

CASE

NUMBER:

99-218

Item No. 95
SmartGate® Service (Special Access) Cost Study

5 Public Pages
10 Confidential Pages

Redacted versions do not include proprietary pages.

**Kentucky
SMARTGate service
(a.k.a. BellSouth Managed Shared Ring
Network)**

Filing Package Material

**SmartGate service
(a.k.a. BellSouth SPA Managed Shared Ring Network)**

State: Kentucky
Page: 1 of 3
Date: June, 1999

Description of Procedures

Introduction and Overview

SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) is a managed high capacity shared network service between interexchange carriers and end user customers. It provides a dedicated flat rate transport link between a customer designated premises where the network is accessed, and a serving wire center of another customer designated premises in the same SMARTGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) area. The rate elements (components), are On-net DS1, On-net DS3, Off-Net DS1 and Off-Net DS3 service.

An Off-Net DS1, or Off-Net DS3, is one that originates at a customer location as DS1 (a.k.a. BellSouth SPA DS1), or DS3 (a.k.a. BellSouth SPA DS3) high capacity traffic, where the customer location is not a collection point for SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) facilities. The Off-Net DS1 or Off-Net DS3 is aggregated into SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) at a serving wire center in the SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) area.

An On-Net DS1 or an On-Net DS3 is one that originates at a collection location that is serviced by SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) facilities, and is transported over SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) facilities to the customer designated premises.

SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) operates on fiber facilities configured in ring architectures. It is available only in those locations within specified metropolitan areas that the Telephone Company determines can be incorporated into the SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) network.

Within the wire center serving areas that comprise a SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) area, the customer's high capacity special access (a.k.a. BellSouth SPA) traffic will be collected and managed for delivery to a customer's aggregation (collection) location. The traffic will be collected and managed as an On-Net or Off-Net DS1 SMARTGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) channel, or as an On-Net or Off-Net DS3 SMARTGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) channel, as applicable. The customer may not specify facility routing and selection of services with SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) as they do with regular high capacity (a.k.a. BellSouth SPA High Capacity) services.

**SmartGate service
(a.k.a. BellSouth SPA Managed Shared Ring Network)**

State: Kentucky

Page: 2 of 3

Date: December, 1998

Description of Procedures (continued)

The purpose of this cost study is to provide cost support for On-Net and Off-Net SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network).

This is a three-year levelized incremental study. The costs are developed on a monthly and nonrecurring basis. Monthly costs are based on an 11.25% cost of money.

Recurring Cost Development

These cost study results are developed utilizing Total Service Long Run Incremental Cost (TSLRIC) methodology. TSLRIC methodology utilizes incremental costing techniques based on cost causation and includes all of the costs directly caused by offering SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network), or alternatively, costs that would be avoided if the were not offered. TSLRIC data include both volume sensitive and volume insensitive costs and may be recurring or nonrecurring in nature. Recurring costs are the annual costs resulting from the capital investment necessary to provide the service.

The first step in developing recurring costs for SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) is to determine the forward looking network architecture. Inplant factors, which cover the capitalized installation and engineering costs, are applied to the material costs to develop the installed investments. Utilization and capacity requirements are applied to the investments. Supporting equipment and power factors, pole and conduit factors, as well as land and building loading factors, are applied to the installed investments.

To derive the total incremental investment by plant account, levelized inflation factors are applied to the investments to trend the base year, or study year, investments to a levelized amount that is valid for the three-year study period.

Account specific annual cost factors are used to convert the levelized investments into annual costs. The annual cost factors include both capital costs and operating expenses. Capital costs consist of depreciation, income taxes and cost of money. Operating expenses consist of plant specific and other expenses and other taxes. Once the investments have been converted into annual costs, they are divided by 12 to arrive at monthly costs. Gross receipts taxes are applied to the recurring costs to develop the total monthly costs.

Nonrecurring Cost Development

Nonrecurring costs are one-time costs and are incurred as a result of work activities associated with the installation of SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network).

**SmartGate service
(a.k.a. BellSouth SPA Managed Shared Ring Network)**

State: Kentucky
Page: 3 of 3
Date: June, 1999

Description of Procedures (continued)

Nonrecurring Cost Development (continued)

The first step in developing nonrecurring costs is to determine the incremental work functions and work times associated with this offering. The work function times, as identified by individuals knowledgeable about or responsible for performing the functions, describe the flow of work within the various work centers involved in processing a request for SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network).

Secondly, in order to determine the total nonrecurring cost of each rate element, the work times for each work function required to provide this offering are multiplied by the levelized directly assigned labor rate. These individual work function costs are accumulated into the nonrecurring cost for the rate elements studied. Utilizing work functions, work times and labor rates, disconnect costs are calculated in the same manner as the installation costs. Since labor costs will occur in the future, the labor rates are inflated to that future period in time and then discounted to the present.

The discounted disconnect cost is added to the installation cost to develop the nonrecurring cost. The discounted disconnect cost is based on a 42 month location life. For the SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) study, the first and additional nonrecurring costs are weighted into a total nonrecurring cost. They are then amortized to a monthly cost, with an annuity period for SmartGate service (a.k.a. BellSouth SPA Managed Shared Ring Network) of 18 months and an 11.25% cost of money. Gross receipts tax is applied to this nonrecurring cost to develop the total nonrecurring monthly cost.

SmartGate service
(a.k.a. BellSouth SPA Managed Shared Ring Network)

State: Kentucky
Page: 1 of 1
Date: June, 1999

Rationale for Proprietary Classification

This cost study for this service is classified proprietary because it contains information, which reflects vendor-specific prices negotiated by BellSouth. Public disclosure of this information would impair BellSouth's ability to contract for goods and/or services on favorable terms.

In addition, public disclosure of this information would provide BellSouth's competitors with a competitive advantage. The data is valuable to competitors and potential competitors in formulating strategic plans for entry, pricing, marketing and overall business strategies. This information relates to the competitive interests of BellSouth and disclosure would impair the competitive business of BellSouth. For these reasons, the study is considered proprietary.

Item No. 95
SmartRing® Service (Special Access) Cost Study

3 Public Pages
79 Confidential Pages

Redacted versions do not include proprietary pages.

SMARTRing service (a.k.a. BellSouth Dedicated Ring)

Page: 1 of 2

Recurring Cost Development

Recurring costs are the monthly costs resulting from the capital investment necessary to provide the service.

In developing recurring costs for SMARTRing service (a.k.a. BellSouth Dedicated Ring), the forward looking network architectures are determined. Material prices for the various cost components are multiplied by inplant factors, which cover the capitalized installation and engineering costs to develop the installed investments.

Plant account specific levelized inflation factors are applied to the installed investments to trend the base year, or study year, investments to a levelized amount that is valid for a three year planning period. Equipment utilization and capacity requirements are accounted for in the levelized installed investments.

Loading factors are applied to these investments, where appropriate, for land, building and common equipment and power to capture these support items.

Reusable and nonreusable recurring costs are calculated from the levelized installed investments for the nodes at the central office and customer locations. Nonreusable investments are assumed to have lives of 2, 4 and 6 years, which are the midpoints for payment plans A, B and C respectively. These midpoints define the investment recovery periods and are discussed below. Account average lives are applied to reusable investments.

The nonreusable investments identify the capitalized installation and engineering labor that would not be recovered if the customer were to terminate his service before the end of the contract period. The development of these nonreusable investments is done by reducing the installed investments by the reusable portion of these investments.

The payment plans in this study involve the nonreusable capital costs that must be recovered within the contract period of the transport plan selected by the customer. Contract period capital cost factors are developed by taking the present worth of the average life capital cost component investments, and re-spreading these investments over the investment recovery period.

The investment recovery periods have been set at the midpoints of the transport plans in this study so no investments will be "over recovered" during the latter half of each transport plan. Account specific annual cost factors based on the economic life of each item of plant are used to calculate the direct cost of capital and operating expenses of the reusable investments. Capital costs consist of depreciation, income taxes and cost of money. Operating expenses are plant specific expenses and other taxes.

Private/Proprietary: Not for use or disclosure outside of BellSouth except by written agreement

SMARTRing service (a.k.a. BellSouth Dedicated Ring)

Page: 2 of 2

Recurring Cost Development (continued)

The nonreusable annual cost associated with a particular contract period is added to the reusable annual cost to derive the total annual cost of a rate element for that contract period. This total annual cost is divided by 12 to arrive at a monthly cost.

Nonrecurring Cost Development

Nonrecurring costs are one-time costs and are incurred as a result of work activities associated with the installation of SMARTRing service (a.k.a. BellSouth Dedicated Ring).

The first step in developing nonrecurring costs is to determine the incremental work functions and work times associated with this offering. The work function times, as identified by individuals knowledgeable about or responsible for performing the functions, describe the flow of work within the various work centers involved in processing a request for SMARTRing service (a.k.a. BellSouth Dedicated Ring).

Secondly, in order to determine the total nonrecurring cost of each rate element, the work times for each work function required to provide this offering are multiplied by the levelized directly assigned labor rate. These individual work function costs are accumulated into the nonrecurring cost for the rate elements studied. Utilizing work functions, work times and labor rates, disconnect costs are calculated in the same manner as the installation costs. Since labor costs will occur in the future, the labor rates are inflated to that future period in time and then discounted to the present.

The discounted disconnect cost is added to the installation cost to develop the nonrecurring cost. The discounted disconnect cost is based on a 42 month location life. For the SMARTRing service (a.k.a. BellSouth Dedicated Ring) study, the first and additional nonrecurring costs are weighted into a total nonrecurring cost. Gross receipts tax is applied to this nonrecurring cost to develop the total nonrecurring cost for each cost element.

Rationale for Proprietary Classification

The cost study for this service is classified proprietary because it contains information which reflects vendor-specific prices negotiated by BellSouth. Public disclosure of this information would impair BellSouth's ability to contract for goods and/or services on favorable terms.

In addition, public disclosure of this information would provide BellSouth's competitors with a competitive advantage. The data is valuable to competitors and potential competitors in formulating strategic plans for entry, pricing, marketing and overall business strategies. This information relates to the competitive interests of BellSouth and disclosure would impair the competitive business of BellSouth. For these reasons, the study is considered proprietary.

Item No. 95
SmartRing® Service (Private Line) Cost Study

4 Public Pages
78 Confidential Pages

Redacted versions do not include proprietary pages.

SMARTRing[®] Service

State: Kentucky-DA

Page: 1 of 1

Date: June 1995

SECTION 1 - INTRODUCTION AND OVERVIEW

The service considered in this study is a dedicated, digital, intralata facility that allows the customer a range of digital data communication capabilities. Service options are local channels, interoffice channels, alternate central office channels, internodal channels, customer and central office nodes and interfaces.

Recurring costs developed for this study are directly assigned, incremental, and levelized over the 1995-1999 study period. Monthly costs are based on 12.50% Cost of Money.

SMARTRing[®] Service

State: Kentucky-DA

Page: 1 of 1

Date: June 1995

SECTION 3 - DESCRIPTION OF PROCEDURES

MONTHLY COST DEVELOPMENT:

Monthly costs are the continuing costs associated with the capital investment necessary to provide the service. Telco inplant installation factors are applied to the material costs to develop the installed investments. Miscellaneous common equipment and power, as well as land and building loading factors are applied to the installed investment, when appropriate, to determine total incremental investment by plant account.

Account-specific annual cost factors are used to convert the levelized investments into annual costs. The annual cost factors include both capital costs and operating expenses associated with the type of investment being converted. Capital costs include depreciation, income taxes, and the cost of money. Operating expenses include maintenance, administrative, and ad valorem and other taxes. After the investments have been converted into annual costs, they are divided by 12 to arrive at monthly costs.

Annual marketing expenses and Annual Network Management (NMA) expenses, which are shared costs, are directly attributable to the SMARTRing service, but are not directly assigned to any particular rate element.

SECTION 3 - DESCRIPTION OF PROCEDURES

NONRECURRING COST DEVELOPMENT

Nonrecurring costs are one-time costs and are incurred as a result of work activities associated with the provisioning, installing and disconnecting a service. The first step in developing nonrecurring costs is to determine the cost elements related to the study. These cost elements are then described by all of the individual work functions required to provision the service. Then Company subject matter experts identify the work functions involved in the provisioning of the service. The work functions are used to describe the flow of work within the the various centers involved. Installation and provisioning costs are developed by multiplying the work time for each work function by the directly assigned labor rate for the work group performing the function. Disconnect costs are calculated in the same manner, utilizing work functions, work times and labor rates. However, a disconnect factor associated with a 60-month projected location life of the service is applied to the disconnect cost. The disconnect factor inflates the labor cost to the period of the future disconnect, discounts these costs to the present, since the money is received up-front, and adjusts for the income tax effect due to the difference in time between the receipt of money and the disconnection expense. The disconnect cost is added to the installation cost to develop the total nonrecurring cost.

SMARTRing[®] Service

State: Kentucky-DA

Page: 1 of 1

Date: June 1995

SECTION C - RATIONALE FOR PROPRIETARY CLASSIFICATION

The information in this cost study is classified proprietary for the following reasons:

- This study includes specific cost information and references which need to be protected.

This study reflects vendor-specific pricing negotiated by BellSouth with vendors utilized in SMARTRing service. The contract with the vendor includes a nondisclosure agreement; public disclosure of this information would constitute a breach of the nondisclosure agreement, and would impair the ability of the company to reach future contract agreements with this vendor.

- This information was developed internally at the request of the Company at significant cost and value to others.

The cost study spreadsheets show worktime estimates, specific demand/forecast, contract prices, and cost methodology provided by subject matter experts within BellSouth. This information could give an outside company a competitive advantage.

**Before the
Kentucky Public Service Commission
Frankfort, Kentucky**

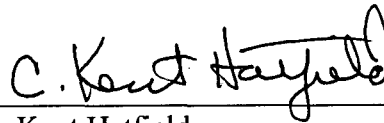
<p>In re:</p> <p>Petition of ICG Telecom Group, Inc. for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996</p>	<p>Docket No. 99-218</p>
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**ICG Telecom Group, Inc.'s Responses to
BellSouth Telecommunications, Inc.'s First Set of Document Requests**

ICG Telecom Group, Inc. ("ICG") hereby respectfully submits its Responses and Objections to BellSouth Telecommunications, Inc.'s ("BellSouth") First Set of Document Requests in the above-styled docket.

RECEIVED
OCT 12 1999
PUBLIC SERVICE
COMMISSION

Respectfully submitted,



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COUNSEL FOR ICG TELECOM GROUP, INC.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Requests for
Production
October 12, 1999
Request for Production No. 1
Page 1 of 1

REQUEST: Produce copies of all documents identified in response to BellSouth's First Set of Interrogatories.

RESPONSE: To the extent such documents were not provided by BellSouth or are not in BellSouth's possession, to the extent such documents are reasonably available to ICG, and to the extent such documents are not contained in the documentation of a state or federal proceeding accessible by BellSouth, they were produced in response to BellSouth's Request for Production No. 1 in Florida Public Service Commission Docket No. 990691-TP, ICG's Florida arbitration with BellSouth.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Requests for
Production
October 12, 1999
Request for Production No. 2
Page 1 of 1

REQUEST:

Produce all documents that support or refer or relate to the recurring and nonrecurring rates you contend BellSouth should charge ICG for frame relay elements necessary to provide packet-switched services in Kentucky, including the User-to-End Network Interface, Network-to-Network Interface, and the Data Link Control Identifiers and Committed Information Rates.

RESPONSE:

To the extent such documents were not provided by BellSouth or are not in BellSouth's possession, to the extent such documents are reasonably available to ICG, and to the extent such documents are not contained in the documentation of a state or federal proceeding accessible by BellSouth, there are none.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Requests for
Production
October 12, 1999
Request for Production No. 3
Page 1 of 1

REQUEST:

Produce all documents that refer or relate to any request by ICG to an Incumbent Local Exchange Carrier (other than BellSouth) to provide ICG with an "Enhanced Extended Link" or "EEL" alternative, as well as all documents referring or relating to the Incumbent Local Exchange Carrier's response to any such request.

RESPONSE:

To the extent such documents were not provided by BellSouth or are not in BellSouth's possession, to the extent such documents are reasonably available to ICG, and to the extent such documents are not contained in the documentation of a state or federal proceeding accessible by BellSouth, there are none.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Requests for
Production
October 12, 1999
Request for Production No. 4
Page 1 of 1

REQUEST:

Produce a copy of any interim or final decision in an arbitration under Section 252 of the Act or in any other proceeding under the Act that addresses the issue of whether ICG should be provided with an "Enhanced Extended Link" or "EEL" alternative.

RESPONSE:

These documents are publicly available from the state regulatory bodies governing the states where ICG does business, identified in the response to Interrogatory No. 25.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Requests for
Production
October 12, 1999
Request for Production No. 5
Page 1 of 1

REQUEST:

Produce all documents that refer or relate to any request by ICG to an Incumbent Local Exchange Carrier (other than BellSouth) to provide ICG with volume and term discounts on unbundled network elements consistent with those available for the Incumbent's special access services.

RESPONSE:

To the extent such documents were not provided by BellSouth or are not in BellSouth's possession, to the extent such documents are reasonably available to ICG, and to the extent such documents are not contained in the documentation of a state or federal proceeding accessible by BellSouth, there are none.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Requests for
Production
October 12, 1999
Request for Production No. 6
Page 1 of 1

REQUEST:

Produce a copy of any interim or final decision in an arbitration under Section 252 of the Act or in any other proceeding under the Act that addresses the issue of whether ICG should receive volume and term discounts on unbundled network elements from an Incumbent Local Exchange Carrier consistent with those available for the Incumbent's special access services.

RESPONSE:

These documents are publicly available from the state regulatory bodies governing the states where ICG does business, identified in the response to Interrogatory No. 25.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Requests for
Production
October 12, 1999
Request for Production No. 7
Page 1 of 1

REQUEST:

Produce all documents that refer or relate to any request by ICG to an Incumbent Local Exchange Carrier (other than BellSouth) for performance measurements, benchmarks, and/or liquidated damages.

RESPONSE:

To the extent such documents were not provided by BellSouth or are not in BellSouth's possession, to the extent such documents are reasonably available to ICG, and to the extent such documents are not contained in the documentation of a state or federal proceeding accessible by BellSouth, there are none.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Interrogatories
October 12, 1999
Interrogatory No. 8
Page 1 of 1

INTERROGATORY: Please state the total number of ICG's on-net customers in Kentucky that are Internet Service Providers ("ISPs").

RESPONSE: The reasonably available information is confidential and proprietary and will be furnished under the terms of the Protective Agreement executed by the parties.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Interrogatories
October 12, 1999
Interrogatory No. 9
Page 1 of 1

INTERROGATORY: State the percentage of ICG's customers in Kentucky that are residential customers.

RESPONSE: The reasonably available information is confidential and proprietary and will be furnished under the terms of the Protective Agreement executed by the parties.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Requests for
Production
October 12, 1999
Request for Production No. 10
Page 1 of 1

REQUEST: Produce all documents upon which ICG intends to rely or introduce into evidence at the hearing on this matter.

RESPONSE: To the extent such documents were not provided by BellSouth or are not in BellSouth's possession, to the extent such documents are reasonably available to ICG, and to the extent such documents are not contained in the documentation of a state or federal proceeding accessible by BellSouth, there are none.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Requests for
Production
October 12, 1999
Request for Production No. 11
Page 1 of 1

REQUEST:

Please provide any and all written agreements and/or contracts entered between ICG and its ISP customers identified in response to Interrogatory No. 8, as well as an explanation of any oral agreements entered with such ISP customers.

RESPONSE:

ICG objects to this request on the following grounds. ICG provides services to its customers under the terms of tariffs on file with the Commission. To the extent there are additional written agreements, written consent of the ISPs to their disclosure would be required because the ISPs consider the documents to be sensitive, proprietary and confidential, as does ICG. Such production would competitively disadvantage ICG, and the production of such written agreements is not designed to lead to the discovery of admissible evidence. On information and belief, the request is harassing in nature, and may have been submitted to satisfy BellSouth's corporate competitive interests. In addition, the effort required to collect the documents requested is unreasonably burdensome. The oral agreements requested, by definition, are not documents and cannot be produced in response to a Request for Production. To ICG's knowledge, there are no such oral agreements.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Requests for
Production
October 12, 1999
Request for Production No. 12
Page 1 of 1

REQUEST: Identify any and all cost studies, evaluations, reports or analyses prepared by or for ICG concerning any issue raised by ICG in the Arbitration Petition.

RESPONSE: There are none at this time.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Requests for
Production
October 12, 1999
Request for Production No. 13
Page 1 of 1

REQUEST: Produce all documents that refer, reflect or describe the network architecture used by ICG to deliver traffic to ISPs.

RESPONSE: Objection. BellSouth's Request for Production No. 13 seeks information which is irrelevant to this proceeding and not calculated to lead to the discovery of admissible evidence in this proceeding. BellSouth's Request also seeks production of documents which are of a highly proprietary, confidential and sensitive nature to ICG. Disclosure of the requested information would cause irreparable and permanent injury to ICG's current and prospective economic advantages. Given the sensitivity of the requested documents, no Protective Order entered between the parties is capable of providing sufficient protection from disclosure to justify production of the requested documents.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Requests for
Production
October 12, 1999
Request for Production No. 14
Page 1 of 1

REQUEST: Produce all documents that refer, relate or describe ICG's delivery of traffic to ISPs located outside the rate center in which the call to the ISP originated.

RESPONSE: Objection. BellSouth's Request for Production No. 14 is vague, ambiguous, overly broad and unduly burdensome. Without waiving the objection, and in an effort to be responsive, ICG states that it does not deliver traffic to ISPs located outside the rate center in which the call to the ISP originated.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Requests for
Production
October 12, 1999
Request for Production No. 15
Page 1 of 1

REQUEST:

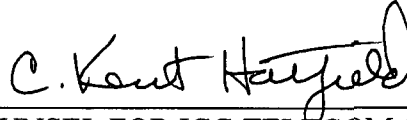
Produce all documents that refer, relate or describe ICG's collection of reciprocal compensation for its delivery of traffic to ISP's located outside the rate center in which the call to the ISP originated.

RESPONSE:RESPONSE:

Objection. BellSouth's Request for Production No. 15 is vague, ambiguous, overly broad and unduly burdensome. Without waiving the objection, and in an effort to be responsive, ICG states that it does not deliver traffic to ISPs located outside the rate center in which the call to the ISP originated.

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing was served, via first class, U.S. mail, postage pre-paid, upon Creighton E. Mershon, BellSouth Telecommunications, Inc., 601 West Chestnut, Louisville, Kentucky 40232 and R. Douglas Lackey, Lisa S. Foshee and A. Langley Kitchens, Suite 4300, BellSouth Center, 675 W. Peachtree Street, N.E., Atlanta, Georgia 30375, this 12th day of October, 1999.



COUNSEL FOR ICG TELECOM GROUP, INC.

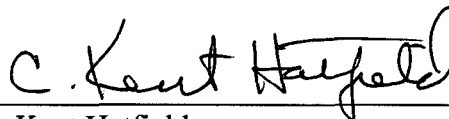
**Before the
Kentucky Public Service Commission
Frankfort, Kentucky**

<p>In re:</p> <p>Petition of ICG Telecom Group, Inc. for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996</p>	<p>Docket No. 99-218</p>
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**ICG Telecom Group, Inc.'s Responses to
BellSouth Telecommunications, Inc.'s First Set of Interrogatories**

ICG Telecom Group, Inc. ("ICG") hereby respectfully submits its Responses and Objections to BellSouth Telecommunications, Inc.'s ("BellSouth") First Set of Interrogatories in the above-styled docket.

Respectfully submitted,



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ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Interrogatories
October 12, 1999
Interrogatory No. 1
Page 1 of 1

INTERROGATORY: Identify all persons participating in the preparation of the answers to these Interrogatories or supplying information used in connection therewith.

RESPONSE: Adrienne Leonard, Phil Jenkins, Bruce Holdridge, Gwen Rowling, Nicolas Selby, Jon Lowry, Karen Notsund, Kathy Rowley, and Wade Yates of ICG and counsel for ICG.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Interrogatories
October 12, 1999
Interrogatory No. 2
Page 1 of 1

INTERROGATORY: Identify each person whom you expect to call as an expert witness at the arbitration hearing. With respect to each such expert, please state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.

RESPONSE: The persons ICG expects to call as expert witnesses at the arbitration hearing are the persons for whom ICG filed direct and/or rebuttal testimony in Georgia Public Service Commission Docket No. 10767-U, ICG's Georgia arbitration with BellSouth, which is in BellSouth's possession. The subject matter on which each expert is expected to testify is given in such prefiled testimony, which contains the substance of the facts and opinions on which the expert expects to testify and a summary of the grounds for each opinion. ICG reserves the right to supplement this response based on discovery responses and additional facts or circumstances which may become known to ICG prior to the time of the arbitration hearing.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Interrogatories
October 12, 1999
Interrogatory No. 3
Page 1 of 1

INTERROGATORY: Identify each person whom you have consulted as an expert in anticipation of this arbitration or in preparation for a hearing in this arbitration who is not expected to be called as a witness. With respect to each such expert, please state the facts known by and opinions held by this expert concerning any matters raised in the Arbitration Petition.

RESPONSE: ICG has not consulted any expert in anticipation of this arbitration or in preparation for a hearing in this arbitration who is not expected to be called as a witness.

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INTERROGATORY: Identify all documents which refer or relate to any issues raised in the Arbitration Petition that were provided or made available to any expert identified in response to Interrogatory Nos. 2 or 3.

RESPONSE: These documents include those referenced in the testimony filed by ICG in Florida Public Service Commission Docket No. 990691-TP, ICG's Florida arbitration with BellSouth, which is in BellSouth's possession, all documents identified by BellSouth in its responses to ICG's discovery, all documents identified by ICG in its responses to BellSouth's and Staff's discovery requests, all relevant factual and legal submissions in state and regulatory proceedings, all rulings in state and federal proceedings to the extent they are relevant, all internal documents of ICG and BellSouth to the extent they are relevant, and all additional documents to be provided or discovered by any party in this proceeding, to the extent the above and foregoing documents are known or unknown to ICG.

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INTERROGATORY: Identify all documents upon which ICG intends to rely or introduce into evidence at the hearing on this matter.

RESPONSE: These documents include the testimony of ICG's witnesses to be filed in this matter, BellSouth's responses to ICG's discovery, all documents provided by BellSouth in this matter in support of its case, all documents identified by ICG in response to BellSouth and Staff discovery, all relevant documents discovered or developed by ICG or any party prior to or during the Arbitration, and all documents identified in response to No. 4.

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INTERROGATORY: Please state the total number of end user customers that ICG serves within the state of Kentucky.

RESPONSE: The reasonably available information is confidential and proprietary and will be furnished under the terms of the Protective Agreement executed by the parties.

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INTERROGATORY: Please state the total number of end user customers that ICG serves off of its own network ("on-net" customers) within Kentucky.

RESPONSE: The reasonably available information is confidential and proprietary and will be furnished under the terms of the Protective Agreement executed by the parties.

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REQUEST:

Produce all documents that refer or relate to ICG's claim that for purposes of reciprocal compensation, ICG should be compensated for end office, tandem, and transport elements of termination where ICG's switch serves a geographic area comparable to the area served by BellSouth's tandem switch.

RESPONSE:

To the extent such documents were not provided by BellSouth or are not in BellSouth's possession, to the extent such documents are reasonably available to ICG, and to the extent such documents are not contained in the documentation of a state or federal proceeding accessible by BellSouth, there are none.

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REQUEST: Produce copies of all agreements between ICG and an Incumbent Local Exchange Carrier (other than BellSouth) under Section 252 of the Act, whether the agreement was reached through voluntary negotiation or compulsory arbitration.

RESPONSE: These documents are publicly available from the state regulatory bodies governing the states where ICG does business, identified in the response to Interrogatory No. 25.

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INTERROGATORY: Please state on a monthly basis the total amount of revenue that ICG has received from providing services within Kentucky to its end-user customers.

RESPONSE: The reasonably available information is confidential and proprietary and will be furnished under the terms of the Protective Agreement executed by the parties.

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INTERROGATORY: Please state on a monthly basis the total amount of revenue that ICG has received from providing services within Kentucky to its "on-net" end-user customers.

RESPONSE: The reasonably available information is confidential and proprietary and will be furnished under the terms of the Protective Agreement executed by the parties.

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INTERROGATORY: For the Kentucky ISP customers identified in response to Interrogatory No. 8, please state, on an annual basis, (a) the total amount billed by ICG for service to those customers from inception of service to present, (b) the amounts of any credits, rebate, or adjustments given to such customers, and (c) the total amount of revenue collected from such customers, from inception of service to present.

RESPONSE: The reasonably available information is confidential and proprietary and will be furnished under the terms of the Protective Agreement executed by the parties.

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INTERROGATORY: Please provide ICG's total dollar investment in Kentucky, including total dollar investment in switches, outside plant, and support assets.

RESPONSE: The reasonably available information is confidential and proprietary and will be furnished under the terms of the Protective Agreement executed by the parties.

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INTERROGATORY: Provide the total number of switches ICG has deployed in Kentucky.

RESPONSE: ICG has deployed one switch in Kentucky.

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INTERROGATORY: Identify any cost study or other data or documents concerning the actual cost to ICG to transport ISP traffic from the point of interconnection with BellSouth to the ISP server being served by an ICG switch.

RESPONSE: ICG does not have cost studies with respect to its own facilities at this time. To the extent that BellSouth facilities are used, ICG's costs equal BellSouth's prices, which are known to BellSouth.

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INTERROGATORY: State the recurring and nonrecurring rates you contend BellSouth should charge in Kentucky for the frame relay elements necessary to provide packet-switch services, including the User-to-End Network Interface, Network-to-Network Interface, and the Data Link Control Identifiers and Committed Information Rates. In answering this Interrogatory, describe with particularity the method by which these rates were calculated.

RESPONSE: BellSouth should charge unmodified forward-looking total element long run incremental cost-based rates for frame relay services provided by BellSouth to ICG.

The rates set forth in Exhibit AJV-8 to the direct testimony of BellSouth Witness Alphonso J. Varner in Florida Public Service Commission Docket No. 990691-TP, ICG's Florida arbitration with BellSouth, are acceptable to ICG for frame relay services in Florida. ICG anticipates that rates for frame relay services in Kentucky that are based upon the same cost study and cost model as those Florida rates would also be acceptable to ICG, but ICG as of the date of this response has not received proposed rates for frame relay services in Kentucky from BellSouth.

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INTERROGATORY: Identify all studies, evaluations, reports, or analyses prepared by or for ICG since January 1, 1996 that refer or relate to the cost to BellSouth or any other Incumbent Local Exchange Carrier of providing any of the unbundled network elements or other services requested by ICG in its Arbitration Petition.

RESPONSE: None, at this time.

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INTERROGATORY: Are there any types of frame relay elements necessary to provide packet-switched services that you have requested from BellSouth that you contend BellSouth has refused to provide on an unbundled basis? If the answer is in the affirmative:

- (a) identify with particularity the type of element you requested which BellSouth allegedly has refused to provide;
- (b) state the date when you first requested the element and the date BellSouth allegedly refused to provide it;
- (c) state the reasons purportedly given by BellSouth for its refusal to provide element; and
- (d) identify all documents that refer or relate to ICG's request for or BellSouth's refusal to provide each such element.

RESPONSE: The reasonably available information is confidential and proprietary and will be furnished under the terms of the Protective Agreement executed by the parties.

INTERROGATORY: Identify all states in which ICG has requested an Incumbent Local Exchange Carrier (other than BellSouth) to provide ICG with an "Enhanced Extended Link" or "EEL" alternative. In answering this Interrogatory, please:

- (a) identify the Incumbent Local Exchange Carrier to whom the request was made;
- (b) state the date of ICG's request and the date of the Incumbent Local Exchange Carrier's response; and
- (c) describe with particularity the Incumbent Local Exchange Carrier's response to ICG's request.

RESPONSE:

- (a) Pacific Bell in California and Southwestern Bell in Texas.
- (b)(i) In California, ICG participated in the collaborative workshop held in July and August 1998, by the California Public Utilities Commission ("CPUC") in connection with Pacific Bell's draft application for 271 authority in R.93-04-003/I.93-04-002/R.95-04-043/I.94-04-044. At various times during the workshop, ICG supported the request by CompTel and, ICG believes, Competitive Local Exchange Carriers ("CLEC") other than ICG that Pacific Bell be required to offer an extended link which consists of the loop functionality delivered to a distant central office or a combination of loop and transport. See, CPUC Decision (D.) 98-12-069 (December 17, 1998) at P. 147. ICG views extended link in California as an unbundled loop functionality that is equivalent to Enhanced Extended Link or EEL. ICG considers its vocal support for the CompTel/CLEC request equivalent to a request for the extended link functionality. ICG is uncertain whether Pacific responded, precisely, to the CompTel/CLEC request, but D. 98-12-069 requires Pacific to provide extended links to CLECs. See, *id.*, Appendix B., p. 17.

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- (b)(ii) During SWBT's 271 application in Texas, the Texas Commission developed the attached Memorandum of Understanding (MOU) with SWBT. It was the Commission's intention that they establish a stable business environment for CLECs even if the FCC's UNE remand restricts access to UNEs. It is a document that was negotiated by the Texas PUC Chairman and SWBT; it was approved by the entire Commission. Attachment B, Section G addresses the availability of Extended Link.
- (c)(i) Please see response to 15(b)(i), *supra*. Pacific's response, in general, at least as it was understood by the CPUC, is set forth in D. 98-12-069 at pp. 148-49.
- (c)(ii) Based on the MOU, SWBT filed a Proposed Interconnection Agreement (PIA) that incorporated the MOU's commitments. The commitment to provide EEL per the MOU is contained in the UNE attachment of the PIA.

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INTERROGATORY: Does ICG contend that if it were to receive an EEL, that it could put both local and toll traffic over the EEL? If so, explain the justification for this position.

RESPONSE: ICG is requesting EELs to provide local exchange service. Generally, local exchange customers also use their exchange service for exchange access ("toll" traffic) as well. ICG expects to respond to the needs of its customers to use local exchange facilities for exchange access. ICG also expects to respond to its customers that demand the EEL for special access.

ICG believes it has the right to put toll traffic over the EEL for at least two reasons. As explained above, customers use common facilities for both exchange service and exchange access and there is no workable means to preclude the customer from using the EEL for exchange access. The Supreme Court's opinion in *AT&T Corp. v. Iowa Utilities Bd.*, 525 U.S. 366 (1999), allows an entrant to purchase UNE combinations that recreate retail services at prices based on forward-looking costs. Finally, when the full text of the FCC's UNE order adopted on September 15, 1999 in CC Docket Number 96-98 is released, it may provide additional support for ICG's position.

INTERROGATORY: Identify all proceedings conducted under the Act, including, but not limited to, arbitrations under Section 252 of the Act, in which ICG has sought to require that an Incumbent Local Exchange Carrier (other than BellSouth) provide ICG with an "Enhanced Extended Link" or "EEL" alternative. In answering this Interrogatory:

- (a) identify the jurisdiction in which the proceeding was conducted, describe the nature of the proceeding, and state the docket number assigned to the proceeding;
- (b) state the dates when the proceeding was initiated and when it was concluded, if applicable;
- (c) state the result of the proceeding.

RESPONSE:

- (a) Please see response to Interrogatory No. 19(b), *supra*.
- (b)(i) The California 271 Application Proceeding was initiated by Pacific Bell in March, 1998. However, R.93-04-003/I.93-04-002 was initiated in April, 1993, and R.95-04-043/I.95-04-044 was initiated in April, 1995. The 271 Application Proceeding is still open and pending before the CPUC, as are the underlying rule making/investigation proceedings.
- (b)(i) The date when the Texas proceeding was commenced by SWBT can be obtained from the pleadings. ICG understands that it is ongoing.

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INTERROGATORY: Identify all states in which ICG has requested an Incumbent Local Exchange Carrier (other than BellSouth) to provide ICG with volume and term discounts on unbundled network elements consistent with those available for the Incumbent's special access services. In answering this Interrogatory:

- (a) identify each Incumbent Local Exchange Carrier to whom such a request was made;
- (b) state the date of ICG's request and the date of the Incumbent Local Exchange Carrier's response; and
- (c) describe with particularity the Incumbent Local Exchange Carrier's response to ICG's request, including the discounts to which the incumbent agreed, if any.

RESPONSE: The reasonably available information is confidential and proprietary and will be furnished under the terms of the Protective Agreement executed by the parties.

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INTERROGATORY: Identify all proceedings conducted under the Act, including, but not limited to, arbitrations under Section 252 of the Act, in which ICG has sought to require that an Incumbent Local Exchange Carrier (other than BellSouth) provide volume and term discounts on unbundled network elements purchased from that Incumbent. In answering this Interrogatory:

- (a) identify the jurisdiction in which the proceeding was conducted, describe the nature of the proceeding, and state the docket number assigned to the proceeding;
- (b) state the dates the proceeding was initiated and when it was concluded, if applicable;
- (c) state the result of such proceeding.

RESPONSE:

- (a) Ohio, arbitration proceeding conducted in Case No. 99-1153-TP-ARB
- (b) September 27, 1999
- (c) Case is pending.

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INTERROGATORY: Does ICG contend that TELRIC cost methodology is based on the cost of the network as it currently exists, or the cost of the network as it will look in the future?

RESPONSE: FCC Rule Number 51.505(b)(1) dictates that prices for unbundled network elements be based upon the TELRIC methodology, wherein:

The total element long-run incremental cost of an element should be measured based on the use of the most efficient telecommunications technology currently available and the lowest cost network configuration, given the existing location of the incumbent LEC's wire centers.

This criterion requires that TELRIC costs be calculated using the "lowest cost configuration" of the LEC's network "...based on the most efficient telecommunications technology currently available." As such, while the TELRIC methodology may in practice benefit from examining the LEC's network as it exists today or as it may exist in the future, neither of those network architectures or subsequent cost structures may be adequate for TELRIC purposes. The TELRIC methodology requires that the network from which costs for UNEs will be derived be based upon the least cost network configuration using the most efficient technology currently available. The extent to which a LEC currently uses, or in the future plans to use such a network configuration, is irrelevant to a proper TELRIC analysis. As such, neither the "current network" nor "future network" configuration actually used by the LEC is necessarily the proper standard by which UNE costs should be determined.

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INTERROGATORY: Identify all states in which ICG is providing [sic] local exchange service and identify the number of access lines being served by ICG in each such state.

RESPONSE: The reasonably available information is confidential and proprietary and will be furnished under the terms of the Protective Agreement executed by the parties.

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INTERROGATORY: Identify all agreements between ICG and an Incumbent Local Exchange Carrier under Section 252 of the Act, whether the agreement was entered into through voluntary negotiation or compulsory arbitration. In answering this request:

- (a) identify the Incumbent Local Exchange Carrier that is a party to each such agreement;
- (b) state the effective date of each such agreement; and
- (c) state the expiration date of each such agreement.

RESPONSE: To the extent such requested agreements relate to BellSouth, the information is as available to BellSouth as it is to ICG. All other such agreements are on public file with the regulatory bodies governing the states where ICG does business, namely, Alabama, Georgia, North Carolina, Tennessee, Kentucky, Florida, Texas, Colorado, California, Ohio, Washington, Massachusetts, and New York.

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INTERROGATORY: Identify any and all cost studies, evaluations, reports or analyses prepared by or for ICG concerning any issue raised by ICG in the Arbitration Petition.

RESPONSE: None at this time.

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INTERROGATORY: Identify all state or federal legal authority that ICG contends grants the Kentucky Public Service Commission the right to award or order liquidated damages against telecommunications carriers in an arbitration under the Telecommunications Act of 1996.

RESPONSE: ICG does not contend that the Kentucky Public Service Commission is authorized to award damages, liquidated or otherwise. ICG does contend that the KPSC has the authority, as part of its responsibility to determine the just and reasonable rates, terms, and conditions for services provided by telecommunications carriers, to approve or require provisions establishing the consequences of a carrier's failure to comply with service quality standards that have been approved or mandated by the KPSC, which may include provisions for liquidated damages, although in the event of such a failure such damages would be awarded by a court of competent jurisdiction and not by the KPSC. At this time, ICG is aware of the following authority supporting its position; ICG reserves the right to supplement this answer as needed.

KRS 278.030; 278.040(2)-(3); 278.260; and 278.280.

Southern Bell Tel. & Tel. Co. v. Ivenchek, Inc., 130 Ga. App. 798, 204 S.E.2d 457 (1974).

US West Communications, Inc. v. Hix, Civil Action No. 97-D-152, (U.S.D.C. Co. 1999).

Petition of AT&T Communications of New York, Inc. for Arbitration of an Interconnection Agreement with New York Telephone Co., Case No. 96-C-0723 (Feb. 3, 1998).

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INTERROGATORY: Identify all state or federal legal authority that ICG contends requires BellSouth to provide ICG with volume and term discounts for UNEs under the Telecommunications Act of 1996.

RESPONSE: This issue is addressed in the prefiled testimony of ICG in Florida Public Service Commission Docket No. 990691-TP, ICG's Florida arbitration with BellSouth, which is in BellSouth's possession. See, especially the rebuttal testimony of Mr. Michael Starkey. However, to the extent this information is not provided in the testimony filed by ICG in the Florida proceeding, ICG objects on the ground that the information required calls for a legal conclusion.

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INTERROGATORY: Identify all state and federal legal authority that supports ICG's contention that traffic to ISPs is local traffic.

RESPONSE: ICG does not contend that traffic to ISPs is local traffic. ICG does contend that until the Federal Communications Commission adopts a rule with prospective application, dial-up calls to ISPs should be treated as if they were local calls for purposes of reciprocal compensation, just as they are treated as if they were local calls for all other purposes. At this time, ICG is aware of the following authority in support of its position; ICG reserves the right to supplement this answer as needed.

The Georgia Public Service Commission held in *Complaint of MFS Intelenet of Georgia, Inc. against BellSouth Telecommunications, Inc.*, Docket No. 8196-U, that ISP traffic is subject to reciprocal compensation, specifically ordering that the Commission's "conclusions . . . are general conclusions not limited to the circumstances of the contract in this case, and that these conclusions shall have precedential effect."

ICG contends that the Federal Communications Commission's declaratory ruling in *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Inter-Carrier Compensation for ISP-Bound Traffic, Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rule making in CC Docket No. 99-68*, 14 FCC Rcd 3689 (1999) ("*FCC Declaratory Ruling*"), supports its position.

The overwhelming weight of state commission and federal court authority that has been decided following the *FCC Declaratory Ruling* supports ICG's position that reciprocal compensation should apply to calls to Internet service providers. Twenty state public utility commissions ("PUCs") have addressed the issue since the *FCC Declaratory Ruling*, in some cases in multiple rulings. Of those, sixteen have found that reciprocal compensation applies to ISP-bound traffic. Three PUCs declined to reach the merits of the issue. Only one PUC held that reciprocal compensation does not apply to ISP-bound calls. Of the four federal courts that have examined this

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issue since the *FCC Declaratory Ruling*, all four have upheld the underlying PUC decision requiring reciprocal compensation for ISP-bound traffic.

Federal Court Decisions Upholding Reciprocal Compensation for ISP Traffic:

Illinois Bell Tel. Co. v. Worldcom Tech., Inc., 179 F.3d 566, (7th Cir. June 18, 1999)
BellSouth Telecommunications v. ITC^DeltaCom Comm., No. 99-D-287-N, 99-D-747-N (M.D. Ala. August 18, 1999)
Michigan Bell Tel. Co. v. MFS Intelenet of Michigan, Inc., No. 5:98 CV 18 (W.D. Mich. August 4, 1999)
U.S. West Comm., Inc. v. Worldcom Tech., Inc., No. 97-857-JE (D. Or. Mar. 24, 1999)

State PUC Decisions Requiring Reciprocal Compensation for ISP Traffic:

Alabama: *In re: Emergency Petitions of ICG Telecom and ITC Deltacom for a Declaratory Ruling*, Docket 26619 (March 4, 1999); *id.* (Ala. PSC June 21, 1999)

California: Opinion-Decision 99-06-088, *In the Matter of Petition of Pacific Bell for Arbitration with Pac-West*, Application 98-11-024 (Cal. PUC June 24, 1999); Order Modifying and Denying Application for Rehearing of Decision 98-10-057 --- Decision 99-07-047, *Order Instituting Rule making and Investigation on the Commission's Own Motion into Competition for Local Exchange Service*, 95-04-043 (Rule making) and 95-04-044 (Investigation) (Cal. PUC July 22, 1999)

Delaware: Arbitration Award, *In the Matter of the Petition of Global Naps South for the Arbitration of Unresolved Issues from the Interconnection Negotiations with Bell Atlantic-Delaware*, PSC Docket No. 98-540 (Del. PSC Mar 9, 1999); Order No. 5092 and Findings and Opinion to Accompany Order, *In the Matter of Application of Global Naps South for the Arbitration of Unresolved Issues from the Interconnection Negotiations with Bell Atlantic-Delaware*, PSC Docket No. 98-540 (Del. PSC June 22, 1999)

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- Florida:** Order Resolving Complaint and Notice of Proposed Agency Action and Order Requiring Determination of Terminated Traffic Differential, Order No. PSC-00-0658-FOF-TP, *In re: Request for Arbitration Concerning Complaint of ACSI and e-spire against BellSouth*, Docket No. 981008-TP (Fla. PSC Apr. 6, 1999); Order on Arbitration of Interconnection Agreement, Order No. PSC-99-1477-FOF-TP, *In re: Request for Arbitration Concerning Complaint of Intermedia Against GTE Florida*, Docket No. 980986-TP (Fla. PSC July 30, 1999)
- Hawaii:** Decision and Order 16975, *in the Matter of the Petition of GTE Hawaiian for a Declaratory Order*, Docket no. 99-0067 (Haw. PUC May 6, 1999)
- Indiana:** Order on Reconsideration, *In the Matter of the Complaint of Time Warner Against Indiana Bell for Violation of the Terms of the Interconnection Agreement*, Cause No. 41097 (Ind. Util. Reg. Comm'n June 9, 1999)
- Maryland:** Order No. 75280, *In the Matter of the Complaint of MFS Intelenet against Bell Atlantic-Maryland for Breach of Interconnection Terms and Request for Immediate Relief*, Case No. 8731 (Md. PSC June 11, 1999)
- Minnesota:** Order Denying Petition, *In the Matter of the Petition of US West for a Determination that ISP Traffic Is Not Subject to Reciprocal Compensation*, Docket No. P-421/M-99-529 (Minn. PUC Aug. 17, 1999)
- Nevada:** Arbitration Decision, *In re Petition of Pac-West for Arbitration to Establish Interconnection Agreement with Nevada Bell*, Docket No. 98-10015 (Nev. PUC Mar. 4, 1999); Order Adopting Revised Arbitration Decision and Revised Arbitration Decision, *In re Petition of Pac-West for Arbitration to Establish Interconnection Agreement with Nevada Bell*, Docket No. 98-10015 (NEV. PUC April 8, 1999)
- New York:** Opinion and Order Concerning Reciprocal Compensation, *Proceeding on Motion of Commission to Reexamine Reciprocal Compensation*, Case No. 99-C-0529 (N.Y. PSC Aug. 26, 1999)

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- Ohio:** Entry on Rehearing, *In the Matter of the Complaints of ICG, MCIMetro, and Time Warner v. Ameritech Ohio Regarding the Payment of Reciprocal Compensation*, Case No. 97-1557-TP-CSS, et al. (Ohio PUC May 5, 1999)
- Oregon:** Commission Decision, Order No. 99-218, *In the Matter of Petition of Electric Lightwave for Arbitration of Interconnection with GTE Northwest*, ARB 91 (Ore. PUC Mar. 17, 1999)
- Pennsylvania:** Opinion and Order, *In the Matter of: Joint Petition of NextLink Pennsylvania, Inc. et al. for Adoption of Partial Settlement Resolving Pending Telecommunications Issues*, P-00991648 and P-00991649 (Pa. PUC Sept. 30, 1999)
- Rhode Island:** Order, *Re: NEVD of Rhode Island Petition for Declaratory Judgment*, Docket No. 2935 (R.I. PUC July 21, 1999)
- Tennessee:** First Order of Arbitration Award, *In Re: Petition of Nextlink for Arbitration of Interconnection with BellSouth*, Docket No. 98-00123 (Tenn. Reg. Auth. May 18, 1999)
- Washington:** Arbitrator's Report and Decision, *In the Matter of Petition for Arbitration of an Interconnection Agreement Between Electric Lightwave and GTE Northwest*, Docket No. UT-980370 (Wash. Util. and Trans. Comm'n March 22, 1999); Third Supplemental Order Granting WorldCom's Complaint, *WorldCom v. GTE Northwest*, Docket No. UT-980338 (Wash. Util. and Trans. Comm'n)

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INTERROGATORY: State with particularity each cost for which ICG is willing to compensate BellSouth if BellSouth agrees to binding forecasts as proposed by ICG (e.g. cost of trunks only, labor-specific costs, etc.).

RESPONSE: Until BellSouth identifies with particularity each cost it would propose to charge for binding forecasts, ICG is not in a position to state each cost for which it would be willing to compensate BellSouth. As a general matter, ICG seeks binding forecasts as they relate to switch ports and associated transport, and is willing to compensate BellSouth at TELRIC rates for the costs BellSouth reasonably incurs providing such facilities, subject to reasonable mitigation rights.

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INTERROGATORY: State whether any other Incumbent Local Exchange Carrier has agreed to the binding forecasts proposed by ICG in this arbitration proceeding. If so, identify the Incumbent Local Exchange Carrier that has so agreed, and identify the agreement in which the provision of binding forecasts is contained.

RESPONSE: None at this time. However, ICG currently is in negotiations with other ILECs in which a binding forecast provision is being negotiated by the parties.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Interrogatories
October 12, 1999
Interrogatory No. 33
Page 1 of 1

INTERROGATORY: Identify any and all state or federal laws or regulatory authority upon which ICG relies in support of its contention that BellSouth is obligated to provide binding forecasts.

RESPONSE: BellSouth's refusal to provide binding forecasts is discriminatory. See 47 U.S.C. § 251(b),(c); 47 CFR § 51.305. ICG reserves the right to supplement this response.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Interrogatories
October 12, 1999
Interrogatory No. 34
Page 1 of 1

INTERROGATORY: Does ICG deliver traffic to ISPs located outside the rate center in which the call to the ISP originated?

RESPONSE: Objection. BellSouth's Interrogatory No. 34 is vague, ambiguous, and overly broad. Without waiving the objection, and in an effort to be responsive, ICG states that it does not deliver traffic to ISPs located outside the rate center in which the call to the ISP originated.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Interrogatories
October 12, 1999
Interrogatory No. 35
Page 1 of 1

INTERROGATORY: If the answer to Request No. 34 is in the affirmative, describe the network architecture used by ICG to deliver ISP traffic to ISPs located outside the rate center in which the call to the ISP originated.

RESPONSE: N/A.

ICG Telecom Group, Inc.
Docket No. 99-218
BellSouth's 1st Set of Interrogatories
October 12, 1999
Interrogatory No. 36
Page 1 of 1

INTERROGATORY: If the answer to Request No. 34 is in the affirmative, state whether or not ICG collects reciprocal compensation for traffic delivered to ISPs located outside the rate center in which the call to the ISP originated.

RESPONSE: N/A.

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing was served, via first class, U.S. mail, postage pre-paid, upon Creighton E. Mershon, BellSouth Telecommunications, Inc., 601 West Chestnut, Louisville, Kentucky 40232 and R. Douglas Lackey, Lisa S. Foshee and A. Langley Kitchens, Suite 4300. BellSouth Center, 675 W. Peachtree Street, N.E., Atlanta, Georgia 30375, this 12th day of October, 1999.

C. Kent Hatfield

COUNSEL FOR ICG TELECOM GROUP, INC.

SWB
APRIL 26, 1999

PROJECT NO. 16251

INVESTIGATION OF SOUTHWESTERN § PUBLIC UTILITY COMMISSION
BELL TELEPHONE COMPANY'S §
ENTRY INTO TEXAS INTERLATA § OF TEXAS
TELECOMMUNICATIONS MARKET §

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Original + 22

April 26, 1999

ALJ Katherine D. Farroba
Public Utility Commission of Texas
1701 North Congress
Austin, TX 78701

Re: Project No. 16251 – Memorandum of Understanding

Dear Judge Farroba:

As a result of the tremendous efforts of the Public Utility Commission, its staff, the Competitive Local Exchange Carriers and Southwestern Bell throughout the extensive collaborative process, Texas now has an opportunity to become the first State in the nation to offer its citizens full and open competition for all telecommunications services—making Texas a world leader in successfully opening its telecommunications market to all providers.

By charting a course for interLATA relief under section 271 throughout this collaborative process, the Commission has demonstrated its commitment to ensure that Texas is second to none in telecommunications. With the commitments made by Southwestern Bell in the collaborative process and in the accompanying documents, Southwestern Bell will have fully satisfied the 14 point checklist. Subject to satisfactory completion of OSS testing, Southwestern Bell is seeking Commission concurrence that the local telecommunications market in Texas is fully open to competition such that Southwestern Bell's entry into the interLATA toll market is appropriate.

ALJ Katherine D. Farroba
Project No. 16251
April 26, 1999
Page 2

Attached for filing is a Memorandum of Understanding which, along with attachments, sets out Southwestern Bell's obligations regarding collocation, provision of unbundled network elements, reciprocal compensation, xDSL and other advanced services technology, MLT testing and performance measurements, as well as the numerous commitments made on the record during the collaborative sessions. As stated in the Memorandum, if the terms of this document are acceptable to the Commission, Southwestern Bell will file a Proposed Interconnection Agreement that memorializes these commitments document within 15 days of the Commission's action.

Sincerely,

Melanie S. Fannin

cc: Chairman Pat Wood, PUC (e-mail and hand delivered)
Commissioner Brett Perlman, PUC (e-mail and hand delivered)
Commissioner Judy Walsh, PUC (e-mail and hand delivered)
Donna Nelson, Asst. Director, Legal Division, PUC (e-mail and hand delivered)
Howard Siegel, Asst. Director, OPD, PUC (e-mail and hand delivered)
Nara Srinivasa, Industry Analysis, PUC (e-mail and hand delivered)
Rick Guzman, Office of Public Utility Counsel (e-mail and hand delivered)
Parties of Record (e-mail and hand delivered or overnight delivery)

MEMORANDUM OF UNDERSTANDING

April 26, 1999

**To: Chairman Wood:
Commissioner Walsh:
Commissioner Perlman:**

From: James B. Shelley, President-Texas Regulatory

Re: Project No. 16251: Results of the Collaborative Process

Southwestern Bell Telephone Company ("SWBT") submits this memorandum (the "Memorandum") and its attachments to confirm the results of the Collaborative Process. If the terms of this Memorandum are acceptable to the Public Utility Commission of Texas (Commission), SWBT will file implementation documents within fifteen days of Commission action approving this proposal.

SWBT's implementation documents will consist of a proposed interconnection agreement (the "Proposed Interconnection Agreement"). The terms of the Proposed Interconnection Agreement will include the terms of the current AT&T Interconnection Agreement amended to reflect:

- additional terms incorporating commitments made by SWBT as a result of the Collaborative Process work sessions, as set out in Attachment A to this Memorandum; and
- provisions addressing the additional commitments on core issues, as set out in Attachment B to this Memorandum.

The terms, conditions and prices contained in the Proposed Interconnection Agreement will be approved by the Commission if, within 30 days of SWBT's filing of the Proposed Interconnection Agreement, the Commission finds the Proposed Interconnection Agreement adequately incorporates the results of the Collaborative Process and the commitments contained in Attachments A & B. The Proposed Interconnection Agreement will be available to any requesting CLEC for a period of one (1) year from the date the Commission approves the Proposed Interconnection Agreement and finds that the terms and conditions of the Proposed Interconnection

Agreement, when implemented, meet the requirements of Section 271(c), conditioned only upon the completion of Project No. 20000. If the FCC approves SWBT's Section 271 application, the Proposed Interconnection Agreement will be automatically extended for a period of three years. SWBT and any CLEC operating under the Proposed Interconnection Agreement must begin negotiation of a new agreement no later than 135 days prior to expiration. The terms of the Proposed Interconnection Agreement will remain available during this period of renegotiations and for a period not to exceed 135 days after expiration for completion of any necessary arbitration of a replacement agreement.

**COLLABORATIVE PROCESS COMMITMENTS
BY SOUTHWESTERN BELL TELEPHONE COMPANY**

Pursuant to the April 26, 1999 Memorandum of Understanding from Southwestern Bell Telephone Company (SWBT) to the Public Utility Commission of Texas, SWBT submits this document to memorialize the commitments SWBT made to its CLEC customers and to the Commission during the collaborative process in Project No. 16251.

In this document, SWBT has not attempted to capture the minute details of every collaborative work session since July 1998, but instead has set forth the final results of those collaborative efforts between SWBT, Commission Staff and the CLEC participants. For greater details of the commitments and progress that have been made to open the local telecommunications market in Texas, refer to 1) commitments SWBT has made on the record in Project No. 16251, 2) the Commission Staff's November 18, 1998 Final Status Report in Project No. 16251, as well as the numerous follow-up filings by SWBT.

PUBLIC INTEREST COMMITMENTS

1. SWBT has already made several, and commits to continue, process improvements designed to foster better relationships with and provide better service to its CLEC customers. Such improvements include, but are not limited to: restructuring its organizations and creating new departments to provide faster and better responses to CLECs; improved communications with CLECs through a greatly expanded Internet website, broadcast e-mails and user group meetings; distribution of customer satisfaction surveys; and creation of an Internal Escalation Process Intervals Policy.
2. SWBT further commits to following the Commission's arbitration awards and other decisions. SWBT, however, does not waive its right to appeal such awards or decisions, except as otherwise provided in the Memorandum of Understanding between SWBT and the Commission.
3. SWBT also commits to continue to work with its CLEC customers, and invites their feedback, to provide them a meaningful opportunity to compete in Texas.

ATTACHMENT A

COMPETITIVE CHECKLIST COMMITMENTS

Checklist Item 1 – interconnection

1. SWBT agrees to hold trunking meetings, monthly through June 1999 and thereafter as required, with interested CLECs to discuss trunk forecasts, shortage of facilities, and other topics related to providing adequate trunking in the local network.
2. SWBT agrees to allow CLECs to buy equipment from non-SWBT entities and then sell the equipment to SWBT to reduce CLEC costs. The virtual collocation tariff approved in Docket No. 19000 contains language that addresses this commitment.

Checklist Item 2 – access to unbundled network elements

1. The Commission deferred to a docket pending before the FCC relating to intellectual property rights and rights to use UNES; SWBT has committed to follow the FCC's decision in that docket.

Checklist Item 3 – access to poles, conduits and rights of way

1. The Commission found SWBT met this checklist item prior to the collaborative process. SWBT, however, commits to continue to provide nondiscriminatory access to poles, conduits and rights of way, pursuant to its interconnection agreements.

Checklist Item 4 – unbundled loop

1. SWBT agrees to provide 4-wire loops capable of supporting HDSL service on an unbundled loop, provided the subscriber to such service has adequate cable or channel capacity or other adequate means to provide 911 calls from the same location. SWBT will incorporate this 911 protection into its implementation process. Commission Staff clarified that wireless technologies shall not be considered "adequate means to provide 911 calls" unless they are ALI-capable.
2. xDSL – SWBT agrees to follow Docket Nos. 20226 and 20272 relating to the use of xDSL service consistent with the provisions of MOU Attachment B, Section III D.

ATTACHMENT A

Checklist Item 5 – unbundled transport

1. SWBT agrees to provide the multiplexer and unbundled dedicated transport as a UNE, consistent with how SWBT provides the same in the SWBT/AT&T interconnection agreement, subject to the Memorandum of Understanding between SWBT and the Commission.
2. SWBT commits to comply with Docket No. 18117 concerning cross-boundary trunking requests. SWBT also will provision two-way trunks to CLECs upon request.

Checklist Item 6 – unbundled local switching

1. SWBT agreed with CLECs to provide an interim solution for billing originating 800 and terminating access and further committed to providing a permanent solution by March 31, 1999. This item has been completed. SWBT will absorb the costs of implementing the permanent solution for such access billing.
2. SWBT agrees to provide customized routing by line class codes and has developed costs and prices for the same at a CLEC's request. SWBT is willing to provide these costs and prices to any other CLEC and to submit them to the Commission for approval.
3. SWBT agrees to follow the decision in Docket No. 20025, relating to the use of unbundled local switching consistent with the provisions of MOU Attachment B, Section III D.

Checklist Item 7 – access to 911, OS and DA databases

1. SWBT agrees to implement compare file capability for 911 listing verification by resellers and UNE-based carriers by the end of the second quarter, 1999.
2. SWBT has implemented ordering processes for 911 listing information to ensure that SWBT's customer information remains unchanged and that CLEC order entry errors on resale and UNE conversion service requests do not result in the introduction of error into the 911 database.

ATTACHMENT A

3. SWBT has implemented ordering processes for directory listing and white pages information to ensure that customer listing information remains unchanged and that re-population of information is not required on resale and UNE combination and "stand alone" switch port orders.
4. SWBT has implemented mechanized process to ensure SWBT's LIDB record is not deleted from the LIDB database upon conversion of the end-user to service provided by a CLEC.
5. SWBT established a LIDB database users group.

Checklist Item 8 – white pages

1. SWBT agrees to implement ALPSS/LIRA database by May 1, 1999, which will provide resellers and UNE-based carriers the ability to review and correct listings through the listing verification capability. ALPSS/LIRA also will enable carriers to choose whether their listings are interspersed or separate from SWBT's listings
2. SWBT agrees to permit CLECs to place their own advertisements on white pages directories by either providing CLECs bulk delivery of the directories or a "signature book" (i.e., a directory without a cover).

Checklist Item 9 – access to telephone numbers

1. The Commission found SWBT met this checklist item prior to the collaborative process. SWBT, however, commits to continue to provide nondiscriminatory access to telephone numbers, pursuant to its interconnection agreements.

Checklist Item 10 – access to databases and associated signaling

1. The Commission found SWBT met this checklist item prior to the collaborative process. SWBT, however, commits to continue to provide nondiscriminatory access to databases and associated signaling, pursuant to its interconnection agreements.

Checklist Item 11 – number portability

ATTACHMENT A

1. SWBT agrees to provide permanent number portability pursuant to FCC tariffs.
2. SWBT agrees to provide information on its Internet website relating to conversions from INP to LNP, as well as host forums with CLEC customers to discuss number portability issues.

Checklist Item 12 – local dialing parity

1. SWBT agrees to extend to CLECs the same terms and arrangements it has with other ILECs or CLECs for similar two-way arrangements in areas where SWBT offers optional two-way EAS.

Checklist Item 13 – reciprocal compensation

1. SWBT will follow this Commission's decisions on payment of reciprocal compensation for Internet traffic, subject to the final outcome of pending appeals of those decisions and the aforementioned Memorandum of Understanding.
2. SWBT has reached agreement with some CLECs on an interim solution relating to reciprocal compensation involving calls with UNEs or ported numbers. SWBT has agreed to make this interim solution available to any CLEC and also agrees to participate in meetings with the Commission and industry to develop a permanent solution for this industry-wide issue.
3. SWBT agrees to provide CLECs the option to enter into interconnection arrangements similar to the arrangements SWBT has with other ILECs for traffic within mandatory EAS, including ELCS.

Checklist Item 14 -- resale

1. SWBT and its voice mail affiliate have implemented procedures that allow the voice mail product to remain working during the conversion of a SWBT local customer to a CLEC reseller.
2. SWBT commits to give CLECs at least 30 days advance notice of any promotion.

ATTACHMENT A

3. SWBT agrees to follow the Commission's decision in Docket No. 17759, relating to the resale of ICB contracts, subject to appeals by either party after such decision is final.

PERFORMANCE MEASURES COMMITMENTS

1. SWBT agrees to make available to any CLEC all performance measures and the Performance Remedy Plan resulting from the collaborative process.
2. SWBT commits to meet every six months with the CLECs and Commission Staff to review the performance measures approved by the Commission in this proceeding.
3. CLEC will have access to monthly reports on performance measures through an Internet website that includes individual CLEC data, aggregate CLEC data, and SWBT's data.

OSS COMMITMENTS

1. SWBT conformed its technical documentation to meet the development of its LEX and EDI interfaces through the December 19, 1998 EDI special release.
2. SWBT agrees to conduct monthly change management meetings with Commission Staff oversight at least through September 1999 and agrees to prepare and file minutes with the Commission within two weeks of each change management meetings.
3. SWBT implemented notepad/clipboard functionality for LEX and Verigate.
4. SWBT completed implementation of Phases I-III of order flow-through for EDI and LEX.
5. SWBT has provided to interested CLECs a list of SORD edits that have been moved up to LASR and which are slated to be moved up to LASR. Additional issues related to SORD edits are to be addressed in Docket 19000.
6. SWBT has implemented real time processing for orders submitted via LEX and EDI, and for return of FOC and SOC.

ATTACHMENT A

7. SWBT has committed to implementation of electronic jeopardy notification coincident with industry guidelines and in accordance with the EDI change management process.
8. SWBT is implementing a mechanized interface between SHOTS and EDI/LEX, via LASR, to provide mechanical feeds for jeopardy situations.
9. SWBT has provided a guide to error codes used by SWBT for rejected orders on its Internet website.
10. SWBT has implemented a "fax back" program, confirming within one hour SWBT's receipt of faxed LSRs from carriers forwarding a manual log listing all of the attached LSRs.
11. SWBT has committed to implementation of EDI 9 and 10 for preordering. EDI 9 for preordering will be implemented in March of 1999; EDI 10 for preordering will be implemented via the change management process.
12. SWBT will make SORD available to CLECs by April 1, 1999.
13. To further improve the billing error resolution process, SWBT has enhanced its billing system error reports to sort by bill date. SWBT's Local Service Center also has created an error resolution team to deal specifically with clearing errors after completion and prior to posting. SWBT has committed to issuing a credit on any bills on which double billing may occur.

SECTION 272 COMMITMENTS

1. SWBT and its long distance affiliate, Southwestern Bell Long Distance (SBLD), agree to comply with the FCC's rules and subsequent Section 271 decisions relating to the structural and nonstructural requirements for a Section 272 affiliate.
2. SWBT commits to maintain its Internet postings of affiliate agreements as follows:
 - (a) SWBT agrees to post the full text of all agreements between SWBT and Southwestern Bell Long Distance (SBLD) on its Internet website, including rates, terms, and conditions of those agreements, frequency of occurrence of transactions

ATTACHMENT A

under the agreements, and information concerning the level, rate of pay, and quantity of employees who perform work under the agreements. SWBT also agrees to post summaries of the agreements on the Internet.

(b) SWBT agrees to post for each agreement, the states where SBLD's operations are supported by the agreement.

(c) SWBT agrees to maintain for each agreement, information indicating the specific FCC pricing methodology used by SWBT to determine the rates for the agreement.

(d) SWBT agrees to maintain on the Internet a posting of the title, address, telephone number, and fax number of the person to contact to review paper copies of the agreements.

3. SWBT commits to maintain at its headquarters in San Antonio detailed information concerning all affiliate transactions between SWBT and SBLD. This information includes the information posted on the Internet as well as the Detailed Billing Reports, which provide the month-by-month billing detail by specific contract, contract schedule, and pricing addendum. SWBT agrees to update the Detailed Billing Reports, which are available for inspection upon execution of a Protective Agreement, on a semi-annual basis.

Schedule 4

70. Measurement:	
Percent Trunk Blockage	
Definition:	
Percent of calls blocked on outgoing traffic from SWBT end office to CLEC end office and from SWBT tandem to CLEC end office	
Exclusions:	
<ul style="list-style-type: none"> • None. 	
Business Rules:	
<p>Blocked calls and total calls are gathered during the official study week each month. This week is chosen from a pre-determined schedule.</p> <p>No penalties or liquidated damages apply:</p> <ul style="list-style-type: none"> • If CLEC's have trunks busied-out for maintenance at their end, or if they have other network problems which are under their control. • SWBT is ready for turn-up on Due Date and CLEC is not ready or not available for turn-up of trunks. • If CLEC does not take action upon receipt of Trunk Group Service Request (TGSR) or ASR within 3 days when a Call Blocking situation is identified by SWBT or in the timeframe specified in the ICA. • If CLEC fails to provide a forecast. • If CLEC's actual trunk usage, as shown by SWBT from traffic usage studies, is more than 25% above CLEC's most recent forecast, which must have been provided within the last six-months unless a different timeframe is specified in an interconnection agreement <p>The exclusions do not apply if SWBT fails to timely provide CLEC with traffic utilization data reasonably required for CLEC to develop its forecast or if SWBT refuses to accept CLEC trunk orders (ASRs or TGSRs) that are within the CLEC's reasonable forecast regardless of what the current usage data is.</p>	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • The SWBT end office to CLEC end office and SWBT tandem to CLEC end office trunk blockage will be reported separately 	
Calculation:	Report Structure:
(Count of blocked calls ÷ total calls offered) * 100	Reported for CLEC, all CLECs and SWBT
Measurement Type:	
Tier-1	YES
Tier-2	YES
Benchmark:	
Dedicated Trunk Groups not to exceed blocking standard of B.01.	

Schedule 4

71. Measurement:	
Common Transport Trunk Blockage	
Definition:	
Percent of local common transport trunk groups exceeding 2% blockage	
Exclusions:	
<ul style="list-style-type: none"> No data is collected on weekends 	
Business Rules:	
Blocked calls and total calls are gathered during the official study week each month. This week is chosen from a pre-determined schedule.	
Levels of Disaggregation:	
<ul style="list-style-type: none"> Common trunk groups where CLECs share ILEC trunks, and Common trunk groups for CLECs not shared by ILEC 	
Calculation:	Report Structure:
(Number of common transport trunk groups exceeding 2% blocking ÷ total common transport trunk groups) * 100.	Reported on local common transport trunk groups
Measurement Type:	
Tier-1	NO
Tier-2	YES
Benchmark:	
PUC Subst. R. 23.61(e)(5)(A) or parity, whichever is greater.	

Schedule 4

75. Measurement:	
Percent SWBT Caused Missed Due Dates > 30 Days – Interconnection Trunks	
Definition:	
Percent of N,T,C orders where installation was completed greater than 30 days following the due date	
Exclusions:	
<ul style="list-style-type: none"> • Specials and UNE • UNE Combos • Excludes orders that are not N, T, or C 	
Business Rules:	
See Measurement No. 74	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • None 	
Calculation:	Report Structure:
(Count of interconnection trunk orders completed greater than 30 days following the due date, excluding customer-caused misses ÷ total number of interconnection trunk orders) * 100.	Reported for CLEC, all CLECs and SWBT for interconnection trunks
Measurement Type:	
Tier-1	YES
Tier-2	NO
Benchmark:	
No more than 2% interconnection trunk orders completed >30 days.	

Schedule 4

78. Measurement:	
Average Interconnection Trunk Installation Interval	
Definition:	
The average time from receipt of a complete and accurate ASR until the completion of the trunk order.	
Exclusions:	
<ul style="list-style-type: none"> • SWBT-originated CCNA's 	
Business Rules:	
The clock starts on the receipt of a complete and accurate ASR and the clock stops on the completion date. The measurement is taken for all ASRs that complete in the reporting period.	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • Interconnection Trunks, SS7 links, OS/DA and 911 trunks 	
Calculation:	Report Structure:
$\Sigma(\text{completion date of the trunk order} - \text{receipt of complete and accurate ASR}) \div \text{total trunk orders}$	Reported by CLEC, all CLECs and comparable SWBT trunks
Measurement Type:	
Tier-1	YES
Tier-2	YES
Benchmark:	
20 Business days.	

Schedule 4

5. Measurement:

Percent Firm Order Confirmations (FOCs) Returned Within "x" Hours

Definition:

Percent of FOCs returned within a specified time frame from receipt of valid service request to return of confirmation to CLEC

Exclusions:

- Rejected orders
- SWBT only Disconnect orders
- Orders involving major projects

Business Rules:

Start Date/Time can be either: LSR RECEIVE Date/Time or Manager Over-Ride LSR RECEIVE Date/Time End Date/Time can be either: DISTRIBUTION Date/Time or FAX Date/Time or Current Date (when the FAX Date/Time does not exist). If the start/time is outside of normal business hours then the start date/time is set to 8:00am on the next good business day. Examples: If the start date/time is outside of normal business hours then the start date/time is set to 8:00am on the next good business day: Example: If the request is received M-F between 8:00am to 5:00pm; the valid start time will be M-F between 8:00am to 5:00pm. If the actual request is received M-Th after 5:00pm and before 8:00am next day; the valid start time will be the next business day at 8:00am. If the actual request is received Fri after 5:00pm and before 8:00am Mon; the valid start time will be at 8:00am Mon. If the request is received on a Holiday (anytime); the valid start time will be the next business day at 8:00am. The returned confirmation to the CLEC will establish the actual end date/time.

FOC business rules are established to reflect the Local Service Center (LSC) normal hours of operation, which include M-F, 8:00am-5:30pm, excluding, holiday and weekends. Provisions are established within the DSS reporting systems to accommodate situations when the LSC works holidays, weekends and when requests are received outside normal working hours.

LEX/EDI

For LEX and EDI originated LSRs, the receive date and time is also dynamically populated on the SM-FID once all ordering edits are satisfied and the service order has a distribution date and time in SORD. The end date and time is recorded by both LEX and EDI and reflect the actual date and time the FOC is returned to the CLEC. This data is extracted daily from LEX and EDI and passed to our DSS (Decision Support System) where the end date and time are populated and are then used to calculate the FOC measurements. For LSRs where FOC times are negotiated with the CLEC the ITRAK entry on the SORD service order is used in the calculation. The request type from the LSR and the Class of Service tables are used to report the LSRs in the various levels of disaggregation. The Class of Service tables are based on the Universal Service Order practice.

Schedule 4

VERBAL or MANUAL REQUESTS

Manual service order requests are those initiated by the CLEC either by telephone or FAX. The receive date and times are recorded and input on the SM-FID on each service order in SORD for each FOC opportunity. The end times are the actual dates and times the paper Faxes are sent back to the CLEC. FAX end times are recorded and input into our DSS systems via an internal WEB application. Each FOC opportunity is dynamically established on the WEB application via our interface to SORD and the LSC must provide an end date and time for each entry, which depicts the date and time the FOC was actually faxed back to the CLEC. If a CLEC elects to accept an on-line FOC and does not require a paper FAX the FOC information is provided over the phone. In these instances the order distribution time is used in the FOC calculation on the related SORD service order to the appropriate SM-FID entry. These scenarios are identified by data populated on the ITRAK-FID of the service order. The ITRAK-FID is also used when FOC times are negotiated with the CLEC. The LSC will populate the ITRAK-FID with certain pre-established data entries that are used in the FOC calculation.

Levels of Disaggregation:

Manually submitted:

- Simple Res. And Bus. < 24 Hours
- Complex Business (1-200 Lines) < 24 Hours
- Complex Business (>200 Lines) < 48 Hours
- UNE Loop (1-49 Loops) < 24 Hours
- UNE Loop (> 50 Loops) < 48 Hours
- Switch Ports < 24 Hours

Electronically submitted via LEX or EDI:

- Simple Res. And Bus. < 5 Hours
- Complex Business (1-200 Lines) < 24 Hours
- Complex Business (>200 Lines) < 48 Hours
- UNE Loop (1-49 Loops) < 5 Hours
- UNE Loop (> 50 Loops) < 48 Hours
- Switch Ports < 5 Hours

Calculation:

(# FOCs returned within "x" hours ÷ total FOCs sent) * 100

Report Structure:

Reported for CLEC and all CLECs. This includes mechanized from EDI and LEX and manual (FAX or phone orders)

Measurement Type:

Tier-1 YES
Tier 2 YES

Benchmark:

All Res & Bus 95% / Complex Bus 94% / UNE Loop (1-49) 95% / UNE Loop (>50) 94% / Switch Ports 95%, the Average for the remainder of each measure disaggregated shall not exceed 20% of the established benchmark

Schedule 4

6. Measurement:	
Average Time To Return FOC	
Definition:	
The average time to return FOC from receipt of valid service request to return of confirmation to CLEC	
Exclusions:	
<ul style="list-style-type: none"> • Rejected Orders • SWBT only Disconnect orders • Orders involving major projects 	
Business Rules:	
See Measurement No. 5	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • All Res. And Bus. < 24 Hours • Complex Business (1-200 Lines) < 24 Hours • Complex Business (>200 Lines) < 48 Hours • UNE Loop (1-49 Loops) < 24 Hours • UNE Loop (> 50 Loops) < 48 Hours • Switch Ports < 24 Hours 	
Calculation:	Report Structure:
$\Sigma[(\text{Date and Time of FOC}) - (\text{Date and Time of Order Acknowledgment})]/(\# \text{ of FOCs})$	Reported for CLEC and all CLECs
Measurement Type:	
Tier-1	NO
Tier-2	NO
Benchmark:	
No Benchmark	

LOCAL NUMBER PORTABILITY (LNP)

1. Measurement:	
Percent LNP Only due dates within Industry Guidelines	
Definition:	
Percent of LNP Due date interval that meets the industry standard established by the North American Numbering Council (NANC).	
Exclusions:	
<ul style="list-style-type: none"> • CLEC or Customer caused or requested delays • NPAC caused delays 	
Business Rules:	
<p>Industry guidelines for due dates for LNP are as follows:</p> <ul style="list-style-type: none"> • For Offices in which NXXs are previously opened – 3 Business days • New NXX – 5 Business days on LNP capable NXX <p>The above-noted due dates are from the date of the FOC receipt.</p> <p>For partial LNP conversions that require restructuring of customer account</p> <ul style="list-style-type: none"> • (1-30 TNs) add one additional day to the FOC interval. The LNP due date intervals will continue to be 3 business days and 5 business days from the receipt of the FOC depending on whether the NXX has been previously opened or is new. • (>30 TNs, including entire NXX) the due dates are negotiated. 	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • NXXs previously opened and NXX new (1-30 TNs and greater than 30 TNs) 	
Calculation:	Report Structure:
(Count of LNP TNs implemented within Industry guidelines ÷ total number of LNP TNs) *100	Reported for CLEC and all CLECs
Measurement Type:	
Tier-1	NO
Tier-2	NO
Benchmark:	
96.5%. The benchmark will be revised either up or down if industry guidelines are established that are different than the objective stated here.	

Schedule 4

2. Measurement:	
Percent of time the old service provider releases the subscription prior to the expiration of the second 9 hour (T2) timer	
Definition:	
Percent of time the old service provider releases subscription(s) to NPAC within the first (T1) or the second (T2) 9-hour timers.	
Exclusions:	
<ul style="list-style-type: none"> • Customer caused or requested delays • NPAC caused delays • Cases where SWBT did the release but the New Service Provider did not respond prior to the expiration of the T2 timer. This sequence of events causes the NPAC to send a cancel of SWBT's release request. In these cases SWBT may have to do re-work to release the TN so it can be ported to meet the due date. 	
Business Rules:	
Number of LNP TNs for which subscription to NPAC was released prior to the expiration of the second 9-hour (T2) timer	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • None 	
Calculation:	Report Structure:
(Number of LNP TNs for which subscription to NPAC was released prior to the expiration of the second 9-hour (T2) timer ÷ total number of LNP TNs for which the subscription was released) *100	Reported for CLEC and all CLECs
Measurement Type:	
Tier-1	NO
Tier-2	NO
Benchmark:	
96.5%. The benchmark will be revised either up or down if industry guidelines are established that are different than the objective stated here.	

Schedule 4

3. Measurement:	
Percent of customer accounts restructured prior to LNP order due date	
Definition:	
Percent of accounts restructured within the LNP order due date established in measurement No 1, and/or negotiated due date for orders that contain more than 30 TNs	
Exclusions:	
<ul style="list-style-type: none"> • None 	
Business Rules:	
See Measurement No. 1	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • None 	
Calculation:	Report Structure:
(Number of LNP orders for which customer accounts were restructured prior to LNP due date) ÷ (total number of LNP orders that require customer accounts to be restructured) *100	Reported for CLEC and all CLECs
Measurement Type	
Tier-1	YES
Tier-2	NO
Benchmark:	
96.5%	

Schedule 4

4. Measurement:	
Percent FOCs received within "x" hours	
Definition:	
Percent of FOCs returned within a specified time frame from receipt of complete and accurate LNP or LNP with Loop service request to return of confirmation to CLEC	
Exclusions:	
<ul style="list-style-type: none"> • Rejected orders • SWBT only Disconnect orders • Orders involving major projects 	
Business Rules:	
See Business Rule for FOCs	
Levels of Disaggregation:	
Manually submitted:	
<ul style="list-style-type: none"> • LNP Only (1-19) < 24 Clock Hours • LNP with Loop (1-19) < 24 Clock Hours • LNP Only (20+ Loops) < 48 Clock Hours • LNP with Loop (20+ Loops) < 48 Clock Hours • LNP Complex Business (1-19 Lines) < 24 Clock Hours • LNP Complex Business (20-50 Lines) < 48 Clock Hours • LNP Complex Business (50+ Lines) < Negotiated with Notification of Timeframe within 24 Clock Hours 	
Electronically submitted via LEX or EDI:	
<ul style="list-style-type: none"> • Simple Residence and Business LNP Only (1-19) < 5 Business Hours • Simple Residence and Business LNP with Loop (1-19) < 5 Business Hours • LNP Only (20+ Loops) < 48 Clock Hours • LNP with Loop (20+ Loops) < 48 Clock Hours • LNP Complex Business (1-19 Lines) < 24 Clock Hours • LNP Complex Business (20-50 Lines) < 48 Clock Hours • LNP Complex Business (50+ Lines) < Negotiated with Notification of Timeframe within 24 Clock Hours 	
Calculation:	Report Structure:
(# FOCs returned within "x" hours ÷ total FOCs sent) * 100	Reported for CLEC and all CLECs This includes mechanized from EDI and LEX and manual (FAX or phone orders)
Measurement Type:	
Tier-1	YES
Tier-2	YES
Benchmark:	
95%	

Schedule 4

5. Measurement:	
Average Reject interval for Non-Mechanized LNP Orders returned with complete and accurate error codes.	
Definition:	
Average Response time for returning rejected non-mechanized LNP orders with complete and accurate identification of CLEC caused errors in the order	
Exclusions:	
<ul style="list-style-type: none"> • None 	
Business Rules:	
<p>For each non-mechanized order track Start time: Receipt date/time of non-mechanized order and End time: transmittal time of rejection notification of the order due to CLEC-caused errors. The difference between the two is the duration in hours. Obtain cumulative total for all non-mechanized LNP/LNP with Loop orders for the month. SWBT will track the performance for this measurement until its EDI interfaces are tested and approved as satisfactory by the Commission. Subsequent to the above finding a CLEC that continues to use manual process should track the performance delivered by SWBT and report to SWBT any sub-standard performance. The CLEC has the burden to prove any dispute regarding sub-standard performance.</p>	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • LNP, LNP with Loop 	
Calculation:	Report Structure:
$\frac{\Sigma(\text{Date \& Time of LNP Order} - \text{Date and Time LNP Order Acknowledgement})}{\text{Total Number of non-mechanized LNP Orders Rejected}}$	Reported for CLEC and all CLECs
Measurement Type:	
Tier-1	YES (SWBT-NO, CLEC – YES)
Tier-2	NO (SWBT-NO, CLEC – NO)
Benchmark:	
5 Business Hours (SWBT-NO, CLEC – 100% in 4 hours)	

Schedule 4

6. Measurement:	
Percent Pre-mature Disconnects for LNP TNs	
Definition:	
Percent of LNP cutovers where SWBT prematurely removes the translations, including the 10 digit trigger, prior to the scheduled conversion time.	
Exclusions:	
<ul style="list-style-type: none"> • Coordinated Conversions 	
Business Rules:	
The count of incidents, on a TN basis, where the translations are removed prior to the scheduled conversion. Count the number of cutovers that are prematurely disconnected (10 minutes before scheduled conversion time).	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • LNP only and LNP with Loop 	
Calculation:	Report Structure:
Count of premature disconnects ÷ total LNP conversions * 100	Reported by CLEC and all CLECs disaggregated by LNP and LNP with UNE loop.
Measurement Type:	
Tier-1	YES
Tier-2	NO
Benchmark:	
2% or Less premature disconnects starting 10 minute before schedule due time.	

Schedule 4

7. Measurement:	
Percent of time SWBT applies the 10-digit trigger prior to the LNP order due date	
Definition:	
Percent of time SWBT applies 10-digit trigger, where technically feasible, for LNP or LNP with loop TNs on the day prior to the due date.	
Exclusions:	
<ul style="list-style-type: none"> Where not technically feasible 	
Business Rules:	
Obtain number of LNP or LNP with loop TNs where the 10-digit trigger was applied on the day prior to due date, and the total number of LNP or LNP with Loop TNs where the 10-digit trigger was applied, where technically feasible.	
Levels of Disaggregation:	
<ul style="list-style-type: none"> LNP only, and LNP with Loop 	
Calculation:	Report Structure:
(Count of LNP TNs for which 10-digit trigger was applied 24 hours prior to due date ÷ total LNP TNs for which 10-digit triggers were applied) * 100.	Reported for CLEC and all CLECs
Measurement Type:	
Tier-1	YES
Tier-2	YES
Benchmark:	
96.5%	

Schedule 4

8. Measurement:	
Percent LNP I-Reports in 10 Days	
Definition:	
Percent of LNP Orders that receive a network customer trouble report within 10 calendar days of service order completion	
Exclusions:	
<ul style="list-style-type: none"> • Excluding subsequent reports and all disposition code "13" reports (excludable reports). • Trouble reports caused by CPE or inside wiring 	
Business Rules:	
Start time: date/time of completion. End time: date/time of receipt of trouble report. Count the number of LNP Orders for which the trouble report was received within 10 calendar days of completion.	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • None 	
Calculation:	Report Structure:
(Count of LNP Orders that receive a network customer trouble report within 10 calendar days of service order completion ÷ total LNP) Orders * 100.	Reported for CLEC and all CLECs, and SWBT
Measurement Type:	
Tier-1	YES
Tier-2	YES
Benchmark:	
Parity with SWBT Retail POTS – No Field Work	

Schedule 4

9. Measurement:	
Average Delay Days for SWBT Missed Due dates	
Definition:	
Average calendar days from due date to completion date on company missed orders	
Exclusions:	
<ul style="list-style-type: none"> • On time or early completions 	
Business Rules:	
The clock starts on the due date and the clock ends on the completion date based on posted LNP orders.	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • LNP Only 	
Calculation:	Report Structure:
$\frac{\Sigma(\text{LNP Port Out Completion Date} - \text{LNP Order due date})}{\# \text{ total port out orders}} * 100$	Reported for CLEC and all CLECs and SWBT
Measurement Type:	
Tier-1	YES
Tier-2	YES
Benchmark:	
Parity with SWBT retail POTS – No Field Work	

Schedule 4

10. Measurement:	
Average time to activate the port in SWBT's Network	
Definition:	
Average time to facilitate the activation request in SWBT's network.	
Exclusions:	
<ul style="list-style-type: none"> • CLEC-caused errors • NPAC-caused errors • Large ports greater than 500 ports 	
Business Rules:	
Start time: Receipt of NPAC broadcast activation message in SWBT's LSMS End time: Provisioning event is done in SWBT's LSMS. Calculate the total of difference between the start time and end time in minutes for LNP activations during the reporting period.	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • None 	
Calculation:	Report Structure:
$\frac{\Sigma(\text{LNP start time} - \text{LNP stop time})}{\div \# \text{ total LNP activated messages}}$	Reported for CLEC and all CLECs
Measurement Type:	
Tier-1	Yes
Tier-2	Yes
Benchmark:	
60 Minutes unless a different industry guideline is established which will override the benchmark referenced here.	

Schedule 4

11. Measurement:	
Percent Porting Request Provisioned in <60 minutes	
Definition:	
The Number of LNP related conversions that occur within where the time required to facilitate the activation of the port in SWBT's network is less than 60, expressed as a percentage of total number of activations that took place.	
Exclusions:	
<ul style="list-style-type: none"> • CLEC-caused errors • NPAC-caused errors • Large ports greater than 500 ports 	
Business Rules:	
Start time: Time that an "activate NPAC" broadcast is received in SWBT's LSMS. End time: Time the provisioning event is complete in SWBT's LSMS. Count the number of conversions that took place in less than 60 minutes.	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • None 	
Calculation:	Report Structure:
$\frac{\text{(Number of activation events provisioned in less than 60 minutes)}}{\text{(total LNP provisioning events)}} * 100.$	Reported for CLEC and all CLECs
Measurement Type:	
Tier-1	YES
Tier-2	YES
Benchmark:	
<u>96.5%</u>	

Schedule 4

70. Measurement:	
Percent Trunk Blockage	
Definition:	
Percent of calls blocked on outgoing traffic from SWBT end office to CLEC end office and from SWBT tandem to CLEC end office	
Exclusions:	
<ul style="list-style-type: none"> • None. 	
Business Rules:	
<p>Blocked calls and total calls are gathered during the official study week each month. This week is chosen from a pre-determined schedule.</p> <p>No penalties or liquidated damages apply:</p> <ul style="list-style-type: none"> • If CLEC's have trunks busied-out for maintenance at their end, or if they have other network problems which are under their control. • SWBT is ready for turn-up on Due Date and CLEC is not ready or not available for turn-up of trunks. • If CLEC does not take action upon receipt of Trunk Group Service Request (TGSR) or ASR within 3 days when a Call Blocking situation is identified by SWBT or in the timeframe specified in the ICA. • If CLEC fails to provide a forecast. • If CLEC's actual trunk usage, as shown by SWBT from traffic usage studies, is more than 25% above CLEC's most recent forecast, which must have been provided within the last six-months unless a different timeframe is specified in an interconnection agreement <p>The exclusions do not apply if SWBT fails to timely provide CLEC with traffic utilization data reasonably required for CLEC to develop its forecast or if SWBT refuses to accept CLEC trunk orders (ASRs or TGSRs) that are within the CLEC's reasonable forecast regardless of what the current usage data is.</p>	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • The SWBT end office to CLEC end office and SWBT tandem to CLEC end office trunk blockage will be reported separately 	
Calculation:	Report Structure:
(Count of blocked calls ÷ total calls offered) * 100	Reported for CLEC, all CLECs and SWBT
Measurement-Type:	
Tier-1	YES
Tier-2	YES
Benchmark:	
Dedicated Trunk Groups not to exceed blocking standard of B.01.	

Schedule 4

71. Measurement:	
Common Transport Trunk Blockage	
Definition:	
Percent of local common transport trunk groups exceeding 2% blockage	
Exclusions:	
<ul style="list-style-type: none"> No data is collected on weekends 	
Business Rules:	
Blocked calls and total calls are gathered during the official study week each month. This week is chosen from a pre-determined schedule.	
Levels of Disaggregation:	
<ul style="list-style-type: none"> Common trunk groups where CLECs share ILEC trunks, and Common trunk groups for CLECs not shared by ILEC 	
Calculation:	Report Structure:
(Number of common transport trunk groups exceeding 2% blocking ÷ total common transport trunk groups) * 100.	Reported on local common transport trunk groups
Measurement Type:	
Tier-1	NO
Tier-2	YES
Benchmark:	
PUC Subst. R. 23.61(e)(5)(A) or parity, whichever is greater.	

Schedule 4

75. Measurement:	
Percent SWBT Caused Missed Due Dates > 30 Days – Interconnection Trunks	
Definition:	
Percent of N,T,C orders where installation was completed greater than 30 days following the due date	
Exclusions:	
<ul style="list-style-type: none"> • Specials and UNE • UNE Combos • Excludes orders that are not N, T, or C 	
Business Rules:	
See Measurement No. 74	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • None 	
Calculation:	Report Structure:
(Count of interconnection trunk orders completed greater than 30 days following the due date, excluding customer-caused misses ÷ total number of interconnection trunk orders) * 100.	Reported for CLEC, all CLECs and SWBT for interconnection trunks
Measurement Type:	
Tier-1	YES
Tier-2	NO
Benchmark:	
No more than 2% interconnection trunk orders completed >30 days.	

Schedule 4

78. Measurement:	
Average Interconnection Trunk Installation Interval	
Definition:	
The average time from receipt of a complete and accurate ASR until the completion of the trunk order.	
Exclusions:	
<ul style="list-style-type: none"> • SWBT-originated CCNA's 	
Business Rules:	
The clock starts on the receipt of a complete and accurate ASR and the clock stops on the completion date. The measurement is taken for all ASRs that complete in the reporting period.	
Levels of Disaggregation:	
<ul style="list-style-type: none"> • Interconnection Trunks, SS7 links, OS/DA and 911 trunks 	
Calculation:	Report Structure:
$\Sigma(\text{completion date of the trunk order} - \text{receipt of complete and accurate ASR}) \div \text{total trunk orders}$	Reported by CLEC, all CLECs and comparable SWBT trunks
Measurement Type:	
Tier-1	YES
Tier-2	YES
Benchmark:	
20 Business days.	

Schedule-3

Measurements that are subject to per occurrence damages or assessment with a cap

- 1 Average Responses time for OSS Preorder Interfaces (1) (Tier-1 - Low, Tier-2 - Med.)
- 2 Percent Response received within "X" Seconds (2) (Tier-1 - Low, Tier-2 - Med.)
- 3 % Firm Order Confirmations (FOCs) Received Within "X" Hours (5) (Tier-1 - Low, Tier-2 - Med.)
- 4 Order Process Percent Flow Through (13) (Tier-1 - Low, Tier-2 - High)
- 5 Percent Mechanized Completions Returned Within 1 Hour (7) (Tier-1 - Low, Tier-2 - Low)
- 6 Mechanized Provisioning Accuracy (12) (Tier-1 - Low, Tier-2 - Low)
- 7 Percent of Accurate And Complete Formatted Mechanized Bills (15) (Tier-1 - Low, Tier-2 - High)
- 8 Percent Of Billing Records Transmitted Correctly (16) (Tier-1 - Low, Tier-2 - Low)
- 9 Billing Completeness (17) (Tier-1 - Low, Tier-2 - Med.)
- 10 Billing Timeliness (Wholesale Bill) (18) (Tier-1 - Low, Tier-2 - Low)
- 11 Percent Trunk Blockage (70) (Tier-1 - High, Tier-2 - High)

Measurements that are subject to per measure damages or assessment

- 1 % NXXs loaded and tested prior to the LERG effective date (117) (Tier-1 - High, Tier-2 - High)
- 2 % Quotes Provided for Authorized BFRs within 30 business days (121) (Tier-1 - High, Tier-2 - High)
- 3 LSC Grade Of Service (GOS) (22) (Tier-2 - High)
- 4 Percent Busy in the Local Service Center (23) (Tier-2 - Low)
- 5 LOC Grade Of Service (GOS) (25) (Tier-2 - High)
- 6 Percent Busy in the LOC (26) (Assessment Only) (Tier-2 - Low)
- 7 Common Transport Trunk Blockage (71) (Tier-2 - High)
- 8 OSS Interface Availability (4) (Tier-2 - High)

Schedule-2

Recommended Performance Measures	Measurement Groups Subject to Tier-1 Damages			Measurement Groups Subject to Tier-2 Assessments		
	Low	Med	High	Low	Med	High

I. RESALE POTS, RESALE SPECIALS AND LINES

A. Pre-Ordering/Ordering

1. Average Response Time For OSS Pre-Order Interfaces.	✓	-	-	-	X	-
2. Percent Response received within "X" Seconds	✓	-	-	-	X	-
3. EASE Average Response Time	-	-	-	-	-	-
4. OSS Interface Availability	-	-	-	-	-	X
5. % Firm Order Confirmations (FOCs) Received Within "X" Hours	✓	-	-	-	X	-
6. Average Time To Return FOC	-	-	-	-	-	-
7. Percent Mechanized Completions Returned Within 1 Hour	✓	-	-	-	-	-
8. Average Time to Return Mechanized Completions	✓	-	-	-	-	-
9. Percent Rejects	-	-	-	-	-	-
10. Percent Mechanized Rejects Returned Within 1 Hour of EDI/LASR	✓	-	-	-	-	-
11. Mean Time to Return Mechanized Rejects	-	-	-	-	-	-
12. Mechanized Provisioning Accuracy	✓	-	-	X	-	-
13. Order Process Percent Flow Through	✓	-	-	-	-	X

B. Billing

14. Billing Accuracy	-	-	-	-	-	-
15. Percent of Accurate And Complete Formatted Mechanized Bills	✓	-	-	-	-	X
16. Percent Of Billing Records Transmitted Correctly	✓	-	-	-	-	-
17. Billing Completeness	✓	-	-	-	X	-
18. Billing Timeliness (Wholesale Bill)	✓	-	-	-	-	X
19. Daily Usage Feed Timeliness	-	-	-	-	-	-
20. Unbillable Usage	-	-	-	-	-	-

C. Miscellaneous Administrative

21. LSC Average Speed Of Answer	-	-	-	-	-	-
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Schedule-2

Recommended Performance Measures	Measurement Groups Subject to Tier-1 Damages			Measurement Groups Subject to Tier-2 Assessments		
	Low	Med	High	Low	Med	High
22. LSC Grade Of Service (GOS)	-	-	-	-	-	X
23. Percent Busy in the Local Service Center	-	-	-	X	-	-
24. LOC Average Speed Of Answer	-	-	-	-	-	-
25. LOC Grade Of Service (GOS)	-	-	-	-	-	X
26. Percent Busy in the LOC	-	-	-	X	-	-

II. RESALE POTS AND UNE LOOP AND PORT COMBINATIONS COMBINED BY SWBT

A. Provisioning

27. Mean Installation Interval	-	-	-	✓	-	-	X
28. Percent Installations Completed Within "X" Business Days (POTS)	-	-	-	-	-	-	-
29. Percent SWBT Caused Missed Due Dates	-	-	-	✓	-	-	X
30. Percent Company Missed Due Dates Due To Lack Of Facilities	✓	-	-	-	-	-	-
31. Average Delay Days For Missed Due Dates Due To Lack Of Facilities	-	-	-	-	-	-	-
32. Average Delay Days For SWBT Missed Due Dates	-	✓	-	-	-	-	-
33. Percent SWBT Caused Missed Due Dates greater than 30 days	✓	-	-	-	-	-	-
34. Count of orders canceled after the due date which were caused by SWBT	-	-	-	-	-	-	-
35. Percent Trouble Reports Within 10 Days (1-10) Of Installation	-	-	-	✓	-	-	X
36. Percent No Access (Trouble Reports With no Access)	-	-	-	-	-	-	-

B. Maintenance

37. Trouble Report Rate	-	-	-	✓	-	-	X
38. Percent Missed Repair Commitments	-	-	-	✓	-	-	X
39. Receipt To Clear Duration	-	-	-	✓	-	-	X
40. Percent Out Of Service (OOS) < 24 Hours	-	✓	-	-	-	-	-
41. Percent Repeat Reports	-	-	-	✓	-	-	X
42. Percent No Access (% of Trouble reports with No Access)	-	-	-	-	-	-	-

Schedule-2

Recommended Performance Measures	Measurement Groups Subject to Tier-1 Damages			Measurement Groups Subject to Tier-2 Assessments		
	Low	Med	High	Low	Med	High

III. RESALE SPECIALS AND UNE LOOP AND PORT COMBINATIONS COMBINED BY SWBT

A. Provisioning

43. Average Installation Interval	-	-	✓	-	-	X
44. Percent Installations Completed Within "X" Business Days	-	-	-	-	-	-
45. Percent SWBT Caused Missed Due Dates	-	-	✓	-	-	X
46. Percent Installation Reports (Trouble Reports) Within 30 Days (1-30) Of Installation	-	-	✓	-	-	X
47. Percent Missed Due Dates Due To Lack Of Facilities	✓	-	-	-	-	-
48. Delay Days For Missed Due Dates Due To Lack Of Facilities	-	-	-	-	-	-
49. Delay Days For SWBT Missed Due Dates	-	✓	-	-	-	-
50. Percent SWBT Caused Missed Due Dates greater than 30 days	✓	-	-	-	-	-
51. Count of orders canceled after the due date which were caused by SWBT	-	-	-	-	-	-

B. Maintenance

52. Mean Time To Restore	-	-	✓	-	-	X
53. Percent Repeat Reports	-	-	✓	-	-	X
54. Failure Frequency	✓	-	-	-	-	-

IV. UNBUNDLED NETWORK ELEMENTS (UNES)

A. Provisioning

55. Average Installation Interval	-	-	-	-	-	-
56. Percent Installations Completed Within "X" Business Days	-	-	✓	-	-	X
57. Average Responses time for Loop Make-up Information	✓	-	-	-	X	-
58. Percent SWBT Caused Missed Due Dates	-	-	✓	-	-	X
59. Percent Installation Reports (Trouble Reports) Within 30 Days (1-30) Of Installation	-	-	✓	-	-	X

Schedule-2

Recommended Performance Measures	Measurement Groups Subject to Tier-1 Damages				Measurement Groups Subject to Tier-2 Assessments			
	Low	Med	High		Low	Med	High	
60. Percent Missed Due Dates Due To Lack Of Facilities	✓	-	-	-	-	-	-	-
61. Average Delay Days For Missed Due Dates Due To Lack Of Facilities	-	-	-	-	-	-	-	-
62. Average Delay Days For SWBT Missed Due Dates	-	✓	-	-	-	-	-	-
63. Percent SWBT Caused Missed Due Dates greater than 30 days	✓	-	-	-	-	-	-	-
64. Count of orders canceled after the due date which were caused by SWBT	-	-	-	-	-	-	-	-
B. Maintenance								
65. Trouble Report Rate	-	-	✓	-	-	-	-	X
66. Percent Missed Repair Commitments	-	-	✓	-	-	-	-	X
67. Mean Time To Restore	-	-	✓	-	-	-	-	X
68. Percent Out Of Service (OOS) < "X" Hours	-	✓	-	-	-	-	-	-
69. Percent Repeat Reports	-	-	✓	-	-	-	-	X
V. INTERCONNECTION TRUNKS								
70. Percent Trunk Blockage	-	-	✓	-	-	-	-	X
71. Common Transport Trunk Blockage	-	-	-	-	-	-	-	X
72. Distribution Of Common Transport Trunk Groups Exceeding 2%	-	-	-	-	-	-	-	-
73. Percent Missed Due Dates	-	✓	-	-	-	-	-	-
74. Average Delay Days For Missed Due Dates	✓	-	-	-	-	-	-	-
75. Percent SWBT Caused Missed Due Dates greater than 30 days	✓	-	-	-	-	-	-	-
76. Average Trunk Restoration Interval	✓	-	-	-	-	-	-	-
77. Average Trunk Restoration Interval for Service Affecting Trunk Groups	-	-	✓	-	-	-	-	X
78. Average Interconnection Trunk Installation Interval	-	-	✓	-	-	-	-	X
VI. DIRECTORY ASSISTANCE (DA) AND OPERATOR SERVICES (OS)								
79. Directory Assistance Grade Of Service	-	-	-	-	-	-	-	-

Schedule-2

Recommended Performance Measures	Measurement Groups Subject to Tier-1 Damages			Measurement Groups Subject to Tier-2 Assessments		
	Low	Med	High	Low	Med	High
80. Directory Assistance Average Speed Of Answer	-	-	-	X	-	-
81. Operator Services Grade Of Service	-	-	-	-	-	-
82. Operator Services Average Speed Of Answer	-	-	-	X	-	-
83. Percent Calls Abandoned	-	-	-	-	-	-
84. Percent Calls Deflected	-	-	-	-	-	-
85. Average Work Time	-	-	-	-	-	-
86. Non-Call Busy Work Volumes	-	-	-	-	-	-

VII. INTERIM NUMBER PORTABILITY (INP)

87. % Installation Completed Within "X" (3, 7, 10) Business Days	-	-	-	-	-	-
88. Average INP Installation Interval	✓	-	-	-	-	-
89. Percent INP I-Reports Within 30 Days	-	✓	-	-	-	-
90. Percent Missed Due Dates	-	✓	-	-	-	-

VI. LOCAL NUMBER PORTABILITY (LNP)

91. Percent LNP Due Dates within Industry Guide Lines	-	-	-	-	-	-
92. Percent of time the old service Provider Releases Subscription prior to the expiration of the second 9 hour timer	-	-	-	-	-	-
93. Percent of customer account restructured prior to LNP Due Dates	✓	-	-	-	-	-
94. Percent FOCs received within "X": hours	✓	-	-	-	X	-
95. Average Response time for Non-mechanized Rejects returned with complete and accurate codes	✓	-	-	-	-	-
96. Percent premature Disconnects for LNP Orders	✓	-	-	-	-	-
97. Percent of Time SWBT applies the 10-digit trigger prior to the LNP Order Due date	-	-	✓	-	-	X
98. Percent LNP I-Reports in 10 days	-	-	✓	-	-	X

Schedule-2

Recommended Performance Measures	Measurement Groups Subject to Tier-1 Damages				Measurement Groups Subject to Tier-2 Assessments			
	Low	Med	High		Low	Med	High	
99. Average Delay Days for SWBT Missed Due Dates.	-	✓	-	-	-	X	-	-
100. Average Time of out of service for LNP conversions	-	-	✓	-	-	-	-	X
101. Percent Out of Service < 60 Minutes	-	✓	-	-	-	X	-	-

VIII. 911

102. Average Time To Clear Errors	✓	-	-	-	-	-	-	-
103. % accuracy for 911 database updates	✓	-	-	-	-	-	-	-
104. Average Time Required to Update 911 Database (Facility Based Providers)	✓	-	-	-	-	-	-	-

IX. POLES, CONDUIT AND RIGHTS OF WAY

105. % of requests processed within 35 days	✓	-	-	-	-	-	-	-
106. Average Days Required to Process a Request	-	-	-	-	-	-	-	-

X. COLLOCATION

107. % Missed Collocation Due Dates	-	-	-	✓	-	-	-	X
108. Average Delay Days For SWBT Missed Due Dates	✓	-	-	-	-	-	-	-
109. % of requests processed within <i>the tariffed timelines</i>	✓	-	-	-	-	-	-	-

XI. DIRECTORY ASSISTANCE DATABASE

110. % of updates completed into the DA Database within 72 Hours for facility based CLECs	✓	-	-	-	-	-	-	-
111. Average Update Interval for DA database for facility based CLECs	✓	-	-	-	-	-	-	-
112. % DA Database Accuracy For Manual Updates	✓	-	-	-	-	-	-	-

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Recommended Performance Measures	Measurement Groups Subject to Tier-1 Damages			Measurement Groups Subject to Tier-2 Assessments		
	Low	Med	High	Low	Med	High
113. % of electronic updates that flow through the DSR process without manual intervention	✓	-	-	-	-	-
XII. COORDINATED CONVERSIONS						
114. % Pre-mature disconnects (Coordinated Cutovers)	-	-	✓	-	-	X
115. % SWBT caused delayed Coordinated Cutovers	✓	-	-	-	-	-
116. % Missed mechanized INP conversions	-	✓	-	-	-	-
XIII. NXX						
117. % NXXs loaded and tested prior to the LERG effective date	-	-	✓	-	-	X
118. Average Delay Days for NXX loading and testing	✓	-	-	-	-	-
119. Mean Time to Repair	-	-	✓	-	-	X
XIV. BONA FIDE REQUEST PROCESS (BFRs)						
120. % of requests processed within 45 business days	-	-	-	-	-	-
121. % Quotes Provided for Authorized BFRs within 30 business days	-	-	✓	-	-	X
Total	40	11	30	5	8	37

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SWBT agrees with this two-tiered enforcement structure for performance measurements. The Commission approved performance measurements identify the measurements that belong to Tier-1 or Tier-2 categories, which are further, identified as the High, Low and Medium groups as those terms are used below and shown in Schedule-2.

SWBT concurs that the use of a statistical test, namely the modified "Z-test," for the difference between the two means (SWBT and CLEC) or two percentages, or the difference in the two proportions is appropriate for determining parity. SWBT agrees that the modified Z-tests as outlined below are the appropriate statistical tests for the determination of parity when the result for SWBT and the CLEC are compared. The modified Z-tests are applicable if the number of data points are greater than 30 for a given measurement. In cases where benchmarks are established, the determination of compliance is through the comparison of the measured performance delivered to the CLEC and the applicable benchmark. For testing compliance for measures for which the number of data points are 29 or less, although the use of permutation tests as outlined below is appropriate comparison of performance delivered to CLECs with SWBT performance as described in Alternative-1 under the "Qualifications to use Z-Test" heading below is preferred.

SWBT concurs that the definition of performance measure parity should be that the parity exists when the measured results in a single month (whether in the form of means, percents, or proportions) for the same measurement, at equivalent disaggregation, for both SWBT and CLEC are used to calculate a Z-test statistic and the resulting value is no greater than the critical Z-value as reflected in the Critical Z-statistic table shown below.

Z-Test:

SWBT agrees with the following formulae for determining parity using Z-Test:

For Measurement results that are expressed as Averages or Means:

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$$z = (\text{DIFF}) / \delta_{\text{DIFF}}$$

Where;

$$\text{DIFF} = M_{\text{ILEC}} - M_{\text{CLEC}}$$

M_{ILEC} = ILEC Average

M_{CLEC} = CLEC Average

$$\delta_{\text{DIFF}} = \text{SQRT} [\delta^2_{\text{ILEC}} (1/n_{\text{CLEC}} + 1/n_{\text{ILEC}})]$$

δ^2_{ILEC} = Calculated variance for ILEC.

n_{ILEC} = number of observations or samples used in ILEC measurement

n_{CLEC} = number of observations or samples used in CLEC measurement

For Measurement results that are expressed as Percentages or Proportions:

Step 1:

$$\rho = \frac{(n_{\text{ILEC}}P_{\text{ILEC}} + n_{\text{CLEC}}P_{\text{CLEC}})}{n_{\text{ILEC}} + n_{\text{CLEC}}}$$

Step 2:

$$\sigma_{\text{PILEC-PCLEC}} = \text{sqrt}[[\rho(1-\rho)]/n_{\text{ILEC}} + [\rho(1-\rho)]/n_{\text{CLEC}}]$$

Step 3:

$$Z = (P_{\text{ILEC}} - P_{\text{CLEC}}) / \sigma_{\text{PILEC-PCLEC}}$$

Where: n = Number of Observations

P = Percentage or Proportion

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For Measurement results that are expressed as Rates or Ratio:

$$z = (\text{DIFF}) / \delta_{\text{DIFF}}$$

Where;

$$\text{DIFF} = R_{\text{ILEC}} - R_{\text{CLEC}}$$

$$R_{\text{ILEC}} = \text{num}_{\text{ILEC}} / \text{denom}_{\text{ILEC}}$$

$$R_{\text{CLEC}} = \text{num}_{\text{CLEC}} / \text{denom}_{\text{CLEC}}$$

$$\delta_{\text{DIFF}} = \text{SQRT} [R_{\text{ILEC}} (1/\text{denom}_{\text{CLEC}} + 1/\text{denom}_{\text{ILEC}})]$$

Qualifications to use Z-Test:

The proposed Z- tests are applicable to reported measurements that contain 30 or more data points.

In calculating the difference between the performances the formula proposed above applies when a larger CLEC value indicates a higher quality of performance. In cases where a smaller CLEC value indicates a higher quality of performance the order of subtraction should be reversed (i.e., $M_{\text{CLEC}} - M_{\text{ILEC}}$, $P_{\text{CLEC}} - P_{\text{ILEC}}$, $R_{\text{CLEC}} - R_{\text{ILEC}}$).

For measurements where the applicable performance criterion is a benchmark rather than parity performance compliance will be determined by setting the denominator of the Z-test formula as one in calculating the Z-statistic.

For measurements where the performance delivered to CLEC is compared to SWBT performance and for which the number of data points are 29 or less, SWBT agrees to application of the following alternatives for compliance.

Alternative 1: (preferred)

1. For measurements that are expressed as averages, performance delivered to a CLEC for each observation shall not exceed the ILEC averages plus the applicable critical Z-value. If the CLEC's performance is outside the ILEC average plus the critical Z-value and it is the second consecutive month, SWBT can utilize the Z-test as applicable for sample sizes 30 or greater or the permutation test to provide evidence of parity. If SWBT uses the Z-test for samples under 30, the CLEC can independently perform the permutation test to validate SWBT's results.

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2. For measurements that are expressed as percentages, the percentage for CLEC shall not exceed ILEC percentage plus the applicable critical Z-value. If the CLEC's performance is outside the ILEC percentage plus the critical Z-value and it is the second consecutive month, SWBT can utilize the Z-test as applicable for sample sizes 30 or greater or the permutation test to provide evidence of parity. If SWBT uses the Z-test for samples under 30, the CLEC can independently perform the permutation test to validate SWBT's results.

Alternative 2:

Permutation analysis will be applied to calculate the z-statistic using the following logic:

1. Choose a sufficiently large number T.
2. Pool and mix the CLEC and ILEC data sets
3. Randomly subdivide the pooled data sets into two pools, one the same size as the original CLEC data set (n_{CLEC}) and one reflecting the remaining data points, (which is equal to the size of the original ILEC data set or n_{ILEC}).
4. Compute and store the Z-test score (Z_S) for this sample.
5. Repeat steps 3 and 4 for the remaining T-1 sample pairs to be analyzed. (If the number of possibilities is less than 1 million, include a programmatic check to prevent drawing the same pair of samples more than once).
6. Order the Z_S results computed and stored in step 4 from lowest to highest.
7. Compute the Z-test score for the original two data sets and find its rank in the ordering determined in step 6.
8. Repeat the steps 2-7 ten times and combine the results to determine $P =$ (Summation of ranks in each of the 10 runs divided by 10T)
9. Using a cumulative standard normal distribution table, find the value Z_A such that the probability (or cumulative area under the standard normal curve) is equal to P calculated in step 8.
10. Compare Z_A with the desired critical value as determined from the critical Z table. If $Z_A >$ the designated critical Z-value in the table, then the performance is non-compliant.

SWBT and the CLECs jointly will provide software and technical support as needed by Commission Staff for purposes of utilizing the permutation analysis.

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Overview of Enforcement Structure

SWBT agrees with the following methodology for developing the liquidated damages and penalty assessment structure for tier-1 liquidated damages and tier-2 assessments:

Liquidated Damages payable to the CLEC should be available as self-executing damages as a part of a contractual obligation. Liquidated damages apply to Tier-1 measurements identified as High, Medium, or Low on Schedule-2.

Assessments are applicable to Tier-2 measures identified as High, Medium, or Low on Schedule-2 and are payable to the Texas State Treasury.

Procedural Safeguards and Exclusions

SWBT agrees that the application of the assessments and damages provided for herein is not intended to foreclose other noncontractual legal and regulatory claims and remedies that may be available to a CLEC. By incorporating these liquidated damages terms into an interconnection agreement, SWBT and CLEC agree that proof of damages from any "noncompliant" performance measure would be difficult to ascertain and, therefore, liquidated damages are a reasonable approximation of any contractual damage resulting from a non-compliant performance measure. SWBT and CLEC further agree that liquidated damages payable under this provision are not intended to be a penalty.

SWBT's agreement to implement these enforcement terms, and specifically its agreement to pay any "liquidated damages" or "assessments" hereunder, will not be considered as an admission against interest or an admission of liability in any legal, regulatory, or other proceeding relating to the same performance. The Proposed Interconnection Agreement will contain language whereby SWBT and the CLEC(s) agree that the CLEC(s) may not use: (1) the existence of this enforcement plan; or (2) SWBT's payment of Tier-1 "liquidated damages" or Tier-2 "assessments" as evidence that SWBT has discriminated in the provision of any facilities or services under Sections 251 or 252, or has violated any state or federal law or regulation. SWBT's conduct underlying its performance measures, and the

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performance data provided under the performance measures, however, are not made inadmissible by these terms. Any CLEC accepting this performance remedy plan agrees that SWBT's performance with respect to this remedy plan may not be used as an admission of liability or culpability for a violation of any state or federal law or regulation. Further, any liquidated damages payment by SWBT under these provisions is not hereby made inadmissible in any proceeding relating to the same conduct where SWBT seeks to offset the payment against any other damages a CLEC might recover; whether or not the nature of damages sought by the CLEC is such that an offset is appropriate will be determined in the related proceeding. The terms of this paragraph do not apply to any proceeding before the Commission or the FCC to determine whether SWBT has met or continues to meet the requirements of section 271 of the Act.

SWBT shall not be liable for both Tier-2 "assessments" and any other assessments or sanctions under PURA or the Commission's service quality rules relating to the same performance.

Every six months, SWBT, CLECs, and Commission representatives will review the performance measures to determine whether measurements should be added, deleted, or modified; whether the applicable benchmark standards should be modified or replaced by parity standards; and whether to move a classification of a measure to High, Medium, Low, Diagnostic, Tier-1 or Tier-2. The criterion for reclassification of a measure shall be whether the actual volume of data points was lesser or greater than anticipated. Criteria for review of performance measures, other than for possible reclassification, shall be whether there exists an omission or failure to capture intended performance, and whether there is duplication of another measurement. Performance measures for 911 may be examined at any six month review to determine whether they should be reclassified. The first six-month period will begin when an interconnection agreement including this remedy plan is adopted by a CLEC and approved by the Commission. Any changes to existing performance measures and this remedy plan shall be by mutual agreement of the parties and, if necessary, with respect to new measures and their appropriate classification, by arbitration. The current measurements and benchmarks will be in effect until modified hereunder or expiration of the interconnection agreement.

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Exclusions Limited

SWBT shall not be obligated to pay liquidated damages or assessments for noncompliance with a performance measurement if, but only to the extent that, such noncompliance was the result of any of the following: a Force Majeure event; an act or omission by a CLEC that is contrary to any of its obligations under its interconnection agreement with SWBT or under the Act or Texas law; or non-SWBT problems associated with third-party systems or equipment, which could not have been avoided by SWBT in the exercise of reasonable diligence. Provided, however, the third party exclusion will not be raised more than three times within a calendar year. SWBT will not be excused from payment of liquidated damages or assessments on any other grounds, except by application of the procedural threshold provided for below. Any dispute regarding whether a SWBT performance failure is excused under this paragraph will be resolved with the Commission through a dispute resolution proceeding under Subchapter Q of its Procedural Rules or, if the parties agree, through commercial arbitration with the American Arbitration Association. SWBT will have the burden in any such proceeding to demonstrate that its noncompliance with the performance measurement was excused on one of the grounds set forth in this paragraph.

An overall cap of \$ 120 million per year for Tier-1 liquidated damages and Tier-2 Assessments is appropriate. However, whenever SWBT Tier-1 payments to an individual CLEC in a month exceed \$ 3 million, or for all CLECs Tier-1 payments (in a month) exceed \$ 10 million then SWBT may commence a show cause proceeding as provided for below. Upon timely commencement of the show cause proceeding, SWBT must pay the balance of damages owed in excess of the threshold amount into escrow, to be held by a third party pending the outcome of the show cause proceeding. To invoke these escrow provisions, SWBT must file with the Commission, not later than the due date of the affected damages payments, an application to show cause why it should not be required to pay any amount in excess of the procedural threshold. SWBT's application will be processed in an expedited manner under Subchapter Q of the Commission's Procedural Rules. SWBT will have the burden of proof to demonstrate why, under the circumstances, it would be unjust to require it to pay liquidated damages in excess of the applicable threshold amount. If SWBT reports non-compliant performance to a CLEC for three consecutive months on 20% or more of the measures reported to the CLEC, but SWBT has incurred no more than \$ 1 million

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in liquidated damages obligations to the CLEC for that period under the enforcement terms set out here, then the CLEC may commence an expedited dispute resolution under this paragraph pursuant to Subchapter Q of the Commission's Procedural Rules. In any such proceeding the CLEC will have the burden of proof to demonstrate why, under the circumstances, justice requires SWBT to pay damages in excess of the amount calculated under these enforcement terms.

With respect to any interconnection agreement, SWBT and any CLEC may request two expedited dispute resolution proceedings pursuant to the two preceding paragraphs before the Commission or, if the parties agree, through commercial arbitration with the American Arbitration Association (AAA); during the term of the contract without having to pay attorneys fees to the winning company; for the third proceeding and thereafter, the requesting party must pay attorneys fees, as determined by the Commission or AAA, if that party loses.

In the event the aggregate amount of Tier-1 damages and Tier-2 assessments reach the \$120 million cap within a year and SWBT continues to deliver non-compliant performance during the same year to any CLEC or all CLECs, the Commission may recommend to the FCC that SWBT should cease offering in-region interLATA services to new customers.

Tier-1 Damages:

Tier-1 liquidated damages apply to measures designated in Attachment-1 as High, Medium, or Low when SWBT delivers "non-compliant" performance as defined above.

Under the damages for Tier-1 measures, the number of measures that may be classified as "non-compliant" before a liquidated damage is applicable is limited to the K values shown below. The applicable K value is determined based upon the total number of measures with a sample size of 10 or greater that are required to be reported to a CLEC where a sufficient number of observations exist in the month to permit parity conclusions regarding a compliant or non-compliant condition. For any performance measurement, each disaggregated category for which there are a minimum of 10 data points constitutes one "measure" for

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purposes of calculating K value. The designated K value and the critical Z-value seek to balance random variation, Type-1 and Type-2 errors. Type-1 error is the mistake of charging an ILEC with a violation when it may not be acting in a discriminatory manner (that is, providing non-compliant performance). Type-2 error is the mistake of not identifying a violation when the ILEC is providing discriminatory or non-compliant performance.

Liquidated damages in the amount specified in the table below apply to all “non-compliant” measures in excess of the applicable “K” number of exempt measures. Liquidated damages apply on a per occurrence basis, using the amount per occurrence taken from the table below, based on the designation of the measure as High, Medium, or Low in Schedule-2 and the number of consecutive months for which SWBT has reported noncompliance for the measure. For those measures listed on Schedule-3 as “Measurements that are subject to per occurrence damages or assessments with a cap,” the amount of liquidated damages in a single month shall not exceed the amount listed in the table below for the “Per measurement” category. For those measures listed on Schedule-3 as “Measurements that are subject to per measure damages or assessment,” liquidated damages will apply on a per measure basis, at the amounts set forth in the table below. The methodology for determining the order of exclusion, and the number of occurrences is addressed in “Methods of calculating the liquidated damages and penalty amounts,” below.

LIQUIDATED DAMAGES TABLE FOR TIER-1 MEASURES

Per occurrence						
Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
High	\$150	\$250	\$500	\$600	\$700	\$800
Medium	\$75	\$150	\$300	\$400	\$500	\$600
Low	\$25	\$50	\$100	\$200	\$300	\$400

Per Measure/Cap						
Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
High	\$25,000	\$50,000	\$75,000	\$100,000	\$125,000	\$150,000
Medium	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000	\$60,000
Low	\$5,000	\$10,000	\$15,000	\$20,000	\$25,000	\$30,000

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ASSESSMENT TABLE FOR TIER-2 MEASURES

Per occurrence

Measurement Group	
High	\$500
Medium	\$300
Low	\$200

Per Measure/Cap

Measurement Group	
High	\$75,000
Medium	\$30,000
Low	\$20,000

Tier-2 Assessments to the State:

Assessments payable to the Texas State Treasury apply to the Tier-2 measures designated on Schedule-2 as High, Medium, or Low when SWBT performance is out of parity or does not meet the benchmarks for the aggregate of all CLEC data. Specifically, if the Z-test value is greater than the Critical Z, the performance for the reporting category is out of parity or below standard.

For those Measurements where a per occurrence assessment applies, an assessment as specified in the Assessment Table; for each occurrence is payable to the Texas State Treasury for each measure that exceeds the Critical Z-value, shown in the table below, for three consecutive months. For those Measurements listed in Schedule-3 as measurements subject to per occurrence with a cap, an assessment as shown in the Assessment Table above for each occurrence with the applicable cap is payable to the Texas State Treasury for each measure that exceeds the Critical Z-value, shown in the table below, for three consecutive months. For those Tier-2 Measurements listed in Schedule-3 as subject to a per measurement assessment an assessment amount as shown in the Assessment Table above is payable to the Texas State Treasury for each measure that exceeds the Critical Z-value, shown in the table below, for three consecutive months.

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The following table will be used for determining the Critical Z-value for each measure, as well as the K values referred to below based on the total number of measures that are applicable to a CLEC in a particular month. The table can be extended to include CLECs with fewer performance measures.

Critical Z - Statistic Table

Number of Performance Measures	K Values	Critical Z-value
10-19	1	1.79
20-29	2	1.73
30-39	3	1.68
40-49	3	1.81
50-59	4	1.75
60-69	5	1.7
70 -79	6	1.68
80 - 89	6	1.74
90 - 99	7	1.71
100 - 109	8	1.68
110 -119	9	1.7
120 - 139	10	1.72
140 - 159	12	1.68
160 - 179	13	1.69
180 - 199	14	1.7
200 - 249	17	1.7
250 - 299	20	1.7
300 - 399	26	1.7
400 - 499	32	1.7
500 - 599	38	1.72
600 - 699	44	1.72
700 - 799	49	1.73
800 - 899	55	1.75
900 - 999	60	1.77
1000 and above	Calculated for Type-1 Error Probability of 5%	Calculated for Type-1 Error Probability of 5%

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General Assessments:

If SWBT fails to submit performance reports by the 20th day of the month, the following assessments apply unless excused for good cause by the Commission:

If no reports are filed, \$5,000 per day past due;

If incomplete reports are filed, \$1,000 per day for each missing performance results.

If SWBT alters previously reported data to a CLEC, and after discussions with SWBT the CLEC disputes such alterations, then the CLEC may ask the Commission to review the submissions and the Commission may take appropriate action. This does not apply to the limitation stated under the section titled "Exclusions Limited."

When SWBT performance creates an obligation to pay liquidated damages to a CLEC or an assessment to the State under the terms set forth herein, SWBT shall make payment in the required amount on or before the 30th day following the due date of the performance measurement report for the month in which the obligation arose (e.g., if SWBT performance through March is such that SWBT owes liquidated damages to CLECs for March performance, or assessments to the State for January – March performance, then those payments will be due May 15, 30 days after the April 15 due date for reporting March data). For each day after the due date that SWBT fails to pay the required amount, SWBT will pay interest to the CLEC at the maximum rate permitted by law for a past due liquidated damages obligation and will pay an additional \$3,000 per day to the Texas State Treasury for a past due assessment.

SWBT may not withhold payment of liquidated damages to a CLEC, for any amount up to \$3,000,000 a month, unless SWBT had commenced an expedited dispute resolution proceeding on or before the payment due date, asserting one of the three permitted grounds for excusing a damages payment below the procedural threshold (Force Majeure, CLEC fault, and non-SWBT problems associated with third-party systems or equipment). In order to invoke the procedural threshold provisions allowing for escrow of damages obligations in excess of \$ 3,000,000 to a single CLEC (or \$ 10,000,000 to all CLECs), SWBT must pay the threshold

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amount to the CLEC(s), pay the balance into escrow, and commence the show cause proceeding on or before the payment due date.

Methods of Calculating the Liquidated Damage and Assessment Amounts

The following methods apply in calculating per occurrence liquidated damage and assessments:

Tier-1 Liquidated Damages

Application of K Value Exclusions

Determine the number and type of measures with a sample size greater than 10 that are "non-compliant" for the individual CLEC for the month, applying the parity test and bench mark provisions provided for above. Sort all measures having non-compliant classification with a sample size greater than 10 in ascending order based on the number of data points or transactions used to develop the performance measurement result (e.g., service orders, collocation requests, installations, trouble reports). Exclude the first "K" measures designated Low on Schedule-2, starting with the measurement results having the fewest number of underlying data points greater than 10. If all Low measurement results with a non-compliant designation are excluded before "K" is exceeded, then the exclusion process proceeds with the Medium measurement results and thereafter the High measurement results. If all Low, Medium and High measurements are excluded, then those measurements with sample sizes less than 10 may be excluded until "K" measures are reached. In each category measurement results with non-compliant designation having the fewest underlying data point are then excluded until either all non-compliant measurement results are excluded or "K" measures are excluded, whichever occurs first. For the remaining non-compliant measures that are above the K number of measures, the liquidated damages per occurrence are calculated as described further below. (Application of the K value may be illustrated by an example, if the K value is 6, and there are 7 Low measures and 1 Medium and 1 High which exceed the Critical Z-value, the 6 Low measures with the lowest number of service orders used to develop the performance measure are not used to calculate the liquidated damages, while the remaining Low measures and 2 Medium and High measures which exceed the critical Z-value are used.) In applying the K value, the following qualifications apply to the general rule for excluding measures by progression from measures

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with lower transaction volumes to higher. A measure for which liquidated damages are calculated on a per measure basis will not be excluded in applying the K value unless the amount of liquidated damages payable for that measure is less than the amount of liquidated damages payable for each remaining measure. A measure for which liquidated damages are calculated on a per occurrence basis subject to a cap will be excluded in applying the K value whenever the cap is reached and the liquidated damages payable for the remaining non-compliant measures are greater than the amount of the cap.

Calculating Tier-1 Liquidated Damages

Measures for Which the Reporting Dimensions are Averages or Means.

- Step 1: Calculate the average or the mean for the measure for the CLEC that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measures, substitute the benchmark value for the value calculated in the preceding sentences).
- Step 2: Calculate the percentage difference between the actual average and the calculated average.
- Step 3: Multiply the total number of data points by the percentage calculated in the previous step and the per occurrence dollar amount taken from the Liquidated Damages Table to determine the applicable liquidated damages for the given month for that measure.

Measures for Which the Reporting Dimensions are Percentages.

- Step 1: Calculate the percentage for the measure for the CLEC that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measures, substitute the benchmark value for the value calculated in the preceding sentences).

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- Step 2: Calculate the difference between the actual percentage for the CLEC and the calculated percentage.
- Step 3: Multiply the total number of data points by the difference in percentage calculated in the previous step and the per occurrence dollar amount taken from the Liquidated Damages Table to determine the applicable liquidated damages for the given month for that measure.

Measures for Which the Reporting Dimensions are Ratios or Proportions.

- Step 1: Calculate the ratio for the measure for the CLEC that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the measure.
- Step 2: Calculate the percentage difference between the actual ratio for the CLEC and the calculated ratio.
- Step 3: Multiply the total number of data points by the percentage calculated in the previous step and the per occurrence dollar amount taken from the Liquidated Damages Table to determine the applicable liquidated damages for the given month for that measure.

Tier-2 Assessments

Determine the Tier-2 measurement results, such as High, Medium, or Low that are non-compliant for three consecutive months for all CLECs, or individual CLEC if the measure is not reported for all CLECs.

If the non-compliant classification continues for three consecutive months, an additional assessment will apply in the third month and in each succeeding month as calculated below, until SWBT reports performance that meets the applicable criterion. That is, Tier-2 assessments will apply on a "rolling three month" basis, one assessment for the average number of occurrences for months 1-3, one assessment for the average number of occurrences for months 2-4, one assessment

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for the average number of occurrences for months 3-5, and so forth, until satisfactory performance is established.

Measures for Which the Reporting Dimensions are Averages or Means.

- Step 1: Calculate the average or the mean for the measure for the CLEC that would yield the Critical Z-value for the third consecutive month. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measures, substitute the benchmark value for the value calculated in the preceding sentences).
- Step 2: Calculate the percentage difference between the actual average and the calculated average for the third consecutive month.
- Step 3: Multiply the total number of data points by the percentage calculated in the previous step. Calculate the average for three months and multiply the result by \$500, \$300, and \$200 for Measures that are designated as High, Medium, and Low respectively; to determine the applicable assessment payable to the Texas State Treasury for that measure.

Measures for Which the Reporting Dimensions are Percentages.

- Step 1: Calculate the percentage for the measure for the CLEC that would yield the Critical Z-value for the third consecutive month. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measures, substitute the benchmark value for the value calculated in the preceding sentences).
- Step 2: Calculate the difference between the actual percentage for the CLEC and the calculated percentage for each of the three non-compliant months.
- Step 3: Multiply the total number of data points for each month by the difference in percentage calculated in the previous step. Calculate the

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average for three months and multiply the result by \$500, \$300, and \$200 for measures that are designated as High, Medium, and Low respectively; to determine the applicable assessment for that measure.

Measures for Which the Reporting Dimensions are Ratios or Proportions.

- Step 1: Calculate the ratio for the measure for the CLEC that would yield the Critical Z-value for the third consecutive month. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measures, substitute the benchmark value for the value calculated in the preceding sentences).
- Step 2: Calculate the percentage difference between the actual ratio for the CLEC and the calculated ratio for each month of the non-compliant three-month period.
- Step 3: Multiply the total number of service orders by the percentage calculated in the previous step for each month. Calculate the average for three months and multiply the result by \$500, \$300, and \$200 for measures that are designated as High, Medium, and Low respectively; to determine the applicable assessment for that measure.

I. Collocation

A. General Provisions Relating to Physical Collocation

1. SWBT agrees to be bound by the final FCC collocation rules.
2. Within 30 days of SWBT filing a revised physical collocation tariff, the Commission will approve the physical collocation tariff and pricing to bring such tariff and pricing into compliance, and keep such tariffs and pricing in compliance, with the FCC final rules on collocation.
3. SWBT shall not require unreasonable minimum space requirements for collocation by the CLEC. The CLEC must be able to purchase collocation space in amounts as small as that sufficient to house and maintain one rack or bay of equipment, (i.e., ten (10) square feet). (FCC - Para. 43)
4. SWBT may not utilize unreasonable segregation requirements to impose unnecessary additional costs on competitors. (FCC - Para. 42)
5. SWBT will apply the same space reservation policies to CLECs that it applies to itself.
6. CLECs shall be entitled to 24 hours per day / 7 days per week access to their collocated equipment (FCC - Para. 49)
7. In order to protect its equipment and its ability to offer service to retail customers, SWBT may impose security arrangements on the CLECs that are as stringent as the security arrangements SWBT maintains at its own "eligible structures" either for its own employees or for authorized contractors. To the extent existing security arrangements are more stringent for one group than the other, SWBT may impose the more stringent requirements. SWBT will not impose discriminatory security requirements that result in increased collocation costs without the concomitant benefit

of providing necessary protection of SWBT's equipment. (FCC – Para. 47) ("Eligible structure" has the meaning established under the Amended Collocation Tariff)

8. SWBT shall permit collocating carriers to construct their own cross-connect facilities between collocated equipment located on SWBT's "eligible structures," subject only to the same reasonable safety requirements that SWBT imposes on its own equipment. SWBT shall not require CLECs to purchase any equipment or cross-connect capabilities solely from SWBT itself at tariffed rates. (FCC – Para. 33)
9. Performance measures relating to collocation shall be amended as necessary to comply with the FCC order and amended collocation tariff.
10. Pricing of collocation space:
 - (a) For shared collocation space, SWBT may not increase the cost of site preparation or nonrecurring charges above the cost of provisioning such a cage of similar dimensions and material to a single collocating CLEC. The total charge must be prorated and allocated to a CLEC based on the percentage of the total space used by that CLEC. SWBT will prorate the charge for site conditioning and preparation for conditioning the space for collocation use by determining the charge and allocating that charge to a collocating carrier based on the percentage of the total space used by that carrier. (FCC Para. 41.)
 - (b) SWBT will allocate space preparation, security measures and other collocation charges on a pro-rated basis so the first CLEC in a premises will not be responsible for the entire cost of site preparation. (FCC – Para. 51)

B. Physical Collocation Tariff Revisions

SWBT agrees to amend the physical collocation tariff to incorporate the FCC rules on collocation, the provisions of this agreement, and the concerns that the Commission has deemed valid raised by CLECs during the 271 proceeding. The tariff revisions include:

1. Revised time intervals for price quotations and construction turnaround time: (a) a 10-day interval on notification of availability of space to the CLEC; (b) a 90 day construction turnaround time for active CO space and 140 days for all other space, except for the twenty offices that SWBT will identify in its tariff filing for which other space will be made available in 125 days. To the extent reasonable and necessary, time intervals for cageless collocation shall be shorter than for caged collocation.

Price quote intervals will be as follows and will run concurrent with the ten day notification interval for availability of space:

<u>Number of Applications by One CLEC</u>	<u>Quotation Interval</u>
1-5	10 Business Days
6-20	25 Business Days

Should the collocator submit twenty-one (21) or more applications within five (5) business days, the quotation interval will be increased by five (5) business days for every five (5) additional applications. Any material revision to an application will be treated as a new application and will be subject to the time intervals set forth above.

A CLEC may obtain a shorter interval for the return of price quotes and construction intervals than that set forth in the paragraph above by scheduling a meeting with SWBT at least twenty (20) business days prior to submission of the first application to discuss, coordinate and prioritize the CLEC applications.

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2. In the collocation tariff filing, SWBT will identify augment activities that can be achieved within 15, 30 and 60 day intervals.
3. Revisions and clarifications to the Third Party Review Process, including specifying the requirement that the third party independently evaluate the space reservation by SWBT and collocated CLECs within the CO, and the procedure for appeal of the third party evaluation. Other revisions relating to selection of a third party engineer and timeframes for the Third Party Review Process may also be made.
4. During construction of caged collocation space, CLECs shall be permitted up to four (4) inspections during the construction of Active Central Office Switchroom Space or Other Central Office Space during normal business hours with a minimum of two (2) hours advance notification. If the construction interval is extended beyond the tariffed or agreed upon interval, CLECs will be granted two additional visits per 30 day extension.
5. Ancillary charges for unique CLEC requests for collocation options directly attributable to the requesting carrier will not be prorated. Examples include power arrangements, remote switch module related options and POT bay related options. Non-carrier specific ancillary charges shall be prorated in accordance with FCC requirements. (FCC – Para. 41)
6. Application fees for various collocation options will be established in the tariff proceeding.
7. Revisions relating to space reservation procedures pursuant to the FCC Order and this agreement, including the removal of obsolete unused equipment from the CO upon reasonable request by a competitor or upon order by the Commission. Revisions to clarify that reservation of space by SWBT for future use shall be reasonable and consistent with the FCC Order and this agreement. (FCC – Para.'s 57-60)

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8. Revisions to reflect the FCC Order provisions on types of equipment that can be collocated, and revisions to expedite the procedure for addition and removal of equipment by a CLEC within its designated collocation space. CLECs will certify NEBS Level 1 safety compliance. If it is determined that the equipment is not NEBS Level 1 safety compliant, the CLEC will be responsible for removal of the equipment and all resulting damages. (FCC - Paras. 28-30)
9. Revisions to make the use of a POT frame optional. (FCC Para. 42)
10. Protest language in the tariffs will be removed.

C. Collocation Space Available

1. SWBT agrees to implement the FCC's rules relating to collocation space availability. (FCC - Paras. 57-60)
2. SWBT will notify the CLEC as to whether its request for collocation space has been granted or denied due to lack of space within 10 days of submission of the completed application. In the event of a denial, and within 10 days of the submission of the application, SWBT must submit to the CLEC a report indicating SWBT's available collocation space in a particular "eligible structure". The report must specify the amount of collocation space available at each requested "eligible structure," the number of CLECs collocating, and any modification in the use of the space since the last report. The report must also include measures that SWBT is taking to make additional space available for collocation. The Commission will permit SWBT to recover the costs of implementing this reporting measure from the CLECs in a reasonable manner. (FCC - Para. 58)
3. In the event that SWBT denies a collocation request due to space constraints, the CLEC may request a tour of the entire "eligible structure" in question (not just the room in which space was denied) without charge, such tour to take place within 10 days of the denial of space. If after the tour of the "eligible structure," SWBT and the CLEC disagree about

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whether space limitations at that "eligible structure" make collocation impractical, the CLEC may initiate a Third Party Review Process, with ultimate review, if necessary by the Commission. In the event a third party or the Commission determines that space is not available, SWBT will not be required to conduct a review of floor space availability in that same central office more frequently than once every six months. For SWBT central offices where space for collocation has been determined by a third party or the Commission to be exhausted, any changes in space availability will be posted on the Internet and provided to the CLECs in an Accessible Letter within 30 days. (FCC - Para. 57)

4. SWBT shall maintain a publicly available document for viewing on the Internet indicating its "eligible structures," if any, that are full; SWBT must update this document within 10 days of the date at which a "eligible structure" runs out of physical collocation space. The Commission will permit SWBT to recover the costs of implementing this requirement from the CLECs in a reasonable manner. (FCC - Paras. 57 & 58)
5. In order to increase the amount of space available for collocation, SWBT must remove obsolete unused equipment from its "eligible structure" upon reasonable request by a CLEC or upon order of the Commission. (FCC - Para. 60)
6. When initially denying a collocating request by a CLEC, SWBT will provide the Commission with a copy of the denial provided to the CLEC unless the CLEC waives the necessity for such filing. In the event of a denial of a CLEC's request for collocation, SWBT shall also submit to the Third Party Reviewer a copy of the report requested by the CLEC and the following information in support of its denial, provided under seal and subject to proprietary protections:
 - a. Central Office Common Language Identifier, where applicable;

- b. The identity of the requesting CLEC, including amount of space sought by the CLEC;
- c. Total amount of space at the premises;
- d. Detailed Floor plans, including measurements of SWBT's premises, showing:
 - i. Space housing SWBT network equipment or administrative offices;
 - ii. Space which does not currently house SWBT equipment or administrative offices but is reserved by SWBT for future use;
 - iii. Space occupied by or reserved for Collocators;
 - iv. Space, if any, occupied by third parties for other purposes;
 - v. Remaining space, if any;
 - vi. Identification of turnaround space for the switch or other equipment;
 - vii. Planned Central Office rearrangement/expansion plans, if any; and
 - viii. Description of other plans, if any, that may relieve space exhaustion;
- e. Other relevant information requested by the Third Party Reviewer.

D. Types of Available Physical Collocation Arrangements.

SWBT agrees to make each of the arrangements outlined below available within its "eligible structures" in accordance with its approved collocation tariffs so that CLECs will have a variety of collocation options from which to choose. At the option of the CLEC customer, SWBT will provide the following alternate types of physical collocation:

1. Caged Physical Collocation (Dedicated Space). SWBT will provide CLECs with caged physical collocation consistent with the terms of the Physical Collocation Tariff.
2. Shared Physical Collocation. SWBT will provide CLECs with shared physical collocation, where 2 or more CLECs can share a caged collocation space within the "eligible structure." SWBT will not increase the cost of site

preparation or nonrecurring charges above the cost for provisioning such a cage of similar dimensions and material to a single collocating party. SWBT will prorate the charge for site conditioning and preparation undertaken to construct the shared collocation cage or condition the space, and allocate that charge to each CLEC based upon the percentage of total space utilized by each CLEC. SWBT will not unreasonably restrict a CLEC's use of a shared collocation cage. SWBT will permit each CLEC to order UNES to and provision service from the shared collocation space, regardless of which CLEC was the original collocator. (FCC - Para. 41)

3. Cageless Physical Collocation. SWBT will provide CLECs with cageless physical collocation in any unused space not reserved for future growth within the "eligible structure." SWBT will provide CLECs with an entrance to the central office premises, and once inside, the CLECs will have direct access to their equipment. SWBT will make cageless physical collocation space available in single-bay increments. SWBT will not require CLECs to use an intermediate interconnection arrangement, such as a POT frame. SWBT may, at its option, take reasonable steps to protect its own equipment, such as enclosing it with a wall or cage separating it from the cageless physical collocation space. If there is not sufficient space for SWBT to separate its equipment from the cageless physical collocation space by a wall or cage, SWBT may separate its equipment from the CLEC equipment by tape on the floor or other markings that are not physical separations. Accordingly, SWBT will not provide CLEC personnel or agents with direct access to SWBT's main distribution frame. (FCC - Paras. 42 & 43)
4. Adjacent Space Collocation. When space is legitimately exhausted inside a SWBT "eligible structure," SWBT will permit CLECs to physically collocate in adjacent controlled environmental vaults or similar structures to the extent technically feasible. SWBT will permit CLECs to construct or otherwise procure such adjacent structure, subject only to reasonable safety and maintenance requirements, and zoning

and other state and local regulations. SWBT will provide power and physical collocation services to such adjacent structures, subject to the same requirements as other collocation arrangements in the tariff. (FCC - Para. 44)

5. Other Physical Collocation Arrangements. SWBT will provide other collocation arrangements that have been demonstrated to be technically feasible on another ILEC premises, unless the SWBT "eligible structure" cannot support the arrangement because of either technical reasons or lack of space. (FCC - Para. 45)

E. Security (Applicable to the Physical Collocation Arrangements as set forth in Section D preceding)

1. Protection of SWBT's equipment is crucial to its ability to offer service to its customers. Therefore, SWBT will impose reasonable security measures to assist in protecting its network and equipment from harm. (FCC - Para. 48)
2. CLECs will conduct background checks of their personnel and technicians who will have access to collocation space. CLEC technicians will be qualified by SWBT in the same way as SWBT qualifies authorized contractors. CLEC personnel and technicians will undergo the same level of security training, or its equivalent that SWBT's own employees and authorized contractors must undergo. (FCC - Para. 48)
3. Disciplinary procedures will be established to ensure the safety and integrity of the "eligible structure" including but not limited to, procedures that require the responsible CLEC employee to be terminated for certain specified actions that damage or place the network or equipment of SWBT or other CLECs in jeopardy.
4. CLECs will provide indemnification and insurance to cover any damages caused by the CLECs' technicians at a level commensurate with the indemnification and insurance provided by SWBT authorized contractors with equivalent access.

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5. SWBT may use reasonable security measures to protect its equipment, including enclosing its equipment in its own cage, security cameras or other monitoring devices, badges with computerized tracking systems, identification swipe cards, keyed access, and/or logs, as appropriate for the "eligible structures" where collocation will take place. The Commission will permit SWBT to recover the costs of implementing these security measures from the CLECs in a reasonable manner. (FCC - Para. 48)
 6. CLECs will have access to their collocated equipment 24 hours a day, seven days a week, without a security escort. The CLEC shall provide SWBT with notice at the time of dispatch of the CLEC's own employee or contractor, to an eligible structure and, if possible, no less than 30 minutes notice for a manned structure and 60 minutes notice for an unmanned structure. SWBT will provide CLECs with reasonable access to restroom facilities and parking. (FCC - Para. 49)
- F. Concurrent with the filing of the revised Physical Collocation Tariff, SWBT will amend Section 26 of its Virtual Collocation Tariff to reflect the agreement in the 271 proceeding to eliminate provisions related to the transfer of title of virtually collocated equipment from CLECs to SWBT. This tariff will also be amended to include the options set forth below and to remove the protest language.
- G. Types of Available Virtual Collocation Arrangements.
- At SWBT's option in central offices, and at SWBT's option in other eligible structures where physical (including cageless) collocation space is available, or at the CLEC's option in CEVs, huts and cabinets where physical collocation space is not available, SWBT will provide one of the following alternate types of virtual collocation:
1. Virtual Collocation wherein SWBT maintains and repairs the collocation equipment, consistent with the terms of the amended Section 25 of its Virtual Collocation Tariff.

2. Virtual Collocation wherein the CLEC maintains and repairs the virtually collocated equipment. SWBT will provide a security escort with the CLEC paying the expense for the escort. In areas defined in SWBT's local exchange tariff as rate groups 5, 6, 7 and 8, SWBT will provide the security escort within 1 hour of notification by the CLEC. In areas defined in SWBT's local exchange tariff as rate groups 1, 2, 3, and 4, SWBT will provide the security escort as soon as reasonably possible, or within the time frame agreed to by the parties, at the time of notice. Notice will be provided to SWBT's Local Operations Center, which will be available to receive notice 24 hours a day, 7 days a week. The CLEC shall conduct background checks of the technicians who have access to the collocation space. The technicians shall be qualified by SWBT in the same way as SWBT qualifies equipment suppliers with equivalent access. Disciplinary procedures shall be established to ensure the safety and integrity of the "eligible structure," including, *e.g.*, procedures that require the responsible employee to be terminated for certain specified actions that damage or place the equipment of SWBT or other CLECs in jeopardy. SWBT may use security devices, *e.g.*, identification swipe cards, keyed access, and/or logs, as appropriate for the "eligible structure" where collocation will take place. The Commission will permit SWBT to recover the cost of such security devices from the CLECs in a reasonable manner. The CLEC shall provide indemnification and insurance to cover any damages caused by the CLEC's technicians at a level commensurate with the indemnification and insurance provided by SWBT equipment suppliers with equivalent access. Provisioning of equipment required for virtual collocation, *e.g.*, power arrangements and interconnection arrangements will be provided in accordance with SWBT's Virtual Collocation Tariffs and interconnection agreements. In the event the FCC determines that SWBT may not require a security escort, then this Virtual Collocation option is no longer available to the CLEC.

- H. Types of Equipment to be Physically or Virtually Collocated.
1. SWBT agrees to allow collocation of all equipment used and useful for interconnection or access to unbundled network elements, regardless of whether such equipment includes a switching functionality, provides enhanced services capabilities, or offers other functionalities. SWBT will permit the collocation of equipment such as DSLAMs, routers, ATM multiplexers, and remote switching modules in SWBT "eligible structures." SWBT may not place any limitations on the ability of CLECs to use all the features, functions, and capabilities of collocated equipment, including but not limited to, switching and routing features and functions. SWBT may deny the collocation of equipment that is not necessary for either access to unbundled network elements or for interconnection, such as equipment used exclusively for switching or enhanced services. The collocating CLEC will certify in writing to SWBT that the equipment is used and useful for interconnection or access to unbundled network elements. (FCC – Paras. 28-30)
 2. SWBT will require that all equipment to be collocated in SWBT's "eligible structures" meets NEBS Level 1 safety requirements, but SWBT may not impose safety requirements on the CLECs that are more stringent than the safety requirements it imposes on its own equipment. (FCC – Para. 36)
 3. SWBT may not deny collocation of CLEC equipment because the equipment fails to meet NEBS reliability standards. (FCC – Para. 35)
- I. In each application for collocation, the CLEC shall submit a prioritized list of its preferred methods of collocating, consistent with the options outlined in Section I.D. In responding to such a request, SWBT shall advise the CLEC which of its preferred types of collocation is available and provide a price quote within the time interval defined in the tariff.

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- J. SWBT agrees to conform its Technical Publication(s) on Collocation to this agreement and to the amended tariffs within 45 days of Commission approval of the amended tariffs, and to submit the revised Technical Publication(s) to the Commission for approval prior to publication.

II. Provision of Unbundled Network Elements

- A. Except as modified below, SWBT agrees to make all unbundled network elements (UNEs) set forth in the AT&T Interconnection Agreement available for the term of the Proposed Interconnection Agreement.
- B. SWBT will, except as provided in this section, continue to provide combinations of network elements consistent with its obligations in the AT&T Interconnection Agreement at the applicable charges set forth in the AT&T Interconnection Agreement. For preexisting combined elements, SWBT will not apply a Central Office Access Charge but will apply all other recurring and nonrecurring charges and the electronic service order charge. For combinations requiring work by SWBT, the applicable recurring and nonrecurring charges will apply together with the Central Office Access Charge.
- C. **For service to business customers**, beginning two years after the Commission approves the Proposed Interconnection Agreement:
 - 1. If the FCC or the Commission determines or has determined that a certain network element need not be provided under Section 251(c)(3) of the FTA, either statewide or in a particular location or locations, SWBT may set the price of such network element(s) at a market level for the applicable areas.
 - 2. If the FCC or a court modifies or has modified the TELRIC methodology applicable to unbundled network elements, SWBT may renegotiate the applicable prices for unbundled network elements provided pursuant to Section 251(c)(3).

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3. In those SWBT central offices where there are four (4) or more CLECs collocated for which SWBT has provided UNEs, SWBT may elect to not combine UNEs that are not already combined in that central office. In that event, SWBT will request that all CLECs provide a one (1) year forecast of their expected demand for UNEs in that central office which each CLEC will combine outside of its existing or planned collocation arrangements. Within sixty (60) days of receipt of a CLEC's forecast, SWBT will construct a secured frame room in the central office or, if space is not available, external cross connect cabinet until space becomes available in the central office at no additional cost to the CLEC where the CLEC may combine UNEs. If a CLEC submits such a forecast, SWBT will continue to combine UNEs until the secured frame room or external cross connect cabinet is made available to the CLEC. However, if at any time after a secured frame room or external cross connect cabinet is made available, SWBT is unable to meet a CLEC's forecasted demand for UNEs to be combined through use of these arrangements due to a lack of capacity, SWBT will resume combining UNEs for that CLEC until capacity can be provided. If a CLEC fails to submit such a forecast, SWBT will no longer combine UNEs that are not already combined.
 4. SWBT may not substitute the above described methods of combining UNEs for its own continued performance of such connections at cost based rates if the FCC or reviewing court has determined that the ILECs have an obligation to perform such connections.
- D. **For service to residential customers**, beginning three years after the Commission approves the Proposed Interconnection Agreement:
1. If the FCC or the Commission determines that a certain network element need not be provided under Section 251(c)(3) of the FTA, either statewide or in a particular location or locations, SWBT may set the price of such network element(s) at a market level for the applicable

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areas. In pricing the unbundled network element platform under this provision, SWBT shall not increase the total price of the platform by more than twenty (20) percent each year.

2. If the FCC or a court modifies or has modified the TELRIC methodology applicable to unbundled network elements, SWBT may renegotiate the applicable prices for those unbundled network elements provided pursuant to Section 251(c)(3).
- E. To the extent the FCC by rule or the Commission by arbitration, authorizes new unbundled network elements, SWBT will provide such elements, consistent with the terms of this Section, pursuant to a negotiated or arbitrated appendix to the Proposed Interconnection Agreement.
- F. Consistent with its obligations under the AT&T Interconnection Agreement and this Section, SWBT will provide dark fiber as an unbundled network element subject to the provisions of Section II.C.
- G. Enhanced Extended Loop (EEL)
- Consistent with Sections II. C.1. and 2. and II. D. 1. and 2. above:
1. SWBT agrees to combine unbundled loops with unbundled dedicated transport as described herein to provide enhanced extended loop. SWBT will cross-connect unbundled 2 or 4-wire analog or 2-wire digital loops to unbundled voice grade/DS0, DS1, or DS3 dedicated transport facilities (DS0 dedicated transport is only available between SWBT central offices) for the CLEC's provision of circuit switched or packet switched telephone exchange service to the CLECs' own end-user customers. SWBT will also cross-connect unbundled 4-wire digital loops to unbundled DS1, or DS3 dedicated transport facilities for the CLEC's provision of circuit switched telephone exchange service to the CLECs' own end-user customers.

2. The dedicated transport facility will extend from the CLEC customer's SWBT serving wire center to either the CLEC's collocation cage in a different SWBT central office (in which case, no dedicated transport entrance facility is necessary) or to the CLEC's point of access through a dedicated transport entrance facility. CLECs must order the dedicated transport facility, with any necessary multiplexing, from the CLEC's collocation cage or the CLEC's switch location to the wire center serving the CLEC's end user customer. The CLEC will order each loop as needed and provide SWBT with the Channel Facility Assignment (CFA) to the dedicated transport.
3. Alternatively, a CLEC may cross-connect unbundled loops with the unbundled dedicated transport facilities in its physical collocation space utilizing its own equipment or through the secured frame room in the central office, or if space is not available, in an external cross-connect cabinet until space becomes available in the central office. CLECs wishing to use this option will provide a rolling 12 month forecast, updated every six (6) months, of their expected demand for unbundled loops to be connected with the unbundled dedicated transport facilities in each central office in which the CLEC will combine outside of its existing or planned collocation arrangements. Within sixty (60) days of receipt of a CLEC's forecast for a given central office, SWBT will construct, at no additional cost to the CLEC, a secured frame room in the central office, or, if space is not available, external cross connect cabinet until space becomes available in the central office, where the CLEC may combine unbundled loops with the unbundled dedicated transport facilities. If a CLEC submits such a forecast, SWBT will temporarily combine unbundled loops with the unbundled dedicated transport facilities until the secured frame room or external cross connect cabinet is made available to the CLEC. When the secured frame room or external cross connect cabinet is made available, the CLEC will, within ninety (90) days after providing a forecast for a particular central office or thirty (30) days after receiving appropriate terminal assignment information

to place connections on the secured frame, whichever is later, replace the temporary connections made by SWBT, effectively half-tapping the existing temporary connections so that the temporary connection can be removed without interrupting the end user's service. When notified by the CLEC that its connections are complete within the period described above, SWBT will remove its temporary connections. If the CLEC fails to notify SWBT that it has placed its connections on the secured frame during that period, SWBT will charge the CLEC the applicable special access recurring and nonrecurring rates, in lieu of the UNE rates. Such special access charges shall be retroactive to the date SWBT began combining the UNEs for the CLEC pursuant to this paragraph. If at any time after a secured frame room or external cross connect cabinet is made available, SWBT is unable to meet a CLEC's forecasted demand for use of these arrangements due to a lack of capacity, SWBT will again temporarily combine unbundled loops with the unbundled dedicated transport facilities as an interim arrangement for that CLEC until capacity can be provided. When capacity is made available, temporary connections performed by SWBT will be removed as described above.

If a CLEC submits forecasts pursuant to this section, and fails to meet fifty percent (50%) of its submitted forecast for any central office, such CLEC will pay SWBT the reasonable costs associated with the unused capacity of the secured frame for that office.

- H. The Proposed Interconnection Agreement will provide that for purposes of this Section and, for the time period(s) specified in this Section, SWBT agrees to waive the right to assert that it need not provide pursuant to the "necessary and impair" standards of Section 251(d)(2), a network element now available under the terms of the AT&T Interconnection Agreement and/or its rights with regard to the combination of any such network elements that are already assembled. Except as provided in subsection (E) above, any CLEC wishing to "opt into" the UNE provisions of the Proposed Interconnection

Agreement agrees that the UNE provisions of the Proposed Interconnection Agreement are non-severable and "legitimately related" for purposes of Section 252(i). Accordingly, any requesting CLEC agrees to take the UNE provisions of the Proposed Interconnection Agreement in their entirety, without change, alteration or modification, waiving its rights to "pick and choose" UNE provisions from other agreements under Section 252(i). This mutual waiver of rights by the parties will constitute additional consideration for the Proposed Interconnection Agreement.

SWBT's agreement as set out above is expressly conditioned on a finding by the Commission that the UNE provisions of the Proposed Interconnection Agreement are non-severable and "legitimately related" for purposes of Section 252(i).

Any CLEC that does not wish to take the UNE provisions of the Proposed Interconnection Agreement may exercise its rights under Section 252(i) to "opt into" other "legitimately related" sections or portions of the Proposed Interconnection Agreement

III. Appeals

- A. SWBT agrees to dismiss with prejudice its appeal SWBT v. AT&T and the Public Utility Commission of Texas, Case Nos. 98-51005, 99-50060, and 99-50073, U.S. Court of Appeals, Fifth Circuit.
- B. SWBT will remove the protest language from the Physical and Virtual Collocation Tariffs. SWBT will not include any protest language in the Proposed Interconnection Agreement.
- C. SWBT reserves all rights to contest any order or decision requiring the payment of reciprocal compensation for ISP traffic, including the right to seek refunds or to implement a new system of reciprocal compensation, pursuant to regulatory or judicial approval.
- D. SWBT reserves the right to appeal any state or federal regulatory decision, but, absent a stay or reversal, will comply with any such final decision as expressly set forth herein.

- E. Nothing in this Agreement limits SWBT's right or ability to participate in any proceedings regarding the proper interpretation and/or application of the FTA.

IV. Reciprocal Compensation

The Proposed Interconnection Agreement will provide the following options for reciprocal compensation:

- A. A CLEC may "MFN" into the reciprocal compensation arrangements contained in the existing AT&T interconnection agreement for the life of that agreement.
- B. A CLEC may elect either of the following:
 - 1. SWBT offers and a CLEC may elect, subject to mutually agreeable audit provisions, a reciprocal compensation arrangement for the transport and termination of local wireline traffic based upon a bill and keep arrangement and a meet point billing arrangement for ISP traffic, or in the alternative;
 - 2. A CLEC may elect to negotiate, and if necessary submit for arbitration, alternative reciprocal compensation arrangements for the transport and termination of local wireline traffic and ISP traffic as allowed by federal law.

V. xDSL-Based and Other Advanced Services Technology ("Loop Technologies")

- A. For loop technologies that comply with existing industry standards will be presumed acceptable for deployment, including: T1.601, T1.413, and TR28. Additionally any loop technology specifically approved by the FCC or any state regulatory commission; a technology approved by an industry standards body; a technology which has been successfully deployed by any carrier without significantly degrading the performance of other services will be presumed acceptable for deployment.

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1. The term "significantly degrade" means noticeable impairment of service from a user's perspective. The Commission shall determine whether a technology significantly degrades the performance of other services. As industry standards are ratified for new technologies, such technologies will be presumed acceptable for deployment.
 2. CLECs wishing to introduce a technology that has been approved by another state commission, or successfully deployed elsewhere will provide documentation to SWBT and the Commission before or coincident with their request to deploy such technology. Documentation should include the date of state approval or deployment of the technology, any limitations included in its deployment, and proof that deployment did not significantly degrade the performance of other services.
- B. SWBT shall not deny a carrier's request to deploy any of the loop technologies listed in paragraph A. above unless it has demonstrated to the Commission that the CLEC's deployment of its loop technology will significantly degrade the performance of other advanced services or traditional voice band services. In the event SWBT rejects a CLEC request for provisioning of advanced services, SWBT must disclose to the requesting carrier information with respect to the rejection, together with the specific reason for the rejection.
- C. For a twelve-month period commencing on the date of Commission approval of the Proposed Interconnection Agreement, a CLEC may order loops for the provision of service other than those listed in Paragraph A. above on a trial basis without the need to make any showing to the Commission. Each technology trial will not be deemed successful until it has been deployed without significant degradation for 12 months or until national standards have been established, whichever occurs first. A CLEC that provisions loop technologies described in this Section shall assume full and sole responsibility for any damage, service interruption or other telecommunications service degradation effects and will indemnify SWBT for any damages to SWBT's facilities, as well

as any other claims for damages, including but not limited to direct, indirect or consequential damages made upon SWBT by any provider of telecommunications services or telecommunications user (other than any claim for damages or losses alleged by an end-user of SWBT for which SWBT shall have sole responsibility and liability), when such arises out of, or results from, the use of such loop technologies, described in this Section C. Further, the CLEC agrees that it will undertake to defend SWBT against and assume payment for all costs or judgments arising out of any such claims made against SWBT resulting from the provisioning of services under this Section C. SWBT shall provide the same indemnification should it provide services under Section C.

The CLEC deploying loop technology pursuant to this Section, as well as any CLEC opting into the "Proposed Interconnection Agreement," agrees not to contend in any other state that the loop technology deployed on a trial basis pursuant to this Section has been "successfully deployed" as that term is used in paragraph 67 of FCC 99-48.

- D. One year from date of Commission approval of the Proposed Interconnection Agreement for deployment of loop technologies other than those listed in paragraph A. above, SWBT will not deny a requesting CLEC's right to deploy a new loop technology if the requesting CLEC can demonstrate to the Commission that the loop technology will not significantly degrade the performance of other advanced services or traditional voice band services. (FCC 99-48 Para. 69)
- E. SWBT will not guarantee that the local loop ordered will perform as desired by the CLEC for XDSL-based or other advanced services, but will guarantee basic metallic loop parameters including continuity, and pair balance.
- F. SWBT will assign loops so as to minimize interference between and among advanced services, including xDSL-based services, and other services. In all cases, SWBT will manage spectrum in a competitively neutral manner consistent with all relevant industry standards.

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- G. With respect to loop technologies included in paragraphs A, C and D above, and to the extent no national industry standards for spectrum management for these loop technologies have been issued, SWBT, CLECs and the Commission shall jointly establish long-term competitively neutral spectral compatibility standards and spectrum management rules and practices so that all carriers know the rules for loop technology deployment. The standards, rules and practices shall be developed to maximize the deployment of new technologies within binder groups while minimizing interference, and shall be forward-looking and able to evolve over time to encourage innovation and deployment of advanced services. These standards to be used until such time as [national] industry standards exist. CLECs that offer xDSL-based service consistent with mutually agreed-upon standards developed by the industry in conjunction with the Commission, or by the Commission in the absence of industry agreement, may order local loops based on agreed-to performance characteristics. SWBT will assign the local loop consistent with the agreed-to spectrum management standards.
- H. Within a reasonable period of time after general availability of equipment conforming to industry standards or the mutually agreed upon standards developed by the industry in conjunction with the Commission, a CLEC or SWBT providing non-standard xDSL or other advanced service must bring its service and equipment into compliance with the standard at its own expense.
- I. If SWBT or another CLEC claims that a service is significantly degrading the performance of other advanced services or traditional voice band services, then SWBT or that other CLEC must notify the causing carrier and allow that carrier a reasonable opportunity to correct the problem. Any claims of network harm must be supported with specific and verifiable supporting information. In the event that SWBT or a CLEC demonstrates to the Commission that a deployed technology is significantly degrading the performance of other advanced services or traditional voice band services, the carrier deploying the technology shall discontinue deployment of that technology

and migrate its customers to technologies that will not significantly degrade the performance of other such services.

- J. SWBT agrees that as a part of spectrum management it will maintain an inventory of the existing services provisioned on the cable, and manage the spectrum in a non-discriminatory manner regardless of whether the service is provided by a CLEC or by SWBT. SWBT agrees that where disputes arise, it will put forth a good faith effort to resolve such disputes in a timely manner. As a part of the dispute resolution process SWBT concurs that it will disclose information as detailed in paragraph 2 below so that the involved parties may examine the deployment of services within the affected loop plant. [FCC 99-48 Para 73]
1. For xDSL-based and other advanced services technologies, a CLEC will advise SWBT of the type of specific technology(ies) (including PSD masks) the CLEC intends to provision over an unbundled SWBT loop.
 2. SWBT will disclose within 3 to 5 business days to a requesting CLEC information with respect to the number of loops using advanced services technology within the binder group and the type of technology deployed on those loops.
- K. Effective April 4, 1999, SWBT began providing mechanized access to a loop length indicator for use with xDSL-based or other advanced services in specific SWBT wire centers via enhancements to Verigate and Datagate upon a request by a CLEC which is collocated or has ordered collocation in a wire center and has advised SWBT of its intent to order DSL capable loops. This information, available through Verigate and Datagate, is an indication of the approximate loop length, based on a 26 gauge equivalent and calculated on the basis of Distribution Area distance from the central office.
- L. To the extent SWBT is technically able to access the following in its retail operations, SWBT will develop and deploy mechanized and integrated Operations Support Systems that will permit: (1) real-time CLEC access through an electronic

gateway to a database that contains the loop makeup information; (2) mechanized, flow-through ordering, loop design, and provisioning for any xDSL loop type listed in the table above. SWBT, the Commission and CLECs shall jointly pursue, in a timely manner, an industry standard mechanized OSS solution to accessing loop qualification data. (271 approval is not contingent upon completion of this mechanized ordering OSS feature).

- M. SWBT shall provision and install CLEC loops at an interval that is at parity with the actual intervals achieved by SWBT retail or its affiliates.
- N. In the event that the FCC or the industry establishes long-term standards and practices and policies relating to spectrum compatibility and spectrum management that differ from those established pursuant to paragraph D. above, SWBT agrees to comply with the FCC and/or industry standards and practices and policies.

VI. MLT Testing

SWBT agrees to provide access to MLT testing to allow CLECs to test their end users' lines for which SWBT combines UNEs, for CLECs that combine UNEs they obtain from SWBT, and for CLECs that resell SWBT services as follows:

- A. On January 1, 1998 and January 1, 1997, respectively, SWBT made available MLT testing functionality through SWBT's Toolbar Trouble Administration to allow CLECs to test their end-user lines for which SWBT combines POTS-like UNEs (analog line side port and 2-wire 8db analog loop) purchased by CLEC from SWBT and CLEC's that resell SWBT POTS services.
- B. By March 31, 1999, SWBT will make MLT testing functionality available through its Toolbar Trouble Administration to allow CLECs to test their end user lines for CLEC's that combine POTS-like UNEs (analog line side port and 2-wire 8db analog loop) purchased from SWBT.

VII. Performance Measurements

- A. 20 days prior to its filing with the FCC for interLATA authority under Section 271, SWBT will provide three months of validated data where the sample size is 10 or greater for each reported measurement per CLEC per month, that is collected and reported on a disaggregated basis for all the performance measurements established by the Commission in Project No. 16251, with the exception of those performance measures established after 1-1-99 and those which require new systems or modification of existing systems such as NXX and 911.
- B. 90% of the validated Tier-2 performance measurement results where the sample size is 10 or greater for each reported measurement per month aggregated for all CLECs should demonstrate parity or compliance with the associated benchmark for two months of the relevant three-month period. However, SWBT will not be responsible for CLEC acts or omissions that caused performance measures to be missed, e.g., accumulation and submission of orders at unreasonable quantities or times, and SWBT shall have the opportunity to present proof of such CLEC acts or omissions.
- C. SWBT agrees to the Performance Remedy Plan established in the collaborative process which is attached as Schedules 1, 2 and 3.
- D. The Commission will resolve the following issues as noted:
 - 1. The business rules for the Commission-approved performance measures will be completed by May 31, 1999 in Project 16251.
 - 2. Performance measure No. 2 for EDI pre-ordering and data validation for the performance measures will be addressed in Docket No. 20000, consistent with the time frames in that Docket.
 - 3. Performance measurements for xDSL will be finalized within 30 days after the Arbitrators' award in Docket Nos. 20226 and 20272 currently pending before the Commission.

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- E. It is the intention of the parties that no later than two years after SWBT or its affiliate receives Section 271 relief, the number of performance measures subject to damages and assessments should be reduced by at least 50%.
- F. SWBT will not be liable for the payment of either Tier 1 damages or Tier 2 assessments until the Commission approves the Proposed Interconnection Agreement between a CLEC and SWBT. Tier 2 assessments will only be paid on the aggregate performance for CLECs that are operating under the Proposed Interconnection Agreement.
- G. SWBT agrees with the revised performance measure standards for FOCs (Nos. 5 and 6); LNP (Nos. 1-11); Trunk Blockage (Nos. 70-71); and Trunk Measurements (Nos. 75 and 78); attached hereto as Schedule 4.
- H. In addition to the provisions set forth in the Performance Remedy Plan, SWBT shall not be obligated to pay liquidated damages or assessments for noncompliance with a performance measure if the Commission finds such noncompliance was the result of an act or omission by a CLEC that is in bad faith, for example, unreasonably holding orders and/or applications and "dumping" such orders or applications in unreasonably large batches, at or near the close of a business day, on a Friday evening or prior to a holiday, or unreasonably failing to timely provide forecasts to SWBT for services or facilities when such forecasts are required to reasonably provide such services or facilities; or non-SWBT Y2K problems.

VIII. Additional Agreement Terms

- A. SWBT has no obligation to implement the commitments set forth in this Memorandum unless the Commission finds that the terms and conditions of the Proposed Interconnection Agreement, when executed, meets the requirements of Section 271(c), conditioned only on the completion of Project No. 20000. Further, if the FCC rejects SWBT's 271 Application, or fails to approve SWBT's application by January 1, 2000, the commitments made in this Memorandum will be enforceable

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only for one-year from the date the Commission approves the Proposed Interconnection Agreement.

- B. Upon the FCC's approval of SWBT's 271 Application, the one-year term of the Proposed Interconnection Agreement will be automatically extended for an additional period of three years subject to the provisions of Section II (C) and (D), and Section III (C) and (D) of this Memorandum.
- C. SWBT agrees not to challenge the contractual commitments incorporating the terms and conditions of this Memorandum. To the extent that any other party or entity challenges the lawfulness of any provision of this Memorandum and a court determines that one or more provisions are unlawful, then this Memorandum and any contractual and regulatory commitments made pursuant to this Memorandum are null and void. In that event, the parties will have a period not to exceed 135 days in which to negotiate a replacement interconnection agreement.
- D. Along with the Proposed Interconnection Agreement, SWBT will file a document explaining its Section 252(i) "MFN" policy, outlining the sections or portions of the Proposed Interconnection Agreement that are "legitimately related" for purposes of allowing a CLEC to obtain access to any individual interconnection, service or network element available under the Proposed Interconnection Agreement.

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SWBT agrees with this two-tiered enforcement structure for performance measurements. The Commission approved performance measurements identify the measurements that belong to Tier-1 or Tier-2 categories, which are further, identified as the High, Low and Medium groups as those terms are used below and shown in Schedule-2.

SWBT concurs that the use of a statistical test, namely the modified "Z-test," for the difference between the two means (SWBT and CLEC) or two percentages, or the difference in the two proportions is appropriate for determining parity. SWBT agrees that the modified Z-tests as outlined below are the appropriate statistical tests for the determination of parity when the result for SWBT and the CLEC are compared. The modified Z-tests are applicable if the number of data points are greater than 30 for a given measurement. In cases where benchmarks are established, the determination of compliance is through the comparison of the measured performance delivered to the CLEC and the applicable benchmark. For testing compliance for measures for which the number of data points are 29 or less, although the use of permutation tests as outlined below is appropriate comparison of performance delivered to CLECs with SWBT performance as described in Alternative-1 under the "Qualifications to use Z-Test" heading below is preferred.

SWBT concurs that the definition of performance measure parity should be that the parity exists when the measured results in a single month (whether in the form of means, percents, or proportions) for the same measurement, at equivalent disaggregation, for both SWBT and CLEC are used to calculate a Z-test statistic and the resulting value is no greater than the critical Z-value as reflected in the Critical Z-statistic table shown below.

Z-Test:

SWBT agrees with the following formulae for determining parity using Z-Test:

For Measurement results that are expressed as Averages or Means:

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$$z = (\text{DIFF}) / \sigma_{\text{DIFF}}$$

Where;

$$\text{DIFF} = M_{\text{ILEC}} - M_{\text{CLEC}}$$

M_{ILEC} = ILEC Average

M_{CLEC} = CLEC Average

$$\sigma_{\text{DIFF}} = \text{SQRT} [\delta_{\text{ILEC}}^2 (1/n_{\text{CLEC}} + 1/n_{\text{ILEC}})]$$

σ_{ILEC}^2 = Calculated variance for ILEC.

n_{ILEC} = number of observations or samples used in ILEC measurement

n_{CLEC} = number of observations or samples used in CLEC measurement

For Measurement results that are expressed as Percentages or Proportions:

Step 1:

$$\rho = \frac{(n_{\text{ILEC}}P_{\text{ILEC}} + n_{\text{CLEC}}P_{\text{CLEC}})}{n_{\text{ILEC}} + n_{\text{CLEC}}}$$

Step 2:

$$\sigma_{P_{\text{ILEC}}-P_{\text{CLEC}}} = \text{sqrt}[[\rho(1-\rho)]/n_{\text{ILEC}} + [\rho(1-\rho)]/n_{\text{CLEC}}]$$

Step 3:

$$Z = (P_{\text{ILEC}} - P_{\text{CLEC}})/\sigma_{P_{\text{ILEC}}-P_{\text{CLEC}}}$$

Where: n = Number of Observations

P = Percentage or Proportion

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For Measurement results that are expressed as Rates or Ratio:

$$Z = (\text{DIFF}) / \sigma_{\text{DIFF}}$$

Where;

$$\text{DIFF} = R_{\text{ILEC}} - R_{\text{CLEC}}$$

$$R_{\text{ILEC}} = \text{num}_{\text{ILEC}} / \text{denom}_{\text{ILEC}}$$

$$R_{\text{CLEC}} = \text{num}_{\text{CLEC}} / \text{denom}_{\text{CLEC}}$$

$$\sigma_{\text{DIFF}} = \text{SQRT} [R_{\text{ILEC}} (1/\text{denom}_{\text{CLEC}} + 1/\text{denom}_{\text{ILEC}})]$$

Qualifications to use Z-Test:

The proposed Z- tests are applicable to reported measurements that contain 30 or more data points.

In calculating the difference between the performances the formula proposed above applies when a larger CLEC value indicates a higher quality of performance. In cases where a smaller CLEC value indicates a higher quality of performance the order of subtraction should be reversed (i.e., $M_{\text{CLEC}} - M_{\text{ILEC}}$, $P_{\text{CLEC}} - P_{\text{ILEC}}$, $R_{\text{CLEC}} - R_{\text{ILEC}}$).

For measurements where the applicable performance criterion is a benchmark rather than parity performance compliance will be determined by setting the denominator of the Z-test formula as one in calculating the Z-statistic.

For measurements where the performance delivered to CLEC is compared to SWBT performance and for which the number of data points are 29 or less, SWBT agrees to application of the following. alternatives for compliance.

Alternative 1: (preferred)

1. For measurements that are expressed as averages, performance delivered to a CLEC for each observation shall not exceed the ILEC averages plus the applicable critical Z-value. If the CLEC's performance is outside the ILEC average plus the critical Z-value and it is the second consecutive month, SWBT can utilize the Z-test as applicable for sample sizes 30 or greater or the permutation test to provide evidence of parity. If SWBT uses the Z-test for samples under 30, the CLEC can independently perform the permutation test to validate SWBT's results.

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2. For measurements that are expressed as percentages, the percentage for CLEC shall not exceed ILEC percentage plus the applicable critical Z-value. If the CLEC's performance is outside the ILEC percentage plus the critical Z-value and it is the second consecutive month, SWBT can utilize the Z-test as applicable for sample sizes 30 or greater or the permutation test to provide evidence of parity. If SWBT uses the Z-test for samples under 30, the CLEC can independently perform the permutation test to validate SWBT's results.

Alternative 2:

Permutation analysis will be applied to calculate the z-statistic using the following logic:

1. Choose a sufficiently large number T.
2. Pool and mix the CLEC and ILEC data sets
3. Randomly subdivide the pooled data sets into two pools, one the same size as the original CLEC data set (n_{CLEC}) and one reflecting the remaining data points, (which is equal to the size of the original ILEC data set or n_{ILEC}).
4. Compute and store the Z-test score (Z_s) for this sample.
5. Repeat steps 3 and 4 for the remaining T-1 sample pairs to be analyzed. (If the number of possibilities is less than 1 million, include a programmatic check to prevent drawing the same pair of samples more than once).
6. Order the Z_s results computed and stored in step 4 from lowest to highest.
7. Compute the Z-test score for the original two data sets and find its rank in the ordering determined in step 6.
8. Repeat the steps 2-7 ten times and combine the results to determine $P =$ (Summation of ranks in each of the 10 runs divided by 10T)
9. Using a cumulative standard normal distribution table, find the value Z_A such that the probability (or cumulative area under the standard normal curve) is equal to P calculated in step 8.
10. Compare Z_A with the desired critical value as determined from the critical Z table. If $Z_A >$ the designated critical Z-value in the table, then the performance is non-compliant.

SWBT and the CLECs jointly will provide software and technical support as needed by Commission Staff for purposes of utilizing the permutation analysis.

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Overview of Enforcement Structure

SWBT agrees with the following methodology for developing the liquidated damages and penalty assessment structure for tier-1 liquidated damages and tier-2 assessments:

Liquidated Damages payable to the CLEC should be available as self-executing damages as a part of a contractual obligation. Liquidated damages apply to Tier-1 measurements identified as High, Medium, or Low on Schedule-2.

Assessments are applicable to Tier-2 measures identified as High, Medium, or Low on Schedule-2 and are payable to the Texas State Treasury.

Procedural Safeguards and Exclusions

SWBT agrees that the application of the assessments and damages provided for herein is not intended to foreclose other noncontractual legal and regulatory claims and remedies that may be available to a CLEC. By incorporating these liquidated damages terms into an interconnection agreement, SWBT and CLEC agree that proof of damages from any "noncompliant" performance measure would be difficult to ascertain and, therefore, liquidated damages are a reasonable approximation of any contractual damage resulting from a non-compliant performance measure. SWBT and CLEC further agree that liquidated damages payable under this provision are not intended to be a penalty.

SWBT's agreement to implement these enforcement terms, and specifically its agreement to pay any "liquidated damages" or "assessments" hereunder, will not be considered as an admission against interest or an admission of liability in any legal, regulatory, or other proceeding relating to the same performance. The Proposed Interconnection Agreement will contain language whereby SWBT and the CLEC(s) agree that the CLEC(s) may not use: (1) the existence of this enforcement plan; or (2) SWBT's payment of Tier-1 "liquidated damages" or Tier-2 "assessments" as evidence that SWBT has discriminated in the provision of any facilities or services under Sections 251 or 252, or has violated any state or federal law or regulation. SWBT's conduct underlying its performance measures, and the

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performance data provided under the performance measures, however, are not made inadmissible by these terms. Any CLEC accepting this performance remedy plan agrees that SWBT's performance with respect to this remedy plan may not be used as an admission of liability or culpability for a violation of any state or federal law or regulation. Further, any liquidated damages payment by SWBT under these provisions is not hereby made inadmissible in any proceeding relating to the same conduct where SWBT seeks to offset the payment against any other damages a CLEC might recover; whether or not the nature of damages sought by the CLEC is such that an offset is appropriate will be determined in the related proceeding. The terms of this paragraph do not apply to any proceeding before the Commission or the FCC to determine whether SWBT has met or continues to meet the requirements of section 271 of the Act.

SWBT shall not be liable for both Tier-2 "assessments" and any other assessments or sanctions under PURA or the Commission's service quality rules relating to the same performance.

Every six months, SWBT, CLECs, and Commission representatives will review the performance measures to determine whether measurements should be added, deleted, or modified; whether the applicable benchmark standards should be modified or replaced by parity standards; and whether to move a classification of a measure to High, Medium, Low, Diagnostic, Tier-1 or Tier-2. The criterion for reclassification of a measure shall be whether the actual volume of data points was lesser or greater than anticipated. Criteria for review of performance measures, other than for possible reclassification, shall be whether there exists an omission or failure to capture intended performance, and whether there is duplication of another measurement. Performance measures for 911 may be examined at any six month review to determine whether they should be reclassified. The first six-month period will begin when an interconnection agreement including this remedy plan is adopted by a CLEC and approved by the Commission. Any changes to existing performance measures and this remedy plan shall be by mutual agreement of the parties and, if necessary, with respect to new measures and their appropriate classification, by arbitration. The current measurements and benchmarks will be in effect until modified hereunder or expiration of the interconnection agreement.

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Exclusions Limited

SWBT shall not be obligated to pay liquidated damages or assessments for noncompliance with a performance measurement if, but only to the extent that, such noncompliance was the result of any of the following: a Force Majeure event; an act or omission by a CLEC that is contrary to any of its obligations under its interconnection agreement with SWBT or under the Act or Texas law; or non-SWBT problems associated with third-party systems or equipment, which could not have been avoided by SWBT in the exercise of reasonable diligence. Provided, however, the third party exclusion will not be raised more than three times within a calendar year. SWBT will not be excused from payment of liquidated damages or assessments on any other grounds, except by application of the procedural threshold provided for below. Any dispute regarding whether a SWBT performance failure is excused under this paragraph will be resolved with the Commission through a dispute resolution proceeding under Subchapter Q of its Procedural Rules or, if the parties agree, through commercial arbitration with the American Arbitration Association. SWBT will have the burden in any such proceeding to demonstrate that its noncompliance with the performance measurement was excused on one of the grounds set forth in this paragraph.

An overall cap of \$ 120 million per year for Tier-1 liquidated damages and Tier-2 Assessments is appropriate. However, whenever SWBT Tier-1 payments to an individual CLEC in a month exceed \$ 3 million, or for all CLECs Tier-1 payments (in a month) exceed \$ 10 million then SWBT may commence a show cause proceeding as provided for below. Upon timely commencement of the show cause proceeding, SWBT must pay the balance of damages owed in excess of the threshold amount into escrow, to be held by a third party pending the outcome of the show cause proceeding. To invoke these escrow provisions, SWBT must file with the Commission, not later than the due date of the affected damages payments, an application to show cause why it should not be required to pay any amount in excess of the procedural threshold. SWBT's application will be processed in an expedited manner under Subchapter Q of the Commission's Procedural Rules. SWBT will have the burden of proof to demonstrate why, under the circumstances, it would be unjust to require it to pay liquidated damages in excess of the applicable threshold amount. If SWBT reports non-compliant performance to a CLEC for three consecutive months on 20% or more of the measures reported to the CLEC, but SWBT has incurred no more than \$ 1 million

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in liquidated damages obligations to the CLEC for that period under the enforcement terms set out here, then the CLEC may commence an expedited dispute resolution under this paragraph pursuant to Subchapter Q of the Commission's Procedural Rules. In any such proceeding the CLEC will have the burden of proof to demonstrate why, under the circumstances, justice requires SWBT to pay damages in excess of the amount calculated under these enforcement terms.

With respect to any interconnection agreement, SWBT and any CLEC may request two expedited dispute resolution proceedings pursuant to the two preceding paragraphs before the Commission or, if the parties agree, through commercial arbitration with the American Arbitration Association (AAA); during the term of the contract without having to pay attorneys fees to the winning company; for the third proceeding and thereafter, the requesting party must pay attorneys fees, as determined by the Commission or AAA, if that party loses.

In the event the aggregate amount of Tier-1 damages and Tier-2 assessments reach the \$120 million cap within a year and SWBT continues to deliver non-compliant performance during the same year to any CLEC or all CLECs, the Commission may recommend to the FCC that SWBT should cease offering in-region interLATA services to new customers.

Tier-1 Damages:

Tier-1 liquidated damages apply to measures designated in Attachment-1 as High, Medium, or Low when SWBT delivers "non-compliant" performance as defined above.

Under the damages for Tier-1 measures, the number of measures that may be classified as "non-compliant" before a liquidated damage is applicable is limited to the K values shown below. The applicable K value is determined based upon the total number of measures with a sample size of 10 or greater that are required to be reported to a CLEC where a sufficient number of observations exist in the month to permit parity conclusions regarding a compliant or non-compliant condition. For any performance measurement, each disaggregated category for which there are a minimum of 10 data points constitutes one "measure" for

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purposes of calculating K value. The designated K value and the critical Z-value seek to balance random variation, Type-1 and Type-2 errors. Type-1 error is the mistake of charging an ILEC with a violation when it may not be acting in a discriminatory manner (that is, providing non-compliant performance). Type-2 error is the mistake of not identifying a violation when the ILEC is providing discriminatory or non-compliant performance.

Liquidated damages in the amount specified in the table below apply to all “non-compliant” measures in excess of the applicable “K” number of exempt measures. Liquidated damages apply on a per occurrence basis, using the amount per occurrence taken from the table below, based on the designation of the measure as High, Medium, or Low in Schedule-2 and the number of consecutive months for which SWBT has reported noncompliance for the measure. For those measures listed on Schedule-3 as “Measurements that are subject to per occurrence damages or assessments with a cap,” the amount of liquidated damages in a single month shall not exceed the amount listed in the table below for the “Per measurement” category. For those measures listed on Schedule-3 as “Measurements that are subject to per measure damages or assessment,” liquidated damages will apply on a per measure basis, at the amounts set forth in the table below. The methodology for determining the order of exclusion, and the number of occurrences is addressed in “Methods of calculating the liquidated damages and penalty amounts,” below.

LIQUIDATED DAMAGES TABLE FOR TIER-1 MEASURES

Per occurrence						
Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
High	\$150	\$250	\$500	\$600	\$700	\$800
Medium	\$75	\$150	\$300	\$400	\$500	\$600
Low	\$25	\$50	\$100	\$200	\$300	\$400

Per Measure/Cap						
Measurement Group	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
High	\$25,000	\$50,000	\$75,000	\$100,000	\$125,000	\$150,000
Medium	\$10,000	\$20,000	\$30,000	\$40,000	\$50,000	\$60,000
Low	\$5,000	\$10,000	\$15,000	\$20,000	\$25,000	\$30,000

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ASSESSMENT TABLE FOR TIER-2 MEASURES

Per occurrence

Measurement Group	
High	\$500
Medium	\$300
Low	\$200

Per Measure/Cap

Measurement Group	
High	\$75,000
Medium	\$30,000
Low	\$20,000

Tier-2 Assessments to the State:

Assessments payable to the Texas State Treasury apply to the Tier-2 measures designated on Schedule-2 as High, Medium, or Low when SWBT performance is out of parity or does not meet the benchmarks for the aggregate of all CLEC data. Specifically, if the Z-test value is greater than the Critical Z, the performance for the reporting category is out of parity or below standard.

For those Measurements where a per occurrence assessment applies, an assessment as specified in the Assessment Table; for each occurrence is payable to the Texas State Treasury for each measure that exceeds the Critical Z-value, shown in the table below, for three consecutive months. For those Measurements listed in Schedule-3 as measurements subject to per occurrence with a cap, an assessment as shown in the Assessment Table above for each occurrence with the applicable cap is payable to the Texas State Treasury for each measure that exceeds the Critical Z-value, shown in the table below, for three consecutive months. For those Tier-2 Measurements listed in Schedule-3 as subject to a per measurement assessment an assessment amount as shown in the Assessment Table above is payable to the Texas State Treasury for each measure that exceeds the Critical Z-value, shown in the table below, for three consecutive months.

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The following table will be used for determining the Critical Z-value for each measure, as well as the K values referred to below based on the total number of measures that are applicable to a CLEC in a particular month. The table can be extended to include CLECs with fewer performance measures.

Critical Z - Statistic Table

Number of Performance Measures	K Values	Critical Z-value
10-19	1	1.79
20-29	2	1.73
30-39	3	1.68
40-49	3	1.81
50-59	4	1.75
60-69	5	1.7
70 -79	6	1.68
80 - 89	6	1.74
90 - 99	7	1.71
100 - 109	8	1.68
110 -119	9	1.7
120 - 139	10	1.72
140 - 159	12	1.68
160 - 179	13	1.69
180 - 199	14	1.7
200 - 249	17	1.7
250 - 299	20	1.7
300 - 399	26	1.7
400 - 499	32	1.7
500 - 599	38	1.72
600 - 699	44	1.72
700 - 799	49	1.73
800 - 899	55	1.75
900 - 999	60	1.77
1000 and above	Calculated for Type-1 Error Probability of 5%	Calculated for Type-1 Error Probability of 5%

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General Assessments:

If SWBT fails to submit performance reports by the 20th day of the month, the following assessments apply unless excused for good cause by the Commission:

If no reports are filed, \$5,000 per day past due;

If incomplete reports are filed, \$1,000 per day for each missing performance results.

If SWBT alters previously reported data to a CLEC, and after discussions with SWBT the CLEC disputes such alterations, then the CLEC may ask the Commission to review the submissions and the Commission may take appropriate action. This does not apply to the limitation stated under the section titled "Exclusions Limited."

When SWBT performance creates an obligation to pay liquidated damages to a CLEC or an assessment to the State under the terms set forth herein, SWBT shall make payment in the required amount on or before the 30th day following the due date of the performance measurement report for the month in which the obligation arose (e.g., if SWBT performance through March is such that SWBT owes liquidated damages to CLECs for March performance, or assessments to the State for January – March performance, then those payments will be due May 15, 30 days after the April 15 due date for reporting March data). For each day after the due date that SWBT fails to pay the required amount, SWBT will pay interest to the CLEC at the maximum rate permitted by law for a past due liquidated damages obligation and will pay an additional \$3,000 per day to the Texas State Treasury for a past due assessment.

SWBT may not withhold payment of liquidated damages to a CLEC, for any amount up to \$3,000,000 a month, unless SWBT had commenced an expedited dispute resolution proceeding on or before the payment due date, asserting one of the three permitted grounds for excusing a damages payment below the procedural threshold (Force Majeure, CLEC fault, and non-SWBT problems associated with third-party systems or equipment). In order to invoke the procedural threshold provisions allowing for escrow of damages obligations in excess of \$ 3,000,000 to a single CLEC (or \$ 10,000,000 to all CLECs), SWBT must pay the threshold

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amount to the CLEC(s), pay the balance into escrow, and commence the show cause proceeding on or before the payment due date.

Methods of Calculating the Liquidated Damage and Assessment Amounts

The following methods apply in calculating per occurrence liquidated damage and assessments:

Tier-1 Liquidated Damages

Application of K Value Exclusions

Determine the number and type of measures with a sample size greater than 10 that are "non-compliant" for the individual CLEC for the month, applying the parity test and bench mark provisions provided for above. Sort all measures having non-compliant classification with a sample size greater than 10 in ascending order based on the number of data points or transactions used to develop the performance measurement result (e.g., service orders, collocation requests, installations, trouble reports). Exclude the first "K" measures designated Low on Schedule-2, starting with the measurement results having the fewest number of underlying data points greater than 10. If all Low measurement results with a non-compliant designation are excluded before "K" is exceeded, then the exclusion process proceeds with the Medium measurement results and thereafter the High measurement results. If all Low, Medium and High measurements are excluded, then those measurements with sample sizes less than 10 may be excluded until "K" measures are reached. In each category measurement results with non-compliant designation having the fewest underlying data point are then excluded until either all non-compliant measurement results are excluded or "K" measures are excluded, whichever occurs first. For the remaining non-compliant measures that are above the K number of measures, the liquidated damages per occurrence are calculated as described further below. (Application of the K value may be illustrated by an example, if the K value is 6, and there are 7 Low measures and 1 Medium and 1 High which exceed the Critical Z-value, the 6 Low measures with the lowest number of service orders used to develop the performance measure are not used to calculate the liquidated damages, while the remaining Low measures and 2 Medium and High measures which exceed the critical Z-value are used.) In applying the K value, the following qualifications apply to the general rule for excluding measures by progression from measures

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with lower transaction volumes to higher. A measure for which liquidated damages are calculated on a per measure basis will not be excluded in applying the K value unless the amount of liquidated damages payable for that measure is less than the amount of liquidated damages payable for each remaining measure. A measure for which liquidated damages are calculated on a per occurrence basis subject to a cap will be excluded in applying the K value whenever the cap is reached and the liquidated damages payable for the remaining non-compliant measures are greater than the amount of the cap.

Calculating Tier-1 Liquidated Damages

Measures for Which the Reporting Dimensions are Averages or Means.

Step 1: Calculate the average or the mean for the measure for the CLEC that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measures, substitute the benchmark value for the value calculated in the preceding sentences).

Step 2: Calculate the percentage difference the between the actual average and the calculated average.

Step 3: Multiply the total number of data points by the percentage calculated in the previous step and the per occurrence dollar amount taken from the Liquidated Damages Table to determine the applicable liquidated damages for the given month for that measure.

Measures for Which the Reporting Dimensions are Percentages.

Step 1: Calculate the percentage for the measure for the CLEC that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measures, substitute the benchmark value for the value calculated in the preceding sentences).

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Step 2: Calculate the difference between the actual percentage for the CLEC and the calculated percentage.

Step 3: Multiply the total number of data points by the difference in percentage calculated in the previous step and the per occurrence dollar amount taken from the Liquidated Damages Table to determine the applicable liquidated damages for the given month for that measure.

Measures for Which the Reporting Dimensions are Ratios or Proportions.

Step 1: Calculate the ratio for the measure for the CLEC that would yield the Critical Z-value. Use the same denominator as the one used in calculating the Z-statistic for the measure.

Step 2: Calculate the percentage difference between the actual ratio for the CLEC and the calculated ratio.

Step 3: Multiply the total number of data points by the percentage calculated in the previous step and the per occurrence dollar amount taken from the Liquidated Damages Table to determine the applicable liquidated damages for the given month for that measure.

Tier-2 Assessments

Determine the Tier-2 measurement results, such as High, Medium, or Low that are non-compliant for three consecutive months for all CLECs, or individual CLEC if the measure is not reported for all CLECs.

If the non-compliant classification continues for three consecutive months, an additional assessment will apply in the third month and in each succeeding month as calculated below, until SWBT reports performance that meets the applicable criterion. That is, Tier-2 assessments will apply on a "rolling three month" basis, one assessment for the average number of occurrences for months 1-3, one assessment for the average number of occurrences for months 2-4, one assessment

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for the average number of occurrences for months 3-5, and so forth, until satisfactory performance is established.

Measures for Which the Reporting Dimensions are Averages or Means.

- Step 1: Calculate the average or the mean for the measure for the CLEC that would yield the Critical Z-value for the third consecutive month. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measures, substitute the benchmark value for the value calculated in the preceding sentences).
- Step 2: Calculate the percentage difference between the actual average and the calculated average for the third consecutive month.
- Step 3: Multiply the total number of data points by the percentage calculated in the previous step. Calculate the average for three months and multiply the result by \$500, \$300, and \$200 for Measures that are designated as High, Medium, and Low respectively; to determine the applicable assessment payable to the Texas State Treasury for that measure.

Measures for Which the Reporting Dimensions are Percentages.

- Step 1: Calculate the percentage for the measure for the CLEC that would yield the Critical Z-value for the third consecutive month. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measures, substitute the benchmark value for the value calculated in the preceding sentences).
- Step 2: Calculate the difference between the actual percentage for the CLEC and the calculated percentage for each of the three non-compliant months.
- Step 3: Multiply the total number of data points for each month by the difference in percentage calculated in the previous step. Calculate the

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average for three months and multiply the result by \$500, \$300, and \$200 for measures that are designated as High, Medium, and Low respectively; to determine the applicable assessment for that measure.

Measures for Which the Reporting Dimensions are Ratios or Proportions.

- Step 1: Calculate the ratio for the measure for the CLEC that would yield the Critical Z-value for the third consecutive month. Use the same denominator as the one used in calculating the Z-statistic for the measure. (For benchmark measures, substitute the benchmark value for the value calculated in the preceding sentences).
- Step 2: Calculate the percentage difference between the actual ratio for the CLEC and the calculated ratio for each month of the non-compliant three-month period.
- Step 3: Multiply the total number of service orders by the percentage calculated in the previous step for each month. Calculate the average for three months and multiply the result by \$500, \$300, and \$200 for measures that are designated as High, Medium, and Low respectively; to determine the applicable assessment for that measure.

Before the
Kentucky Public Service Commission
Frankfort, Kentucky

RECEIVED
SEP 29 1999
PUBLIC SERVICE
COMMISSION

In re: Petition of ICG Telecom Group, Inc. for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996	Docket No. 99-218
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**ICG TELECOM GROUP, INC.'S DATA REQUESTS
TO BELLSOUTH TELECOMMUNICATIONS, INC.**

ICG Telecom Group, Inc. ("ICG") hereby requests BellSouth Telecommunications, Inc. ("BellSouth") to provide answers to the following Data Requests:

DEFINITIONS

As used herein, the following terms shall have the meanings indicated:

- i. "BellSouth" means BellSouth Telecommunications, Inc., its subsidiaries and affiliates, their present and former officers, employees, agents, directors, and all other persons acting or purporting to act on behalf of BellSouth.
- ii. "Commission" means the Kentucky Public Service Commission.
- iii. "ICG" means ICG Telcom Group, Inc., its subsidiaries and affiliates, their present and former officers, employees, agents, directors, and all other persons acting or purporting to act on behalf of ICG.
- iv. "Identification" or "identify" when used in reference to: (i) a natural individual, requires you to state his or her full name and residential and business address; (ii) a corporation,

requires you to state its full corporate name and any names under which it does business, the state of incorporation, and the address of its principal place of business; (iii) a document, requires you to state the number of pages and the nature of the document (e.g., a letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location or custodian; (iv) a communication, requires you, if any part of the communication was written, to identify the document or documents which refer to or evidence the communication, and to the extent that the communication was not written, to identify the persons participating in the communication and to state the date, manner, place, and substance of the communication.

v. "CLEC" means a competitive local exchange carrier or competing local provider.

vi. "LEC" means a local exchange carrier including, but not limited to, CLECs and ILECs.

vii. "ILEC" means an incumbent local exchange carrier.

viii. "ISP" means an Internet Service Provider.

ix. "IXC" means an interexchange carrier.

x. "CMRS" means Commercial Mobile Radio Service.

xi. "SQM" means BellSouth's Service Quality Measurement Reports.

xii. "UNE" means unbundled network element.

INSTRUCTIONS

a. If any response required by way of answer to these Data Requests is considered to contain confidential or protected information, please furnish this information subject to an appropriate protective agreement.

b. If any response required by way of answer to these Data Requests is withheld under a claim of privilege, please identify the privilege asserted and describe the basis for such assertion.

c. These Data Requests are to be answered with reference to all information in your possession, custody, or control or reasonably available to you.

d. If any Interrogatory cannot be responded to in full, answer to the extent possible and specify the reason for your inability to respond fully. If you object to any part of an Interrogatory, answer all parts of the Interrogatory to which you do not object, and as to each part to which you do object, separately set forth the specific basis for the objection.

e. These Data Requests are continuing in nature and require supplemental responses should information unknown to you at the time you serve your responses to these Data Requests subsequently become known or should your initial response be incorrect or untrue.

DATA REQUESTS

1. Does BellSouth serve its ISP customers from intrastate or interstate tariffs? Specify the tariff rates and references under which charges to ISP customers are currently made. If BellSouth has changed its policy or practice in this regard in the past three years, please state when it was changed and describe the change in detail.

2. Does BellSouth count revenues and expenses associated with its services to ISP customers as intrastate or interstate revenues and expenses for separations and ARMIS reporting purposes? If BellSouth has changed its policy or practice in this regard in the past three years, please state when it was changed and describe the change in detail.

3. Does BellSouth meter or otherwise segregate ISP-bound traffic from local traffic that is not ISP-bound for purposes of reciprocal compensation or for any other purpose? If BellSouth has changed its policy or practice in this regard in the past three years, please state when it was changed and describe the change in detail.

4. When a BellSouth telephone exchange customer calls an ISP within that caller's local calling area, does BellSouth bill the call as a local call pursuant to its intrastate tariffs or as a long distance call pursuant to interstate tariffs?

5. Under what circumstances do BellSouth telephone exchange customers in Kentucky calling BellSouth-served ISPs dial each of the following number patterns:

- a. 7 digit number
- b. 1 plus a 7 digit number
- c. 10 digit number
- d. 1 plus a 10 digit number

6. Describe the mechanism, if any, on which BellSouth relies to identify ISP-bound calls.

7. How many of BellSouth's customers in Kentucky that are not telecommunications carriers are ISPs?

8. How many of BellSouth's customers in Kentucky are both telecommunications carriers and ISPs?

9. Please provide a description of BellSouth's success in marketing its services to ISPs in Kentucky. More specifically, please populate the following table with the required information:

(As of year end)	1995	1996	1997	1998
Number of ISPs served by BellSouth:				
Number of ISPs served using business lines:				
Number of ISPs served using PBX trunks:				
Number of ISPs served using intrastate private line services:				
Number of ISPs served using intrastate special access services:				
Number of ISPs served using interstate private line services:				
Number of ISPs served using interstate special access services:				
Number of ISPs served by other means (explain):				

10. Provide the number of minutes of use (MOUs) that were delivered by BellSouth directly to ISPs (*i.e.*, excluding traffic delivered to other telecommunications carriers for retransmission to ISPs) during 1998 within BellSouth's Kentucky network.

a. Provide the same information for 1999 year to date, specifying the end date of such period.

11. Provide the number of minutes of use (MOUs) that were delivered by BellSouth to other telecommunications carriers for retransmission to ISPs during 1998 within BellSouth's Kentucky network.

a. Provide the same information for 1999 year to date, specifying the end date of such period.

12. Provide the number of minutes of use (MOUs) that were delivered to BellSouth by other telecommunications carriers for retransmission to ISPs during 1998 within BellSouth's Kentucky network.

a. Provide the same information for 1999 year to date, specifying the end date of such period.

13. Provide the total number of minutes of use (MOUs) originated on BellSouth's Kentucky network in 1998 that were classified as intrastate for jurisdictional reporting purposes.

a. Provide the same information for 1999 year to date, specifying the end date of such period.

b. For each of the same periods, provide the number of MOUs included in your response to this Data Request for which BellSouth billed intrastate switched access charges.

14. Provide the total number of minutes of use delivered to end users (including ISPs) on BellSouth's Kentucky network in 1998 that were classified as intrastate for jurisdictional reporting purposes.

a. Provide the same information for 1999 year to date, specifying the end date of such period.

b. For each of the same periods, provide the number of MOUs included in your response to this Interrogatory for which BellSouth billed intrastate switched access charges.

15. Please provide a description of BellSouth's access line growth over the past four years. More specifically, please populate the following table with the required information:

Current # of Access Lines served by BellSouth:	1995	1996	1997	1998
Residential				
Business				

16. Please provide a description of BellSouth's success in marketing second access lines to residential customers. More specifically, please populate the following table with the required data:

	1995	1996	1997	1998
Number of Residential Customers Purchasing a Second Access Line from BellSouth				
Percentage of All BellSouth Residential Customers Purchasing a Second Access Line				
Number of Residential Customers Purchasing a Third Access Line from BellSouth				
Percentage of All BellSouth Residential Customers Purchasing a Third Access Line				

17. Does BellSouth allow ISPs that are not CLECs to collocate their equipment in BellSouth central offices? If the answer to this question is anything other than an unequivocal "No," please identify the ISP providers that are currently collocated in BellSouth central offices, including the BellSouth central offices that currently house collocation arrangements between BellSouth and ISPs.

18. Please state whether BellSouth will provide ICG the packet-switching network elements identified in Issue 3 of ICG's Petition for Arbitration.

19. Has any telecommunications carrier, other than ICG, requested that BellSouth provide any of these packet-switching network elements? If the answer is yes, has BellSouth refused to provide those network elements to such requesting carriers? If the answer is no, please state which packet-

switching network elements have been provided, to which carriers, and subject to what terms and conditions, if any.

20. With respect to the provision of DS-3, OC-3, OC-12, and OC-48 entrance facilities, please provide the following information:

a. Will BellSouth provide ICG with each of the foregoing types of entrance facilities as unbundled network elements? If not, please identify the type of facility and explain why BellSouth will not provide that entrance facility as an unbundled network element.

b. Has any telecommunications carrier requested BellSouth to provide these types of entrance facilities as unbundled network elements? If so, identify each carrier, the type of facility requested, and state BellSouth's response.

c. Have cost-based rates been established for these types of entrance facilities as unbundled network elements? If so, please identify and describe those rates.

d. If cost-based rates have not been established for these types of entrance facilities as unbundled network elements, please explain why not.

21. Please provide the following information concerning OC-3, OC-12 and OC-48 transport:

a. Will BellSouth provide OC-3, OC-12 and OC-48 interoffice transport as unbundled network elements? If not, please identify the type of transport and explain why BellSouth will not provide that type of transport as an unbundled network element.

b. Has any telecommunications carrier requested BellSouth to provide these types of transport as unbundled network elements? If so, identify each carrier, the type of transport requested, and state BellSouth's response.

c. Have cost-based rates been established for these types of transport as unbundled network elements? If so, please identify and describe those rates.

d. If cost-based rates have not been established for these types of transport as unbundled network elements, please explain why not.

22. Please provide the following information concerning channelization and/or multiplexing required to convert: (i) voice-grade unbundled loops (DS-0) to DS-1 level for connection with the ICG and/or other telecommunications carrier transport and (ii) DS-1 unbundled loops to DS-3 level for connection with the ICG and/or other telecommunications transport:

a. Will BellSouth provide ICG with channelization and/or multiplexing required to convert: (i) voice-grade unbundled loops (DS-0) to DS-1 level for connection with the ICG and/or other telecommunications carrier transport and (ii) DS-1 unbundled loops to DS-3 level for connection with the ICG and/or other telecommunications transport as unbundled network elements? If not, please explain why not.

b. Has any telecommunications carrier requested BellSouth to provide these types of channelization and/or multiplexing as unbundled network elements? If so, identify each carrier, the type of channelization and/or multiplexing requested, and state BellSouth's response.

c. Have cost-based rates been established for these types of channelization and/or multiplexing as unbundled network elements? If so, please identify and describe those rates.

d. If cost-based rates have not been established for these types of channelization and/or multiplexing as unbundled network elements, please explain why not.

23. Please separately identify the total number of DS-1 and DS-3 circuits in service in BellSouth's territory within Kentucky in 1995. Please provide the same information for years 1996, 1997 and 1998. The following table should provide assistance in understanding this request:

Year	Number of DS-1 circuits in service (end of year)	Number of DS-3 circuits in service (end of year)
1995		
1996		
1997		
1998		

24. Is it BellSouth's position that ICG must collocate in order to combine two or more UNEs? If yes, explain the basis for BellSouth's position.

a. Would BellSouth, under any circumstance, agree to combine UNEs for ICG? If yes, please describe these circumstances and state what charges, if any, BellSouth would impose for combining UNEs.

b. Has any state public service or utility commission required BellSouth to combine UNEs?

c. Has BellSouth combined or agreed to combine UNEs on behalf of any telecommunications carrier in Kentucky? If yes, please identify: (i) the carriers; (ii) the

combinations provided or to be provided; and (iii) the terms and conditions under which such combinations were or will be provided.

25. Has BellSouth agreed to provide an "Enhanced Extended Link" or "EEL" alternative in Kentucky? If the answer is no, state the reason(s) for BellSouth's refusal to provide EEL. If yes, please identify: (i) the carriers and (ii) the terms and conditions under which the EEL has been or will be provided.

26. Other than BellSouth's private line and special access services, does BellSouth currently offer any retail or access service utilizing a combination of a loop and dedicated transport connecting the loop to a switch that is not located in the central office or wire center serving the loop? If so, please identify each such service arrangement. In particular, state whether BellSouth offers ISDN -BRI in some locations using the combination described above.

27. Please fully explain the offering of UNE combinations announced in BellSouth's March 3, 1999 press release as posted on the BellSouth interconnection web site, including the full list of UNE combinations made available, all recurring and non-recurring prices, any other prices or charges, and any requirements imposed for obtaining access to each of these UNE combinations.

28. Is BellSouth willing to provide volume and term discounts to ICG for: (i) unbundled local loops, (ii) dedicated transport, (iii) local channel elements, (iv) frame relay service, (v) xDSL service? If not, state BellSouth's basis for its refusal.

29. Does BellSouth use a "fill factor" in arriving at average TELRIC costs for unbundled network elements (i.e. unbundled loops, unbundled interoffice transport, etc.)? If so, are those fill factors consistent with the "total capacity" of the equipment, the "engineered capacity" of the equipment, the "actual capacity of the equipment," or based upon some other capacity consideration. For purposes of this question, please use the following definitions:

"Total Capacity" means the absolute maximum physical capacity available within a piece of equipment. For example, if a digital loop carrier remote terminal were equipped to accommodate 672 DSO equivalent circuits, TELRIC rates for UNEs using this equipment would include $1/672$ of the remote terminal's total investment given a "total capacity" assumption.

"Engineered Capacity" means the capacity of a system as designed to operate at peak efficiency taking into consideration maintenance and all other factors (except future demand). For example, if studies showed that the costs of maintaining 100 pair copper cables began to increase dramatically when the number of working circuits on the cable exceeded 90, the TELRIC study would allocate $(100/90)$ of the cable's investment to 90 UNEs using this facility.

"Actual Capacity" means the capacity at which BellSouth's system uses this equipment on average. Generally actual capacity is measured with the use of an internal study of the equipment and the extent to which it is currently being used.

a. If the fill factors used within BellSouth's TELRIC do not meet any of the definitions above, please explain the underlying rationale behind the fill factors that were ultimately chosen to be used.

b. If the fill factors used within BellSouth's studies were ordered by a public utility commission, please explain BellSouth's position as to the underlying rationale behind those fill factors.

30. Has BellSouth committed to provide ICG the same pricing proposals as are provided to BellSouth's internal retail organizations or affiliates, including a discount in competitive situations? If the answer is in the negative, state BellSouth's reason for its refusal.

- a. Provide the same information requested above for BellSouth's retail operation.
- b. Please describe any volume and/or term discounts that BellSouth offers its retail customers under tariff and provide copies of the relevant tariff pages.
- c. Please describe any volume and/or term discounts that BellSouth provides its retail customers under contracts that include pricing not reflected in BellSouth tariffs.

31. Describe in detail the rate, if any, that BellSouth charges to CLECs for delivering dial-up calls to BellSouth-served ISPs.

32. If BellSouth charges CLECs a rate for delivering dial-up calls to BellSouth-served ISPs that is different from the rate that BellSouth charges CLECs for terminating non-ISP-bound local calls, or if BellSouth does not charge CLECs for delivering dial-up calls to BellSouth-served ISPs, please describe in detail the mechanism or method, if any, on which BellSouth relies to identify ISP-bound calls for such purpose. If the mechanism or method differs in any way from the mechanism (if any) described in your response to Data Request No. 6, explain in detail the reason for each difference.

33. State whether cost studies have been or are being prepared by or on behalf of BellSouth demonstrating the cost differences, if any, between transporting and terminating ISP-bound traffic and other types of local traffic.

34. Have the reciprocal compensation rates for the transport and termination of local traffic contained in interconnection agreements reached by BellSouth in 1999 tended to be lower or higher than such rates contained in interconnection agreements reached by BellSouth in 1996-97? If such rates have tended to be lower or higher, please explain in detail the reasons for such change.

35. Please describe, by vendor, the switching platforms that BellSouth utilizes to perform either tandem or end office switching functions within its network, throughout its service territory, by completing the following table:

Vendor/Switch Type	Number of switches of this type deployed by BellSouth as Tandem (either local or toll tandem) Switches	Number of switches of this type deployed by BellSouth as End Office Switches
NORTEL		
DMS 100		
DMS 250/500		
LUCENT		
5ESS		
SIEMENS		
EWSD		
ERICSSON		
OTHER		

36. Please describe what BellSouth would consider to be the fundamental, functional difference between the operations of its Tandem (Class 4) and End Office (Class 5) switches. Please describe in detail all fundamental functional differences between these two switch types as used within the BellSouth network and the underlying engineering rationale for BellSouth's use of this type of switching hierarchy.

37. Please confirm or deny that there are circumstances wherein a local call both originates and terminates in the BellSouth network, but, the call terminates to an NXX served by a switch other than the switch from which the call was originated.

a. If confirmed, do such calls always utilize a BellSouth tandem to reach the terminating office or are there circumstances wherein the two end offices are directly connected?

b. Please provide the percentage of BellSouth calls, based upon current calling patterns, that fall within the following categories regarding their origination and termination characteristics:

	CALL CHARACTERISTICS	PERCENTAGE OF ALL LOCAL CALLS
(i)	Local Calls that originate and terminate from/to NXXs served by the same end office switch	_____ %
(ii)	Local Calls that originate and terminate from/to NXXs served by two separate end office switches and are transported through at least one other switch (either a toll or local tandem)	_____ %
(iii)	Local Calls that originate and terminate from/to NXXs served by two separate end office switches and are transported via direct trunks connecting the two end office switches	_____ %
(iv)	Other (Please explain)	_____ %

c. For all calls that meet the characteristics associated with numbers (ii) and (iii) above, please provide the average transport distance between the two end offices within which the calls originate and terminate.

38. Describe the extent to which, and the process by which, BellSouth terminates either local or toll traffic for independent, incumbent local exchange carriers.

a. Are the rates, terms and conditions under which BellSouth terminates local or toll traffic for independent, incumbent local exchange carriers governed by a contract between BellSouth and any individual or group of independent, incumbent local exchange carriers?

b. Are the rates, terms and conditions under which BellSouth terminates local or toll traffic for independent, incumbent local exchange carriers governed by a publicly filed tariff? If so, please identify the tariff that governs this traffic.

c. For the past 12 months, please provide the total number of minutes that BellSouth has terminated for independent, incumbent local exchange carriers. If this data is not available for the past 12 months, please provide as much of this data as is available and identify the time period for which it is relevant.

d. Please provide the amount of charges assessed by BellSouth to independent, incumbent local exchange carriers for BellSouth's termination of either toll or local traffic over the time period for which the terminated minutes provided in question 38.c above are provided.

e. If BellSouth was required to pay any charges to terminate the traffic provided in response to question 38.c above, please provide the extent of those charges and describe the rates, terms and conditions by which BellSouth is required to pay such charges.

39. Describe the extent to which, and the process by which, independent, incumbent local exchange carriers terminate either local or toll traffic for BellSouth.

a. Are the rates, terms and conditions under which independent, incumbent local exchange carriers terminate local or toll traffic for BellSouth governed by a contract between BellSouth and any individual or group of independent, incumbent local exchange carriers?

b. Are the rates, terms and conditions under which independent, incumbent local exchange carriers terminate local or toll traffic for BellSouth governed by a publicly filed tariff? If so, please identify the tariff that governs this traffic.

c. Please provide the total number of minutes that independent, incumbent local exchange carriers have, over the past 12 months, terminated for BellSouth. If this data is not available for the past 12 months, please provide as much of this data as is available and identify the time period for which it is relevant.

d. Please provide the amount of charges assessed by independent, incumbent local exchange carriers to BellSouth for termination of either toll or local traffic over the time period for which the terminated minutes provided in question 39.c above are provided.

e. If independent, incumbent local exchange carriers were required to pay any charges to terminate BellSouth's traffic provided in response to question 39.c above, please provide the extent of those charges and describe the rates, terms and conditions by which independent, incumbent local exchange carriers are required to pay such charges.

40. Provide the number of minutes of use (MOUs) that were delivered by CMRS carriers to BellSouth over CMRS Type 1 interconnections during 1998 within BellSouth's Kentucky network.

a. Provide the same information for 1999 year to date, specifying the end date of such period.

41. Provide the number of minutes of use (MOUs) that were delivered by CMRS carriers to BellSouth over CMRS Type 2A interconnections during 1998 within BellSouth's Kentucky network.

a. Provide the same information for 1999 year to date, specifying the end date of such period.

42. Provide the number of minutes of use (MOUs) that were delivered by CMRS carriers to BellSouth over CMRS Type 2B interconnections during 1998 within BellSouth's Kentucky network.

a. Provide the same information for 1999 year to date, specifying the end date of such period.

43. Provide the number of minutes of use (MOUs) that were delivered by BellSouth to CMRS carriers over CMRS Type 1 interconnections during 1998 within BellSouth's Kentucky network.

a. Provide the same information for 1999 year to date, specifying the end date of such period.

44. Provide the number of minutes of use (MOUs) that were delivered by BellSouth to CMRS carriers over CMRS Type 2A interconnections during 1998 within BellSouth's Kentucky network.

a. Provide the same information for 1999 year to date, specifying the end date of such period.

45. Provide the number of minutes of use (MOUs) that were delivered by BellSouth to CMRS carriers over CMRS Type 2B interconnections during 1998 within BellSouth's Kentucky network.

a. Provide the same information for 1999 year to date, specifying the end date of such period.

46. Have cost studies been prepared by or on behalf of BellSouth relating to:

- a. LIGHTgate/SMARTgate;
- b. SMARTpath;
- c. SMARTring.

If the answer is yes, for each of the items enumerated above, provide an explanation of the costing methodology used.

47. Please provide the "average number of minutes per call" that BellSouth includes within the BellCore Switching Cost Information System ("SCIS") used to arrive at total element long run incremental costs ("TELRIC") for its local switching, transport, and termination unbundled network elements ("UNEs").

a. Please indicate the time frame from which the average number of minutes per call data was calculated.

b. Please explain the process by which BellSouth arrived at the average number of minutes per call and the types of calls that were subsequently included.

48. Please provide the total end office and tandem switching "melded" cost per "call setup" as derived within SCIS for BellSouth's local switching, transport, and termination unbundled network elements. Said another way, please provide the "set up cost" that BellSouth contends it incurs in establishing a call.

49. Please provide the total end office and tandem switching "melded" cost for "call duration" as derived within SCIS for BellSouth's local switching, transport, and termination UNEs. Said another way, please provide the per minute costs BellSouth contends it incurs in provided transport and termination.

50. Using information from questions 47 through 49 above, please show BellSouth's calculations supporting its average TELRIC cost per minute of use for transport and termination of UNEs. Use any additional information necessary, but highlight the source of that information and describe the manner in which it was compiled and why it is used. If BellSouth arrives at its average TELRIC cost per minute of use for transport and termination by establishing individual rates for end office switching, tandem switching, interoffice transport (mileage and/or terminations), or any other rate element, please perform calculations for each rate element separately.

51. Describe in detail the proposal by BellSouth at the March 10, 1999 meeting between representatives of BellSouth and representatives of the FCC's Common Carrier Bureau's Policy and Program Planning Division with respect to self-executing enforcement mechanisms applicable to BellSouth's nondiscriminatory access to unbundled network elements and the functionalities provided by its operation support systems and provide any documents concerning the March 10, 1999 meeting.

52. To the extent not presently available in BellSouth's SQM reports on its website, please state the number and percentage of all orders for unbundled local loops in BellSouth's region which were

“held” due to a lack of facilities or for any other reason during the most recent 12-month period for which data is available. Please categorize the information by reason for delay, e.g., lack of facilities, by state, and by month.

53. To the extent not presently available in BellSouth’s SQM reports on its website, please provide the following information with respect to orders for unbundled local loops in BellSouth’s region submitted mechanically to BellSouth’s OSS in the past 12 months:

- a. What percentage of such orders have been rejected or returned to the submitting CLEC for additional information, clarification, or correction?
- b. Provide a detailed explanation of how such percentage was calculated.
- c. What is the interval between detection of an error and CLEC notification of the error?
- d. Identify the 10 most frequent reasons that a CLEC order is rejected or returned to the submitting CLEC for additional information, clarification, or correction.
- e. What percentage of the total orders flowed through BellSouth’s OSS systems without manual processing?

54. To the extent not presently available in BellSouth’s SQM reports on its website, please provide the average elapsed time from BellSouth’s receipt of a valid order to the CLEC’s receipt of a firm order confirmation for orders for unbundled local loops in BellSouth’s region for the past 12 months.

55. To the extent not presently available in BellSouth's SQM reports on its website, please provide the average elapsed time for BellSouth to provision a CLEC order for an unbundled local loop in BellSouth's region for the past 12 months.

56. To the extent not presently available in BellSouth's SQM reports on its website, provide (without identifying the customer) the averaged elapsed time it took for BellSouth to fulfill each request for physical and virtual collocation measured from the time the request was received for the past 12 months.

57. To the extent not presently available in BellSouth's SQM reports on its website, please provide the following information for all CLEC orders for unbundled local loops processed by BellSouth throughout its region in the last 12 months:

- a. The average jeopardy notice interval;
- b. Describe in detail how the interval was calculated, including all calculations and assumptions;
- c. What percentage of CLEC orders were given a jeopardy notice?

58. To the extent not presently available in BellSouth's SQM reports on its website, please provide the following information for all CLEC orders for unbundled local loops provisioned by BellSouth in the last 12 months:

- a. What percent involved missed installation appointments?

b. Describe in detail how the percentage was calculated including all calculations and assumptions.

c. What was the average completion notice interval?

59. To the extent not presently available in BellSouth's SQM reports on its website, please provide the following information for all CLEC orders for unbundled local loops provisioned by BellSouth which required BellSouth to disconnect an unbundled loop from BellSouth's switch and cross connect it to a CLEC in BellSouth's region in the past 12 months:

a. The number of such requests;

b. The average time it took BellSouth to complete the conversion.

60. To the extent not presently available in BellSouth's SQM reports on its website, please provide the total number of trouble reports received by BellSouth from CLECs in BellSouth's region in the past 12 months and state what percent were not cleared by the date and time committed?

61. Provide the same information requested in Interrogatory No. 60 for BellSouth's retail operations.

62. To the extent not presently available in BellSouth's SQM reports on its website, please provide the total number of out of service troubles reported to BellSouth by CLECs in BellSouth's region in the past 12 months:

a. Provide the percent cleared in excess of 24 hours;

- b. Provide the percent cleared in excess of 48 hours;
- c. Provide the percent cleared in excess of 72 hours.

63. Provide the same information requested in Interrogatory No. 62 for BellSouth's retail operations.

64. With respect to the contractual or tariffed arrangements between BellSouth and its retail and access customers, do any such arrangements for service include a commitment by BellSouth to provide rebates, credits, prorated bills, or other forms of compensation in the event the retail or access customer experiences a service outage? If the answer is yes, please provide the following information for each such arrangement:

- a. The individual service or product for which BellSouth agrees to provide rebates, credits, prorated bills, or other compensation in the event of a service outage;
- b. The criteria governing the point at which the BellSouth retail or access customer would be entitled to the prescribed credit, proration, or other compensation for each such service or product;
- c. The formula or methodology for quantifying the amount of credit, proration, or other compensation to which the BellSouth retail or access customer would be entitled that is applicable to each such service or product;
- d. The name of the tariff (including the page number and paragraph number) that delineates the right of the BellSouth retail or access customer to a credit, proration, or other compensation and sets forth the methodology for quantifying and applying same;

e. The dollar amount of credits, prorations, rebates, or other forms of compensation that BellSouth has provided to its retail and access customers for each such service or product (1) during calendar year 1998 and (2) during 1999 to date.

65. With respect to the tariffed or contractual arrangements between BellSouth and its retail and access customers, in the event a BellSouth retail or access customer experiences an outage, does BellSouth ever provide a replacement service or product at a discount from the standard or discounted contractual or tariffed rate? If the answer is yes, please provide:

a. Each service or product that is the subject of a commitment or business practice of discounted replacement services;

b. The criteria for determining the circumstances under which replacement services would be provided;

c. The specific replacement services that would be provided for each service or product in the event of a "qualifying" outage;

d. The discount that would be provided with each such replacement service;

e. The tariff (including page number and paragraph number) that sets forth the customer's right to replacement service, the circumstances under which replacement services will be provided, and the amount of the discount for the replacement service for each service or product listed in response to 65.a above; and

f. The dollar value of discounted replacement services provided in lieu of the interrupted service during calendar years 1998 and 1999 to date.

66. What specific performance measures and related benchmarks does BellSouth propose to include in its interconnection agreement with ICG? With respect to each proposed benchmark, please provide:

- a. The standard of parity it is designed to meet;
- b. The manner in which it was formulated or derived;
- c. The specific commercial usage data, if any, on which it is based; and
- d. A detailed comparison between the proposed standard and the manner in which BellSouth provides service to its own retail customers.

67. Describe in detail the equipment and services provided to BellSouth Telecommunications, Inc. by BellSouth.net, Inc. including, but not limited to:

- a. the nature of the equipment provided by BellSouth.net, Inc. and a description of how it is used by BellSouth Telecommunications, Inc.;
 - b. the nature of the services provided by BellSouth.net, Inc. and a description of how those services are used by BellSouth Telecommunications, Inc. in connection with the provision of BellSouth.net service or otherwise;
 - c. the terms and conditions pursuant to which such equipment and services are provided by BellSouth.net, Inc. to BellSouth Telecommunications, Inc.;
 - d. the basis or methodology used to determine the prices for such equipment and services;
- and
- e. identification and description of all contracts, agreements, memoranda of understanding, or other arrangements pursuant to which such equipment and services are provided.

68. Describe in detail any equipment or services provided to BellSouth.net, Inc. by BellSouth Telecommunications, Inc., including but not limited to:

a. the nature of any equipment provided by BellSouth Telecommunications, Inc. and a description of how it is used by BellSouth.net, Inc.;

b. the nature of any services provided by BellSouth Telecommunications, Inc. and a description of how those services are used by BellSouth.net, Inc.;

c. whether or not any or all of such equipment or services are provided pursuant to tariffs, including identification of the applicable tariff, page, and section;

d. to the extent not provided pursuant to tariff, the terms and conditions pursuant to which such equipment and services are provided by BellSouth Telecommunications, Inc. to BellSouth.net, Inc.;

e. to the extent not provided pursuant to tariff, the basis or methodology used to determine the prices for such equipment and services; and

f. identification and description of all contracts, agreements, memoranda of understanding, or other arrangements pursuant to which such equipment and services are provided.

69. Describe in detail any equipment or services provided to BellSouth Telecommunications, Inc. by any affiliated entity other than BellSouth.net, Inc. that are used by BellSouth Telecommunications, Inc. in connection with the provision of BellSouth.net service, including but not limited to:

a. the identity of the affiliated entity providing such equipment or service;

b. the nature of any equipment provided by such affiliated entity and a description of how it is used by BellSouth Telecommunications, Inc.;

c. the nature of the services provided by such affiliated entity and a description of how those services are used by BellSouth Telecommunications, Inc. in connection with the provision of BellSouth.net service or otherwise;

d. the terms and conditions pursuant to which such equipment and services are provided by such affiliated entity to BellSouth Telecommunications, Inc.;

e. the basis or methodology used to determine the prices for such equipment and services;
and

f. identification and description of all contracts, agreements, memoranda of understanding, or other arrangements pursuant to which such equipment and services are provided.

70. Describe in detail how BellSouth Telecommunications, Inc. accounts for the investment, revenues, and expenses related to BellSouth.net services, including but not limited to:

a. identification and description of all equipment used in connection with the provision of BellSouth.net service and how the investment in and expenses associated with such equipment is accounted for by BellSouth for regulatory accounting purposes;

b. identification and description of all regulated telecommunications services used in connection with the provision of BellSouth.net service and how the cost of such services is accounted for by BellSouth for regulatory accounting purposes;

c. identification and description of all services of any kind or nature, other than regulated telecommunications services, used in connection with the provision of BellSouth.net service and how the cost of such services is accounted for by BellSouth for regulatory accounting purposes;

d. identification and description of any and all internal transfer payments between BellSouth's regulated operations and the BellSouth.net service and the basis or methodology for determining the dollar amount of such transfer payments; and

e. identification and description of any and all investments, costs, and revenues imputed to the BellSouth.net service for regulatory accounting purposes and the basis or methodology for determining the dollar amounts so imputed.

71. What is BellSouth's approximate share of the market for Internet access services in Kentucky?

72. What percentage of the subscribers to dial-up BellSouth.net service receive local telephone service at the primary location from which they use the BellSouth.net service from carriers other than BellSouth?

73. Does BellSouth actively market its BellSouth.net service to consumers and businesses who obtain local telephone service from carriers other than BellSouth?

74. Does BellSouth accept orders for dial-up BellSouth.net service from residential consumers who obtain local telephone service from carriers other than BellSouth?

a. If so, does BellSouth require such consumers to obtain a local telephone line from BellSouth in order to receive the BellSouth.net service?

75. Does BellSouth accept orders for dial-up BellSouth.net service from business customers who obtain local telephone service from carriers other than BellSouth?

a. If so, does BellSouth require such customers to obtain a local telephone line from BellSouth in order to receive the BellSouth.net service?

76. When a BellSouth.net subscriber in Louisville accesses the Kentucky Public Service Commission web site, what carrier or other entity transports the communication between the Louisville and Frankfort LATAs?

77. When a BellSouth.net subscriber in Birmingham, Alabama accesses the Kentucky Public Service Commission web site, what carrier or other entity transports the communication between the Frankfort and Birmingham LATAs?

78. Can a BellSouth.net subscriber select the carrier or other entity that transports that subscriber's Internet communications across LATA boundaries? If so, how?

79. Where is the computer that hosts the BellSouth interconnection web site physically located?

a. If there is more than one such computer, state the location of each.

b. If there is not a computer in each LATA hosting the BellSouth interconnection web site, when a BellSouth.net subscriber located in a LATA in which there is no such hosting computer accesses the BellSouth interconnection web site, what carrier or other entity transports that subscriber's communications between the LATA in which the subscriber is located and the LATA in which the hosting computer is located?

c. If there are computers in more than one LATA that host the BellSouth interconnection web site, describe the process by which information posted to the web site resident on one such computer is made available on the web site resident on another such computer. If there is any interLATA telecommunications transmission involved in this process, identify the transporting carrier or other entity.

80. Identify any and all tariffs, contracts, agreements, memoranda of understanding, or other arrangements pursuant to which BellSouth has committed to construct, acquire, or provision specific telecommunications transport or switching facilities or capacity, or a specific quantity of telecommunications transport or switching capacity, based upon a forecast by any LEC, IXC, ISP, or retail customer of the amount or quantity of such telecommunications transport or switching facilities or capacity required to transport or switch a future volume of telecommunications traffic.

81. Please provide copies of the most recent cost studies prepared by or for BellSouth which show the recurring and non-recurring costs of providing each of the following types of unbundled local loops:

a. 2-Wire Analog Voice Grade Loop

- b. 4-Wire Analog Voice Grade Loop
- c. 2-Wire ISDN (BRI) Digital Grade Loop
- d. 2-Wire ADSL-Compatible Loop
- e. 2-Wire HDSL-Compatible Loop
- f. 4-Wire HDSL-Compatible Loop

Please provide the complete working copy of each cost study, including a complete working copy of all computerized models involved in preparing the cost estimate with data intact; a complete set of work papers with all special studies, data sources, data inputs and assumptions; and a complete set of cost study documentation.

82. Please provide the most recent cost studies prepared by or for BellSouth which show the recurring and non-recurring costs of providing interoffice transport to ICG or other telecommunications carriers as may be required to transport traffic from BellSouth's end office where unbundled loops are ordered to another BellSouth end office or tandem switch. Please identify the cost separately for DS-1 dedicated and DS-3 dedicated transport. Please provide the complete working copy of each cost study, including a complete working copy of all computerized models involved in preparing the cost estimate with data intact; a complete set of work papers with all special studies, data sources, data inputs and assumptions; and a complete set of cost study documentation.

83. Provide the most recent cost studies prepared by or for BellSouth which show the recurring and non-recurring cost of providing analog and digital cross-connections required to

connect an unbundled local loop to the ICG system and/or other telecommunications carrier systems. Please provide the complete working copy of each cost study, including a complete working copy of all computerized models involved in preparing the cost estimate with data intact; a complete set of work papers with all special studies, data sources, data inputs and assumptions; and a complete set of cost study documentation.

84. Please provide copies of the most recent cost studies prepared by or for BellSouth which show the recurring and non-recurring costs of each of the following types of entrance facility:

- a. DS-3;
- b. OC-3;
- c. OC-12; and
- d. OC-48.

Please separately identify non-recurring costs, recurring costs, fixed costs and distance-related costs. Please provide the complete working copy of each cost study, including a complete working copy of all computerized models involved in preparing the cost estimate with data intact; a complete set of work papers with all special studies, data sources, data inputs and assumptions; and a complete set of cost study documentation.

85. Please provide copies of the most recent cost studies prepared by or for BellSouth which show the recurring and non-recurring costs of each of the following types of transport as an unbundled network element:

- a. OC-3;

- b. OC-12; and
- c. OC-48.

Please separately identify non-recurring costs, recurring costs, fixed costs and distance-related costs. Please provide the complete working copy of each cost study, including a complete working copy of all computerized models involved in preparing the cost estimate with data intact; a complete set of work papers with all special studies, data sources, data inputs and assumptions; and a complete set of cost study documentation.

86. Please provide copies of the most recent cost studies prepared by or for BellSouth which show the recurring and non-recurring costs of channelization and/or multiplexing required to convert (i) voice-grade unbundled loops (DS-0) to DS-1 level for connection with the ICG and/or other telecommunications carrier transport and (ii) DS-1 unbundled loops to DS-3 level for connection with the ICG and/or other telecommunications transport. Please separately identify non-recurring costs, recurring costs, fixed costs and distance-related costs. Please provide the complete working copy of each cost study, including a complete working copy of all computerized models involved in preparing the cost estimate with data intact; a complete set of work papers with all special studies, data sources, data inputs and assumptions; and a complete set of cost study documentation.

87. For each service identified in your response to Data Request No. 26:

- a. Provide copies of the relevant tariff pages describing: (i) the service or services and (ii) the recurring and non-recurring rates that apply thereto;

b. To the extent such service arrangements are covered by contracts in lieu of or in addition to BellSouth tariffs, provide:

- i. a copy of BellSouth's standard form contract(s) for such arrangements, and
- ii. the number of such contracts currently in effect with (a) retail customers and (b) CLECs; and

c. Provide copies of any cost studies prepared in support of charges for such arrangements. Please provide the complete working copy of each cost study, including a complete working copy of all computerized models involved in preparing the cost estimate with data intact; a complete set of work papers with all special studies, data sources, data inputs and assumptions; and a complete set of cost study documentation.

88. Please provide copies of all contracts with BellSouth retail customers that include pricing not reflected in BellSouth tariffs.

89. Please provide the complete working copy of each cost study that has been or is being prepared by or on behalf of BellSouth demonstrating the cost differences, if any, between transporting and terminating ISP-bound traffic and other types of local traffic, including a complete working copy of all computerized models involved in preparing the cost estimate with data intact; a complete set of work papers with all special studies, data sources, data inputs and assumptions; and a complete set of cost study documentation.

90. Provide the most recent cost studies prepared by or for BellSouth relating to local traffic transport and termination (including end office switching, transport, and tandem switching). Please provide the complete working copy of each cost study, including a complete working copy of all computerized models involved in preparing the cost estimate with data intact; a complete set of work papers with all special studies, data sources, data inputs and assumptions; and a complete set of cost study documentation.

91. Please provide copies of each of the contracts, if any, that govern the rates, terms, and conditions under which BellSouth terminates local or toll traffic for independent, incumbent local exchange carriers.

92. Please provide a copy of each tariff, if any, that governs the rates, terms, and conditions under which BellSouth terminates local or toll traffic for independent, incumbent local exchange carriers.

93. Please provide copies of each of the contracts, if any, that govern the rates, terms, and conditions under which independent, incumbent local exchange carriers terminate local or toll traffic for BellSouth.

94. Please provide a copy of each tariff, if any, that governs the rates, terms, and conditions under which independent, incumbent local exchange carriers terminate local or toll traffic for BellSouth.

95. Please provide the most recent cost studies prepared by or for BellSouth relating to each of the following:

- a. LIGHTgate/SMARTgate;
- b. SMARTpath;
- c. SMARTring.

Please provide the complete working copy of each cost study, including a complete working copy of all computerized models involved in preparing the cost estimate with data intact; a complete set of work papers with all special studies, data sources, data inputs and assumptions; and a complete set of cost study documentation.

96. Provide copies of all contracts or agreements between BellSouth and any IXC, CLEC, CMRS, or retail customers that contain self-effectuating enforcement mechanisms, including but not limited to liquidated damages provisions and provisions for waiver, reduction or adjustment of recurring or nonrecurring charges.

97. Please provide any documents concerning the March 10, 1999 meeting between representatives of BellSouth and representatives of the FCC's Common Carrier Bureau's Policy and Program Planning Division with respect to self-executing enforcement mechanisms applicable to BellSouth's nondiscriminatory access to unbundled network elements and the functionalities provided by its operation support systems.

98. Please provide copies of all documents evidencing any contract, agreement, understanding or other arrangement between BellSouth Telecommunications, Inc. and BellSouth.net, Inc. relating to:

- a. the provision of equipment or services by either party to the other;
- b. the payment of money by either party to the other; or
- c. an accounting transfer of any type by either party to the other.

99. Please provide copies of all documents evidencing any contract, agreement, understanding or other arrangement between BellSouth Telecommunications, Inc. and any affiliated entity other than BellSouth.net, Inc. relating to the BellSouth.net service.

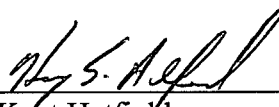
100. Please provide copies of all documents evidencing any contract, agreement, understanding or other arrangement between BellSouth Telecommunications, Inc. and/or BellSouth.net, Inc., on the one hand, and any ISP or provider of Internet backbone services, on the other, related to the offering or provision by BellSouth Telecommunications, Inc., BellSouth.net, Inc., or an ISP of Internet services or Internet access services.

101. Please provide copies of all forms of the subscriber agreement for BellSouth.net services.

102. Please provide copies of all documents evidencing any tariffs, contracts, agreements, memoranda of understanding, or other arrangements pursuant to which BellSouth has committed

to construct, acquire, or provision specific telecommunications transport or switching facilities or capacity, or a specific quantity of telecommunications transport or switching capacity, based upon a forecast by any LEC, IXC, ISP, or retail customer of the amount or quantity of such telecommunications transport or switching facilities or capacity required to transport or switch a future volume of telecommunications traffic.

Respectfully submitted to BellSouth Telecommunications, Inc. this 29th day of September, 1999.



C. Kent Hatfield
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OSHINSKY
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20037

COUNSEL FOR COMPLAINANT,
ICG TELECOM GROUP, INC.

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing was hand-delivered to Creighton E. Mershon, BellSouth Telecommunications, Inc., 601 West Chestnut, Louisville, Kentucky 40232 and serviced via first class U.S. mail, postage prepaid, upon Langley Kitchings, Suite 4300, BellSouth Center, 675 Peachtree Street, N.W., Atlanta, Georgia 30375-0001, this 29th day of September, 1999.



COUNSEL FOR COMPLAINANT, ICG TELECOM
GROUP, INC.



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 P. O. Box 32410 Fax 502 582-1573
 Louisville, Kentucky 40232 Internet
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 BellSouth Telecommunications, Inc.
 601 West Chestnut Street, Room 407
 Louisville, Kentucky 40203

Creighton E. Mershon, Sr.
 General Counsel - Kentucky

RECEIVED
 SEP 29 1999
 PUBLIC SERVICE
 COMMISSION

September 29, 1999

Helen C. Helton
 Executive Director
 Public Service Commission
 730 Schenkel Lane
 P. O. Box 615
 Frankfort, KY 40602

Re: Petition by ICG Telecom Group, Inc. for Arbitration of
 an Interconnection Agreement with BellSouth
 Telecommunications, Inc. pursuant to Section 252(b) of
 the Telecommunications Act of 1996
 PSC 99-218

Dear Helen:

Enclosed for filing in the above-captioned case are the
 original and ten (10) copies of BellSouth Telecommunications,
 Inc.'s First Interrogatories to ICG Telecom Group, Inc. and First
 Request for Production of Documents to ICG Telecom Group, Inc.

Sincerely,

Creighton E. Mershon, Sr.

Enclosures

cc: Parties of Record

180436

COMMONWEALTH OF KENTUCY

BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
SEP 29 1999
PUBLIC SERVICE
COMMISSION

In the Matter of:)
)
Petition by ICG TELECOM GROUP, INC. for)
Arbitration of an Interconnection Agreement with)
BELLSOUTH TELECOMMUNICATIONS, INC.)
pursuant to Section 252(b) of the Telecommunications)
Act of 1996)

Case No. 99-218

**BELLSOUTH TELECOMMUNICATIONS, INC.'S
FIRST INTERROGATORIES TO ICG TELECOM GROUP, INC.**

BellSouth Telecommunications, Inc. ("BellSouth") hereby requests ICG Telecom Group, Inc. ("ICG") to provide answers in response to the following Interrogatories by October 12, 1999.

INSTRUCTIONS

(a) If any response required by way of answer to these Interrogatories is considered to contain confidential or protected information, please furnish this information subject to a protective agreement.

(b) If any response required by way of answer to these Interrogatories is withheld under a claim of privilege, please identify the privilege asserted and describe the basis for such assertion.

(c) These Interrogatories are to be answered with reference to all information in your possession, custody or control or reasonably available to you.

(d) If any Interrogatory cannot be responded to in full, answer to the extent possible and specify the reason for your inability to respond fully. If you object to any part of an

Interrogatory, answer all parts of the Interrogatory to which you do not object, and as to each part to which you do object, separately set forth the specific basis for the objection.

(e) These Interrogatories are continuing in nature and require supplemental responses should information unknown to you at the time you serve your responses to these Interrogatories subsequently become known or should your initial response be incorrect or untrue.

DEFINITIONS

(a) "ICG" means ICG Telecom Group, Inc., any predecessors in interest, its parent, subsidiaries, and affiliates, their present and former officers, employees, agents, directors, and all other persons acting or purporting to act on behalf of ICG.

(b) "You" and "your" refer to ICG.

(c) "Person" means any natural person, corporation, corporate division, partnership, other unincorporated association, trust, government agency, or entity.

(d) "And" and "or" shall be construed both conjunctively and disjunctively, and each shall include the other whenever such construction will serve to bring within the scope of these Interrogatories information that would not otherwise be brought within their scope.

(e) "Identification" or "identify" when used in reference to: (i) a natural individual, requires you to state his or her full name and residential and business address; (ii) a corporation, requires you to state its full corporate name and any names under which it does business, the state of incorporation, and the address of its principal place of business; (iii) a document, requires you to state the number of pages and the nature of the document (e.g., a letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location or custodian; (iv) a communication, requires you, if any part of the communication was written, to identify the document or documents which refer to or evidence the communication, and to the extent that the

communication was not written, to identify the persons participating in the communication and to state the date, manner, place, and substance of the communication.

(f) "Arbitration Petition" refers to the petition filed by ICG on May 27, 1999 requesting arbitration under Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("Act").

(g) "Incumbent Local Exchange Carrier" refers to the term as defined in Section 252(h) of the Act, as codified in 47 U.S.C. § 252(h).

INTERROGATORIES

1. Identify all persons participating in the preparation of the answers to these Interrogatories or supplying information used in connection therewith.

2. Identify each person whom you expect to call as an expert witness at the arbitration hearing. With respect to each such expert, please state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.

3. Identify each person whom you have consulted as an expert in anticipation of this arbitration or in preparation for a hearing in this arbitration who is not expected to be called as a witness. With respect to each such expert, please state the facts known by and opinions held by this expert concerning any matters raised in the Arbitration Petition.

4. Identify all documents which refer or relate to any issues raised in the Arbitration Petition that were provided or made available to any expert identified in response to Interrogatory Nos. 2 or 3.

5. Identify all documents upon which ICG intends to rely or introduce into evidence at the hearing on this matter.

6. Please state the total number of end user customers that ICG serves within the state of Kentucky.

7. Please state the total number of end user customers that ICG serves off of its own network ("on-net" customers) within Kentucky.

8. Please state the total number of ICG's on-net customers in Kentucky that are Internet Service Providers ("ISPs").

9. State the percentage of ICG's customers in Kentucky that are residential customers.

10. Please state on a monthly basis the total amount of revenue that ICG has received from providing services within Kentucky to its end-user customers.

11. Please state on a monthly basis the total amount of revenue that ICG has received from providing services within Kentucky to its "on-net" end-user customers.

12. For the Kentucky ISP customers identified in response to Interrogatory No. 8, please state, on an annual basis, (a) the total amount billed by ICG for service to those customers from inception of service to present, (b) the amounts of any credits, rebate, or adjustments given to such customers, and (c) the total amount of revenue collected from such customers, from inception of service to present.

13. Please provide ICG's total dollar investment in Kentucky, including total dollar investment in switches, outside plant, and support assets.

14. Provide the total number of switches ICG has deployed in Kentucky.

15. Identify any cost study or other data or documents concerning the actual cost to ICG to transport ISP traffic from the point of interconnection with BellSouth to the ISP server being served by an ICG switch.

16. State the recurring and nonrecurring rates you contend BellSouth should charge in Kentucky for the frame relay elements necessary to provide packet-switch services, including the User-to-End Network Interface, Network-to-Network Interface, and the Data Link Control Identifiers and Committed Information Rates. In answering this Interrogatory, describe with particularity the method by which these rates were calculated.

17. Identify all studies, evaluations, reports, or analyses prepared by or for ICG since January 1, 1996 that refer or relate to the cost to BellSouth or any other Incumbent Local Exchange Carrier of providing any of the unbundled network elements or other services requested by ICG in its Arbitration Petition.

18. Are there any types of frame relay elements necessary to provide packet-switched services that you have requested from BellSouth that you contend BellSouth has refused to provide on an unbundled basis? If the answer is in the affirmative:

(a) identify with particularity the type of element you requested which BellSouth allegedly has refused to provide;

(b) state the date when you first requested the element and the date BellSouth allegedly refused to provide it;

(c) state the reasons purportedly given by BellSouth for its refusal to provide element; and

(d) identify all documents that refer or relate to ICG's request for or BellSouth's refusal to provide each such element.

19. Identify all states in which ICG has requested an Incumbent Local Exchange Carrier (other than BellSouth) to provide ICG with an "Enhanced Extended Link" or "EEL" alternative. In answering this Interrogatory, please:

(a) identify the Incumbent Local Exchange Carrier to whom the request was made;

(b) state the date of ICG's request and the date of the Incumbent Local Exchange Carrier's response; and

(c) describe with particularity the Incumbent Local Exchange Carrier's response to ICG's request.

20. Does ICG contend that if it were to receive an EEL, that it could put both local and toll traffic over the EEL? If so, explain the justification for this position.

21. Identify all proceedings conducted under the Act, including, but not limited to, arbitrations under Section 252 of the Act, in which ICG has sought to require that an Incumbent Local Exchange Carrier (other than BellSouth) provide ICG with an "Enhanced Extended Link" or "EEL" alternative. In answering this Interrogatory:

(a) identify the jurisdiction in which the proceeding was conducted, describe the nature of the proceeding, and state the docket number assigned to the proceeding;

(b) state the dates when the proceeding was initiated and when it was concluded, if applicable;

(c) state the result of the proceeding.

22. Identify all states in which ICG has requested an Incumbent Local Exchange Carrier (other than BellSouth) to provide ICG with volume and term discounts on unbundled

network elements consistent with those available for the Incumbent's special access services. In answering this Interrogatory:

- (a) identify each Incumbent Local Exchange Carrier to whom such a request was made;
- (b) state the date of ICG's request and the date of the Incumbent Local Exchange Carrier's response; and
- (c) describe with particularity the Incumbent Local Exchange Carrier's response to ICG's request, including the discounts to which the incumbent agreed, if any.

23. Identify all proceedings conducted under the Act, including, but not limited to, arbitrations under Section 252 of the Act, in which ICG has sought to require that an Incumbent Local Exchange Carrier (other than BellSouth) provide volume and term discounts on unbundled network elements purchased from that Incumbent. In answering this Interrogatory:

- (a) identify the jurisdiction in which the proceeding was conducted, describe the nature of the proceeding, and state the docket number assigned to the proceeding;
- (b) state the dates the proceeding was initiated and when it was concluded, if applicable;
- (c) state the result of such proceeding.

24. Does ICG contend that TELRIC cost methodology is based on the cost of the network as it currently exists, or the cost of the network as it will look in the future?

25. Identify all states in which ICG is providing local exchange service and identify the number of access lines being served by ICG in each such state.

26. Identify all agreements between ICG and an Incumbent Local Exchange Carrier under Section 252 of the Act, whether the agreement was entered into through voluntary negotiation or compulsory arbitration. In answering this request:

(a) identify the Incumbent Local Exchange Carrier that is a party to each such agreement;

(b) state the effective date of each such agreement; and

(c) state the expiration date of each such agreement.

27. Identify any and all cost studies, evaluations, reports or analyses prepared by or for ICG concerning any issue raised by ICG in the Arbitration Petition.

28. Identify all state or federal legal authority that ICG contends grants the Kentucky Public Service Commission the right to award or order liquidated damages against telecommunications carriers in an arbitration under the Telecommunications Act of 1996.

29. Identify all state or federal legal authority that ICG contends requires BellSouth to provide ICG with volume and term discounts for UNEs under the Telecommunications Act of 1996.

30. Identify all state and federal legal authority that supports ICG's contention that traffic to ISPs is local traffic.

31. State with particularity each cost for which ICG is willing to compensate BellSouth if BellSouth agrees to binding forecasts as proposed by ICG (e.g. cost of trunks only, labor-specific costs, etc.).

32. State whether any other Incumbent Local Exchange Carrier has agreed to the binding forecasts proposed by ICG in this arbitration proceeding. If so, identify the Incumbent

Local Exchange Carrier that has so agreed, and identify the agreement in which the provision of binding forecasts is contained.

33. Identify any and all state or federal laws or regulatory authority upon which ICG relies in support of its contention that BellSouth is obligated to provide binding forecasts.

34. Does ICG deliver traffic to ISPs located outside the rate center in which the call to the ISP originated?

35. If the answer to Request No. 34 is in the affirmative, describe the network architecture used by ICG to deliver traffic to ISPs located outside the rate center in which the call to the ISP originated.

36. If the answer to Request No. 34 is in the affirmative, state whether or not ICG collects reciprocal compensation for traffic delivered to ISPs located outside the rate center in which the call to the ISP originated.

Respectfully submitted,



Creighton E. Mershon, Sr.
General Counsel-Kentucky
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Louisville, KY 40232
(502) 582-8219

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Lisa S. Foshee
A. Langley Kitchings
Suite 4300, BellSouth Center
675 W. Peachtree Street, N.E.
Atlanta, GA 30375
(404) 335-0765

COUNSEL FOR BELLSOUTH
TELECOMMUNICATIONS, INC.

180171

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:)	
)	
Petition by ICG TELECOM GROUP, INC. for)	
Arbitration of an Interconnection Agreement with)	Case No. 99-218
BELLSOUTH TELECOMMUNICATIONS, INC.)	
pursuant to Section 252(b) of the Telecommunications)	
Act of 1996)	

BELLSOUTH TELECOMMUNICATIONS, INC.'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO ICG TELECOM GROUP, INC.

BellSouth Telecommunications, Inc. ("BellSouth") hereby requests ICG Telecom Group, Inc. ("ICG") to furnish documents in response to the following Requests for Production by October 12, 1999.

INSTRUCTIONS

(a) If any response required by way of answer to these Requests for Production is considered to contain confidential or protected information, please furnish this information subject to a protective agreement.

(b) If any document is withheld under a claim of privilege, please furnish a list of each document for which the privilege is claimed, reflecting the name and address of the person who prepared the document, the date the document was prepared, each person who was sent a copy of the document, each person who has viewed or who has had custody of a copy of the document, and a statement of the basis on which the privilege was claimed.

(c) These Requests for Production are to be answered with reference to all information in your possession, custody or control or reasonably available to you. These

Requests for Production are intended to include requests for information that is physically within ICG's possession, custody or control as well as in the possession, custody or control of ICG's agents, attorneys, or other third parties from which such documents may be obtained.

(d) If any Request for Production cannot be responded in full, answer to the extent possible and specify the reason for your inability to respond fully. If you object to any part of a Request for Production, answer all parts of the request to which you do not object, and as to each part to which you do object, separately set forth this specific basis for the objection.

(e) These Requests for Production are continuing in nature and require supplemental responses should information unknown to you at the time you serve your responses to these requests subsequently become known or should your initial response be incorrect or untrue.

DEFINITIONS

(a) "ICG" means ICG Telecom Group, Inc., any predecessors in interest, its parent, subsidiaries, and affiliates, their present and former officers, employees, agents, directors, and all other persons acting or purporting to act on behalf of ICG.

(b) "You" and "your" refer to ICG.

(c) "Person" means any natural person, corporation, corporate division, partnership, other unincorporated association, trust, government agency, or entity.

(d) "And" and "or" shall be construed both conjunctively and disjunctively, and each shall include the other whenever such construction will serve to bring within the scope of these Interrogatories information that would not otherwise be brought within their scope.

(e) "Identification" or "identify" when used in reference to: (i) a natural individual, requires you to state his or her full name and residential and business address; (ii) a corporation, requires you to state its full corporate name and any names under which it does business, the state

of incorporation, and the address of its principal place of business; (iii) a document, requires you to state the number of pages and the nature of the document (e.g., a letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location or custodian; (iv) a communication, requires you, if any part of the communication was written, to identify the document or documents which refer to or evidence the communication, and to the extent that the communication was not written, to identify the persons participating in the communication and to state the date, manner, place, and substance of the communication.

(f) "Arbitration Petition" refers to the petition filed by ICG on May 27, 1999 requesting arbitration under Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("Act").

(g) "Incumbent Local Exchange Carrier" refers to the term as defined in Section 252(h) of the Act, as codified in 47 U.S.C. § 252(h).

REQUESTS FOR PRODUCTION

1. Produce copies of all documents identified in response to BellSouth's First Set of Interrogatories.
2. Produce all documents that support or refer or relate to the recurring and nonrecurring rates you contend BellSouth should charge ICG for frame relay elements necessary to provide packet-switched services in Kentucky, including the User-to-End Network Interface, Network-to-Network Interface, and the Data Link Control Identifiers and Committed Information Rates.
3. Produce all documents that refer or relate to any request by ICG to an Incumbent Local Exchange Carrier (other than BellSouth) to provide ICG with an "Enhanced Extended

Link” or “EEL” alternative, as well as all documents referring or relating to the Incumbent Local Exchange Carrier’s response to any such request.

4. Produce a copy of any interim or final decision in an arbitration under Section 252 of the Act or in any other proceeding under the Act that addresses the issue of whether ICG should be provided with an “Enhanced Extended Link” or “EEL” alternative.

5. Produce all documents that refer or relate to any request by ICG to an Incumbent Local Exchange Carrier (other than BellSouth) to provide ICG with volume and term discounts on unbundled network elements consistent with those available for the Incumbent’s special access services.

6. Produce a copy of any interim or final decision in an arbitration under Section 252 of the Act or in any other proceeding under the Act that addresses the issue of whether ICG should receive volume and term discounts on unbundled network elements from an Incumbent Local Exchange Carrier consistent with those available for the Incumbent’s special access services.

7. Produce all documents that refer or relate to any request by ICG to an Incumbent Local Exchange Carrier (other than BellSouth) for performance measurements, benchmarks, and/or liquidated damages.

8. Produce all documents that refer or relate to ICG’s claim that for purposes of reciprocal compensation, ICG should be compensated for end office, tandem, and transport elements of termination where ICG’s switch serves a geographic area comparable to the area served by BellSouth’s tandem switch.

9. Produce copies of all agreements between ICG and an Incumbent Local Exchange Carrier (other than BellSouth) under Section 252 of the Act, whether the agreement was reached through voluntary negotiation or compulsory arbitration.
10. Produce all documents upon which ICG intends to rely or introduce into evidence at the hearing on this matter.
11. Please provide any and all written agreements and/or contracts entered between ICG and its ISP customers identified in response to Interrogatory No. 8, as well as an explanation of any oral agreements entered with such ISP customers.
12. Identify any and all cost studies, evaluations, reports or analyses prepared by or for ICG concerning any issue raised by ICG in the Arbitration Petition.
13. Produce all documents that refer, reflect or describe the network architecture used by ICG to deliver traffic to ISPs.
14. Produce all documents that refer, relate or describe ICG's delivery of traffic to ISPs located outside the rate center in which the call to the ISP originated.
15. Produce all documents that refer, relate or describe ICG's collection of reciprocal compensation for its delivery of traffic to ISPs located outside the rate center in which the call to the ISP originated.

Respectfully submitted,



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General Counsel-Kentucky
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(502) 582-8219

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Lisa S. Foshee
A. Langley Kitchings
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675 W. Peachtree Street, N.E.
Atlanta, GA 30375
(404) 335-0765

COUNSEL FOR BELLSOUTH
TELECOMMUNICATIONS, INC.

180176

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the individuals on the attached Service List by mailing a copy thereof, this 29th day of September 1999.



Creighton E. Mershon, Sr.

SERVICE LIST - PSC 99-218

C. Kent Hatfield, Esq.
Henry S. Alford, Esq.
Middleton & Reutlinger
2500 Brown & Williamson Tower
Louisville, KY 40202

Albert H. Kramer, Esq.
Michael Carowitz, Esq.
Dickstein Shapiro Morin & Oshinsky
2101 L Street, NW
Washington, DC 20037-1526

Bruce Holdridge
ICG Communications, Inc.
180 Grand Avenue
Suite 1000
Oakland, CA 94612



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

September 23, 1999

To: All parties of record

RE: Case No. 99-218

We enclose one attested copy of the Commission's Order in
the above case.

Sincerely,

Stephani J. Bell
Stephani Bell
Secretary of the Commission

SB/sa
Enclosure

Honorable C. Kent Hatfield
& Henry S. Alford
Counsel for ICG Telecom Group, Inc.
Middleton & Reutlinger
2500 Brown & Williamson Tower
Louisville, KY 40202 3410

Albert H. Kramer
& Michael Carowitz
Dickstein Shapiro Morin & Oshinsky
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Bruce Holdridge
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Oakland, CA 94612

Mary Jo Peed,
Stuart Hudnall, & Shelley Walls
BellSouth Telecommunications, Inc.
675 West Peachtree Street, NE
Atlanta, GA 30375

Honorable Creighton E. Mershon,
BellSouth Telecommunications, Inc.
P.O. Box 32410
Louisville, KY 40232

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION BY ICG TELECOM GROUP, INC.)	
FOR ARBITRATION OF AN INTERCONNECTION)	
AGREEMENT WITH BELL SOUTH)	CASE NO.
TELECOMMUNICATIONS, INC.)	99-218
PURSUANT TO SECTION 252(b) OF THE)	
TELECOMMUNICATIONS ACT OF 1996)	

O R D E R

The parties have advised the Commission that they mutually agreed to extend review of the arbitration petition to eight weeks after the Commission's scheduled public hearing. Thus, review of this petition and response thereto will conclude by no later than January 27, 2000. The following guidelines and procedural schedule shall apply to this proceeding.

The parties are notified that, when they essentially have agreed as to a particular issue, but they have not been able to agree as to the precise language to express the agreement, the Commission will not hear argument on the issue in this proceeding. Reduction of the proposed agreement to writing is the responsibility of the parties. Each party may submit its proposed version of the contract term in its best and final offer, which shall be submitted not later than 20 days after the hearing.

In addition, although the Commission is not bound by the technical rules of legal evidence, KRS 278.310, the parties hereto are hereby put on notice that cumulative, repetitive, and irrelevant evidence will not be heard in the formal hearing on this matter. Opening and closing statements will not be heard. In addition, unless special leave is

granted, all direct testimony shall be prefiled. All testimony at the formal hearing shall be offered pursuant to cross-examination or redirect examination.

IT IS THEREFORE ORDERED that:

1. A formal hearing in this matter is scheduled for December 2, 1999, at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.
2. Data requests of each party, if any, shall be submitted by September 29, 1999.
3. Responses to the data requests shall be filed by October 12, 1999.
4. Unless previously filed into the record, relevant cost studies, including workpapers, and any other documents and information necessary to resolve outstanding issues shall accompany the prefiled direct testimony of all witnesses, which shall be filed by October 21, 1999.
5. Rebuttal testimony, if any, shall be filed by November 19, 1999.
6. Any agreed-upon portions of the parties' contract which have not already been filed also shall be filed by November 19, 1999.
7. Not later than 20 days after the adjournment of the hearing, each party shall submit, in contract form, its best and final offers on each disputed issue. Any accompanying written explanation of continuing disagreement on a specific issue shall be as concise as possible.

Done at Frankfort, Kentucky, this 23rd day of September, 1999.

By the Commission

ATTEST:


Executive Director

BellSouth Telecommunications, Inc.
P.O. Box 32410
Louisville, Kentucky 40232
or

502 582-8219
Fax 502 582-1573
Internet
Creighton.E.Mershon@bridge.bellsouth.com

Creighton E. Mershon, Sr.
General Counsel - Kentucky

BellSouth Telecommunications, Inc.
601 West Chestnut Street, Room 407
Louisville, Kentucky 40203

August 31, 1999

RECEIVED
SEP 01 1999
PUBLIC SERVICE
COMMISSION

Helen C. Helton
Executive Director
Public Service Commission
730 Schenkel Lane
P. O. Box 615
Frankfort, KY 40602

Re: Petition by ICG Telecom Group, Inc. for Arbitration of
an Interconnection Agreement with BellSouth
Telecommunications, Inc. pursuant to Section 252(b) of
the Telecommunications Act of 1996
PSC 99-218

Dear Helen:

We are in receipt of the August 30, 1999, letter from
counsel for ICG advising the Commission of ICG's consent to an
extension of the statutory period for concluding this
arbitration. BellSouth advises the Commission of its concurrence
in the extension as outlined in the ICG correspondence.

Sincerely,



Creighton E. Mershon, Sr.

cc: Parties of Record

176829

MIDDLETON & REUTLINGER

founded in 1854

2500 BROWN & WILLIAMSON TOWER

LOUISVILLE, KENTUCKY 40202-3410

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FAX 502.561.0442

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D. RANDALL GIBSON
G. KENNEDY HALL, JR.
JAMES R. HIGGINS, JR.**
MARK S. FENZEL
KATHIEJANE OEHLER
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THOMAS W. FRENTZ*
WILLIAM JAY HUNTER, JR.

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JULIE A. GREGORY
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EDWIN G. MIDDLETON (1920-1980)
CHARLES G. MIDDLETON, JR. (1916-1988)
ALBERT F. REUTLINGER (1917-1998)

OF COUNSEL
HENRY MEIGS II
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INDIANA OFFICE
530 EAST COURT AVENUE
MELBERSVILLE, INDIANA 47130
312.282.1132

RECEIVED

AUG 31 1999

PUBLIC SERVICE
COMMISSION

*ALSO ADMITTED INDIANA
**LICENSED TO PRACTICE BEFORE
U.S. PATENT & TRADEMARK OFFICE

August 30, 1999

Ms. Helen C. Helton
Executive Director
Kentucky Public Service Commission
P.O. Box 615
730 Schenkel Lane
Frankfort, Kentucky 40601

RE: Petition by ICG TELECOM GROUP, INC. For Arbitration of an
Interconnection Agreement with BELLSOUTH TELECOMMUNICATIONS,
INC. Pursuant to Section 252(b) of the Telecommunications Act of 1996
Case No. 99-218

Dear Helen:

ICG Telecom Group, Inc. ("ICG") and BellSouth Telecommunications, Inc. ("BellSouth") have discussed a proposed schedule to suggest to the Commission for the above-captioned arbitration proceeding. Subject to the Commission's scheduling needs and convenience, the parties propose the following schedule;

Direct Testimony - October 21, 1999
Rebuttal Testimony - November 19, 1999
Hearing - December 2 (and 3, if necessary)

It is our understanding that December 2-3 have been found to be available dates for hearing by the Commission staff, and that December 6, 8-10 are also available. The parties are in agreement with the proposed filing schedule and any of the listed available hearing dates, subject to the Commission's convenience.

Ms. Helen C. Helton
August 30, 1999
Page 2

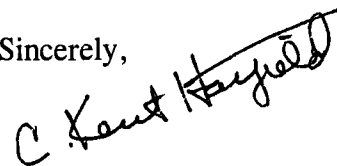
The parties would be free to send data requests preliminarily (prior to the testimony) with a 14-day response time. After testimony is filed, parties may also file data requests on the testimony with a 14-day best efforts response time.

As the Commission is aware, ICG and BellSouth are engaged in similar and contemporaneous arbitrations in other states. These multiple arbitrations typically involve common witnesses and counsel for parties, making coordination of the schedule essential for both parties. In this regard, the proposed schedule will extend the time for the Commission's consideration beyond the statutory review period set forth in the Telecommunications Act of 1996. I am authorized to state on behalf of my client, ICG, that it consents to an extension of the Commission's review period for these issues through an eight week period following the arbitration hearing. It is my understanding that BellSouth will concur by separate letter.

It is our hope that the proposed schedule will be acceptable to the Commission and will facilitate the timely and orderly resolution of these issues.

Thank you for your consideration and assistance.

Sincerely,



C. Kent Hatfield
Counsel for ICG Telecom Group, Inc.

cc: Hon. Amy E. Dougherty, Esq.
Langley Kitchings, Esq.
Creighton E. Mershon, Sr., Esq.
Albert H. Kramer, Esq.

BellSouth Telecommunications, Inc. 502 582-8219
P.O. Box 32410 Fax 502 582-1573
Louisville, Kentucky 40232 Internet
or Creighton.E.Mershon@bridge.bellsouth.com

Creighton E. Mershon, Sr.
General Counsel - Kentucky

BellSouth Telecommunications, Inc.
601 West Chestnut Street, Room 407
Louisville, Kentucky 40203

August 13, 1999

RECEIVED
AUG 16 1999
PUBLIC SERVICE
COMMISSION

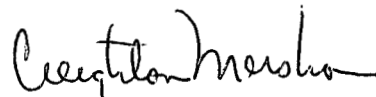
Helen C. Helton
Executive Director
Public Service Commission
730 Schenkel Lane
P. O. Box 615
Frankfort, KY 40602

Re: Petition by ICG Telecom Group, Inc. for Arbitration of
an Interconnection Agreement with BellSouth
Telecommunications, Inc. pursuant to Section 252(b) of
the Telecommunications Act of 1996
PSC 99-218

Dear Helen:

We are in receipt of the August 11, 1999, letter from
counsel for ICG advising the Commission of ICG's consent to an
extension of the statutory period for concluding this arbitration
with certain stipulations. BellSouth advises the Commission of
its concurrence in the extension as outlined in the ICG
correspondence.

Sincerely,



Creighton E. Mershon, Sr.

cc: Parties of Record

174412

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OF COUNSEL
HENRY MEIGS II
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530 EAST COURT AVENUE
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812.282.1132

AUG 19 1999

*ALSO ADMITTED INDIANA
**LICENSED TO PRACTICE BEFORE
U.S. PATENT & TRADEMARK OFFICE

August 11, 1999

Ms. Helen C. Helton
Executive Director
Kentucky Public Service Commission
P.O. Box 615
730 Schenkel Lane
Frankfort, Kentucky 40601

RE: Petition by ICG TELECOM GROUP, INC. For Arbitration of an
Interconnection Agreement with BELLSOUTH TELECOMMUNICATIONS,
INC. Pursuant to Section 252(b) of the Telecommunications Act of 1996
Case No. 99-218

Dear Helen:

ICG Telecom Group, Inc. ("ICG") and BellSouth Telecommunications, Inc. ("BellSouth") are discussing a proposed schedule to suggest to the Commission for the above-captioned arbitration proceeding. We also have had preliminary discussions with the Commission Staff with regard to finding a hearing date which is convenient for the Commission and consistent with the hearing schedules for the parties in similar and contemporaneous arbitrations that are occurring in other states between them. These multiple arbitrations typically involve common witnesses and counsel for the parties, making coordination of the schedule essential for both parties. We hope to propose to the Commission within the next few days an agreed schedule which has been cleared by the Commission Staff.

In this regard, it is clear that any such schedule will extend the time for the Commission's consideration beyond the statutory review period set forth in the Telecommunications Act of 1996. I am authorized to state on behalf of my client, ICG, that it consents to an extension of the Commission's review period for these issues through an eight week period following the arbitration hearing, provided that the hearing occurs no later than

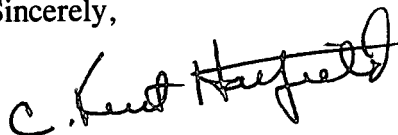
Ms. Helen C. Helton
August 11, 1999
Page 2

the months of October or November, 1999. It is my understanding that BellSouth will concur by separate letter.

Should the Commission or Commission's staff have any question about this matter, please feel free to give me a call at any time.

Thank you for your consideration and assistance.

Sincerely,

A handwritten signature in cursive script that reads "C. Kent Hatfield".

C. Kent Hatfield
Counsel for ICG Telecom Group, Inc.

cc: Hon. Amy E. Dougherty, Esq.
Langley Kitchings, Esq.
Creighton E. Mershon, Sr., Esq.
Albert H. Kramer, Esq.



BellSouth Telecommunications, Inc. 502 582-8219
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BellSouth Telecommunications, Inc.
601 West Chestnut Street, Room 407
Louisville, Kentucky 40203

Creighton E. Mershon, Sr.
General Counsel - Kentucky

June 21, 1999

RECEIVED
JUN 21 1999
PUBLIC SERVICE
COMMISSION

Helen C. Helton
Executive Director
Public Service Commission
730 Schenkel Lane
P. O. Box 615
Frankfort, KY 40602

Re: Petition by ICG Telecom Group, Inc. for Arbitration of
an Interconnection Agreement with BellSouth
Telecommunications, Inc. pursuant to Section 252(b) of
the Telecommunications Act of 1996
PSC 99-218

Dear Helen:

Enclosed for filing in the above-captioned case are the
original and ten (10) copies of BellSouth Telecommunications,
Inc.'s Response to ICG Telecom Group Inc.'s Petition for
Arbitration.

Sincerely,

Creighton E. Mershon, Sr.

Enclosure

cc: Parties of Record

167500

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:)
)
Petition by ICG TELECOM GROUP, INC. for)
Arbitration of an Interconnection Agreement with)
BELLSOUTH TELECOMMUNICATIONS, INC.)
pursuant to Section 252(b) of the Telecommunications)
Act of 1996.)
_____)

CASE NO. 99-218

**BELLSOUTH TELECOMMUNICATIONS, INC.'S RESPONSE
TO ICG TELECOM GROUP INC.'S PETITION FOR ARBITRATION**

Pursuant to 47 U.S.C. § 252(b)(3) of the Telecommunications Act of 1996 ("1996 Act"), BellSouth Telecommunications, Inc. ("BellSouth") responds to ICG Telecom Group, Inc.'s ("ICG") Petition for Arbitration ("Petition"), and says:

I. INTRODUCTION

Sections 251 and 252 of the 1996 Act encourage negotiations between parties to reach voluntary local interconnection agreements. Section 251(c)(1) requires incumbent local exchange companies to negotiate the particular terms and conditions of agreements to fulfill the duties described in §§ 251(b) and 251(c)(2-6).

Since passage of the 1996 Act on February 8, 1996, BellSouth has successfully conducted negotiations with numerous competing local exchange carriers ("CLECs") in Kentucky. To date, the Kentucky Public Service Commission ("Commission") has approved numerous agreements between BellSouth and CLECs. The nature and extent of these agreements varies, depending on

the individual needs of the companies, but the conclusion is inescapable. BellSouth has a record of embracing competition and reaching agreement to interconnect on fair and reasonable terms.

During the negotiation process, the 1996 Act allows a party to petition a state commission for arbitration of unresolved issues.¹ The petition must identify the issues resulting from the negotiations that are resolved, as well as those that are unresolved.² The petitioning party must submit along with its petition "all relevant documentation concerning: (1) the unresolved issues; (2) the position of each of the parties with respect to those issues; and (3) any other issue discussed and resolved by the parties."³ A non-petitioning party to a negotiation under this section may respond to the other party's petition and provide such additional information as it wishes within 25 days after the state commission receives the petition.⁴ The 1996 Act limits a state commission's consideration of any petition (and any response thereto) to the unresolved issues set forth in the petition and in the response.⁵

BellSouth and ICG entered into a one-year Interconnection Agreement ("Agreement") on October 27, 1998. The parties began re-negotiating the Agreement on December 18, 1998. Although BellSouth and ICG negotiated in good faith, the parties were unable to reach agreement on some issues. As a result, ICG filed this Petition for Arbitration. Pursuant to the 1996 Act, when parties cannot successfully negotiate an interconnection agreement, either may petition a state commission for arbitration of unresolved issues between the 135th and 160th day from the date a request for negotiation was received. It is clear from the 1996 Act that ICG's Petition must

¹ 47 U.S.C. § 252(b)(2).

² See generally, 47 U.S.C. §§ 252 (b)(2)(A) and 252 (b)(4).

³ 47 U.S.C. § 252(b)(2).

⁴ 47 U.S.C. § 252(b)(3).

identify the issues resulting from the negotiations that are resolved, as well as those that are unresolved.⁶

Through the arbitration process, the state commission must resolve the unresolved issues ensuring that the requirements of §§ 251 and 252 of the 1996 Act are met. The obligations contained in those sections of the 1996 Act are the obligations that form the basis for negotiation, and if negotiations are unsuccessful, they then form the basis for arbitration. Issues or topics not specifically related to these areas are outside the scope of an arbitration proceeding. Once the state commission provides guidance on the unresolved issues, the parties must incorporate those resolutions into a final agreement to be submitted to the state commission for approval.⁷

BellSouth will respond to each subheading identified in the Petition in a manner that will attempt to clearly reflect what unresolved issues remain to be arbitrated by the Commission:

II. SPECIFIC RESPONSE

In accordance with § 252(b)(3) of the 1996 Act, BellSouth responds to each specifically numbered allegation in ICG's Petition and says:

1. BellSouth is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Petition.

2. BellSouth denies that it is a monopoly provider of telephone exchange services. BellSouth admits the remaining allegations in paragraph 2 of the Petition.

3. BellSouth admits the allegations in paragraph 3 of the Petition.

⁵ 47 U.S.C. § 252(b)(4).

⁶ See generally, 47 U.S.C. §§ 252(b)(2)(A) and 252(b)(4).

⁷ 47 U.S.C. § 252(a).

4. BellSouth is without knowledge or information sufficient to form a belief as to what ICG seeks. BellSouth admits the remaining allegations in paragraph 4 of the Petition.

5. 47 U.S.C. § 252(b)(4) of the 1996 Act limits the Commission's consideration of any petition to the unresolved issues set forth in the petition and in the response. Therefore, the Commission cannot arbitrate any issue not specifically included in ICG's Petition, such as the OSS issue. BellSouth admits the remaining allegations in paragraph 5 of the Petition.

6. BellSouth admits the allegations in paragraph 6 of the Petition. The Commission's deadline for concluding the arbitration appears to be September 18, 1999, not September 20, 1999.

7. BellSouth admits the allegations in paragraph 7 of the Petition.

8. BellSouth admits that the appropriate arbitration standards are set forth in the 1996 Act. Those provisions of the 1996 Act speak for themselves. The remaining allegations in paragraph 8 of the Petition are denied.

9. BellSouth admits that the appropriate arbitration standards are set forth in the 1996 Act. Those provisions of the 1996 Act speak for themselves. The remaining allegations in paragraph 9 of the Petition are denied.

10. BellSouth admits that the appropriate arbitration standards are set forth in the 1996 Act. Those provisions of the 1996 Act speak for themselves. The remaining allegations in paragraph 10 of the Petition are denied.

11. BellSouth admits that the appropriate arbitration standards are set forth in the 1996 Act. Those provisions of the 1996 Act speak for themselves. The remaining allegations in paragraph 11 of the Petition are denied.

12. BellSouth admits that the appropriate arbitration standards are set forth in the 1996 Act. Those provisions of the 1996 Act speak for themselves. The remaining allegations in paragraph 12 of the Petition are denied

BELLSOUTH'S POSITION ON UNRESOLVED ISSUES

BellSouth admits that this section of the Petition sets forth ICG's position on the unresolved issues. BellSouth denies that this section of the Petition sets forth BellSouth's position in a complete or accurate manner. In accordance with § 252(b)(3) of the 1996 Act, BellSouth sets forth below its position on each of the unresolved issues identified by ICG in the Petition.

Issue 1: Until the FCC adopts a rule with prospective application, should dial-up calls to Internet service providers (ISPs) be treated as if they were local calls for purposes of reciprocal compensation?

No. The FCC's recent Declaratory Ruling, FCC 99-38 in CC Docket Nos. 96-98 and 99-68, released February 26, 1999, ("Declaratory Ruling"), confirmed unequivocally that the FCC has, will retain, and will exercise jurisdiction over ISP traffic. In short, the FCC determined that ISP traffic is interstate traffic, not local traffic. Under the provisions of the 1996 Act and FCC rules, only local traffic is subject to reciprocal compensation obligations. Thus, reciprocal compensation is not applicable to ISP-bound traffic. Clearly, treating ISP calls as local calls for reciprocal compensation purposes is inconsistent with the law and is not sound public policy.

Issue 2: Should BellSouth be required to offset the amount paid by ICG in the Bona Fide Request process for BellSouth's costs in developing a project plan whenever other parties subsequently request and receive the same service at a reduced rate (because BellSouth has already developed the necessary project plan)?

No. This is a process for which the CLEC should be responsible. In some cases, the CLEC requesting the BFR/NBR service or UNE may be the only CLEC to ever purchase or use the service or UNE. Even if other CLECs do purchase the new service or UNE at a later date, the initial CLEC has already had the advantage of implementing the service before anyone else. In most businesses, the first company to introduce or produce a new service or product absorbs expenses for planning, developing and testing such a product or service. BellSouth has no control over who submits a BFR/NBR first or how many BFR/NBRs a CLEC may submit; therefore, BellSouth does not penalize or discriminate against the first CLEC to submit a BFR/NBR.

In addition, the administration of such a process for all BFR/NBRs would be extremely labor intensive and expensive. Further, such a process is not required by the 1996 Act. ICG's proposal requires BellSouth to keep track of all BFR/NBRs by CLEC, as well as subsequent purchasers of a BFR/NBR service or UNE in order to recover a portion of the developmental cost from the succeeding CLECs. In one possible scenario, BellSouth would not know what portion of the BFR/NBR cost each subsequent purchasing company would pay, because BellSouth would not know how many, if any, other CLECs would want that particular service or UNE. In another scenario, a plan would involve keeping track of all CLECs buying a certain BFR/NBR service and reimbursing each one equally every time another CLEC purchases the service. This process would be even more administratively cumbersome and expensive than the first one.

Issue 3: Should BellSouth be required to make available as UNEs packet-switching capabilities, including but not limited to: (a) user-to-network interface (UNI) at 56 kbps, 64 kbps, 128 kbps, 256 kbps, 384 kbps, 1.544 Mbps, 44.736 Mbps; (b) network-to-network interface (NNI) at 56 kbps, 64 kbps, 1.544 Mbps, 44.736 Mbps; and (c) data link control identifiers (DLCIs), at committed information rates (CIRs) of 0 kbps, 8 kbps, 9.6 kbps, 16 kbps, 19.2 kbps, 28 kbps, 32 kbps, 56 kbps, 64 kbps, 128 kbps, 192 kbps, 256 kbps, 320 kbps, 384 kbps, 448 kbps, 512 kbps, 576 kbps, 640 kbps, 704 kbps, 768 kbps, 832 kbps, 896 kbps, 960 kbps, 1.024 Mbps, 1.088 Mbps, 1.152 Mbps, 1.216 Mbps, 1.280 Mbps, 1.344 Mbps, 1.408 Mbps, 1.472 Mbps, 1.536 Mbps, 1.544 Mbps, Mbps, 3.088 Mbps, 4.632 Mbps, 6.176 Mbps, 7.720 Mbps, 9.264 Mbps, 10.808 Mbps, 12.350 Mbps, 13.896 Mbps, 15.440 Mbps, 16.984 Mbps, 18.528 Mbps, 20.072 Mbps?

ICG seeks to require BellSouth to unbundle its existing tariffed Packet Switching Frame Relay Service. Until the FCC issues a final, non-appealable order on Rule 51.319, and with certain other limitations, BellSouth agrees to comply with ICG's request. Cost studies have been prepared for the functions consistent with BellSouth's tariffs.

Issue 4: Should BellSouth be required to provide as a UNE Enhanced Extended Link Loops (EELs)?

No. ICG requested what they term an "enhanced extended link" or a local loop combined with dedicated transport. There is no question that these extended links or extended loops would require BellSouth to combine the loop and dedicated transport, a function that BellSouth is not required to perform. BellSouth, however, is willing to perform this function upon execution of a commercial agreement that is not subject to the requirements of the 1996 Act.

Issue 5: Should BellSouth be subject to liquidated damages for failing to meet the time intervals for provisioning UNEs?

No. The issue of liquidated damages is not appropriate for arbitration. The Commission lacks the statutory authority to award or order liquidated damages. Even if a penalty or liquidated damage award could be arbitrated, it is completely unnecessary. State law and Commission procedures are available, and perfectly adequate, to address any breach of contract situation should it arise.

Issue 6: Should volume and term discounts be available for UNEs?

No. BellSouth should not be required to provide volume and term discounts for UNEs. Neither the 1996 Act nor any FCC order or rule requires volume and term discount pricing.

Issue 7: For purposes of reciprocal compensation, should ICG be compensated for end office, tandem, and transport elements of termination where ICG's switch serves a geographic area comparable to the area served by BellSouth's tandem switch?

No. If a call is not handled by a switch on a tandem basis, it is not appropriate to pay reciprocal compensation for the tandem switching function. BellSouth will pay the tandem interconnection rate only if ICG's switch is identified in the local exchange routing guide ("LERG") as a tandem. ICG is seeking to be compensated for the cost of equipment it does not own and for functionality it does not provide. Therefore, ICG's request for tandem switching compensation when tandem switching is not performed should be denied.

Issue 8: Until the FCC adopts a rule with prospective application, should dial-up calls to ISPs be treated as if they were local calls for purposes of reciprocal compensation?

See discussion of Issue 1 above.

Issue 9: In calculating Percent Local Usage ("PLU") and Percent Interstate Usage ("PIU"), should BellSouth be required to report the traffic on a monthly basis?

No. BellSouth's tariffs require that the PIU and PLU be calculated on a quarterly basis. To calculate and report PIUs and PLUs more often than quarterly would require additional manpower and expense, and would not improve the current methodology. The quarterly PIU and PLU reporting requirements are both reasonable and efficient. Quarterly reporting is a reasonable balance of (1) the effort required by all companies, CLECs, Interexchange Carriers (IXCs), and Incumbent Local Exchange Carriers (ILECs), to gather the data to calculate the PIU and PLU; (2) the effort required by companies to manually update their billing systems to include those factors for all other companies; and (3) the degree of variability of the factors within the reporting period, such as adds, disconnects, seasonal peaks, etc.

Issue 10: Should BellSouth be required to provide to ICG a breakdown of the intrastate and interstate traffic that it reports to ICG?

The PIU is the breakdown of the intrastate and interstate traffic that BellSouth reports to ICG quarterly. Because BellSouth is not an IXC, the interstate traffic terminated to ICG by BellSouth may be a minimal amount due to Remote Call Forwarding. If ICG is asking for the underlying data that is used to calculate the PIU, the Interconnection Agreement provides for either BellSouth or ICG to conduct an annual audit to ensure the proper billing and reporting of traffic.

Issue 11: Should BellSouth be required to commit to provisioning the requisite network buildout and necessary support when ICG agrees to enter into a binding forecast of its traffic requirements in a specified period?

No. Although BellSouth has been analyzing such an offering, BellSouth is not required by the 1996 Act to commit to a binding forecast with CLECs. While the specifics of such an arrangement have not been finalized, BellSouth is agreeable to continue to negotiate with ICG to meet their forecasting needs.

Issue 12: Should BellSouth be permitted to impose on ICG a burdensome and lengthy process for becoming a certified vendor before allowing ICG to install, provision, or maintain ICG's own collocation space?

BellSouth does not require ICG to become a "certified vendor" in order to provision or maintain its collocated equipment arrangement. BellSouth does require the use of a BellSouth-certified vendor for the engineering and installation of equipment and facilities placed within a BellSouth central office or upon a BellSouth property in an adjacent collocation arrangement. BellSouth imposes this requirement on itself as well as any other entity installing equipment and facilities within a BellSouth central office. Use of a certified vendor is necessary to ensure compliance with technical, safety and quality standards. Certified vendors must carry specified liability insurance coverage and are appropriately bonded.

BellSouth's vendor certification process is neither burdensome nor lengthy. In fact, a company applying for vendor certification, such as ICG, is in control over the time period to complete the certification process. The process is no more than the demonstration, through trial installation, that the applicant has reviewed and has become proficient at, and can comply with the technical, safety and quality engineering and installation guidelines and specifications.

Issue 13: Should BellSouth waive or expedite its certified vendor process for ICG employees whenever there are fewer than fifty (50) certified vendors in a designated area, and/or when a certified vendor is unable to perform the collocation work on a timely basis pursuant to ICG's needs?

BellSouth should not be required to waive ICG's use of a certified vendor under any circumstances. A central office is the heart of the public switched network. The central office environment necessitates careful planning and deployment of equipment, facilities and support components. Trained technicians that, as demonstrated by their certification, have competence in all aspects of the required engineering and installation activities must execute these activities. Given that the timeline required to complete the certification program is at the sole discretion of ICG, there is no basis to waive or expedite the certified vendor process for ICG.

Issue 14: Should BellSouth be permitted to require a certified vendor to cross connect ICG's equipment with the equipment of another telecommunications carrier that desires such a connection?

Yes, under certain conditions. BellSouth requires a certified vendor for its own as well as other interconnectors' equipment and facility installations. Although a collocator is permitted to perform limited cross-connect cabling within its own collocation space, any time cable facilities must traverse an equipment area, a certified vendor must be utilized. One component of the certified vendor program is the proper placement and installation of overhead cabling. These standards ensure not only the protection of other cables within the same cable racking route, but the equipment underneath the cabling racking in which the new cabling is placed. Unqualified personnel working in overhead racks would significantly increase the risk of damage to BellSouth's and other interconnectors' equipment and facilities.

Issue 15: Should BellSouth be permitted to impose costly and burdensome security escort requirements on ICG legitimate site visits?

BellSouth does not require a security escort for ICG's pre-installation site visit or following acceptance of the space. Although BellSouth requires a security escort for the initial site visit, BellSouth offers this escorted site visit free of charge to give ICG the opportunity to review with their selected BellSouth vendor the location of the arrangement, the placement of equipment within the space allocated for their use, and to measure any applicable cabling distances. BellSouth does, however, require ICG to pay for a security escort for any additional site visits following the initial pre-installation visit and prior to space acceptance.

BellSouth has a right and an obligation to put in place security requirements to protect its network and the networks of other collocated carriers. Between the time BellSouth is in receipt of ICG's Bona Fide Firm Order and ICG's space acceptance, BellSouth takes the appropriate measures to secure its premises (e.g., installing security access card reader systems, protecting proprietary information) and waits for confirmation from ICG that BellSouth's security requirements have been met by ICG. ICG's BellSouth certified vendor may visit the site prior to space acceptance without a security escort, if previously arranged. Following space acceptance, ICG is provided access keys to the central office and may access the space twenty-four (24) hours a day and seven (7) days a week, without an escort.

Issue 16: Should BellSouth be required to limit all charges for the transition of ICG's equipment from virtual collocation to physical collocation to charges for the actual costs of physical labor in making the transition and a records change?

No. Virtual collocation and physical collocation are two different service offerings. While a collocating carrier has direct access to its physical collocation equipment on a twenty-four hour a day, seven-day a week basis, access to virtual collocation is restricted to limited inspection visits only. Virtual collocation arrangements are most commonly placed within the BellSouth line-up, because BellSouth leases virtual collocation equipment from the carrier and assumes the maintenance and repair responsibility at the direction of the carrier. The conversion of an existing virtual collocation arrangement to a physical collocation arrangement necessitates either the relocation of the virtual collocation equipment to the space designated for the new

physical collocation arrangement or the placement of new equipment within the physical collocation space and the decommissioning of the old virtual collocation arrangement.

BellSouth must separately review its ability to provide physical collocation and assess the support components necessary to support the particular arrangement (*e.g.*, space allocation based on engineering drawings, HVAC, power feeder and distribution, grounding, cable racking). To perform these activities, BellSouth incurs costs. BellSouth recovers these review and analysis costs through the assessment of an application fee. Furthermore, BellSouth is obligated by law to treat requesting collocators in a non-discriminatory manner. Thus, a collocator who previously had virtual collocated equipment within an office must follow the same process and pay the same fees for physical collocation as a collocator who did not previously have virtual collocation within that office. BellSouth assesses space preparation charges on a per location basis, based on the work required to prepare the space. Where BellSouth incurs no preparation costs, no preparation charges are assessed.

Issue 17: Should BellSouth allow ICG to sublease any of ICG's equipment located on BellSouth's premises?

BellSouth permits ICG to sublease a portion of ICG's collocation space to other CLECs that are providing telecommunications services through interconnection or access to BellSouth's network. Additionally, BellSouth permits any telecommunications carrier to provision service to any other telecommunications carrier's collocation space, allowing ICG to partner with other telecommunications carriers to better serve ICG's customers.

BellSouth is required by the FCC⁸ to allow a competitive carrier to share collocation space with another competitive carrier. In its Order, the FCC requires "incumbent LECs to make shared collocation cages available to new entrants. A shared collocation cage is a caged collocation space shared by two or more competitive LECs...." The FCC explicitly limits the opportunity for sharing of space to caged collocation arrangements. ICG may elect to share a caged arrangement or may choose another collocation alternative. BellSouth, however, does not require the purchase of a cage as a prerequisite to obtaining physical collocation.

Issue 18: Should BellSouth be required to update its records immediately after transferring a customer number to ICG?

BellSouth updates customer records promptly and should not be required to update records for ICG any differently than it does for other CLECs and for itself. BellSouth updates its records for CLECs in the same time and manner as it does for BellSouth's retail operations. Generally, the end user's records are updated within 24 hours from the time a correct order has been completed, which is the same for BellSouth and CLECs.

⁸ In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket 99-48, at ¶ 41.

To the extent a problem actually exists, it is caused by ICG's failure to submit the directory listing change at the same time it requests the porting of a number. BellSouth suggested to ICG's representatives that ICG should make directory-listing changes at the same time it submits a local service request ("LSR") to port a telephone number. This would eliminate the problem about which ICG appears to be complaining.

Issue 19: Should BellSouth be required to pay liquidated damages when BellSouth fails to install, provision, or maintain any service in accordance with the due dates set forth in an interconnection agreement between the Parties?

See discussion of Issue 5 above.

Issue 20: Should BellSouth continue to be responsible for any cumulative failure in a one-month period to install, provision, or maintain any service in accordance with the due dates specified in the interconnection agreement with ICG?

See discussion of Issue 5 above.

Issue 21: Should BellSouth be required to pay liquidated damages when BellSouth's service fails to meet the requirements imposed by the interconnection agreement with ICG (or the service is interrupted causing loss of continuity or functionality)?

See discussion of Issue 5 above.

Issue 22: Should BellSouth continue to be responsible when the duration of service failure exceeds certain benchmarks?

See discussion of Issue 5 above.

Issue 23: Should BellSouth be required to pay liquidated damages when BellSouth's service fails to meet the grade of service requirements imposed by the interconnection agreement with ICG?

See discussion of Issue 5 above.

Issue 24: Should BellSouth continue to be responsible when the duration of service failure to meet the grade of service requirements exceeds certain benchmarks?

See discussion of Issue 5 above.

Issue 25: Should BellSouth be required to pay liquidated damages when BellSouth's fails to provide any data in accordance with the specifications of the interconnection agreement with ICG?

See discussion of Issue 5 above.

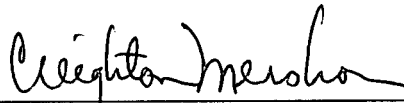
Issue 26: Should BellSouth continue to be responsible when the duration of its failure to provide the requisite data exceeds certain benchmarks?

See discussion of Issue 5 above.

13. To the extent a response is required, BellSouth asserts that the Commission's deadline for rendering a decision on the arbitration is September 18, 1999. BellSouth has no objection to the Commission issuing a procedural and scheduling order in this proceeding. BellSouth denies the remaining allegations in paragraph 14 of the Petition.

WHEREFORE, BellSouth requests that the Commission arbitrate this proceeding and grant the relief requested by BellSouth.

Respectfully submitted this 21st day of June 1999.




Creighton E. Mershon, Sr.
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COUNSEL FOR BELL SOUTH
TELECOMMUNICATIONS, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on the following parties of record by placing a copy of same in the United States Mail, properly addressed and postage prepaid, on this 21st day of June, 1999.


Creighton E. Mershon, Sr.

167442

SERVICE LIST - PSC 99-218

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Ronald B. McCloud, Secretary
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Helen Helton
Executive Director
Public Service Commission

Paul E. Patton
Governor

June 2, 1999

To: All parties of record

RE: Case No. 99-218
ICG TELECOM GROUP, INC.
(Interconnection Agreements)
ARBITRATION WITH BELL SOUTH TELECOMMUNICATIONS, INC.

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received May 27, 1999 and has been assigned Case No. 99-218. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell
Secretary of the Commission

SB/jc



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& Henry S. Alford
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CHARLES G. MIDDLETON, JR. (1916-1988)
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*ALSO ADMITTED INDIANA
**LICENSED TO PRACTICE BEFORE
U.S. PATENT & TRADEMARK OFFICE

May 27, 1999

RECEIVED
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PUBLIC SERVICE
COMMISSION

Ms. Helen C. Helton
Executive Director
Kentucky Public Service Commission
P.O. Box 615
730 Schenkel Lane
Frankfort, KY 40601

CASE 99-218

RE: ICG TELECOM GROUP, INC.'S PETITION FOR ARBITRATION

Dear Helen:

Enclosed are the original and ten (10) copies of ICG Telecom Group, Inc.'s Petition for Arbitration to be filed on behalf of ICG. I have also enclosed one additional copy and ask that you indicate its receipt by your office by placing your file stamp on it and returning it to me via our courier.

Thank you for your assistance in this matter.

Sincerely,

C. Kent Hatfield

C. Kent Hatfield

CKH/jms

Enclosures

Before the
COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
Frankfort, Kentucky

RECEIVED
MAY 27 1999
PUBLIC SERVICE
COMMISSION

In the Matter of)
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Petition by ICG TELECOM GROUP, INC.)
For Arbitration of an Interconnection) Docket No. 99-218
Agreement with BELLSOUTH)
TELECOMMUNICATIONS, INC. Pursuant) Filed May 27, 1999
to Section 252(b) of the Telecommunications)
Act of 1996)

ICG TELECOM GROUP, INC.'S PETITION FOR ARBITRATION

ICG Telecom Group, Inc. ("ICG"), pursuant to Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (collectively the "Act"), 47 U.S.C. § 252(b), hereby petitions the Kentucky Public Service Commission ("Commission"), for arbitration of the unresolved issues in the interconnection negotiations between ICG and BellSouth Telecommunications, Inc. ("BellSouth" or "BST"). Specifically, ICG requests that the Commission resolve each of the issues designated herein as unresolved by ordering the Parties to incorporate ICG's position in the interconnection agreement that is ultimately executed by the Parties. In support of this petition, ICG states as follows:

I. DESIGNATED CONTACTS

All correspondence, notices, inquiries, and orders regarding this Petition should be forwarded to the following designated contacts for ICG:

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The BellSouth negotiators assigned to this matter have been:

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Stuart Hudnall
Shelley Walls
BELLSOUTH TELECOMMUNICATIONS, INC.
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Atlanta, GA 30375
(404) 335-0705

II. STATEMENT OF FACTS

1. ICG Telecom Group, Inc. is a wholly-owned subsidiary of ICG

Communications, Inc., which is a publicly traded Delaware corporation, having its principal place of business at 161 Inverness Drive West, Englewood, CO 80112. ICG provides or is authorized to provide competitive circuit-switched local exchange and exchange access services in 20 markets in 9 states, including Kentucky, and packet-switched and interexchange services throughout the nation.

2. BellSouth is an "incumbent local exchange carrier" ("ILEC") in Kentucky as defined by the Act. 47 U.S.C. § 251(h). Within its operating territory, BellSouth has been a monopoly provider of telephone exchange services during all relevant times.

3. ICG and BellSouth submitted their original interconnection agreement to the Commission on March 3, 1997, which was approved by the Commission by Order dated April 9, 1997. *See In the Matter of: The Application of BellSouth Telecommunications, Inc., for Approval of the Interconnection Agreement with ICG Telecom Group, Inc., Pursuant to Sections 251, 252 and 271 of the Telecommunications Act of 1996*, Case No. 97-099, Order dated April 9, 1997. A renegotiated interconnection agreement, incorporating various arbitration decisions, was submitted by ICG and BellSouth to the Commission on October 23, 1997 and approved by the Commission in Case No. 97-099 by Order dated November 19, 1997. A subsequent amendment to the ICG-BellSouth Interconnection Agreement was submitted to the Commission on May 4, 1998 and approved in Case No. 97-099 by Order dated May 18, 1999. The ICG-BellSouth Interconnection Agreement, and all revisions and amendments thereto are collectively referred to hereafter as the "Interconnection Agreement." The Interconnection Agreement became effective on October 7, 1997

and was scheduled to expire one year later on October 7, 1998 ("Interconnection Agreement"). The Parties have continued to operate, and are currently operating, pursuant to the Interconnection Agreement.

4. On December 18, 1998, pursuant to the provisions of the Interconnection Agreement, which allows either Party to seek to renegotiate the Agreement and thereafter invoke the procedures set forth in Section 252(b)(4)(c) of the Act, BellSouth informed ICG that BellSouth would like to negotiate the terms of a new interconnection agreement pursuant to Section 251 of the Act. ICG seeks to complete a successor interconnection agreement that will replace the existing Agreement. BellSouth and ICG have held numerous meetings, both in person and by telephone, to discuss the rates, terms, and conditions pursuant to which BellSouth would provide interconnection and related services and facilities to ICG.

5. During negotiations for a successor interconnection agreement, each Party provided the other with a proposed draft of the successor interconnection agreement. Although the Parties did not agree to adopt either proposed draft, ICG believes that during these negotiations ICG and BellSouth reached agreement on many of the issues raised, although specific language has not been explicitly agreed upon. Unfortunately, the Parties also did not reach agreement on a number of specific issues. Thus, ICG seeks arbitration of the unresolved issues it is currently aware of, and due to the imminent close of the statutorily prescribed arbitration window and the intensity of the negotiations, ICG is compelled to seek arbitration of a number of issues that remain under discussion

between the Parties, although some issues that remain the subject of discussion, such as OSS, are not included in this Petition. ICG remains hopeful that there will be explicit agreement on issues prior to the hearing either through continued negotiations or Commission mediation, and that the scope of the hearing can be reduced.

III. JURISDICTION OF THE COMMISSION

6. Under the Act, parties to a negotiation for interconnection, access to unbundled network elements, or resale of services within a particular state have a right to petition the respective State commission for arbitration of any open issues whenever negotiations between them fail to yield an agreement. 47 U.S.C. § 252(b). Either party may seek such arbitration during the period between the 135th day and the 160th day after the date on which the formal request for negotiation was submitted. *Id.* ICG and BellSouth began negotiations on December 18, 1998; thus the window for requesting arbitration opened on May 3, 1999 and closes on May 27, 1999. Accordingly, this Petition is filed within the time period established by the Act. Unless waived by both Parties, Section 252(b)(4)(c) requires that the Commission conclude arbitration no later than September 20, 1999 (*i.e.*, within nine months after ICG received BellSouth's request for negotiations). *See* 47 U.S.C. § 252(b)(4)(C).

IV. ARBITRATION ISSUES

7. The unresolved issues are presented in a manner that is consistent with the structure of the draft successor interconnection agreements provided by each Party to the other. In

brief, each draft agreement is structured as follows:

General Terms and Conditions

- 1) Part A – Terms and Conditions
 - 2) Part B - Definitions
- Bona Fide Request Process

Attachments

- 1) Resale
- 2) Unbundled Network Elements
- 3) Interconnection
- 4) Collocation
- 5) Access to Numbers and Number Portability
- 6) Ordering and Provisioning
- 7) Billing
- 8) Rights of Way/Pole Attachments
- 9) Performance Standards/Measures

V. APPLICABLE ARBITRATION STANDARDS

8. This arbitration must be resolved by the standards established in Sections 251 and 252 of the Act, and the effective rules adopted by the Federal Communications Commission (“FCC”) in the Local Competition Order. See 47 U.S.C. §§ 251, 252; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 13042 (1996) (“Local Competition Order”). Section 252(c) of the Act requires a state commission resolving open issues through arbitration to:

- (1) ensure that such resolution and conditions meet the requirements of Section 251, including the regulations prescribed by the [FCC] pursuant to Section 251; [and]

- (2) establish any rates for interconnection, services, or network elements according to subsection (d) [of Section 252].

9. The Commission must make an affirmative determination that the rates, terms, and conditions that it prescribes in this arbitration proceeding for interconnection are consistent with the requirements of Sections 251(b)-(c) and Section 252(c) of the Act.

10. Under Section 251(b), 47 U.S.C. § 251(b), each local exchange carrier has the following duties:

- (1) the duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services;
- (2) the duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the FCC;
- (3) the duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays;
- (4) the duty to afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, terms, and conditions that are consistent with Section 224 of the Act; and
- (5) the duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

11. Section 251(c) states that each ILEC, such as BellSouth, has the following additional duties:

- (1) the duty to negotiate in good faith;
- (2) the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network for the transmission and routing of telephone exchange service and exchange access at any technically feasible point within the carrier's network that is at least equal in quality to that provided by the local exchange carrier to itself, or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection on rates, terms and conditions that are just, reasonable and nondiscriminatory;
- (3) the duty to provide, to any requesting telecommunications carrier, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable and nondiscriminatory and in such a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service;
- (4) the duty to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers and not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on the resale of such services;
- (5) the duty to provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks; and
- (6) the duty to provide, on rates, terms and conditions that are just, reasonable and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that virtual collocation may be provided if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

12. Section 252(d) sets forth the applicable pricing standards for interconnection and network element charges, as well as for transport and termination of traffic. Section 252(d)(1) states in the pertinent part that “determinations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment...and the just and reasonable rate for network elements...shall be (i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and (ii) nondiscriminatory, and (B) may include a reasonable profit.” 47 U.S.C. § 252(d)(1). Section 252(d)(2) further states in the pertinent part that “a State commission shall not consider the terms and conditions for reciprocal compensation [for transport and termination] to be just and reasonable unless (i) such terms and conditions 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 another carrier; and (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.” 47 U.S.C. § 252(d)(2).

VI. ISSUES AND POSITIONS OF THE PARTIES

Pursuant to Sections 252(b)(2)(i) and (ii) of the Act, ICG’s position on each of the unresolved issues is set forth below. In addition, the position of BellSouth on each issue, as it is understood by ICG, is set forth.

General Issues

Issue 1: Until the FCC adopts a rule with prospective application, should dial-up calls to Internet service providers ("ISPs") be treated as if they were local calls for purposes of reciprocal compensation?

ICG

position:

Yes. Until the FCC adopts a rule with prospective application, reciprocal compensation is appropriate for calls to ISPs. ICG incurs costs on behalf of BellSouth whenever ICG terminates calls originated by BellSouth end users to ISPs served by ICG. Without the payment of reciprocal compensation, ICG will receive no compensation at all for the traffic it terminates prior to the time the FCC adopts a prospective compensation rule at some indefinite point in the future.

BST

position:

BellSouth opposes the payment of compensation for ICG's costs in terminating calls to ISPs.

Issue 2: Should BellSouth be required to offset the amount paid by ICG in the Bona Fide Request process for BellSouth's costs in developing a project plan whenever other parties subsequently request and receive the same service at a reduced rate (because BellSouth has already developed the necessary project plan)?

ICG

position:

Yes. The first carrier to request a particular service or functionality should not bear the financial burden of being first when others will soon follow with the same request. By refusing to offset such development costs, BellSouth is in a position to discriminate against its most innovative competitors.

BST

position:

BellSouth stated to ICG that, while "several" carriers had requested an offset to development costs, BellSouth believes that such offsets would be too difficult to manage.

Unbundled Network Elements

Issue 3: Should BellSouth be required to make available as UNEs packet-switching

capabilities, including but not limited to: (a) user-to-network interface ("UNI") at 56 kbps, 64 kbps, 128 kbps, 256 kbps, 384 kbps, 1.544 Mbps, 44.736 Mbps; (b) network-to-network interface ("NNI") at 56 kbps, 64 kbps, 1.544 Mbps, 44.736 Mbps; and (c) data link control identifiers ("DLCIs"), at committed information rates ("CIRs") of 0 kbps, 8 kbps, 9.6 kbps, 16 kbps, 19.2 kbps, 28 kbps, 32 kbps, 56 kbps, 64 kbps, 128 kbps, 192 kbps, 256 kbps, 320 kbps, 384 kbps, 448 kbps, 512 kbps, 576 kbps, 640 kbps, 704 kbps, 768 kbps, 832 kbps, 896 kbps, 960 kbps, 1.024 Mbps, 1.088 Mbps, 1.152 Mbps, 1.216 Mbps, 1.280 Mbps, 1.344 Mbps, 1.408 Mbps, 1.472 Mbps, 1.536 Mbps, 1.544 Mbps, Mbps, 3.088 Mbps, 4.632 Mbps, 6.176 Mbps, 7.720 Mbps, 9.264 Mbps, 10.808 Mbps, 12.350 Mbps, 13.896 Mbps, 15.440 Mbps, 16.984 Mbps, 18.528 Mbps, 20.072 Mbps?

ICG
position: Yes. BellSouth is required under the Act and under FCC orders to provide UNEs for packet-switched services, including unbundled frame relay packet switching. To ensure that the prices charged to ICG for these capabilities are TELRIC-based, it is necessary that all packet-switched capabilities be available as UNEs.

BST
position: BellSouth does not make packet-switched capabilities, such as frame relay or ATM services, available as UNEs. These services are available from BellSouth only as tariffed services.

Issue 4: Should BellSouth be required to provide as a UNE "Enhanced Extended Link" Loops ("EELs")?

ICG
position: Yes. To ensure that the rates charged to ICG for these services are TELRIC-based, it is necessary that the EEL be available as a UNE.

BST
position: No. BellSouth offers the EEL only through a "Professional Services Agreement" that would not be a part of the interconnection agreement.

Issue 5: Should BellSouth be subject to liquidated damages for failing to meet the time intervals for provisioning UNEs?

ICG
position: Yes. Subjecting BellSouth to liquidated damages for performance failures will ensure that ICG receives the same level of service for which it contracts in the interconnection agreement.

BST
position: No.

Issue 6: Should volume and term discounts be available for UNEs?

ICG
position: Yes. ICG should receive the benefit of any reduced costs that BellSouth experiences from provisioning service either in high volumes within a specified period or for extended terms.

BST
Position: BellSouth maintains that there is no legal requirement to provide such discounts.

Interconnection

Issue 7: For purposes of reciprocal compensation, should ICG be compensated for end office, tandem, and transport elements of termination where ICG's switch serves a geographic area comparable to the area served by BellSouth's tandem switch?

ICG
position: Yes. ICG's switch provides the same geographic coverage as BellSouth's end office switch and tandem switch provide in combination. ICG also provides transport between its switch and its collocations which is the same as transport from the ILEC tandem to end offices. ICG should be compensated for use of its switch and network in accordance with its overall functionality. To do otherwise would enable BellSouth to manipulate the reciprocal compensation structure to its advantage. Payment of the tandem interconnection rate in this situation is in accordance with FCC Rule 47 CFR Section 51.711(a)(3).

BST
position: BellSouth will pay the tandem interconnection rate only if ICG's switch is identified

in the local exchange routing guide ("LERG") as a tandem. While BellSouth recognizes that the U.S. Supreme Court's holding in AT&T Corp. v. Iowa Utilities Board, decided January 25, 1999, disposed of the ILEC's challenges to Section 51.711(a)(3), BellSouth declined to give ICG its formal position on this issue until the rule is reinstated.

Issue 8: Until the FCC adopts a rule with prospective application, should dial-up calls to ISPs be treated as if they were local calls for purposes of reciprocal compensation?

ICG

position: See Issue 1 above.

Issue 9: In calculating PLU and PIU, should BellSouth be required to report the traffic on a monthly basis?

ICG

position: Yes. BellSouth's calculation of the PLU and the PIU on a quarterly basis is inefficient. For example, if BellSouth measures PLU/PIU on April 1 and ICG subsequently signs up a customer with heavy local usage on April 15, ICG will not receive the benefit of winning this customer for PLU/PIU purposes until 2 ½ months later when BellSouth next calculates the PLU/PIU on June 1.

BST

position: BellSouth opposes changing the calculation of PLU/PIU on a quarterly basis, which is reflected in its tariff.

Issue 10: Should BellSouth be required to provide to ICG a breakdown of the intrastate and interstate traffic that it reports to ICG?

ICG

position: Yes. A breakdown of the intrastate and interstate traffic would greatly assist ICG both in determining how best to serve its customers and in understanding BellSouth's calculations of the PLU/PIU. A breakdown should be relatively easy because the traffic is carried on separate trunks.

BST

position: BellSouth was unable to provide an answer to ICG's inquiry.

Issue 11: Should BellSouth be required to commit to provisioning the requisite network buildout and necessary support when ICG agrees to enter into a binding forecast of its traffic requirements in a specified period?

ICG

position:

Yes. As a growing company, ICG expects that its traffic requirements will rise in the months and years ahead. ICG needs to be certain that its customer's calls will get through and be received as ICG brings more traffic onto the public switched telephone network. To this end, ICG is willing to commit to pay for specified levels of traffic in specified stages, whether or not ICG actually achieves those forecasts, if BellSouth will in turn guarantee that BellSouth's network can support ICG's traffic requirements.

BST

position:

BellSouth will not enter into a binding forecast within the interconnection agreement context.

Collocation

Issue 12: Should BellSouth be permitted to impose on ICG a burdensome and lengthy process for becoming a "certified vendor" before allowing ICG to install, provision, or maintain ICG's own collocation space?

ICG

position:

ICG should be able to use its own employees for the performance of tasks within ICG's own collocation space.

BST

position:

BellSouth would require ICG either to become a "certified vendor" before performing such work or to hire another "certified vendor" to perform the work.

Issue 13: Should BellSouth waive or expedite its "certified vendor" process for ICG employees whenever there are fewer than fifty (50) certified vendors in a designated area, and/or when a "certified vendor" is unable to perform the collocation work on a timely basis pursuant to ICG's needs?

ICG

position:

Yes. BellSouth should not be allowed to use the "certified vendor" process as a way

of "bureaucratizing" and slowing down the construction and maintenance of ICG's collocation space. This is of particular concern now that BellSouth has informed ICG that BellSouth will no longer provide the service of constructing and preparing collocation spaces.

BST
position: BellSouth opposes waiving or expediting its "certified vendor" process for ICG employees.

Issue 14: Should BellSouth be permitted to require a "certified vendor" to cross connect ICG's equipment with the equipment of another telecommunications carrier that desires such a connection?

ICG
position: No. ICG should be permitted to cross connect directly to any other telecommunications carriers collocated in the same BellSouth central office without need for action, approval, or charge by BellSouth or "certified vendors."

BST
position: BellSouth permits cross connects to adjacent collocation sites, but a "certified vendor" must be hired when a cross connect is sought for an non-adjacent collocation site.

Issue 15: Should BellSouth be permitted to impose costly and burdensome security escort requirements on ICG legitimate site visits?

ICG
position: No. BellSouth should not use security escort requirements for ICG site visits.

BST
position: BellSouth requires the use of security escorts, at ICG's expense, for some visits to BellSouth's premises.

Issue 16: Should BellSouth be required to limit all charges for the transition of ICG's equipment from virtual collocation to physical collocation to charges for the actual costs of physical labor in making the transition and a records change?

ICG
position: Yes.

BST
position: While BellSouth permits transitioning from virtual to physical collocations, it did not specify which charges apply when queried by ICG.

Issue 17: Should BellSouth allow ICG to sublease any of ICG's equipment located on BellSouth's premises?

ICG
position: Yes. ICG's ability to sublease equipment located on BellSouth's premises is necessary both to make efficient use of central office space and to allow ICG to partner with other telecommunications carriers to better serve ICG customers.

BST
position: BellSouth will permit ICG to sublease only "caged" collocation space and equipment, provided that the sublessee is bound by the terms of the interconnection agreement between ICG and BellSouth. Under BellSouth's proposal, BellSouth would continue to regard ICG as its tenant and interact with ICG accordingly.

Number Portability

Issue 18: Should BellSouth be required to update its records immediately after transferring a customer number to ICG?

ICG
position: Yes. Whenever ICG attempts to update the directory listing for a customer newly switched over from BellSouth, BellSouth's system (which is associated with BellSouth Telecommunications, Inc., not the unregulated directory services) sends back a false clarification that the customer still belongs to BellSouth. If another attempt fails, an ICG employee contacts BellSouth to remedy the situation. This process, which is particularly time and resource consuming, occurs in the large majority of instances when ICG needs to update a BellSouth directory listing.

BST
position: BST was unable to provide a response to ICG's inquiry.

Performance Standards/Measures

- Issue 19:** Should BellSouth be required to pay liquidated damages when BellSouth fails to install, provision, or maintain any service in accordance with the due dates set forth in an interconnection agreement between the Parties?
- Issue 20:** Should BellSouth continue to be responsible for any cumulative failure in a one-month period to install, provision, or maintain any service in accordance with the due dates specified in the interconnection agreement with ICG?
- Issue 21:** Should BellSouth be required to pay liquidated damages when BellSouth's service fails to meet the requirements imposed by the interconnection agreement with ICG (or the service is interrupted causing loss of continuity or functionality)?
- Issue 22:** Should BellSouth continue to be responsible when the duration of service's failure exceeds certain benchmarks?
- Issue 23:** Should BellSouth be required to pay liquidated damages when BellSouth's service fails to meet the grade of service requirements imposed by the interconnection agreement with ICG?
- Issue 24:** Should BellSouth continue to be responsible when the duration of service's failure to meet the grade of service requirements exceeds certain benchmarks?
- Issue 25:** Should BellSouth be required to pay liquidated damages when BellSouth's fails to provide any data in accordance with the specifications of the interconnection agreement with ICG?
- Issue 26:** Should BellSouth continue to be responsible when the duration of its failure to provide the requisite data exceeds certain benchmarks?

ICG

position:

Performance measures have little meaning if they merely identify standards, but do not provide a mechanism for curing failures to meet the standards. ICG believes that BellSouth should be held to all intervals, responsibilities, levels of service, grades of service, etc., to which BellSouth commits in the interconnection agreement. To this end, BellSouth should pay liquidated damages for each failure to meet a performance

benchmark specified in the agreement. In addition, BellSouth should pay additional damages for cumulative or recurring performance breaches within a specified period because repeated breaches damage both ICG's ability to serve its customers and its reputation in the marketplace.

BST

position: Under BellSouth's proposed performance measures, BellSouth would only be in breach when its performance under its interconnection agreement with ICG is worse than the performance BellSouth provides to BellSouth's own customers. BellSouth would not incur any liquidated damages for these breaches. In addition, BellSouth would not incur any liquidated damages for cumulative or recurring failures to perform.

VII. PROCEDURAL MATTERS

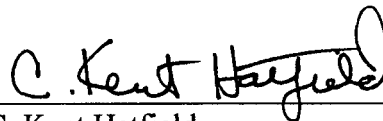
13. Section 252(b)(4)(c) requires that the Commission render a decision in this proceeding not later than nine months after BellSouth requested negotiations, *i.e.*, September 20, 1999. To allow the most expeditious conduct of this arbitration, ICG respectfully requests that the Commission issue a procedural order as promptly as possible to establish a schedule for discovery requests, prehearing testimony, prehearing conference, and the timing and conduct of the hearing in this matter.

VIII. CONCLUSION

WHEREFORE, for the foregoing reasons, ICG respectfully requests that the Commission require incorporation of ICG's position on each disputed issue into a successor Interconnection Agreement to be executed between ICG and BellSouth.

Respectfully submitted to the Kentucky Public Service Commission on this 27th day of May, 1999.

ICG TELECOM GROUP, INC.

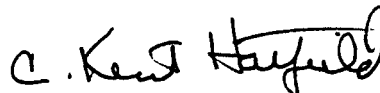


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Certificate of Service

It is hereby certified that this Petition for Arbitration has been served this 27th day of May, via first class mail, postage prepaid, upon the following who have been BellSouth Telecommunications, Inc.'s negotiators with regard to the issues addressed in this Petition: Mary Jo Peed, Stuart Hudnall, Shelley Walls, BellSouth Telecommunications, Inc., 675 West Peachtree Street, NE, Atlanta, GA 30375 and one copy via hand-delivery to Creighton E. Mershon, Esq., BellSouth Telecommunications, Inc., 601 West Chestnut, Louisville, Kentucky 40232.



C. Kent Hatfield
Henry S. Alford

COUNSEL FOR ICG TELECOM GROUP, INC.