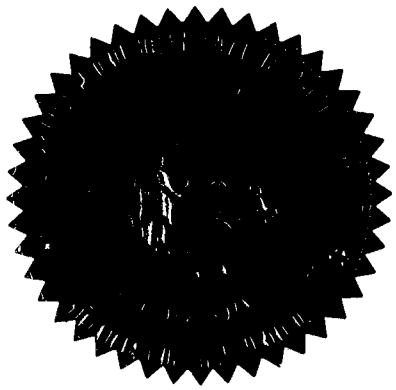
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 000075-TP (PHASE II)

In the Matter of

INVESTIGATION INTO APPROPRIATE METHODS TO COMPENSATE CARRIERS FOR EXCHANGE OF TRAFFIC SUBJECT TO SECTION 251 OF THE TELECOMMUNICATIONS ACT OF 1966.
_____/



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VOLUME 1

Pages 1 through 181

PROCEEDINGS:	HEARING
BEFORE:	CHAIRMAN E. LEON JACOBS, JR. COMMISSIONER J. TERRY DEASON COMMISSIONER LILA A. JABER COMMISSIONER BRAULIO L. BAEZ COMMISSIONER MICHAEL A. PALECKI
DATE:	Thursday, July 5, 2001
TIME:	Commenced at 1:00 p.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	JANE FAUROT, RPR Chief, Office of Hearing Reporter Services FPSC Division of Commission Clerk and Administrative Services

APPEARANCES:

MORTON POSNER, 1150 Connecticut Avenue, N.W., Suite 205, Washington, D.C. 20036, appearing on behalf of Allegiance Telecom of Florida, Inc.

JIM LAMOUREAUX, AT&T Communications of the Southern States, Inc., 101 North Monroe Street, Suite 700, Tallahassee, Florida 32301-1549, appearing on behalf of AT&T Communications of the Southern States, Inc.

EARL EDENFIELD and JAMES MEZA, c/o Nancy Sims, 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301, appearing on behalf of BellSouth Telecommunications, Inc.

NORMAN H. HORTON, JR., Messer, Caparello & Self, P.A., 215 South Monroe Street, Post Office Box 1876, Tallahassee, Florida 32302-1876, appearing on behalf of e.spire Communications, Inc.

JON C. MOYLE, JR., Moyle Law Firm, The Perkins House, 118 North Gadsden Street, Tallahassee, Florida 32301, and CHRISTOPHER SAVAGE, Cole, Raywid & Braverman, L.L.P, 1919 Pennsylvania Avenue, N.W., Suite 200, Washington, D.C. 20006, appearing on behalf of Global NAPS, Inc.

APPEARANCES CONTINUED:

KENNETH A. HOFFMAN and MARTIN P. McDONNELL, Rutledge, Ecenia, Underwood, Purnell & Hoffman, P. O. Box 511, 215 South Monroe Street, Suite 420, Tallahassee, Florida 32302-0551, appearing on behalf of Level 3 Communications, LLC, and US LEC of Florida, Inc., AT&T Communications of the Southern States, MediaOne, and Allegiance Telecom of Florida, Inc.

JOSEPH A. McGLOTHLIN, McWhirter, Reeves, McGlothlin, Davidson, Dekker, Kaufman, Arnold & Steen, 117 South Gadsden Street, Tallahassee, Florida 32301, appearing on behalf of The Florida Competitive Carriers Association.

DONNA C. McNULTY, 325 John Knox Road, Suite 105, Tallahassee, Florida 32303-4131, appearing on behalf of MCI WorldCom, Inc.

SUSAN S. MASTERTON, P. O. Box 2214, Tallahassee, Florida 32316-2214, appearing on behalf of Sprint-Florida, Incorporated, and Sprint Communications Limited Partnership.

APPEARANCES CONTINUED:

PETER DUNBAR, Pennington, Culpepper, Moore, Wilkinson, Dunbar & Dunlap, P.A., Post Office Box 10095, Tallahassee, Florida, 32302-0551, appearing on behalf of Time Warner Telecom of Florida, L.P.

KIMBERLY CASWELL, P. O. Box 100, FLTC0007, Tampa, Florida 33601-0110, appearing on behalf of Verizon Florida, Inc.

MICHAEL R. ROMANO, 1025 Eldorado Boulevard, Broomfield, Colorado 80021, appearing on behalf of Level 3.

RICHARD D. MELSON, Hopping Green Sams Smith, P.A., Post Office Box 6526, Tallahassee, Florida 32302, appearing on behalf of MCI WorldCom and Intermedia Communications, Inc.

MICHAEL GROSS, 310 North Monroe Street, Tallahassee, Florida 32301, appearing on behalf of Florida Cable Telecommunications Association.

FELICIA BANKS and BETH KEATING, Florida Public Service Commission, Division of Legal Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870, appearing on behalf of the Commission Staff.

I N D E X

WITNESSES

EXHIBITS

P R O C E E D I N G S

CHAIRMAN JACOBS: We will call the hearing to order. Counsel, read the notice.

MS. BANKS: Pursuant to notice issued May 23rd, 2001, this time and place has been set for a hearing for Phase II in Docket Number 000075-TP, investigation into appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996.

CHAIRMAN JACOBS: Thank you. Take appearances.

MR. EDENFIELD: Good afternoon, Commissioners. Kip Edenfield on behalf of BellSouth. And with me today is Jim Meza, also on behalf of BellSouth.

MS. CASWELL: Kim Caswell for Verizon Florida, Incorporated.

MS. MASTERTON: Susan Masterton for Sprint.

MR. DUNBAR: Pete Dunbar of the Pennington firm, Time Warner Telecom.

MR. LAMOUREUX: Jim Lamoureux representing AT&T.

MR. McDONNELL: Marty McDonnell, and behind me is Ken Hoffman, together we represent along with Mr. Lamoureux, AT&T. And we also represent Allegiance Telecom of Florida along with Morton Posner; Level 3, along with Michael Romano, and US LEC.

CHAIRMAN JACOBS: Very well. Now, are you entering an appearance on behalf of Mr. Morton?

MR. McDONNELL: Please. I'm sorry, Mr. Chairman. On behalf of Mr. Posner and also Michael Romano.

CHAIRMAN JACOBS: Very well. Mr. Moyle.

MR. MOYLE: Jon Moyle, Jr., from the Moyle Flanigan law firm representing Global NAPS.

Chris Savage is also on the pleadings.

MR. McGLOTHLIN: Joe McGlothlin for the FCCA.

MR. MELSON: Rick Melson of the Hopping Green Sams and Smith law firm on behalf of MCI WorldCom. I would also enter an appearance for Donna McNulty of MCI WorldCom.

MR. GROSS: Michael Gross on behalf of FCTA.

MR. HORTON: Norman H. Horton, Jr. of Messer Caparello and Self on behalf of e.spire Communications.

MS. BANKS: Felicia Banks, Beth Keating, and Harold McLean on behalf of Commission staff.

CHAIRMAN JACOBS: Very well. And, Mr. Sapperstein, I assume he is on his way. That's correct. You're right, Mr. Sapperstein was excused. Very well.

Are there any preliminary matters?

MS. BANKS: Yes, Mr. Chairman, we have a few preliminary matters. The first matter is that there are several witnesses that have been excused. And based on a stipulation by the parties, the prehearing officer has excused the following witnesses: Witnesses Joseph Gillan, Elizabeth Geddes, and William Hunt. And staff would just further note

that at the prehearing in this proceeding that Witnesses Nathaniel Tolar and Howard Lee Jones were excused, as well.

CHAIRMAN JACOBS: Very well.

MS. BANKS: The next item is on June 29th, 2001, Sprint filed a notice of substitution of witness and adoption of testimony. In its notice, Sprint states that Mike Maples would be substituting for Witness Michael Hunsucker and would be adopting the testimony, direct and rebuttal.

CHAIRMAN JACOBS: Very well. And that is agreeable to all parties, I assume.

MS. BANKS: The next item is counsel's request to be excused by fax letter dated July 3rd, 2001, Marty McDonnell requested that Mr. Morton Posner, counsel for Allegiance, be excused. On that same date the Chairman granted the request to be excused.

CHAIRMAN JACOBS: That takes care of it?

MS. BANKS: There is one more item, Mr. Chairman. Parties have advised me that there is a preliminary position statement or supplemental statement on Issue 16B, and I am going to defer to Mr. McGlothlin to address that.

CHAIRMAN JACOBS: Mr. McGlothlin.

MR. McGLOTHLIN: Commissioners, Issue 16B asks what carrier-to-carrier compensation mechanism, if any, should apply to IP Telephony. At an earlier meeting on behalf of FCCA, I indicated that FCCA regarded that as a possible subject to a

stipulation and offered to pursue that. What we have is not a stipulation of all parties.

However, in addition to FCCA, nine other parties have agreed to indicate a joint position that supplements the earlier statements on that matter. The parties are FCCA, Verizon, AT&T, MCI WorldCom, Sprint, e.spire, Allegiance, TCG, MediaOne Florida Telecommunications, and Intermedia. And I have a copy of the joint statement to pass out to you. It reflects the view of these parties that it would be premature to attempt to address 16B in a substantive way in this proceeding.

CHAIRMAN JACOBS: Very well. Thank you.

MS. BANKS: Mr. Chairman, I believe that staff has already provided copies to the Commissioners.

CHAIRMAN JACOBS: Yes, we do have it. Very well. Are there any other preliminary matters?

MS. BANKS: Mr. Chairman, that is all I have.

CHAIRMAN JACOBS: Very well. I see that by agreement there will be no opening statements by the parties and that we will have both direct and rebuttal combined at one sitting for each witness.

Do the parties have any other issues or preliminary matters? Very well. At this time we will swear the witnesses. Would everyone who is here to testify, please stand and raise your right hand.

(Witnesses sworn.)

CHAIRMAN JACOBS: Thank you very much. You may be seated. And the first witness it looks like, Mr. Edenfield, BellSouth is the first witness.

MS. BANKS: Mr. Chairman, if I can interject. Staff would like to go ahead and move into the record staff's stipulated exhibits.

CHAIRMAN JACOBS: Okay.

MS. BANKS: And I believe that parties have been provided a copy of the exhibit packet compiled by staff. And staff did want to go ahead and note that our exhibit list begins with Stipulation Exhibit Number 2, and we begin our exhibit packet mainly with Stipulation Exhibit 2 because the official recognition list based on the recommendation of the Chairman is not -- he has deemed it not to be necessary, so we just omitted that from the packet.

CHAIRMAN JACOBS: Very well. I understand all parties are aware of that and agree with it. Very well.

MS. BANKS: So if we would go ahead and begin. Staff's Stipulated Exhibit Number 2 would be hearing Exhibit Number 1, and that is MCI WorldCom's responses to staff's first set of interrogatories.

CHAIRMAN JACOBS: Very well. Show that marked as Exhibit 1.

MS. BANKS: Staff's Stipulated Exhibit Number 3,

which is Level 3's responses to staff's first set of interrogatories.

CHAIRMAN JACOBS: Show that marked as Exhibit 2.

MS. BANKS: Staff's Stipulated Exhibit Number 4 is the joint ALEC responses to staff's first set of interrogatories.

CHAIRMAN JACOBS: Show that marked as Exhibit 3.

MS. BANKS: Staff's Stipulated Exhibit Number 5 is AT&T, TCG, and MediaOne's responses to staff's first set of interrogatories.

CHAIRMAN JACOBS: Show that marked as Exhibit 4.

MS. BANKS: Staff's Stipulated Number 6, which is BellSouth's responses to staff's first set of interrogatories.

CHAIRMAN JACOBS: Show that marked as Exhibit 5.

MS. BANKS: Staff's Stipulated Exhibit Number 7 is Sprint's responses to staff's first set of interrogatories.

CHAIRMAN JACOBS: Show that marked as Exhibit 6.

MS. BANKS: Staff's Stipulated Exhibit Number 8, which is Verizon's responses to staff's first set of interrogatories.

CHAIRMAN JACOBS: Exhibit 7.

MS. BANKS: Staff's Stipulated Exhibit Number 9, which is FCCA's responses to staff's first set of interrogatories.

CHAIRMAN JACOBS: Exhibit 8.

MS. BANKS: And the last one is staff's Stipulated Exhibit Number 10, which is the joint ALEC responses to staff's second set of interrogatories.

CHAIRMAN JACOBS: Exhibit 9. And those each would be composite exhibits, is that correct?

MS. BANKS: No, Mr. Chairman, they should be separate.

CHAIRMAN JACOBS: No, I mean, they are separate responses in each set, correct?

MS. BANKS: Yes, sir.

CHAIRMAN JACOBS: Without objection, show Exhibits 1 through 9 are entered into the record.

(Exhibits 1 through 9 marked for identification and admitted into the record.)

CHAIRMAN JACOBS: That takes care of all the stipulated exhibits. Any others? Very well.

You may proceed, Mr. Edenfield.

MR. EDENFIELD: Thank you, Chairman Jacobs. Before I start from Mr. Ruscilli, I understand from the prehearing that Mr. Tolar's testimony and exhibits are already admitted into the record.

Do I need to do that officially here or are they technically in the record already?

CHAIRMAN JACOBS: No, we need to do that officially.

MR. EDENFIELD: Would you like for me just to wait

until I get to him or would you just like to do all of that -- it doesn't matter, Mr. Ruscilli is ready.

CHAIRMAN JACOBS: We can do it now. It's not a problem.

MR. EDENFIELD: At this point I would -- Mr. Tolar had filed direct testimony consisting of 7 pages, and he had it looks like three exhibits attached to that. At this point I would move in Mr. Tolar's direct testimony into the record as if read and ask that his exhibits be marked as Exhibit Number 10 for identification.

CHAIRMAN JACOBS: Without objection, show Mr. Tolar's direct testimony is entered into the record as though read. And show Exhibit NDT-1 is marked as Exhibit 10.

MR. EDENFIELD: And I would move that exhibit into the record.

CHAIRMAN JACOBS: Without objection, show Exhibit 10 is admitted into the record.

(Exhibit 10 marked for identification and admitted into the record.)

BELLSOUTH TELECOMMUNICATIONS, INC.

DIRECT TESTIMONY OF NATHANIEL (NAT) D. TOLAR

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 000075-TP (PHASE II)

MARCH 12, 2001

Q. PLEASE STATE YOUR NAME, YOUR BUSINESS ADDRESS, AND YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH").

A. My name is Nathaniel (Nat) D. Tolar. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375. I am employed by BellSouth as Manager – Interconnection Services for the nine-state BellSouth region. In this position I am responsible for the management of issues assigned to me regarding network interconnection and unbundled network elements provided to Alternative Local Exchange Carriers (ALECs). I have been in my current position since February 2000.

Q. PLEASE SUMMARIZE YOUR BACKGROUND AND EXPERIENCE.

A. My business career spans over 30 years and includes responsibilities in the areas of network planning, engineering, regulatory, forecasting, finance, small business services, strategic planning, performance measurements and interconnection services. Prior to my BellSouth employment, I performed a variety of functions including design

engineering and software production with the Western Electric Company (now Lucent Technologies). I received a Bachelors of Science Degree in Mathematics from the University of North Carolina at Pembroke in 1970.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?

A. In my testimony, I will address the types of local network architectures that BellSouth currently employs and how traffic volumes affect its choice of architectures. Specifically, I will address the following issues, in whole or in part: Issue 11 of General Compensation Issues, Attachment A

Issue 11: What types of local network architectures are currently employed by ILECs and ALECs, and how does a carrier's past, present, and forecasted traffic volumes affect its choice of architectures? (Informational issue)

Q. WOULD YOU COMMENT ON THE TYPES OF ARCHITECTURES CURRENTLY EMPLOYED BY ILECs AND ALECs.

A. I cannot comment on other ILECs or ALECs but will describe BellSouth's architecture.

Q. WHAT ARE THE TYPES OF ARCHITECTURES USED BY BELLSOUTH IN ITS DEPLOYMENT OF ORIGINATING AND TERMINATING CALLS IN A LOCAL ACCESS AND TRANSPORT AREA (LATA).

A. As shown in Exhibit NDT-1, slide 1, BellSouth's switching systems are interconnected by a network of trunks that handle a variety of customer services. In order for a Florida local customer served by BellSouth to make an interLATA call, BellSouth's switching systems must be connected to the networks of the Interexchange Carriers (IXCs) at a long distance Point of Presence (POP). The number and placement of these switching systems is mainly dependent on the economic trade-off between trunking and switching costs. The use of intermediate switching systems (tandem switches) is determined by economic studies that evaluate whether traffic is more economically handled over direct trunking between two switching systems or by combining traffic from multiple locations into one group through the tandem switch. BellSouth provides an automatic alternate routing plan that utilizes multiple paths to complete a call within its switching systems. When a call is to be delivered to a customer served by another switching system, the routing plan will determine the first path (trunk group) that the call is to take. If that path is busy, the call is automatically route-advanced to the next trunk group and so forth in the routing plan until it reaches an available final route for call completion.

Q. WHAT KINDS OF SWITCHING SYSTEMS DO BELLSOUTH EMPLOY?

A. BellSouth employs the Stored Program Control (SPC) system as its most common type of switching equipment used at its End and Tandem offices. These systems use either analog or digital technology. Signaling between

these systems is either inband (multi-frequency or dial pulse) or out-of-band (Common Channel Signaling (CCS)). BellSouth has deployed the Signaling System 7 (SS7) CCS that allows for faster call setup time, database access and other basic call setup features.

Q. WHAT FUNCTIONS DO THE END OFFICE SWITCHING SYSTEMS PROVIDE?

A. The end office switching systems provide access to the Message Telecommunications Service (voice) or packet network (data). The network's basic function is to provide communication paths between terminal equipment located at the customer's locations. If the originating and terminating point of the path is in the same switching system, the communications path is through one switching system only. If the customers are in different switching systems (commonly called central offices) in the same LATA, the communication path is established via BellSouth's intraLATA trunking network. Originating and terminating calls between LATAs must currently go through the interLATA network via an IXC.

Q. WHAT FUNCTIONS DO THE TANDEM SWITCHING SYSTEMS PROVIDE?

A. BellSouth provides tandem switching systems to interconnect its end offices when direct trunk groups are not economically justified or when alternate

routing is justified. These tandem switching systems allow BellSouth the ability to configure the network in its most economic fashion. It also provides additional functions such as buffers between different switching systems, centralization functions for billing and database access along with the following:

- Connection to other tandems
- Centralized Automatic Message Accounting points
- Access to Interconnection Carriers
- Access to Operator Functions

Q. WOULD YOU COMMENT ON HOW THESE ARCHITECTURES ARE AFFECTED BY CHANGES IN TRAFFIC VOLUMES?

A. Yes. As stated in the description of BellSouth's architecture, the design of the intraLATA network configuration is based on economics. The decision to provide tandem switching is directly related to the quantity of trunks between two points and multiple points in the case of alternate routing. As shown in slide 2 of Exhibit NDT-1, adding an ALEC switching system to this configuration adds another decision point in this economic analysis. The ALEC would need to decide to either provide direct trunking to BellSouth's end offices or utilize the tandem switch as the interconnection point or some combination of these. BellSouth would then establish the appropriate trunking to deliver this traffic throughout its network switching configuration.

Depending on the quantity of ALEC traffic, new arrangements could be necessary or additional trunking may be required.

Q. WOULD YOU PROVIDE AN EXAMPLE OF HOW THE CHANGES IN AN ALEC's NETWORK ARCHITECTURE WOULD AFFECT BELLSOUTH'S INTRALATA NETWORK?

A. Yes. First, when a new ALEC enters the network and they select the resale mode of entry, there is very little, if any change to the BellSouth's network configuration. Since the ALEC subscribers are handled identical to BellSouth's retail customers, no trunking or switching system changes are required. Next, an ALEC might add a collocation point as their method of provisioning service. As shown in Exhibit NDT-1, slide 2, BellSouth would have to change the intraLATA switching pattern for this ALEC's calls. At the time the ALEC was reselling BellSouth's service, all intraLATA calls were completed using the BellSouth network routing plan. With the change to collocation, all intraLATA calls for this ALEC must be delivered to their Point of Interface at their collocation point. This would require changes to the BellSouth network configuration and the establishment of trunk groups to the ALEC collocation office, either direct or through tandem switching. Finally, an ALEC becomes total facility based. In slide 3 of Exhibit NDT-1, I show the ALEC as a facility-based provider. Depending on whether the interconnection for this carrier moves from its existing collocation office or not, major trunking rearrangements might be required to meet this change.

Q. WHAT WOULD BE THE EFFECT OF THESE NETWORK CONFIGURATION CHANGES ON BELLSOUTH?

A. The overall effect in either of these methods is that BellSouth will have major rearrangements in its network configuration. When customers change their local service providers, this can have the same effect. If a large business that is currently served by ALEC A, switches to ALEC B, the trunking arrangements could change throughout BellSouth's intraLATA network. As previously shown, moving large amounts of call volumes from one switching system (central office) to another will require BellSouth to reevaluate the trunking patterns and routing plans for that area.

Q. HOW DOES BELLSOUTH FORECAST THESE CHANGES?

A. The best way to forecast these changes is direct information from the ALECs. As with all business projections, many ALECs will forecast the same group of customers in their marketing plans. Also, many ALECs do not share their plans with BellSouth. Our network engineering groups are faced with making forecasts for those ALECs who do not share their plans or trying to validate the ambitious projections of those who do. The success of these forecasts is best measured by the ability of BellSouth to meet the needs of our ALEC customers.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes

MR. EDENFIELD: At this point BellSouth would call John Ruscilli to the stand.

JOHN RUSCILLI

was called as a witness on behalf of BellSouth Telecommunications, Inc., and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. EDENFIELD:

Q Mr. Ruscilli, will you confirm that you were previously sworn?

A Yes, I was.

Q Are you the same John Ruscilli who caused to be filed in this proceeding 50 pages of direct testimony and one exhibit?

A I am.

Q Are you the same John Ruscilli who caused to be filed 26 pages of rebuttal testimony and no exhibits?

A I am.

Q Will you state your position with the company, please?

A I am senior director for state regulatory for BellSouth Telecommunications.

Q Do you have any changes to your testimony?

A No, I do not.

Q If I were to ask you the questions that appear in

your testimony, would your answers be the same today?

A Yes, they would.

MR. EDENFIELD: At this point I would move Mr. Ruscilli's direct and rebuttal testimony into the record as if read.

CHAIRMAN JACOBS: Without objection, show Mr. Ruscilli's direct and rebuttal testimony are entered into the record as though read.

MR. EDENFIELD: I would ask that his exhibit be marked as Exhibit Number 11 for identification.

CHAIRMAN JACOBS: Show Exhibit JAR-1 is identified as Exhibit 11.

(Exhibit 11 marked for identification.)

BELLSOUTH TELECOMMUNICATIONS, INC.

DIRECT TESTIMONY OF JOHN A. RUSCILLI

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 000075-TP (PHASE II)

MARCH 12, 2001

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS ADDRESS.

A. My name is John A. Ruscilli. I am employed by BellSouth as Senior Director for State Regulatory for the nine-state BellSouth region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE.

A. I attended the University of Alabama in Birmingham where I earned a Bachelor of Science Degree in 1979 and a Master of Business Administration in 1982. After graduation I began employment with South Central Bell as an Account Executive in Marketing, transferring to AT&T in 1983. I joined BellSouth in late 1984 as an analyst in Market Research, and in late 1985 moved into the Pricing and Economics organization with various responsibilities for business case analysis, tariffing, demand analysis and price regulation. I served as a subject matter expert on ISDN tariffing in various commission and public service

commission ("PSC") staff meetings in Tennessee, Florida, North Carolina and Georgia. I later moved into the State Regulatory and External Affairs organization with responsibility for implementing both state price regulation requirements and the provisions of the Telecommunications Act of 1996, through arbitration and 271 hearing support. In July 1997, I became Director of Regulatory and Legislative Affairs for BellSouth Long Distance, Inc., with responsibilities that included obtaining the necessary certificates of public convenience and necessity, testifying, Federal Communications Commission ("FCC") and PSC support, federal and state compliance reporting and tariffing for all 50 states and the FCC. I assumed my current position in July 2000.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to present BellSouth's policy positions to the issues 10, and 12-17 as contained in the Commission's Order Adopting, Incorporating, and Supplementing Order No. PSC-00-2229-PCO-TP Establishing Procedure dated December 7, 2000. In addition to my testimony, BellSouth is filing the testimony of Mr. Nat Tolar who will address issue 11.

Issue 10: Pursuant to the Telecommunications Act of 1996 ("the Act"), the FCC's rules and orders, and Florida Statutes, what is the Commission's jurisdiction to specify the rates, terms, and conditions governing compensation for transport and delivery of traffic subject to Section 251 of the Act? (Legal issue)

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. Since this is a legal issue, BellSouth's position on this issue will appropriately be addressed in its Post-Hearing Brief filed in this proceeding.

Pursuant to the Act and FCC rules, the Commission is required to ensure that BellSouth has established reciprocal compensation arrangements for the transport and termination of local telecommunications traffic. BellSouth's obligation to establish reciprocal compensation arrangements is set forth in Section 251(b)(5) of the Act. Further, Paragraph 1027 of the FCC's First Report and Order in CC Docket 96-98, addresses the obligations of state commissions stating, "Section 252(d)(2) states that, for the purposes of compliance by an incumbent LEC with section 251(b)(5), a state commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless such terms and conditions both: (1) provide for the 'mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier,' and (2) 'determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.'" Reciprocal compensation rates must be compliant with the FCC's TELRIC pricing rules and section 252(d) of the Act.

Issue 12: Pursuant to the Act and FCC's rules and orders:

(a) Under what conditions, if any, is an ALEC entitled to be compensated at the ILEC's tandem interconnection rate?

(b) What is "similar functionality?"

(c) What is "comparable geographic area?"

Q. PLEASE BRIEFLY EXPLAIN THIS ISSUE.

A. The FCC's rules established that, when two carriers are involved in delivery of local traffic, the originating carrier would compensate the terminating carrier for certain additional costs incurred to transport and terminate local calls from the originating carrier's customers. The FCC limited such compensation to be symmetrical unless the ALEC could demonstrate that it was using an efficient configuration to transport and terminate the calls and that such configuration justified asymmetrical rates. Under symmetrical reciprocal compensation, the ALEC applies the ILEC's rate for transport and termination. The FCC determined that there should be two rates for transport and termination. One rate applies where tandem switching is involved (tandem rate) and the other rate applies where tandem switching is not involved (end office rate). The tandem rate simply consists of both the end office switching rate and the tandem switching rate. As a surrogate for these two rates, many commissions have used the UNE rates of the involved network components as the basis for reciprocal compensation. This is a reasonable surrogate when both parties' switches are in the same local calling area.

Q. HOW DOES BELLSOUTH USE TANDEM SWITCHES?

A. BellSouth has both local and access tandems. First, I will address local tandems. Sometimes there are so many local switches in a given local calling area that it makes economic sense to create a local tandem to help handle the flow of calls between the end office switches. In this case, the local tandem is connected to numerous end office switches in the local calling area, thereby eliminating the need to have every end office switch in that local calling area connected directly to every other end office switch in that local calling area. In this situation, a caller who is served by one end office switch can place a local call to a subscriber served by another end office switch, and the call can be routed through the local tandem, rather than being trunked directly to the called party's local end office switch. Obviously, if there are a lot of end office switches in a local calling area, using a tandem switch to aggregate traffic and to act as a central connection point makes economic sense and avoids a lot of extra trunking that would otherwise be required to ensure that call blockage was limited to acceptable levels.

The local tandem is functionally quite similar to what is often referred to as an access tandem. An access tandem is a tandem switch that is also connected to all of the local central offices in a given area. The difference is that the access tandem handles both local and long distance traffic while the local tandem only handles local traffic.

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. In order for an ALEC to appropriately charge for tandem switching, the ALEC must demonstrate to the Commission that: 1) its switches serve a comparable

geographic area to that served by BellSouth's tandem switches and that 2) its switches actually perform local tandem functions. An ALEC should only be compensated for the functions that it actually provides.

BellSouth proposes to bill an ALEC for use of a tandem only when BellSouth incurs the cost of tandem switching on a particular local call. Further, BellSouth proposes to pay ALECs the tandem switching rate only when the ALEC incurs the cost of tandem switching on a particular local call. To incur this cost, the ALEC must provide the functionality of a tandem switch, as opposed to an end office switch, and the ALEC must be serving a geographic area comparable to a BellSouth tandem.

Q. WHAT IS THE BASIS FOR BELLSOUTH'S POSITION ON THIS ISSUE?

A. In its Local Competition Order, the FCC stated that the "additional costs" of transporting and terminating local traffic vary depending on whether or not a tandem switch is involved. (¶ 1090) As a result, the FCC determined that state commissions could establish transport and termination rates that vary depending on whether the traffic is routed through a tandem switch or directly to a carrier's end-office switch. *Id.* To that end, BellSouth has separate rates for transport and termination depending upon whether tandem switching is involved. When an ALEC's end user originates a local call that terminates on BellSouth's local network, BellSouth charges the ALEC a different rate for reciprocal compensation based on whether or not local tandem switching is involved in that call. When a BellSouth end user originates a local call that terminates on the

ALEC's network, the ALEC should only charge the tandem rate when the ALEC actually provides the tandem switching function.

The FCC, of course, recognized that an ALEC might not use the same network architecture as BellSouth or any other incumbent carrier. To insure that an ALEC would receive the equivalent of a tandem switching rate if it were warranted, the FCC directed state commissions to do two things. First, the FCC directed state commissions to "consider whether new technologies (e.g., fiber ring or wireless network) performed functions similar to those performed by an incumbent LEC's tandem switch and thus whether some or all calls terminating on the new entrant's network should be priced the same as the sum of transport and termination via the incumbent LEC's tandem switch." (Local Competition Order ¶ 1090) (emphasis added). Second, the FCC stated that "[w]here the interconnecting carrier's switch serves a geographic area comparable to that served by the incumbent LEC's tandem switch, the appropriate proxy for the interconnecting carrier's additional costs is the LEC tandem interconnection rate." Id.

Therefore, the FCC posed two requirements that must be met before an ALEC would be entitled to compensation at both the end office and the tandem switching rate, as opposed to only the end office rate, for any particular local call. The tandem switch involved has to serve a comparable geographic area, and it has to perform the tandem switching function for the local call for which compensation is sought.

BellSouth notes that in Section 51.711(a)(1) of its Rules, the FCC states that "symmetrical rates are rates that a carrier other than an incumbent LEC assesses upon an incumbent LEC for transport and termination of local telecommunications traffic equal to those that the incumbent LEC assesses upon the other carrier for the same services." (emphasis added) Again, in Section 51.711(a)(3), the Rule states that "[w]here the switch of a carrier other than an incumbent LEC serves a geographic area comparable to the area served by the incumbent LEC's tandem switch, the appropriate rate for the carrier other than an incumbent LEC is the incumbent LEC's tandem interconnection rate." The FCC clearly has two requirements that must be met before the tandem rate for transporting and terminating traffic applies.

Q. HAS THE FCC DEFINED WHICH FUNCTIONS A TANDEM SWITCH MUST PROVIDE?

A. Indeed it has. In Order No. FCC 99-238, the FCC's rules at 51.319(c)(3) state:

Local Tandem Switching Capability. *The tandem switching capability network element is defined as:*

(i) Trunk-connect facilities, which include, but are not limited to, the connection between trunk termination at a cross connect panel and switch trunk card;

(ii) The basic switch trunk function of connecting trunks to trunks; and

(iii) The functions that are centralized in tandem switches (as distinguished from separate end office switches), including but not

limited, to call recording, the routing of calls to operator services, and signaling conversion features.

Of course, this definition of tandem switching capability has long been accepted and applied within the telecommunications industry. The introduction of local competition has no effect on the definition of tandem switching capability.

Q. HOW DOES THE FCC'S DEFINITION OF TANDEM SWITCHING APPLY TO THIS ISSUE?

A. To receive reciprocal compensation at the tandem rate, a carrier must be performing the functions described in the FCC's definition of tandem switching. It is not enough that the switch "can" provide the function of a tandem switch; it has to actually be providing those functions for the local call for which compensation is sought. This is true if for no other reason than because the difference between the end office and tandem rates for reciprocal compensation is the same as the UNE rate for tandem switching. That rate recovers the cost of performing, for local calls, the functions described in the FCC's definition. If the ALEC were not performing those functions, the ALEC would simply be receiving a windfall.

To receive the tandem switching rate, an ALEC must demonstrate that its switches are providing a tandem function to transport local calls. As stated in the FCC's definition, to provide transport utilizing tandem switching, an ALEC's switch must connect trunks terminated in one end office switch to trunks

terminated in another end office switch. In other words, a tandem switch, as defined by the FCC, provides an intermediate switching function.

Q. HAS THIS COMMISSION PREVIOUSLY RULED ON THE ISSUE OF APPLICABILITY OF RECIPROCAL COMPENSATION TO TANDEM SWITCHING?

A. Yes. In its August 22, 2000 Order No. PSC-00-1519-FOF-TP in Docket No. 991854-TP (Intermedia/BellSouth Arbitration), the Commission found it appropriate to base their decision on the "two criteria set forth in FCC 96-325, ¶1090, for determining whether symmetrical reciprocal compensation at the tandem rate is appropriate: similar functionality and comparable geographic areas." (Order at page 12).

Also, in its January 14, 2000 Order No. PSC-00-0128-FOF-TP in Docket No. 990691-TP (ICG/BellSouth Arbitration), this Commission found that "the evidence of record does not provide an adequate basis to determine that ICG's network will fulfill this geographic criterion." (p. 10) Therefore, this Commission has determined that BellSouth is not required to compensate ICG for the tandem switching element.

Earlier, the Commission, in Order No. PSC-97-0294-FOF-TP, Docket 961230-TP, dated March 14, 1997, concluded at pages 10-11:

> "We find that the Act does not intend for carriers such as MCI to be compensated for a function they do not perform. Even though MCI argues

that its network performs 'equivalent functionalities' as Sprint in terminating a call, MCI has not proven that it actually deploys both tandem and end office switches in its network. If these functions are not actually performed, then there cannot be a cost and a charge associated with them. Upon consideration, we therefore conclude that MCI is not entitled to compensation for transport and tandem switching unless it actually performs each function."

Similarly, Florida Order No. PSC-96-1532-FOF-TP, Docket No. 960838-TP, dated December 16, 1996, states at page 4:

"The evidence in the record does not support MFS' position that its switch provides the transport element; and the Act does not contemplate that the compensation for transporting and terminating local traffic should be symmetrical when one party does not actually use the network facility for which it seeks compensation. Accordingly, we hold that MFS should not charge Sprint for transport because MFS does not actually perform this function."

Q. WHAT DOES BELLSOUTH REQUEST THE COMMISSION DO?

A. BellSouth believes that each ALEC's request for the tandem rate must be decided based on the specifics of that carrier's network, because the decision of whether the tandem rate applies is dependent upon how a particular carrier's network handles each individual local call. Importantly, BellSouth is not disputing an ALEC's right to compensation at the tandem rate where the facts support such a

conclusion. However, in this proceeding, ALEC's are seeking a decision that allows it to be compensated for functionality it does not provide. Absent real evidence that an ALEC's switches actually serve the same geographic area as BellSouth's tandems, and absent evidence that an ALEC's switches do perform the functions of a tandem switch, BellSouth requests that the Commission determine that an ALEC is only entitled, where it provides local switching, to the end office switching rate.

Issue 13: How should a "local calling area" be defined, for purposes of determining the applicability of reciprocal compensation?

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. For purposes of determining the applicability of reciprocal compensation, a "local calling area" can be defined as mutually agreed to by the parties and pursuant to the terms and conditions contained in the parties' negotiated interconnection agreement.

Q. WHAT DOES BELLSOUTH REQUEST THE COMMISSION DO?

A. The Commission should allow each party to establish their own local calling area for reciprocal compensation purposes.

Issue 14: (a) What are the responsibilities of an originating local carrier to transport its traffic to another local carrier?

(b) For each responsibility identified in part (a), what form of compensation, if any, should apply?

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. BellSouth has a local network in each of the local calling areas it serves in Florida. BellSouth may have 10, 20 or even more such local networks in a given LATA. Nevertheless, ALECs wants to physically interconnect their network with BellSouth's "network" in each LATA at a single point, or perhaps two points. This approach simply ignores that there is not one BellSouth "network" but a host of networks that are all interconnected.

Importantly, BellSouth does not object to an ALEC designating a single Point of Interconnection at a point in a LATA on one of BellSouth's "networks" for traffic that the ALEC's end users originate. Further, BellSouth does not object to ALECs using the interconnecting facilities between BellSouth's "networks" to have local calls delivered or collected throughout the LATA. What BellSouth does want, and this is the real issue, is for ALECs to be financially responsible when they use BellSouth's network in lieu of building their own network to deliver or collect these local calls.

ALECs, to contrast their position with BellSouth's, expects BellSouth to collect local traffic bound for the ALEC's end users in each of BellSouth's numerous local calling areas in the LATA, and the ALEC expects BellSouth to be financially responsible for delivering, to a single point (or, at most, to two points)

in each LATA, local calls that are destined for the ALEC's local customers within the same local calling area where the call originated.

BellSouth agrees that ALECs can choose to interconnect with BellSouth's network at any technically feasible point in the LATA. However, BellSouth does not agree that ALECs can impose upon BellSouth the financial burden of delivering BellSouth's originating local traffic to that single point. If the ALEC wants local calls completed between BellSouth's customers and the ALEC's customers using this single Point of Interconnection, that is fine, provided that the ALEC is financially responsible for the additional costs the ALEC causes.

Q. DOES BELLSOUTH'S POSITION MEAN THAT THE ALEC HAS TO BUILD A NETWORK TO EVERY LOCAL CALLING AREA, OR OTHERWISE HAVE A POINT OF INTERCONNECTION WITH BELLSOUTH'S LOCAL NETWORK IN EVERY LOCAL CALLING AREA?

A. No. The ALEC can build out its network that way if it chooses, but it is not required to do so. ALECs can lease facilities from BellSouth or any other provider to bridge the gap between its network (that is, where it designates its Point of Interconnection) and each BellSouth local calling area. BellSouth will be financially responsible for transporting BellSouth's originating traffic to a single point in each local calling area. However, BellSouth is not obligated to be financially responsible for hauling an ALEC's local traffic to a distant point dictated by the ALEC.

Q. WHAT IS A POINT OF INTERCONNECTION?

A. The term "Point of Interconnection" describes the point(s) where BellSouth's and an ALEC's networks physically connect. In its First Report and Order, at paragraph 176, the FCC defined the term "interconnection" by stating that:

> We conclude that the term "interconnection" under section 251(c)(2) refers only to the physical linking of two networks for the mutual exchange of traffic.

Therefore, the Point of Interconnection is simply the place, or places, on BellSouth's networks where that physical linking of the ALEC's and BellSouth's networks takes place. Simply put, the Point of Interconnection is the place where facilities that the ALEC owns connect to facilities owned by BellSouth.

The term "interconnection point" is used by ALECs and BellSouth to define the place where financial responsibility for a call changes from one carrier to the other. The "Point of Interconnection" and the "interconnection point" can be at the exact same physical point, or they can be at different points.

Q. IF AN ALEC CAN INTERCONNECT WITH BELLSOUTH'S NETWORK AT ANY TECHNICALLY FEASIBLE POINT, WHY IS THIS AN ISSUE?

A. Recall that what we are talking about here is the interconnection of "local networks." An ALEC's network deployment may be significantly different from BellSouth's, which is the main reason that this issue exists. BellSouth has a number of distinct functional networks. For example, BellSouth has local

networks, long distance networks, packet networks, signaling networks, E911 networks, etc. Each of these networks is designed to provide a particular service or group of services. With regard to "local networks," BellSouth, in any given LATA, has several such local networks, interconnected by BellSouth's long distance network. BellSouth's networks are "seamless" in the sense that a customer connected to one network can access another network upon payment of the appropriate fees and they overlap, in the sense that an end office is used for both local and toll calls. However, these networks are individual networks in the sense that when a customer pays for local service in the Jacksonville local calling area, that is what the customer gets. The customer does not get access to other distant local calling areas, at least not without payment of the appropriate fees.

For instance, in the Jacksonville LATA, BellSouth has local networks in Jacksonville, Lake City, St. Augustine and Pomona Park, as well as several other locations. Customers who want local service in a particular local calling area must be connected to the local network that serves that local calling area. For example, a BellSouth customer who connects to the Jacksonville local network will not receive local service in the Lake City local calling area because Lake City is not in the Jacksonville local calling area. Likewise, an ALEC who wants to connect with BellSouth to provide local service in Lake City has to connect to BellSouth's local network that serves the Lake City local calling area. BellSouth's local calling areas, I would add, have been defined and set out over the years either by this Commission or by BellSouth with the approval of this Commission.

When an ALEC has a single switch in a LATA, then, by definition, that switch is located in a single BellSouth local calling area, for example, the Jacksonville local calling area, if that is where the switch is located. When a BellSouth local customer in Jacksonville wants to call an ALEC's local customer in Jacksonville, BellSouth delivers the call to the appropriate point of interconnection between BellSouth's network and the ALEC's network in Jacksonville. This network configuration is illustrated on Page 1 of Exhibit JAR-1 attached to my testimony. BellSouth would be financially responsible for taking a call from one of its subscribers located in the Jacksonville local calling area and delivering it to another point in the Jacksonville local calling area, the ALEC's Point of Interconnection. This scenario is not a problem.

The problem arises when a BellSouth customer located in a distant local calling area from the ALEC's Point of Interconnection wants to call his next-door neighbor who happens to be the ALEC's local subscriber. For example, consider that a BellSouth customer in Lake City that wants to call an ALEC's customer in Lake City picks up his or her telephone and draws dial tone from BellSouth's Lake City switch. The BellSouth customer then dials the ALEC customer. The call has to be routed from Lake City to the ALEC's Point of Interconnection in the Jacksonville LATA, which, in my example, is in Jacksonville. The ALEC then carries the call to its switch in Jacksonville and connects to the long loop serving the ALEC's customer in Lake City. This call routing is shown on Page 2 of Exhibit JAR-1. The issue here involves who is financially responsible for the facilities that are used to haul calls back and forth between the ALEC's Point of Interconnection in Jacksonville and the BellSouth Lake City local calling area.

Q. HOW WOULD AN ALEC CONNECT TO BELLSOUTH'S LOCAL NETWORKS THAT ARE OUTSIDE THE LOCAL CALLING AREA WHERE THE ALEC'S SWITCH IS LOCATED?

A. Because BellSouth is still not authorized to carry traffic across LATA boundaries, it is necessary for ALECs to establish at least one Point of Interconnection in each LATA. The ALEC would build facilities from its switch (wherever it is located) to the Point of Interconnection in the LATA where the BellSouth local network is located. Once that Point of Interconnection is established, the issue remains the same. Who is financially responsible for the facilities needed to carry calls between that Point of Interconnection and the distant BellSouth local calling area in which a local call is to be originated and terminated? Since the ALEC must establish a Point of Interconnection in each LATA, whether or not the ALEC also has a switch in each LATA is not relevant to resolving the problem that the ALEC's network design has created.

Q. WHY DO YOU SAY THAT ALECS MUST BE FINANCIALLY RESPONSIBLE FOR THE TRANSPORT OF THESE CALLS FROM LOCAL CALLING AREAS THAT ARE DISTANT FROM THE POINT WHERE THE ALEC HAS CHOSEN TO INTERCONNECT ITS NETWORK WITH BELLSOUTH'S?

A. First, that is the only approach that makes economic sense. I will explain the rationale for this statement later. Second, the Eighth Circuit determined that the

ILEC is only required to permit a CLEC to interconnect with the ILEC's existing local network, stating that:

> The Act requires an ILEC to (1) permit requesting new entrants (competitors) in the ILEC's local market to interconnect with the ILEC's existing local network and, thereby, use that network to compete in providing local telephone service (interconnection).... (Eighth Circuit Court Order dated July 18, 2000, page 2).

This is a very important point. When an ALEC interconnects with BellSouth's local network in Jacksonville, it is not also interconnecting with BellSouth's local network in Lake City. The ALEC is only interconnecting with the Jacksonville local network. The fact that the ALEC is entitled to physically connect with BellSouth at a single point in the LATA cannot overcome the fact that the single Point of Interconnection cannot, by itself, constitute interconnection with every single local calling area in a LATA.

Moreover, if that were true, think of the implications. Absent LATA restrictions, the ALEC's theory would mean that ALECs could have a physical Point of Interconnection with BellSouth's "network" in Miami, and BellSouth would be required to haul local calls originating in Lake City and destined to terminate in Lake City all the way to Miami, at no cost to the ALEC. That just does not make sense. Again, an ALEC can build whatever network it wants, and it can interconnect with BellSouth's "network" wherever it is technically feasible. However, the ALEC cannot shift the financial burden of its network design to BellSouth.

Q. PLEASE EXPLAIN HOW ALECS ARE ATTEMPTING TO SHIFT THEIR FINANCIAL RESPONSIBILITY TO BELLSOUTH.

A. An ALEC's network design could results in additional costs that the ALEC inappropriately contends BellSouth should bear. The best way to describe these additional costs that the ALEC causes is to compare examples of two local calls in the same local calling area. One local call is between two BellSouth customers. The other local call is between a BellSouth customer and an ALEC customer. Assume that all of the customers in this example live on the same street in Lake City.

First, let's examine what happens if both customers are served by BellSouth as depicted on page 3 of Exhibit JAR-1. When one neighbor calls the other, the call originates with one customer, and is transported over that customer's local loop to a local switch in Lake City where the call is connected to the other customer's local loop. Importantly, the call never leaves the Lake City local calling area. Therefore, the only cost BellSouth incurs for transporting and terminating that call is end office switching in Lake City.

Now, let's compare what happens when one customer obtains local service from BellSouth, and the other customer obtains local service from an ALEC. Assume that the BellSouth customer calls the ALEC customer next-door, as depicted on page 2 of Exhibit JAR-1. The BellSouth customer is connected to BellSouth's switch in Lake City. The BellSouth switch then sends the call to Jacksonville because that is where the ALEC told BellSouth to send the call. The call is then

hauled over facilities owned by the ALEC from the Jacksonville Point of Interconnection (e.g. access tandem) to the ALEC's switch. The ALEC then connects the call through its end office switch to the long loop serving ALEC's end user customer back in Lake City. Again, these two customers live next door to each other. In one case, the call never left the Lake City local calling area. In the other case, the call had to be hauled all the way to Jacksonville, and the only reason that BellSouth did so was because that is what the ALEC wanted.

Simply put, the point here is that the ALEC wants BellSouth to bear the cost of the facilities used to haul the call I just described between Lake City and Jacksonville. There is nothing fair, equitable or reasonable about the ALEC's position. Because the ALEC has designed its network the way it wants, and has designed its network in the way that is most efficient and cheapest for the ALEC, the ALEC must bear the financial responsibility for the additional facilities used to haul the call between Lake City and Jacksonville. The ALEC does not have to actually build the facilities. It does not have to own the facilities. It just has to pay for them. BellSouth objects to paying additional costs that are incurred solely due to an ALEC's network design. It is simply inappropriate for the ALEC to attempt to shift these costs to BellSouth.

Q. DO BELLSOUTH'S LOCAL EXCHANGE RATES COVER THESE ADDITIONAL COSTS?

A. No. BellSouth is, in theory at least, compensated by the local exchange rates charged to BellSouth's local customers for hauling all calls from one point within

a specific local calling area to another point in that same local calling area. I say "in theory" because, as the Commission knows, there has always been a dispute about whether local exchange rates actually cover the costs of handling local calls. Certainly there would be no dispute that the local exchange rates that BellSouth's customers pay were not intended to cover and, indeed, cannot cover, the cost of hauling a local call from one Lake City customer to another Lake City customer by way of Jacksonville.

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Indeed, if the ALEC is not required to pay for that extra transport which the ALEC's network design decisions caused, who will pay for it? The BellSouth calling party is already paying for its local exchange service, and certainly will not agree to pay more simply for the ALEC's convenience. Who does that leave to cover this cost? The answer is that there is no one else, and because the ALEC has caused this cost through its own decisions regarding the design of its network, it should be required to pay for this additional cost.

Q. DOES BELLSOUTH RECOVER ITS COSTS FOR HAULING LOCAL CALLS OUTSIDE THE LOCAL CALLING AREA THROUGH RECIPROCAL COMPENSATION CHARGES?

A. No. This is also a significant point. The facilities discussed in this issue provide interconnection between the parties' networks. The cost of interconnection facilities is not covered in the reciprocal compensation charges for transport and termination. Paragraph 176 of FCC Order 96-325 clearly states that interconnection does not include transport and termination:

> Including the transport and termination of traffic within the meaning of section 251(c)(2) would result in reading out of the statute the duty of all LECs to establish 'reciprocal compensation arrangements for the transport and termination of telecommunications' under section 251(b)(5).

Simply put, the cost of interconnection is to be recovered through interconnection charges, and the cost of transport and termination is to be recovered separately through reciprocal compensation. Reciprocal compensation charges apply only to facilities used for transporting and terminating local traffic on the local network, not for interconnection of the parties' networks.

In the Lake City example, reciprocal compensation would only apply for the use of BellSouth's facilities within the Lake City local calling area. That is, reciprocal compensation would apply to the facilities BellSouth used within its Lake City local network to transport and switch an ALEC originated call. Reciprocal compensation does not include the facilities to haul the traffic from Lake City to Jacksonville.

Q. HOW HAS THE FCC ADDRESSED THE ADDITIONAL COSTS CAUSED BY THE FORM OF INTERCONNECTION A CLEC CHOOSES?

A. In its First Report and Order in Docket No. 96-98, the FCC states that the CLEC must bear the additional costs caused by a CLEC's chosen form of interconnection. Paragraph 199 of the Order states that "a requesting carrier that wishes a 'technically feasible' but expensive interconnection would, pursuant to section 252(d)(1), be required to bear the cost of that interconnection, including a

reasonable profit." (emphasis added). Further, at paragraph 209, the FCC states that "Section 251(c)(2) lowers barriers to competitive entry for carriers that have not deployed ubiquitous networks by permitting them to select the points in an incumbent LEC's network at which they wish to deliver traffic. Moreover, because competing carriers must usually compensate incumbent LECs for the additional costs incurred by providing interconnection, competitors have an incentive to make economically efficient decisions about where to interconnect." (emphasis added).

Clearly, the FCC expects ALECs to pay the additional costs that it causes BellSouth to incur. If an ALEC is permitted to shift its costs to BellSouth, the ALEC has no incentive to make economically efficient decisions about where to interconnect.

Q. WOULD AN ALEC'S ABILITY TO COMPETE BE HAMPERED BY THE ALEC'S INABILITY TO OBTAIN FREE FACILITIES FROM BELLSOUTH?

A. Absolutely not. First, the ALEC does not have to build or purchase interconnection facilities to areas that the ALEC does not plan to serve. If the ALEC does not intend to serve any customers in a particular area, its ability to compete cannot be hampered.

Second, in areas where the ALEC does intend to serve customers, BellSouth is not requiring the ALEC to build facilities throughout the area. The ALEC can build facilities to a single point in each LATA and then purchase whatever

facilities it needs from BellSouth or from another carrier in order to reach individual local calling areas that the ALEC wants to serve.

Q. WHAT RATES DOES BELLSOUTH PROPOSE TO CHARGE FOR THE USE OF ITS FACILITIES TO HAUL CALLS OUTSIDE THE LOCAL CALLING AREA?

A. The appropriate rates for the use of BellSouth's facilities to haul calls back and forth between the ALEC's point of interconnection and the local calling area of the originating and terminating points of the call are the interconnection rates for dedicated DS1 interoffice transport (per mile) and facility termination charges. The current Commission-approved dedicated DS1 interoffice transport rate is $0.6013 per mile and the dedicated DS1 interoffice transport facility termination rate is $99.79. These rates were established in Order No. PSC-98-0604-FOF-TP, on April 29, 1998. However, in the generic UNE cost docket (Docket No. 990649-TP), BellSouth proposed a rate of $.20 per mile and $92.62 per facility termination for dedicated DS1 interoffice transport.

Q. HAS ANOTHER COMMISSION IN BELLSOUTH'S REGION RULED ON THIS SAME ISSUE?

A. Yes. In its ruling in AT&T's Petition for Arbitration in Docket No. 2000-527-C, issued January 30, 2001, the Public Service Commission of South Carolina stated "while AT&T can have a single POI in a LATA if it chooses, AT&T shall remain responsible to pay for the facilities necessary to carry calls from distant local

calling areas to that single POI. That is the fair and equitable result." (SCPSC Order at page 28).

Q. WHAT DOES BELLSOUTH REQUEST OF THIS COMMISSION?

A. BellSouth requests the Commission to find that ALECs are required to bear the cost of facilities that BellSouth may be required to install, on the ALEC's behalf, in order to connect from a BellSouth local calling area to the ALEC's Point of Interconnection located outside that local calling area. It simply makes no sense for BellSouth to bear the cost of hauling a local call outside the local calling area just because that is what the ALEC wants BellSouth to do. If the ALEC bought these facilities from anyone else, the ALEC would pay for the facilities. ALECs, however, do not want to pay BellSouth for the same capability. Importantly, ALECs should not be permitted to avoid this cost, nor should they be permitted to collect reciprocal compensation for facilities that haul local traffic outside of the local calling area.

Issue 15: (a) Under what conditions, if any, should carriers be permitted to assign NPA/NXX codes to end users outside the rate center in which the NPA/NXX is homed?

(b) Should the intercarrier compensation mechanism for calls to these NPA/NXXs be based upon the physical location of the customer, the rate center to which the NPA/NXX is homed, or some other criterion?

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. BellSouth's position is that regardless of the numbers an ALEC assigns to its end users, BellSouth should only pay reciprocal compensation on calls that originate and terminate within the same local calling area. Further, each party should utilize its NPA/NXXs in such a way, and should provide the necessary information, so that the other party is able to distinguish local traffic (which originates and terminates in the same local calling area) from intraLATA Toll traffic (which originates in one local calling area and terminates in another local calling area) for the other party's originated traffic. If an ALEC does not provide such information to BellSouth, BellSouth has no way of knowing which calls are local (to which reciprocal compensation applies) and which calls are long distance (to which access charges apply).

BellSouth is asking that ALECs separately identify any number assigned to an ALEC end user whose physical location is outside the local calling area associated with the NPA/NXX assigned to that end user, so that BellSouth will know whether to treat the call as local or long distance. Providing that an ALEC will separately identify such traffic, for purposes of billing and intercarrier compensation, BellSouth would not object to an ALEC assigning numbers out of an NPA/NXX to end users located outside the local calling area with which that NPA/NXX is associated. Because of this freedom, an ALEC can elect to give a telephone number to a customer who is physically located in a different local calling area than the local calling area where that NPA/NXX is assigned. If the ALEC, however, chooses to give out its telephone numbers in this manner, calls

originated by BellSouth end users to those numbers are not local calls. Consequently, such calls are not local traffic and no reciprocal compensation applies.

Q. CAN YOU DESCRIBE WHAT TYPICALLY HAPPENS WHEN AN NPA/NXX IS GIVEN TO A PARTICULAR CARRIER?

A. When an ALEC, or any other local carrier, is given an NPA/NXX code by the North American Numbering Plan Administrator ("NANPA"), the carrier must assign that NPA/NXX code to a specific rate center. In other words, all telephone numbers must have a unique "home". All other carriers use this assignment information to determine whether calls originated by its customers to numbers in that NPA/NXX code are local or long distance calls. For example, assume that the administrator assigns the 904/641 NPA/NXX to an ALEC. The ALEC would tell the administrator where 904/641 is assigned. Let's say the ALEC assigns the 904/641 code to the Jacksonville rate center. When a local carrier's customer calls a number in the 904/641 code, the local carrier bills its customer based upon whether a call from the location where the call originates to the Jacksonville rate center is a local call or a long distance call. If a BellSouth customer in the Jacksonville local calling area calls a number in the 904/641 code in this example, BellSouth treats the call as a local call for purposes of billing its Jacksonville customer. Likewise, if a BellSouth customer in Lake City calls a number in the 904/641 code, BellSouth would bill the customer for an intraLATA long distance call.

Q. IS AN ALEC RESTRICTED TO GIVING NUMBERS ASSIGNED TO A PARTICULAR RATE CENTER TO CUSTOMERS WHO ARE PHYSICALLY LOCATED IN THAT SAME RATE CENTER?

A. No. In the example above, the ALEC is not restricted to giving numbers in the 904/641 code only to customers that are physically located in the Jacksonville rate center. The ALEC is permitted to assign a number in the 904/641 code to any of its customers regardless of where they are physically located. Again, BellSouth is not attempting to restrict an ALEC's ability to do this.

To illustrate, let's look at Exhibit JAR-1. An ALEC could assign a number, say 904-641-5555, to the ALEC's End User ("EU") #1, who is physically located in Jacksonville. A BellSouth customer in Jacksonville who calls 904-641-5555 would be billed as if he or she made a local call. BellSouth agrees that this is a local call and, therefore, appropriate reciprocal compensation should apply.

Hypothetically, however, what happens if the ALEC disassociates the physical location of a customer with a particular telephone number from the rate center where that NPA/NXX code is assigned? Assume that the ALEC gives the number 904-641-2000 to the ALEC's EU #2, who is located in Lake City. If the BellSouth customer in Jacksonville calls 904-641-2000, BellSouth will bill its customer in Jacksonville as if the customer made a local call. BellSouth would hand off the call to the ALEC, and the ALEC would then carry the call from that point to its end user in Lake City. The end points of the call are in Jacksonville and Lake City, and therefore, the call is a long distance call. To use a more

extreme example, the ALEC could elect to assign another number, say 904-641-3000 to the ALEC's EU #3, who is physically located in New York. The BellSouth customer in Jacksonville who calls 904-641-3000 would be billed as if he made a local call, but the call would actually terminate in New York, which clearly would be a long distance call. In this situation, BellSouth would pay reciprocal compensation on those calls from Jacksonville to Lake City or from Jacksonville to New York, which are clearly long distance calls and not subject to reciprocal compensation.

Q. IS TRAFFIC JURISDICTION ALWAYS DETERMINED BY THE RATE CENTERS WHERE THE ORIGINATING AND TERMINATING NPA/NXXs ARE ASSIGNED?

A. No. Traffic jurisdiction based on rate center assignment may be used for retail end user billing, but not for inter-company compensation purposes. The FCC has made it clear that traffic jurisdiction is determined based upon the originating and terminating end points of a call, not the NPA/NXXs of the calling or called number. One example is originating Feature Group A ("FGA") access service. With FGA, a customer dials a 7 (or 10) digit number and receives a second dial tone from the distant office. Then the customer, as in the case before equal access, enters a code and dials the long distance number. Even though the originating end user dials a number that appears local to him or her, no one disputes that originating FGA traffic is switched access traffic with respect to jurisdiction and compensation between the involved companies.

Another example is Foreign Exchange (FX) service. FX service is exchange service furnished to a subscriber from an exchange other than the one from which the subscriber would normally be served. Here again, it appears to the originating customer that a local call is being made when, in fact, the terminating location is outside the local calling area (i.e., long distance). Further, because the call to the FX number appears local and the calling and called NPA/NXXs are assigned to the same rate center, the originating end user is not billed for a toll call. Despite the fact that the calls appear to be local to the originating caller, FX service is clearly a long distance service. The reason the originating end user is not billed for a toll call is that the receiving end user has already paid for the charges from the real NPA/NXX office to the FX office. There are charges for this function and they are being paid by the customer that is benefiting from the FX service.

Q. WHEN AN ALEC ASSIGNS NUMBERS IN THE MANNER YOU HAVE DESCRIBED, IS IT ATTEMPTING TO DEFINE ITS OWN LOCAL CALLING AREA?

A. When an ALEC assigns numbers in the manner described, the ALEC is not necessarily attempting to define a different local calling area for its customers than the local calling area offered by BellSouth. In fact, in the previous hypothetical example of the 904/641 code that the ALEC assigns to Jacksonville, the ALEC does not need to have any customers who are physically located in the Jacksonville local calling area. What the ALEC is doing is offering a service that allows customers of other LECs (i.e., BellSouth) to place toll-free calls to selected customers of the ALEC who are physically located in a different local calling

area. In the Jacksonville example, the ALEC is attempting to redefine BellSouth's local calling area, but only in those instances in which a BellSouth end user places a call to the ALEC's selected end users.

The ALEC, however, is only permitted to define the local calling area for its own customers. If, in the example, the ALEC had any of its own local service customers in Jacksonville and offered those customers the ability to call Lake City without long distance charges, then it could be said that the ALEC was offering a local calling area in Jacksonville that was different from BellSouth's. The local calling area, however, would be defined that way only for those customers to whom the ALEC provided local service. The ALEC is free to design whatever local calling area it wants for its customers. The ALEC, however, is not free to determine the local calling area for BellSouth customers. Nor is the ALEC free to charge BellSouth reciprocal compensation for traffic that is not local.

Q. DOES BELLSOUTH CURRENTLY ASSIGN NXX CODES TO CUSTOMERS WHO ARE NOT PHYSICALLY LOCATED IN THE EXCHANGE AREA ASSOCIATED WITH A PARTICULAR NXX?

A. Yes. BellSouth's FX service allows an FX subscriber that is not physically located in a particular exchange area to receive a telephone number with an NXX code that is associated with that exchange area.

Q. PLEASE COMPARE THE NPA/NXX ADDRESSED IN THIS ISSUE WITH BELLSOUTH'S FOREIGN EXCHANGE ("FX SERVICE").

A. Although similar, these services are not exactly the same. In the case of the FX service, a customer dials a number that appears to be a local number. The call is transported to the customer's serving wire center. The switch looks at the number and, based on the translations for the number, it sends the call to the "foreign exchange" where the customer being called resides. BellSouth's costs are recovered from BellSouth's customers; the originating customer pays for the local portion of the call, and the FX customer pays BellSouth to terminate the call in a different local calling area.

Q. IS BELLSOUTH COMPENSATED FOR THE COSTS INCURRED WHEN ONE OF ITS CUSTOMERS CALLS A PERSON LOCATED IN A DIFFERENT LOCAL CALLING AREA?

A. Yes. When a BellSouth end user calls a person located outside of that end user's basic local calling area, BellSouth receives compensation in addition to the basic local rates it charges to its customers. When BellSouth carries an intraLATA toll call, for instance, BellSouth collects toll charges from its customer who placed the call. When a BellSouth customer places an interLATA call, BellSouth collects originating access from the IXC. When BellSouth carries an intraLATA call from a BellSouth end user to a BellSouth FX customer, BellSouth receives compensation for the FX service (including the toll component of that service) from its FX customer. Similarly, when BellSouth carries calls to a BellSouth

customer with an 800 number, BellSouth receives compensation for the 800 service (including the toll component of that service) from its 800 service customer. In each of these cases, BellSouth is compensated from some source other than the local rates it charges its customers for placing local calls. That additional source may be BellSouth's end user customer (i.e., toll charges), another telecommunications provider such as an IXC (i.e., access charges), or an FX or 800 service subscriber (i.e., FX charges or 800 charges).

Q. HAS BELLSOUTH BILLED ALECS RECIPROCAL COMPENSATION FOR CALLS FROM ALEC CUSTOMERS TO BELLSOUTH FX CUSTOMERS?

A. Yes. Prior to February 23, 2001, BellSouth billed ALECs reciprocal compensation for calls from ALEC customers to BellSouth FX customers, if the FX customer is not an Internet service provider.

Q. ISN'T THAT INCONSISTENT WITH BELLSOUTH'S POSITION THAT RECIPROCAL COMPENSATION IS DUE ONLY FOR CALLS THAT ORIGINATE AND TERMINATE IN THE SAME LOCAL CALLING AREA?

A. Not always. An ALEC is allowed to designate the local calling area for calls originated by the ALEC's customers. Let's assume that the ALEC designates the entire LATA as the local calling area for calls originated by the ALEC's customers. When a customer of that ALEC calls a BellSouth FX customer that is physically located within the same LATA, that call originates and terminates in the same local calling area that has been designated by the ALEC. That call,

therefore, is a local call, and BellSouth is entitled to collect reciprocal compensation from the CLEC for transporting and terminating that call to the BellSouth FX customer.

An ALEC, however, may designate the same local calling areas as BellSouth has designated. If that is the case, and if an ALEC customer in the ALEC's local calling area number 1 dials an FX number and reaches a BellSouth FX customer physically located in the ALEC's local calling area number 2, that is not a local call. BellSouth, therefore, should not collect reciprocal compensation from the CLEC for that call.

Q. WHAT HAS BELLSOUTH DONE TO ADDRESS THIS SITUATION?

A. BellSouth has implemented a process to ensure that no reciprocal compensation is charged for any calls to BellSouth's FX customers, even in those instances in which, as I have just explained, BellSouth would be entitled to collect reciprocal compensation for such calls.

Q. DESCRIBE THE PROCESS THAT BELLSOUTH IMPLEMENTED TO ENSURE THAT RECIPROCAL COMPENSATION IS NOT CHARGED FOR CALLS TO BELLSOUTH'S FX CUSTOMERS.

A. BellSouth built a database of all existing BellSouth FX numbers, and has implemented programming that will place newly assigned FX numbers into the database as they are assigned. This database is used to prevent billing of

reciprocal compensation on calls to BellSouth FX numbers. These system changes were implemented region-wide effective February 23, 2001.

Q. HAVE ANY STATE COMMISSIONS IN THE BELLSOUTH REGION ADDRESSED THIS ISSUE?

A. Yes, the South Carolina, Florida, Georgia and Tennessee Commissions have ruled consistent with BellSouth's position on this issue.

Q. PLEASE DESCRIBE THE DECISION OF THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA.

A. The Public Service Commission of South Carolina issued its decision in the Adelphia arbitration case on January 16, 2001 (Docket No. 2000-516-C, Order No. 2001-045). That Commission adopted BellSouth's proposed interconnection agreement language, which specifies that, to the extent that traffic to Virtual NXX numbers originates in one local calling area and terminates in a different local calling area, such traffic is not local traffic. The Commission also ruled that BellSouth is not required to pay reciprocal compensation for such traffic, and it ruled that BellSouth is entitled to collect access charges from Adelphia when BellSouth originates such traffic.

Q. COULD YOU BRIEFLY DESCRIBE THE FLORIDA DECISION ON THIS ISSUE?

A. Yes. This issue was recently addressed by this Commission in the arbitration proceeding between BellSouth and Intermedia (Order No. PSC-00-1519-FOF-TP, Docket No. 991854-TP, dated August 22, 2000). In that proceeding, the Commission determined that until Intermedia could provide information to permit proper billing, Intermedia could not give numbers to customers who are physically located outside the rate center where the NPA/NXX code is assigned. Specifically, the Commission ruled at page 43 of its Order:

> *If Intermedia intends to assign numbers outside of the areas with which they are traditionally associated, Intermedia must provide information to other carriers that will enable them to properly rate calls to those numbers. We find no evidence in the record indicating that this can be accomplished.*
>
> *Based on the foregoing, we find it appropriate that the parties be allowed to establish their own local calling areas. Nevertheless, the parties shall be required to assign numbers within the areas to which they are traditionally associated, until such time when information necessary for the proper rating of calls to numbers assigned outside of those areas can be provided.*

Since the time of the Intermedia Arbitration, BellSouth has identified a means to handle the rating issue the Commission recognized. BellSouth proposes not to charge its end user for a long distance call, even though a long distance call has been made. This treatment is similar to the rating of calls from BellSouth end users to 800 numbers. The reason for this approach is that, like 800 service, the

ALEC is incurring the long distance costs in this case and, if it chooses to do so, it may recover these costs from the end user that subscribes to the ALEC service. Of course, like 800 service, this is a long distance service.

Q. COULD YOU BRIEFLY DESCRIBE THE GEORGIA DECISION ON THIS ISSUE?

A. Yes. On July 5, 2000, in Docket No. 11644-U (Intermedia Arbitration), the Georgia Commission ordered that Intermedia be allowed to assign its NPA/NXXs in accordance with the establishment of its local calling areas, provided that it furnish the necessary information to BellSouth and all other telecommunication carriers that they may identify local and toll traffic and provide for the proper routing and billing of those calls.

Q. COULD YOU BRIEFLY DESCRIBE THE TENNESSEE DECISION ON THIS ISSUE?

A. Yes. At its February 6, 2001 Director's Conference, the Tennessee Regulatory Authority ("TRA") ruled on this issue as it was raised in BellSouth's Petition for Arbitration with Intermedia. The TRA specifically ruled, "that calls to an NPA/NXX in the local calling area outside the rate center where the NPA/NXX is homed should be treated as intrastate interexchange toll traffic for purposes of intercarrier compensation and are subject to access charges." (Transcript, pg. 12)

Q. ARE YOU AWARE OF ANY OTHER COMMISSIONS OUTSIDE BELLSOUTH'S REGION THAT HAVE ADDRESSED WHETHER THE SERVICE DESCRIBED IN THIS ISSUE IS LOCAL OR INTEREXCHANGE?

A. Yes. The Maine, Texas, and Illinois Commissions have determined that this call scenario is not local service. Texas and Illinois have further stated that reciprocal compensation should not apply in Virtual FX/Virtual NXX situations.

Q. BRIEFLY DESCRIBE THE MAINE COMMISSION'S ORDER THAT YOU REFERRED TO ABOVE.

A. The Maine Commission's Order was issued on June 30, 2000 in Docket Nos. 98-758 and 99-593. The service at issue in that Order is the same type of service described in this issue. (Order at p. 4). Brooks Fiber ("Brooks" – a subsidiary of MCI WorldCom) had been assigned 54 NPA/NXX codes that it had subsequently assigned to various exchanges that are outside the Portland, Maine local calling area. Brooks then assigned numbers from those codes to its customers who were physically located in Portland. The Maine Commission was trying to determine whether Brooks was entitled to retain the NPA/NXX codes used for the service. If the service was local, Brooks was entitled to the codes; if the service was interexchange, Brooks Fiber had to relinquish the codes. The Maine Commission concluded that the service was interexchange. Since Brooks did not have any customers at all in the rate centers where 45 of the codes were assigned, the Maine Commission ordered the Numbering Plan Administrator to reclaim those codes (Order at p. 29)

Now, there is a potential misunderstanding that could arise when reading the Maine Order. There are several references to ISP in the Maine Order, but that is because Brooks Fiber had only given numbers in the NPA/NXX code to ISPs. Significantly, the Maine Order does not address the ISP reciprocal compensation issue. Neither the Maine Commission findings on the nature of this traffic nor BellSouth's position on this issue depend on whether the number is given to an ISP. The same findings and the same position apply regardless of the type of customer who has been given the number. It is just a fact in the Maine case that Brooks Fiber had only given numbers to ISPs; therefore, there are references to ISPs in the Order.

Q. WHAT DO THE ILLINOIS AND TEXAS COMMISSIONS' ORDERS SAY ABOUT THIS ISSUE?

A In the Illinois Commerce Commission's Order in Docket 00-0332, Level 3 Communications, Inc. Arbitration case, dated August 30, 2000, the Commission states at pages 9-10:

> *(b) The reciprocal compensation portion of the issue is straightforward. The FCC's regulations require reciprocal compensation only for the transport and termination of "local telecommunications traffic," which is defined as traffic "that originates and terminates within a local service area established by the state commission." 47 C.F.R. 51.701 (a)-(b)(1). FX traffic does not originate and terminate in the same local rate center*

and therefore, as a matter of law, cannot be subject to reciprocal compensation. Whether designated as "virtual NXX," which Level 3 uses, or as "FX," which AI [Ameritech Illinois] prefers, this service works a fiction. It allows a caller to believe that he is making a local call and to be billed accordingly when, in reality, such call is traveling to a distant point that, absent this device, would make the call a toll call. The virtual NXX or FX call is local only from the caller's perspective and not from any other standpoint. There is no reasonable basis to suggest that calls under this fiction can or should be considered local for purposes of imposing reciprocal compensation. Moreover, we are not alone in this view. The Public Utility Commission of Texas recently determined that, to the extent that FX-type calls do not terminate within a mandatory local calling area, they are not eligible for reciprocal compensation. See, Docket No. 21982, July 13, 2000. On the basis of the record, the agreement should make clear that if an NXX or FX call would not be local but for this designation, no reciprocal compensation attaches. [Emphasis added.]

Q. HOW DOES BELLSOUTH'S POSITION COMPARE TO THE MAINE, ILLINOIS AND TEXAS COMMISSIONS' ORDERS?

A. BellSouth's position is completely consistent with these three Orders. Most importantly, the Maine Commission found that the service was interexchange. (Order at pps. 4, 8-12, 18). The Maine Commission concluded that this service and FX service have some parallels but the closest parallel is 800 service. (Order

at pps. 11-12) The Maine Commission found that Brooks is not attempting to define its local calling area with this service. (Order at p 14) Finally, the Maine Commission concluded that this service has no impact on the degree of local competition. (Order at p. 13) The Illinois and Texas Commissions' Orders went a step further, specifying that Virtual FX or NXX calls which do not terminate within a mandatory local calling area are not eligible for reciprocal compensation. Again, none of these findings depend on whether the number is given to an ISP or another type of customer.

Q. HOW DOES THE RESOLUTION OF THIS ISSUE IMPACT THE DEGREE OF LOCAL COMPETITION IN FLORIDA?

A. It does not. The service at issue here has nothing to do with local competition. Using the Jacksonville example, the service described in this issue does not create a local service, let alone any local service competition, in Jacksonville. Local service competition is only created where the ALEC offers local service to its own customers. The service at issue here is offered to BellSouth's local service customers in Jacksonville, regardless of whether the ALEC has any local service customers physically located in Jacksonville. When the ALEC allows a BellSouth customer in Jacksonville to make a toll free call to one of its true 800 service numbers, no local competition is created in Jacksonville. Likewise, when an ALEC assigns a number out of the 904/641 code to one if its customers in Lake City, no local competition is created in Jacksonville (where the 904/641 code is assigned). In this case, the ALEC has no contact or business relationship with the BellSouth customers for use of this service. These customers remain, in

fact, BellSouth's local service customers. There is nothing that the ALEC is providing in this case that even resembles local service. Yet, ALECs claims that they should be paid reciprocal compensation for providing this service.

Q. DOES BELLSOUTH'S POSITION IMPACT AN ALEC'S ABILITY TO SERVE ISPs?

A. No, BellSouth's position has no impact on an ALEC's ability to serve ISPs. ALECs are free to target and select customers, and assign telephone numbers as it chooses. BellSouth is only saying that calls which originate and terminate with customers in different local calling areas are not local and, therefore, are not subject to reciprocal compensation.

Q. WOULD COSTS ASSOCIATED WITH ACCESSING THE INTERNET INCREASE IF BELLSOUTH RESTRICTS ALECS' USE OF NXX CODES?

A. First let me reiterate, BellSouth is not attempting to restrict an ALEC's use of NXX codes. Second, as I have already stated, reciprocal compensation is designed to compensate a carrier for transporting and terminating a local call. Long distance calls have different compensation mechanisms that apply and would continue to apply in the cases we have been discussing. When an ALEC assigns telephone numbers to a customer in a way that allows other parties to make a long distance call to that customer but not be charged for a long distance call, the ALEC may either recover the costs associated with such an arrangement from its customer who is benefiting from the arrangement, or the ALEC itself may absorb

those costs. The ALEC, however, cannot recover those costs from BellSouth in the form of reciprocal compensation.

Q. WHAT IS BELLSOUTH REQUESTING OF THE COMMISSION?

A. BellSouth is asking the Commission to rule consistently with its past rulings and the rulings of other Commissions described above. BellSouth is not asking the Commission to restrict an ALEC's ability to allocate numbers out of its assigned NPA/NXX codes in whatever manner it sees fit. BellSouth simply requests the Commission to determine that if an ALEC assigns telephone numbers to customers that are physically located in a different local calling area than the local calling area where the NPA/NXX is assigned, then calls originated by BellSouth end users in the local calling area where the NPA/NXX is assigned to those numbers are not local calls. Such calls are not considered local traffic and, therefore, no reciprocal compensation should apply. Furthermore, this Commission should find that if an ALEC assigns NPA/NXX numbers outside the assigned local calling area, then the ALEC must identify such long distance traffic and pay BellSouth for the originating switched access service BellSouth provides on those calls.

Issue 16: (a) What is the definition of Internet Protocol (IP) telephony?

(b) How should IP telephony be compensated?

Q. PLEASE EXPLAIN BELLSOUTH'S UNDERSTANDING OF THIS ISSUE.

A. This issue addresses the appropriate compensation for phone-to-phone calls that utilize a technology known as Internet Protocol ("IP"). First, let me be clear on the distinction between "voice calls over the Internet" and "voice calls over Internet Protocol ("IP") telephony." IP telephony is, in very simple and basic terms, a mode or method of completing a telephone call. The word "Internet" in Internet Protocol telephony refers to the name of the protocol; it does not mean that the service necessarily uses the World Wide Web.

Q. WHAT IS PHONE-TO-PHONE IP TELEPHONY?

A. Phone-to-Phone IP Telephony is telecommunications service that is provided using Internet Protocol for one or more segments of the call. Technically speaking, Internet Protocol, or any other protocol, is an agreed upon set of technical operating specifications for managing and interconnecting networks. The Internet Protocol is a specific language that equipment on a packet network uses to intercommunicate. It has nothing to do with the transmission medium (wire, fiber, microwave, etc.) that carries the data packets between gateways, but rather concerns gateways, or switches, that are found on either end of that medium.

Currently there are various technologies used to transmit telephone calls, of which the most common are analog and digital. In the case of IP Telephony originated from a traditional telephone set, the local carrier first converts the voice call from analog to digital. The digital call is sent to a gateway that takes the digital voice signal and converts or packages it into data packets. These data packets are like

envelopes with addresses that "carry" the signal across a network until they reach their destination, which is known by the address on the data packet, or envelope. This destination is another gateway, which reassembles the packets and converts the signal to analog, or a plain old telephone call, to be terminated on the called party's local telephone company's lines.

To explain it another way, Phone-to-Phone IP Telephony occurs when an end user customer uses a traditional telephone set to call another traditional telephone set using IP technology. The fact that IP technology is used at least in part to complete the call is transparent to the end user. Phone-to-Phone IP Telephony is identical, by all relevant regulatory and legal measures, to any other basic telecommunications service, and should not be confused with calls to the Internet through an Information Service Provider ("ISP"). Characteristics of Phone-to-Phone IP Telephony are:

- IP Telephony provider gives end users traditional dial tone (not modem buzz);
- End user does not call modem bank;
- Uses traditional telephone sets (vs. computer);
- Call routes using telephone numbers (not IP addresses);
- Basic telecommunications (not enhanced); and
- IP Telephone providers are telephone carriers (not ISPs).

Phone-to-Phone IP Telephony should not be confused with Computer-to-Computer IP Telephony, where computer users use the Internet to provide telecommunications to themselves.

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. As with any other local traffic, reciprocal compensation should apply to local telecommunications provided via IP Telephony. To the extent, however, that calls provided via IP telephony are long distance calls, access charges should apply. Application of access charges for long distance calls does not depend on the technology used to transport such calls. Due to the increasing use of IP technology mixed with traditional circuit switching technology to switch or transport voice telecommunications, BellSouth's position is that it is important to specify that long distance calls, irrespective of the technology used to transport them, constitute switched access traffic and not local traffic.

Switched access charges, not reciprocal compensation, apply to phone-to-phone long distance calls that are transmitted using IP telephony. From the end user's perspective – and, indeed, from the IXC's perspective – such calls are indistinguishable from regular circuit switched long distance calls. The IXC may use IP technology to transport all or some portion of the long distance call, but that does not change the fact that it is a long distance call.

Q. DOES THE FCC VIEW ISP BOUND TRAFFIC DIFFERENTLY THAN IP TELEPHONY IN TERMS OF APPLICABLE CHARGES?

A. Yes. Neither ISP-bound traffic nor the transmission of long distance services via IP Telephony traffic is local traffic; however, the FCC has treated the two types of traffic differently in terms of the rates that such providers pay for access to the

local exchange company's network. Calls to ISPs have been exempted by the FCC from access charges for use of the local network in order to encourage the growth of these emerging services – most recently access to the Internet. The FCC has found that ISPs use interstate access service, but are exempt from switched access charges applicable to other long distance traffic. As a result of this FCC exemption, ISP-bound traffic is assessed at the applicable business exchange rate.

On the other hand, the transmission of long-distance voice services - whether by IP telephony or by more traditional means - is not exempt from switched access charges. The FCC has provided no exemption from access charges when IP telephony is used to transmit long distance telecommunications.

The FCC's April 10, 1998 Report to Congress states: "The record... suggests... 'phone-to-phone IP telephony' services lack the characteristics that would render them 'information services' within the meaning of the statute, and instead bear the characteristics of 'telecommunication services'." Further, Section 3 of the 1996 Act defines "telecommunications" as the "transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received." Thus, IP Telephony is telecommunications service, not information or enhanced service.

Long distance service is a mature industry, and simply changing the technology that is used to transmit the long distance service does not change the service. All other long-distance carriers currently pay these same access charges, and there is

no authority to exempt them, regardless of the protocol used to transport such calls. To do otherwise would unreasonably discriminate between long-distance carriers utilizing IP telephony and those who do not.

Q. WHAT IS BELLSOUTH REQUESTING THE COMMISSION DO?

A. BellSouth requests that the Commission determine that access charges, rather than reciprocal compensation, apply to long distance calls, regardless of the technology used to transport them.

Issue 17: Should the Commission establish compensation mechanisms governing the transport and delivery of traffic subject to Section 251 of the Act to be used in the absence of the parties reaching an agreement for negotiating a compensation mechanism? Is so, what should be the mechanism?

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. As previously stated in response to Issue 10, the Commission is required to ensure that BellSouth has established reciprocal compensation arrangements for the transport and termination of local telecommunications traffic pursuant to the Act and FCC rules. As such, the rates, terms and conditions of any compensation mechanism established by the Commission must also comport with the Act and FCC rules. The resolution of the other issues in this proceeding will result in the establishment of a compensation mechanism. Once the mechanism is determined,

the only issue to be resolved is a determination of which party is financially responsible for the facilities used to transport and terminate local traffic.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

(#249599)

BELLSOUTH TELECOMMUNICATIONS, INC.

REBUTTAL TESTIMONY OF JOHN A. RUSCILLI

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 000075-TP (PHASE II)

APRIL 19, 2001

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR BUSINESS ADDRESS.

A. My name is John A. Ruscilli. I am employed by BellSouth as Senior Director for State Regulatory for the nine-state BellSouth region. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

A. Yes. I filed direct testimony on March 12, 2001.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY BEING FILED TODAY?

A. My testimony responds to the direct testimony filed by several witness in this proceeding on March 12, 2001. Specifically, I will address portions of the testimony of Mr. Timothy J. Gates filed on behalf of Level 3 Communications, LCC ("Level 3); Mr. Gregory R. Follensbee filed on behalf of AT&T Communications of the Southern States, Inc. ("AT&T"), TCG of South Florida

("TCG"), and MediaOne Florida Telecommunications, Inc. ("MediaOne"); and Mr. Mark Argenbright filed on behalf of MCI WorldCom, Inc. ("WorldCom").

On March 14, 2001 the Commission issued its Order on Schedule and Issues for Phase II (Order No. PSC-01-0632-PCO-TP). The Issues List attached to this Order contained an additional issue (Issue 18) that was not included in the Commission's December 7, 2000 Order Adopting, Incorporating, and Supplementing Order No. PSC-00-2229-PCO-TP. Since I was unable to address this additional issue in my direct testimony filed on March 12, I have included discussion of BellSouth's position on this issue in this testimony.

Issue 12: Pursuant to the Act and FCC's rules and orders:

(a) Under what conditions, if any, is an ALEC entitled to be compensated at the ILEC's tandem interconnection rate?

(b) What is "similar functionality?"

(c) What is "comparable geographic area?"

Q. PLEASE ADDRESS MR. ARGENBRIGHT'S CLAIM ON PAGE 10 THAT THE "FUNCTIONALITY" TEST IS UNNECESSARY IF THE ALEC SERVES A COMPARABLE GEOGRAPHIC AREA.

A. Mr. Argenbright is incorrect. As I discussed in my direct testimony, the FCC has a two-part test to determine if a carrier is eligible for tandem switching 1) an ALEC's switch must serve the same geographic area as the ILEC's tandem switch, and 2) an ALEC's switch must perform tandem switching functions. His

contention that the higher rate must be applied automatically simply based on the geographic area its switch may serve is incorrect and ignores the FCC's two-prong test.

Q. ON PAGES 10-11, MR. ARGENBRIGHT QUOTE'S FCC RULE 51.711(a), PLACING EMPHASIS ON SUBPART (3) OF THE RULE AND BASICALLY IGNORING SUBPART (1). HAS MR. ARGENBRIGHT ACCURATELY INTERPRETED THIS RULE?

A. Absolutely not. Mr. Argenbright self-servingly ignores subpart (1) of this rule. Subpart (1) clearly states that symmetrical rates assessed by an ALEC upon an ILEC for transport and termination of local traffic are equal to the rates "that the incumbent LEC assesses upon the other carrier of the ***same services***". (Emphasis added). "Same services" equates to the same functions that the ILEC performs to terminate the ALEC's originating local traffic. An ALEC is only entitled to assess tandem switching charges upon BellSouth when the ALEC actually performs the tandem switching function and serves an area comparable to the area served by BellSouth's tandem switch to terminate a local call originating from a BellSouth end user. Similarly, BellSouth may only seek recovery of tandem switching charges from an ALEC when BellSouth performs the tandem switching function to terminate a local call originating from an ALEC's end user.

Q. PLEASE RESPOND TO MR. ARGENBRIGHT'S DISCUSSION ON PAGES 14-15 REGARDING THE PHYSICAL AND GEOGRAPHIC "REACH" OF ALEC'S NETWORKS.

A. Mr. Argenbright's discussion concerning the technology that an ALEC uses to "extend the reach of their network" simply points out that ALECs may deploy long loops to reach end users. As the FCC made perfectly clear, reciprocal compensation is not paid for loop costs, but rather for the cost of transporting and terminating local calls. Specifically, the FCC held: "costs of local loops and line ports associated with local switches do not vary in proportion to the number of calls terminated over these facilities. We conclude that such non-traffic sensitive costs should not be considered 'additional costs' when a LEC terminates a call that originated on the network of a competing carrier." (*See* First Report and Order, In re: Implementation of Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, CC Docket No. 96-98, ¶ 1057 (Aug. 8, 1996) ("First Report and Order"). Obviously, the FCC intends for the terminating LEC to recover its loop costs from the end user customer, not the originating LEC.

Issue 14: (a) What are the responsibilities of an originating local carrier to transport its traffic to another local carrier?

(b) For each responsibility identified in part (a), what form of compensation, if any, should apply?

Q. ON PAGE 16 OF THE TESTIMONY OF MR.GATES MAKES THE STATEMENT THAT "THE INCUMBENT LEC ('ILEC') SHOULD NOT BE PERMITTED TO IMPOSE INTERCONNECTION REQUIREMENTS ON ALTERNATIVE LECs ('ALECs') THAT REQUIRE ALECs TO DUPLICATE THE ILEC'S LEGACY NETWORK ARCHITECTURE." DO YOU AGREE?

A. Yes. As I stated in my direct testimony, BellSouth does not require ALECs to duplicate BellSouth's network architecture. An ALEC can configure its network in whatever manner it chooses. The issue here is not, however, how an ALEC's network may be configured, but whether BellSouth will be compensated for hauling local traffic that originates and ultimately terminates in the same local calling area, outside that local calling area, at no charge to the ALEC. Plainly, BellSouth is entitled to compensation under these circumstances.

Q. ON PAGE 22 OF HIS TESTIMONY, MR. GATES INCLUDES A QUOTE FROM THE TSR ORDER THAT MAKES REFERENCE TO "'RULES OF THE ROAD' UNDER WHICH ALL CARRIERS OPERATE". PLEASE COMMENT AS TO WHETHER THIS QUOTE IS RELEVANT TO THE ISSUE AT HAND.

A. The TSR Order cited by Mr. Gates refers to the June 21, 2000 Order in the TSR Wireless Complaint against US West. Based on the Order, on page 21of his testimony, Mr. Gates states, "[i]t is clear that each LEC bears the responsibility of operating and maintaining the facilities used to transport and deliver traffic on its side of the IP." Further, on page 23, "If an ALEC is forced to deploy or lease facilities from an ILEC's local calling areas to the POI, the ILEC will be getting a free ride." These conclusions drawn by Mr. Gates are wrong.

In the TSR Order, the FCC determined a couple of things. First, the FCC identified the Major Trading Area ("MTA") as the local calling area for telecommunications traffic between a LEC and a CMRS provider as defined in Section 51.701(b)(2). That really is not in dispute and was not in dispute in the

TSR case. The MTA has been defined, for CMRS purposes, as a local calling area. Second, the FCC determined that this rule, when read in conjunction with 51.703(b), requires LECs to deliver, without charge, traffic to CMRS providers anywhere within the local calling area, or MTA, in which the call originated. This point is significant and the FCC order deserves quoting. At paragraph 31, the FCC said that local exchange carriers are required "to deliver, without charge, traffic to CMRS providers anywhere within the MTA in which the call originated, with the exception of RBOC." The FCC did not say, in this case, that local exchange carriers were required to deliver calls to CMRS providers to points outside the MTA in which the call originated, but rather only had to deliver such traffic at no charge within the MTA where the call originated.

The TSR decision only dealt with the issue of calls that originated and terminated in the same local service area, and addressed the incumbent carrier's obligation to deliver traffic to the competing carrier within that local service area. That is, all TSR stands for is that ILECs have an obligation to deliver, at no charge, calls that the ILEC's subscribers originate to a competing local carrier within the local service area where the call originates. That is simply not the issue being addressed in this proceeding.

With regard to traffic that originates on the ILEC's network, the relevant area in which the traffic has to be delivered free of charge is defined in Section 51.701(b)(1) as the "local service area established by the state commission." To clarify, Section 51.701(b) provides as follows:

(b) Local telecommunications traffic. For purposes of this subpart, local telecommunications traffic means:

(1) telecommunications traffic between a LEC and a telecommunications carrier other than a CMRS provider that originates and terminates within a local service area established by the state commission; or

(2) telecommunications traffic between a LEC and a CMRS provider that, at the beginning of the call originates and terminates within the same Major Trading Area, as defined in § 24.202(a) of this chapter."

Therefore, BellSouth is not required, with regard to CMRS traffic, to deliver the traffic without charge to any point outside of the MTA. The MTA is a CMRS provider's "local service area." Applying the result of the TSR order to the issue in this proceeding, BellSouth should not be required, without appropriate compensation, to deliver traffic to an ALEC at any point outside of BellSouth's "local service area" established by the State Commission.

Q. HOW DOES THE FCC ADDRESS THE ISSUE OF ADDITIONAL COSTS CAUSED BY AN ALEC'S CHOSEN FORM OF INTERCONNECTION?

A. As stated in my direct testimony (page 23), in its First Report and Order in Docket 96-98, the FCC states that the ALEC must bear those costs. Paragraph 199 of the Order states that "a requesting carrier that wishes a 'technically feasible' but expensive interconnection would, pursuant to section 252(d)(1), be required to bear the cost of that interconnection, including a reasonable profit." Further, at

paragraph 209, the FCC states that:

> Section 251(c)(2) lowers barriers to competitive entry for carriers that have not deployed ubiquitous networks by permitting them to select the points in an incumbent LEC's network at which they wish to deliver traffic. Moreover, because competing carriers must usually compensate incumbent LECs for the additional costs incurred by providing interconnection, competitors have an incentive to make economically efficient decisions about where to interconnect. (Emphasis added.)

BellSouth's position on this issue is consistent with the FCC's Order.

Q. MR. FOLLENSBEE SUGGESTS, AT PAGES 14-15 OF HIS TESTIMONY, AND WHILE DISCUSSING HIS EXHIBITS GRF-3 THROUGH GRF-5, THAT BELLSOUTH IS ATTEMPTING TO IMPOSE ADDITIONAL COSTS ON AT&T, RATHER THAN THE OTHER WAY AROUND AS YOU MAINTAIN. PLEASE EXPLAIN WHY MR. FOLLENSBEE IS WRONG?

A. First, let me say that I agree with what he has portrayed in his Exhibit GRF-3. Historically, when a BellSouth local subscriber in a BellSouth local calling area places a call to another BellSouth local subscriber in that same local calling area, BellSouth incurs the cost of switching at the originating caller's office, transport to the called party's end office and switching at the called party's end office. We do not have a dispute about that.

Similarly, I agree with Mr. Follensbee's Exhibit GRF-4, provided that the call originates and terminates in the same BellSouth local calling area. A BellSouth

customer originates a call, and BellSouth switches the call and delivers it to AT&T's Point of Interconnection located in that same local calling area. BellSouth will pay the expenses of getting the call to that Point of Interconnection in the BellSouth local calling area, because that is what BellSouth's local subscribers are paying BellSouth to do. When the call reaches the Point of Interconnection, and AT&T switches the call to its end user, BellSouth will pay reciprocal compensation in the form of end office switching to AT&T. BellSouth has absolutely no problem with that scenario. But remember, because it is critically important, that all of this is taking place in the same BellSouth local calling area.

Turning to Mr. Follensbee's Exhibit GRF-5, however, I must say that AT&T has the story wrong. Or, more precisely, Mr. Follensbee is ignoring the distinction between local calls that never leave the local calling area and local calls that are hauled outside the local calling area. If everything that was pictured on Exhibit GRF-5 all took place within the BellSouth Jacksonville local calling area, Mr. Follensbee would be absolutely wrong. The BellSouth customer would originate a call, and BellSouth, once again, would deliver it to the designated Point of Interconnection. AT&T would pick up the call at the Point of Interconnection and carry it back to its switch. AT&T would then switch the call, and terminate it to its local customer. If all this happened in the Jacksonville local calling area, BellSouth would owe AT&T for call transport from the Point of Interconnection to AT&T's switch, and then would owe AT&T for local switching for terminating the call. On Exhibit GRF-5, the facility between the BellSouth switch and the AT&T switch appears to be a dedicated facility; so the transport paid in this

situation by BellSouth would be some proportional share of the cost of the dedicated facility. The switching rate would be the normal end office rate established for reciprocal compensation.

If the call were flowing the other way (i.e., from AT&T's end user to BellSouth's end user), AT&T would incur the cost of switching its customer's call as well as transporting the call to the Point of Interconnection, an amount that would be exactly equal to what BellSouth pays AT&T when BellSouth's customer originates a call to one of AT&T's customers.

Q. SO WHY IS THIS EVEN AN ISSUE?

A. It is an issue because Mr. Follensbee failed to include something on his exhibit that is critical to this issue. If AT&T's and BellSouth's networks were set up as pictured in Mr. Follensbee's exhibit, everything would be fine. What he has forgotten to point out is that even if AT&T has placed a local switch in a LATA, that switch may be located fifty or a hundred miles from the BellSouth local calling area that AT&T purports to serve. That is, in his Exhibit GRF-5, the BellSouth customer and the BellSouth switch may be located in Lake City, and the AT&T customer may be located in Lake City, but AT&T's switch might be located in Jacksonville. In such a case, AT&T has made the decision to locate the switch in a distant location because it was economical for AT&T. That is fine. BellSouth does not care that AT&T has located its switch that far away from the local calling area it is serving.

However, it is absurd for AT&T to cry foul, as Mr. Follensbee does in his discussion of his Exhibit GRF-5, because BellSouth objects to incurring the cost of hauling a call that originates and terminates in Lake City, out of the Lake City local calling area and over to Jacksonville. BellSouth will haul the call to a point in the Lake City local calling area, and BellSouth will pay for that. It is not equitable, however, to require BellSouth to incur the cost of hauling the call to Jacksonville because AT&T has chosen not to put a switch in Lake City, and that is the situation that is not accurately portrayed by Mr. Follensbee's Exhibit GRF-5.

As I discussed in my direct testimony, the local exchange rates that BellSouth's local subscribers pay are not intended to cover the cost of hauling local calls beyond BellSouth's local calling area. Nevertheless, that is exactly what AT&T wants to force BellSouth (and other local service providers) to do. Evidently, AT&T refuses to pick up the traffic at the Point of Interconnection in each of BellSouth's local calling areas in, for example, the Jacksonville LATA. At the same time, AT&T has refused to compensate BellSouth for the additional cost of transporting these calls from the various BellSouth local calling areas to a distant location selected by AT&T solely for AT&T's own convenience.

Q. PLEASE ADDRESS MR. FOLLENSBEE'S RELIANCE ON THE FCC'S RECENT OKLAHOMA 271 ORDER IN REGARD TO THIS ISSUE.

A. Mr. Follensbee is simply wrong. As much as he might wish that the FCC had adopted AT&T's position in the SBC Oklahoma/Kansas 271 decision, the FCC

did not. Importantly, as Mr. Follensbee will agree, both AT&T and SBC presented the issue to the FCC.

Obviously, the FCC could have chosen to reach a conclusion that would have put this matter to rest. Indeed, all the FCC had to say was that "AT&T is entitled to have one point of interconnection in each LATA and SBC is obligated to deliver all local calls, where ever they originate in that LATA, to AT&T's single point of interconnection at no additional cost to AT&T." However, that is not what the FCC did.

BellSouth is willing to deliver all local calls that originate and terminate in the same local service area to AT&T at a point in that local service area at no charge to AT&T. However, AT&T is not satisfied with that. Instead, AT&T wants BellSouth to commit to haul "local" calls halfway across Florida at no cost to AT&T. If that is what the FCC intended, it should say so plainly before this Commission, or any other state commission, orders such a patently unfair result.

Q. IS THERE AN ALTERNATIVE THAT HAS BEEN ADVOCATED BY SOME ALECs THAT THE COMMISSION COULD CONSIDER, THAT COULD ADDRESS SOME OF THE CONCERNS OF ALL PARTIES?

A. Yes. BellSouth's position is that an ALEC should bear the costs that BellSouth incurs for delivering a local call to a POI that is located outside of the local calling area in which the call originated, regardless of the volume of traffic. This cost may be borne by the ALEC paying BellSouth to transport the traffic, or by the

ALEC buying or leasing facilities at the additional POI. ALECs have argued that such an obligation is not warranted if the ALEC has only a small number of customers in a local calling area and therefore, BellSouth would only be transporting a small volume of traffic on behalf of the ALECs. These ALECs have argued that with a fewer number of POIs per LATA, and no requirement to compensate BellSouth for transport of calls to that POI from throughout the LATA, an ALEC would have more incentive to solicit customers throughout the LATA, rather than just in the most densely populated areas. However, even if this is true, there should be a balance between promoting efficiencies for the ALECs and forcing an ILEC such as BellSouth to subsidize those efficiencies by bearing all the costs for carrying its originating calls between local calling areas to reach an ALEC's designated POI. For these reasons, a compromise, such as a threshold level of traffic is an alternative this Commission could consider.

Q. WOULD BELLSOUTH BE WILLING TO AGREE TO A MINIMUM THRESHOLD OF TRAFFIC, BELOW WHICH AN ALEC IN FLORIDA WOULD NOT BE REQUIRED TO ESTABLISH A POINT OF INTERCONNECTION WITHIN THE LOCAL CALLING AREA OR PAY FOR TRANSPORT TO REACH A SINGLE POI?

A. Yes. BellSouth has reached agreement with two ALECs on this issue. As part of those settlement agreements, BellSouth has agreed that it will transport its originating local traffic to an ALEC POI across local calling areas until the traffic reaches a DS3 level. The relevant language from one such agreement is as follows:

Pursuant to the provisions of this Attachment, the location of the initial Interconnection Point in a given LATA shall be established by mutual agreement of the Parties. If the Parties are unable to agree to a mutual initial Interconnection Point, each Party, as originating Party, may establish a single Interconnection Point in the LATA for the delivery of its originated Local Traffic, ISP-bound Traffic, and IntraLATA Toll Traffic to the other Party for call transport and termination by the terminating Party. When the Parties mutually agree to utilize two-way interconnection trunk groups for the exchange of Local Traffic, ISP-bound Traffic and IntraLATA Toll Traffic between each other, the Parties shall mutually agree to the location of Interconnection Point(s).

Additional Interconnection Points in a particular LATA may be established by mutual agreement of the Parties. Absent mutual agreement, in order to establish additional Interconnection Points in a LATA, the traffic between CLEC-1 and BellSouth at the proposed additional Interconnection Point must exceed 8.9 million minutes of Local Traffic or ISP-bound Traffic per month for three consecutive months during the busy hour. Additionally, any end office to be designated as an Interconnection Point must be more than 20 miles from an existing Interconnection Point. BellSouth will not designate an Interconnection Point at a Central Office where physical or virtual collocation space or BellSouth fiber connectivity is not available, and BellSouth will not designate more than one Interconnection Point per local calling area unless such local calling area exceeds sixty (60) miles in any one

direction, in which case additional Interconnection Points may only be established in that local calling area pursuant to the other criteria set forth in this section.

The threshold level of 8.9 million minutes of traffic per month is typically equivalent to a DS3 level. For BellSouth's own network management, traffic at a DS1 level is the point at which BellSouth adds additional capacity in the form of direct trunk groups to alleviate traffic congestion through the tandem. Also, in interconnection agreements between BellSouth and ALECs, ALECs are generally required to establish direct end office trunking at a DS1 level of traffic. In comparison, BellSouth is willing to allow the exchange of traffic between BellSouth and an ALEC at a given proposed additional interconnection point to reach a DS3 level (an equivalent of 28 DS1s) before the ALEC is required to either establish an additional POI or compensate BellSouth for hauling the traffic from the proposed additional POI to that ALEC's initial (or other) POI in the LATA.

Issue 15: (a) Under what conditions, if any, should carriers be permitted to assign NPA/NXX codes to end users outside the rate center in which the NPA/NXX is homed?

(b) Should the intercarrier compensation mechanism for calls to these NPA/NXXs be based upon the physical location of the customer, the rate center to which the NPA/NXX is homed, or some other criterion?

Q. MR. GATES TAKES THE POSITION ON PAGE 40 OF HIS TESTIMONY

THAT A VIRTUAL NXX CALL IS LOCAL AND THAT RECIPROCAL COMPENSATION IS DUE ON SUCH A CALL. DO YOU AGREE?

A. No. As I understand it, ALECs want to assign a telephone number that is associated with local calling area number 1 to an ALEC customer who is located in local calling area number 2. Mr. Gates then claims that because a BellSouth customer in local calling area number 1 dials what he perceives to be a local number to reach the ALEC customer in local calling area number 2, the call is somehow a "local" call. Mr. Gates' position, however, is wrong because it ignores the fact that regardless of the telephone number an ALEC assigns to its customer, the call I have just discussed originates in one local calling area and terminates in a different local calling area. The call, therefore, simply is not a local call, and BellSouth is not required to pay reciprocal compensation for the call.

Q. ON PAGE 28, MR. GATES STATES THAT BELLSOUTH ITSELF CURRENTLY ASSIGNS NXX CODES TO CUSTOMERS WHO ARE NOT PHYSICALLY LOCATED IN THE EXCHANGE AREA ASSOCIATED WITH A PARTICULAR NXX. IS THIS CORRECT?

A. Yes. As I explained in my direct testimony, BellSouth's foreign exchange ("FX") service allows an FX subscriber that is not physically located in a particular exchange area to receive a telephone number with an NXX code that is associated with that exchange area. As explained in my direct testimony, and contrary to Mr. Gates' claims on page 31, BellSouth has implemented systems changes that

will enable us to identify and exclude such calls from reciprocal compensation billing.

Q. CAN YOU COMPARE THE VIRTUAL NXX ARRANGEMENT TO FX AND 800 SERVICES?

A. Yes. When BellSouth provides FX service to one if its subscribers, that FX subscriber compensates BellSouth for providing an extension of a circuit from the distant or "foreign" exchange to terminate in the calling area in which the FX subscriber is located. Thus, while the FX subscriber is physically located in one local calling area, it gives the appearance of being in a different local calling area, and callers in that different local calling area can place calls to the FX subscriber without paying toll charges. Even though these callers do not pay toll charges when they call the FX subscriber, BellSouth is compensated – by the FX subscriber – for transporting the call outside the local calling area in which it originated.

As I noted in my direct testimony, a virtual NXX is most similar to a toll free, or 800, number. An 800 number works the same way, except it is not limited to one local calling area – callers from several local calling areas may call the 800 subscriber without paying toll charges. The 800 subscriber, however, pays the provider for the service. In both examples, the call made is an interexchange toll call. In both examples, the person making the call does not pay the toll charges, but instead the subscriber receiving the call pays BellSouth to haul the call outside of the local calling area in which it originated.

Q. ON PAGES 26, MR. GATES DESCRIBES THE VALUE OF A VIRTUAL NXX SERVICE TO ALECS' ISP CUSTOMERS. PLEASE COMMENT.

A. The Virtual NXX service can be of value to an ALEC's ISP customers or to any other customers to whom the ALEC may choose to offer the service. Similarly, BellSouth's FX service can be of value to BellSouth's FX customers. That is not the issue. The issue is who should compensate the ALEC for providing the Virtual NXX service to its customers.

When BellSouth provides FX services, the FX customer who orders the service compensates BellSouth. If an ALEC wishes to charge its Virtual NXX customers for its Virtual NXX service, it is free to do so. ALECs, however, apparently wants to provide this service to its customers free of charge, and they want to subsidize its provision of this service to its customers by charging BellSouth reciprocal compensation for calls that are not local. As I explained above, this is neither permitted nor allowed by the 1996 Act or the FCC's rules.

Q. BEGINNING ON PAGE 31 OF HIS TESTIMONY, MR. GATES DISCUSSES THREE ALLEGED "SIGNIFICANT NEGATIVE IMPACTS" OF PROHIBITING LECS FROM ASSIGNING CUSTOMERS VIRTUAL NXX NUMBERS. PLEASE ADDRESS EACH ALLEGATION.

A. Mr. Gates alleges the following will occur if LECs are prohibited from assigning Virtual NXXs:

- ILECs would be able to evade their intercarrier compensation

arrangements they have negotiated with ALECs;

- Contrary to one of the fundamental goals of the 1996 Act, such restrictions would have a negative impact on the competitive deployment of affordable dial-up Internet services; and
- ILECs would have a competitive advantage over ALECs in the ISP market.

Contrary to Mr. Gates' assertions, BellSouth is not proposing that ALECs be precluded from assigning Virtual NXXs. The real issue pertains to how calls to Virtual NXXs will be compensated. In response to Mr. Gates' first allegation, BellSouth would not be evading its reciprocal compensation obligations under the Act. The Act requires reciprocal compensation for the transportation and termination of local traffic. The traffic under discussion, as shown above, is not local.

As to Mr. Gates' second allegation, BellSouth's position has no impact on an ALEC's ability to serve ISPs. An ALEC is free to target and select customers, and to assign telephone numbers as it chooses. BellSouth's position is consistent with long-standing FCC precedent that calls which originate and terminate in different local calling areas are not local and, therefore, are not subject to reciprocal compensation.

Contrary to Mr. Gates' third allegation, BellSouth's position would not grant BellSouth any advantage in the ISP market. Due to the FCC's exemption of ISP-bound traffic from access charges, BellSouth is limited to charging its ISP customers the tariffed business local exchange rate. ALECs generally have more

flexibility in their pricing.

Finally, nothing in the 1996 Act requires ILECs like BellSouth to subsidize the provision of an ALEC's service to ISPs (or to any other customers) by paying reciprocal compensation for non-local traffic. Thus, whether an ALEC assigns a Virtual NXX number to a florist or to an ISP, it simply is not entitled to reciprocal compensation when a BellSouth customer in a distant local calling area places a call to the florist or the ISP served by an ALEC.

Q. ON PAGE 32, MR. GATES SUGGESTS THAT BELLSOUTH IS ATTEMPTING TO RE-CLASSIFY LOCAL CALLS AS TOLL CALLS. IS THIS A VALID STATEMENT?

A. Absolutely not. To the contrary, ALECs are attempting to reclassify the nature of the call, from toll to local. An FX call or Virtual NXX call that crosses local calling area boundaries is a toll call, and it is not subject to reciprocal compensation. If the provider of the FX or Virtual NXX service chooses not to bill its customer for toll service, that is its choice; however, the manner in which the provider elects to bill its end users for the service does not change the nature of the call. An example of this is FX service. In this instance, the call originates and terminates in different local calling areas. While the originating party may be charged as if this is a local call, the call is a toll call, and the terminating party is paying for the toll call through FX charges.

Q. PLEASE EXPLAIN FURTHER WHY BELLSOUTH IS NOT CHANGING THE

DEFINITION OF LOCAL CALLS.

A. The FCC has defined what constitutes a local call that is subject to reciprocal compensation obligations. As set forth in 47 CFR §51.701(b)(1), "local telecommunications traffic" to which reciprocal compensation applies means:

> *Telecommunications traffic between a LEC and a telecommunications carrier other than a CMRS provider that originates and terminates within a local service area established by the state commission . . . .*

BellSouth's position in this proceeding is consistent with this definition. BellSouth, therefore, is not the party that is trying to change the FCC's definition of a local call. Instead, ALECs are trying to change this definition by asking the Commission to ignore the originating and terminating points of a call and consider only the telephone number the ALEC assigns to its customer.

Q. MR. GATES, AT PAGES 33-35, STATES THAT THE COSTS INCURRED BY BELLSOUTH DO NOT CHANGE BASED ON THE LOCATION OF THE ALEC'S CUSTOMERS. PLEASE COMMENT.

A. The issue in this proceeding is whether reciprocal compensation or access charges are due in the case of "Virtual NXX" traffic that originates in one local calling area and terminates in another local calling area. Reciprocal compensation covers the cost of transporting and terminating local calls, and, as I have explained, the FCC's rules clearly state that the originating and terminating points of a call

determine whether or not a call is local. Whether reciprocal compensation or access charges are due, therefore, is determined by the designation of a particular call.

Clearly, when a BellSouth customer calls an ALEC customer in a different local calling area that simply is not a local call. Instead, it is a toll call to which access charges – and not reciprocal compensation charges – apply. ALECs are simply not entitled to reciprocal compensation for these calls.

Q. ON PAGE 34, MR. GATES STATES THAT NOT ONLY WOULD BELLSOUTH DOUBLE-RECOVER FOR CARRYNG SUCH TRAFFIC, BUT IT WOULD BE COMPENSATED FOR COSTS IT DOES NOT EVEN INCUR. IS THIS CORRECT?

A. Absolutely not. Local rates are designed to recover the costs of carrying local traffic. The traffic being addressed in this issue, however, is not local traffic. Instead, the traffic is long distance traffic because it originates in one local calling area and terminates in a different local calling area. Accordingly, BellSouth is originating long distance traffic in these instances, and BellSouth clearly incurs costs in originating this long distance traffic. As is the case when BellSouth originates any other long distance call, BellSouth is entitled to collect originating access charges when it originates this long distance traffic for another carrier.

Q. HOW IS BELLSOUTH COMPENSATED FOR THE COSTS INCURRED WHEN ONE OF ITS CUSTOMERS CALLS A PERSON LOCATED IN A

DIFFERENT LOCAL CALLING AREA?

A. When a BellSouth end user calls a person located outside of that end user's basic local calling area, BellSouth receives compensation in addition to the basic local rates it charges its customers. When BellSouth carries an intraLATA toll call, for instance, BellSouth collects toll charges from its customer who placed the call. When a BellSouth customer places an interLATA toll call, BellSouth collects originating access from the interexchange carrier ("IXC") transporting the call. When BellSouth carries an intraLATA toll call from a BellSouth end user to a BellSouth FX customer, BellSouth receives compensation for the FX service (including the toll component of that service) from its FX customer. Similarly, when BellSouth carries calls to a BellSouth customer with an 800 number, BellSouth receives compensation for the 800 service (including the toll component of that service) from its 800 service customer. In each of these cases, BellSouth is compensated from some source other than the local rates it charges its customers for placing local calls. That additional source may be BellSouth's end user customer (i.e., toll charges), another telecommunications provider such as an IXC (i.e., access charges), or an FX or 800 service subscriber (i.e., FX charges or 800 charges).

In effect, what ALECs are really asking the Commission to do here is to require BellSouth to originate a non-local call completely free of charge. To add insult to injury, ALECs are demanding that BellSouth actually pay, rather than be paid, for this service. The ALECs' position, therefore, ignores not only the FCC's definition of local calls but also the reality of the inter-carrier compensation

mechanisms of reciprocal compensation and access.

Q. ON PAGE 34, MR. GATES ASSERTS THAT ACCESS CHARGES ARE NOT AN APPROPRIATE MEANS OF COST RECOVERY FOR THIS TRAFFIC. PLEASE COMMENT.

A. As I previously mentioned, the traffic addressed in this issue is long distance traffic because it originates in one local calling area and terminates in a different local calling area. Accordingly, BellSouth is originating long distance traffic in these instances, and BellSouth clearly incurs costs in originating this long distance traffic. As is the case when BellSouth originates any other long distance call, BellSouth is entitled to collect originating access charges when it originates this long distance traffic for an ALEC or any other carrier.

Q. ON PAGE 41, MR. GATES STATES THAT REASONS FOR TREATING VIRTUAL NXX TRAFFIC AS LOCAL TRAFFIC INCLUDE PROVIDING ISPS WITH A COST-EFFECTIVE WAY TO PROVIDE LOCAL DIAL-UP INTERNET SERVICE. PLEASE COMMENT.

A. Mr. Gates' statements highlight the fact that ALECs are not so much interested in flexible use of NXX codes as they are in obtaining reciprocal compensation for traffic which is not local traffic to subsidize its operations. Reciprocal compensation is designed to compensate a carrier for transporting and terminating a local call. Long distance calls have different compensation mechanisms that apply and would continue to apply in the cases we have been discussing. BellSouth is not attempting to restrict an ALEC's use of NXX codes. However,

BellSouth does insist that such use of NXX codes not be allowed to disguise toll calls as local calls for the purpose of receiving reciprocal compensation.

In the FX example I described earlier, BellSouth charges the FX customer appropriate charges to cover BellSouth's costs. ALECs may do the same. For example, the rate elements of BellSouth's FX service include interexchange channel, interoffice channel, intercept arrangement and usage charges (See BellSouth General Subscriber Service Tariff, Section A9). When an ALEC assigns telephone numbers to a customer in a way that allows callers to make a long distance call to that customer but not be charged for a long distance call, the ALEC may recover its costs from the customer who is benefiting. The ALEC, however, may not try to recover those costs from BellSouth.

Likewise, in the 800 service example discussed previously in my testimony, the end user who dials the 800 number is charged for a local call to get to the 800 number. The customer subscribing to the 800 service, however, pays for the 800 service charges in lieu of the calling party paying toll usage charges. The customer benefiting from the service is the one who pays for the service, as should be the case with Virtual FX or Virtual NXX calls.

Q. ON PAGE 39, MR. GATES STATES THAT BELLSOUTH'S PROPOSAL WOULD ULTIMATELY VIOLATE THE 1996 ACT. DO YOU AGREE?

A. Certainly not. The 1996 Act and the FCC's rules require that reciprocal compensation be paid for termination of the originating carrier's traffic within the

same local calling area (local calls). The 1996 Act does not require BellSouth to pay reciprocal compensation to an ALEC for termination of calls outside the local calling area (toll calls). ALECs are attempting to use the "Virtual NXX" fiction to disguise toll calls as local calls by its assignment of NPA/NXX's to customers outside the local calling area with which the NPA/NXX codes are associated. An ALEC can assign NPA/NXX codes as it chooses. An ALEC, however, cannot use the assignment of its NPA/NXX codes to generate reciprocal compensation payments for calls that originate and terminate in different local calling areas.

Issue 18: How should the policies established in this docket be implemented?

Q. WHAT IS BELLSOUTH'S POSITION ON THIS ISSUE?

A. The policies established in this proceeding will take effect after the Commission issues an effective order and would be implemented when existing interconnection agreements are properly amended to incorporate the ordered policies. The terms and conditions by which BellSouth provides UNEs and interconnection services to ALECs are governed by an approved interconnection agreement.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

(#226394)

BY MR. EDENFIELD:

Q Did you prepare a summary of your testimony, Mr. Ruscilli?

A I did.

Q Would you give that now, please?

A Yes, thank you.

Good afternoon. I am here today to present BellSouth's position on most of the issues being addressed in this proceeding. The Commission's jurisdiction, which is Issue 10. This issue addresses whether the Commission has the jurisdiction to specify rates, terms, and conditions governing compensation for transport and delivery of traffic subject to Section 251 of the Act. Since this is a legal issue, BellSouth will appropriately address its position in its post-hearing brief filed in this proceeding.

Tandem switching, which is Issue 12. BellSouth believes that in order for an ALEC to appropriately charge for tandem switching, the ALEC must demonstrate that, one, its switches serve a comparable geographic area to that served by BellSouth's tandem switches, and that, two, its switches actually perform local tandem functions. However, BellSouth acknowledges that the FCC's language in its April 27th, 2001 notice of proposed rulemaking accompanying its order on remand addressing intercarrier compensation for ISP-bound traffic seems to resolve the question of whether a two-prong or a

single-prong test is to be used.

Nonetheless, even if the FCC is taken at its word and only the geographic test is required, the ALEC still has the burden of proof that it is entitled to the tandem switching rate in every instance based on the geographic coverage of its switch.

Definition of local calling area, Issue 13. Most of the parties in this proceeding appear to be in agreement that the Commission should allow each party to establish their own local calling area for reciprocal compensation purposes.

Point of interconnection, Issue 14. ALECs are arguing that they should not have to mirror BellSouth's network configuration. ALECs want to deploy as few switches as possible, and that's fine. The issue is really a question of financial responsibility, not whether an ALEC has a right to designate a point of interconnection, or POI, at a technically feasible point.

Put simply, the question of who should pay the cost BellSouth incurs when it delivers a local call from the local calling area within which the call originates and will ultimately terminate to a POI that is located in a different calling area. To illustrate, suppose an ALEC puts a switch in Jacksonville. They can use that switch to serve a customer in Lake City, and that's fine. However, to facilitate their network design the ALEC wants BellSouth to haul a call that

originates and ultimately terminates in Lake City all the way to the CLEC's POI in Jacksonville at no charge to the ALEC. Our local customers, however, only pay us for completing calls within the local calling area.

In a nutshell, this issue is about whose customers should pay for the cost the ALEC creates as a result of its network design decisions. The ALECs want BellSouth's customers to bear those costs. And not surprisingly, BellSouth believes the ALEC customers should bear those costs. Some of the ALECs participating in this proceeding have asserted the position that local calling areas, rate centers, and exchanges are irrelevant in today's competitive environment.

While there may be some merit to ultimately changing the structure of local calling areas, intrastate toll calling areas and rate centers and exchanges, especially once BellSouth is allowed to provide long distance service, for the purpose of this proceeding a total revamping of the existing structure of local and toll rates is not the issue.

The current structure was established by the FCC and state commissions. BellSouth cannot unilaterally redefine local calling areas because changing local calling areas impacts more than intercarrier compensation. Local calling areas impact the price BellSouth's retail customers pay for basic local service. Therefore, the issue in this proceeding must be addressed within the structure that currently exists.

In an attempt to resolve this issue, BellSouth has proposed an alternative. Recognizing that an ALEC entering a new market with few or no customers may not find it cost efficient to build or lease facilities in every local calling area, BellSouth is proposing a threshold traffic level below which ALECs would not even have to pay BellSouth for transporting calls across local calling areas. Only when the traffic exceeds the designated level, and it is the DS-3 level of traffic, in a given rate center would ALECs be required to establish an additional POI. Several ALECs have agreed to this arrangement and BellSouth believes it represents an acceptable middle ground.

Virtual NPA/NXX, which is Issue 15. Very simply, this issue is about whether reciprocal compensation should along to long distance calls. ALECs would like to assign their telephone numbers in a way that would allow a BellSouth customer to make what appears to the customer to be a local call to an ALEC customer that is actually located outside of that local calling area.

For example, an ALEC could assign a Lake City phone number to a Jacksonville customer or to a New York customer. These calls are clearly long distance calls and should not be subject to reciprocal compensation. This is the conclusion researched by the vast majority of state commissions that have addressed this issue. BellSouth asks the Commission to rule that

reciprocal compensation is only appropriate for local traffic, which is traffic that originates and terminates within a local calling area.

On the other hand, what the ALECs are really asking the Commission to do here is to require BellSouth to originate a non-local call completely free of charge. Further, ALECs are demanding that BellSouth actually pay rather than be paid for doing this service. The ALECs' position therefore ignores not only the FCC's definition of local calls, but also the reality of intercarrier compensation mechanisms of reciprocal compensation and access.

IP Telephony, Issue 16. As with any other local traffic, reciprocal compensation would apply to local telecommunications provided by IP Telephony. To the extent, however, that calls provided by IP Telephony are long distance calls, access charges should apply. Application of access charges for long distance calls does not depend on the technology used to transport such calls.

BellSouth requests that the Commission determine that access charges rather than reciprocal compensation apply to long distance calls irrespective of the technology used to transport them. To do otherwise would unreasonably discriminate between long distance carriers using IP Telephony and those who do not.

Commission established compensation mechanisms absent an

agreement between the parties, which is Issue 17. The resolution of the issues in this proceeding will result in the establishment of a compensation mechanism. Once the mechanism is determined, any inability of the parties to reach agreement should be appropriately resolved through arbitration proceedings in accordance with Section 252 of the Act.

Implementation of policies established in this docket, which is Issue 18. The policies established in this proceeding will take effect after the Commission issues an effective order and would be implemented when existing interconnection agreements are appropriately amended to incorporate the ordered policies. This approach is consistent with the Commission's recent rulings regarding the implementation of rates established in the generic UNE cost dockets.

Thank you, that concludes my summary

MR. EDENFIELD: Mr. Ruscilli is available for cross examination.

CROSS EXAMINATION

BY MS. MASTERTON:

Q Good afternoon, Mr. Ruscilli.

A Good afternoon.

Q I am Susan Masterton with Sprint. Mr. Ruscilli, you stated that the test as to whether an ALEC is entitled to reciprocal compensation at the tandem switching rate is a two-pronged test; that is, that an ALEC's switch must provide

both similar functionality and serve a comparable geographic area, correct?

A Yes. I stated that in my direct testimony and also in my rebuttal.

Q So are you saying that even if an ALEC, in fact, has a tandem switch and uses it to terminate traffic, the ALEC would only be entitled to reciprocal compensation at the tandem switching rate if that switch also served a comparable geographic area to the ILEC's switch?

A Can you repeat that just one more time. I want to make sure I followed you.

Q I'm saying if an ALEC, in fact, has a tandem switch and uses it to terminate traffic, then are you saying that the ALEC would only be entitled to the tandem switching reciprocal compensation rate if that switch also served a comparable geographic area to the ILEC's switch?

A Well, if the ALEC had a tandem switch and it was functioning as a tandem switch, if I understand your question correctly, and serving a comparable geographic area, of course the tandem rate would apply. Did I misunderstand your question?

Q No, I'm saying if they have a tandem switch and they are using the tandem switch, but do you also -- does it have to be a comparable geographic area, as well?

A Well, again, the FCC was fairly clear in the notice

of proposed rulemaking. I believe it was in Paragraph 105 where they say clearly -- there was some confusion that was expressed by the parties, and the FCC said that it is a geographic comparability test.

I guess where I'm getting tripped up on your question is that a tandem switch, I don't understand a tandem switch serving end users by itself directly. Is that what you are asking me?

Q No. I'm just saying what if the switch of the ALEC served a smaller geographic area to the comparable switch of the ILEC, but did, in fact, perform tandem switching functions?

A Okay, I'm sorry. Now I'm with you on that question. It would seem to me that what the FCC has said is the geographic comparability is the test.

Q So then two if ILECs interconnect for the exchange of traffic and both use a tandem switch, but the smaller ILEC's tandem switch covers a smaller geographic area than the larger ILEC's tandem switch, are you saying that the ILEC, the smaller ILEC would not be entitled to reciprocal compensation at the tandem switching rate in that instance?

A No, I'm not saying that at all. Your question is two ILECs, two ILECs would not have mutual footprints. They would have separate footprints if they are the incumbent LECs.

Q But then you are saying that you can treat the ALECs differently from ILECs then in terms of reciprocal

compensation?

A Well, again, the function is to demonstrate some sort of symmetry. And if you are dealing with ILECs, ILECs, in fact, have tandems that cover a particular area, perform the tandem function and serve end offices. We are required to allow interconnection at the tandem office or at an end office. If someone delivers their traffic to us at a tandem office, we are entitled to recover the charge associated with the cost of delivering tandem traffic and then the transport and end office termination to that.

If it were two ILECs interconnecting, say inside the State of Florida, ILEC A would not have to have the same geographic footprint as ILEC B simply because ILEC A doesn't serve the same territory as ILEC B. You can only have one incumbent LEC in a particular given footprint.

Q Thank you. Mr. Ruscilli, on Page 12 of your direct testimony you suggest that the appropriate scope of the local calling area for the purposes of reciprocal compensation should be established through mutual agreement of the parties, correct?

A That is correct.

Q But what if the parties can't agree. Would you agree that the ILEC's local calling scope, including EAS routes as reflected in the ILEC's tariffs, would be the appropriate local calling scope as a default mechanism if the parties can't

agree?

A Well, I would propose that the local calling area of the ILEC would be the basic local calling area. Once you get into an EAS, an extended area plan, or a LATA-wide plan, what you are really doing is you are offering to customers the ability to substitute paying toll charges on a minute of use basis with a flat rate charge. That is not part of a basic local calling area.

Q So what are you saying should be the default mechanism if the --

A The basic local calling area.

Q I see. Thank you. Mr. Ruscilli --

COMMISSIONER DEASON: Excuse me, let me ask a question.

THE WITNESS: Yes, sir.

COMMISSIONER DEASON: Well, then how would that effect an ALEC who wishes to provide his customers a larger local calling area than the incumbent LEC provides?

THE WITNESS: I don't think it would. An ALEC can define its own calling area, you know, whatever the rules of this Commission require an ALEC to submit. However an ALEC wants to define their local area is up to that ALEC for their customers.

COMMISSIONER DEASON: So they are free to do that. But how would they be affected compensation-wise for traffic

which -- for intercarrier traffic?

THE WITNESS: I guess it would depend on a call-by-call basis, or else if the ALEC and the ILEC had reached some sort of agreement that -- as an example, for purposes of intercarrier compensation within the LATA they will treat everything as reciprocal comp, or they could basically set up the calls and deliver information to each other as the calls are set up. This call originated in my local calling area, me being BellSouth, and you terminated it in that local calling area. I pay you reciprocal comp.

If the call originated in my local calling area and terminated in an ALEC's calling area that was outside of my local calling area, that is a toll call. So, you know, I would be collecting toll from my customer, it wouldn't be a reciprocal comp issue.

CHAIRMAN DEASON: Well, let me see if I understand. Say we have City A and City B. BellSouth's says that that is a toll call?

THE WITNESS: Yes.

COMMISSIONER DEASON: An ALEC serves both City A and City B, and it's part of their marketing that is not a toll call, that is a local call. So, an ALEC customer in City A calls a customer in City B, but the customer they are calling is a BellSouth customer.

THE WITNESS: Okay.

COMMISSIONER DEASON: Okay. Do you follow me?

THE WITNESS: Yes, I think so. I hope so.

COMMISSIONER DEASON: All right. What would be the intercarrier compensation for that call?

THE WITNESS: If an ALEC customer called a BellSouth -- in City A called a BellSouth customer in City B that is the ALEC's local calling area, the ALEC would be delivering that call, billings its customer if it was a local call, and would be paying reciprocal compensation to BellSouth because it is terminating a local call for it inside that customer. There wouldn't be any toll charges or access charges going back and forth because that is originating on the ALEC's network.

COMMISSIONER DEASON: So even though you would define that call as toll, the fact that it is defined as a local call by the ALEC, they would pay you reciprocal comp?

THE WITNESS: Precisely. It's the ALEC's customer, it's not ours. We can't define what is toll and what is local for an ALEC, and they certainly can't do it for us.

COMMISSIONER DEASON: Okay.

BY MS. MASTERTON:

Q Mr. Ruscilli, I was going to ask you some questions that involved Mr. Hunsucker's direct testimony -- I mean, rebuttal testimony. Do you need me to provide you a copy of that?

A If you could, please.

Q Mr. Ruscilli, in your summary you discussed a threshold traffic test for determining compensation for transporting traffic to an ALEC's point of interconnection. Are you familiar, or can you look at Mr. Hunsucker's rebuttal testimony on Page 7 through 9 where he discusses a similar, or I think the same proposal that you were referring to in your summary?

A Yes.

Q And then on Pages 9 and 10, Mr. Hunsucker suggests two modifications to that. One, that the ALEC has the ultimate say on where the point of interconnection will be and that there can be no more than one point of interconnection per local calling area.

You had indicated on Pages 13 through 15 of your rebuttal testimony that the threshold traffic test was a reasonable compromise between the concerns of the ILECs and the ALECs regarding the establishment of a POI, is that correct?

A Yes. We think we are putting forth a very reasonable compromise, because in order to encourage competition we recognize that ALECs may just have a few customers in a particular city and they have expressed a concern that it would be burdensome for them to establish a POI there for just a few customers and for that matter to lease facilities to serve those few customers.

So we have established what appears to us to be a very reasonable compromise in that we are saying, okay, you can set that up with your customers, you don't have to pay us anything. When your traffic reaches a threshold level of 8.9 million minutes of use per month for three consecutive months, so you have got a huge volume of traffic now coming from that city which is indicative that they don't have a few customers anymore, they have probably got thousands of customers there, at that point they need to consider establishing a POI there.

And so we are basically saying to encourage competition for the first, you know, bit up to 8.9 million, you can do it, we won't bill you for it, but we need some protection, and that is where the threshold comes in.

Q The question I have for you is with Mr. Hunsucker's proposed modifications would you still agree that this represents a reasonable compromise of ALEC and ALEC concerns?

MR. EDENFIELD: Could I ask that Mr. Ruscilli just be given a minute to read the passage that we are taking about.

THE WITNESS: Yes.

MS. MASTERTON: Yes. Pages 9 and 10.

THE WITNESS: Thank you.

BY MS. MASTERTON:

Q It starts on --

A I've got you. His first point which is discussing mutual and then the right to establish the POI, which is

certainly the heart of one of the issues that we have here. Most of the time I think the parties are going to reach an agreement on a mutual POI, but there are going to be sometimes when they are not, and it is a function that ALECs have the right to determine where they want to deliver traffic to us as given by the Act, so that they can minimize their costs of transport and termination. Those are reciprocal compensation writes. BellSouth believes it has the same right for delivery of its traffic to the ALEC. So we don't reach agreement with Mr. Hunsucker's modification there.

In the second one, which has to do with a local calling area of 60 miles, that is intended to cover what we believe to be our very largest local calling areas. Which as an example, Atlanta, I think is one of the largest local calling areas that there is in the country. And what we are saying is within a 60-mile local calling area, we'll have one POI. We will bring our traffic to that POI. But anything bigger than that, then we want the right to say you really need to have another POI.

Most of our states are rural states, most of our states you have local calling areas that are not 60 miles. They are 10, you know, 5 or 10 miles across, so we need the flexibility. So we really couldn't reach agreement.

Q But, Mr. Ruscilli, in your direct testimony on Page 14, Lines 20 through 22, don't you say that BellSouth will be

financially responsible for transporting BellSouth's originating traffic to a single point in each local calling area?

A Yes, and that is the point that I was making about the 60 mile. Sixty miles encompasses almost our largest local calling area that is out there, so we will be responsible inside that local calling area for bringing it to that single point. But beyond 60 miles, that is unreasonable. Because now, in most of our states, you are getting really probably the distance between two local calling areas. As an example, I'm from Alabama and Birmingham and Decatur, which is where I grew up, is just a little bit over 60 miles apart, and that is two distinct local calling areas.

Q Do you know if there is any local calling areas in Florida that exceed 60 miles?

A I do not in Florida. I think Atlanta is one of our largest, and so we used that as the benchmark.

MS. MASTERTON: Thank you. I have no further questions.

CHAIRMAN JACOBS: Mr. Lamoureux.

CROSS EXAMINATION

BY MR. LAMOUREUX:

Q Good afternoon, Mr. Ruscilli. I'm Jim Lamoureux, I represent AT&T.

A Good afternoon, Mr. Lamoureux. Good to see you

again.

Q Nice to see you again. I want to begin by following up on a couple of questions from Commissioner Deason dealing with the intersection of defining local calling areas and payment of intercarrier compensation. You agreed that ALECs can define their local calling areas for their customers as small or as big as they choose to, is that right?

A Yes.

Q And the largest local calling area that BellSouth has that has been approved by this Commission for Florida is LATA-wide local calling, right?

A There is a LATA-wide local calling area plan, yes.

Q Yes. So effectively doesn't that mean that any call that originates and terminates within a LATA is subject to reciprocal compensation?

A Well, again, I think what we are talking about, as I was talking to Commissioner Deason about this, is that is a plan that is offered to customers who have basic local service. And what we offer with a LATA-wide or an extended area plan that BellSouth offers in its local exchange tariff is the ability to pay a flat rate in addition -- in other words, over and above your local calling area rate. And that flat rate gives you the right to call across a LATA, and you are doing that instead of paying a per minute charge. So in effect it is just another way of paying toll for local service.

Q That service is provided for in the section of your tariff in Florida called basic local exchange service, right?

A It is, yes.

Q And it is described in your tariff as a local service, correct?

A Yes, it is.

Q It is not described as a toll service, is it?

A I don't believe it is described as a toll service, but it is in our local tariff. But, again, in the local tariff it tells you that you get that in lieu of paying measured calls for your toll.

Q Is BellSouth in the practice of putting toll services in the local exchange service section of its tariffs?

A Not necessarily, no.

Q Are you aware of any toll services that BellSouth describes in the basic local exchange service section of its tariff?

A I'm not aware of any. I don't recall, the A.3 tariff is fairly large.

Q Let's talk a little bit about our favorite issue, Issue 14.

A It must be POI.

Q What I will refer to as the point of interconnection or network architecture issue?

A Yes, sir.

Q Okay. And I am going to begin with some things that I think we agree on before we get to what I think the things we disagree on are, okay?

A Yes, sir.

Q Would you agree with me that the Act allows ALECs to interconnect with BellSouth at any technically feasible point?

A Yes.

Q And BellSouth agrees that ALECs can choose to interconnect with BellSouth at any technically feasible point in a LATA, is that right?

A Yes.

Q Two for two. Would you agree that the specific rationale put forth by the FCC for this is to allow ALECs to minimize their cost of transport and termination?

A Yes, I said that earlier. And that is the cost that they would pay to BellSouth to terminate that traffic. It is a reciprocal compensation cost.

Q And the FCC has specifically said that a rationale for its requirement that ALECs be able to interconnect at any technically feasible point is to minimize their cost of transport and termination, correct?

A Yes.

Q Would you agree that the FCC has said that an ALEC has the option to interconnect at only one technically feasible point in a LATA?

A Yes.

Q And there is no technical impediment that you are aware of to interconnecting at a single point in a LATA, is there?

A None that I am aware of.

Q And generally will you agree that ALECs may designate a single point of interconnection with BellSouth in a LATA?

A Generally, yes.

Q Okay. I think that is the end of things that we can agree on on this issue. And as you might imagine, what I would like to do to set up the issue is I would like to draw some things on my little chart up there.

A Yes, sir.

COMMISSIONER DEASON: I get the impression you all have done this before.

THE WITNESS: We have danced several times, yes, sir.

MR. LAMOUREUX: In fact, before some of you all.

BY MR. LAMOUREUX:

Q Let me draw a big circle representing the LATA, okay?

A Yes, sir.

Q And let's say that AT&T has chosen a point in that LATA as the single point of interconnection at which it will interconnect with BellSouth in that LATA, okay?

A Okay.

Q Now, by logical necessity, that point exists in a

BellSouth basic local calling area in the LATA, right?

A Correct.

Q Let me draw another basic local calling area that I am just going to hypothetically say is right next to that first basic local calling area, okay?

A Okay. But one does not call into the other as local calling, is that correct?

Q Correct. These are two separate basic local calling areas that exist in this LATA.

A Got you. Yes, sir.

Q And let me just label them basic local calling area one, basic local calling area two. I have put the point of interconnection in basic local calling area two, okay?

A Yes, sir.

Q I think we can agree that when the AT&T customer calls the BellSouth customer there is no issue concerning that call, is that right?

A That is correct.

Q In that instance, in a simple sense, the call will travel from the basic local -- or from the AT&T customer which physically resides in basic local calling area one, to the point of interconnection in basic local calling area two, and then terminate to the BellSouth customer in basic local calling area one, right?

A That is correct.

Q And we agree that AT&T as the ALEC will bear financial responsibility for hauling that call all the way from its customer to the point of interconnection to terminate at the BellSouth customer, right?

A That is correct. Just for edification here, the AT&T customer in the lower left, in my testimony I talk about the fact they have a long loop from AT&T because AT&T's switch is at that point of interconnection that is in calling area two. So you have a customer that is connected by a loop, and you are providing that loop, and that is your cost and the customer is paying you for it. And then you are paying reciprocal comp from that X over to the BellSouth customer because we are terminating the call.

Q And that's what I mean by financial responsibility. This is either our own facility or a facility we are buying from BellSouth?

A Correct.

Q And we are paying BellSouth reciprocal compensation to get from the point of interconnection to terminate at the BellSouth customer, right?

A Yes, sir.

Q The issue on this issue is when the call goes the other direction, from the BellSouth customer to the AT&T customer, right?

A Yes, sir.

Q In that situation, BellSouth does agree that it will pay recip comp to terminate the call from the point of interconnection to the AT&T customer, right?

A That is correct. We will pay the end office switching or the tandem switching.

Q Excuse me, I'm sorry. The dispute on this issue is who pays to transport the call from the customer to the point of interconnection, is that right?

A That is correct. In my exhibit it is labeled this facility is in dispute.

Q Okay. I just want to make sure we are in context. When the call goes from AT&T to BellSouth, from an AT&T customer to BellSouth, we have agreed that AT&T will bear financial responsibility for the entirety of that call, right?

A That is correct.

Q Going the other direction, BellSouth will agree to pay for part of the call, but not the entirety of that call, right?

A That is correct, subject to the offer that I have put on the table here, that up to a certain volume of traffic we won't charge for it.

COMMISSIONER DEASON: Well -- excuse me for just a moment. Under the second scenario where you have a BellSouth customer in local calling area one who calls an AT&T customer in local calling area one, how do you propose that the

compensation should work under that scenario?

THE WITNESS: Well, if I can answer this in two parts. First, the reason for compensation is that if a BellSouth customer called -- in area one called another BellSouth customer in area one, or another ALEC customer who had a switch in area one, the call would never leave. We wouldn't have to transport it but inside that local call area, which is what the local call area and reciprocal compensation is all about. So that is the reason why.

What we would propose between the BellSouth customer in one and going to two is the threshold plan. And quite simply we are saying if it reaches a DS-3 level of traffic, DS-3 is 28 DS-1s, and that is the equivalent of about 670, I think, the engineers would know more than I would, 670 types of trunks, once it reaches that level of traffic, 8.9 million minutes of traffic per month for three months, then they need to establish a POI. If it doesn't reach that level, they don't pay us anything.

COMMISSIONER DEASON: Okay. And once it reaches that level, and say that there is not another point of interconnection within local calling area one, the call is still being routed to the point of interconnection in local calling area two, how would the compensation work?

THE WITNESS: We would want compensation for a DS-3, for a dedicated interoffice trunk for a DS-3.

COMMISSIONER DEASON: Okay.

THE WITNESS: And that is at the rates that have been approved by this Commission in the UNE docket.

BY MR. LAMOUREUX:

Q Let me follow up on something I thought I heard you just say. Change my hypothetical that I've got here a little bit. Let's do it in two ways, first off, let's put both customers in basic local calling area two, okay, in which the point of interconnection also resides. I think we agreed this issue does not exist in that situation, is that correct?

A That is correct, it does not exist.

Q The only time BellSouth is proposing to charge us for anything is when both customers are in the same basic local calling area and the point of interconnection is in a different basic local calling area, is that right?

A That is correct. Again, subject to reaching that threshold.

Q Okay. And I think I heard you tell Commissioner Deason that the reason for this is that if this were a call from a BellSouth customer to another BellSouth customer in this basic local calling area, you would never have to haul that call outside the basic local calling area, is that right?

A That is correct. I mean, that is really the whole intent. We don't engineer the facilities that go between calling area one and calling area two to accommodate local

traffic because we don't put local traffic on those. And now because of network designs we are going to have to put local traffic on there, so we need some sort of point where we can be reimbursed for that.

Q How many basic local calling areas does BellSouth have in Florida?

A I just don't recall off the top of my head.

Q A couple of hundred at least, isn't it?

A Certainly.

Q How many tandem switches does BellSouth have in Florida?

A I just don't know. We have access and local tandems, I just don't remember the number.

Q Is it around a dozen, does that sound about right?

A The could be correct.

Q Are every single one of BellSouth's basic local calling areas connected to every other single one of BellSouth's basic local calling areas in Florida?

A Well, yes, but it just depends on how the connections are made.

Q Fair point. Are every single one of BellSouth's basic local calling areas connected directly with direct trunks to every single one of BellSouth's every other basic local calling areas in Florida?

A No, I don't believe so.

Q Given that there are 200 of these basic local calling areas and less than -- well, around a dozen or so tandems, doesn't that mean there are, in fact, instances when BellSouth does haul calls from two customers in the same basic local calling area outside that basic local calling area?

A No, not at all. I mean, you can have a basic local calling area that can be a small city served by a single switch, and inside that local calling area all the calls go in and out of that same switch. And for the most part that is generally true. You don't really have tandems from a local perspective until you have very large exchanges.

Q Do you know for an absolute fact that for every single call between two BellSouth customers in the same basic local calling area, BellSouth never hauls any of those calls outside that basic local calling area?

A That's what I have been told by our network people.

Q Is that correct?

A That's what I have been told. I asked that question.

Q Now, what BellSouth is proposing in the hypothetical that I've got there --

COMMISSIONER DEASON: Excuse me just a minute. When you define local calling area, that includes EAS routes?

THE WITNESS: No, sir. I'm looking at basic local calling area. That is what I am referring to.

COMMISSIONER DEASON: All right. Define basic local

calling area as it relates to EAS routes.

THE WITNESS: Well, basic local calling area is for the minimum amount of money that you pay based on whatever rate group you are in, the exchange or exchanges that you are allowed to call as a free call. The extended area routes are those areas that you can reach but you have to pay a fee.

COMMISSIONER DEASON: No, no, I'm not talking about ECS, I'm talking about extended area service.

THE WITNESS: It's the same thing, though, to me in my definition. ECS, EAS you are having to pay an additional amount over and above what an ordinary customer would pay for basic local calling area within a defined area of exchanges.

COMMISSIONER DEASON: Okay. I define EAS as there is no additive, it is just part of local calling.

THE WITNESS: If EAS is mandatory, mandated for all customers, it would be the local call area. If all customers have to subscribe to it, it would be the local call area.

COMMISSIONER DEASON: Okay. So here again, back to this, you have got City A and City B. And this Commission back when we had jurisdiction to determine what constitutes local service and we determined that there should be extended area service between City A and City B, do you define that as part of the basic local calling area?

THE WITNESS: If the Commission has determined that, then, yes, I would agree.

COMMISSIONER DEASON: Okay. And you physically route calls between those two cities -- I'm trying to follow-up on Mr. Lamoureux's question. Just because we dictated it doesn't mean that you physically changed your engineering and your structure of your network, it's just the way it appears on the customer's bill, correct?

THE WITNESS: That would be my understanding, yes.

BY MR. LAMOUREUX:

Q Let me just follow-up one part of that. The big circle that I have drawn on that board, the LATA?

A Yes, sir.

Q When we talked earlier about LATA-wide local service, what is meant by that is that any customer that subscribes to LATA-wide local service, or I think in your tariff it is called enhanced optional extended area service, EOEAS, any customer in that LATA that subscribes to that service can call any other customer in that LATA for the fee that they pay for enhanced optional extended area service, right?

A Correct.

Q And that is what is in the basic local exchange service part of your tariff?

A Yes, it is.

Q This cost that we are talking about that BellSouth wants the ALECs to pay to haul the call to the point of interconnection, that is an additional cost of interconnection

that BellSouth would require AT&T to pay above and beyond what we pay under our current interconnection agreement, right?

A Yes, it would be. Because as the FCC had indicated in the First Report and Order, I think it is Paragraph 199, and perhaps they re-emphasized it in 209, that a CLEC or an ALEC that chooses a form of interconnection that is expensive is required to bear those costs of that plus a reasonable profit, so this would be over and above. And it is simply expensive because it is sort of saving you money, you don't have to put another switch in another local calling area, but you have to pay for the facilities.

Q Do you have that paragraph in front of you, Paragraph 209? And actually I think -- is it Paragraph 209 that you are referencing or is it a different paragraph?

A Mr. Lamoureux, I think it is 199. I was trying to do that off the top of my head.

CHAIRMAN JACOBS: It's on page --

BY MR. LAMOUREUX:

Q I think I agree with you it is probably Paragraph 199.

A Yes. But I couldn't remember if it was 199 or 209. I didn't mean to say it said that in both, it was one or the other.

Q And, again, what we are talking about is Paragraph 199 of the FCC's First Report and Order, August 8th, 1996,

right?

A That is correct.

Q What you are talking about is the last sentence of Paragraph 199, right?

A I will accept that. I went ahead and closed my book after we agreed on it.

Q The sentence that talks about an expensive form of interconnection, right?

A Right.

Q Now, does that paragraph anywhere talk about this idea about amount of transport or the routing of calls outside of basic local calling areas or where a call has to go?

A No, that paragraph doesn't. But, as I mentioned in my summary where I recognized what the FCC has done in its notice of proposed rulemaking on tandems switching, it came out and it recognized in the industry there is confusion, and I am going to clear the confusion up, I being the FCC, and say it is just a geographic test.

Well, also in that same notice of proposed rulemaking in two different sections, Paragraph, I think 75 or 72, and then also Paragraph 105 it talks about point of interconnection and it talks about the confusion that is in the marketplace. It says that some carriers, some ILECs think they should be compensated for this situation we are discussing here, they reference SBC.

I think it is very notable that the FCC didn't say, no, they don't compensate for that. They actually put it out to the community, the community of interest here for us to debate. So I think compensation is something that is to be considered.

Q And, in fact, that Paragraph 199, that is in a series of paragraphs where the FCC is talking about what is technically feasible in terms of forms of interconnection, correct?

A Yes.

Q It is not discussing financial responsibility in those paragraphs, is it?

A That is correct.

Q And, in fact, in Paragraph 198 they specifically say that technically feasible refers solely to technical or operational concerns, right?

A That is correct.

Q So what we are talking about is forms of interconnection that may be expensive from a technical perspective, wouldn't you agree with me on that?

A Generally I would agree with you, but this is another form that would be expensive.

Q Going back to what our contract says today, if we adopt the BellSouth proposal that would represent a shift in financial responsibility over what our current contract says

with BellSouth, right?

A Yes, it would. I'm sorry, I could correct something there. I am assuming we haven't finished a contract here in Florida yet, is that correct? You are speaking of the older contract.

Q Well, let me ask the question a little more precisely. It represents a shift in financial responsibility from the contract we entered into in the '96/'97 time frame?

A Yes, sir, that is correct.

COMMISSIONER DEASON: Excuse me, let me ask a question. What is your position on the effect of whatever decisions we make in this docket, it would have -- it would be effective for new arbitrations, it would not have any retroactive effect?

THE WITNESS: It might be a legal question, I can't answer precisely. I know that our contracts have a change in law provision, and I don't know if what you issue is, in fact, going to be a law or a rule so there might be some legal things I really can't speak to. It certainly would affect contracts on a going-forward basis. I don't know if it would be retroactive or not.

COMMISSIONER DEASON: Even though we may adopt a policy, is it your opinion that you are free to negotiate something different if both parties agree, or once we adopt a policy or a procedure, then you are obligated to include that

in future arbitrations?

THE WITNESS: Well, BellSouth would intend to be consistent with the Commission order. I don't know how the law works and how contract law works, that's why I was a little bit hesitant. BellSouth's position is we would be consistent with Commission orders.

COMMISSIONER DEASON: And then you would be obligated to have that in future arbitrations. I guess my question is, say we adopt something, but you would prefer to do it differently, and the entity you were arbitrating would prefer to do it differently. Even though both parties, if they had -- they would agree to do it differently and both would be happy but they would be obligated to do it -- I guess what takes precedence, what our decision is or is it the parties' right to arbitrate what they think is fair and reasonable for themselves, does that take precedence, or is that a legal question?

THE WITNESS: It's most likely a legal question I couldn't address without speaking to contract law and other law.

COMMISSIONER DEASON: Mr. Edenfield, I don't want you to testify, but is this something that you are going to be briefing, or how are we going to address this, or what is your position?

MR. EDENFIELD: I think that issue was teed up in the

Phase I where you asked -- I think the issue was teed up in terms of in the absence of the parties' ability to reach agreement, will the Commission -- you know, is this going to be the default. And I assume that is what you are talking about. And as long as the order was written that way, the parties would certainly think that subject to, you know --

COMMISSIONER DEASON: So we can make a decision in terms of this is the default, but, parties, if you can agree to something which addresses your unique circumstances better, you are free to negotiate that and bring something to the Commission that may be different and justify it. That you all agreed to it and we would review that and approve it, whatever standard we would place on it.

MR. EDENFIELD: Yes, sir. And by the same token you could do the opposite and say this will absolutely be how carriers interconnect in the State of Florida, period, end of story. And in that instance we would be obligated to do what you say and we would not have the ability to negotiate something different. So I think it is going to depend on the wording of your order as to whether you would like to have the parties to have the ability to continue to negotiate something different than what you want. I think that is going to be your call to make.

COMMISSIONER DEASON: Okay. I see Ms. Keating smiling over there, so we are probably going to -- I guess it

will be addressed in a staff recommendation at some point.

MS. KEATING: We will make definitely sure that it is.

COMMISSIONER DEASON: Thank you.

MR. LAMOUREUX: That actually provides a good segue for my next line of questions.

BY MR. LAMOUREUX:

Q You testified, Mr. Ruscilli, in the AT&T/BellSouth arbitration here in Florida a few months ago, is that right?

A Yes, sir.

Q And, in fact, this very issue was in the AT&T/BellSouth arbitration, right?

A Yes, sir.

Q Have you read the Commission's decision, final order on arbitration that came out last week on this issue?

A I haven't read the order, no.

Q Would you agree with me that the Commission ruled against BellSouth and in favor of AT&T on this issue?

A On the establishment of the POI, yes.

Q And it is the same issue, right?

A Oh, it is, but in another arbitration, in Sprint this issue is somewhat bifurcated where we had the establishment of the POI and then something that we call a VPOI or virtual POI. And the Commission found consistent with AT&T on the POI issue, you can establish one POI, and that is there order in both. In

the Sprint docket, though, they also indicated that there was a financial burden that the ALECs were placing onto the ILECs and that the ALEC should be responsible for that, if I remember correctly.

Q Now I have done a fairly quick comparison, would you agree with me your testimony on this issue is substantially the same in this docket as it was in the AT&T/BellSouth arbitration docket?

A For the most part, yes.

Q There is no new analysis, no new evidence, no new arguments in your testimony in this proceeding from the AT&T/BellSouth arbitration, is there, on this issue specifically?

A I think the wording might be a little bit different, but the substance is essentially the same, yes, sir. And the point is, it is just like I said before, when these events occur it is an additional cost to BellSouth based on an ALEC's networks design and we should be able to recover that cost. And we are coming forward and putting a very good offer on the table.

Q And you say you haven't seen the Commission's order that came out in the AT&T/BellSouth arbitration?

A No, I haven't.

Q Now, you didn't testify, but your colleague, Ms. Cox, testified in a Level 3 arbitration on an issue similar to this,

did she not?

A Yes.

Q Have you seen the Commission's decision in that arbitration?

A I think I have seen some summaries on that.

Q Would you agree with me that the Commission ruled against BellSouth and in favor of Level 3 in that proceeding?

A Yes, on the establishment of the POI. And in that proceeding I don't know if there was a discussion of the financial burden to any detail that we are having it today.

Q Would you agree that in that proceeding the Commission determined that there was nothing in the record of the proceeding that gives BellSouth the option of designating its own point of interconnection either in a LATA or local calling area within a LATA?

A Yes, I remember that.

Q Would you agree the Commission in that proceeding found there was no evidence in the record of that proceeding to support BellSouth's assertion that it would incur higher costs if Level 3 were permitted to designate a single point of interconnection in the LATA?

A That is correct. I don't know that it was discussed at the level we are discussing it today, or we discussed it with Sprint.

Q You have produced no such cost data in this

proceeding, have you?

A No, I don't think the cost data is necessary nor could it be effectively or efficiently produced. The cost itself is simply the costs that were filed in the UNE cost docket which has been approved by this Commission for dedicated interoffice transport. To do a function of the cost itself would be dependent on CLECs providing us data on how much traffic they intend to put in various local calling areas and what will be necessary to resize trunk groups, and that has not occurred.

Q My question was you have produced no such cost data as the Commission described in its Level 3 arbitration decision, have you?

A I'm sorry, I thought I said yes. If I didn't, yes, I have not produced anything in this.

Q Now, would you agree with me that as a result of your proposal that I have diagramed up there, potential ALEC customers that are not in the same basic local calling area as the POI will be more costly to serve than potential ALEC customers that are in the same basic local calling area as the POI?

A From whose perspective?

Q Okay. From potential ALEC customers, okay, that the ALEC -- potential ALEC customers that are all in the same basic local calling area where the POI is are going to be less costly

to serve to the ALEC than potential ALEC customers in the basic local calling area where the POI does not exist?

A It might seem so, but I don't really know. AT&T itself testified in the Louisiana arbitration that although it had a switch, I think, in the New Orleans LATA, it was serving a customer in New Orleans from a switch that was located in Missouri, if I think it is correctly. And so it would seem odd to me that AT&T would have a lower cost of serving a customer three states away with a switch than it would serving one in the same LATA. So I don't know if I can actually comment on what your cost structure would be because, you know, you have done it two largely different ways and it doesn't seem to make economic sense.

Q All right. Well, let me refine our hypothetical then. Let's assume in my hypothetical up here I've got a potential AT&T customer in basic local calling area one and a potential AT&T customer in basic local calling area two?

A Yes.

Q Both those customers would be served by the same point of interconnection, the same AT&T switch.

A Yes.

Q Everything else being equal, it's going to be more expensive for AT&T to serve the customer in basic local calling area one than the customer in basic local calling area two, isn't it?

A It would seem so just on -- it has surface appeal to seem so, but then again based on the evidence that you all put in the record in Louisiana, it is the opposite. So I would agree that it would seem it would be cheaper, but I just don't know.

Q That's why I said all other things being equal. I want to assume that the AT&T customers in those two basic local calling areas, the AT&T cost structure is exactly the same, okay. We have the same internal costs to serve those two customers. A customer in basic local calling area one in my hypothetical is going to have the added cost to us, potentially, of paying for that transport for every time a BellSouth customer wants to call that customer in the same basic local calling area that a potential customer in basic local calling area two would not have, right?

A Potentially. By transport are you talking about that link that is between the AT&T customer in local calling area one and the point of interconnection?

Q Yes.

A I would call that a loop. But, yes, you would have a long loop there that would potentially cost you more money than if you had to put a shorter loop in local calling area two. It is a potential.

Q And my point, which I think is fairly noncontroversial, all potential ALEC customers in that basic

local calling area one are going have an added cost to the ALEC to serve those customers that potential customers in basic local calling area two in my hypothetical do not have?

A That is potentially true, yes.

Q Now, at Page 15 of your direct testimony, you essentially say that the reason this issue exists is because of the manner in which ALECs have deployed their networks. And I may be paraphrasing just a bit.

A You are talking Lines 23 and 24, the ALEC's network deployment may be significantly different from BellSouth's, which is the main reason that this issue exists?

Q Right.

A Okay. You did interpret it differently, but that is okay. Paraphrase it differently.

Q I put the words in a little different order.

A I got you.

Q Now, that conclusion is only true if you begin from the perspective of BellSouth's network, right?

A That is correct.

Q From the perspective of my network, this issue is caused by BellSouth because of the deployment of its network, right? If you had deployed your network like my network this issue wouldn't exist, would it?

A That is true, but there is a couple of exceptions to that that are just the reality of the situation. If I deployed

my network like AT&T, or the typical ALEC deploys its network, most of the customers in the State of Florida would not have telephone service. And then, number two, because of the obligations that are placed upon BellSouth by this Commission of providing local telephone service to every consumer inside our franchise area that demands it, we have had to deploy our switches in a different manner than what a new entrant would deploy it.

And for that manner we have deployed our switches consistent with the AT&T plan. When you guys owned us, you know, you talked about how we had to deploy the switches. I'm trying to remember the name of it, but it is the switch deployment plan. So, we have not had the opportunity to choose what customers we want to serve and how we want to serve them. But we have been more rather obligated to serve all and to serve all as efficiently as possible.

COMMISSIONER JABER: Mr. Ruscilli, how is it decided where the switches go and where the different points of interconnection are?

THE WITNESS: Well, the switches themselves from BellSouth are pretty much already put out there. If we have a new development or a new community that suddenly springs up because they win a car plant, you know, and everything grows, we might put a switch out there based on the needs, the engineering forecast for that community.

As far as the interconnection between us and an ALEC, that is really a function of where the ALECs choose to place their switches and how they want to connect to us. Typically, the ALECs have been placing their switches in the very large communities. I think Orlando has 9 or 10 switches, the Miami/Fort Lauderdale area, I think has about 20 ALEC switches now. So they typically choose to go -- and it is perfectly legitimate, and if I were them I would do the same thing, go based on the business plan of where can I serve the most customers.

Q Now, for your switches you said based on economic forecasts and need. Do you take into account what the ALEC has requested from you?

A I can't say with precision. I'm not really in the engineering forecasting department, but I do know that we have trunk engineers and forecasting engineers that work with the ALECs themselves, and so it may or may not be incorporated, I just don't know.

BY MR. LAMOUREUX:

Q Would you agree with me, Mr. Ruscilli, that this issue is really not caused by my network, or Level 3's network, or Global NAPS' network, or BellSouth's network, but rather the fact that you have got multiple networks that are somewhat different but all have to interconnect?

A Yes, I would agree with that. I mean, the whole

problem exists because we are trying to interconnect incongruous networks.

Q Now, the traffic in dispute that we are talking about on this issue originates and terminates in the same BellSouth basic local calling area, right?

A That is correct.

Q Would you agree with me that by definition under the FCC's rules it is local telecommunications traffic, therefore?

A That is correct.

Q It is also traffic that originates on BellSouth's network, because we are talking about calls from BellSouth's customers to ALEC customers, correct?

A That is correct.

Q Would you agree that FCC Rule 51.703(b) specifically says that BellSouth may not charge telecommunications carriers for local telecommunications traffic that originates on BellSouth's network?

A That is correct. And several of the witnesses in this case have referred to really the only order that is out there that speaks to this type issue, it is the TSR Wireless order that the FCC issued an order on, and this was a paging company that had a large -- what is called an MTA, which is comparable to a local calling area. And the argument was whether or not U.S. West had to pay for traffic that originated on its network that terminated in that MTA.

And that is where the FCC quote comes from that -- well, actually TSR Wireless uses the same quote that you used Mr. Lamoureux. But most notably in that, that same order spoke to two different issues. It spoke to one, and it's what it didn't say. It didn't say that U.S. West had to transport its traffic outside of its local calling area to have it brought back in. It just said it had to do it within the local calling area.

And then secondly, it brought up this same issue of compensation. The particulars of the TSR Wireless case was talking about Yuma and Flagstaff, Arizona. And it made the suggestion to U.S. West that U.S. West could certainly charge its customers for placing that call because U.S. West had to carry it from Flagstaff to Yuma, or could negotiate an intercarrier compensation agreement to buy down that traffic so the customers could continue to perceive that that was a local call. And that is simply what we are asking for here, something that the FCC recommended in that same order, and we are offering very, very favorable terms in my opinion.

Q Let's talk about that for a second.

A Okay.

Q In TSR Wireless, we are talking about calls from the LEC customers to the paging carriers, right?

A That is correct.

Q And those calls originated and terminated and never

left the MTA, right?

A That is correct.

Q And the MTA is basically -- I think it stands for major trading area, is that right, or metropolitan trading area?

A I will take your guess on it. That's why I didn't define it when I said it.

Q In essence, the MTA is the local calling area for the paging carriers and wireless carriers, correct?

A That is correct.

Q Now, if I understand correctly, your point is since the MTA is analogous to a local calling area, that should mean that for nonwireless carriers the call should originate and terminate and never leave the local calling area in order for 703(b) to kick in, right?

A Yes.

Q In the wireless situation, the MTA is the local calling area for the wireless carrier, not the LEC, right?

A Right, but they overlap.

Q So, if you are going to apply your analogy correctly, what we ought to be talking about is if the call originates and terminates and never leaves the local calling area of the CLEC, right?

A No, it was for U.S. West customers that were calling into the TSR wireless MTA.

Q Exactly. But the local calling area they focused on was not the LEC's local calling area, but the pager's local calling area, right?

A That is correct. But the pager's local calling area, the MTA, was larger than the LEC, and encompassed all of the LEC's calling area.

Q But the focus was on the local calling area not of the LEC, but of the other carrier, right?

A That's correct.

Q So if you are going to apply that analogy in our situation what you should be looking at is the local calling area of the ALEC, correct, in order for your analogy to be correct?

A Possibly. I will have to think about it a little bit more.

Q And I think you agreed with me that the ALEC can define its local calling however it chooses, right?

A Yes.

Q So by analogy if we have defined our local calling area to be the entire LATA, as long as the call stays within the LATA you should never be able to charge us for those calls, correct?

A Yes. And actually what the TSR wireless order said and in the following paragraphs after it mentioned that, that is where it talked about, however, nothing prevents the ILEC

from charging its customers a toll call for making calls to the, in this case, TSR's customers, or from the two carriers, TSR and U.S. West, to negotiate some sort of intercarrier compensation agreement to buy down that toll call so that the customers would still continue with the perception that that was a free local call. And that is precisely why we are here today.

Q The rule that we are focusing on, Rule 703(b), specifically refers to local telecommunications traffic, right?

A Yes, sir.

Q And local telecommunications traffic is defined a little bit above in 701(b)(1), right?

A Subject to check. I will take your word for it, though.

Q I wasn't trying to test you on the number.

A Thank you.

Q That definition says that telecommunications traffic between a LEC and a telecommunications carrier other than a CMRS provider that originates and terminates within a local service area established by the state commission is local telecommunications traffic for purposes of 703, right?

A Yes, it says that.

Q It doesn't say traffic that originates and terminates and never leaves the local service area, right?

A Correct.

Q It just has to originate and terminate in the same local service area?

A That's what that says.

Q And Rule 703(b) itself doesn't create any exception for traffic that originates and terminates but at some point leaves the local service area that it originates and terminates, does it?

A No, the rule itself does not.

Q It just says local telecommunications traffic you can't charge us for?

A That is correct.

CHAIRMAN JACOBS: Mr. Lamoureux, is this a good point?

MR. LAMOUREUX: Sure.

CHAIRMAN JACOBS: Why don't we break for ten minutes and come back.

(Recess.)

BY MR. LAMOUREUX:

Q Just a couple of last questions about the rule that we were talking about. The part of the rule that defines local telecommunications traffic does not say a basic local calling area approved by the Commission, does it?

A No, it does not. But in looking at it -- I've got the rule before me now. We are talking about 51.701(b)?

Q (B)(1), specifically, yes.

A (B)(1) specifically. I also notice at the end of that it talks about LECs traffic originating and terminating within a local service area established by the state commission. And I think the state commission establishes our local calling areas, it doesn't establish the calling areas of ALECs.

So thinking about your analogy you mentioned a little earlier, although I see the consistency in the TSR Wireless, the rule specifically speaks to calling areas with reference to the ILECs.

Q Our local calling areas are set forth and defined in our interconnection agreements with BellSouth, correct?

A I believe so, yes.

Q The Commission approves interconnection agreements between BellSouth and ALECs, does it not?

A It does approve the agreements, yes.

Q (B)(1), I think we agreed, does not say basic local calling area, it just says a local service area established by the state commission, correct?

A Correct.

Q I think you have mentioned a couple of times the notice of proposed rulemaking issued by the FCC on April 27th addressing a unified approach to intercarrier compensation. Are you familiar with that NPRM?

A Yes, to a limited degree. I'm not an expert on it,

but I have read it.

Q Without trying to quiz you on specific paragraphs, do you recall that at Paragraph 112 the FCC affirmed that its current rules preclude an ILEC from charging for calls that originate on its network?

A I will take that subject to check. I remember seeing it in there. If it is in 112, I will take your word for it.

Q And, in fact, the FCC said that as well in the TSR Wireless case, did it not, that its current rules preclude an ILEC from charging for local telecommunications traffic that originate on the ILEC's network?

A That is absolutely correct. However, in both the TSR Wireless and in the notice of proposed rulemaking the FCC tees the issue up again saying, recognizing that there is a burden that is being placed by how carriers interconnect with the network and what should be done about it, which is also consistent with the ex parte that Southwestern Bell and AT&T entered into with the FCC on, I think, the Texas order. The issue was brought up again, the FCC deferred to rule on it and left it to the states, which is why we are here.

Q Good segue again. The Texas 271 decision. Again, the FCC reiterates that its rules preclude the ILEC from charging for calls that originate on the ILEC's network, correct?

A That is correct.

Q And the FCC deferred to rule in that instance not on a substantive ground, but on a procedural ground. Would you agree with me on that?

A I guess so. I'm not smart enough to know the difference between procedural and substance. But I will agree with you, subject to check, of somebody explaining that to me.

Q Well, essentially the reason they didn't rule in that particular instance was they didn't think the issue was actually ripe before them at that time, correct?

A Yes. I was going say, if I remember correctly, in that what they were speaking to is that AT&T had brought up a discussion that Southwestern Bell had been having in some forums about intercarrier compensation on this particular issue. And I think the FCC said that it has not been put before them in the context of that 271 application, so I guess if ripe is a legal term, that is what it was not.

Q Well, they just weren't 100 percent sure that there was an actual live dispute before them at the time, right?

A Right. If was not teed up as a dispute. But the FCC nonetheless still recognized it both in the notice of proposed rulemaking, the FCC recognized it in the TSR Wireless, a district court in Oregon recognized it in a court order and, as a matter of fact, said it would be rather ironic if the Act were implemented in such a way that ALECs could basically game the system and cause all the costs to shift over to the ILECs.

Q Now, let's just put all of these things we are talking about in a timing perspective. The 271 Texas decision came out after the TSR Wireless decision, right?

A Yes.

Q And the NPRM came out after the Texas 271 decision?

A Yes.

Q In both the Texas 271 decision and the NPRM in reiterating that its rules preclude ILECs from charging for traffic that originate on their network, the FCC specifically referenced its TSR decision, right?

A That is correct.

Q At Page 13 of your direct testimony you make the argument that BellSouth has a local network in each of its local calling areas it serves in Florida?

A Yes.

Q And you say there is not one BellSouth network, but a host of networks that are all interconnected?

A That is correct.

Q How many certificates for local service does BellSouth have in Florida?

A BellSouth Telecommunications has one certificate. BellSouth BSC, our CLEC, has a certificate also. Are you talking about just the --

Q BST, the ILEC, yes.

A The ILEC has a certificate.

Q BST does not have a separate certificate for each one of these so-called separate networks throughout Florida, does it?

A No. Because our certificate gives us statewide franchise authority in our footprint.

Q Similarly, BST just has one tariff on file for local service in Florida, right?

A It has one tariff on file, but that particular tariff, the A.3 tariff, references all of the exchange and all of the local calling areas within an exchange which can reach what. So the tariff encompasses all the local calling areas.

Q It references all the exchanges. It never says anywhere in them that each one of those local exchanges is a different network, does it?

A No.

Q And, in fact, you have cited no documentary support for your proposition that BellSouth has separate networks throughout Florida, have you?

A No, not in my testimony, but I think it is rather implicit or obvious. In a particular local calling area when you dial a number you can make a call inside that local calling area or the extended area service associated with it. If you try to call anything else not associated with your local calling area, you get intercept that tells you you have to dial a one first because you are, in fact, entering into another

local calling area, another network.

And that is how the local exchange routing guide is set up, to transfer calls from one local calling area to another. It is rather a sort of standard in the industry.

Q Does BellSouth have separate interconnection agreements with ALECs for each one of these so-called separate networks in Florida?

A I don't believe so, because we interconnect on a statewide basis within our franchise.

Q Let's switch gears a little bit and talk about the tandem recip comp issue, Issue 12. I'm a little confused. I thought you said in your summary that the FCC had made clear that it is just a geographic comparability test now, but then in response to a question from counsel for Sprint, I thought you said there is still a two-part test for whether you get tandem recip comp. Is it still your testimony that there is a two-part test to determine whether you get the tandem rate?

A It is BellSouth's position that there is a two-part test for the tandem interconnection rate. But what I meant to say, and if I misspoke or was not clear, is that the FCC in Paragraph 105 of the notice of proposed rulemaking renders a rather concise statement on that particular issue.

It recognizes that there was some confusion, and recognizes a concise statement that says literally what the same thing says in the CFR, that geographic coverage is the

requirement for tandem. Now, I think on the next page in a footnote they start talking about functionality again, which makes me think that there might be a little inconsistency there. But the FCC did speak, and, you know, I'm not a lawyer, I'm a layperson, and when I read it it seemed to me that is what the FCC was saying.

Q Was it fair to say that although it is BellSouth's position that there is a two-part test, the FCC has specifically rejected that position and has determined that there is indeed only one test?

A Yes, that is exactly what I was hoping I said in both response to counsel's question and in my summary.

Q And the FCC regulation that sets forth that test is 51.711(a)(3), is that right?

A Yes, that is correct. Not that I have memorized it.

Q And that regulation itself requires that the ALEC's switch serves a geographic area comparable to the area served by the BellSouth switch?

A That is correct.

Q The rule itself says nothing about the location of the ALEC's customers, does it?

A No, the rule is -- and the active sense, I think, of that verb is serves, serves customers, so it must that be there are customers out there. It has been a subject of debates on what exactly meets a geographic comparability test, and there

has been a few court orders on it.

Q Well, there is nothing in the rule that says serves means you have to prove the specific location of where your customers are, is there?

A Well, it doesn't say what you just said, but it says they have to demonstrate that an ALEC serves, which means to me not capable of serving, but is serving.

Q Well, I want to understand your position. Your position is that geographic comparability means that we have to prove that our actual customers are located geographically similar to the locations of the customers served by your tandem switches, is that right?

A That is exactly right.

Q Now, does that mean we have to prove that we have a similar number of customers or that we have a particular dispersion of customers?

A I think both. I think if you look at some decisions that have been rendered on this, there is a decision by the District Court of Northern Illinois, MCI and Illinois Bell where they looked at the tandem interconnection issue. And the Commission rendered against MCI in that particular order, and MCI had 50,000 customers in the Chicago area. But what the ruling was, was that they didn't demonstrate that they were geographically dispersed, they just had 50,000 customers in one particular area.

BellSouth would propose and we proposed in our brief, in our prehearing brief that the burden of proof is on the ALEC community. The ALECs need to demonstrate to the Commission that they are serving customers in the exchanges that are served by our tandem, whether or not the customers are all concentrated in one switch or they are being served by every exchange, by the wire centers there, what percentage of customers are there being served. Are 50,000 all served in one wire center, because that is where an ISP is located and then we have one across the boundary of the geographic area, that doesn't seem like tandem coverage to me.

Q All right. Assuming that we do have the burden of proof, that burden of proof is to meet some sort of test to prove geographic comparability, right?

A That is correct.

Q What are you proposing as the test?

A I thought I just said that, but I will say it again. I think that the ALECs would need to propose to the Commission and demonstrate real data with real customers that they are serving customers in the exchanges and the wire centers where the switches are that are being served by the tandem that they feel that their geographic area is comparable to.

I think the Commission should also examine when it examines those numbers whether or not all of them are scattered about, you know, relative percentage, or are 50,000 of them

right next door to the central office, or, excuse me, the switch that AT&T has as an example, and they only have one across the geographic area, one other customer. That is not tandem switching. You have just got something right there -- excuse me, that is not geographic coverage with respect to tandem switching charge.

Q Well, my question is if we come forward and show you the location of our customers, what do we have to prove with respect to those customers in order to get the tandem rate? What is the test that you are proposing that our location of customers has to meet?

A I think you need to demonstrate that your customers are in the wire centers and in the exchanges where we are that you are comparing -- let me back up. I think you need to demonstrate within the geographic area that you are comparing your tandem or your switch to a BellSouth tandem that you have customers in each of those exchanges, each of those wire centers, and that they are evenly dispersed to some degree.

And it is very subjective. I mean, it is evenly dispersed as opposed to having all of them in one wire center and only one customer in another wire center within that geographic area. That is the test. There is not a precise one, that is what we would recommend.

CHAIRMAN JACOBS: In your testimony, your direct testimony, when you just spoke about why BellSouth implements

tandems, on Page 5 beginning with Line 1 --

THE WITNESS: Yes, sir.

CHAIRMAN JACOBS: -- basically you say that the reason that you put in local tandems is to avoid the need to have every end office in that local calling area directly tied to another end office, is that correct?

THE WITNESS: Yes, sir. Quite simply, if each of the five Commissioners here were served out of five different central offices all inside the same local calling area or community, a tandem might be in order because you have five switches there, and you would be faced from an engineering perspective of running direct trunks between each switch so one switch would connect to the other four, or being more efficient and routing it to a local tandem which could then make the decision which way to send the call and say the amount of facilities that you have got to run between each of the five switches.

CHAIRMAN JACOBS: In that instance, it sounds like as long as you have a couple of calling areas that you can avoid direct trunking to, you have got something on the order of a tandem function. Is wide dispersion all that much important?

THE WITNESS: I'm sorry, I didn't mean to cut you off.

CHAIRMAN JACOBS: That is the essence of the questions.

THE WITNESS: I believe it is. If the five of you represented five different central offices, and AT&T, just like MCI did in this particular court case in Illinois, only had 50,000 customers located in the central office that Commissioner Jaber has, that doesn't demonstrate that they are covering or serving an area that is geographically comparable to the five of you. It just says that they are covering Commissioner Jaber's switch.

So if the purpose of tandem interconnection is to compensate the ALECs, and it is, for providing a switch that serves an area that is geographically comparable to the ILEC's tandem and its switches, there needs to be scattered customers between all of these switches, not all in one. And that is exactly what the court recognized in Illinois. And California has an order, I forget which company, the very same thing. You don't have the geographic dispersement (sic). So I think that is a characteristic that needs to be examined.

Now, is it one customer, is it 1,000 customers, you know, I don't think there has been any precision other than the fact that 50,000 customers owned by an ALEC in one central office didn't cut it.

CHAIRMAN JACOBS: Very well.

BY MR. LAMOUREUX:

Q You have probably guessed, I understand things visually.

A Yes, sir.

Q Let's say this is your tandem, okay. Let's say these are the BellSouth customers on the periphery. The furthest out that are served by that tandem. And then there would be bunches of customers inside that boundary as well, okay.

A Yes, sir.

Q If I understand what you are saying, let's say there are four-wire centers within that geographic scope, right? You are telling me that in order to get the tandem rate, we have got to prove that we have customers equally dispersed throughout those four-wire centers, is that right?

A If, in fact, that is -- and I want to make sure I followed you, you are defining that is the geographic coverage area of the tandem that those exchanges -- you are calling them wire center, but wire center one, two, three, and four, suppose those are four switches and they all centralize to a tandem in the center, yes, that is what I'm saying.

Q Is that in your testimony, just out of curiosity?

A I don't know if it is in my direct. I might have spoken to it in my rebuttal. I know it is in one of our briefs.

Q Let's suppose that we have got one customer in the middle of each one of these wire centers, do we get to collect the tandem rate?

A Well, again, the test is not listed by the FCC what

the minimum threshold is. The only guidance that I have been able it discern is a particular court case in Illinois where they had 50,000 customers and it wasn't enough. So whether or not it is one, or 10, or 1,000, I think that is really for the Commission to decide.

Q Well, you understand that that is the purpose of this proceeding, is to decide a test, right?

A Yes, it is.

Q You have proposed no test, have you?

A In my testimony, I can't remember if I got to it in my rebuttal. I know we got it in our prehearing brief.

Q Well, even as to this even dispersion within the wire center you have proposed no test as to what that means, have you?

A No, I have not. The number of threshold or anything like that, no, I have not.

Q You don't propose anything about what dispersion means, how we compare the number of our customers to your customers, no statistical tests that we would have to prove and have the burden of proof on meeting in order to get the tandem rate, have you?

A No, I did not.

Q Now, in order for this comparison to work you want us to prove the actual location of our paying customers, right?

A Customers you serve, yes.

Q In order for that to be an apples-to-apples comparison what we are going to be comparing is the actual location of our customers to the actual location of your customers, right?

A Yes, or the central offices or the wire centers that serve those customers, yes.

Q Well, what you are talking about, you said that the rule requires identification of the location of customers, right?

A Yes.

Q Well, to make that an apples-to-apples comparison we would have to compare the location of our customers to the location of your customers, right?

A Right. That are in that geographic area that that tandem serves those end offices.

Q And in particular to get the outer boundary that I have drawn here, what you would need is the physical location of each one of these BellSouth customers that are on the periphery of that tandem, right? Of the area that that tandem serves?

A Again, I think that is assuming a level of precision that is certainly not in the order, and I haven't proposed anything like that.

Q Well, if you are going to make us prove the location of our customers, how can you say that you don't have to prove

the location of your customers in order for that comparison to work?

A We are the standard that you are held against.

Q And if that is the standard, it is a comparison of customers, right?

A Yes.

Q So in order for that comparison to work, if you want us to show you the location of our customers, you are going to have to show the geographic location of each one of the customers served by this tandem, right?

A Well, I don't believe that this is intended as a you show me and I show you. I think you have to demonstrate to the Commission that you are eligible. So, you know, where your customers are you would demonstrate to the Commission.

Q And you are going to have to prove to the Commission where each of your customers --

A We would have to identify our tandems and our geographic coverage, yes.

Q Are you capable of providing the longitude and latitude of each single one of every one of your customers served by your tandems in Florida?

A I don't know if we have got that data. I don't know.

Q So you don't know if this comparison would even work?

A As strictly as you have defined it, no, I don't know if it would work that way.

Q I have just a couple of questions on the virtual NXX situation.

A Yes, sir.

Q I forgot to write down what issue number that is, but you understand what issue I'm talking about?

A I think it is Issue 15.

Q You're right. Thank you.

A I do understand the issue you're talking about.

Q Okay. In that situation there is no additional cost to BellSouth caused by an ALEC having its actual switch physically located in a different location than its local switching presence, is there?

A I think you need to ask that one more time for me, because it sounds like you just asked me a question associated with interconnection and POI.

Q Let me draw what I think this issue is. If I understand this issue correctly, we may have our actual switch here, okay, but we have assigned -- and this is our customer down here. We have assigned a local phone number to this switch that makes it appear as if the switch is someplace else, in particular in the local calling area that that customer resides, right?

A Would it not be the inverse of that, or maybe I just didn't follow your example. This issue is where you have a telephone number that is physically associated with a

particular switch, everybody in that calling area that you just circled would know if I dial that number I think it is a local call. But what you have chosen to do is you have assigned or you have disassociated the physical location of that number and it, in fact, belongs to somebody that is over in another local calling area.

Q Right.

A Is that what you are trying to say?

Q Yes.

A Okay. I wasn't following you.

Q This is the BellSouth customer down here in this local calling area, okay? The AT&T customer is in a different local calling area someplace else. And our switch is not actually in this local calling area, either. We have assigned a phone number to this switch that makes it appear to this BellSouth customer as if it is a local call, as if that switch is in that local calling area.

A Okay. I follow you now.

Q I mean, basically what we're doing is we are extending our switch presence from someplace else to appear as if the switch is in this local calling area down here, right?

A Yes, I understand.

Q Okay. Now, and what my question was, there is no additional cost to BellSouth by us extending our switch

presence outside this local calling area to some other place, is there?

A Well, it depends on where the POI is is where the cost is going to be. And if your POI is up there by your switch, then we have got the cost of getting it from one local calling area to your distant POI. That's where I was getting tripped up.

Q I'm trying to separate this out from the other issue. For the sake of argument just say that the POI is here.

A Okay. The answer is yes to your question.

Q Yes, there is no additional cost?

A Yes, that is correct.

Q I thought it would be a no the way the question was phrased. No, there is no additional cost; yes, there is no additional cost, right?

A Yes. We mean the same thing.

COMMISSIONER JABER: Mr. Ruscilli, let me make sure I understand the hypothetical and your answer. As long as the point of interconnection is within that local calling area and AT&T has assigned a number associated specifically with that switch there is no additional cost?

THE WITNESS: Right. If they have a switch in that local calling area or the point of interconnection, it is BellSouth's obligation to get the traffic to that point of interconnection and then that is where BellSouth's costs would

stop.

BY MR. LAMOUREUX:

Q And specifically what I was trying to get at, we pay the cost of extending our switch presence to some other place, right? We are paying for this transport between the point of interconnection and the physical location of our switch, right?

A Yes, you are.

Q And to BellSouth this appears as if it were a local call, right?

A Yes. To the BellSouth user it would appear as if it was a local call.

Q And BellSouth collects local revenue from its end users, right?

A For making local calls, yes.

Q And those revenues cover the costs associated with their customers using the facilities necessary to make local calls, right?

A That is correct. But BellSouth customers also call long distance when they call to another calling area. They can do that with dialing an 800 number to go to a distant calling area or they could do it calling BellSouth's version of FX, which is physical facilities that are out there, and this is all virtual because you have just taken a number out of the air and associated it.

COMMISSIONER JABER: Mr. Ruscilli, if that is the

case, and I'm not sure this is a good idea, I certainly am not suggesting that it is a good idea. But if that is the case, why don't ALECs assign numbers that are associated with the switch where the point of interconnection is located? Does that make sense? Can ALECs avoid the costs that they have to pay BellSouth for by just assigning a number specifically associated with the switch?

THE WITNESS: Yes, ma'am. There can be some avoidance and there can be some gaming. And I don't mean to suggest that anybody here is doing any gaming on that, because the number really is just virtually assigned, it doesn't physically exist somewhere in that particular local calling area, you are absolutely correct. But the issue here is, is this a local call, and it is not. It is a toll call because it is going from calling area A to calling area B.

In the normal sense of the word, if we were providing service to a local customer and he dialed an 800 number that AT&T offered as an example, we would get access because that is a toll call. If the customer dialed one plus, and had AT&T or MCI as their carrier to call that local calling area that was distant, we would receive access revenue.

This virtual NXX, in fact, is not a local call. It is a long distance call. And BellSouth's position is on a long distance call, number one, that is not 251(b) traffic, it is not local traffic, it is toll traffic. So we shouldn't pay

reciprocal comp. And then, two, that is something that we believe we are entitled to access charges for because we are providing the ability for AT&T or MCI to have customers in our local calling area make long distance calls on their network.

CHAIRMAN JACOBS: How, then -- you recognize that that presents a dilemma in contrast to the provision that allows ALECs to determine their own calling areas.

THE WITNESS: I think there is perhaps a little bit of a dilemma. But BellSouth has no problem with ALECs assigning numbers wherever they want to assign numbers to, so there is no dilemma there. What BellSouth wants is -- and this Commission, I think, has recognized this in a previous order -- is it wants the routing information to determine did that call go into the local calling area for which we would pay reciprocal compensation on, or did it leave the local calling area and therefore we are entitled to receive access, and further we are not required to pay reciprocal comp.

So they can give numbers however they want, they can assign their local calling areas however they want, but they have to give the information to BellSouth so that BellSouth and I think other ILECs, too, can determine how to rate that call for purposes of intercarrier compensation.

BY MR. LAMOUREUX:

Q When you say this is a toll call and not a local call, the basis for you saying that is simply the geographic

location of the originating and terminating customers in that hypothetical, right?

A Yes, consistent with how the FCC has ruled for years.

Q But the question really of whether it is a local call or a toll call, that is the issue that is before the Commission, is it not?

A Yes. I mean, that is the issue and that issue spawns the compensation argument, and it originates in one local calling area, it terminates in another, it is not a local call no matter how you dress it up.

Q And the reason I asked about cost earlier is this is not an issue that is caused by an additional cost that is being imposed on BellSouth, this is simply an issue where BellSouth doesn't want to pay recip comp for the call and to charge access for the call, not to recover any additional costs, right?

A Well, I would phrase it slightly different. It is an issue where BellSouth is not obligated to pay reciprocal comp because it is not a local call. It started in one calling area and it ended in another calling area. It is a toll call. And by definition if it is a toll call BellSouth believes it is due access revenues from the carrier that provided that service.

Q It's a revenues issue, it's not a cost issue, right?

A Yes. But it is also consistent with how the access regime has been set up throughout the country.

Q I want to sort of make this into a somewhat more concrete hypothetical. One of the situations in which local numbers are assigned in this sort of scenario is to allow customers to have local numbers for dial-up to their internet service providers which may physically be in some other local calling area, right?

A Yes.

Q At Page 43 you say that this proposal of yours would have nothing to do with increased costs associated with ALECs serving ISPs. Now, if your proposal is adopted and ALECs start having to pay access charges in order for this situation to work, that is going to increase the costs of giving customers local dialed numbers for access to their ISPs, is it not?

A Well, I think it depends. I mean, you clearly, being an ALEC, have the right to recover your costs that you incurred from the ISP itself, just like anybody else. What is happening, and this is part of the gaming that can occur, is if you have an ISP out there, which the FCC has already definitively said ISP traffic is theirs to make a jurisdictional rule in the order that came out, then you have something that is not local. If it is not local, in the FX case it is long distance and access charges are due. So I think it is a little bit of slight of hand perhaps to say that this is, in fact, a local call, because, in fact, it is not. Several commissions have ruled against it.

Q Well, you are not charging access on these calls today, right?

A That is probably correct. I don't know if we are doing it right now.

Q So if you begin to charge access you are going the increase the costs to ALECs to serve ISPs and provide them with local number dial-ups to customers of the ISPs, right?

A Yes, but the ISPs -- excuse me, the ALECs have the opportunity to receive their money from the ISPs like we would from our ISPs.

Q But it is not correct to say that your proposal has nothing to do with increased costs associated with serving ISPs, is it?

A No, I think it is still correct. I mean, there is going to be costs that is being incurred by the ALECs, but they have got the right to get that cost back from the ISP, just like BellSouth gets it from its ISP, or ISPs.

Q Are you aware of any system in place today that rates calls based on the actual geographic location of the originating and terminating customer as opposed to the NPA/NXX?

A I don't know the names of the system, but you determine long distance calls based on the V&H coordinates of the rate centers. Is that what you are talking about?

Q Of the rate centers, not of the customers, right?

A Right, of an individual customer. I'm not a billing

expert, so I don't know if there is a system that exists or not.

Q Just briefly on IP Telephony.

A Yes, sir.

Q In your direct you say that the transmission of long distance services via IP Telephony traffic is not local traffic. And, again, I may have paraphrased that at least a little bit.

A That's what I mean, yes.

Q There is no FCC rule or regulation that says that, is there?

A There is no rule that says specific to IP Telephony. But the FCC has historically and continues today to determine the jurisdiction of the call by the geographic originating and geographic end point of the call, that determines whether it is local or long distance. I think this is something that is completely invisible to the technology that is behind it.

Q U.S. West filed a complaint before the FCC on this very issue a couple of years ago, did it not?

A Yes, they did.

Q And, in fact, the FCC has not ruled one way or another on that complaint that IP Telephony calls may be subject to access charges, has it?

A No, it hasn't. But a district court in Colorado, the Denver court there, U.S. District Court ruled in the case of

U.S. West against a company called, remarkably, IP Telephony, and that is, in fact, what they were providing was IP Telephony, and the court ruled that those calls are, in fact, long distance calls and access charges are due.

Q Did the FCC take action after that district court ruling?

A It came out in January, I don't know if the FCC has taken any action yet. Of course they have got the notice of proposed rulemaking to look at all the things associated with intercarrier compensation, but I don't know if it is part of that or not.

Q You are not aware of any rule or regulation adopted by the FCC subsequent to that ruling applying access charges to IP Telephony calls, are you?

A No, not from the FCC. But, again, you have a court, district court that has looked at that.

Q And your position is essentially that, again, because of the geographic location of the originating customer and the terminating customer, those locations in and of themselves, if a call travels over IP Telephony, that makes that a long distance call, simply because of that geographic location, is that right?

A Exactly. I mean, that is consistent with the FCC and every time they have addressed it the geographic location determines the jurisdiction of the call whether it is going

over a green wire, or a blue wire, or a red wire, or it's going over an analog, a digital, or a packet of switches is inconsequential, it is a long distance call or it is a local.

Q Regardless of what information is being provided along that call, as well?

A That is getting into the area of enhanced services. And with IP Telephony, if you are just doing IP voice telephony, regardless.

Q And there is no definition of what is just IP Telephony, is there?

A No. And the person that can coin that, I think it would be worth a million dollars.

MR. LAMOUREUX: That's all I have. Thank you.

COMMISSIONER DEASON: I have a few questions before we get to the next person, and it relates to the very first chart that Mr. Lamoureux drew. That's the one.

Just as a point of reference, we have a LATA and we have drawn within that LATA two local calling areas, and we have numbered them one and number two. And the number two local calling area is where AT&T has its point of interconnection. That is your understanding, correct?

THE WITNESS: Yes, sir.

COMMISSIONER DEASON: Now, under your framework, BellSouth's framework, it would be a toll -- it is a toll call for your customer in calling area one to call a BellSouth

customer in calling area two, correct?

THE WITNESS: Correct.

COMMISSIONER DEASON: Now, what about an AT&T customer in area one calling an AT&T customer in area two, was it your understanding that also was a toll call?

THE WITNESS: That is really a function of how AT&T would have --

COMMISSIONER DEASON: It is irrelevant for the questions you were asked? Okay. Just to make sure that I understand, in the situation where there was an AT&T customer in calling area one calling a BellSouth customer in calling area one, there is no dispute about how that is done, is that correct?

THE WITNESS: No, sir, there is no dispute.

COMMISSIONER DEASON: You are not looking for any compensation for that, the costs are borne by AT&T in that situation?

THE WITNESS: Well, that is not entirely correct.

COMMISSIONER DEASON: Well, explain that.

THE WITNESS: Well, we would receive from AT&T reciprocal compensation for the terminating of that call, but nothing in addition to that.

COMMISSIONER DEASON: Nothing additional. But if we go to a situation where there is a BellSouth customer in area one calling an AT&T customer in area one, that is where you are

looking for the additional compensation, correct?

THE WITNESS: Yes, sir, subject to the threshold offer that we have made here. So there could be a good bit of that before we would seek compensation.

COMMISSIONER DEASON: Okay. Yes, subject to the threshold. Now, if there is a BellSouth customer in area one -- let me make sure I have this correct, just a moment. Let's say there is a BellSouth customer in area one that is calling an AT&T customer in area two.

THE WITNESS: Okay.

COMMISSIONER DEASON: Do you have that?

THE WITNESS: Yes, sir.

COMMISSIONER DEASON: That is a toll call, correct?

THE WITNESS: That would be a toll call.

COMMISSIONER DEASON: And you would receive toll rates from your customer, correct?

THE WITNESS: That is correct.

COMMISSIONER DEASON: But the actual physical configuration is that you would actually take that call to AT&T's point of presence in area two, correct?

THE WITNESS: Well, I think it would depend on who the customer's presubscribed interexchange carrier was for the intraLATA call. Most likely a customer, a BellSouth's customer in area one called an AT&T customer in area two, if they were, say, picked to MCI, we would take that call -- we would

recognize it is not local because we don't recognize the digits, and the switch would send it either to the access tandem, unless it had a direct connection to it to the other switch, and transfer it on. So it would be toll.

COMMISSIONER DEASON: So it all would depend on who the presubscribed carrier is, and it would just be handled as a toll call, which according to your definition that is what it is?

THE WITNESS: Yes.

COMMISSIONER DEASON: Okay. That's all I have. Thank you.

CHAIRMAN JACOBS: Mr. McDonnell.

MR. McDONNELL: Thank you, Chairman Jacobs.

(Transcript continues in sequence with Volume 2.)

STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter Services, FPSC Division of Commission Clerk and Administrative Services, do hereby certify that the foregoing proceeding was heard 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 constitutes a true transcription of my notes of said proceedings.

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' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 19TH DAY OF JULY, 2001.

JANE FAUROT, RPR
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FPSC Division of Commission Clerk and
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