

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION OF LEVEL 3 COMMUNICATIONS,	)	
LLC FOR ARBITRATION WITH BELL SOUTH	)	
TELECOMMUNICATIONS, INC. PURSUANT TO	)	CASE NO.
SECTION 252(b) OF THE COMMUNICATIONS	)	2000-404
ACT OF 1934, AS AMENDED BY THE	)	
TELECOMMUNICATIONS ACT OF 1996	)	

O R D E R

On March 14, 2001, the Commission entered a final Order in this proceeding addressing the four issues which remained in dispute between Level 3 Communications, LLC ("Level 3") and BellSouth Telecommunications, Inc. ("BellSouth"). On April 3, 2001, BellSouth filed a motion requesting reconsideration of the Commission's Order. It also requested that the Order be withdrawn and replaced with an Order approving the agreement the parties negotiated after the Commission entered its decision. Though Level 3 has made no filing since the Commission's Order, BellSouth states that it is authorized to represent that Level 3 does not oppose its motion. BellSouth indicates that the parties signed an agreement containing their negotiated settlement on March 26, 2001.

I. HOW SHOULD THE PARTIES DEFINE THE INTERCONNECTION POINTS FOR THEIR NETWORKS? SHOULD EACH CARRIER BE REQUIRED TO PAY FOR THE USE OF INTERCONNECTION TRUNKS ON THE OTHER CARRIER'S NETWORK?

The parties' negotiated agreement allows Level 3 to establish one point of interconnection ("POI") per LATA and it requires Level 3 to establish a second POI when the traffic between Level 3 and BellSouth reaches a certain threshold. The Commission

ordered the threshold level of traffic to be at an OC-3 level. But, the parties now agree that a DS-3 level would be more appropriate.

Also, like the Commission's Order, the parties' agreement provides that neither party will charge the other for trunks for the exchange for local traffic, including ISP-bound traffic, and intra-LATA toll traffic.

The Commission finds that the parties' negotiated agreement complies with the standards set forth by the Federal Communications Communication ("FCC") Rule 51.703(b) which states that "[a] LEC ["local exchange carrier"] may not assess charges on any other telecommunications carrier for local telecommunications traffic that originate on the LEC's network." It also complies with the standards of 47 U.S.C. § 251(c)(2)(B), which requires BellSouth to interconnect at any "technically feasible point."

II. SHOULD THE DEFINITION OF "SERVING WIRE CENTER" PRECLUDE LEVEL 3 FROM RECEIVING SYMMETRICAL COMPENSATION FROM BELL SOUTH FOR LEASED FACILITY INTERCONNECTION?

Instead of the Commission-ordered symmetrical compensation at the BellSouth rate, the parties' agreement now provides that a bill and keep compensation plan will be instituted under which neither party will charge the other party recurring or nonrecurring charges for trunks and associated dedicated facilities for the exchange of local traffic and intra-LATA toll traffic. The Commission finds that this is a reasonable substitute for the provisions of the March 14, 2001 Order regarding this issue.

III. SHOULD THE PARTIES BE REQUIRED TO PAY RECIPROCAL COMPENSATION ON TRAFFIC ORIGINATING FROM OR TERMINATING TO AN ENHANCED SERVICE PROVIDER, INCLUDING AN INTERNET SERVICE PROVIDER?

The Commission ordered BellSouth and Level 3 to comply with the decision in Case Number 99-218.<sup>1</sup> However, the parties have now agreed to compensate each other on a mutual and reciprocal basis for the transport and termination of local traffic at specified rates over the term of the contract. This compensation also includes payment for the delivery of ISP-bound traffic at the same per minute of use rate. In addition, the parties have agreed on options to address ISP-bound traffic after a regulatory agency or court has addressed the issue. The parties agree that there will be no true-up for compensation paid prior to the effective date of any amendment that addresses this issue. The parties' agreement is reasonable and should be adopted.

IV. SHOULD BELL SOUTH BE PERMITTED TO DEFINE ITS OBLIGATION TO PAY RECIPROCAL COMPENSATION TO LEVEL 3 BASED UPON THE PHYSICAL LOCATION OF LEVEL 3'S CUSTOMERS?

As the Commission determined in its March 14, 2001 Order, foreign exchange and virtual NXX services should be considered local traffic when the customer is physically located within the same LATA as the calling area with which the telephone number is associated.<sup>2</sup> The parties negotiated agreement defines local traffic for reciprocal compensation purposes as "any telephone call that is originated by an end-

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<sup>1</sup> Case No. 99-218, A Petition by ICG Telecom Group, Inc. for Arbitration of An Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1996, Order dated March 2, 2000.

<sup>2</sup> March 14, 2001 Order at 7.

user of one party and terminated to an end-user of the other party within a given LATA on the other party's network." Accordingly, the parties' agreement is consistent with the Commission's previous findings.

The Commission, having considered the motion of BellSouth and having been otherwise sufficiently advised, HEREBY ORDERS that:

1. BellSouth's motion shall be granted to the extent that the parties' negotiated settlement as contained in an executed interconnection agreement shall constitute the Commission-approved arrangements between these specific parties.

2. Within 10 days of the date of this Order, the parties shall file with the Commission the interconnection agreement executed on March 26, 2001.

Done at Frankfort, Kentucky, this 23<sup>rd</sup> day of April, 2001.

By the Commission

ATTEST:

  
Executive Director