conference it was determined
23 that direct testimony would be taken first, and then it
24 would be followed by rebuttal testimony. We've prepared
25 our case on that basis, and we object strongly to a change

1 at this point.

2 COMMISSIONER DEASON: Given that was discussed
3 at the prehearing, we will follow the order as contained
4 in the prehearing order, and that is direct followed by
5 rebuttal.

6 Okay. Any other preliminary matters?

7 MR. EDENFIELD: That's it from BellSouth.

8 MR. PELLIGRINI: Intermedia has no preliminary
9 matters.

10 COMMISSIONER DEASON: Very well. I will ask all
11 witnesses that will be testifying today to please stand
12 and raise your right hand.

13 In this matter before the Florida Public Service
14 Commission, do you swear or affirm to tell truth, the
15 whole truth and nothing about the truth?

16 ALL: I do.

17 COMMISSIONER DEASON: Thank you.

18 Intermedia, you may call your first witness.

19 MR. CANIS: Your Honor, Intermedia would like to
20 call to the stand, Ms. Heather Gold.

21 HEATHER BURNETT GOLD

22 was called as a witness on behalf of Intermedia
23 Communications, Inc., and, having been duly sworn,
24 testified as follows:

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DIRECT EXAMINATION

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BY MR. CANIS:

Q Ms. Gold, would you state and spell your name for the record, please?

A Yes. My name is Heather Burnett Gold, G-O-L-D.

Q What is your position with Intermedia?

A I am Vice President of Industry Affairs.

Q And how long have you been in that position?

A Since September of '98.

Q Did you prepare or cause to be prepared a document entitled "Direct Testimony of Heather Burnett Gold" filed on March 17th with this Public Service Commission consisting of 9 pages and 5 exhibits?

A Yes, I did.

Q Do you have any changes to that document?

A No, I don't.

Q Are the statements in that document true and correct to the best of your knowledge and belief?

A Yes, they are.

Q And if I asked you those questions that appear in that document today, would your answers be the same?

A Yes, they would.

Q Have you prepared a summary of your direct testimony?

A Yes, I have.

1 Q May I ask you to present that summary at this
2 time.

3 A Thank you.

4 Good morning, Commissioners. In my direct
5 testimony, I explain why Intermedia has been compelled to
6 file this, its second complaint against BellSouth seeking
7 payment for reciprocal compensation.

8 The issues in this case evolve around an
9 amendment that BellSouth and Intermedia have to their
10 interconnection agreement, which offers a service
11 entitled, "Multiple Tandem Access" or MTA.

12 The MTA service, if implemented, would allow
13 Intermedia to interconnect with BellSouth in a single
14 tandem office. And BellSouth would carry Intermedia's
15 traffic to other tandems and end offices within a LATA.

16 If implemented, MTA would allow Intermedia to
17 avoid the expense of establishing separate direct trunks
18 through all of BellSouth's tandem offices. MTA,
19 therefore, would provide Intermedia with access to
20 multiple BellSouth tandems through interconnection with
21 only one.

22 The MTA amendment is conditional in nature. It
23 states that MTA is available to Intermedia upon request.
24 The amendment also contains a list of rates for reciprocal
25 compensation that will apply, if MTA is implemented.

1 These rates reflect rates approved in an
2 arbitration proceeding brought by AT&T and MCIMetro and
3 are set at level some 60% below those rates agreed to and
4 negotiated by BellSouth and Intermedia in its initial
5 interconnection agreement.

6 Intermedia signed the MTA amendment on June 3rd,
7 1998, at BellSouth's insistence that this was the only
8 solution in response to a BellSouth unilateral and
9 unannounced decision to block traffic to Intermedia
10 customers served through the Norcross, Georgia tandem.

11 The complaint is about one issue. BellSouth now
12 argues that on the date we signed the MTA amendment that
13 the reciprocal compensation rates in our interconnection
14 agreement were automatically reduced by 2/3 and all states
15 throughout the nine-state BellSouth area.

16 As I discussed in my testimony, this BellSouth
17 interpretation is absolutely wrong. This is demonstrated
18 by the plain language of the agreement, the actions of the
19 party, and by a common sense review of the circumstances
20 surrounding the MTA amendment.

21 First, the plain language of the agreement
22 states that the reduced reciprocal compensation rates in
23 the MTA amendment are conditioned on the implementation of
24 MTA trunking architecture. The amendment states, quote,
25 "The parties agree that BellSouth will, upon request,

1 provide and Intermedia will accept and pay for multiple
2 tandem access" end quote.

3 Attachment A to the amendment states that MTA
4 shall be available, according to the following rates, for
5 local usage, end quote. Absent proof that Intermedia,
6 subsequently on its initiative, requested, accepted and
7 paid for MTA, BellSouth cannot claim that the reciprocal
8 compensation rates listed in the MTA amendment were put
9 into effect.

10 Second, the actions of both BellSouth and
11 Intermedia, both before and after the MTA amendment was
12 signed, made clear that the MTA amendment was never
13 implemented. There is no record of any negotiations
14 between the parties on this issue and, indeed, no
15 negotiations of a reciprocal compensation rate in return
16 for MTA ever took place.

17 Moreover, MTA was never implemented. Intermedia
18 bills its trunks out to every tandem office in the
19 BellSouth service area. Indeed, BellSouth does not even
20 attempt to show that, as required by the MTA amendment,
21 Intermedia ever requested, accepted or paid for MTA. Such
22 a showing would be impossible, because we never did those
23 things.

24 Third, a common sense review of the
25 circumstances surrounding the MTA amendment requires that

1 BellSouth's interpretation be rejected. MTA -- excuse me,
2 Intermedia filed its first complaint for payment of
3 reciprocal compensation against BellSouth with this
4 Commission on April 6th, 1998. A hearing in that case was
5 set for June 11th, 1998. Does it make any sense at all to
6 argue, as BellSouth has, that with only -- that only two
7 months after filing our complaint and less than eight days
8 before a hearing that we would unilaterally sign a --
9 unilaterally agree to a 2/3 reduction in our reciprocal
10 compensation rates without settlement of the complaint?

11 At that time, BellSouth owed Intermedia in
12 excess of \$7.5 million, \$7 million of it here in Florida.
13 Do you think that Intermedia would agree to massive rate
14 reductions in reciprocal compensation rates going forward
15 without settlement of this outstanding balance?

16 In light of these facts, Intermedia's -- in
17 light of these facts, BellSouth's arguments simply do not
18 hold water. In essence, BellSouth is arguing the MTA
19 amendment is two separate mutually independent agreements;
20 one offering MTA and the other effectively implementing a
21 2/3 rate reduction for reciprocal compensation. This
22 argument cannot be sustained in light of the plain
23 language of the amendment, the actions of the party, and
24 basic common sense.

25 Ultimately, this dispute is simply the latest in

1 a long series of steps that BellSouth has taken to attempt
2 to avoid paying reciprocal compensation to Intermedia. As
3 I just stated, we filed our first complaint against
4 BellSouth on this issue in April of '98. This was
5 prompted by their refusal to pay us for any compensation
6 at all for traffic terminated to internet service
7 providers. The Commission ruled in our favor of September
8 of '98 and ordered BellSouth to pay. BellSouth continued
9 to withhold payment until it sought stay -- as it sought
10 stay of the Commission's order.

11 After the Commission denied BellSouth's stay
12 motion, BellSouth finally made payment to Intermedia on
13 July 2nd, almost 2 1/2 years after we initiated our
14 interconnection agreement that called for such payment.

15 Under the rates and terms of our interconnection
16 agreement, we should have received a check for about \$38
17 million. Instead, BellSouth sent us a check for \$13
18 million, roughly 1/3 of what was outstanding.

19 It is only when we contested this payment that
20 BellSouth came up with its argument that the MTA amendment
21 applied. We were compelled to file yet another complaint
22 and started this proceeding in October of '99.

23 So far, BellSouth's tactics have brought it
24 almost another year of evading its obligation to pay
25 reciprocal compensation to Intermedia in contravention of

1 both the interconnection agreement and the order of this
2 Commission. It's time to put an end to these tactics and
3 to compel BellSouth to live up to its obligations.

4 Thank you.

5 MR. CANIS: Your Honor, at this time, I would
6 like to move the direct testimony of Heather Burnett Gold
7 into the record of this proceeding subject to
8 cross-examination.

9 COMMISSIONER DEASON: Without objection, it
10 shall be so inserted.

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**INTERMEDIA COMMUNICATIONS INC.
DIRECT TESTIMONY OF HEATHER BURNETT GOLD
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 991534-TP**

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, TITLE, AND THE**
2 **NATURE OF YOUR POSITION WITH INTERMEDIA COMMUNICATIONS**
3 **INC. ("INTERMEDIA").**

4 **A.** My name is Heather Burnett Gold. I serve Intermedia as Vice President-Industry Policy.
5 My business address is 3625 Queen Palm Drive, Tampa, Florida 33619. I am responsible
6 for Intermedia's regulatory, legislative and philanthropic activities. I was formerly
7 President of the Association for Local Telecommunications Services, and before that,
8 Vice President, Industry Affairs for the Competitive Telecommunications Association. I
9 have also held regulatory positions with National Telephone Services, Allnet, GTE Sprint
10 and SBS. I am a director of the Universal Service Administrative Company. I hold BA
11 and MA degrees in economics from Tuft University and an MBA degree in finance and
12 marketing from Washington University.

13 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

14 **A.** I am appearing before the Commission as a policy witness to present evidence describing
15 Intermedia's contractual arrangements with BellSouth Telecommunications, Inc.
16 ("BellSouth"), specifically those arrangements concerning intercarrier compensation for
17 the transport and termination of local traffic. My testimony will support Intermedia's
18 position that it bills BellSouth for the transport and termination of traffic on Intermedia's
19 Florida networks that is originated by BellSouth end users using the correct rate under the
20 parties' interconnection agreement.

21 **Q. WHY HAS INTERMEDIA FILED THIS COMPLAINT AGAINST BELL SOUTH?**

22 **A.** On October 8, 1999, Intermedia filed this complaint with the Commission when it
23 became apparent that BellSouth was applying an inappropriate rate in making payments
24 against Intermedia's invoices for local traffic transport and termination in Florida in
25 breach of the interconnection agreement.

1 **Q. WHAT ARE INTERMEDIA'S CONTRACTUAL ARRANGEMENTS WITH**
2 **BELLSOUTH IN RESPECT TO THIS COMPLAINT?**

3 **A.** On July 1, 1996, Intermedia executed an interconnection agreement with BellSouth
4 pursuant to section 252 of the Act. As required by section 251(b)(5) of the Act,
5 Intermedia and BellSouth reciprocally compensate each other for the transport and
6 termination of traffic originated on the network of the other within the same local calling
7 area according to terms and conditions set forth in the interconnection agreement. The
8 interconnection agreement sets a composite local interconnection rate of \$0.01056 per
9 MOU for DS-1 tandem switching. The provisions of the interconnection agreement
10 controlling the treatment of local traffic are contained in Exhibit HBG-1.

11 **Q. DID BELLSOUTH PERFORM AS IT WAS REQUIRED TO UNDER THE**
12 **RECIPROCAL COMPENSATION PROVISIONS OF THE**
13 **INTERCONNECTION AGREEMENT?**

14 **A.** No. BellSouth soon began to completely withhold payments against Intermedia's
15 invoices for local traffic compensation. BellSouth claimed that Intermedia was billing it
16 for compensation for traffic terminated to internet service providers ("ISPs") and that
17 such traffic is not eligible for reciprocal compensation under the interconnection
18 agreement.

19 **Q. HOW WAS THAT DISPUTE RESOLVED?**

20 **A.** It became necessary for Intermedia to pursue a regulatory remedy. On April 6, 1998,
21 Intermedia filed a complaint against BellSouth with this Commission, alleging that
22 BellSouth was in breach of the interconnection agreement. On September 15, 1998, the
23 Commission established BellSouth's liability in ruling that BellSouth was required under
24 the interconnection agreement to pay reciprocal compensation to Intermedia for traffic
25 originating from a BellSouth end user to ISPs on Intermedia's network in the same local
26 calling area.¹ The Commission then denied BellSouth's motion to stay its Order pending
27 appeal to the federal court.²

1 **Q. WHAT DID BELL SOUTH DO WHEN ITS MOTIONS TO STAY THE**
2 **COMMISSION'S ORDER WERE DENIED?**

3 A. Recognizing its liability under the Commission's Order, which remained effective,
4 BellSouth sent Intermedia a check on July 2, 1999, in the approximate amount of \$12.7
5 million. The amount owed Intermedia at that time was, however, approximately \$37.7
6 million. In discussions about this discrepancy, BellSouth revealed that it had determined
7 that the rate to be applied to local traffic compensation was contained in an amendment to
8 the interconnection agreement executed on June 3, 1998. This was surprising news to
9 Intermedia, since nothing had occurred, including the amendment (which has become
10 known as the "MTA Amendment") to supersede any of the provisions of the July 1, 1996,
11 interconnection agreement controlling compensation for local traffic termination.

12 **Q. WHAT IS THE "MTA AMENDMENT?"**

13 A. The MTA Amendment modifies Intermedia's interconnection agreement with BellSouth
14 for the purpose of making available at Intermedia's election a network architecture called
15 "multiple tandem access," or "MTA." This architecture is typically deployed in order to
16 minimize the number of trunk groups needed to complete traffic in metropolitan areas. It
17 also is useful to alleviate conditions of persistent traffic congestion. Mr. Thomas explains
18 this fully in relation to Intermedia's Florida operations in his direct testimony in this
19 proceeding.

20 **Q. YOU TESTIFY THAT THE MTA AMENDMENT MAKES MTA AVAILABLE**
21 **TO INTERMEDIA UPON ITS ELECTION. WHAT IS YOUR BASIS FOR THIS?**

22 A. I refer to the MTA Amendment, which is contained in Exhibit HBG-2. I am not a lawyer,
23 but, from a business standpoint, I can state what the amendment provides and why it does
24 so. First, the amendment begins by providing in numbered paragraph 1 that upon
25 Intermedia's request, BellSouth will provide MTA.

26 The Parties agree that BellSouth will, upon request,
27 provide, and [Intermedia] will accept and pay for, Multiple
28 Tandem Access, otherwise referred to as Single Point of
29 Interconnection, as defined in 2, following.

1 In numbered paragraph 2, the amendment follows with a definition of
2 MTA.

3 This arrangement provides for ordering interconnection to a
4 single access tandem, or, at a minimum, less than all access
5 tandems within the LATA for [Intermedia]'s terminating
6 local and intraLATA toll traffic and BellSouth's
7 terminating local and intraLATA toll traffic along with
8 transit traffic to and from ALECs, Interexchange Carriers,
9 Independent companies and Wireless Carriers. This
10 arrangement can be ordered in one way trunks and/or two
11 way trunks or Super Group. One restriction to this
12 arrangement is that all of [Intermedia]'s NXXs must be
13 associated with these access tandems; otherwise,
14 [Intermedia] must interconnect to each tandem where an
15 NXX is homed for transit traffic switched to and from an
16 Interexchange Carrier.
17

18 Next, in numbered paragraph 3, the amendment provides that when MTA is elected and
19 provisioned that the elemental rates in Attachment A will be used to bill local traffic.

20 The parties agree to bill Local traffic at the elemental rates
21 specified in Attachment A.
22

23 Fourth, in numbered paragraph 4, the amendment provides that, when MTA is elected
24 and provisioned, local traffic compensation will be reciprocal based on Attachment A.

25 The amendment will result in reciprocal compensation
26 being paid between the Parties based on the elemental rates
27 specified in Attachment A.
28

29 Fifth, the amendment provides in numbered paragraph 5 that, otherwise, the provisions of
30 the agreement remain in full force and effect, including, by fair inference, the provisions
31 controlling local traffic compensation absent the election and provisioning of MTA.

32 The Parties agree that all of the other provisions of the
33 Interconnection Agreement, dated July 1, 1996, shall
34 remain in full force and effect.
35

36 Finally, the rates in Attachment A are introduced by prefatory language designating them
37 as rates to be applied where MTA is used (pursuant to the foregoing provisions) for
38 terminating local traffic.

1 Multiple Tandem Access shall be available according to the
2 following rates for local usage.
3

4 Intermedia's business plan incorporates this construction of the amendment.

5 **Q. WHAT DOES INTERMEDIA UNDERSTAND BELLSOUTH'S VIEW OF THE**
6 **AMENDMENT TO BE?**

7 **A.** Based, among other things, on BellSouth's explanation of the payment it made on July 2,
8 1999,³ testimony filed in another proceeding before this Commission⁴, and BellSouth's
9 discovery requests in this proceeding,⁵ BellSouth apparently views the amendment as
10 having two effects. The first effect is to make MTA available under certain terms and
11 conditions. This, of course, is consistent with Intermedia's position. The second effect is
12 to adopt as region-wide rates for reciprocal compensation the rates the Commission
13 approved in Order No. PSC-96-1579-FOF-TP. According to BellSouth, these now
14 region-wide rates are established by the amendment, independent of the deployment of
15 MTA. This is an illogical and unsustainable view, one with which Intermedia takes
16 strong exception, and one that must be repudiated by the Commission.

17 **Q. WHAT IS WRONG WITH THE WAY BELLSOUTH APPARENTLY VIEWS**
18 **THE EFFECT OF THE MTA AMENDMENT?**

19 **A.** In the first place, in Order No. PSC-96-1579-FOF-TP ("AT&T Order"), the
20 Commission set forth its rulings in the arbitration proceedings of AT&T and MCIMetro
21 against BellSouth.⁶ Those rulings without question had the limited effect of resolving the
22 issues in dispute in AT&T's and MCIMetro's negotiations of their interconnection
23 agreements with BellSouth. The rulings are in no way generic, as BellSouth now appears
24 to suggest. The Commission has long maintained a policy of limiting arbitration
25 proceedings to the negotiating parties.⁷ There is nothing to vindicate importing any
26 provisions of the AT&T Order, on a wholesale or a piece part basis, to the Intermedia and
27 BellSouth interconnection agreement. The Commission has taken no action that would
28 permit that step. The parties themselves have taken no action that would permit that step.

1 While it is true that, in the AT&T Order, the Commission established rates for
2 tandem switching and end office termination,⁸ it established rates for a great number of
3 other elements and resolved a great number of other issues. BellSouth gives no reason
4 why it makes sense to import local switching and transport rates, but only those rates,
5 from the AT&T Order to the Intermedia and BellSouth agreement. The question arises
6 then, if the rates in the MTA Amendment are to be considered independent of MTA
7 deployment, as appears to be BellSouth's position, what has happened to require that the
8 rates for tandem switching and end office termination established in the July 1, 1996,
9 agreement, and only those rates, be displaced? The answer is that nothing has happened
10 to require or permit this--except the appearance of BellSouth's illogical construction of
11 the amendment. This is simply another instance of BellSouth behavior that upsets and
12 frustrates competition.

13 **Q. IS THERE ANYTHING ELSE WRONG WITH BELLSOUTH'S VIEW OF THE**
14 **MTA AMENDMENT?**

15 **A.** Yes, there is. BellSouth would have the Commission believe that the effect of the
16 amendment was to immediately and unconditionally throughout its entire nine-state
17 region reduce by approximately three times the rates applicable to reciprocal
18 compensation, and in Florida, to do so on the basis of the AT&T Order. According to
19 BellSouth, this dramatic and region-wide reduction has nothing to do with the network
20 architecture used in terminating the traffic. Rather, BellSouth claims, it is a recasting
21 simply of the rate structure to be used going forward as the compensation mechanism for
22 terminating local traffic for reciprocal compensation. If this were the purpose of the
23 amendment, surely BellSouth would have been expected to announce it in a way
24 consistent with its importance. In reality, having lost repeatedly on the issue of reciprocal
25 compensation liability, BellSouth, by this contrivance, and quite transparently, is
26 attempting damage control.

1 Similarly, if that had been Intermedia's purpose in executing the amendment, I
2 can state without equivocation, and as one who is very experienced in negotiations with
3 BellSouth, that very explicit language would have appeared in the amendment stating
4 exactly that. I can emphasize that point still more by again noting that Intermedia would
5 have been agreeing to end office termination and switching rates in Florida one-third,
6 more or less, of the composite rate agreed to in the July 1, 1996, agreement for apparently
7 only the consideration of enabling the election of MTA--an election that Intermedia has
8 yet to make in Florida. That, of course, is absurd. In addition, state commissions in other
9 BellSouth jurisdictions have made rulings comparable to the rulings in the Florida
10 Commission's AT&T Order, making it all the more imperative to have included specific
11 language in the amendment expressing an intent to import the rulings of the several state
12 commissions. There is no language even remotely having that effect in the amendment.
13 Intermedia engaged in no detailed discussions with BellSouth leading to the execution of
14 the amendment. Given BellSouth's view of the amendment, it is not possible to make a
15 rational case that evidence of a bargained for and proportional consideration appears in
16 any way in the language of the agreement.

17 Therefore, not only is BellSouth's view internally inconsistent (some but not all
18 of the AT&T Order must be imported), but it is externally inconsistent as well because
19 there is nothing in the amendment that supports importing state commission rulings
20 subsequent to the July 1, 1996, agreement into the amendment nor is there even a
21 demarcation of some kind (as one might expect to find) to indicate where the amendment
22 might be no longer speaking of the first effect and beginning to speak of the second
23 effect.

24 **Q. WHY DO NOT NUMBERED PARAGRAPHS 3 AND 4 OF THE AMENDMENT**
25 **SUPPORT BELL SOUTH'S VIEW?**

1 A. The answer is simple. Purely apart from the circumstances that gave rise to the
 2 amendment, it is true, I suppose, that if those paragraphs were interpreted in isolation,
 3 they arguably would support BellSouth's view that the amendment requires the
 4 Attachment A rates to be applied region-wide upon execution, without any other linkage.
 5 But these paragraphs are not isolated, or isolatable. They appear in a continuum requiring
 6 that they be construed in context. It is just that in-context construction that I have
 7 explained above.

8 **Q. HAS INTERMEDIA REQUESTED MTA IN FLORIDA?**

9 A. No. Intermedia has never requested that BellSouth deploy MTA in Florida. Mr.
 10 Thomas's testimony is quite useful to an understanding of the Intermedia and BellSouth
 11 network architectures in place in Jacksonville, Orlando and Miami.

12 **Q. TO WHAT CONCLUSION DOES THE FOREGOING TESTIMONY LEAD**
 13 **YOU?**

14 A. BellSouth is bound to compensate Intermedia for terminating local traffic according to
 15 the terms and conditions of the July 1, 1996 interconnection agreement as construed by
 16 this Commission in Docket No. 980945-TP. The MTA Amendment is conditional. It is
 17 not operative currently because Intermedia has not requested that BellSouth deploy MTA
 18 in Florida, which is necessary to establish a linkage to the rates in the amendment. In
 19 lawyer's language, the "condition precedent" has not occurred that would introduce the
 20 rates in Attachment A as the compensation mechanism for the exchange of local traffic in
 21 Florida. As a consequence, BellSouth is in breach of the interconnection agreement, and
 22 the Commission should so find.

23 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

24 A. Yes, it does.

¹ Order No. PSC-98-1216-FOF-TP, issued in consolidated dockets, 980495-TP, 971478-TP, 980184-TP, and 980499-TP, also resolving similar complaints of WorldCom, Teleport, and MCImetro against BellSouth in the same way.

²On June 1, 1999, the federal court denied BellSouth's motion to that court to stay the Commission's order, finding that BellSouth could not satisfy the test for injunctive relief.

³Nancy B. White letter to Scott Sapperstein, August 27, 1999. Exhibit HBG-3.

⁴Docket No. 990874-TP. J. Hendrix Rebuttal Testimony, excerpt. Exhibit HBG-4.

⁵Excerpts. Exhibit HBG-5.

⁶Consolidated Docket Nos. 960833-TP and 960846-TP.

⁷As recently as the Global NAPs enforcement proceeding against BellSouth, Docket No. 991267-TP, the Commission reaffirmed this policy. See Order No. PSC-99-2526-PCO-TP, December 23, 1999.

⁸The Commission-established rates in the AT&T Order are \$0.00125 per MOU for tandem switching and \$0.002 per MOU for end office termination (Order at 68); yet, the rates for those functions that appear in Attachment A are \$0.00029 per MOU and \$0.0175 per MOU, respectively.

⁸Order No. PSC-98-1216-FOF-TP, issued in consolidated dockets, 980495-TP, 971478-TP, 980184-TP, and 980499-TP, also resolving similar complaints of WorldCom, Teleport, and MCImetro against BellSouth in the same way.

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⁸Nancy B. White letter to Scott Sapperstein, August 27, 1999. Exhibit HBG-3.

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⁸Excerpts. Exhibit HBG-5.

⁸Consolidated Docket Nos. 960833-TP and 960846-TP.

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⁸The Commission-established rates in the AT&T Order are \$0.00125 per MOU for tandem switching and \$0.002 per MOU for end office termination (Order at 68); yet, the rates for those functions that appear in Attachment A are \$0.00029 per MOU and \$0.0175 per MOU, respectively.

1 MR. CANIS: In addition, Your Honor, I would
2 like to attach to Ms. Gold's direct testimony are five
3 exhibits. I would like to mark those collectively as
4 Intermedia collective Exhibit Number 1 and also enter them
5 into the record of this proceeding.

6 COMMISSIONER DEASON: The prefiled exhibits,
7 HBG-1 through 5 will be identified as a composite exhibit,
8 and that will be composite Exhibit Number 2. And I will
9 allow you to move those exhibits in the record at the
10 conclusion of Ms. Gold's testimony.

11 (Exhibit 2 was marked for identification.)

12 MR. CANIS: Thank you, Your Honor.

13 With that, Ms. Gold is available for
14 cross-examination.

15 COMMISSIONER DEASON: BellSouth?

16 MR. EDENFIELD: Thank you.

17 CROSS EXAMINATION

18 BY MR. EDENFIELD:

19 Q Ms. Gold, you indicated you started with
20 Intermedia in September of 1998; is that correct?

21 A That's correct.

22 Q Is that September 1st?

23 A September 14th.

24 Q 14th, okay.

25 The amendment that we're here today about is

1 dated what?

2 A June 3rd, 1998.

3 Q So, that's six, seven, eight, nine, a little
4 over three months before you began your employment with
5 Intermedia that amendment was executed by Intermedia?

6 A That is correct.

7 Q Okay. Is it fair to assume, since you weren't
8 employed there, that you had no involvement in the
9 negotiation, drafting, reviewing or execution of either
10 the original interconnection agreement or the June 3rd,
11 1998, amendment?

12 A Yes, that is true. But the purpose of having
13 written agreements is so it doesn't matter who's in place;
14 alive, dead, or working someplace else.

15 Q Again, my question to you is did you participate
16 in that process?

17 A No, I did not.

18 Q Who was involved in that process on behalf of
19 Intermedia?

20 A Ms. Julia Strow.

21 Q Is she the only person?

22 A To the best of my knowledge.

23 Q Who was Mike Reith or Reith?

24 A He was a manager in the department at the time.

25 Q Did he work for Ms. Strow?

1 A Yes, he did.

2 Q What were his responsibilities?

3 A I couldn't say, specifically. He's no longer
4 with the company.

5 Q He's no longer with the company?

6 A In fact, he had left the company before I
7 started.

8 Q How about Ms. Strow, is she with the company?

9 A No, she's no longer with the company, but she
10 worked for me for 15 months.

11 Q All right. She is still in the Tampa area?

12 A Yes, she is.

13 Q Her husband's still employed with Intermedia?

14 A Last I checked.

15 Q I'm sure she'll be glad to hear that.

16 How about Mr. Geiger, the gentleman who signed
17 the amendment?

18 A Mr. Geiger is no longer with the company.

19 Q He's gone as well?

20 A Yes.

21 Q How about Tammy Hunley?

22 A She's still employed in our department.

23 Q What does she do?

24 A She provides back-up analysis for Mr. Carl
25 Jackson in the preparation of interconnection

1 negotiations. That's her job today.

2 Q Okay. How about back then when this amendment
3 was signed?

4 A She had primarily more of an administrative
5 role.

6 Q Okay. Is Intermedia planning on providing any
7 testimony from Ms. Strow, Mr. Geiger, Ms. Hunley in this
8 proceeding?

9 A Absolutely not. There's no need for it. We
10 have -- I have spoken to these people, they reported
11 directly to me. I am clearly aware of the circumstances,
12 and there was no negotiation on this amendment.

13 Q The answer is no, they will not be --

14 A Right, they will not be.

15 Q All right, let me skip through some of your
16 rebuttal, and I'll come back to that.

17 I take it you agree that the MTA amendment, the
18 June 3rd amendment, has some benefit to Intermedia?

19 A It would have benefit, if that's the way we
20 chose to engineer our network.

21 Q Tell me about some of those benefits that
22 Intermedia gets from having the availability of MTA.

23 A If we were a small carrier and chose not to
24 direct trunk, then we could avoid the expense of direct
25 trunking by interconnecting only through one tandem in a

1 LATA.

2 Q How about traffic congestion?

3 A You'll have to ask Mr. Thomas about that.

4 Q You put it in your testimony. Take a look at
5 your direct testimony on page 3, line 15, if you would.

6 I'm sorry, look at line 16. It says, "It is
7 also useful to alleviate conditions of persistent traffic
8 congestion." Is that your testimony?

9 A Yes. That was my understanding of how MTA was
10 to be used, if we were to use it.

11 Q Okay. So, if I want to go any deeper than that
12 sentence, I'm going to have to talk to Mr. Thomas?

13 A Exactly, which is what I said in the next
14 sentence.

15 Q Okay. Let's take a look at the amendment. Do
16 you have a copy of that?

17 A It's right here.

18 Q I'm going to distribute a copy just for ease of
19 reference. Do you have a copy there, Ms. Gold?

20 A Yes, I do.

21 MR. EDENFIELD: Before I start asking questions,
22 can I get this marked as BellSouth's -- for
23 identification? I'm not sure what letter or number,
24 three?

25 COMMISSIONER DEASON: It would be identified as

1 Exhibit Number 3.

2 (Exhibit 3 was marked for identification.)

3 BY MR. EDENFIELD:

4 Q Tell me what this is, Ms. Gold.

5 A This is an amendment to the master
6 interconnection agreement between Intermedia and
7 BellSouth.

8 Q Is it signed by both BellSouth and Intermedia?

9 A Yes, it is.

10 Q Do you have any reason to think that
11 Mr. Geiger's signature is not his signature?

12 A No, that is Mr. Geiger's signature.

13 Q Was Mr. Geiger authorized to sign
14 interconnection agreements on behalf of Intermedia on June
15 3rd, 1998?

16 A Yes, he was.

17 Q Okay. Let's take a look at the amendment
18 itself, the two-page amendment. Look in the first two
19 paragraphs, not the numbered paragraphs, but the first two
20 paragraphs there that start "Pursuant to this
21 agreement..."

22 Anywhere in those first two paragraphs is there
23 a limitation that this amendment is only applying to
24 Intermedia getting MTA arrangements?

25 A No, there are not.

1 Q Let's look at paragraph numbered one. It says
2 the parties agree that BellSouth will upon request provide
3 da, da, da, da, da, as defined in number two following.
4 What is paragraph number one doing?

5 A Number one is stating the condition that upon
6 our request BellSouth will provide the MTA.

7 Q Okay. So, this was a one-way agreement; in
8 other words, this amendment gave Intermedia the right to
9 request MTA from BellSouth, but not vice versa?

10 A That is correct.

11 Q Okay. Now, in paragraph numbered one, there is
12 a reference to paragraph numbered two; is that correct?

13 A That is correct.

14 Q Is there a reference to any other numbered
15 paragraph in the first numbered paragraph?

16 A No, there is not.

17 Q Okay. So, three and four are not mentioned in
18 paragraph one?

19 A That is correct.

20 Q All right. What does paragraph number two do?

21 A Paragraph number two sets up the requirements
22 for how you would order MTA, what MTA would provide for.
23 It's LATA by LATA we could order single point of
24 interconnection.

25 Q Anywhere in the numbered paragraph two is there

1 a reference to paragraphs three or four?

2 A No.

3 Q All right. Now, let's turn to your testimony
4 for a minute. Turn to your direct testimony on page 4
5 starting with line number 18. Tell me when you're there,
6 Ms. Gold.

7 A Yes.

8 Q Okay. This is your sworn testimony?

9 A Yes, it is.

10 Q It says, "Next, in numbered paragraph three, the
11 amendment provides that when MTA is elected and
12 provisioned that the elemental rates in Attachment A will
13 be used to bill local traffic."

14 Take a look at the amendment and show me in
15 paragraph three where the words, "when MTA is elected and
16 provisioned."

17 A With the reference to Attachment A, which
18 clearly states at the top, "Multiple Tandem Access --

19 Q Ms. Gold, again, maybe you didn't understand the
20 question. The question is --

21 MR. CANIS: Excuse me. Your Honor, would you
22 allow Ms. Gold to respond to that question?

23 COMMISSIONER DEASON: I don't think the answer
24 was responsive to the question as it was phrased.

25 I ask the witness to respond to the question as

1 it was phrased. And then, after you answer the question,
2 you may elaborate, but don't try to dodge the question in
3 your first response. Thank you.

4 THE WITNESS: Okay.

5 BY MR. EDENFIELD:

6 Q Again, Ms. Gold, the question is show me in
7 numbered paragraph three where the words, "when MTA is
8 elected and provisioned."

9 A Those words are not there.

10 Q Okay. Let's look down on line -- I'm sorry;
11 same page, page 4, line 23. And you say, "In numbered
12 paragraph four, the amendment provides that when MTA is
13 elected and provisioned, local traffic compensation will
14 be reciprocal."

15 Again, take a look at the amendment and show me
16 in numbered paragraph four where the words, "when MTA is
17 elected and provisioned," where those appear in that
18 numbered paragraph.

19 A Those words do not appear in the numbered
20 paragraph. They appear in the attachment, which is
21 referenced in number four.

22 Q And you agree that the paragraphs here are
23 individually numbered?

24 A Yes, but they're all within the four corners of
25 the amendment.

1 Q In fact, would you agree that if you look at
2 each of these separately-numbered paragraphs in isolation
3 that the amendment appears to support BellSouth's
4 position?

5 A Absolutely not.

6 Q Okay. Turn --

7 A Because --

8 Q Go ahead, I'm sorry.

9 A Because in both three and four there is a
10 reference to Attachment A. Three and four don't exist
11 without reference to Attachment A.

12 Q Turn with me, if you would, to page 8 of your
13 direct testimony looking starting at line 2. Tell me when
14 you're there, Ms. Gold.

15 In your sworn testimony, did you not say that
16 "It is true, I suppose, that if those paragraphs were
17 interpreted in isolation, they arguably would support
18 BellSouth's view that the amendment requires the
19 Attachment A rates to be applied region-wide upon
20 execution without any other linkage"? Is that your sworn
21 testimony?

22 A It is, but the linkage occurs in Attachment A
23 with the lead-in sentence to Attachment A.

24 Q I'm sorry, right now let's not worry about the
25 attachment at the moment. Let's talk about the amendment

1 itself, the signed amendment, not what's attached to it.

2 What linkage is there for three, four -- I'm
3 sorry, numbered paragraphs three and four that refer it to
4 the MTA amendment or the MTA provisions in number one and
5 number two?

6 A The fact that, in my mind, even though there's
7 not direct language in three and four, the fact that three
8 and four follow number two and reference Attachment A
9 create the linkages.

10 Q Okay. So, if number three and four had been the
11 first two numbered paragraphs, then you would agree that
12 -- with BellSouth's position?

13 A Not given the language in Attachment A.

14 Q Okay. It's not the sequencing that's causing
15 you the heartburn?

16 A It's not the sequencing. It's the fact that the
17 rates are clearly specified in Attachment A to be
18 applicable when MTA access is used.

19 Q Okay, but before we go to the amendment -- I'm
20 sorry, to the attachment, which we'll do in just a second,
21 show me anything in numbered paragraphs three or four that
22 link it to MTA.

23 A Three and four wouldn't exist without Attachment
24 A.

25 Q Why is that? Are you suggesting that BellSouth

1 and Intermedia could not enter into an amendment to the
2 interconnection agreement to change the local traffic
3 rates?

4 A Absolutely not, but we would not have entered
5 into that kind of agreement without some sort of quid pro
6 quo.

7 Q Aren't you getting MTA? Didn't you say that MTA
8 has benefits to Intermedia?

9 Again, looking back at your testimony, it
10 minimizes trunk groups needed to complete traffic and it
11 alleviates traffic congestion. Weren't those two quid pro
12 quos, as you say, in the MTA arrangement?

13 A But the question you asked me was don't three or
14 four exist in separation without any connection to MTA.

15 Q Sure. And the question I asked you is are you
16 suggesting that BellSouth and Intermedia could not enter
17 into an amendment to change the local traffic rates in the
18 interconnection agreement?

19 A And the answer to that is correct; that we would
20 do so upon resolution of our outstanding complaint before
21 -- that was before this Commission and receipt of the
22 outstanding balances due, but we wouldn't do it, and we
23 didn't implement MTA, so there's no quid pro quo.

24 Q Again -- I'm sorry, if you're answering the
25 question. I'm not trying to be obtuse. All I'm trying to

1 get to is, is it possible for Intermedia and BellSouth to
2 sign an amendment to an interconnection agreement that
3 only modifies local traffic rates?

4 A Yes, that would have been possible.

5 Q Okay. Is it also possible for BellSouth and
6 Intermedia to enter into an agreement that solely results
7 in reciprocal compensation being paid at rates different
8 than what appeared in the original interconnection
9 agreement?

10 A That would be possible also.

11 Q All right. Let's look at Attachment A. And let
12 me back up for a little history before we get there.

13 Do you agree that the Commission, in its
14 AT&T-MCI arbitration proceeding, established elemental
15 rates for AT&T, MCI and whoever else, I think ACSI, that
16 was in that proceeding?

17 A My understanding is that those rates have been
18 determined to be an element at Telric levels.

19 Q Okay. So that the Commission did set elemental
20 rates in that proceeding.

21 A Yes.

22 Q Okay. And the existing interconnection
23 agreement between BellSouth and Intermedia had what's
24 known as composite rates; do you agree with that?

25 A That is correct, yes.

1 Q Were you aware that as of the time of the
2 signing of this amendment that a number of state
3 Commissions in BellSouth's service territory had
4 established elemental rates?

5 A To the best of my knowledge, that's true.

6 Q Are you aware that -- I will admit there are a
7 couple of mistakes in the rates here that are set forth in
8 Attachment A, but aside from a couple of mistakes, do you
9 agree that the rates that are reflected here for Alabama,
10 Florida, Georgia, Kentucky, Louisiana, Mississippi, North
11 Carolina, South Carolina and Tennessee are the elemental
12 rates that were established in those dockets?

13 A Subject to verification, I would agree with
14 that.

15 Q Okay. And again, I don't want to put words in
16 your mouth, but I was kind of left with the impression
17 from your testimony that you had a problem with the
18 concept of taking rates from another arbitration and
19 putting them into another interconnection agreement.
20 Have I misunderstood what you were saying?

21 A We have -- as was pointed -- if the two parties
22 agree that those rates can be taken, I don't have a
23 problem with that.

24 Q Okay. As long as Intermedia and BellSouth get
25 together, sign an agreement together putting rates in,

1 then you're okay with the fact that they came from another
2 arbitration?

3 A Yes, that they mutually agree.

4 Q And, in fact, Intermedia and BellSouth did that
5 in the prior amendment to this one; isn't that right?

6 A That is correct. It was for a service that we
7 didn't currently have; ISDN and cross-connects, we didn't
8 have the rates for those in our interconnection --
9 original interconnection agreement.

10 Q Right, that would be the DS1 and the 2-wire
11 ISDN, I believe?

12 A Those were new services and facilities that we
13 needed.

14 Q Sure. And those rates were taken out of the
15 AT&T arbitration and put into the, I think, February 24th,
16 1998 amendment?

17 A That is my understanding.

18 Q Okay. Let's go back to the amendment for a
19 second. Tell me your understanding of the circumstances
20 under which the rates in Attachment A would apply.

21 A If we were to order, implement, and use
22 multi-tandem access in a given LATA.

23 Q All right. Again, don't let me put words in
24 your mouth, but I see two possibilities there. One is if
25 you implement MTA, then all the rates in a particular

1 state will become those as in Attachment A or for any
2 particular call routed over MTA those rates would apply.

3 There may be other alternatives that I just
4 can't see, but tell me which of those or another one
5 apply, in your mind.

6 A I would agree those would be the circumstances.
7 I would say it would be the latter, because MTA is, from
8 my understanding of the agreement, MTA is elected in a
9 particular LATA, not on a statewide basis.

10 Q Okay. So, you think the rates in the attachment
11 would apply for a given call, as opposed to just
12 generally?

13 A For service in a given LATA.

14 Q Okay. So, if you implement MTA in, say, the
15 Atlanta LATA, then all -- these rates would apply then for
16 all local traffic in the LATA?

17 A Yes.

18 Q Would that be for BellSouth originated and
19 Intermedia-originated traffic?

20 A My understanding is the rates are reciprocal.

21 Q Okay. Well, let's talk about that for a minute.

22 On MTA, will you agree that MTA is in a network
23 arrangement for Intermedia to originate traffic?

24 A That is -- I really don't know.

25 Q Let me say it a little bit differently.

1 MTA arrangements allow Intermedia to gather
2 traffic and that its customers are originating and send
3 that to BellSouth to either transit it or to terminate it.

4 A I would agree with that.

5 Q Okay. Now, you've told us earlier that this
6 amendment was one way; in other words, it only gives
7 Intermedia the right to set up an MTA arrangement. It
8 does not give BellSouth that reciprocal right. Do you
9 agree with that?

10 A That is correct.

11 Q Okay. Now, you say the rates are reciprocal,
12 but if both parties are not going to be able to use MTA,
13 how can they be reciprocal?

14 A I'm sure that BellSouth could set up an MTA
15 arrangement with Intermedia, if it would like.

16 Q But do you agree with me that BellSouth does not
17 have that right under this amendment?

18 A Not the way the language is stated here.

19 Q Okay. All right. You agree with me that the
20 original interconnection agreement, and I think you just
21 alluded to this, requires that reciprocal compensation be
22 either symmetrical or mutual.

23 A That's correct.

24 Q And reciprocal compensation applies when a
25 company is terminating the traffic of another. Do you

1 agree with that statement?

2 A That is correct.

3 Q If MTA is used for the origination of traffic,
4 how do the MTA rates that you say apply only to MTA, how
5 does that have anything to do with what Intermedia's doing
6 with MTA?

7 A I'm not -- I understand that we were using MTA
8 -- I don't understand. I have to say I don't understand
9 the technical nature of the question.

10 Q Well, I'm not sure it was technical, but let me
11 try it one more time and see.

12 We agree that reciprocal comp is paid for the
13 termination of traffic, okay?

14 A That is correct.

15 Q We also agree that multiple tandem access
16 arrangements are for the origination of traffic or deal
17 with originated traffic. Do we agree with that?

18 A I'm not sure that's true. I think that's
19 something you'll have to ask Mr. Thomas.

20 Q Okay. What's changed in the last two minutes?

21 A The way you explained it. I'm not sure that we
22 don't use it for termination. If we were to use it, I'm
23 not sure it can't be used for termination.

24 Q How can reciprocal compensation occur, being
25 that it has to be symmetrical and mutual if, in fact, the

1 MTA arrangement is only one way?

2 A I really don't -- I don't understand your
3 question.

4 Q Okay.

5 COMMISSIONER DEASON: Mr. Edenfield, I don't
6 believe the witness has agreed with you that the traffic
7 can only be one way. I think you need to lay that
8 predicate.

9 MR. EDENFIELD: Oh, I'm sorry. I thought
10 earlier that -- I'm sorry, did I say one-way traffic?

11 A Yes.

12 BY MR. EDENFIELD:

13 Q I'm sorry; that the MTA arrangement, the
14 language in paragraph numbered one makes it a one-way
15 ability on Intermedia to get MTA from BellSouth and not
16 vice versa. When I said one-way traffic, that's what I
17 meant.

18 A Oh, all right. Thank you very much,
19 Commissioner.

20 Q I'm sorry. I wasn't clear. Does that help
21 clarify my question? Let me ask it again.

22 Given that the rights to have MTA are one-sided;
23 in other words, Intermedia has that right to ask of
24 BellSouth, but not vice versa, how then can the rates in
25 Attachment A ever be reciprocal or symmetrical?

1 A Well, for the same reason that rates were
2 reciprocal when we negotiated our initial contract and
3 took the rates that BellSouth gave us as constituting
4 those for reciprocal compensation. We had no way of
5 knowing if our costs were anywhere near yours, but we were
6 willing to rely upon yours.

7 Q I'm sorry, Ms. Gold, I'm not talking about the
8 cost of the service. What I'm talking about in the
9 original agreement, you billed a rate to BellSouth and
10 BellSouth billed that same rate to you, correct?

11 A But BellSouth receives benefit -- BellSouth
12 receives benefit as well, if Intermedia takes MTA.

13 Q All right. Well, let's answer the question I
14 asked first, and then we'll go to that.

15 Do you agree that under the original
16 interconnection agreement that the rate being paid by
17 BellSouth to Intermedia for terminating BellSouth's
18 traffic was the same that Intermedia paid to BellSouth for
19 BellSouth terminating Intermedia's traffic?

20 A That is correct.

21 Q Okay. Now, what I'm trying to get to is under
22 this amendment how can that still be the same?

23 A Because in essence, you're getting some benefit
24 out of this as well. And at the reciprocal compensation
25 rates, then you'll be able to use the lower rates that are

1 contained in here as well. You're getting rates, because
2 you get to decide on the traffic to the best of your
3 ability rather than relying on us on how we want to route
4 our traffic.

5 Q Okay. Let's talk about your direct testimony on
6 page 3, line 8. You there, Ms. Gold?

7 A Yes, I am.

8 Q Is it fair to say that you were surprised when
9 BellSouth sent you a check on July 2nd, 1999, for \$12.7
10 million --

11 A Yes.

12 Q -- that it wasn't more?

13 A Yes.

14 Q By surprise, do you mean you had no idea this
15 was coming or that BellSouth had taken the position it had
16 taken?

17 A I had no idea BellSouth had taken that position
18 in Florida.

19 Q Okay. Ms. White's going to pass out some
20 correspondence that followed the execution of the
21 amendment, and we'll talk about that.

22 Ms. Gold, if you would, take a look at the
23 package I just handed out. I guess, before we get
24 started, Commissioner Deason, could I have this marked for
25 identification as, I think, BellSouth number four?

1 COMMISSIONER DEASON: Yes, it will be so
2 identified.

3 (Exhibit 4 was marked for identification.)

4 BY MR. EDENFIELD:

5 Q And I apologize in advance for these not being
6 in chronological order, Ms. Gold. Take a look, if you
7 would, it's the third to last page. It's a letter dated
8 June 4th from Stuart Hudnall of BellSouth to Ms. Julia
9 Strow of Intermedia.

10 A The one dated June 24th?

11 Q Did I say 24? I'm sorry, June 4th, 1998. I
12 think it's the third one from the back.

13 It starts off, "Attached per your request is an
14 original..." Tell me when you get there.

15 A Mm-hmm.

16 Q You there?

17 A Yep.

18 Q You agree with me that this is a letter sent by
19 BellSouth to Intermedia the day after the amendment was
20 executed?

21 A I agree with that.

22 Q Okay. Look in the second paragraph there. The
23 letter says, "I also sent an e-mail to Tammy about the
24 rate for the Florida end-office switching element, which
25 had been questioned by someone at Intermedia."

1 Do you agree with me that the import of that
2 letter makes it obvious that Intermedia had at least
3 discussed rates with BellSouth prior to the execution of
4 the amendment?

5 A I agree it says somebody discussed the rates
6 that were in the amendment. It does not say the amendment
7 was ever implemented.

8 Q I'm sorry, I missed the last part of what you
9 said.

10 A It does not say that MTA was ever implemented or
11 contemplated being implemented in Florida.

12 Q That's fine. We'll get to that. What I'm
13 getting at is does the letter show that someone at
14 Intermedia had questioned the rate put into the amendment?

15 A It appears to, yes.

16 Q Okay. And, in fact, it also in the next
17 sentence, a copy of the Florida order shows, does it also
18 reference that the rates that were in the amendment came
19 out of the Florida order when more than likely that's the
20 AT&T-MCI arbitration order. Do you agree with that?

21 A Yes, that appears to be so.

22 Q And, ironically enough, Intermedia's concern
23 about the wrong rate being there proved to be true. In
24 fact, the rate should have been .002; do you agree with
25 that?

1 A Yes.

2 Q Okay. Did Intermedia ever file a response to
3 this June 4th letter?

4 A In this proceeding? The only --

5 Q Well, the proceeding was that ongoing this was
6 -- let me put it this way.

7 I'm not aware that Intermedia ever filed a
8 letter responding to this -- oh, I'm sorry, I keep saying
9 filed, sorry -- ever responded to this letter, unless you
10 can point to me something different.

11 A No, I have no record of any response.

12 Q Okay. All right. Let's move forward to March
13 3rd, 1999, still some -- if I can still count on my
14 fingers -- April, May, June, July, some four months before
15 you were surprised.

16 And in the first paragraph of that letter, as
17 I've mentioned before, BellSouth noticed its mistake and
18 indicated to Intermedia that the appropriate rate for the
19 end-office switching per use should be .002. Do you agree
20 with that?

21 A Yes.

22 COMMISSIONER CLARK: Mr. Edenfield, what page
23 are you on?

24 MR. EDENFIELD: I am so sorry. I didn't
25 identify this. I have moved to a March 3rd, 1999, letter.

1 It is the one before the one we were just looking at.
2 Again, I'm sorry I didn't put these in chronological
3 order.

4 COMMISSIONER CLARK: You mean, you're sorry you
5 didn't number the pages at the bottom.

6 MR. EDENFIELD: Actually, generally, at the end
7 of the day, I'm sorry about a lot of things, but I'll add
8 it to the list.

9 BY MR. EDENFIELD:

10 Q Are you at the March 3rd letter, Ms. Strow.

11 A No, I'm Ms. Gold.

12 Q I'm sorry, Ms. Gold.

13 Do you agree that the first paragraph of this
14 letter basically is clarifying that the rate should have
15 been 002?

16 A Yes.

17 Q Okay. Look at the second paragraph there. Look
18 at the second sentence. "Since this rate was ordered by
19 the PSC in 1996 and should have been in effect since the
20 MTA became effective, BellSouth will be billing this rate
21 back to June 3rd, 1998."

22 Did that not give you some kind of a clue, since
23 you're saying you did not have MTA arrangements in place,
24 that something was amiss?

25 A I would agree it should have.

1 Q Okay. Let's find the March 25th, 1999, letter.
2 It's the last letter in the package. This is a letter
3 from Ms. Strow of Intermedia back to BellSouth. Now,
4 we're about three months prior to the June -- July date.

5 A Right.

6 Q In the middle paragraph, right towards the
7 middle, the sentence says, "While Intermedia is open to
8 making the requested correction to the amendment..."
9 Did Intermedia agree that 002 was the appropriate rate to
10 go into the amendment at that point?

11 A My understanding is they were saying that if, in
12 fact, we chose to implement the amendment then 002 would
13 be the correct rate.

14 Q Sure, I understand that. At this point it was
15 -- Intermedia was just making clear its position that it
16 felt like the rates only applied when you had MTA?

17 A Exactly.

18 Q Okay. But that you agree that the rate should
19 have been 002.

20 A Correct.

21 Q Okay. Then, we have an April 2nd letter, which
22 is the next to the last letter in which BellSouth was
23 making -- I'm sorry, are you at the letter, Ms. Gold?
24 If I call you Ms. Strow again, just slap me or something.

25 Are you at the April 2nd letter, Ms. Gold?

1 A Yes, I see that.

2 Q Okay. And this was BellSouth making clear its
3 position that the elemental rates in the attachment apply
4 to all local traffic, regardless of whether you were using
5 MTA?

6 A Yes, I see this.

7 Q Okay. So, it should have been pretty obvious at
8 this point that there was a disagreement as to how this
9 was going to be interpreted; will you agree with that?

10 A Yes, I would.

11 Q That as of early March, Intermedia knew there
12 was a problem?

13 A I would agree that Ms. Strow would have known in
14 early March there was a problem.

15 Q Okay. You said she worked for you?

16 A Yes, she did.

17 Q Did she not advise you that there was a problem?

18 A The first correspondence I was aware of was the
19 one to which she responded in the March 25th.

20 Q So, you should have known as of March 25th, not
21 July 2nd.

22 A No. The March 25th response stated that we were
23 not intending to use MTA, so we didn't understand when
24 they would need to correct the rate.

25 Q I'm sorry, I misunderstood what you had said. I

1 thought you were saying that you knew then, that that's
2 when Intermedia should have known or actually took a
3 position.

4 A Intermedia took its position on March 25th that
5 we had not implemented MTA and, therefore, the rates did
6 not apply.

7 Q Okay. And you didn't know that until July 2nd.

8 A That BellSouth's position was that MTA applied.

9 Q Okay. When did Intermedia actually file this
10 complaint?

11 A In October.

12 Q Of '99?

13 A That's correct.

14 Q Do you think, Ms. Gold, that when BellSouth
15 started sending bills to Intermedia immediately following
16 the June 1998 amendment, which was probably anywhere from
17 1/4 to 1/5 what they had been, that Intermedia should have
18 figured out then that something was amiss?

19 A And we did, but it took awhile to get this ready
20 to file and deal with all the other pressing business.
21 BellSouth had been withholding payment from us for 2 1/2
22 years. It didn't seem like we were going to move it up
23 any quicker.

24 Q All right. So, it took you from, I guess, it
25 would be July for the June bills in 1998, from July 1998

1 to October 1999 to get your paper together?

2 A Yes, it did.

3 Q Has Intermedia ever come to BellSouth and said,
4 "BellSouth, you're billing me the wrong rate in Florida.
5 You should be billing me more than what you're billing"?

6 A I believe there is correspondence to that effect
7 when we received Nancy White's first letter.

8 Q And what is the date of that?

9 A Just let me look for a minute.

10 Q Sure.

11 A It would have been July 26th.

12 Q So, July 26th, you told BellSouth you need to be
13 billing Intermedia for more money.

14 A Oh, when did Intermedia notify BellSouth? Oh,
15 has Intermedia ever called BellSouth about what it bills?

16 Q Yeah. Let's back up a step.

17 A I'm sorry.

18 Q Maybe we weren't on the same page.

19 You understand that BellSouth sends bills to
20 Intermedia every month that Intermedia pays, right, for
21 local traffic?

22 A Yes, that's my understanding.

23 Q And that as of June 3rd the rate that BellSouth
24 had in those bills was cut almost by 1/3 or 1/4 or 1/5
25 from what it had been previously?

1 A I do not -- I am not on the billing side of the
2 house, so I could not -- I don't know the answer to that
3 question.

4 Q Well, maybe you know the answer to this one.

5 Has Intermedia ever come back to BellSouth and
6 said, "By the way, here's more money, because you didn't
7 bill us enough"?

8 A I can't answer that question either, I really
9 can't.

10 Q Do you think it's likely that Intermedia has
11 come back to BellSouth and said, "Here's more money. You
12 didn't bill me enough"?

13 A I am not familiar with bill auditing, and my
14 understanding is it's very much a science. So I could not
15 -- I couldn't even ascertain whether that was true or not.

16 Q Okay. I may be done. Just give me one second
17 to go through my notes real quick.

18 Oh. You made a reference to the Commission's
19 ISP decision in September of 1998?

20 A Yes.

21 Q I assume you would agree that that came out
22 after -- that order was issued after the amendment was
23 signed?

24 A Absolutely.

25 Q Did that decision determine entitlement as well

1 as amount or just entitlement on behalf of Intermedia?

2 A In other words, did it verify -- it verified the
3 terms of the initial interconnection agreement was my
4 understanding.

5 Q So, the Commission determined that Intermedia
6 was entitled to reciprocal compensation for ISP traffic?

7 A That is correct.

8 Q Okay. And the \$12.7 million check that
9 BellSouth tendered to Intermedia, what happened to that?

10 A We deposited it. Is that what you mean?

11 Q You did? Okay.

12 MR. EDENFIELD: Okay. I have no further
13 questions.

14 COMMISSIONER DEASON: Thank you, Ms. Gold.
15 Staff?

16 MS. STERN: Staff has no questions.

17 COMMISSIONER DEASON: Redirect?

18 REDIRECT EXAMINATION

19 BY MR. CANIS:

20 Q Thank you, Your Honor.

21 Ms. Gold, I'd like to address some of Mr.
22 Edenfield's questions kind of in reverse order. I'd like
23 to start with the discussion that you just had with him,
24 but first, Mr. Edenfield, I believe, just finished asking
25 you if there was any communication between Intermedia and

1 BellSouth over the rate and any expression of concern on
2 Intermedia's part that the -- we'll call them the lower,
3 the MTA rates, the lower rates reflected in the MTA were,
4 in fact, the applicable rates and that they would be
5 back-billed to the date of the MTA amendment of June 3rd
6 of '98. Do you recall that question?

7 A Yes, I do.

8 Q During this time, was Intermedia suing BellSouth
9 over reciprocal compensation?

10 A In the June time period? Yes. We were coming
11 to the Commission for a hearing on June 11th.

12 Q In fact, can you tell me just a little bit about
13 that, about the type of suits that were pending, when
14 those suits were pending, and what rates Intermedia was
15 demanding in those suits?

16 A Intermedia was filing a complaint against
17 BellSouth for reciprocal compensation at the rates that
18 were contained in our negotiated interconnection
19 agreement.

20 Q Now, when you say the rates that were contained
21 in the negotiated interconnection agreement, do you mean
22 something besides these MTA rates?

23 A Yes. They were the composite rates that we
24 mutually agreed to at the time of signing our agreement in
25 '96, I believe.

1 Q Do you think it was abundantly clear to
2 BellSouth what Intermedia's position was on what rates
3 applied and when they applied?

4 A Absolutely.

5 Q Now, Mr. Edenfield identified two letters, both
6 directed to Ms. Julia Strow. Have these letters -- and I
7 guess, I'm looking at the April 2nd letter in the
8 attachment that Mr. Edenfield handed out and also on the
9 March 3rd letter. Both of these were directed to
10 Ms. Julia Strow. These letters are dated March 3rd, 1999
11 and April 2nd, 1999. The MTA amendment, however, was
12 signed on June 3rd, 1998.

13 A That's correct.

14 Q Were these 1999 letters the first indication of
15 any sort of BellSouth's position on what rates applied?

16 A They appear to be.

17 Q Are you aware of any discussion between
18 Intermedia personnel, Ms. Strow, or otherwise and
19 BellSouth that talked about back-billing these changed
20 rates retroactive to June 3rd prior to these mid '99
21 letters?

22 A Absolutely not.

23 Q Did you discuss these letters with Ms. Julia
24 Strow?

25 A No, I did not discuss the March or April letter

1 with her.

2 Q Is it your understanding that Ms. Strow agreed
3 with and concurred in these letters that were sent to her?

4 A I think it's obvious from her response to
5 Mr. Hudnall on March 25th that she did not.

6 Q Is it fair, in fact, to characterize
7 Intermedia's response to BellSouth's position as one of
8 surprise?

9 A Yes.

10 Q Now, there were earlier letters, and
11 Mr. Edenfield also directed you to a letter dated June
12 4th, 1998, and that date, I understand, is a lot closer to
13 the date of the signing of the MTA amendment; and, to my
14 recollection, that he asked you isn't it true that this
15 letter signed the day after the MTA agreement was signed
16 is evidence that Intermedia personnel discussed those
17 rates with BellSouth personnel. Do you recall that
18 question?

19 A Yes, I do.

20 Q What rate is being discussed in this letter?

21 A It appears that for the MTA, on the MTA rate
22 sheet, there was an error in the Florida rate.

23 Q And can you tell me the nature of this error?

24 A Let's see, it appears to be a typographical
25 error. It's not clear what the nature of the error is in

1 this letter.

2 Q Well, I tell you what, let's look at Attachment
3 A here, the blow-up of the rates. It's also in the
4 attachment that Mr. Edenfield distributed. Let's look at
5 the Alabama rate, it's the end-office switching rate right
6 at the top of that column.

7 A Yes.

8 Q And that's .0017. What does that mean?

9 A For every minute of traffic terminated through
10 an end-office switch the charge is .0017.

11 Q And that is one-tenth of a cent; is that
12 correct?

13 A Yes, it is.

14 Q All right. What's the Florida rate?

15 A .0175.

16 Q And that's 1.75 cents, right?

17 A That's correct.

18 Q Is that the typo that he's talking about?

19 A That's what it appears to be from this letter.

20 Q By the way, who discovered that error; do you
21 know?

22 A By reference, sounds like BellSouth discovered
23 the error. We were not using these rates, so...

24 Q Was any other rate or any other application of
25 rates discussed in this earlier correspondence?

1 A Not that I'm aware of.

2 Q Now, prior to that, Mr. Edenfield was discussing
3 with you whether the MTA amendment was reciprocal.

4 A That is correct.

5 Q And I believe he asked something along the lines
6 of, well, is this just a one-way deal or can BellSouth
7 implement MTA. Is that your recollection of his line of
8 questioning?

9 A Yes.

10 Q And could you just briefly state your answer on
11 that?

12 A BellSouth could have elected to negotiate a
13 similar arrangement of traffic with Intermedia, but the
14 rates they do, upon the election of Intermedia for MTA,
15 BellSouth would also get some benefit.

16 Q Let's talk a little bit -- and I know you're not
17 the expert witness on this, I know Mr. Thomas is, but
18 let's talk a little bit about the configuration of the
19 network in MTA.

20 MR. EDENFIELD: I'm sorry to interrupt,
21 Commissioner Deason, but when I asked Ms. Strow questions,
22 she begged off to Mr. Thomas. I think it's improper for
23 -- after she begged off on my questions, to now go forth
24 and start answering network configuration questions for
25 her own counsel.

1 MR. CANIS: Your Honor, when I pose the
2 question, I think it may be appropriate for Mr. Edenfield
3 to object, but not before.

4 COMMISSIONER DEASON: Yes, I will allow you to
5 go ahead and conclude your question, and I will allow an
6 objection after the question is finished.

7 MR. EDENFIELD: My apology, I thought he was
8 done with the question.

9 BY MR. CANIS:

10 Q Ms. Gold, does the MTA amendment require
11 Intermedia -- define where and how Intermedia establishes
12 trunks to what BellSouth tandem office is?

13 A All it says is the single access tandem.

14 Q Is it safe to -- let me rephrase that.

15 Does the MTA amendment identify where Intermedia
16 must interconnect with BellSouth so that Intermedia may
17 deliver its traffic to BellSouth?

18 A Yes.

19 Q To your knowledge, when Intermedia delivers
20 traffic and interconnects with BellSouth, does that point
21 of interconnection take place at a BellSouth office or can
22 Intermedia tell BellSouth, "I don't want to connect at
23 your tandem, I want you to bring it to where I am"?

24 A No, Intermedia connects at BellSouth's tandems.

25 Q So, Intermedia builds its trunks and carries its

1 traffic to BellSouth's tandems switches?

2 A Yes.

3 Q Well, would BellSouth want to implement MTA if
4 Intermedia is already interconnected at Bell -- is
5 bringing its traffic to BellSouth's offices?

6 A I would not assume it was necessary for them.

7 Q What is the benefit of MTA, if it were to be
8 implemented to Intermedia?

9 A That we would only have to interconnect in a
10 single point rather than build out to all the access
11 tandems.

12 Q And does that save, if Intermedia chose to do
13 that, would that save Intermedia trunking costs?

14 A Yes, it would.

15 Q Does BellSouth save any trunking costs if
16 Intermedia establishes points of interconnection at
17 BellSouth's offices?

18 A My understanding of BellSouth's network is it's
19 already ubiquitous.

20 Q Does the concept that BellSouth could implement
21 MTA make any sense to you at all?

22 A Not really.

23 Q This only makes sense as a one-way agreement;
24 isn't that the case?

25 A That is correct.

1 Q Prior to that, Mr. Edenfield asked a number of
2 questions, and I take it that these were hypotheticals, I
3 believe; and correct me if this is not your recollection,
4 that he asked could Intermedia have adopted the rates from
5 the AT&T-MCI arbitration proceeding? Is that his
6 question?

7 A Yes.

8 Q And your response to that?

9 A Yes, we could have.

10 Q All right. I believe he also asked could
11 Intermedia and BellSouth have agreed without reference to
12 the MCI arbitration just to adopt those rates without any
13 strings attached, just to assume that those rates were the
14 effective rates?

15 A I don't believe so under the circumstances at
16 the time.

17 Q I'm sorry, I'm not asking you to answer that
18 question. Did Mr. Edenfield ask you --

19 A Oh, yes, yes.

20 Q -- if Intermedia and BellSouth could have?

21 A Yes.

22 Q And what was your response to that question?

23 A Yes, we could have, but not under the
24 circumstances -- we wouldn't have under the circumstances
25 at the time.

1 Q Let me ask you the relevant question.
2 Intermedia and BellSouth could have done a lot of things.
3 Did they agree to do any of these?

4 A No.

5 Q What does the MTA agreement do? What did
6 Intermedia agree with BellSouth to do?

7 A That if we were to use -- if we were to order,
8 request, implement and use MTA, which would result in our
9 only having a single point of interconnection, then we
10 would use the elemental rates.

11 Q At the beginning of his discussion with you,
12 Mr. Edenfield repeatedly directed your attentions to
13 paragraphs three and four of the amendment. Those are
14 right in back of you. And it's my recollection that he
15 asked you to read that paragraph and assume that
16 Attachment A wasn't referenced?

17 A That is correct.

18 Q And I believe he made the point that if you read
19 those two paragraphs without any reference to Attachment
20 A, they may be interpreted as imposing an obligation for
21 Intermedia to accept the rates --

22 MR. EDENFIELD: I'm sorry, were you done with
23 the question? I have an objection. He is leading the
24 witness and, basically, testifying at this point. So I
25 have an objection to the question.

1 MR. CANIS: Your Honor, I'll be happy to
2 rephrase that question.

3 COMMISSIONER DEASON: Please, do so.

4 BY MR. CANIS:

5 Q Let me ask you again. Did Mr. Edenfield ask you
6 to interpret paragraphs three and four without reference
7 to Attachment A?

8 A Yes, he did.

9 Q Why do you think he was telling you to ignore
10 Attachment A?

11 A Because Attachment A clearly references
12 multi-tandem access shall be available.

13 Q Can you point to the language in Attachment A
14 and tell us where -- from what you draw that conclusion?

15 A Do you want me to get up?

16 Q If it's not too much of a problem.

17 A It's right here, multi-tandem access shall be
18 available.

19 Q And could I ask you to read that again into the
20 microphone so we make sure we have that?

21 A Yes. Attachment A clearly states, "multi-tandem
22 access shall be available according to the following rates
23 for local usage."

24 Q Is it reasonable for anybody to read paragraphs
25 three and four and ignore the reference to Attachment A?

1 A Absolutely not.

2 Q Okay. I believe Mr. Edenfield also discussed
3 with you some of the benefits that Intermedia could
4 receive from MTA. Do you recall those questions?

5 A Yes, I do.

6 Q Do you recall some of the answers that you gave
7 him, the kind of benefits that might be available?

8 A Yes.

9 Q Could you briefly summarize them?

10 A That if we chose to use MTA, we could avoid the
11 direct trunking charges to every tandem as we prefer to
12 configure our network.

13 Q Has Intermedia recognized any of those benefits?

14 A Absolutely not. We are direct trunked in our
15 entire BellSouth region today. And, in fact, at the time
16 the situation where we had our customers blocked by
17 BellSouth, which required the MTA amendment, we -- during
18 the period between BellSouth telling us the amendment was
19 necessary, we found alternatives so that by the time the
20 amendment was signed we already had direct trunks in
21 place. So we never realized any benefit from the
22 amendment.

23 Q Is that true in Florida as well as the three
24 other states?

25 A Yes, in Florida we've never requested it.

1 Q So, again, I just want to make sure I understand
2 you. At the time the MTA amendment was signed, did
3 Intermedia need or want the benefits of MTA?

4 A Not to my understanding.

5 Q If that's the case, then why did Intermedia
6 agree to sign the MTA amendment?

7 A We were in a crisis situation. We had service
8 outages to customers. We had to find an emergency patch,
9 if you will, because BellSouth had said we didn't have
10 this arrangement, and they cut off service in the Norcross
11 tandem, which is in Atlanta, Georgia.

12 Q Now, you said you had an emergency service
13 situation. Could you elaborate on that?

14 A They were blocking calls to our customers.

15 Q Who was?

16 A BellSouth.

17 Q BellSouth was blocking traffic --

18 A To Intermedia customers served through the
19 Norcross tandem.

20 Q And this is in Georgia?

21 A In Georgia, in Atlanta, Georgia.

22 Q To your knowledge, was this the only reason that
23 Intermedia considered signing the MTA amendment?

24 A Absolutely.

25 Q To your knowledge, did Intermedia ever have any

1 other -- did Intermedia of its own volition and on its own
2 accord ever approach BellSouth saying, "We want that MTA
3 Amendment"?

4 A No, we wouldn't have any need for the service.

5 Q And that was true as of the date that you signed
6 this agreement; is that true?

7 A Subject to verification of Mr. Thomas, I believe
8 that to be true.

9 Q And is that true today?

10 A Yes.

11 MR. CANIS: Your Honor, I have no further
12 redirect.

13 COMMISSIONER DEASON: Exhibits?

14 MR. CANIS: Yes, Your Honor, I would at this
15 time. We have previously marked the attachments to
16 Ms. Gold's testimony as consolidated Intermedia Exhibit
17 Number 2?

18 COMMISSIONER DEASON: Yes.

19 MR. CANIS: And I would like at this time to
20 move those exhibits into the record of this proceeding.

21 COMMISSIONER DEASON: Without objection, it
22 shall be so admitted.

23 (Exhibit 2 was admitted into evidence.)

24 COMMISSIONER DEASON: Further exhibits?

25 MR. EDENFIELD: BellSouth has two. BellSouth

1 would move in cross-examination Exhibits 3 and 4.

2 COMMISSIONER DEASON: Without objection,
3 Exhibits 3 and 4 are also admitted.

4 (Exhibits 3 and 4 were admitted into evidence.)

5 COMMISSIONER DEASON: Thank you, Ms. Gold.

6 THE WITNESS: Thank you.

7 (Witness excused.)

8 COMMISSIONER DEASON: And you will be coming
9 back for rebuttal, correct?

10 We're going to take a recess at this time. I
11 believe the next scheduled witness is Mr. Thomas. I
12 believe there is some question about some changes to
13 Mr. Thomas's testimony. I've asked the parties during the
14 recess to discuss that and make your objections on point,
15 and we'll deal with that at that time. We will recess
16 until 11:15.

17 (Recess taken)

18 COMMISSIONER DEASON: Call the hearing back to
19 order.

20 Mr. Pelligrini, you may call your next witness.

21 MR. PELLIGRINI: Thank you, Commissioner Deason.

22 At this time, Intermedia calls its witness, Edward L.
23 Thomas, to the stand.

24 MR. EDENFIELD: Commissioner Deason?

25 COMMISSIONER DEASON: Yes.

1 MR. EDENFIELD: Before we get started -- and I
2 don't want this to come out accusatory. I just want to
3 make sure there's no misunderstanding. Could I request
4 that the Intermedia lawyers not nod and shake during the
5 cross-examination of their witnesses. It's giving a bad
6 impression; whether anything's going on, I'm not
7 suggesting that it is, but it's giving a very bad
8 impression.

9 COMMISSIONER DEASON: Mr. Pelligrini.

10 MR. PELLIGRINI: I have no comment, Commissioner
11 Deason.

12 COMMISSIONER DEASON: Well, I just -- to the
13 extent that you can just ask your questions without giving
14 any type of indications as to what the answers should be
15 verbally or by body movement that would be -- and I'm not
16 saying that you are or anyone has --

17 MR. PELLIGRINI: I certainly will do everything
18 in my power to avoid doing that, sir.

19 COMMISSIONER DEASON: Very well.

20 EDWARD L. THOMAS
21 was called as a witness on behalf of Intermedia
22 Communications, Inc., and, having been duly sworn,
23 testified as follows:

24 DIRECT EXAMINATION

25 BY MR. PELLIGRINI:

FLORIDA PUBLIC SERVICE COMMISSION

1 Q Mr. Thomas, would you state and spell your name,
2 please.

3 A Edward L. Thomas, T-H-O-M-A-S.

4 Q And Mr. Thomas, what is your capacity with
5 Intermedia Communications?

6 A I am the Senior Director for Voice Planning and
7 Deployment.

8 Q How long have you held that position with
9 Intermedia, Mr. Thomas?

10 A Since September of 1998.

11 Q Mr. Thomas, have you prepared prefiled direct
12 testimony in this proceeding consisting of 9 pages and 7
13 exhibits, 4 of which are proprietary in nature?

14 A Yes, sir, I have.

15 Q Mr. Thomas, do you have changes to make to
16 either your direct testimony or to your exhibits?

17 A Yes, sir I do.

18 Q Do you have changes to your direct testimony?

19 MR. EDENFIELD: At this point, Commissioner
20 Deason, I think we're at the point where we need to take
21 up the corrections that appear to be being requested by
22 Intermedia.

23 COMMISSIONER DEASON: Okay. Let's go ahead and
24 do -- apparently, there are some corrections to which
25 BellSouth is not objecting.

1 MR. PELLIGRINI: Commissioner Deason, may I make
2 a statement to begin with?

3 COMMISSIONER DEASON: Surely.

4 MR. PELLIGRINI: I want to state really at the
5 outset that the changes that Mr. Thomas would make to his
6 testimony does not represent a backdoor attempt to avoid
7 the decision on Intermedia's motion to file the
8 surrebuttal testimony of Mr. Thomas. The changes have
9 absolutely nothing to do with the intended testimony in
10 Mr. Thomas' surrebuttal testimony.

11 I advised Mr. Edenfield yesterday of our intent
12 to offer these changes to Mr. Thomas' testimony. I
13 believe that Mr. Thomas is entitled, as any witness is, to
14 make corrections to testimony where he or she later
15 discovers, or subsequent to filing, discovers errors or
16 incompleteness or inaccuracies that either confuse or
17 distort the record.

18 And I want to say that the additions or, rather,
19 the changes to the testimony of Mr. Thomas are offered for
20 the sole purpose of assuring that the purpose is both
21 complete and accurate, and that is all that Mr. Thomas is
22 attempting to accomplish with the changes that he would
23 suggest to his testimony.

24 COMMISSIONER DEASON: Okay. BellSouth, you're
25 objecting to what has been identified as changes number 5,

1 7 and 8; is that correct?

2 MR. EDENFIELD: I am objecting -- that's
3 correct, but only part of number 8. I do not have an
4 objection -- I think, on your copy it just has 5, 7 and 8
5 on it.

6 The first paragraph there in 8 that starts,
7 "Although BellSouth has appealed..." those appear to be
8 minor corrections in testimony when I went back and looked
9 at it. I have no problem with that, changing words here
10 and there, but I do have an objection to 5, 7 and the
11 footnote.

12 COMMISSIONER DEASON: Okay. Let's go ahead and
13 hear your objection, then.

14 MR. EDENFIELD: My objection is this: In
15 discussing this with my subject matter experts, it appears
16 that what is being said here would give rise to additional
17 rebuttal testimony, but we are just seeing this for the
18 first time today. These are not inconsequential changes.
19 These are not a situation where someone wrote a word down
20 in error or had a typo in their testimony.

21 This is a situation where someone is coming in
22 and adding substantive testimony to what already exists in
23 direct testimony. In short, it's an attempt to come in
24 and change your direct, add new direct on the day before a
25 hearing.

1 And if my people did not have a problem or this
2 would not give rise to additional rebuttal testimony, I
3 would not have a problem with it. Unfortunately, at this
4 point, it's nothing more than pure surprise.

5 COMMISSIONER DEASON: Mr. Pelligrini.

6 MR. PELLIGRINI: Commissioner Deason, I don't
7 think it is entirely fair to characterize the additional
8 language on pages 6 as new testimony. The preceding
9 sentence at the top of page 6 -- well, in the question to
10 which the added sentence would be the concluding sentence,
11 Mr. Thomas is simply describing the nature of the network
12 arrangements in the Jacksonville-serving area.

13 And the sentence that he would propose to change
14 -- he would propose to add, merely completes the
15 description of the traffic arrangements in the
16 Jacksonville and in Orlando-serving areas.

17 It's not new. If you will, it's supplementary.
18 It offers a complete statement for one that is, to a small
19 degree, incomplete. And it's for that purpose and that
20 purpose alone that it's requested. I don't know whether
21 it requires any rebuttal testimony or not. I don't think
22 so. I think it fits entirely within the context of
23 Mr. Thomas' testimony in both of the questions on page 5
24 and page 6.

25 COMMISSIONER DEASON: Mr. Pelligrini, the

1 difficulty I'm having is if it's just completing a
2 thought, why wasn't it part of the testimony to begin
3 with?

4 MR. PELLIGRINI: My answer to that, Commissioner
5 Deason, is this; that after Mr. Thomas filed his testimony
6 and after an opportunity to review it, and he's reviewed
7 it with counsel a number of times, became apparent that
8 his testimony, as it stood, while it was accurate to a
9 large extent, accurate and complete to a large extent, it
10 was not fully complete nor fully accurate. And it would
11 be necessary, for the purposes of a clear record, for
12 these statements to be -- the statements in 5 and 7, to be
13 added for that purpose.

14 COMMISSIONER DEASON: I'm going to sustain the
15 objection on the grounds that, to me, when I read this, it
16 may be supplemental to what was filed previously, but it
17 does carry it a step further, in my opinion, and is
18 producing new information, which should have been filed
19 with the original testimony to have given BellSouth the
20 opportunity to have explored it, either in deposition or
21 through some type of rebuttal testimony. So for that
22 reason, I am sustaining the objection as it relates to
23 changes 5 and 7.

24 Is the objection still the same for the
25 footnote, which is identified as footnote number two or is

1 there a different objection?

2 MR. EDENFIELD: That is correct, Commissioner
3 Deason.

4 COMMISSIONER DEASON: It's the same objection?

5 MR. EDENFIELD: And there are also exhibits
6 attached. I'm not sure if those are associated with 5, 7
7 or footnote 2, but to the extent they're attempting to
8 replace the numbered exhibits from the direct testimony
9 with new exhibits, I assume they were associated with one
10 of those numbers, but maybe they're not.

11 COMMISSIONER DEASON: Hold it just one second.
12 Let's just deal with it step by step. We've dealt with
13 addition 5 and addition 7. I'm on footnote 2 right now.

14 MR. EDENFIELD: I'm sorry.

15 COMMISSIONER DEASON: Okay?

16 MR. EDENFIELD: The answer to your question was
17 yes, it's the same objection.

18 COMMISSIONER DEASON: The same objection, that
19 this is new information, correct?

20 MR. EDENFIELD: That is correct.

21 COMMISSIONER DEASON: Okay. Mr. Pelligrini,
22 explain to me why this is not new information that could
23 have been provided at the time that the original testimony
24 was filed.

25 MR. PELLIGRINI: Yes, sir. In the original

1 testimony, Commissioner Deason, the statement in the text
2 lacked the word, "ISP traffic," and the phrase, "Florida
3 ISP traffic." It was necessary to add ISP traffic to
4 accurately describe what it was, the basis on which
5 BellSouth had begun to make payments in July of 1999.

6 The footnote, then, became necessary to point
7 out that, whereas BellSouth had taken that action in July
8 of 1999; that is, had begun to pay Intermedia for ISP
9 traffic on the basis of the rate and the composite rate in
10 original interconnection agreement, it had, prior to that
11 time, been paying BellSouth for nondisputed local traffic
12 on the basis of the rate, the composite rate, and the
13 original interconnection agreement.

14 With the addition of the word or the acronym,
15 ISP, in the text it became necessary to explain -- the
16 footnote, in our judgment, became necessary to explain why
17 the word, "ISP," had been added to the text. If taken
18 together, then, it's a full statement -- it's Mr. Thomas'
19 complete statement regarding the bases on which both has
20 rendered payment to Intermedia.

21 COMMISSIONER CLARK: Chairman Deason, can I ask
22 BellSouth a question?

23 I have a question. Does -- I thought the
24 exhibit, one of the exhibits you gave us indicated that
25 BellSouth was going to back-bill for some traffic.

1 MR. EDENFIELD: You mean, clarifying the rate?

2 COMMISSIONER CLARK: Right.

3 MR. EDENFIELD: Go back and bill at the correct
4 rate?

5 COMMISSIONER CLARK: Mm-hmm. Wasn't that in one
6 of these letters?

7 MR. EDENFIELD: Well, I'm not sure whether --
8 that is one of the letters. I'm not sure of the date of
9 it off the top of my head, but it is one of the letters.

10 COMMISSIONER CLARK: That's what I read this
11 footnote as saying. It confirms the fact that you were
12 paying them, but then you were going to go back and
13 re-rate it, in effect.

14 MR. EDENFIELD: Can I have one second to talk to
15 Mr. Scollard, and I'll find out the answer to that. I
16 think it was billed correctly from the beginning.

17 COMMISSIONER CLARK: I guess, my question is how
18 is this supplemental, then? How is the footnote then
19 supplemental? I mean, it strikes me that, in fact, you've
20 put this in the record.

21 MR. EDENFIELD: May I have a second to talk to
22 Mr. Scollard?

23 Okay, I'll try not to botch this. The import of
24 the letter is, you may recall the rate of 0175 was wrong.
25 We were looking at -- it should have been 002. The import

1 of that letter is we sent an amendment to Intermedia to
2 have them sign something saying the correct rate is
3 actually 002, not 0175.

4 If they had signed that amendment, then we would
5 have gone back, redone the bills and billed them at the
6 002 rate. Instead, we billed them at the 00175 rate. I'm
7 not sure if that answers your questions, but that's the
8 explanation.

9 COMMISSIONER CLARK: I guess, why are you saying
10 that this is additional or supplemental?

11 MR. EDENFIELD: I guess, you could see it as
12 being something that might be responsive to that letter
13 that I put into evidence, but the problem is this
14 statement, in and of itself, at least in BellSouth's view,
15 is incorrect and would require some type of testimony from
16 Mr. Hendrix to get it straightened out or Mr. Scollard.

17 If you think it's responsive, then I'm okay with
18 that, so long as I would have the right to ask Mr. Hendrix
19 what's wrong with it.

20 COMMISSIONER CLARK: Okay.

21 COMMISSIONER DEASON: So, you're withdrawing
22 your objection or continuing it?

23 MR. EDENFIELD: Well, I'm maintaining the
24 objection. But if you're inclined to overrule my
25 objection, I would ask that Mr. Hendrix or Mr. Scollard be

1 given the leeway to address this as something they have
2 not previously addressed.

3 MR. PELLIGRINI: Intermedia has no objection to
4 that, Commissioner Deason.

5 COMMISSIONER DEASON: But I may have an
6 objection to it. I want to know if anywhere, if this was
7 a fact that was known at the time the testimony was filed,
8 why was it not part of the testimony at the time it was
9 filed?

10 MR. PELLIGRINI: Let me see if I can give you a
11 good answer to that question, Commissioner Deason. The
12 text -- the problem -- the problem that we discovered with
13 this testimony following its filing was with the absence
14 of the descriptive ISP. And so, we are proposing to
15 add --

16 COMMISSIONER DEASON: Where do you find that? I
17 see that they're in parentheses there. In the
18 footnote, there's a reference to ISP. Where else is there
19 a reference to ISP?

20 MR. PELLIGRINI: There isn't, and that's the
21 problem. Let me direct you to line 22 on page 8. And
22 there Mr. Thomas' testimony, as it stands, is that it
23 began, meaning BellSouth, "It began to pay reciprocal
24 compensation to Intermedia for Florida traffic." And it's
25 at that point that Mr. Thomas wishes to add a descriptor,

1 ISP, so that it reads, "to Intermedia for Florida ISP
2 traffic." The statement, as it --

3 COMMISSIONER DEASON: Well, just one moment.

4 MR. PELLIGRINI: Okay.

5 COMMISSIONER DEASON: Is that a problem?

6 MR. EDENFIELD: That's not a problem.

7 MR. PELLIGRINI: That's --

8 MR. EDENFIELD: I'm sorry. As I indicated
9 earlier, I don't have a problem with the amendments to the
10 first part of that where he added the word, "ISP," he
11 added the word "make," the phrase, "began to" and "then."
12 He added those particular phrases in the first part of 8.
13 I have no objection, whatsoever, to those changes. I
14 think those are classic changes. It's the footnote that I
15 have the problem with.

16 COMMISSIONER DEASON: Okay. All right. There's
17 no problem with the reference to ISP. Now, explain to me
18 why it's necessary to change the footnote because of the
19 terminology ISP.

20 MR. PELLIGRINI: It became necessary or it
21 becomes necessary once the descriptor ISP is in his
22 testimony to fully set out -- and keep in mind, these are
23 factual statements. And I understand that BellSouth has
24 an opposite viewpoint, but the footnote now, I think,
25 becomes necessary in order to point out that, in fact,

1 there were two payment streams from BellSouth to
2 Intermedia. There was the payment stream that began in
3 July of 1999 by which they rendered payment for ISP
4 traffic, which had been in dispute.

5 There was also payment stream that began some
6 time before that in which they were paying Intermedia for
7 nondisputed local traffic and they were paying on the
8 basis of Intermedia's invoices, which invoices were based
9 on the interconnection, the composite rate, and the
10 original interconnection agreement.

11 So in order to make this clear that, in fact,
12 there were two payment streams, two independent payment
13 streams, the footnote becomes necessary to supplement the
14 use of the descriptor.

15 COMMISSIONER DEASON: Okay. I'm going to allow
16 the footnote and BellSouth, you may -- who is the
17 appropriate witness to rebut this, is it Mr. Hendrix?

18 MR. EDENFIELD: I think, it's Mr. Hendrix.

19 COMMISSIONER DEASON: Well, I'll give you the
20 latitude to explore it at the time -- if it's Mr. Hendrix,
21 when he takes the stand, to explore further on direct, if
22 there needs to be response to footnote 2.

23 MR. EDENFIELD: The last portion of this --

24 MR. PELLIGRINI: Mr. Edenfield, before you --
25 may I just explain that the additional, the diagrams are

1 diagrams of demonstrative exhibits that Mr. Thomas intends
2 to use in his testimony summary. We've not yet made the
3 decision of whether we will offer them as exhibits, but
4 assuming they are appropriate to use, I think, in the
5 course of Mr. Thomas' summary.

6 MR. EDENFIELD: I'm not sure I follow that,
7 Commissioner Deason. Is Mr. Pelligrini indicating that
8 Intermedia is going to use this as some type of
9 demonstrative aid?

10 COMMISSIONER DEASON: That's my understanding.
11 They will be used during the summary of his prefiled
12 testimony.

13 Mr. Pelligrini, you may continue with your
14 witness.

15 BY MR. PELLIGRINI:

16 Q Mr. Thomas, do you understand the changes to
17 your testimony which Commissioner Deason has allowed and
18 those which he has disallowed?

19 A Let me verify; that would be number 1, 2, 3, 4,
20 6, and number 8.

21 Q That's correct. At this time, Mr. Thomas, would
22 you proceed to make the changes to your prefiled direct
23 testimony as allowed by Commissioner Deason.

24 A Yes, sir. I will reference page and line of my
25 direct testimony. On page number 3, line 14, please

1 strike the phrase, "some serving areas." And on line 15,
2 strike the word "largely." On page 5, line 8 --

3 COMMISSIONER CLARK: I'm sorry, I need that
4 again.

5 A I'm sorry. On the very first one, ma'am? That
6 would be page 3, line 14, strike the phrase, "some serving
7 areas." And on line 15, strike the word "largely."

8 On page 5, line 8, substitute the word
9 "alternate" for the word "alternative." On page 5, line
10 26, strike the word "put." On page 6 --

11 MR. EDENFIELD: I'm sorry, I missed that last
12 one.

13 A I'm sorry?

14 MR. EDENFIELD: I'm sorry, I missed the last
15 one. I missed the one after page 5, line 8.

16 A The last one was page 5, line 26, strike the
17 word "put," please.

18 MR. EDENFIELD: Thank you.

19 A On page 6, change "San Marcos," plural, to "San
20 Marco" at lines 7, 9, 11, 15, 21, 25, and in footnote
21 number one.

22 On page 6, line 18, strike the word "put."

23 On page 8, and with reference to the handout,
24 where the changes stated on page 8, strike lines 21
25 through 26.

1 And on page 9, the rest of the carried-over
2 sentence, replace that language with the following
3 language: "Although BellSouth has appealed the
4 Commission's ruling, it began to pay reciprocal
5 compensation to Intermedia for Florida ISP traffic when
6 both the Commission and the federal court rejected its
7 efforts to stay the Commission's order. However, it began
8 to make those payments and continues to make them on the
9 basis of the rate that it insisted had become effected by
10 reason of the MTA amendment and not on the basis of the
11 rate required for reciprocal compensation under the
12 original agreement."

13 The text of the present footnote number 2
14 becomes the text of the new footnote number 3, which is
15 inserted after the first full sentence on page 9, line 2.

16 The new text of footnote number 2 reads as
17 follows: "Prior to this, and for several months following
18 the MTA amendment, BellSouth paid Intermedia reciprocal
19 compensation for local traffic, except for traffic
20 terminated to ISPs on the basis of the composite tandem
21 switching rate established in the interconnection
22 agreement. This, of course, is and always has been the
23 correct rate to be used for reciprocal compensation and
24 the rate Intermedia has always applied in its bills to
25 BellSouth."

1 BY MR. PELLIGRINI:

2 Q Mr. Thomas, with those changes to your
3 testimony, is your testimony true and correct?

4 A I'm sorry, sir.

5 Q With those changes to your testimony,
6 Mr. Thomas, is your testimony true and correct?

7 A Yes, sir.

8 Q If I were to ask you these same questions today,
9 with those changes, would your answers be the same?

10 A Yes, sir.

11 Q Mr. Thomas, do you have a summary of your
12 testimony?

13 A I do.

14 Q Would you offer it to the Commission at this
15 time, please?

16 A Thank you for the opportunity.

17 My testimony in this proceeding shows that
18 Intermedia has not requested and does not use multiple
19 tandem access arrangements to send local traffic to
20 BellSouth or to receive local traffic from BellSouth in
21 Florida.

22 If Intermedia did use these access arrangements,
23 then, the elemental rates in the MTA amendment would apply
24 to these arrangements, but we do not use multiple tandem
25 access arrangements. So, the elemental rates in the

1 amendment do not apply for reciprocal compensation
2 anywhere in Florida.

3 Even though we are not using multiple tandem
4 access arrangements, BellSouth pays Intermedia reciprocal
5 compensation for terminating local, bell -- excuse me,
6 Florida traffic on the basis of the elemental rates in the
7 MTA amendment.

8 The amendment has but a single purpose. It
9 makes available to Intermedia, upon Intermedia's election,
10 a network architecture called multiple tandem access or
11 MTA. That is all that it does. Because of that fact,
12 BellSouth is misusing the amendment in at least four ways.

13 First, the amendment provides rates that become
14 effective only when Intermedia elects a multiple tandem
15 access arrangement under the amendment. Intermedia has
16 never made any such election anywhere in south -- excuse
17 me, BellSouth's region.

18 Therefore, BellSouth has no basis for applying
19 the MTA amendment to make reciprocal compensation payments
20 that are only a small fraction of the amounts Intermedia
21 properly bills under the interconnection agreement.

22 The rate that is applicable to reciprocal
23 compensation and the rate Intermedia has always applied in
24 its bills to BellSouth is the composite tandem switching
25 rate of 1.056 cents in Attachment B-1 of the

1 interconnection agreement.

2 It is worth pointing out that BellSouth has not
3 been consistent in misusing the amendment. For several
4 months following the amendment, BellSouth paid reciprocal
5 compensation to Intermedia for undisputed local traffic;
6 that is, non-ISP traffic on the basis of the amount billed
7 by Intermedia.

8 Second, Intermedia's interconnection
9 arrangements are not qualified for use of the amendment.
10 Multiple tandem access may be used only when all of
11 Intermedia's NNXs are home to a single access tandem. In
12 fact, has NNXs home to each of BellSouth's local access
13 tandems in its Jacksonville, Orlando, and Miami-serving
14 areas.

15 Third, Intermedia does not use any tandem as
16 required under the amendment. The amendment requires that
17 multiple tandem access be used for terminating both
18 Intermedia's and BellSouth's local and intraLATA traffic
19 as well as for transit traffic to and from other ALECs,
20 IXCs, independent LECs and wireless carriers.

21 Even in Jacksonville and Orlando, where
22 BellSouth's network preexisting Intermedia's
23 interconnection and the MTA amendment has some of the
24 attributes of multiple tandem access, only transit traffic
25 is carried in that manner. Regular telephone traffic, the

1 traffic for which Intermedia receives reciprocal
2 compensation, is carried over direct trunks that are
3 provisioned to each access tandem.

4 Finally, Intermedia does not want and does not,
5 for any reason, need multiple tandem access arrangements
6 anywhere, neither for network simplification nor for
7 alleviating congestion, since even before the amendment
8 Intermedia has had direct trunk connectivity to each of
9 BellSouth's local access tandems in Jacksonville, Orlando,
10 and Miami-serving areas. This is true now. It was true
11 as well at and before the time of the amendment, and it is
12 true as we see the future today.

13 I would like to use three charts in further
14 explaining the topology of the network trunking
15 configuration between BellSouth in Florida. I hope that
16 it's working. Okay.

17 Chart number one, identifies the Jacksonville
18 service area or market area, and the part at the top is
19 the Intermedia switch. The two circles down below
20 represent the BellSouth tandems, local access tandems,
21 within the Jacksonville-serving area.

22 This chart is, as the network was in May of
23 1998, a full month before the MTA amendment. I'd like to
24 point out that at that time Intermedia had from our
25 Intermedia switch to the Bell access tandem on Clay Street

1 a one-way outgoing circuit group from Intermedia to the
2 Bell access tandem at San Marco, a one-way outgoing trunk
3 group; and also in reverse, from San Marco to Intermedia,
4 a one-way incoming trunk group, and from Clay Street to
5 Intermedia a one-way incoming trunk group. From Clay
6 Street -- between Clay Street and the Intermedia switch,
7 there is a two-way trunk group that is used for
8 transit-type traffic.

9 Between San Marco -- excuse me, between San
10 Marco and Intermedia, there is a trunk group. It is a
11 dotted line. I'm not sure if it shows up in your example
12 that way. The trunk group that's established has never
13 been used; however, it is there.

14 Additionally, I add, intermachine trunks
15 representative of how BellSouth would typically connect to
16 their network internally and also trunk group between the
17 subtending end offices for the BellSouth's tandems and
18 their home tandems. I will point out that at this time on
19 May 1998, Intermedia, indeed, had proper infrastructure in
20 place to exchange normal telephone traffic.

21 On chart two, this chart will represent the
22 market area for Orlando, Florida. Again, at the top is
23 the Intermedia switch, and the two circles down below are
24 the two BellSouth tandems; one being Magnolia and the
25 other one being Colonial. This, again, is a snapshot of

1 May 1998, a month before the MTA amendment.

2 Pointing out, again, from Intermedia to
3 BellSouth tandem at Magnolia, we have a one-way outgoing
4 trunk group. From Intermedia to Colonial we have a
5 one-way outgoing trunk group. In the reverse direction
6 from Colonial BellSouth to Intermedia there's a one-way
7 trunk group, and from BellSouth to Intermedia from the
8 Magnolia tandem is also a one-way trunk group. There is
9 but one two-way transit trunk groups. That transit trunk
10 group is between the Magnolia tandem and the Intermedia
11 switch.

12 At the time we entered the local market,
13 BellSouth did not -- requested that we not put in a
14 two-way transit group in Colonial. It was over our
15 objections; however, it was the network topology that was
16 imposed upon us. Intermedia, indeed, enjoys putting
17 complete trunk connectivity between our switch and all
18 access tandems so that we are not dependent upon anyone
19 else.

20 On chart number three, represents the
21 Miami-serving area. Again, the snapshot is for May of
22 1998, shows the Intermedia switch at the very top and the
23 BellSouth tandems down below. There are three major
24 tandems or local access tandems in the Miami-serving area,
25 both being the north Dade 01, which is basically the Miami

1 metro area; the north Dade 04, which is for Fort
2 Lauderdale, and the West Palm Beach tandem which is, of
3 course, for West Palm Beach.

4 At that time, in May of 1998, Intermedia had
5 connect connectivity to each of these tandems in the form
6 of one-way outgoing directionalized trunks, one-way
7 incoming directionalized trunks, and two-way trunks.
8 Again, I represent intermachine trunks between the
9 BellSouth tandems, and I also represent end offices with
10 their connecting trunk groups to their homing tandem.

11 The three charts that I have shown you show that
12 Intermedia does, indeed, have connect connectivity for
13 normal telephone service in every BellSouth's tandem in
14 the area that we serve.

15 It is clear, then, that Intermedia has not
16 employed multiple tandem access arrangements in Florida;
17 in fact, BellSouth admits as much. Therefore, since the
18 rates specified in the MTA amendment are for rates to be
19 applied only when multiple tandem access arrangements are
20 employed at Intermedia's election, it is my testimony that
21 BellSouth is wrong to apply them to the payment of
22 reciprocal compensation in Florida.

23 MR. PELLIGRINI: At this time, Intermedia would
24 offer the prefilled testimony of Mr. Thomas for entry into
25 the record as though read.

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COMMISSIONER DEASON: It will be admitted. It
will be inserted into the record as amended.

**INTERMEDIA COMMUNICATIONS INC.
DIRECT TESTIMONY OF EDWARD L. THOMAS
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 991534-TP**

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, TITLE, AND THE**
2 **NATURE OF YOUR POSITION WITH INTERMEDIA COMMUNICA-**
3 **TIONS INC. ("INTERMEDIA").**

4 **A.** My name is Edward L. Thomas. I am employed by Intermedia as
5 Director-Voice Planning and Deployment. My business address is 3625 Queen
6 Palm Drive, Tampa, Florida 33619. I am responsible for engineering the moves,
7 adds, and changes of the telecommunications switching requirements within the
8 Intermedia voice network. This includes ordering and placing central office
9 equipment, ordering and placing circuit groups between various exchanges,
10 network capacity management and network traffic management. I have worked in
11 the telecommunications industry for thirty-five years. Before employment with
12 Intermedia, I worked for GTE for twenty-nine years in several management
13 capacities.

14 I have attended Kent State University and Wooster (Ohio) College, and
15 completed numerous technical training courses and seminars.

16 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEED-**
17 **ING?**

18 **A.** I am appearing before the Commission as a technical witness to present evidence
19 describing the telecommunications networks that Intermedia deploys in the state
20 of Florida. My testimony will support Intermedia's position that it bills BellSouth
21 for the transport and termination of traffic on Intermedia's Florida networks that is
22 originated by BellSouth end users using the correct rate under the parties'
23 interconnection agreement.

1 Q. HOW DOES AN INTERCONNECTING CARRIER, SUCH AS
2 INTERMEDIA, ESTABLISH INTERCONNECTION WITH AN
3 INCUMBENT LOCAL EXCHANGE CARRIER ("ILEC"), SUCH AS
4 BELLSOUTH?

5 A. In interconnection arrangements, since end users of the interconnecting carriers
6 and end users of the ILECs in the same local calling area will call each other, the
7 carriers exchange local traffic according to reciprocal compensation obligations as
8 specified in federal law and as defined in interconnection agreements. To do this,
9 interconnecting carriers, such as Intermedia, purchase "interconnection trunks"
10 from ILECs, such as BellSouth, which are used to connect the interconnecting
11 carriers' networks from their points-of-presence ("POPs") or switches to the
12 ILECs' tandem switches or end offices in the same local calling area. Tandem
13 switches are used to provide the initial interconnection to and from the
14 interconnecting carrier. When traffic volumes warrant the establishment of direct
15 end office trunk groups, the end office groups are established as "Primary High
16 Usage" groups, with the tandem groups the "final routes" between the tandem
17 switches and the interconnecting carrier under overflow conditions. End users are
18 directly connected to end offices by means of loops. I illustrate this schematically
19 in Exhibit ELT-1.

20 Q. IN AN ILEC'S NETWORK EMPLOYING TANDEM SWITCHES, HOW
21 DOES AN INTERCONNECTING CARRIER, SUCH AS INTERMEDIA,
22 ESTABLISH INTERCONNECTION?

23 A. Aside from direct trunking to the ILEC's end office, there are two network
24 architectures commonly deployed to establish interconnection with an ILEC's
25 network employing tandem switches. These enable interconnecting carriers to
26 deliver traffic originating on their networks to end users served by ILEC end
27 offices subtending tandem switches and to terminate traffic on their networks

1 originated by those same ILEC end users. The first of these is called "Single
2 Tandem Access" or "STA," which I illustrate in Exhibit ELT-2. In this
3 architecture, the interconnecting carriers route traffic to and from ILEC end users
4 using direct trunks to each tandem switch within the local calling area. The
5 second of these is called "Multiple Tandem Access" or "MTA," which I illustrate
6 in Exhibit ELT-3. It is sometimes referred to as "Single Point of
7 Interconnection." In this architecture, interconnecting carriers establish
8 interconnection with the ILEC's tandem switches in the LATA, and the end
9 offices subtending them, by means of direct connection only to one of the tandem
10 switches typically, or, at minimum, to less than all of them.

11 **Q. AS AN INTERCONNECTING CARRIER, WHAT INTERCONNECTION**
12 **ARCHITECTURE IS INTERMEDIA'S PREFERENCE?**

13 **A.** It is Intermedia's preference to direct trunk to the ILEC's end office where traffic
14 volumes are sufficient. In fact, in most cases some serving areas, including
15 Miami, Intermedia is interconnected with BellSouth largely in this way. Direct
16 trunk groups are designed to operate efficiently during periods of peak load.
17 Typically, however, they will become congested in these periods and overflow to
18 the tandem switch trunk group, or "final route." When congestion occurs, the
19 traffic overflow is "alternate routed" to the tandem switch to which the end office
20 is homed. However, in the event that the tandem switch lacks capacity to
21 accommodate the overflow, traffic blockage results.

22 **Q. WHEN TRAFFIC BLOCKAGE RESULTS, WHAT RECOURSE DOES**
23 **THE ORIGINATING CARRIER HAVE?**

24 **A.** There is no immediate recourse, except that it is sometimes possible to reroute
25 blocked calls over interLATA access trunks at higher cost. The overflowed calls
26 otherwise simply are not completed. In these circumstances, new service orders
27 may have to be held for an unreasonably long period of time until the blockage

1 can be alleviated, even though ILECs have the duty under federal law to provide
2 interconnecting carriers access to their networks on a nondiscriminatory basis. In
3 fact, Intermedia has experienced these problems persistently on some of
4 BellSouth's networks

5 **Q. WHAT IS EVENTUALLY DONE TO RELIEVE SUCH BLOCKAGES?**

6 **A.** The interconnecting carrier experiencing the blockage may augment the direct
7 trunk if the traffic overflow is great enough or it may request the ILEC to provide
8 "alternate routing" by whatever means practicable and consistent with service
9 quality standards. MTA, or, rather, what has come to be called MTA, is one such
10 means by which congested traffic may be "alternate routed." STA is another; it is
11 preferred where traffic volumes are sufficient. MTA especially is not, however,
12 an efficient use of network facilities, since calls transported over MTA
13 architectures are switched many more times than if they were to be transported
14 over direct trunks to the called party's end office. It is worth noting that the
15 implementation of "alternate routing" of traffic originating on the interconnecting
16 carrier's network, such as MTA, requires a great deal of coordination between the
17 ILEC and the interconnecting carrier. That is not a requirement where the ILEC
18 deploys "alternate routing" to relieve congestion of traffic originating on its
19 network that is destined to the interconnecting carrier's end users or traffic
20 originating on the interconnecting carrier's network that has been successfully
21 trunked to the ILEC's tandem switch. In fact, where the ILEC, on its initiative,
22 resorts to alternative routing under those circumstances, it is transparent to the
23 interconnecting carrier.

24 **Q. PLEASE DESCRIBE INTERMEDIA'S NETWORK ARCHITECTURES**
25 **THAT INTERCONNECT WITH BELL SOUTH'S NETWORK IN**
26 **FLORIDA.**

1 A. *Intermedia is interconnected with BellSouth's networks in Jacksonville, Orlando*
2 *and Miami. These interconnection arrangements are illustrated schematically in*
3 *Exhibits ELT-4, 5 and 6, respectively.*

4 **Q. DO INTERMEDIA'S INTERCONNECTION ARRANGEMENTS WITH**
5 **BELLSOUTH IN FLORIDA CONSIST OF ALTERNATIVE ROUTING**
6 **INCLUDING MTA?**

7 A. *In Jacksonville and Orlando, Intermedia's interconnection arrangements with*
8 *BellSouth consist of alternative routing, including trunking that bears the*
9 *attributes of what we are here calling MTA.*

10 **Q. DESCRIBE INTERMEDIA'S INTERCONNECTION ARRANGEMENT IN**
11 **ORLANDO AND ITS DEVELOPMENT.**

12 A. *Intermedia turned up its Orlando DMS-100 local switch in January 1997. It is*
13 *interconnected to BellSouth's Magnolia and Colonial tandem switches by means*
14 *of one-way reciprocal trunks for the exchange of local traffic. In addition, it is*
15 *interconnected to the Magnolia tandem switch, but not the Colonial tandem*
16 *switch, by means of a two-way transit, or transient, trunk. Transit trunks are used*
17 *to carry traffic from other carriers than the interconnecting or incumbent carrier,*
18 *outbound 800-type traffic not destined for either the interconnecting or incumbent*
19 *carrier, and wireless traffic. BellSouth, apparently seeking to minimize*
20 *disruptions to its network, required that a transit trunk not be provisioned to the*
21 *Colonial tandem switch. Thus, when an end user who is a subscriber of another*
22 *interconnecting carrier that is direct trunked to the Colonial tandem switch places*
23 *a call to an Intermedia end user, the call is routed through the Colonial tandem*
24 *switch to the Magnolia tandem switch and then on to Intermedia's switch. This*
25 *routing arguably meets the characteristics of what we are referring to in this*
26 *proceeding as MTA. It is important to see that this architecture was put in place*
27 *at the very outset of Intermedia's local service presence in Orlando fully 18*

1 months before the MTA amendment to the July 1996 Intermedia-BellSouth
2 interconnection agreement that is in issue in this proceeding and at the insistence
3 of BellSouth, not at the request of Intermedia.

4 **Q. DESCRIBE INTERMEDIA'S INTERCONNECTION ARRANGEMENT IN**
5 **JACKSONVILLE AND ITS DEVELOPMENT.**

6 **A.** Intermedia turned up its DMS-100 switch in Jacksonville in January 1997. It is
7 interconnected to BellSouth's Clay Street and San Marcos tandem switches by
8 means of one-way reciprocal trunks for the exchange of local traffic. In addition,
9 it is interconnected with the Clay Street, but not with the San Marcos, tandem
10 switch by means of a two-way transit trunk. Intermedia interconnected initially
11 with the Clay Street tandem switch and then, in April 1997, with the San Marcos
12 tandem switch by means of a one-way outgoing (from Intermedia to BellSouth)
13 trunk group in order to establish the expanded local calling area for Intermedia
14 end users. As the case of the Colonial tandem switch in Orlando, BellSouth
15 required that Intermedia not interconnect with the San Marcos tandem switch by
16 means of a transit trunk, creating, therefore, here as well a traffic routing scheme
17 arguably having MTA characteristics.¹ Once again, it is important to see that this
18 architecture was put in place (before the MTA amendment and) at BellSouth's
19 insistence.

20 **Q. DID INTERMEDIA PREFER TO INTERCONNECT WITH THE**
21 **COLONIAL AND SAN MARCOS TANDEM SWITCHES BY MEANS OF**
22 **A TRANSIT TRUNK.**

23 **A.** Everything considered, Intermedia was indifferent. The task of traffic
24 management would have been made easier with transit trunks to the Colonial and
25 San Marcos tandem switches. With no transit trunks to these switches, the

¹ On March 11, 1998, Intermedia ordered a two-way transit group to the San Marcos tandem switch as an insurance measure. This group has never carried traffic.

1 network is more efficient, which is to say that the risk of underutilizing trunk
2 capacity is less.

3 **Q. IS THERE A BENEFIT TO INTERMEDIA WHERE MTA IS**
4 **DEPLOYED?**

5 **A.** While it is not always to be preferred, MTA does heighten the probability of call
6 completion in periods of high circuit usage. In addition, it reduces Intermedia's
7 investment to some extent.

8 **Q. HOW DOES ONE PROPERLY INTERPRET THE MTA AMENDMENT**
9 **THAT BELL SOUTH EXECUTED WITH INTERMEDIA ON JUNE 3,**
10 **1998?**

11 **A.** Ms. Gold discusses the interpretation of the MTA Amendment in detail in her
12 testimony in this proceeding. From an operations perspective, however, I can say
13 that Intermedia interprets the MTA Amendment as a contractual vehicle making
14 MTA available to Intermedia under certain terms and conditions. The MTA issue
15 was not addressed in the parties' 1996 interconnection agreement, nor in the July
16 1997 amendments that followed it. As time passed, BellSouth began experiencing
17 acute congestion problems that it apparently determined would require resolution
18 by means of MTA, while recognizing that it did not have a contractual basis for
19 deployment. Thus, the MTA Amendment sets forth the terms and conditions
20 under which Intermedia may elect deployment of MTA to alleviate traffic
21 congestion. It first requires Intermedia to request MTA and then BellSouth to
22 provide MTA in response to the request. I refer to numbered paragraph 1 of the
23 Amendment. The rates set out in Attachment A of the Amendment accordingly
24 are invoked, jurisdiction by jurisdiction, only upon Intermedia's request for MTA
25 in a particular jurisdiction, BellSouth's provisioning of MTA in that jurisdiction,
26 and Intermedia's acceptance of MTA in that jurisdiction. When one understands
27 the history of Intermedia's interconnection with BellSouth, no rational case can be

1 made that the Amendment has some other purpose and that the Attachment A
2 rates are otherwise effectuated to supersede the rates in Attachment B-1 of the
3 parties' 1996 agreement.

4 **Q. HAS INTERMEDIA REQUESTED THAT BELLSOUTH DEPLOY MTA**
5 **IN FLORIDA?**

6 **A.** No. There can be no question about that. In my capacity, I am charged with
7 resolving traffic problems and I would have participated in any such decision to
8 request MTA as a resolving mechanism. No circumstances have yet arisen in
9 Florida to cause us to even consider such a request. As I have testified, even
10 though in Jacksonville and Orlando the interconnection architectures in place
11 would appear to have some of the attributes of MTA, that is the case because
12 BellSouth imposed a network topology requirement that had that result, and not
13 because Intermedia requested those arrangements. Furthermore, in Miami, there
14 is not even a suggestion that MTA is deployed.

15 **Q. WHAT IS YOUR UNDERSTANDING OF THIS DISPUTE BETWEEN**
16 **INTERMEDIA AND BELLSOUTH?**

17 **A.** It is very simple, as I understand it. The Florida Public Service Commission has
18 determined that BellSouth must pay Intermedia reciprocal compensation for
19 transporting and terminating local traffic originating on BellSouth's network,
20 including traffic destined to ISPs, under the parties' interconnection agreement.
21 Although BellSouth has appealed the Commission's ruling, it began to pay
22 reciprocal compensation to Intermedia for Florida traffic when both the
23 Commission and the federal court rejected its efforts to stay the Commission's
24 order. However, it made payments (and continues to make payments) on the basis
25 of the rate that it insisted had become effective by reason of the MTA
26 Amendment, and not on the basis of the rate required for reciprocal compensation

1 under the original agreement.² The rate on the basis of which BellSouth has
2 chosen to pay Intermedia is less than one-fifth of the correct rate. Intermedia has
3 contested BellSouth's position on the matter of the correct reciprocal
4 compensation rate from BellSouth's very first payment. BellSouth has invoked
5 and applied to Florida traffic the rate for MTA even though the conditions that
6 would be necessary for it to do so have not been met. Intermedia has not
7 requested MTA deployment in Florida. Hence, it became necessary for
8 Intermedia to bring a complaint to this Commission, seeking redress of
9 BellSouth's breach of the agreement.

10 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

11 **A.** Yes, it does.

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²BellSouth claims that the effective rate for reciprocal compensation is \$.002 per MOU, although the MTA Amendment specifies an end office switching rate (the rate BellSouth appears to believe is applicable to this traffic) of \$.0175 per MOU. I understand that BellSouth explains this away as an "error" of some kind.

1 MR. PELLIGRINI: Thank you, Commissioner Deason.

2 Also, Intermedia would request that the exhibits
3 to Mr. -- Exhibits 1 through 3 to Mr. Thomas' testimony be
4 marked for identification as Exhibit 4, I think.

5 COMMISSIONER DEASON: Yes, composite Exhibit 5.

6 MR. PELLIGRINI: Composite Exhibit 5. And that
7 the Exhibits 4 through 7 attached to Mr. Thomas'
8 testimony, which are proprietary, be marked as a separate
9 composite exhibit as number 6.

10 COMMISSIONER DEASON: Okay, let's make sure.
11 ELT-1 through 3 constitute Exhibit 5.

12 MR. PELLIGRINI: Correct.

13 COMMISSIONER DEASON: And ELT-4 through 8 or 7.

14 MR. PELLIGRINI: 4 through 7, sir.

15 COMMISSIONER DEASON: 4 through 7. That will be
16 identified as composite Exhibit 6.

17 (Exhibits 5 and 6 were marked for identification.)

18 MR. PELLIGRINI: At this time, Mr. Thomas is
19 available for cross-examination.

20 COMMISSIONER DEASON: BellSouth?

21 MR. EDENFIELD: Thank you.

22 CROSS EXAMINATION

23 BY MR. EDENFIELD:

24 Q Mr. Thomas, how long have you been in your
25 current position?

1 A In my current position since August, September
2 1998.

3 Q And prior to August, September '98, were you
4 employed by Intermedia?

5 A Yes, sir, I was.

6 Q In what capacity?

7 A Prior to that I was senior manager in the
8 engineering group.

9 Q And how long did you hold that position?

10 A Since 11-19-1996.

11 Q Are those the only jobs you've had at Intermedia
12 or am I missing one still?

13 A Let me correct that. When I first came to
14 Intermedia, I was hired as a senior engineer -- excuse me,
15 yeah, senior engineer and was elevated to senior manager.

16 Q Okay. Did you have any participation in any
17 form or fashion in the negotiation, drafting or execution
18 of the interconnection agreement?

19 A No, sir.

20 Q How about the same question for any amendments
21 to the interconnection agreement?

22 A I'm sorry, I did not hear that.

23 Q How about did you have any participation in the
24 negotiation, drafting or execution of any amendments to
25 the interconnection agreement?

1 A No, sir,

2 Q Did you review any orders of this Commission,
3 orders of the FCC or district court opinions in preparing
4 your testimony?

5 A I have reviewed a lot of information, yes, sir.

6 Q A lot of information. Does that information
7 include orders of the Commission, FCC orders, or orders of
8 the district courts of appeal?

9 A I don't recall.

10 Q What is your level of familiarity with the
11 interconnection agreement?

12 A I am conversive with it. I have read the
13 interconnect agreement, the original interconnect
14 agreement of 1996.

15 Q How about the amendments, how familiar are you
16 with those?

17 A We are speaking, I believe, of the MTA
18 amendment?

19 Q Yes, sir. I'm sorry, I wasn't clear.

20 The June 3rd, 1998, amendment to the
21 interconnection agreement, how familiar are you with that?

22 A I have read that amendment.

23 Q You have read it? Okay. Let's look on page 8
24 of your testimony --

25 A Yes, sir.

1 Q -- where you discuss your understanding of the
2 dispute. You make reference in -- part of that was
3 amended, but I don't think this part was. You make
4 reference to Commission orders and federal court opinions.
5 As you sit here today, you cannot recall whether you
6 actually read those?

7 A Please, sir, tell me which line?

8 Q I'm sorry. I was trying to hurry, and I'm going
9 too fast. I'm looking on page 8, line 22 of your
10 testimony.

11 A All right. And that would be the new amended
12 testimony, I believe.

13 Q Yes, sir.

14 A Okay.

15 Q And in those lines, 22 and 23, do you reference
16 Commission decisions and federal court decisions? What
17 I'm asking is, as you sit here today, do you recall
18 reading the decisions that you referenced?

19 A I do recall reading them, yes, sir. There were
20 decisions allowing the ISP billing and Commission
21 decisions allowing the same, I believe.

22 Q Okay. In the same section dealing with your
23 understanding of the dispute you also mention a few times
24 the rates that were paid or not paid.

25 A Yes, I do.

1 Q Do any of your job functions make you familiar
2 with the rates being billed between BellSouth and
3 Intermedia?

4 A It is not my job function to be familiar with
5 those rates, no, sir.

6 Q Okay. Let me ask you this, did you write this
7 section of your testimony?

8 A I wrote -- yes, sir. I wrote quite a bit of it,
9 yes, sir.

10 Q Did you write this section beginning on page 8,
11 line 15 through page 9 line 9?

12 A I wrote the draft on that, yes, sir.

13 Q You wrote a draft of that?

14 A Yes, sir.

15 Q Okay. All right. You mentioned in your summary
16 that Intermedia does not have an MTA arrangement anywhere
17 in BellSouth's region. Did I understand that correctly?

18 A That is correct.

19 Q Okay. And that you are direct trunked to all
20 BellSouth tandems?

21 A That is correct; in the market areas we are
22 doing business in, yes, sir.

23 Q Okay. Before I go to the ASR, you mentioned in
24 your summary what I believe was MTA topography?

25 A I used the term topology, but I'm not sure I put

1 it together with MTA. Did I say that?

2 Q I thought you did. If you did not, I'm sorry, I
3 don't mean to misquote what you had said. The gist of
4 what I'm asking is does Intermedia have an arrangement in
5 Florida that technically qualifies as an MTA arrangement
6 as defined in the amendment?

7 A Certainly not by our election.

8 Q All right, forget whether it's by your election.
9 Does Intermedia in Florida have a network arrangement that
10 would qualify as an MTA arrangement under this agreement?

11 A Not under the agreement, no, sir.

12 Q What is it about the agreement that keeps your
13 network arrangement in Orlando and in Jacksonville from
14 being an MTA arrangement?

15 A All right. Those arrangements were arrangements
16 of the network imposed on Intermedia by BellSouth and were
17 implemented long before the MTA amendment.

18 Q It's because of the lack of election is why
19 you're saying that those particular network configurations
20 don't qualify as MTA under the amendment?

21 A I believe, sir, what I have said is that they
22 are MTA-like arrangements. They were not elected by
23 Intermedia. Would they be complete MTA arrangements? No,
24 sir, I don't believe they are.

25 Q Okay. Other than the lack of election, what is

1 it about those arrangements that keep them from qualifying
2 as MTA arrangements?

3 A The arrangements in both Orlando and
4 Jacksonville only provide for the MTA-like appearance for
5 transit-type traffic.

6 Q I'm sorry. I'm not trying to be obtuse, I'm
7 really not. Sometimes I can't help it, it's heredity.

8 When you say it's MTA-like, I mean, do you have
9 a network configuration in Orlando and in Jacksonville,
10 correct?

11 A Yes, sir.

12 Q Does that network configuration technically
13 qualify as an MTA arrangement? Forget whether it's under
14 the amendment, but does it qualify as an MTA arrangement?

15 A As the network has been imposed on us by
16 BellSouth, I believe you could possibly say that.

17 Q Okay. So you do have a network arrangement that
18 would qualify MTA, if Intermedia had actually requested
19 it. Is that what you're saying?

20 A Yes.

21 COMMISSIONER CLARK: I'm a little confused. Are
22 you saying that if Intermedia had requested it or if
23 Intermedia used it as an MTA?

24 THE WITNESS: The arrangement that exists in
25 Orlando and Jacksonville, which I identified on the charts

1 as us not having a two-way transit group between
2 Intermedia and one tandem in each of those areas, would
3 cause BellSouth to deliver any traffic of that type of
4 traffic from tandem to tandem to deliver to us.

5 In that respect, ma'am, and in my direct
6 testimony, I said that is a, what would look like,
7 multiple tandem architecture or access, I'm sorry.

8 MR. EDENFIELD: I'm sorry, Commissioner Clark,
9 were you done?

10 COMMISSIONER CLARK: Yes.

11 MR. EDENFIELD: I didn't want to interrupt you.

12 BY MR. EDENFIELD:

13 Q At anytime -- well, would that be true for both
14 the Orlando and Jacksonville network configurations?

15 A In Orlando, for sure, until just recently when
16 we ordered and installed a two-way transit trunk group.
17 In Jacksonville, the trunk group has been there. It just
18 has not had traffic applied to it by BellSouth.

19 Q Okay. How long does has that network
20 configuration existed?

21 A Which one, please?

22 Q I'm sorry. Again, I'm not being specific; in
23 Orlando first, then Jacksonville.

24 A In Orlando we established our switch in 1996.
25 The configuration, as I showed on the charts, at least

1 prior to May 1998.

2 Q Okay. So, is it fair to say that these, what we
3 call MTA-like arrangements existed prior to the amendment
4 being executed?

5 A Yes, sir.

6 Q At anytime since the execution of that
7 amendment, has Intermedia come to BellSouth and said we
8 want you to change the configuration or we want you to
9 somehow modify the configuration so that it is not
10 MTA-like?

11 A The beginning of your question again, please.

12 Q At anytime since the execution of the amendment
13 on June 3rd, 1998, has Intermedia come to BellSouth and
14 said we want you to make some type of network
15 configuration changes so that we do not have an MTA-like
16 arrangement in Orlando or Jacksonville?

17 A We have ordered a two-way transit trunk group
18 for the Orlando Colonial tandem, yes, sir.

19 Q Would that make the Orlando arrangement no
20 longer MTA-like?

21 A Yes, it would.

22 Q Okay. And you have not made a similar order for
23 Jacksonville?

24 A We have a trunk group there, sir.

25 Q Okay. Has Intermedia ever requested multiple

1 tandem access from BellSouth?

2 A Intermedia issued an ASR to BellSouth for
3 multiple tandem access for the Buckhead 01 transit trunk
4 group at the request of BellSouth.

5 Q Okay. So the answer is yes, you have requested
6 MTA from BellSouth?

7 A We issued an ASR, yes, sir.

8 Q Okay. Give me a second to ask Ms. White -- I'm
9 going to hand you what --

10 COMMISSIONER CLARK: I'm sorry, let me -- did
11 you request that because Southern -- BellSouth asked you
12 to request it?

13 THE WITNESS: Yes, ma'am.

14 BY MR. EDENFIELD:

15 Q Mr. Thomas, if you would take a second and look
16 through this package and then identify it for me, please.

17 A The first two sheets, I'm not familiar with what
18 they are. There are several sheets following with a date
19 on them of 11-6-1998, which would be an original ASR
20 transmitted by Intermedia to BellSouth requesting MTA.

21 Following that package group are some other
22 sheets dated 11-7 and, I believe, other dates, 11-23, et
23 cetera, that I believe are internally-generated BellSouth
24 sheets associated with this ASR.

25 MR. EDENFIELD: Okay. At this point,

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1 Commissioner Deason, I'd like to ask that this be marked
2 as BellSouth -- for identification, BellSouth number 7?

3 COMMISSIONER DEASON: It will be so identified.

4 (Exhibit 7 was marked for identification.)

5 BY MR. EDENFIELD:

6 Q Now, an ASR is a method of ordering facilities,
7 Mr. Thomas?

8 A Yes, sir. ASR is the acronym for Access Service
9 Request, and it is used by interconnecting companies to
10 establish network through moves, adds and changes.

11 Q Okay. And MTA is a type of facility that can be
12 ordered through an ASR?

13 A Obviously, yes, sir.

14 Q Taking a look at the third page of what's been
15 marked for identification as BellSouth Number 7 --

16 A Would that be at the top marked as P003/42 or
17 P004?

18 Q It's just the third page in the group at the top
19 in the upper right-hand corner as 11-06-98.

20 A Above that, sir.

21 Q It says number 908-P --

22 A Beside that, sir, to the right of that.

23 Q Yes, I'm sorry, P004/042.

24 A Thank you.

25 Q I'm having a senior moment.

1 A I understand.

2 Q This would be a copy, at least BellSouth's
3 records, of the ASR that Intermedia submitted to BellSouth
4 to request multiple tandem access?

5 A Yes, sir.

6 Q And, in fact, if you look at the remark section,
7 which is, like, four lines up from the bottom, it says,
8 this order is to change trunk group AC 198301 and the -- I
9 assume that's Atlanta, Georgia, Buckhead tandem to a
10 multi-tandem; see original order, da, da, da. What is
11 trunk group AC 198301?

12 A The AC 198301 is a BellSouth identification code
13 called the 26 code. And it identifies the Intermedia
14 Buckhead two-way transit trunk group.

15 Q Okay. So you were changing the Intermedia
16 two-way transit trunk group to a multiple tandem access
17 trunk group? Would that be the correct designation?

18 A Trunk group would be fine. In answer to your
19 question, we were responding to a request by BellSouth to
20 issue an ASR for records correction.

21 Q And I'll get to that in just a minute, but right
22 now I'm trying to figure out exactly what you were asking
23 to be done. Forget the why for a second.

24 What I want to know is you were asking to change
25 your two-way transit trunk group into the Buckhead tandem

1 from a multiple tandem access arrangement?

2 A Yes, sir.

3 Q All right. As I understand Intermedia's
4 position, a gentleman by the name of Michael Lofton told
5 you that Kasey Howard, a BellSouth employee, requested
6 that Intermedia submit this ASR?

7 A That is correct, sir.

8 Q Who is Michael Lofton?

9 A Michael Lofton, at this time, was the manager
10 for facilities design and provisioning on my staff.

11 Q I'm sorry, I didn't mean to cut you off. Is
12 Mr. Lofton employed by Intermedia today?

13 A No, sir.

14 Q Has Intermedia made any attempt to bring
15 Mr. Lofton to this proceeding?

16 A I don't believe so; no, sir,

17 Q Okay. Now, apparently, as I understand what
18 you're telling me, about three months ago, you had what
19 you call a casual conversation with Mr. Lofton over the
20 telephone?

21 A Yes, sir.

22 Q And that Mr. Lofton -- this is -- let me back up
23 a step. When did Mr. Lofton leave Intermedia?

24 A I don't exactly have the date. It was June,
25 July, August of 1999.

1 Q Okay. So, he left in the summer of '99. So,
2 let's say, six and three months ago would be three, nine
3 months after he left you have this casual conversation
4 with him; is that correct?

5 A As I spoke in deposition, Mr. Lofton called me
6 approximately three months ago to ask about other people
7 at the office and how things were going; yes, sir.

8 Q Okay. And in the course of his asking how other
9 people were doing, this topic of the ASR came up.

10 A That is correct.

11 Q He bring it up or did you bring it up?

12 A I did.

13 Q How often was Mr. Lofton calling you to inquire
14 about how his ex-coworkers were doing?

15 A I'm not sure if that was the first or second
16 time he had called me, sir.

17 Q All right. So, in nine months, he calls you
18 either once or twice and the topic of the ASR comes up.
19 That's Intermedia's story?

20 A That's correct.

21 Q Okay. And according to you, Mr. Lofton said
22 that Mr. Howard had requested for Intermedia to send an
23 ASR to make a records correction. Is my understanding of
24 that correct?

25 A That is totally correct; yes, sir.

1 Q Okay. He gave you no more detail than that?

2 A Not that I recall, sir, no.

3 Q Okay. Did Mr. Lofton tell you that it was
4 actually a Mr. Dean Podzamsky that told him that he was
5 the one who had received the request from BST?

6 A Not to my recall, sir; no, sir.

7 Q He didn't tell you that?

8 A No, sir.

9 Q Okay. Did Mr. Lofton tell you that Intermedia
10 already had an MTA arrangement in place in Buckhead, and
11 that was the purpose for the records change?

12 A I believe, as I recall the conversation, he
13 mentioned that Mr. Howard had told him that there was,
14 indeed, an MTA arrangement that had been effected by
15 BellSouth in the Atlanta area.

16 Q Did Mr. Lofton tell you that one of the reasons
17 for the request of the MTA was that it would relieve
18 capacity limitations in the Buckhead tandem? Was that a
19 reason given to you by Mr. Lofton?

20 A No, I don't believe Mr. Lofton said that. I
21 believe my knowledge of the problems, the capacity
22 problems we had in Buckhead, went back to information or
23 -- excuse me, a time in mid 1998 when we were having
24 severe service problems because of BellSouth's inability
25 to provide adequate circuits between Intermedia and --

1 excuse me, between BellSouth and Intermedia. During this
2 time, BellSouth was regrooming the Atlanta area, moving --
3 or excuse me, end offices between their local access
4 tandems.

5 And in conversation that I personally had with
6 folks at Intermedia which included, indeed, Mr. John Ray
7 Sullivan, Mr. Kasey Howard, Bill Morrison, that they would
8 take whatever was necessary -- excuse me, they would take
9 and put into place whatever was necessary to assure that
10 we would have better service than we had had for the
11 better part of the first part of 1998.

12 Included in that would be the arrangement where
13 BellSouth would, indeed, send traffic from tandem to
14 tandem as they were regrooming end offices to get it to
15 us. That, sir, is MTA.

16 Q Okay. The circuit problems that you're talking
17 about and the traffic congestion that you allude to, is
18 that a problem from Intermedia getting its originated
19 traffic to BellSouth or vice versa?

20 A In the Buckhead arena, it was a problem with
21 BellSouth's not having or not providing Intermedia with
22 enough facilities for customers to call Intermedia. And
23 during periods of that time, it was also a problem with
24 outgoing trunking from Intermedia to BellSouth, because
25 they did not have central office connections to add

1 additional trunks.

2 Q Okay. So, it was kind of a two-way street. The
3 Buckhead tandem was basically full, so Intermedia did not
4 have enough connections available to it in the Buckhead
5 tandem for it to get all of its originated traffic to
6 BellSouth customers that your customers were calling?

7 A Yes. The -- if I may add to that, BellSouth did
8 not have the necessary connections to provide to
9 Intermedia.

10 Q Correct. I'm sorry, I thought that was implicit
11 of what I said. The Buckhead tandem was full, basically.

12 A That is correct, sir.

13 Q Okay. Now, the MTA arrangement, as we just
14 discussed, allows Intermedia to send more traffic through
15 that MTA arrangement than would normally go over a two-way
16 transit trunk. Do you agree with that?

17 A Yes, sir.

18 Q So, if I understand this correctly,
19 BellSouth's Buckhead tandem is full. There's no more
20 connections. And BellSouth comes to Intermedia and asks
21 for a network configuration that's going to require more
22 traffic to come to the Buckhead tandem, and that's why we
23 asked for the ASR. Is that Intermedia's story?

24 A No, sir, I don't believe I said that. I believe
25 what happened at the time is that we had excess capacity

1 at that time was the East Point tandem. Additionally,
2 during the same time, Intermedia was forced to connect to
3 84 BellSouth end offices in the Atlanta metropolitan area
4 to allow for proper access to the network.

5 And because there was additional capacity
6 between Norcross and East Point during this time frame, it
7 is my understanding that BellSouth's effected MTA,
8 lookalike MTA, if you will, not on the transit-type trunk,
9 but on the regular directionalized trunk groups.

10 Q All right. Maybe I misunderstood how this whole
11 MTA thing works. I thought you just told me that you
12 submitted an ASR to BellSouth to have an MTA arrangement
13 going into the Buckhead tandem. Did I understand that
14 correctly?

15 A I believe I said, specifically, the Buckhead 01T
16 two-way transit trunk group, yes.

17 Q All right, so the Buckhead tandem. I mean, is
18 that what's commonly known as the Buckhead tandem?

19 A Yes.

20 Q Okay. Even in MTA arrangements, what MTA does,
21 and correct me if I'm wrong, is it would take your
22 originated traffic, send it to, in this instance,
23 Buckhead, and since the person trying to be called is not
24 homed or connected to the BellSouth tandem at Buckhead,
25 BellSouth takes the traffic from Buckhead, sends it to

1 another tandem, in this example you gave, either East
2 Point or Norcross, and then from that tandem sends it to
3 the customer. Is that basically how the structure works?

4 A Yes, sir.

5 Q Okay. So still, the question is if MTA allows
6 more traffic to come over, it still has to go to the
7 Buckhead tandem first, right?

8 A No, sir. I'm sorry, if I wasn't clear in my
9 explanation. At the time, as I was saying, we had spare
10 capacity in East Point and/or Norcross. It changed during
11 the times of the regrooming that BellSouth was doing, but
12 I was not indicating that there would be traffic sent --
13 additional traffic sent to East Point or, excuse me,
14 Norcross or East Point to Buckhead to make an already
15 terrible situation worse.

16 Now, did they send traffic from possibly East
17 Point to -- or, I'm sorry, Buckhead to East Point or
18 Buckhead to Norcross? I believe they did, sir.

19 Q You lost me in some of that explanation.

20 The MTA actual connection is between the
21 Intermedia switch and the Buckhead tandem. It's a trunk,
22 it's called an MTA trunk, that goes from Intermedia switch
23 to BellSouth's tandem at Buckhead. Is that how the
24 configuration works?

25 A The ASR on 11-5 or 11-6, 11-6, requested MTA for

1 the Buckhead two-way transit trunk group, yes. The time
2 frame I am talking about is prior to this.

3 Q Wait a minute. Forget what happened prior.
4 What I'm talking about is you sent an ASR requesting
5 multiple tandem access on November 6th, 1998, and I'm
6 trying to figure out what you were requesting.

7 A Well --

8 Q Weren't you requesting that the two-way transit
9 trunk be converted to an MTA trunk or an MTA arrangement,
10 and that arrangement would go from the Intermedia switch
11 to the Buckhead tandem?

12 A Okay. I wasn't requesting that at all, sir. We
13 were responding to a request from BellSouth, if I may
14 further example that.

15 After BellSouth made the request asking us to
16 send in this ASR for record purposes, they also faxed us
17 information on how to fill out an ASR for MTA, and then
18 they followed-up with a phone call with a Mr. Tom Climer
19 and also Mr. Lofton, on how to physically fill out the
20 ASR. Additionally, a Mr. Jeffrey Noble, who was a
21 provisioner and an employee of Intermedia at the time, was
22 a part of that phone call.

23 Q I'm sorry. At some point, I don't know whether
24 the question got answered. I'm going to try one more
25 time, and then I'll stop, and that's what I get.

1 A All right.

2 Q The MTA arrangement requested in the November
3 6th, 1998 ASR, did it result -- was the MTA arrangement
4 being requested going from the Intermedia switch in
5 Atlanta to the Buckhead tandem?

6 A The ASR called for that, correct. Was the ASR
7 ever completed? No, sir.

8 Q Okay.

9 COMMISSIONER CLARK: I have to ask a question.
10 I thought you said that this -- BellSouth requested this
11 as a records correction.

12 THE WITNESS: Yes, ma'am.

13 COMMISSIONER CLARK: And I guess, that would
14 indicate to me that this arrangement, MTA arrangement, was
15 already in effect.

16 THE WITNESS: I would have to assume that. If
17 it was in effect, ma'am, it was not by our request.

18 COMMISSIONER CLARK: After you made this
19 request, was it put in effect?

20 THE WITNESS: To the best of my knowledge, no,
21 ma'am. The ASR was never completed and eventually
22 cancelled.

23 COMMISSIONER CLARK: Okay. And does it seem
24 likely that either you or BellSouth would have wanted to
25 put in that kind of arrangement if the Buckhead switch was

1 already having trouble handling the traffic?

2 THE WITNESS: At the time, ma'am, of November
3 1998, we had complete connectivity to all of BellSouth's
4 access tandems in Atlanta. There would be no reason for
5 Intermedia to even want this in place.

6 COMMISSIONER CLARK: Okay.

7 BY MR. EDENFIELD:

8 Q Okay. Let's explore that for a second.

9 As I understand this, would you agree with me
10 that in November 1998, that Intermedia was in the middle
11 of a hot and heavy reciprocal compensation dispute with
12 BellSouth?

13 A I believe that to be true.

14 Q Okay. So, you're sitting here telling me that
15 in the middle of a hot and heavy reciprocal compensation
16 dispute, BellSouth called Intermedia on the phone and
17 says, "Hey, send me over an MTA arrangement ASR," which
18 you knew, under the agreement, would then trigger the new
19 rates in the amendment; that out of the goodness of
20 Intermedia's heart, they said, "Sure, we'll just send over
21 an ASR to help you out, BellSouth, so we can request MTA."
22 Is that what you're saying?

23 A No, and let me explain that. I did not, had
24 not, and could not have done that, because I did not know
25 or had not read the MTA amendment until some time in 1999.

1 So, in November 1998 I could not have possibly have done
2 that.

3 Q Now, as I understand it, if you're direct
4 trunked to every tandem in the LATA; in this instance,
5 since we're on the Buckhead ASR, why don't we use the
6 Atlanta LATA. If you were direct trunked to every tandem
7 in the LATA, why would you even remotely consider using an
8 MTA arrangement?

9 A May I go back, sir?

10 Q Sure, if it helps you answer the question.

11 A In early 1998, BellSouth cut off terminating
12 local traffic from Intermedia to exchanges subtending the
13 Norcross tandem. They did this over a weekend. We came
14 in on a Monday morning, our customers could not call those
15 exchanges.

16 Mr. Craig Shandley, who was our engineer manager
17 at the time, contacted BellSouth. BellSouth suggested
18 that since we did not have a -- an outgoing from
19 Intermedia to Norcross trunk group there was nothing they
20 could do for us.

21 However, if we were to request an arrangement
22 called multiple tandem access and get an amendment to the
23 agreement, we could, indeed, -- they could, indeed,
24 continue or, again, transmit that traffic.

25 What Intermedia did was three things. Number

1 one, we took that traffic that was destined to the end
2 offices off of Norcross that BellSouth had denied
3 completion on and sent it to the IXC side of the switch or
4 the long-distance side of the switch at an access rate,
5 long-distance rate, to Intermedia to take care of our
6 customers.

7 Secondly, Mr. James Coke, who was at that time,
8 the provisioning and design manager, ordered an outgoing
9 trunk from Intermedia to Norcross so we could complete the
10 arrangement properly.

11 Thirdly, Mr. Shandley talked with Julia Strow
12 concerning getting an MTA agreement amendment or, excuse
13 me, getting an MTA amendment to the agreement. And the
14 understanding was whatever happened first would be what we
15 would do to fix our customers.

16 Q Okay. I'm not sure I follow all that, but it
17 seems like to me what you're telling me, Mr. Thomas, is
18 that on one hand, Intermedia had absolutely no need for
19 MTA whatsoever, because they're direct trunked to every
20 tandem in BellSouth territory, and at the same time you
21 came and asked for it because of congestion problems.

22 A Snapshot in time, sir. In October or, excuse
23 me, November 1999, we did have that connectivity. In
24 early 1998 -- I'm sorry, November 1998, we did have that
25 connectivity. In early 1998, we did not have that

1 connectivity. BellSouth denied our customers completion
2 within the metropolitan area of Tampa or, excuse me,
3 Atlanta. And we had to take whatever measures were
4 necessary to protect our customers.

5 Q Okay. So in 1998, you were not direct trunked
6 to all of the tandems.

7 A Snapshot in time again, sir. In early 1998, we
8 did not have trunks to the Norcross tandem. The East
9 Point tandem did not exist.

10 Q All right. Well, if you didn't have direct,
11 when did you get direct trunking in 1998 to all the
12 tandems? And again, let's talk about the Atlanta LATA.

13 A We had direct trunking -- I may have to verify
14 this, sir, but we had direct trunking to Norcross and East
15 Point by May, June, July time frame of 1998.

16 Q Would that have been to -- is that all the
17 access tandems in the Atlanta LATA?

18 A At the time where we were doing business, yes,
19 sir.

20 Q Well, you say where you were doing business. I
21 mean, you look at it LATA-wide, correct? In other words,
22 if you have to be interconnected to all the tandems in the
23 LATA, you have to look at all the tandems in the LATA,
24 right?

25 A Okay. In '98, we continued access to

1 Gainesville; I do not know the dates. We direct trunked
2 to Athens; I do not know the dates. In the year 2000, we
3 direct trunked to the Buckhead 03 tandem, but it did not
4 come active until in the year 2000.

5 Q Okay. Well, let me put it to you this way.
6 Tell me if I'm right or wrong when I say this. If someone
7 from Intermedia testified that Intermedia was direct
8 trunked to all the access tandems in BellSouth territory
9 as of the date of this execution of the June 3rd, 1998,
10 amendment that would be incorrect, right?

11 A Of all the BellSouth access tandems?

12 Q Yes.

13 A Well, there are many BellSouth access tandems
14 outside the areas we do business in. I guess, that would
15 be incorrect then, yes, sir.

16 Q Okay.

17 COMMISSIONER DEASON: You're saying his
18 statement was correct, counsel's statement was correct.
19 You're agreeing with that statement.

20 THE WITNESS: Yes.

21 COMMISSIONER DEASON: Okay.

22 COMMISSIONER CLARK: Let me be clear. Are you
23 agreeing with it on the basis that you wouldn't have been
24 direct trunked to those offices where you don't provide
25 service?

1 THE WITNESS: As I heard your question, ma'am, I
2 think you said we would not have direct trunk to those
3 areas where we do not provide service; that would be
4 correct. As we build our network forward, we connect as
5 required.

6 COMMISSIONER CLARK: Well, then, to all those
7 areas where you do provide service, are you saying you
8 would have been direct trunked.

9 THE WITNESS: Yes, ma'am.

10 BY MR. EDENFIELD:

11 Q Okay. Let's talk about the Atlanta LATA. And
12 Commissioner Clark had asked you whether you have an MTA
13 arrangement using Intermedia anywhere. Let's talk about
14 the Atlanta LATA and whether you have MTA there, okay?

15 Do you agree with me that if you, being
16 Intermedia, is direct trunked at less than all the access
17 tandems in the LATA, then you're under an MTA arrangement?

18 A I would take them individually, but that sounds
19 reasonable, yes, sir.

20 Q Okay. And it's Intermedia's contention that it
21 has direct trunking carrying local and intraLATA toll
22 traffic to each access tandem in the Atlanta LATA?

23 A Give me a date. When?

24 Q As of -- well, now.

25 A Yes, we do.

1 Q Okay. How many tandems are there in the Atlanta
2 LATA?

3 A In the Atlanta service area where we do
4 business, there are --

5 Q Nope, nope, nope. The Atlanta LATA, how many
6 access tandems are in the Atlanta LATA?

7 A I would have to verify that, sir. I do not
8 know.

9 Q Would you agree with me that there are six
10 access tandems in the Atlanta LATA, being Buckhead,
11 Norcross, East Point, Gainesville, Athens, Columbus?

12 A I would have to verify that, sir.

13 Q Would you accept that subject to check?

14 A Certainly.

15 Q Do you know who Carl Jackson is?

16 A I know Carl Jackson, yes, sir.

17 Q Who is he?

18 A He's an Intermedia employee who lives in
19 Atlanta. I'm not sure of his business title.

20 Q Is he a policy witness for Intermedia?

21 A I'm sorry, sir. He turned away.

22 Q Is he a policy witness for Intermedia?

23 A I believe that's probably true, yes, sir.

24 Q Are you aware that Mr. Jackson has recently
25 testified in the Intermedia arbitration proceedings in

1 Georgia and Florida, as well as some other states?

2 A I know he has testified in some proceedings,
3 yes, sir.

4 Q Okay. Is Mr. Jackson authorized to establish
5 and set policy for Intermedia?

6 A I don't know, sir.

7 Q What I'm handing you, Mr. Thomas, is a copy of
8 the direct testimony of Carl Jackson that he filed on
9 behalf of Intermedia in the Georgia arbitration
10 proceeding, that's docket number 11644-U.

11 What I would like for you to do is --

12 MR. PELLIGRINI: Commissioner Deason, I would
13 suggest this line of questioning is entirely
14 inappropriate. I don't think Mr. Thomas is in a position
15 to comment at all upon the responsibilities of Mr. Jackson
16 or the testimony of Mr. Jackson in another proceeding.
17 This simply has no relevancy. It's inappropriate. I
18 suggest that Mr. Edenfield not be permitted to continue
19 with this line of questioning.

20 COMMISSIONER DEASON: Mr. Edenfield.

21 MR. EDENFIELD: It's cross-examination.

22 Mr. Thomas has just stated under oath that Intermedia is
23 directly connected to all the tandems in the Atlanta LATA.
24 I think Mr. Jackson, in his testimony in Georgia, has a
25 little bit different opinion of that. So, you have an

1 inherent conflict between witnesses from Intermedia.

2 COMMISSIONER DEASON: I'll allow the question.

3 Please, continue.

4 BY MR. EDENFIELD:

5 Q Take a look, if you would, Mr. Thomas, at page
6 21 of that testimony. I would direct you to line number
7 8.

8 A Line, please?

9 Q Line number 8.

10 A Yes, sir.

11 Q Is Mr. Jackson right or wrong?

12 A Well, sir, I know for sure we are in six tandem
13 offices in Atlanta. I believe, and I would have to verify
14 this, that we have either 82 or 84 end-office trunk groups
15 in Atlanta.

16 Q Okay. This testimony appears to have been filed
17 on April 21st, 2000. The most recent two direct-trunk
18 groups that you've established in the Atlanta LATA, has
19 that happened since April 21st, 2000?

20 A I'm not sure the exact date for the Buckhead 03
21 local-only tandem. It very well may have been prior to
22 April 21st, it may have been after. I assume it was
23 before.

24 COMMISSIONER CLARK: I have a question,

25 Mr. Edenfield. This is prefiled testimony. Has it

1 actually been presented?

2 MR. EDENFIELD: It has. The Intermedia hearing
3 has concluded in Georgia.

4 COMMISSIONER CLARK: Okay. And is --

5 MR. EDENFIELD: In other words, this testimony
6 was filed and accepted by the Georgia Commission.

7 COMMISSIONER CLARK: Thank you.

8 Well, I guess it was prefiled on the 21st. When
9 was the testimony actually given?

10 MR. EDENFIELD: The hearing -- I can't remember
11 if it was in May. I think it was -- actually, I think it
12 was a week before the Florida hearing. It's either one
13 week or two weeks before the Florida hearing.

14 BY MR. EDENFIELD:

15 Q Look on page 20 of that same testimony,
16 Mr. Thomas. Look at line 2. Mr. Jackson says -- again,
17 I'm assuming he's referring to Intermedia, "is direct
18 trunked to four BellSouth local tandems, namely, Buckhead,
19 East Point, Gainesville and Norcross..."

20 Let me ask you this question. Is it
21 Intermedia's contention that it has direct trunking
22 carrying local and intraLATA toll traffic to each access
23 tandem in the Atlanta LATA?

24 A Is it our contention?

25 Q Yes.

1 A Yes, sir. I believe the -- oh, I'm sorry, go
2 ahead.

3 Q Are you familiar with BellSouth network
4 information warehouse?

5 A Repeat that, please.

6 Q Are you familiar with what is called BellSouth's
7 network information warehouse? It's where BellSouth keeps
8 all its trunking information.

9 A I personally am not.

10 Q Are you familiar that ILECs have those?

11 A I know Bell Atlantic has extensive information
12 they share with CLECs and other folks. I'm not familiar
13 with the BellSouth address, sir.

14 MR. EDENFIELD: I just had a note handed to me,
15 Commissioner Clark. The Georgia hearing was May 9, since
16 I'm incapable of memory myself.

17 Before I move to the warehouse, let me, if I
18 may, Commissioner Deason, have the direct testimony of
19 Mr. Jackson that was submitted in Georgia, could I have
20 that identified as an exhibit?

21 COMMISSIONER DEASON: It will be identified as
22 Exhibit 8.

23 MR. EDENFIELD: 8.

24 (Exhibit 8 was marked for identification.)

25 BY MR. EDENFIELD:

1 Q What I'm going to hand to you, Mr. Thomas, is a
2 copy of the network information warehouse printout from
3 BellSouth. That was printed out yesterday.

4 MR. EDENFIELD: Commissioner Deason, if I could
5 have this marked for identification as BellSouth Number 9.

6 COMMISSIONER DEASON: It will be so identified.
7 (Exhibit 9 was marked for identification.)

8 MR. PELLIGRINI: What is it called?

9 MR. EDENFIELD: This is called the network
10 information warehouse printout.

11 BY MR. EDENFIELD:

12 Q Will you accept, subject to check, Mr. Thomas,
13 that the information, network information warehouse
14 printout, is accurate trunking information between
15 Intermedia and BellSouth?

16 A Subject to check.

17 Q Okay. Take a look through there, if you will,
18 and, I guess, we'll just do a real quick one. Why don't
19 you look at the first shaded entry. And let's kind of go
20 across the columns there and identify what that is. The
21 first area is GA. That means Georgia, would you assume?

22 A I assume.

23 Q The acna BSO, would you assume that means
24 BellSouth?

25 A That is true.

1 Q And the ccna for the Intermedia is ICF?

2 A Yes, sir.

3 Q That's correct?

4 A Yes, sir.

5 Q The next code there, the "A," I know they call
6 it "A" to "Z," which is, what, originating and
7 terminating?

8 A Yes, sir.

9 Q The "A" -- I guess, a jumble of letters and
10 numbers, that's the Atlanta, Georgia Buckhead tandem?

11 A That is the CLLI code for the tandem, that is
12 correct; CLLI code standing for Common Language Location
13 Identifier.

14 Q Okay. What does the "Z" stand for? What is
15 that one?

16 A Say again, please.

17 Q Under the "Z" column, is that the terminating
18 switch or tandem? I guess, switch in this case, that's
19 Intermedia switch identification number?

20 A That would be the Intermedia identification
21 number, correct.

22 Q Okay. Look through here, if you will. And
23 again, subject to check, I have shaded tandem
24 interconnection arrangements, where you were connected to
25 a tandem. Show me anywhere in here where Intermedia is

1 connected to the Columbus tandem.

2 A I do not see it on here.

3 Q Would you agree with me that at least, according
4 to this document, that Intermedia does not have a direct
5 trunking arrangement between its switches and the Columbus
6 tandem through which Intermedia is carrying local and
7 intraLATA traffic?

8 A I would have to go back, sir, and check. The
9 one Columbus trunk group I do see on here that is not
10 shaded, but I do not see a tandem group, that is correct.

11 Q The one trunk group you see there is not shaded
12 to Columbus is feature group "D" arrangement, correct?

13 A Your definition, please, of a feature group "D."
14 Would you call that an end-office trunk group on the local
15 side or a feature group "D" on the long-distance access
16 site?

17 Q I would call that is a trunk group going from
18 your switch to the Columbus tandem that is used to
19 transport interLATA traffic.

20 A I'm sorry, sir, I'm confused.

21 Q I'd define it, but I don't know the first thing
22 about network engineering. How would you define it,
23 feature group "D"?

24 A Well, typically, feature group "D," and again,
25 depends on the person's perception or interpretation of

1 feature group "D," but typically feature group "D" is an
2 equal access trunk that was borne out of the AT&T break-up
3 and was used for one-plus dialing for equal access to the
4 network, sir.

5 Q Okay. So, it's for interLATA toll traffic?

6 A It would be for toll traffic, interLATA or
7 intraLATA, depends on the arrangement, sir.

8 Q How about yours, interLATA?

9 A Sir?

10 Q Do you have any familiarity at all with how
11 you're connected to the Columbus tandem?

12 A No, sir, not from this.

13 Q How about outside of that?

14 A No, I do not.

15 Q You're just sure you're connected, you don't
16 know how.

17 A I don't believe I said I was connected to the
18 Columbus tandem.

19 Q I could have sworn you told me you were
20 connected to every tandem in the Atlanta LATA. If I
21 misunderstood that, I'm sorry.

22 A Then, I apologize to you, sir. I believe, what
23 I intended to say, if I did not say it this way, is that
24 we are, indeed, connected to all of the tandems where we
25 do business within the Atlanta area.

1 Q Okay. So, that does not equal the same thing as
2 being connected to all the access tandems in the Atlanta
3 LATA?

4 COMMISSIONER CLARK: I heard him say that it was
5 where they do business.

6 MR. EDENFIELD: I could have sworn I had asked
7 him. And I apologize, if I did not. I could have sworn
8 I asked him was he interconnected to all the access
9 tandems in the LATA, and the answer was yes. If I
10 misunderstood that, I'm sorry.

11 THE WITNESS: I may have misunderstood that
12 myself.

13 BY MR. EDENFIELD:

14 Q And I'm sorry. Maybe I've been going under a
15 bad assumption here.

16 Let me ask you straight out. Does Intermedia
17 have direct trunking between its switches and each and
18 every access tandem in the Atlanta LATA through which it
19 is carrying local and intraLATA toll traffic?

20 A With the understanding that Columbus is
21 considered part of the Atlanta LATA, then, no.

22 Q Okay. If Columbus is part of the Atlanta LATA,
23 then you are connected to less than all of the access
24 tandems in the Atlanta LATA, correct?

25 A If Columbus is part of the Atlanta LATA, that is

1 correct.

2 Q And didn't you tell me earlier under that
3 scenario you now have classic MTA?

4 A Do that one, too, again, please. I'm sorry.

5 Q Didn't you tell me earlier that if you were not
6 connected to each of the access tandems in a LATA that
7 that was MTA?

8 A Yes, sir, that's true.

9 MR. EDENFIELD: I have no further questions for
10 Mr. Thomas, thank you.

11 THE WITNESS: Thank you.

12 COMMISSIONER DEASON: Staff?

13 MS. STERN: No questions.

14 COMMISSIONER DEASON: Mr. Pelligrini, how long
15 is your redirect?

16 MR. PELLIGRINI: I would estimate 15 minutes or
17 so.

18 COMMISSIONER DEASON: 15? Go right ahead.

19 REDIRECT EXAMINATION

20 BY MR. PELLIGRINI:

21 Q Mr. Thomas, earlier in his questioning,
22 Mr. Edenfield asked you a number of questions concerning
23 your characterization of Intermedia's network arrangements
24 in Jacksonville and Orlando as being MTA-like; do you
25 recall that?

1 A Yes, sir.

2 Q Would you -- I want to be certain that -- I want
3 to be certain of what your response was to Mr. Edenfield's
4 questioning.

5 Describe -- tell me again. In what -- describe
6 the connectivity arrangements in the Jacksonville-serving
7 area as they existed at the time of Intermedia's original
8 interconnection.

9 A At the time of the original interconnection,
10 Intermedia in Jacksonville had a full complement of trunks
11 to the Clay Street tandem; that being a one-way incoming,
12 one-way outgoing, and two-way transit. At the time of
13 interconnection, we -- I would have to verify this, that
14 to San Marco there was directionalized trunk group, but no
15 two-way group that turned up and used for service.

16 In the Orlando market area at the time of
17 interconnection, there was a full complement of trunks
18 from Intermedia to the BellSouth -- excuse me, Magnolia
19 tandem. There were only directionalized trunks between
20 Intermedia and the Colonial tandem.

21 Q Let's drop back to the Jacksonville-serving
22 area, Mr. Thomas, for a moment. Tell me again, I think
23 you made this response to Mr. Edenfield, but just to be
24 sure, tell me what kinds of traffic and how -- what kinds
25 of traffic are carried through the San Marco and Clay

1 Street tandems through the Intermedia switch.

2 A On the directionalized reciprocal trunks, it's
3 normal local traffic. On the transit traffic, it would be
4 such traffic as other CLEC, independent ALEC, if there
5 were any, 800 traffic that is not responsible organization
6 coded to Intermedia or BellSouth. And there's other
7 kinds. I'm sorry, I'm drawing a blank right now.

8 Q Mr. Thomas, what have I displayed on the easel?

9 A That is the first page of the MTA amendment.

10 Q Let me direct your attention to the second
11 paragraph.

12 A Yes, sir.

13 Q What does the second paragraph do?

14 A It talks about the arrangement that is in place
15 for the ordering interconnection to a single access tandem
16 and the different type of trunk groups.

17 Q Does it define the traffic requirements under a
18 multiple tandem access arrangement?

19 A Yes, sir.

20 Q And what are those requirements?

21 A Repeat, please.

22 Q What are the traffic requirements to be carried
23 in a multiple tandem access arrangement as defined in the
24 second paragraph?

25 A Are you asking the traffic types?

1 Q Yes.

2 A Thank you.

3 As I shall read off the document, local and
4 intraLATA toll, transit traffic to and from other ALECs,
5 interexchange carriers, independent companies, and
6 wireless carriers.

7 Q Now, Mr. Thomas, again, in Jacksonville, what
8 types of traffic are carried through the San Marco tandem
9 to the Clay Street tandem and then on to the Intermedia
10 switch?

11 A It would be regular telephone traffic, regular
12 local telephone traffic.

13 Q What traffic is carried through the two-way
14 transit group that exists at the Clay Street tandem?

15 A That would be, as I have said before, other ALEC
16 or CLEC traffic, 800 traffic that is not owned by -- is a
17 company that has a responsible organization, it would be
18 intraLATA toll, it would be other wireless and, I believe,
19 it would be traffic destined to us that comes via an IXC.

20 Q Is it your understanding that under a multiple
21 tandem access arrangement, according to the multiple
22 tandem access -- the MTA amendment, that in order to
23 qualify for multiple tandem access arrangements all
24 traffic, including telephone traffic, plain old telephone
25 traffic, as well as transit traffic, must be carried via

1 the multiple tandem access arrangement?

2 A I would assume within the structure of paragraph
3 2 that is true.

4 Q And that is not the case in Jacksonville, is it?

5 A No, sir.

6 Q And in Orlando, describe, again, the
7 interconnection arrangements, Intermedia's interconnection
8 arrangements, to BellSouth's local tandems.

9 A Again, at the time of establishment or --
10 snapshot in time, please.

11 Q Let's take the period of time of Intermedia's
12 original interconnection.

13 A It would have been a full complement of trunks
14 between Intermedia and the BellSouth tandem at Magnolia
15 and directionalized trunk groups, or incoming and outgoing
16 trunks, between Intermedia and the BellSouth local access
17 tandem at Colonial.

18 Q And again, just as we discussed with reference
19 to the Jacksonville traffic, tell me, what types of
20 traffic are carried through the Colonial tandem on to the
21 Magnolia tandem and then on to Intermedia's switch.

22 A I'm sorry. Do that again, please.

23 Q All right. As you did for Jacksonville, tell me
24 what types of traffic are carried to the Intermedia switch
25 through the Colonial tandem and then on to the Magnolia

1 tandem.

2 A That would be any of that transit type traffic
3 or as it existed. Local telephone traffic would have come
4 under the directionalized trunk groups directly from
5 Colonial.

6 Q So, it's your testimony, as I understand it,
7 that only transit traffic is carried by means of the
8 tandem, the Colonial Magnolia tandem arrangement; is that
9 correct?

10 A Yes.

11 Q And is that consistent with paragraph 2 of the
12 MTA agreement?

13 A No. Paragraph 2 calls, again, for all traffic.

14 Q Mr. Thomas, Mr. Edenfield asked you a number of
15 questions concerning the Buckhead and/or Norcross ASR; did
16 he not?

17 A Yes, sir, he did.

18 Q I just want to be certain. It was your
19 testimony, was it not, that Intermedia set up the ASR at
20 the request of BellSouth?

21 A That is correct.

22 Q That's true; is it not?

23 A Yes, sir.

24 Q And I think in response to a question from
25 Commissioner Clark, which was did Intermedia --

1 effectively was did Intermedia understand that multiple
2 tandem access had been put in place prior to the request
3 for the ASR. Was that your understanding?

4 MR. EDENFIELD: Commissioner Deason, I'm sorry
5 to interrupt. Mr. Pelligrini is leading his witness. And
6 I object to the question.

7 MR. PELLIGRINI: I'll try to rephrase the
8 question.

9 BY MR. PELLIGRINI:

10 Q Again, it's your testimony that Intermedia
11 supplied the ASR to BellSouth upon BellSouth's request
12 that Intermedia do so; is that correct?

13 A Yes, sir.

14 COMMISSIONER DEASON: Mr. Pelligrini, that's
15 still a leading question.

16 MR. PELLIGRINI: I'll try one more time. I'm
17 sorry.

18 BY MR. PELLIGRINI:

19 Q What were the circumstances, as you understand
20 them, Mr. Thomas, surrounding the submission of the
21 Buckhead ASR in November of 1998?

22 A The circumstances, as I understand them, was
23 BellSouth had called Mr. Michael Lofton -- Mr. Kasey
24 Howard had called Mr. Michael Lofton and asked Intermedia
25 to submit an ASR for multiple tandem access arrangement.

1 Q And what do you understand BellSouth's reason to
2 have been for making that request?

3 A It's my understanding, sir, that they had asked
4 for that ASR for our records correction.

5 Q Tell me, why would BellSouth, in your opinion,
6 or to your knowledge, have requested an ASR for records
7 correction?

8 A I would assume that their network topology was
9 physically different than their design system showed.

10 COMMISSIONER CLARK: Mr. Thomas, just so I'm
11 clear, you assume that they asked for that, because it was
12 already in place, and they wanted to correct their
13 records?

14 THE WITNESS: Yes, ma'am.

15 COMMISSIONER CLARK: And that was not
16 necessarily what your records showed, that you had a
17 tandem -- I mean, an MTA.

18 THE WITNESS: I'm sorry, do that again, please.

19 COMMISSIONER CLARK: Did your records show that
20 you had an MTA in place?

21 THE WITNESS: Absolutely not. We would not have
22 a record of such. That would be an implem-- that would be
23 something that would be implemented in BellSouth. We
24 would not be able to see how they would have done that.
25 We, at the time, ma'am, had direct-trunk connectivity and

1 would have no need for MTA.

2 COMMISSIONER CLARK: So, your company did --
3 when you got a request for the ASC or whatever it is, ASR,
4 you didn't check your records to see if you had previously
5 requested that or that is the configuration?

6 THE WITNESS: Let me explain that.

7 The ASR that has been entered in as an exhibit
8 clearly shows that that trunk group had not been coded for
9 MTA. The original ASR for that trunk group did not have
10 the code that BellSouth has provided to us of what MTA is.
11 That would indicate, ma'am, that we did not have MTA in
12 our records.

13 COMMISSIONER CLARK: Thank you.

14 MR. PELLIGRINI: Are you finished, Commissioner
15 Clark?

16 BY MR. PELLIGRINI:

17 Q It was also your testimony in response to
18 Mr. Edenfield's questioning that this ASR was never
19 completed; is that correct?

20 A Yes, sir, that's true.

21 Q Mr. Thomas, I have given you -- I have laid in
22 front of you a document which I distributed to BellSouth
23 counsel and to Staff and to the Commissioners.

24 Mr. Thomas, what is this document?

25 A This document is an e-mail from Michael Lofton

1 to Kasey Howard with a copy to myself dated February 18th,
2 1999. And the subject is "Closing ASR number
3 1998-21479.50593," which I believe, if I can find the
4 number on the ASR, that BellSouth has provided in the same
5 ASR. It is, indeed.

6 MR. PELLIGRINI: Commissioner Deason, I would
7 ask that this document be identified as Exhibit 10.

8 COMMISSIONER DEASON: It will be so identified.

9 (Exhibit 10 was marked for identification.)

10 BY MR. PELLIGRINI:

11 Q Mr. Thomas, I would like you to read into the
12 record the contents of that e-mail.

13 A Yes, sir.

14 "Kasey, per our conversation this morning,
15 concerning the multiple tandem architecture, Intermedia
16 concurs with your understanding that BellSouth requested
17 this to be deployed to assist with the completion of
18 traffic being blocked due to capacity limitations in the
19 Buckhead tandem. We also understand that BellSouth has
20 requested this arrangement be left in place until
21 BellSouth has worked through the capacity problems in the
22 Atlanta area and specifically the Buckhead tandem. We
23 reiterate our preference to continue our direct
24 interconnection to all the tandems in the Atlanta LATA.
25 Thus, I am closing out ASR 1998-21479.50593 that you

1 requested Intermedia submit to BellSouth in November in
2 order to keep your internal records consistent with
3 BellSouth's circuit deployment. Thanks. Mike Lofton."

4 Q To summarize, Mr. Thomas, what is the effect of
5 that e-mail?

6 A The effect of that e-mail, effectively cancels
7 the ASR that was sent at the request of BellSouth to
8 implement MTA on the Buckhead tandem.

9 Q I think it was also your testimony that this ASR
10 was never completely processed; is that correct?

11 A That is correct, it was never processed by me.

12 Q Can you explain what you mean by that?

13 A Yes, sir. An ASR from the originator,
14 typically, is sent to the other end, if you will. The
15 other end will then do facilities design, records checks,
16 et cetera, and return what is called a firm order
17 commitment within, typically, five business days. The
18 process on this ASR was it was sent to BellSouth on
19 11-6-1998, and then ultimately shelved and finally
20 cancelled via this e-mail.

21 Q The e-mail was dated what? Tell me again.

22 A Repeat, please.

23 Q The e-mail date is what?

24 A The e-mail date is February 18th, 1999.

25 Q And you've just said that the ordinary practice

1 is for an FOC to be issued against an ASR within five
2 business days; is that correct?

3 A That is correct.

4 Q And the ASR was submitted originally in
5 November, 1998, correct?

6 A Yes, sir.

7 Q Do you know anything other than what you've
8 testified so far about the history of this ASR.

9 Let me ask the question this way. To your
10 knowledge, was the ASR ever rejected?

11 A From the BellSouth exhibit, if you will notice
12 going back to the part or the pages on the BellSouth
13 exhibit back to the ones that at the top have a date 11-7;
14 and specifically, I will -- I just happened to flip over
15 to page 21 of 42, and on that page there are what would be
16 considered either as errors or discrepancies between
17 Intermedia and BellSouth on certain entrees of the
18 original ASR.

19 This -- at that point, the ASR would have been
20 stopped in the BellSouth design and provisioning system
21 until the discrepancies, if you will, were mediated or
22 agreed upon and allowed to flow through.

23 I believe, further on in here, and I will try to
24 find the page, there is a handwritten notation from
25 BellSouth, an employee in their ICSC, which is an

1 Interconnection Carrier Service Center that says, "Hold
2 for a response from Kasey."

3 So I would assume that somewhere along the line,
4 Kasey Howard became involved with this and they had some
5 kind of internal discussions concerning this ASR. It was
6 never an FOC on the ASR. The ASR was never completed.

7 Q Mr. Thomas, is it commonplace at all for a
8 carrier to request an ASR of another carrier with which it
9 is interconnected in order to conform records?

10 A Yes, it happens.

11 Q This -- by the way, this -- I won't go there.

12 Mr. Edenfield also questioned you extensively
13 concerning Intermedia's connections with -- trunk
14 connections with BellSouth's tandems in the Atlanta LATA;
15 do you recall that?

16 A Yes, sir.

17 Q Do you know how many BellSouth tandems there are
18 in Georgia?

19 A No, sir, I don't. In Georgia? No, sir, I
20 don't.

21 Q Do you understand the difference between local
22 and access tandems?

23 A I understand what my perception is, the
24 difference between what I consider to be local and access
25 tandems, yes.

1 Q Tell me what that is.

2 A Well, when I spoke of a local tandem, I am
3 talking about a tandem that switches local calls only. An
4 access tandem may also be a local tandem or local access
5 tandem. There's also another definition that is widely
6 used and sometimes you have to really ask for a clear
7 definition. An access tandem may be on the long-distance
8 side of the network also. An access tandem is, basically,
9 a tandem where you get access to the network.

10 Q So, clarify your testimony, if you will. When
11 you say that Intermedia's direct trunked to all of
12 BellSouth's tandems in the Atlanta LATA, what precisely do
13 you mean?

14 A Well, if I may explain that more fully,
15 Intermedia, on the long-distance side does, indeed, have
16 feature group "D" tandems -- or excuse me, feature group
17 "D" trunks to every tandem, be it BellSouth's or
18 independent within Georgia. We cover all the LATAs within
19 Georgia.

20 On the local access tandem side, if you will;
21 again, we're talking in the metro Atlanta area, we do,
22 indeed, connect to those tandems that I have testified to
23 earlier.

24 Q Isn't multiple tandem access an arrangement
25 designed for access to -- for purposes of carrying and

1 sending local traffic?

2 MR. EDENFIELD: Objection to the question. He's
3 leading the witness again.

4 MR. PELLIGRINI: I'll try the question a little
5 bit differently.

6 BY MR. PELLIGRINI:

7 Q What kind of traffic -- no, let's do it this
8 way.

9 Assume, for a moment, that there are two types
10 based on your response, that there are both local and
11 access tandems; is that your understanding?

12 A Yes.

13 Q Does MTA provide a means for access to local
14 tandems?

15 A Yes, sir.

16 Q Does it provide a means for access to access
17 tandems?

18 A I don't believe so. We wouldn't use it, if it
19 did.

20 Q Does multiple tandem access require direct
21 trunking to local tandems?

22 A Yes.

23 Q Does it require direct trunking to access
24 tandems?

25 A If you're talking local access tandem, yes, sir.

1 Q So, when you say -- when you testify that
2 Intermedia is, in fact, interconnected directly; that is,
3 to each of BellSouth's tandems in Atlanta, I'd like you to
4 once again tell me exactly what it is you mean.

5 A All right. As we were going through this on the
6 local side, we are connected to all of the local access
7 tandems where we do business, those tandems being East
8 Point, Athens, Norcross, the Buckhead -- or local-only
9 tandem, Buckhead, and, I'm sorry, I'm having a -- there's
10 one other -- oh, Gainesville; thank you, Gainesville.

11 Q Your testimony is that Intermedia is direct
12 trunked -- let's go back in time.

13 At the time just prior to the MTA amendment;
14 that is, in May of 1998, describe what Intermedia's
15 trunking arrangements were at that time with BellSouth's
16 tandems, local tandems.

17 A In 1997, we established connectivity with
18 BellSouth as the Buckhead tandem. That would have been
19 complete connectivity or arrangement connectivity with
20 incoming, outgoing, and two-way transit type trunks. In
21 1998, we expanded outgoing trunks to Norcross, East Point,
22 Athens, and Gainesville.

23 MR. PELLIGRINI: I have no further questions.

24 MR. EDENFIELD: Commissioner Deason, if I may,
25 before we mark the exhibits, this new exhibit that

1 Intermedia has introduced as e-mail has given rise to a
2 couple questions. I know it's a little unusual, but if I
3 could have some latitude to ask a couple follow-up
4 questions on that.

5 COMMISSIONER DEASON: Please, proceed.

6 RECROSS EXAMINATION

7 BY MR. EDENFIELD:

8 Q Mr. Thomas, what is the general procedure for
9 cancelling an ASR?

10 A The general procedure, sir, would be to send a
11 supplement to the original ASR asking for cancellation.

12 Q A supplement to the ASR would be something sent
13 electronically through the databases, through the
14 interfaces, similar to the way it was presented the first
15 time?

16 A From Intermedia to BellSouth, we send
17 electronically. From BellSouth back to Intermedia, you
18 use facsimile.

19 Q Is an e-mail from Michael Lofton to Kasey Howard
20 the same thing as a supplemental order sent through the
21 interfaces?

22 A No, but the entire arrangement for this ASR was
23 not normal either.

24 Q Okay. Would you expect that if Intermedia
25 already had an MTA arrangement in place to have received

1 an FOC back for the ASR?

2 A I'm sorry, sir, I missed part of that question.
3 Would you, please?

4 Q If Intermedia already had an MTA arrangement in
5 place, would you have expected a firm order confirmation
6 from the 11-6-99 or '98 ASR?

7 A Absolutely.

8 Q Do you have any document in your possession or
9 Intermedia, for that matter, showing that you sent a
10 supplemental order cancelling the ASR?

11 A No, sir.

12 MR. EDENFIELD: Thank you.

13 MR. PELLIGRINI: Commissioner Deason, may I have
14 one question in response to Mr. Edenfield's questions?

15 COMMISSIONER DEASON: Yes.

16 REDIRECT EXAMINATION

17 BY MR. PELLIGRINI:

18 Q Mr. Thomas, did BellSouth respond to
19 Mr. Lofton's e-mail, to your knowledge?

20 A Not to my knowledge.

21 MR. PELLIGRINI: That's all.

22 COMMISSIONER DEASON: Okay. Exhibits?

23 MR. PELLIGRINI: Intermedia would ask that
24 exhibit marked 5 for identification be entered into the
25 record.

1 COMMISSIONER DEASON: Without objection, it
2 shall be admitted.

3 (Exhibit 5 was admitted into evidence.)

4 MR. PELLIGRINI: Intermedia also requests that
5 the exhibit marked 6 for identification be entered into
6 the record.

7 COMMISSIONER DEASON: This is --

8 MR. PELLIGRINI: This is the composite
9 proprietary exhibits, yes.

10 COMMISSIONER DEASON: Okay, without objection.

11 MR. EDENFIELD: No objection.

12 MR. PELLIGRINI: And lastly, Intermedia would
13 ask that Exhibit 10 be entered into the record.

14 COMMISSIONER DEASON: Without objection.

15 MR. EDENFIELD: No objection.

16 COMMISSIONER DEASON: Exhibit 10 is admitted.

17 (Exhibits 6 and 10 were admitted into evidence.)

18 COMMISSIONER DEASON: Further exhibits?

19 MR. EDENFIELD: From BellSouth, and if I could
20 at this time, I'd like to identify the deposition of
21 Edward L. Thomas taken on June 6th, 2000 in this docket.
22 Ms. White's handing out a copy. I would like to get that
23 identified, if I may, Commissioner Deason.

24 COMMISSIONER DEASON: Exhibit 11.

25 (Exhibit 11 was marked for identification.)

FLORIDA PUBLIC SERVICE COMMISSION

1 MR. EDENFIELD: At this point, I would move into
2 evidence the documents identified as 7, 8, 9, and 11,
3 unless you'd like me to do them individually.

4 COMMISSIONER DEASON: 7, 8, 9 and 11. Any
5 objection?

6 MR. PELLIGRINI: No objection.

7 COMMISSIONER DEASON: Hearing no objection,
8 Exhibit 7, 8, 9 and 11 are admitted.

9 (Exhibits 7, 8, 9, and 11 were admitted into
10 evidence.)

11 COMMISSIONER DEASON: I have one question. As
12 it relates to Exhibit 8, which is the testimony of Carl
13 Jackson, which was filed in Georgia on April the 21st,
14 what is the purpose of having that testimony entered into
15 this record? Because I think it should be very limited.

16 MR. EDENFIELD: It certainly would be limited
17 only to the pages I referenced and the lines I referenced.
18 In fact, if the Commission would rather just take official
19 notice of that, that would be fine as well, but I have
20 moved it into evidence, but I would make that limited to
21 the pages referenced.

22 COMMISSIONER DEASON: I will allow it into the
23 record, but only for those specific pages to which you
24 made reference and for the purposes of the questions which
25 you asked.

1 MR. PELLIGRINI: Commissioner Deason, may I?

2 COMMISSIONER DEASON: Yes.

3 MR. PELLIGRINI: With reference to Exhibit 9, I
4 would just simply note that that document is not one that
5 Mr. Thomas had previously had a chance to look at nor was
6 it identified by a title.

7 COMMISSIONER DEASON: Well, it was identified as
8 network information warehouse printout.

9 MR. PELLIGRINI: I understand that.

10 COMMISSIONER DEASON: And, apparently, the
11 witness did have some working knowledge of that.

12 Okay. I believe that concludes Intermedia's
13 direct case. We will recess for lunch until 2:15.

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STATE OF FLORIDA

CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, KORETTA E. STANFORD, RPR, Official Commission Reporter, do hereby certify that the Hearing in Docket No. 991534-TP was heard by the Florida Public Service Commission at the time and place herein stated.

It is further certified that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript, consisting of 164 pages, constitutes a true transcription of my notes of said proceedings and the insertion of the prescribed prefiled testimony of the witness(s)..

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 16TH DAY OF JUNE, 2000.

Koretta E. Stanford
KORETTA E. STANFORD, RPR
FPSC Official Commissioner Reporter
(850) 413-6734