

**CASE**

**NUMBER:**

99-218

# MIDDLETON & REUTLINGER

founded in 1854

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November 30, 1999

VIA FEDERAL EXPRESS

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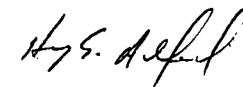
Re: *In Re: Petition of ICG Telecom Group, Inc. for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996, Docket No. 99-218.*

Dear Ms. Helton:

In conjunction with my earlier letter, enclosed please find the original and ten (10) copies of Exhibit No. 4 to the direct prefiled testimony of ICG Telecom Group, Inc.'s ("ICG") witness Ms. Gwen Rowling. An additional copy of the document is also enclosed and I ask that you indicate receipt of the enclosed Exhibit by placing the Commission's file stamp on the extra copy and returning it in the enclosed, self-addressed stamped envelope.

Thank you for your assistance in this matter.

Sincerely,



Henry S. Alford

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enclosure

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APPENDIX

MEASUREMENTS SUBJECT TO PER OCCURRENCE DAMAGES  
OR ASSESSMENT WITH A CAP

MEASUREMENTS SUBJECT TO PER MEASURE DAMAGES  
OR ASSESSMENT

**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)



APPENDIX

PERFORMANCE MEASURES SUBJECT TO TIER-1 AND TIER-2 DAMAGES  
IDENTIFIED AS HIGH, MEDIUM AND LOW

Performance Measures	Measurement Groups Subject to Tier-1 Damages			Measurement Groups Subject to Tier-2 Assessments		
	Low	Med	High	Low	Med	High
<b>I. RESALE POTS, RESALE SPECIALS AND UNES</b>						
<b>A. Pre-Ordering/Ordering</b>						
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>B. Billing</b>						
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	-	-	-	-	-	-
<b>C. Miscellaneous Administrative</b>						
21. LSC Average Speed Of Answer	-	-	-	-	-	-
22. LSC Grade Of Service (GOS)	-	-	-	-	-	X
23. Percent Busy in the Local Service Center	-	-	-	X	-	-
24. LOC Average Speed Of Answer	-	-	-	-	-	-



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

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IDENTIFIED AS HIGH, MEDIUM AND LOW

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
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	-	✓	-	-	-	-

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IDENTIFIED AS HIGH, MEDIUM AND LOW

Performance Measures	Measurement Groups Subject to Tier-1 Damages			Measurement Groups Subject to Tier-2 Assessments		
	Low	Med	High	Low	Med	High
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>B. Maintenance</b>						
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
<b>V. INTERCONNECTION TRUNKS</b>						
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
<b>VI. DIRECTORY ASSISTANCE (DA) AND OPERATOR SERVICES (OS)</b>						
79. Directory Assistance Grade Of Service	-	-	-	-	-	-
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	-	-	-	-	-	-

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

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

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 <u>the tariffed timelines.</u>	✓	-	-	-	-	-

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	✓	-	-	-	-	-
113. % of electronic updates that flow through the DSR process without manual intervention	✓	-	-	-	-	-

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Performance Measures	Measurement Groups Subject to Tier-1 Damages			Measurement Groups Subject to Tier-2 Assessments		
	Low	Med	High	Low	Med	High
<b>XII. COORDINATED CONVERSIONS</b>						
114. % Pre-mature disconnects (Coordinated Cutovers)	-	-	✓	-	-	X
115. % SWBT caused delayed Coordinated Cutovers	✓	-	-	-	-	-
116. % Missed mechanized INP conversions	-	✓	-	-	-	-
<b>XIII. NXX</b>						
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
<b>XIV. BONA FIDE REQUEST PROCESS (BFRs)</b>						
120. % of requests processed within 45 business days	-	-	-	-	-	-
121. % Quotes Provided for Authorized BFRs within 30 business days	-	-	✓	-	-	X
<b>Total</b>	<b>40</b>	<b>11</b>	<b>30</b>	<b>5</b>	<b>8</b>	<b>37</b>

# MIDDLETON & REUTLINGER

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November 24, 1999

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Ms. Helen C. Helton  
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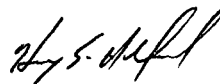
RE: Petition by ICG TELECOM GROUP, INC. For Arbitration of an  
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INC. Pursuant to Section 252(b) of the Telecommunications Act of 1996  
Case No. 99-218

Dear Helen:

Enclosed are the original and ten (10) copies of ICG Telecom Group, Inc.'s Motion to Strike. 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 runner.

Thank you for your assistance in this matter.

Sincerely,



Henry S. Alford  
Counsel for ICG Telecom Group, Inc.

enc.

**BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION**

In the Matter of: ) Docket No. 99-218  
)  
Petition by ICG TELECOM GROUP, INC. )  
for Arbitration of an Interconnection ) Filed November 24, 1999  
Agreement with BELLSOUTH )  
TELECOMMUNICATIONS, INC. Pursuant to )  
Section 252(b) of the Telecommunications )  
Act of 1996. )  
\_\_\_\_\_ )

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**ICG TELECOM GROUP, INC.'S MOTION TO STRIKE**

ICG Telecom Group, Inc. ("ICG") hereby files this Motion to Strike a portion of the direct testimony of BellSouth Telecommunications, Inc.'s ("BellSouth") witness, Jerry Hendrix on the grounds that it is outside the scope of the issues framed by ICG's Petition and BellSouth's response to the Petition. Therefore, this testimony is an impermissible attempt to expand the matters properly before the Kentucky Public Service Commission (the "Commission"). For these reasons, ICG requests that the testimony beginning on line 10 at page 15 continuing to line 24 at page 27 of Mr. Hendrix's direct testimony, inclusive (copy attached as Exhibit "A"), be stricken.

**MEMORANDUM IN SUPPORT OF  
MOTION TO STRIKE**

The Telecommunications Act of 1996 ("Act") provides that parties involved in negotiating an interconnection agreement may petition the state commission to arbitrate disputed issues. Section 252 (b)(4) of the Act clearly states that during arbitration "the State commission shall limit its consideration of any petition . . . to the issues set forth in the petition and in the response."

ICG's Petition for Arbitration delineates twenty-six issues, the first of which focuses on the reciprocal compensation issue that arose during negotiations. Issue One -- taken directly from ICG's



petition -- asks, "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?" In BellSouth's Response to ICG's Petition for Arbitration, BellSouth states its belief that reciprocal compensation is not applicable as ISP traffic is not local traffic, but instead is interstate traffic.

Nowhere in its response does BellSouth suggest that BellSouth should be compensated by ICG as a consequence of ISP traffic. This is not surprising inasmuch as BellSouth never advanced such a theory and never asserted such a claim during negotiations with ICG.

However, in prefiled direct testimony, Mr. Hendrix characterizes ISP traffic as exchange "access service" that BellSouth and ICG jointly provide to "carriers." Hendrix's Direct, p. 17. Extending this premise further, he postulates that the revenues ICG collects from its ISP customers should be shared with BellSouth through an "inter-carrier revenue sharing compensation arrangement," Hendrix's Direct, pp. 15 and 17 - 24, or through a "bill-and-keep" arrangement. Hendrix's Direct, pp. 15 and 24-27. Because the assertion that BellSouth should be compensated by ICG for ISP traffic was never discussed in negotiations, never raised in ICG's petition, and never mentioned in BellSouth's response to ICG's petition, the Act prohibits this Commission from considering the contention. Accordingly, the sections of Mr. Hendrix's testimony that treat this claim should be stricken.<sup>1</sup>

---

<sup>1</sup> To be clear, the filing of this Motion on legal grounds does not imply that ICG acknowledges any substantive merit in Mr. Hendrix's new construct. To the contrary, ICG regards the arguments as specious attempts to distract the Commission from the authority and need to fashion in this proceeding a mechanism that includes ISP traffic for purposes of reciprocal compensation for costs incurred in handling calls by creating the appearance that a countervailing argument exists. ICG has addressed the substantive fallacies in BellSouth's

Similar testimony was offered by BellSouth's witness, Alphonse J. Varner, in his testimony filed with the Florida Public Service Commission and subsequently stricken in that proceeding. In that docket, Issue One was framed as follows:

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?

(See, e.g., *In the Matter of Petition of ICG Telecom Group, Inc.*, Docket No. 990691-TP, Florida Public Service Commission, Hearing Transcript dated October 7, 1999, at pp. 12-13, attached as Exhibit 2). BellSouth responded as follows:

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.

(See, e.g., Exhibit 2 at pp. 12-13). As in this matter, BellSouth did not suggest in its response that BellSouth should be compensated by ICG as a consequence of ISP traffic, nor did it assert such a claim during negotiations with ICG. In granting ICG's motion to strike portions of Mr. Varner's testimony, the Florida Public Service Commission found that:

[I]t appears what we have here is the specifics of the proposal that go beyond what I consider to be responsive to Issue 1. And BellSouth chose to file their testimony in that way, and I think they subjected themselves to this motion. I think to the extent they needed to present

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argument in rebuttal testimony. However, this Motion is the appropriate vehicle for a ruling on the separate principle that the material is unrelated to the issues allowed to be arbitrated by the Act.

argument or to present evidence as to why this traffic should not be considered local, it would be entirely appropriate. But to go forward at this point, at this late stage and to come up with an entirely new mechanism which has not been contemplated, it seems to me that to be appropriate there should be a separately identified issue before this Commission presenting this particular mechanism before the Commission for us to consider it. (See Exhibit 2 at pp. 32-33).

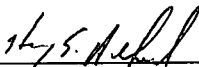
The Florida Public Service Commission struck the portions of Mr. Varner's testimony which dealt with "the specifics of an interim mechanism which is being proposed, which. . . goes outside the scope of Issue 1." (See Exhibit 2 at pp. 74-75, striking Line 3, page 29 through Line 10, page 36; and line 20 through end of testimony on page 36. ). The Florida Commission also struck Exhibits AJV-6 and AJV-7 from the record. (See Exhibit 2 at pp. 76, 297-298).

The portions of Mr. Varner's testimony stricken by the Florida Public Service Commission are attached as Exhibit 3. The testimony stricken by the Florida Public Service Commission is substantially similar to the testimony Mr. Hendrix's offers in this proceeding and which ICG proposes should be stricken from the record in this matter.

**WHEREFORE**, ICG moves this Commission for an Order striking the portions of BellSouth witness Jerry Hendrix's testimony designated herein.

Respectfully submitted to the Kentucky Public Service Commission this 24<sup>th</sup> day of November 1999.


ICG TELECOM GROUP, INC.

  
\_\_\_\_\_  
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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 24th day of November, 1999.

  
\_\_\_\_\_  
C. Kent Hatfield  
Henry S. Alford

COUNSEL FOR ICG TELECOM GROUP, INC.

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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: :  
In the Matter of : DOCKET NO. 990691-TP  
: :  
Petition of ICG Telecom :  
Group, Inc. for arbitration :  
of unresolved issues in :  
interconnection negotiations:  
with BellSouth :  
Telecommunications, Inc. :  
: :  
-----

VOLUME 1  
Pages 1 through 116

PROCEEDINGS: HEARING

BEFORE: COMMISSIONER J. TERRY DEASON  
COMMISSIONER SUSAN F. CLARK  
COMMISSIONER E. LEON JACOBS

DATE: October 7, 1999

TIME: Commenced at 9:30 a.m.  
Concluded at 6:30 p.m.

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

REPORTED BY: JANE FAUROT, RPR  
NOTARY PUBLIC IN AND FOR  
THE STATE OF FLORIDA AT LARGE

1 and after citing the FCC order, it takes this  
2 position: Thus, reciprocal compensation is not  
3 applicable to ISP bound traffic. Clearly, treating  
4 ISP calls as local calls for reciprocal compensation  
5 purposes is inconsistent with the law and is not sound  
6 public policy. That is their response to the issue.

7 If this were in civil trial they could have  
8 simply said allegation denied. That is essentially  
9 the position they took.

10 Now, the next board is a quotation from the FCC's  
11 February 1999 declaratory statement, and I put this in  
12 front of you for context. I don't expect you to rule  
13 on the merits of the substantive discussion of Mr.  
14 Varner's testimony, but in order to determine how far  
15 out of bounds the testimony falls with respect to the  
16 limits placed on this Commission by the act you need  
17 to be somewhat acquainted with the flavor of what is  
18 going on here. And the FCC said, "As explained above  
19 in the order, under the ISP exemption, local exchange  
20 companies may not impose access charges on ISPs,  
21 therefore, there are no access revenues for  
22 interconnecting carriers to share."

23 Now, in spite of this language and similar  
24 language by the FCC over the years, in prefled  
25 testimony, Mr. Varner contends that the arrangements

1 prehearing officer.

2 COMMISSIONER DEASON: Very well. Are the parties  
3 prepared to address that at this time?

4 MR. McGLOTHLIN: Yes. I'm going to ask Ms.  
5 Kaufman to assist me because we have some boards to  
6 which I will refer during argument.

7 COMMISSIONER DEASON: Before we begin the  
8 argument, are there any other preliminary matters  
9 before we go into argument on the motion. Very well.

10 MR. McGLOTHLIN: Commissioners, our motion to  
11 strike is straightforward. The basis for the motion  
12 is that the '96 act placed limits on the matters that  
13 the Commission may consider and arbitrate. The first  
14 board quotes the language of the act. It says that  
15 the Commission shall limit its consideration of any  
16 petition to the issues set forth in the petition and  
17 in the response, if any, filed under Paragraph 3.

18 The second board simply reiterates what has been  
19 identified as Issue 1 in this case, and that flows  
20 directly from ICG's petition. Until the FCC adopts a  
21 rule with prospective application, should dial up  
22 calls to Internet service providers, or ISPs, be  
23 treated as if they were local calls for purposes of  
24 reciprocal compensation. That is the issue.

25 And the next board quotes BellSouth's response.

1 front of me. Mr. McGlothlin, can you give me the page  
2 numbers of the direct testimony that you are asking to  
3 be stricken?

4 MR. MCGLOTHLIN: If I may have a moment, please.  
5 The testimony beginning on Line 10, Page 24,  
6 continuing to Line 25, Page 35, inclusive. Some 12  
7 pages.

8 COMMISSIONER DEASON: I have looked through those  
9 sections of the testimony, and it appears what we have  
10 here is the specifics of the proposal that go beyond  
11 what I consider to be responsive to Issue 1. And  
12 BellSouth chose to file their testimony in that way,  
13 and I think they subjected themselves to this motion.  
14 I think to the extent that they needed to present  
15 argument or to present evidence as to why this traffic  
16 should not be considered local, it would be entirely  
17 appropriate. But to go forward at this point, at this  
18 late stage and to come up with an entirely new  
19 mechanism which has not been contemplated, it seems to  
20 me that to be appropriate there should be a separately  
21 identified issue before this Commission presenting  
22 this particular mechanism before the Commission for us  
23 to consider it. That is the trouble that I have. And  
24 I'm inclined to grant the motion to strike, but I'm  
25 certainly willing to have additional input from fellow



1 Commissioners.

2 COMMISSIONER CLARK: I don't have any problem  
3 with that motion, with that decision.

4 COMMISSIONER JACOBS: I agree, as well.

5 COMMISSIONER DEASON: The motion to strike is  
6 granted. Any other preliminary matters?

7 MR. EDENFIELD: I would like a point of  
8 clarification, Commissioner Deason. The intercarrier  
9 plan to which Mr. McGlothlin referred actually begins  
10 on Page 29, Line 18.

11 COMMISSIONER DEASON: We are at the point now of  
12 trying to determine what portions of Mr. Vamer's  
13 testimony actually fall within the subject matter of  
14 the motion to strike, and it is your position that it  
15 really doesn't begin until Line 18 of Page 29, is that  
16 correct?

17 MR. EDENFIELD: That is correct, Commissioner  
18 Deason.

19 COMMISSIONER DEASON: Mr. McGlothlin, do you want  
20 to respond to that?

21 MR. McGLOTHLIN: I disagree. Look at Page 27,  
22 Line 15. Please explain further why a separate  
23 sharing plan is needed for access service provided  
24 ISPs? I stick with the original motion.

25 COMMISSIONER DEASON: I will take this under

1 COMMISSIONER DEASON: Thank you. And this  
2 witness has no exhibits.

3 MS. KAUFMAN: That is correct.

4 COMMISSIONER DEASON: Okay. Mr. Jenkins, you may  
5 be excused. Thank you. We will take a 15 minute  
6 recess and we will reconvene at 11:00 o'clock.

7 (Off the record.)

8 COMMISSIONER DEASON: Call the hearing back to  
9 order. Before we call the next witness, let me go  
10 ahead and explain a ruling concerning the motion to  
11 strike, and this is being done at this time so parties  
12 can be prepared to proceed when Mr. Varner does take  
13 the stand. I'm going to modify my previous ruling and  
14 grant the motion to strike in part and deny it in  
15 part.

16 The motion contains the specific pages of Mr.  
17 Varner's testimony as an attachment to the motion and  
18 that is the version I'm working from. The motion to  
19 strike as it relates to testimony found on Pages 24,  
20 25, 26, 27, 28, and up to Line 1 of Page 29 is denied.  
21 In other words, that testimony is not stricken and  
22 will be permitted. I believe this testimony addresses  
23 the more generic issues involved with the policy of  
24 reciprocal compensation.

25 However, testimony beginning on Line 3 of Page 29

1 goes more to the specifics of an interim mechanism  
2 which is being proposed, which I think goes outside  
3 the scope of Issue 1. Therefore, testimony beginning  
4 with Line 3 on Page 29 through Line 10 of Page 36 will  
5 be stricken. Testimony on Page 36 beginning with the  
6 question on Line 12 down to the period after FCC on  
7 Line 20 will be permitted. It is simply a summary of  
8 positions previously taken. However, testimony  
9 beginning with the word should on Line 20 through the  
10 end of testimony on Page 36 will be stricken. And I  
11 hope that is clear. If there are any questions as to  
12 exactly what is permitted and what is being stricken,  
13 I will entertain those at this time, otherwise I  
14 assume it is clear.

15 MR. EDENFIELD: There is no question from  
16 BellSouth, Commissioner Deason. The only other thing  
17 I would bring up is obviously a large portion of Mr.  
18 Starkey's rebuttal testimony is directed towards those  
19 portions of Mr. Varner's testimony which were just  
20 stricken, and we may need to deal with that at some  
21 point. I'm not sure what the most efficient way to do  
22 that is.

23 I had some suggestions I had given to Mr.  
24 Kramer, and after a real brief run-through of the  
25 rebuttal, and had some suggestions on which pages

1 might need to come out. I'm not so sure the better  
2 procedure might not be just to have an understanding  
3 that Mr. Starkey will not talk about anything raised  
4 by Mr. Varner dealing with the plan that we have  
5 proposed and then let's try to figure out what needs  
6 to come out at a later time.

7 COMMISSIONER DEASON: I think that is a good  
8 proposal. In light of this most recent ruling, I  
9 would ask that the parties at a convenient time see if  
10 there can be an accommodation, an agreement as to what  
11 constitutes rebuttal testimony which addresses that  
12 portion of Mr. Varner's testimony that has been  
13 stricken. If there is a problem that arises, we will  
14 deal with it at some time in the future.

15 MR. MCGLOTHLIN: We will undertake to do that,  
16 Commissioner.

17 COMMISSIONER DEASON: And also to clarify one  
18 other thing, I believe that Exhibit AJV-6 would also  
19 be stricken.

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

21 MR. MCGLOTHLIN: ICG calls Bruce Holdridge for  
22 his direct and rebuttal testimony.

23 Thereupon,

24 BRUCE HOLDRIDGE

25 was called as a witness on behalf of ICG Telecom Group,

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO. 990691-TP  
:

Petition of ICG Telecom :  
Group, Inc. for arbitration :  
of unresolved issues in :  
*interconnection negotiations:*  
with BellSouth :  
Telecommunications, Inc. :  
:  
:

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VOLUME 3  
Pages 219 through 386

PROCEEDINGS: HEARING

BEFORE: COMMISSIONER J. TERRY DEASON  
COMMISSIONER SUSAN F. CLARK  
COMMISSIONER E. LEON JACOBS

DATE: October 7, 1999

TIME: Commenced at 9:30 a.m.  
Concluded at 6:30 p.m.

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

REPORTED BY: JANE FAUROT, RPR  
NOTARY PUBLIC IN AND FOR  
THE STATE OF FLORIDA AT LARGE

APPEARANCES:

(As heretofore noted.)

1 A Yes.

2 MR. KITCHINGS: Commissioner Deason, at this  
3 point in time I would move the direct and rebuttal  
4 testimony of Mr. Varner into the record, and would ask  
5 that the exhibits to Mr. Varner's testimony be marked  
6 for identification.

7 COMMISSIONER DEASON: The prefiled direct and  
8 rebuttal testimony of Mr. Varner will be inserted into  
9 the record without objection. And that is understood  
10 that is the version that we have discussed earlier  
11 with the deletions and with that portion that was  
12 deleted as a result of the motion to strike?

13 MR. KITCHINGS: Yes, Your Honor.

14 COMMISSIONER DEASON: Very well.

15 COMMISSIONER DEASON: Now, for the exhibits --  
16 excuse me. Are there exhibits attached to the  
17 rebuttal?

18 MR. KITCHINGS: I believe there is one.

19 COMMISSIONER DEASON: There is one to the  
20 rebuttal? Okay. Now we have -- the exhibits that are  
21 attached to the direct, those are AJV-1 through 6,  
22 correct, or is it 1 through 7? 1 through 6?

23 MR. KITCHINGS: I have 1 through 8.

24 COMMISSIONER DEASON: 1 through 8?

25 MR. KITCHINGS: Yes, sir.

1        COMMISSIONER DEASON: Now, I have previously  
2 determined, I believe, that 6 --

3        MR. KITCHINGS: 6 was removed.

4        COMMISSIONER DEASON: What about 7? It appears  
5 to me that it may be directly related to the subject  
6 matter that was deleted, but I'm wanting input on  
7 that.

8        MR. KITCHINGS: You are correct. It should be  
9 removed as well, given the bench's ruling.

10       COMMISSIONER DEASON: And what about 8, what is  
11 that? That is not part of the proposal that was  
12 deleted?

13       MR. KITCHINGS: That is correct.

14       COMMISSIONER DEASON: Okay. So what we will do  
15 is we will identify as Composite Exhibit 5 prefiled  
16 Exhibits AJV-1 through 5, and AJV-8. And then the  
17 prefiled exhibit to the rebuttal will be identified as  
18 Exhibit 6.

19       MR. KITCHINGS: Thank you.

20       (Composite Exhibit Number 5 and Exhibit Number 6  
21 marked for identification.)

22

23

24

25

1 access service and were established long before the Internet became popular.

2

3 Q. YOU HAVE STATED THAT IT IS NOT APPROPRIATE FOR THE  
4 COMMISSION TO ADDRESS ISP-BOUND TRAFFIC IN THE CONTEXT  
5 OF SECTION 251 OF THE ACT. SHOULD THE COMMISSION  
6 ADDRESS ISP-BOUND TRAFFIC AS ACCESS TRAFFIC?

7

8 A. If the Commission wishes to address this issue at all in this arbitration, it  
9 should be in the context of an interim compensation mechanism for ISP-bound  
10 access traffic. As I have stated previously, only local traffic is governed by  
11 Section 251 of the Act. ISP-bound traffic is not local traffic but is instead  
12 access traffic under the jurisdiction of the FCC. Therefore, the Commission  
13 could address ISP-bound traffic as access traffic by establishing an inter-carrier  
14 compensation mechanism. Such a mechanism would be interim until such  
15 time as the FCC completes its rulemaking proceeding on inter-carrier  
16 compensation.

17

18 Q. SHOULD THIS COMMISSION ADOPT AN INTERIM INTER-CARRIER  
19 COMPENSATION MECHANISM PRIOR TO THE FCC COMPLETING ITS  
20 RULEMAKING PROCEEDING, WHAT DOES BELLSOUTH PROPOSE AS  
21 AN APPROPRIATE INTERIM MECHANISM?

22

23 A. BellSouth proposes an interim flat-rated sharing mechanism that is based on  
24 apportionment of revenues collected for the access service among the carriers  
25 incurring costs to provide the service. The revenue to be apportioned among



1 carriers is the charge for the business exchange service that the ISP pays.  
2 Typically, the ISP purchases Primary Rate ISDN ("PRF") service as the  
3 business exchange product used to provide the access service. BellSouth  
4 believes that, in the interim, a flat-rated compensation process is appropriate  
5 since the revenues collected are based on flat-rated charges. Exhibit AJV-6  
6 attached to this testimony is BellSouth's Proposed Interim ISP Inter-Carrier  
7 Access Service Compensation Plan ("Interim Plan").

8  
9 In describing BellSouth's Interim Plan, I use the term "Serving LEC" to refer  
10 to a LEC that has an ISP as an end user customer and the term "Originating  
11 LEC" to refer to a LEC whose end user customers originate traffic that is  
12 delivered to the Serving LEC's network and is bound for an ISP. BellSouth's  
13 Interim Plan takes into account the following facts:

- 14 1) Only the Serving LEC bills the ISP for access service. The ISP is billed  
15 at rates established by the Serving LEC;
- 16 2) The FCC has limited the price for an ISP dial-up connection to the  
17 equivalent business exchange service rate;
- 18 3) the Originating LEC incurs costs to carry ISP-bound traffic to the  
19 Serving LEC;
- 20 4) the Originating LEC has no means to recover its costs directly from the  
21 ISP (unless, of course, the Originating LEC and the Serving LEC are  
22 one in the same); and
- 23 5) The Originating LEC must recover its costs, to the extent possible,  
24 from the Serving LEC.

25

1 BellSouth's Interim Plan presumes that all LECs who serve ISPs will  
2 participate in the plan. Otherwise, only those parties that will benefit will  
3 participate - i.e., a LEC that originates more ISP-bound traffic than it  
4 transports to an ISP will be a net receiver.

5  
6 Q. PLEASE DESCRIBE THE SPECIFICS OF BELLSOUTH'S INTERIM  
7 PLAN.

8  
9 A. BellSouth's Interim Plan contains the following steps that are further described  
10 in Exhibit AJV-6:

11 (1) Each Serving LEC will be responsible for identifying all minutes of use  
12 ("MOUs") which are ISP-bound that each Originating LEC delivers to  
13 the Serving LEC's network;

14 (2) each trunk (DS0-equivalent) will be assumed to carry 9,000 MOUs on  
15 average per month (equates to 150 hours per trunk per month);

16 (3) based on ISP-bound MOUs identified by the Serving LEC and provided  
17 to the Originating LEC, the Originating LEC will calculate the quantity  
18 of DS1 facilities required to transport the Originating LEC's ISP-bound  
19 traffic to the Serving LEC as follows:

20 **(ISP-bound MOUs / 9,000 MOUs per trunk / 24 trunks per DS1);**

21 (4) Serving LEC will advise Originating LECs of the average PRI rate  
22 charged to ISPs. The Serving LEC can use either its tariffed rate or the  
23 average rate actually charged to ISPs;

24 (5) Originating LEC calculates compensation due to it by the Serving LEC  
25 as follows:

1 (Quantity of DS1s x Serving LEC's PRI rate x sharing percentage);  
2 (6) Originating LEC bills the Serving LEC on a quarterly basis; and  
3 (7) The ISP-bound MOUs and the PRI rates as reported by the Serving  
4 LEC are subject to audit by the Originating LEC(s). The amount of  
5 compensation could be affected by results of an audit.  
6

7 To the extent two parties have additional issues, contract negotiations between  
8 the parties can determine other terms and conditions. For example, due to  
9 technical capabilities, the two LECs may agree that the Originating LEC will  
10 identify the ISP-bound minutes of use.  
11

12 Q. WHAT IS THE BASIS FOR USING 9,000 MOUs AS THE AVERAGE  
13 MONTHLY USAGE PER TRUNK?

14  
15 A. Nine thousand (9,000) MOUs is a proxy that was used by the FCC for FGA  
16 access before actual usage could be measured. Further, this average level of  
17 usage has been used in other situations as a proxy for IXC usage.  
18

19 Q. WHAT SHARING PERCENTAGE DOES BELLSOUTH PROPOSE BE  
20 APPLIED TO THE SERVING LEC'S REVENUES TO COMPENSATE  
21 BELLSOUTH FOR ITS NETWORK USED TO CARRY ISP-BOUND  
22 TRAFFIC?

23  
24 A. BellSouth proposes a sharing percentage of 8.6% that will be applied to the  
25 Serving LEC's ISP revenues to calculate the compensation due BellSouth

1 when BellSouth is an Originating LEC. Likewise, when BellSouth is the  
2 Serving LEC, BellSouth proposes that a sharing percentage of 8.6% will be  
3 applied by the Originating LEC(s) when calculating compensation BellSouth  
4 owes.

5  
6 Q. HOW DID BELLSOUTH DETERMINE THE SHARING PERCENTAGE IT  
7 PROPOSES?

8  
9 A. BellSouth's calculation of its sharing percentage is shown in Exhibit AJV-7  
10 attached to this testimony. First, BellSouth considered that switching, transport  
11 and loop costs are incurred to carry traffic from the Originating LEC's end  
12 office to the ISP location. Since the Serving LEC incurs the loop cost between  
13 its end office and the ISP location, the Serving LEC should retain revenues to  
14 cover its loop cost. However, switching and transport costs are jointly incurred  
15 by both the Originating LEC and the Serving LEC.

16  
17 Therefore, BellSouth believes that an appropriate sharing percentage is  
18 developed by determining the ratio of switching and transport costs to total  
19 costs (switching, transport and loop), and then dividing that percentage by two  
20 since each carrier bears a portion of the switching and transport cost. In order  
21 to determine the ratio, BellSouth looked to the Benchmark Cost Proxy Model  
22 ("BCPM") results filed in Florida in the Universal Service Fund proceedings.  
23 The average, statewide voice grade loop, switching and transport capital costs  
24 produced by BCPM are \$14.62, \$2.90 and \$.14, respectively. Therefore, the  
25 loop capital cost represents 82.8% of the total average statewide capital cost,

1 which means that the switching and transport capital costs represent 17.2% of  
2 the total capital cost. Again, dividing the 17.2% by two in order to account for  
3 the fact that both carriers incur switching and transport costs results in a  
4 sharing percentage of 8.6%.

5  
6 BellSouth also reviewed ARMIS data and determined that the relationship  
7 between loop, switching and transport investment as reported in ARMIS is  
8 very similar to the relationship calculated from the BCPM results. The ARMIS  
9 data shows that, for 1998, in Florida, total loop investment was  
10 \$7,381,715,000, switching investment was \$989,297,000 and transport  
11 investment was \$182,062,000 resulting in ratios of 86.30% for loop, 11.57%  
12 for switching and 2.13% for transport which are close to the ratios that result  
13 from the BCPM data.

14  
15 Q. DOES BELLSOUTH'S PROPOSED SHARING PERCENTAGE ONLY  
16 APPLY TO TRAFFIC IT ORIGINATES TO A SERVING LEC?

17  
18 A. No. When BellSouth is the Serving LEC and a CLEC's end users call an ISP  
19 served by BellSouth, BellSouth should compensate the CLEC. BellSouth  
20 proposes to use the same method and sharing percentage (8.6%) to compensate  
21 the CLEC as it proposes for billing the CLEC.

22  
23 Q. WHAT IMPACT WOULD BELLSOUTH'S PROPOSAL HAVE ON A CLEC  
24 SUCH AS ICG?

25

1 A. As an example, I will assume that ICG serves its ISP customers with PRI  
2 service which is equivalent to a DS1 (24 DS0s). Further, I will assume that  
3 ICG charges its ISP customers a market-based rate of \$850 per month per PRI.  
4 If BellSouth as the Originating LEC generates 55 million ISP-bound MOUs per  
5 month to ICG, then the amount of monthly compensation that BellSouth's  
6 proposal would result in ICG owing to BellSouth is calculated as follows:

7 
$$55,000,000 / 9000 / 24 = 254.63 \text{ DS1s}$$

8 
$$254.63 \text{ DS1s} \times \$850.00 \times .086 = \$18,613.45$$

9 At a PRI rate of \$850, ICG will collect \$216,436 in revenue from its ISP  
10 customer(s) just for the traffic originated by BellSouth. Total compensation  
11 ICG owes to BellSouth for the 55,000,000 MOUs BellSouth originated to ICG  
12 would be \$18,613.45.

13

14 Q. HOW DOES YOUR PROPOSAL AFFECT THE RELATIVE COST  
15 RECOVERY OF THE LECs INVOLVED IN PROVIDING THE ACCESS  
16 SERVICE?

17

18 A. Since the FCC has ordered that ISPs are to be provided service at business  
19 exchange rates, the fact is that when the access service is provided by a single  
20 LEC to the ISP, the rates it charges the ISP are typically not fully  
21 compensatory. This situation arises because the ISP is being charged a flat rate  
22 charge (which was intended for another service) for a high volume usage-  
23 sensitive service. Under BellSouth's sharing proposal, each carrier should  
24 recover roughly the same percentage of its costs. For example, if the carrier  
25 would have recovered 50% of its costs if it served the ISP alone, the underlying

1 premise of this proposal is that each carrier should recover roughly 50% of its  
2 costs.

3

4 Q. SHOULD THIS PLAN BE CONTINUED ONCE THE FCC ESTABLISHES  
5 A USAGE-BASED COMPENSATION MECHANISM?

6

7 A. Probably not. The need for this plan was created by the fact that ISPs currently  
8 pay business exchange rates for access service. Should the FCC change the  
9 application of access charges to ISPs or establish a different compensation  
10 mechanism, this plan should be re-evaluated.

11

12 Q. IN LIGHT OF YOUR COMMENTS WHAT ACTION ARE YOU  
13 RECOMMENDING TO THE FLORIDA PSC?

14

15 A. The FCC has determined that ISP-bound traffic is interstate and has asserted  
16 jurisdiction. This issue is not subject to arbitration under Section 252 of the  
17 Act. Parties should be instructed to negotiate a revenue sharing arrangement  
18 for this traffic just as has been done for jointly-provided access service since  
19 divestiture. If those negotiations are not fruitful, however, they should be  
20 referred to the FCC. Should, however, this Commission adopt an interim inter-  
21 carrier compensation mechanism prior to the FCC completing its rulemaking  
22 proceeding, BellSouth recommends the Commission adopt the Interim Plan  
23 mechanism outlined above.

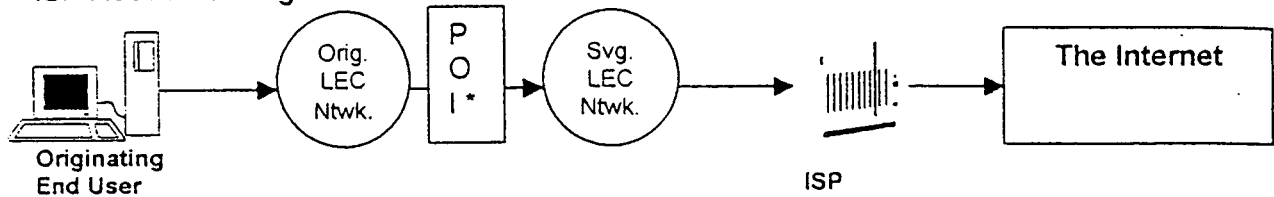
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25

## BellSouth's Proposed Interim ISP Inter-carrier Access Service Compensation Plan

Plan Objective is to compensate the Originating LEC(s) for portion of cost incurred in transporting ISP-bound traffic to the Serving LEC. This plan would be in effect until the FCC establishes a usage-based compensation mechanism, at which time this plan would be re-evaluated and most likely terminated.

### ISP Access Configuration:



\* Point Of Interface may be at the tandem or at the Serving LEC's premises

### Summary of Proposed Interim Revenue Sharing Arrangement:

- 1) Each LEC that serves ISPs will be required to participate in this plan. Otherwise, only those parties that will benefit will participate – i.e., a LEC that originates more traffic to an ISP than it terminates to its own ISP will be a net receiver.
- 2) ISP pays Serving LEC the Serving LEC's business exchange service rate.
- 3) Each LEC that serves ISPs in a given LATA will be responsible for compensating LEC(s) that originate ISP traffic to the Serving LEC.
- 4) Facilities involved in carrying ISP-bound traffic to the ISP are as follows:  
Switching and Transport facilities are provided by both Originating LEC and Serving LEC and Loop facilities are provided by Serving LEC.
- 5) Serving LEC's PRI revenues will be shared by applying a "sharing percentage." Sharing percentage represents estimation of the proportion of its facilities that the Originating LEC uses to transport the ISP-bound MOUs to the Serving LEC. See Exhibit AJV-7 for BellSouth's calculation of its sharing percentage. BellSouth will apply the same sharing percentage to calculate the compensation due it when BellSouth is an Originating LEC as will be applied by the Originating LEC(s) when calculating compensation BellSouth owes when BellSouth is the Serving LEC.
- 6) Serving LEC shares its ISP revenues with Originating LECs as follows:
  - a) Each Serving LEC will be responsible for identifying all minutes of use ("MOUs") which are ISP-bound that each Originating LEC delivers to the Serving LEC's network.
  - b) Assume that, on average, each trunk (DS0-equivalent) carries 9000 MOUs per month (equates to 150 hours per trunk per month).



- c) Based on ISP-bound MOUs identified by the Serving LEC and provided to the Originating LEC, the Originating LEC will calculate the quantity of DS1 facilities required to transport the Originating LEC's ISP-bound traffic to the Serving LEC as follows:  
ISP-bound MOUs / 9000 avg MOUs per trunk / 24 trunks per DS1
  - d) Serving LEC will advise Originating LECs as to average PRI rate charged to ISPs.
  - e) Originating LEC calculates compensation due to it by the Serving LEC as follows:  
Quantity of DS1s x Serving LEC's PRI rate x sharing percentage
  - f) Originating LEC bills Serving LEC on a quarterly basis.
  - g) The ISP-bound MOUs and the PRI rate as reported by the Serving LEC are subject to audit by the Originating LEC(s). The amount of compensation could be affected by results of an audit.
- 7) To the extent two parties have additional issues, contract negotiations between the parties can determine other terms and conditions. For example, due to technical capabilities, the two LECs may agree that the Originating LEC will identify the ISP-bound minutes of use.

The Serving LEC shares its revenues with the Originating LEC(s) via transport compensation

Illustrative Calculation with BellSouth as the Originating LEC and a CLEC as the Serving LEC

Assumptions:

Average MOUs per Trunk (DS0): 9,000  
 Serving LEC's PRI Rate: \$850

COL. A	COL. B	COL. C	COL. D	COL. E	COL. F
Originating LEC	Number of originating ISP minutes delivered to Serving LEC	Number of Equivalent Transport DS1s	Serving LEC's PRI Rate	Sharing %	Compensation due from Serving LEC to Originating LEC
	NOTE (1)	NOTE (2)	NOTE (3)	NOTE (4)	NOTE (5)
BellSouth	55,000,000	254.63	\$850.00	8.6%	\$18,613.45

NOTES:

- (1) ISP-bound MOUs identified/provided by Serving LEC & provided to Originating LEC
- (2) Col. C calculated as follows: Col. B / 9000 MOUs per trunk / 24 trunks per DS1
- (3) Col. D is the Serving LEC's PRI Rate
- (4) Col. E is BellSouth's calculated sharing percentage from Exhibit AJV-7
- (5) Col. F calculated as follows: Col. C \* Col. D \* Col. E

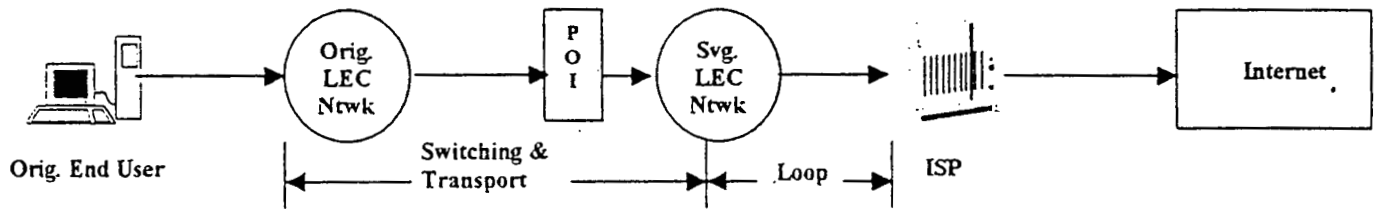
Calculation of Sharing Percentage

Sharing percentage is calculated by determining ratio of loop-related switching and transport facilities cost to total loop cost, then dividing by two since both Originating LEC and Serving LEC provide switching and transport facilities. BellSouth's sharing percentage is calculated as follows:

Loop Cost	= \$14.62
Associated Loop Switching Cost	= \$2.90
Associated Loop Transport Cost	= \$0.14
<hr/>	
Total Cost	= \$17.66

$$((\$2.90 + \$0.14) / \$17.66) / 2 = .086$$

Therefore, BellSouth will apply a sharing percentage of 8.6% to calculate the compensation due it when BellSouth is an Originating LEC. Likewise, when BellSouth is the Serving LEC, BellSouth expects that the Originating LEC(s) will apply a sharing percentage of 8.6% when calculating compensation BellSouth owes.



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(1) This Commission could direct the parties to create a mechanism to track ISP-bound calls originating on each parties' respective network on a going-forward basis. The parties would apply the inter-carrier compensation mechanism established by a final, nonappealable order of the FCC retroactively from the date of the Interconnection Agreement approved by this Commission, and the parties would "true-up" any compensation that may be due for ISP-bound calls.

(2) A second option proposed by BellSouth is an inter-carrier revenue sharing compensation arrangement for ISP-bound access traffic that is consistent with the proposal BellSouth filed with the FCC. This proposal is also consistent with the inter-carrier compensation mechanisms that apply for other access traffic. This option is based on apportionment of revenues collected for the access service among the carriers incurring costs to provide the service. The revenue to be apportioned among carriers is the charge for the business exchange service that the ISP pays.

(3) This Commission could direct the parties to implement a bill-and-keep arrangement for ISP-bound traffic until such time as the FCC's rulemaking on inter-carrier compensation is completed. By definition, a bill-and-keep arrangement is a mechanism in which neither of the two interconnecting carriers would charge the other for ISP-bound traffic that originates on the other carrier's network.

1 Under all three options, the CLEC is being compensated by the ISP. Under  
2 Option (2), in the interim, BellSouth would be the net recipient of revenue  
3 from the CLEC. While Option (2) is theoretically correct, BellSouth is  
4 willing to forego that compensation for the interim period in exchange for  
5 the administrative simplicity of bill-and-keep. Furthermore, a bill-and-  
6 keep arrangement removes any uncertainty surrounding application of the  
7 FCC's mechanism inherent in Option (1).

8

9 Q. PLEASE FURTHER DESCRIBE OPTION (2): BELLSOUTH'S PROPOSED  
10 INTER-CARRIER REVENUE SHARING COMPENSATION PLAN.

11

12 A. In its Comments and Reply Comments to the FCC's Notice of Proposed  
13 Rulemaking in CC Docket No. 99-68, In the Matter of Inter-Carrier  
14 Compensation for ISP-Bound Traffic ("*Inter-Carrier Compensation NPRM*"),  
15 BellSouth puts forth its proposal for the appropriate inter-carrier compensation  
16 mechanism (see Exhibit JH-2). BellSouth's proposal is guided by and is  
17 consistent with FCC precedent regarding inter-carrier compensation for jointly  
18 provided interstate services. BellSouth's proposal recognizes, as does the  
19 FCC, that the revenue source for ISP-bound traffic is derived from the service  
20 provided to the ISP (see In the Matter of Access Charge Reform, Price Cap  
21 Performance Review for Local Exchange Carriers, Transport Rate Structure  
22 and Pricing and End User Common Line Charges, CC Docket Nos. 96-262,94-  
23 1, 91-213 and 95-72, First Report and Order, 12 FCC Rcd 15982, 16133-16134  
24 (1997)). Equally important, BellSouth's proposal ties the level of inter-carrier  
25 compensation directly to the level of compensation that each carrier derives

1 from the jointly provided service.

2

3 In this proceeding, BellSouth proposes an interim flat-rated sharing mechanism  
4 that is based on apportionment of revenues collected for the access service  
5 among the carriers incurring costs to provide the service. The revenue to be  
6 apportioned among carriers is the charge for the business exchange service that  
7 the ISP pays. Typically, the ISP purchases Primary Rate ISDN ("PRI") service  
8 as the business exchange product used to provide the access service. BellSouth  
9 believes that, in the interim, a flat-rated compensation process is appropriate  
10 since the revenues collected are based on flat-rated charges. Exhibit JH-3  
11 attached to this testimony is BellSouth's Proposed Interim ISP Inter-Carrier  
12 Access Service Compensation Plan ("Interim Plan").

13

14 In describing BellSouth's Interim Plan, I use the term "Serving LEC" to refer  
15 to a local exchange carrier ("LEC") that has an ISP as its customer and the term  
16 "Originating LEC" to refer to a LEC whose end user customers originate traffic  
17 that is delivered to the Serving LEC's network and is bound for an ISP.

18 BellSouth's Interim Plan takes into account the following facts:

- 19 1) Only the Serving LEC bills the ISP for access service. The ISP is billed  
20 at rates established by the Serving LEC;
- 21 2) the FCC has limited the price for an ISP dial-up connection to the  
22 equivalent business exchange service rate;
- 23 3) the Originating LEC incurs costs to carry ISP-bound traffic to the  
24 Serving LEC;
- 25 4) the Originating LEC has no means to recover its costs directly from the

- 1 traffic to the Serving LEC as follows:  
2 (ISP-bound MOUs / 9,000 MOUs per trunk / 24 trunks per DS1);  
3 (4) Serving LEC will advise Originating LECs of the average PRI rate  
4 charged to ISPs. The Serving LEC can use either its tariffed rate or the  
5 average rate actually charged to ISPs;  
6 (5) Originating LEC calculates compensation due to it by the Serving LEC  
7 as follows:  
8 (Quantity of DS1s x Serving LEC's PRI rate x sharing percentage);  
9 (6) Originating LEC bills the Serving LEC on a quarterly basis; and  
10 (7) The ISP-bound MOUs and the PRI rates as reported by the Serving  
11 LEC are subject to audit by the Originating LEC(s). The amount of  
12 compensation could be affected by results of an audit.

13  
14 To the extent two parties have additional issues, contract negotiations between  
15 the parties can determine other terms and conditions. For example, due to  
16 technical capabilities, the two LECs may agree that the Originating LEC will  
17 identify the ISP-bound minutes of use.

18  
19 Q. WHAT IS THE BASIS FOR USING 9,000 MOUs AS THE AVERAGE  
20 MONTHLY USAGE PER TRUNK?

21  
22 A. Nine thousand (9,000) MOUs is a proxy that was used by the FCC for FGA  
23 access before actual usage could be measured. Further, this average level of  
24 usage has been used in other situations as a proxy for IXC usage.

25

1           ISP (unless, of course, the Originating LEC and the Serving LEC are  
2           one and the same); and  
3           5)    The Originating LEC must recover its costs, to the extent possible,  
4           from the Serving LEC.

5  
6           BellSouth's Interim Plan presumes that all LECs who serve ISPs will  
7           participate in the plan. Otherwise, only those parties that will benefit will  
8           participate – i.e., a LEC that originates more ISP-bound traffic than it  
9           transports to an ISP will be a net receiver.

10  
11   Q.    PLEASE EXPLAIN FURTHER WHY A SEPARATE SHARING PLAN IS  
12           NEEDED FOR ACCESS SERVICE PROVIDED TO ISPs?

13  
14   A.    The need for a separate sharing plan is created by the FCC's decree that the  
15           price charged for access service provided to ISPs is the business exchange rate.  
16           Unlike other switched access services, which are billed on a usage-sensitive  
17           basis, ISPs typically purchase from the flat rate business exchange tariff.

18  
19           Because non-ISP switched access service is billed on a usage-sensitive basis, it  
20           is relatively easy for each carrier to be compensated for the portion of the  
21           access service that it provides. The most commonly used method of  
22           compensation is for each carrier to bill the inter-exchange carrier ("IXC")  
23           directly for the portion of access service it provides. For example, for  
24           originating access, the originating LEC bills the IXC for the switching and for  
25           the portion of transport that the originating LEC provides, and the terminating



1 LEC bills the LXC for the portion of transport that it provides.

2

3 With ISP traffic, the above method is unworkable. Since the ISP is billed  
4 business exchange service rates, only one LEC can bill the ISP. Also, since the  
5 rate paid by the ISP is a flat rate charge designed for another service, i.e.,  
6 business exchange service, there is no structural correlation between the cost  
7 incurred by the LEC and the price paid by the ISP. However, the business  
8 exchange rate paid by the ISP is the only source of revenue to cover any of the  
9 costs incurred in provisioning access service to the ISP. Therefore, a plan to  
10 share the access revenue paid by the ISP among all the carriers involved in  
11 sending traffic to the ISP is needed.

12

13 Q. PLEASE DESCRIBE THE SPECIFICS OF BELLSOUTH'S INTERIM  
14 REVENUE SHARING PLAN.

15

16 A. BellSouth's Interim Revenue Sharing Plan contains the following steps that are  
17 further described in Exhibit JH-3:

18 (1) Each Serving LEC will be responsible for identifying all minutes of use  
19 ("MOUs") which are ISP-bound that each Originating LEC delivers to  
20 the Serving LEC's network;

21 (2) each trunk (DS0-equivalent) will be assumed to carry 9,000 MOUs on  
22 average per month (equates to 150 hours per trunk per month);

23 (3) based on ISP-bound MOUs identified by the Serving LEC and provided  
24 to the Originating LEC, the Originating LEC will calculate the quantity  
25 of DS1 facilities required to transport the Originating LEC's ISP-bound

1 Q. WHAT SHARING PERCENTAGE DOES BELLSOUTH PROPOSE BE  
2 APPLIED TO THE SERVING LEC'S REVENUES TO COMPENSATE  
3 BELLSOUTH FOR ITS NETWORK USED TO CARRY ISP-BOUND  
4 TRAFFIC?

5  
6 A. BellSouth proposes a sharing percentage of 8.06% that will be applied to the  
7 Serving LEC's ISP revenues to calculate the compensation due BellSouth  
8 when BellSouth is an Originating LEC. Likewise, when BellSouth is the  
9 Serving LEC, BellSouth proposes that a sharing percentage of 8.06% will be  
10 applied by the Originating LEC(s) when calculating compensation BellSouth  
11 owes.

12  
13 Q. HOW DID BELLSOUTH DETERMINE THE SHARING PERCENTAGE IT  
14 PROPOSES?

15  
16 A. BellSouth's calculation of its sharing percentage is shown in Exhibit JH-4  
17 attached to this testimony. First, BellSouth considered that switching, transport  
18 and loop costs are incurred to carry traffic from the Originating LEC's end  
19 office to the ISP location. Since the Serving LEC incurs the loop cost between  
20 its end office and the ISP location, the Serving LEC should retain revenues to  
21 cover its loop cost. However, switching and transport costs are jointly incurred  
22 by both the Originating LEC and the Serving LEC.

23  
24 Therefore, BellSouth believes that an appropriate sharing percentage is  
25 developed by determining the relationship of switching and transport costs to

1 total costs (switching, transport and loop), and then dividing that result by two  
2 because each carrier bears a portion of the switching and transport cost. In  
3 order to determine the relationship, BellSouth looked to the Benchmark Cost  
4 Proxy Model ("BCPM") results filed in Kentucky in the Universal Service  
5 Fund proceedings. The average, state-wide voice grade loop, switching and  
6 transport capital costs produced by BCPM are \$24.04, \$4.40 and \$.22,  
7 respectively. Therefore, the loop capital cost represents 83.88% of the total  
8 average state-wide capital cost which means that the switching and transport  
9 capital costs represent 16.12% of the total capital cost. Again, dividing the  
10 16.12% by two in order to account for the fact that both carriers incur  
11 switching and transport costs results in a sharing percentage of 8.06%.

12  
13 BellSouth also reviewed ARMIS data and determined that the relationship  
14 between loop, switching and transport investment as reported in ARMIS is  
15 very similar to the relationship calculated from the BCPM results. The ARMIS  
16 data shows that, for 1998, in Kentucky, total loop investment was  
17 \$1,547,025,000, switching investment was \$303,946,000 and transport  
18 investment was \$47,127,000. Therefore, switching and transport investment  
19 divided by the total investment and then divided again by two in order to  
20 account for the fact that both carriers incur switching and transport costs results  
21 in a sharing percentage of 9.2%  $((\$303,946,000 + 47,127,000) \div$   
22  $\$1,898,098,000 \div 2)$ .

23  
24 Q. DOES BELLSOUTH'S PROPOSED SHARING PERCENTAGE ONLY  
25 APPLY TO TRAFFIC IT ORIGINATES TO A SERVING LEC?

1

2 A. No. When BellSouth is the Serving LEC and a CLEC's end users call an ISP  
3 served by BellSouth, BellSouth should compensate the CLEC. BellSouth  
4 proposes to use the same method and sharing percentage (8.06%) to  
5 compensate the CLEC as it proposes for billing the CLEC.

6

7 Q. WHAT IMPACT WOULD BELLSOUTH'S PROPOSAL HAVE ON A CLEC  
8 SUCH AS ICG?

9

10 A. As an example, I will assume that ICG serves its ISP customers with PRI  
11 service which is equivalent to a DS1 (24 DS0s). Further, I will assume that  
12 ICG charges its ISP customers a market-based rate of \$850 per month per PRI.  
13 If BellSouth as the Originating LEC generates 55 million ISP-bound MOUs per  
14 month to ICG, then the amount of monthly compensation that BellSouth's  
15 proposal would result in ICG owing to BellSouth is calculated as follows:

16 
$$55,000,000 / 9000 / 24 = 254.63 \text{ DS1s}$$

17 
$$254.63 \text{ DS1s} \times \$850.00 \times .0806 = \$17,444.70$$

18 At a PRI rate of \$850, ICG will collect \$216,436 in revenue from its ISP  
19 customer(s) just for the traffic originated by BellSouth. Total compensation  
20 ICG owes to BellSouth for the 55,000,000 MOUs BellSouth originated to ICG  
21 would be \$17,444.70.

22

23 Q. HOW DOES YOUR PROPOSAL AFFECT THE RELATIVE COST  
24 RECOVERY OF THE LECs INVOLVED IN PROVIDING THE ACCESS  
25 SERVICE?

1

2 A. Since the FCC has ordered that ISPs are to be provided service by ILECs at  
3 business exchange rates, the fact is that when the access service is provided by  
4 a single LEC to the ISP, the rates it charges the ISP are typically not fully  
5 compensatory. This situation arises because the ISP is being charged a flat rate  
6 charge (which was intended for another service) for a high volume usage-  
7 sensitive service. Under BellSouth's sharing proposal, each carrier should  
8 recover roughly the same percentage of its costs. For example, if the carrier  
9 would have recovered 50% of its costs if it served the ISP alone, the underlying  
10 premise of this proposal is that each carrier should recover roughly 50% of its  
11 costs.

12

13 Q. SHOULD THIS PLAN BE CONTINUED ONCE THE FCC ESTABLISHES  
14 A USAGE-BASED COMPENSATION MECHANISM?

15

16 A. Probably not. The need for this plan was created based on the fact that ISPs  
17 currently are allowed to pay business exchange rates for access service. Should  
18 the FCC change the application of access charges to ISPs or establish a  
19 different compensation mechanism, this plan should be re-evaluated.

20

21 Q. PLEASE DESCRIBE OPTION (3): BILL-AND-KEEP.

22

23 A. Bill-and-keep is a compensation mechanism in which neither of two  
24 interconnecting carriers charges the other for the termination of ISP-bound  
25 traffic that originates on the other carrier's network.

1

2 Q CAN THIS COMMISSION USE BILL-AND-KEEP AS AN INTERIM  
3 MECHANISM?

4

5 A. Yes. The FCC did not specify the type of interim mechanism a state could use.  
6 Of course, whether the FCC could authorize states to apply any mechanism is  
7 subject to court review.

8

9 Q. WHY MIGHT A BILL-AND-KEEP ARRANGEMENT BE AN  
10 APPROPRIATE COMPENSATION MECHANISM?

11

12 A. Although the FCC has not addressed bill-and-keep with respect to non-251  
13 traffic, such as ISP traffic, it has been addressed in FCC Rule 51.713 with  
14 respect to traffic where 251(b)(5) applies (i.e. local traffic to which reciprocal  
15 compensation applies). FCC Rule 51.713 defines bill-and-keep arrangements  
16 as those in which neither of the two interconnecting carriers charges the other  
17 for the termination of local telecommunications traffic that originates on the  
18 other carrier's network. Rule 51.713 further provides for use of bill-and-keep  
19 arrangements if the state commission determines that the amount of local  
20 telecommunications traffic from one network to the other is roughly balanced  
21 with the amount of local telecommunications traffic flowing in the opposite  
22 direction, and is expected to remain so.

23

24 In the FCC's NPRM in Docket 95-185 (January 11, 1996), the FCC  
25 recommended bill-and-keep as an interim compensation arrangement for

1 cellular providers. The NPRM states that bill-and-keep is an appropriate  
2 interim mechanism where the incremental cost of using shared network  
3 facilities is equal to (or approximately) zero for both networks. This  
4 recommendation can be applied to compensation sharing for ISP-bound traffic,  
5 with the distinction that network providers would recover their costs from  
6 ISPs, not end-user customers.

7

8 Although the NPRM and FCC rule mentioned above discuss bill-and-keep as a  
9 settlement mechanism for local traffic, in this proceeding, bill-and-keep is  
10 being proposed as a possible means of settling compensation for ISP-bound  
11 traffic, which is non-local access traffic.

12

13 Q. WHAT IS THE COMMON PRINCIPLE UNDERLYING THE  
14 CIRCUMSTANCES WHERE THE FCC HAS FOUND BILL-AND-KEEP TO  
15 BE A REASONABLE COMPENSATION MECHANISM?

16

17 A. In both of the circumstances discussed above, the net amount of compensation  
18 would be relatively small. Under bill-and-keep, neither carrier compensates  
19 the other carrier for use of its facilities. Consequently, the net compensation  
20 realized by each carrier is zero under bill-and-keep. If the amounts of  
21 compensation are small anyway, payment of reciprocal compensation produces  
22 results that are close to bill-and-keep without the complexity of actually  
23 recording data and billing between the parties.

24

25 Q. ARE THE NET COMPENSATION PAYMENTS UNDER AN

1 APPROPRIATE INTER-CARRIER COMPENSATION MECHANISM  
2 EXPECTED TO BE SMALL?

3

4 A. Since this is access traffic, carriers are only compensated for the facilities  
5 provided that are used to connect the ISP's end-users to the CLEC serving the  
6 ISP. Using the plan discussed in Option (2), BellSouth would only receive  
7 8.06% of the revenues billed to the ISP for the number of facilities used. That  
8 amount is relatively small by itself. The net compensation to BellSouth would  
9 be further reduced by payments made to a CLEC for connecting end-users to  
10 an ISP served by BellSouth.

11

12 Q. ARE CLECS HARMED BY UTILIZING BILL-AND-KEEP?

13

14 A. No. Actually, BellSouth is foregoing its revenue for this interim period.  
15 BellSouth typically provides far more connections between ISP end-users and  
16 CLECs than CLECs provide from ISP end-users to BellSouth. As a result,  
17 BellSouth would be the net recipient of compensation.

18

19 Q. WHY IS BELLSOUTH WILLING TO FOREGO THIS COMPENSATION?

20

21 A. BellSouth is willing to forego this compensation for several reasons: (1) the  
22 compensation arrangement is for an interim period only, (2) the amounts to be  
23 paid are small, and (3) the tradeoff is foregoing a small amount of revenue in  
24 exchange for administrative simplicity.

25





COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

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FRANKFORT, KY. 40602  
(502) 564-3940

November 30, 1999

To: All parties of record

RE: Case No. 1999-218

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

A handwritten signature in black ink that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

SB/sa  
Enclosure

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& Henry S. Alford  
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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 BELLSOUTH	)	CASE NO.
TELECOMMUNICATIONS, INC.	)	99-218
PURSUANT TO SECTION 252(b) OF THE	)	
TELECOMMUNICATIONS ACT OF 1996	)	

O R D E R

On November 24, 1999, ICG Telecom Group, Inc. ("ICG") filed a motion to strike a portion of the prefiled direct testimony of Jerry Hendrix, a witness for BellSouth Telecommunications, Inc. ("BellSouth"). In support of its motion, ICG contends that the testimony beginning at page 15, line 10, and continuing through page 27, line 24, contains information which is outside the scope of the issues for arbitration. 47 U.S.C. 252(b)(4) states that, "The state commission shall limit its consideration of any petition . . . to the issues set forth in the petition and in the response." ICG contends that, instead of directly answering ICG's issue of whether dial-up calls to Internet service providers should be treated as if they were local calls for purposes of reciprocal compensation, BellSouth suggests in its testimony that BellSouth should be compensated by ICG as a result of Internet service provider traffic. Those portions of the prefiled direct testimony of Jerry Hendrix that pertain to a theory or mechanism for compensation not raised by ICG's petition for arbitration nor BellSouth's response to ICG's petition may be beyond the scope of this proceeding. However, BellSouth's response is arguably relevant to the issue of reciprocal compensation. The remedy for the inclusion of this testimony in the

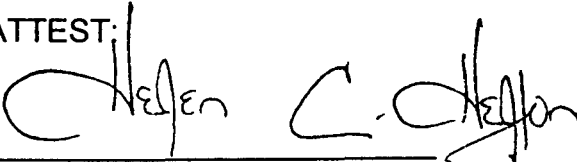
record is that it will be accorded appropriate weight by the Commission. The public hearing in this matter is scheduled for December 2, 1999. Accordingly, there is insufficient time for BellSouth to frame a written response.

The Commission, having considered ICG's motion to strike portions of BellSouth's prefiled testimony and having been otherwise sufficiently advised, HEREBY ORDERS that the motion be denied.

Done at Frankfort, Kentucky, this 30th day of November, 1999.

By the Commission

ATTEST:

  
\_\_\_\_\_  
Executive Director

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**VIA HAND DELIVERY**

November 19, 1999

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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, Kentucky 40601

Re: *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.*

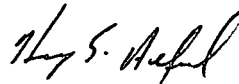
Dear Ms. Helton:

Enclosed please find the originals and ten (10) copies of ICG Telecom Group, Inc.'s ("ICG") rebuttal testimony in the above-styled docket. Rebuttal testimony is being filed by all of ICG's witnesses, including Ms. Gwen Rowling, Mr. Michael Starkey, Ms. Cindy Schonhaut, Mr. Bruce Holdridge, and Mr. Philip Jenkins. An additional copy of the rebuttal testimony is also enclosed and I ask that you indicate receipt of the enclosed documents by placing the Kentucky Public Service Commission's ("Commission") file stamp on the extra copies and returning them to our courier.

Pursuant to agreement reached between ICG and BellSouth Telecommunications, Inc. ("BellSouth"), neither ICG nor BellSouth will be filing additional agreed upon contract language at this time as referenced in the Commission's September 23, 1999 Order. The parties are still in the process of formulating mutually agreeable language reflecting the several agreements in principle which have been reached between ICG and BellSouth. The parties have agreed that such agreed upon language shall be filed in conjunction with the parties' best and final offers which, pursuant to the September 23, 1999 Order, are to be filed no later than 20 days after the adjournment of the hearing.

Thank you for your assistance in this matter.

Sincerely,



Henry S. Alford

HSA:jms  
enclosures

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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**REBUTTAL TESTIMONY  
OF GWEN ROWLING  
ON BEHALF OF  
ICG TELECOM GROUP, INC.**

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**NOV 19 1999**

**PUBLIC SERVICE  
COMMISSION**

ICG TELECOM GROUP, INC.  
REBUTTAL TESTIMONY OF  
GWEN ROWLING  
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION  
DOCKET NO. 99-218  
DECEMBER 2, 1999

1 **Q. ARE YOU THE GWEN ROWLING WHO CAUSED DIRECT TESTIMONY TO BE**  
2 **FILED IN THIS PROCEEDING?**

3 A. Yes, I am.

4 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?**

5 A. The purpose of my testimony today is to rebut BellSouth witness Jerry Hendrix's arguments on  
6 issues 5 and 19-26 (performance standards and enforcement mechanisms).

7 **Q. DO YOU AGREE WITH MR. HENDRIX'S TESTIMONY AT PAGES 51-52 THAT**  
8 **MECHANISMS FOR ENFORCING PERFORMANCE STANDARDS ARE AN ISSUE**  
9 **ONLY UNDER SECTION 271 OF THE TELECOMMUNICATIONS ACT?**

10 A. No. The need for performance standards and enforcement mechanisms is based on BellSouth's  
11 obligations under Section 251(c)(2)(C) and (D) of the Act. Under those sections, BellSouth has  
12 an obligation to provide interconnection "that is *at least equal in quality* to that provided by the  
13 local exchange carrier to itself or to any subsidiary, affiliate or any other party to which the  
14 carrier provides interconnection" and "on rates, terms, and conditions that are just, reasonable,  
15 and *nondiscriminatory*, in accordance with the terms and conditions of the agreement and the  
16 requirements of this Section and Section 252." The enforcement mechanism that ICG has  
17 proposed is designed to incent BellSouth to meet these obligations. An obligation can be  
18 meaningless if there is no enforcement mechanism attached to it.

1           Additionally, Section 271 of the Act mirrors and refers to these obligations in Section  
2           271(c)((2)(B)(I) and (ii) - items one and two of the competitive checklist. Specifically, the  
3           requirements are that access or interconnection must be provided and must meet the following  
4           requirements:

5                   (i) Interconnection in accordance with the requirements of Sections  
6                   251(c)(2) and 252(d)(1).

7  
8                   (ii) Nondiscriminatory access to network elements in accordance with the  
9                   requirements of Sections 251(c)(3) and 252(d)(1).

10  
11           So, enforcement mechanisms or performance incentives are related to Sections 251, 252 and 271  
12           of the Act.

13           Performance incentives clearly are appropriate for arbitration given their strong tie to Section  
14           251 and 252. Section 251 of the Act sets out interconnection obligations and section 252 sets out  
15           "Procedures for Negotiation, Arbitration and Approval of Agreements." Any enforcement  
16           mechanism related to BellSouth's obligations to provide access and interconnection on terms and  
17           conditions spelled out in interconnection agreements should also be contained within the  
18           interconnection agreement itself. It is an arbitrary distinction to claim, as does BellSouth, that  
19           enforcement mechanisms should not be a part of an arbitration while the obligations they are  
20           designed to enforce are the basis for an interconnection agreement.

21           **Q. IS MR. HENDRIX CORRECT IN ASSERTING AT PAGE 52 OF HIS TESTIMONY**  
22           **THAT THE COMPLAINT PROCESS IS A SUFFICIENT METHOD OF**  
23           **ENFORCEMENT?**

24           A. No, he is not correct. The complaint process puts the burden on the CLEC in spite of the fact  
25           that it is the ILEC who bears the responsibility to fulfill its legal obligations under Section 251



1 of the Act. Using the complaint process alone ensures that CLECs, which generally are smaller  
2 companies with far less resources than an ILEC such as BellSouth, must carry the responsibility  
3 to litigate on a complaint by complaint basis the issue of BellSouth's failure to comply with the  
4 Act. The complaint process is much less efficient than self-effectuating enforcement  
5 mechanisms to ensure an ILEC's broad scale compliance with the Act's requirements.

6 Neither CLECs nor regulators have the resources to bring "State and Federal Commission  
7 procedures" to bear every time BellSouth fails to deliver a FOC or turn up a circuit on time.  
8 BellSouth's refusal to include provisions for liquidated damages in its interconnection  
9 agreements as several other ILECs have done forces its competitors to incur significant litigation  
10 costs and uncertainties in order to seek a remedy for the performance failures by BellSouth.

11 BellSouth points to the complaint process in an effort to avoid possibly suffering financial  
12 repercussions for wide-scale non-compliance with its federal obligations. Significant, immediate  
13 financial repercussions are required as a general deterrence to behavior that thwarts a public  
14 policy goal of bringing local service competition to consumers. Only self-effectuating  
15 enforcement mechanisms guarantee that an ILEC will suffer immediate punishment at a level  
16 that is appropriate.

17 **Q. DO YOU AGREE WITH MR. HENDRIX'S STATEMENT AT PAGE 52 OF HIS**  
18 **TESTIMONY THAT "THE ONLY REMEDIES APPROPRIATE FOR INCLUSION IN**  
19 **AN INTERCONNECTION AGREEMENT ARE THOSE TO WHICH THE PARTIES**  
20 **MUTUALLY AGREE"?**

21 **A.** ICG cannot agree with that position. In a fully competitive market where parties have a choice  
22 of suppliers, contractual remedies may safely be left to voluntary agreement, but the local

1 exchange market is far from competitive today. The entire arbitration process under Section 252  
2 is the result of Congress's recognition that, particularly in the formative stages of local exchange  
3 competition, ILECs are unlikely to voluntarily agree to many contractual provisions that are  
4 appropriate or necessary for their competitors to conduct business. Section 252(b) of the Act  
5 prescribes the affirmative legal right of "compulsory arbitration." Prior to the Act, parties could  
6 not be required to arbitrate any dispute which they had not agreed to submit for arbitration.  
7 Section 252(b) of the Act, however, clearly mandates that one party may request arbitration and  
8 the other party must submit. "Compulsory arbitration" ensures that interconnection agreements  
9 in fact may contain provisions that are not mutually agreed upon. State commissions are  
10 empowered to arbitrate "any open issues" and can impose conditions that ensure that the  
11 requirements of Section 251 are met. As I have indicated previously, performance measures and  
12 enforcement mechanisms are based on Sections 251 and 252 obligations.

13 BellSouth has refused to agree to include *any* provisions for remedies of performance failures  
14 in its interconnection agreements. If the only remedies that may be included in interconnection  
15 agreements are those to which the parties mutually agree, BellSouth unilaterally can deprive its  
16 competitors of meaningful remedies for its breaches of applicable performance standards.

17 Clear financial consequences for failures by BellSouth to meet appropriate wholesale  
18 performance standards are necessary in order to incent BellSouth to try to do the job right every  
19 time. For BellSouth to perform its obligations under its interconnection agreement with ICG in  
20 a manner that is comparable to the way it performs equivalent functions for itself will require  
21 BellSouth to incur costs to develop and implement efficient and effective systems and  
22 procedures and adequately staff its wholesale support and provisioning departments, with the

1 result that it will lose some revenue opportunities to ICG. It would be economically irrational  
2 for BellSouth to incur the cost of putting ICG at parity with its own retail operations unless the  
3 cost of *not* doing so is greater. Unless the Commission requires the inclusion of meaningful  
4 remedies for performance failures in the arbitrated agreement, BellSouth can continue to muddle  
5 along with manual procedures and understaffed wholesale operations, secure in the knowledge  
6 that ICG cannot litigate every untimely cutover or erroneous data entry.

7 As the FCC Common Carrier Bureau Chief Lawrence Strickling indicated in a September  
8 28, 1999 letter to SBC, "[i]n particular, the Bureau believes that the potential liability under such  
9 a [performance\remedy] plan must be high enough that an incumbent could not rationally  
10 conclude that making payments under an enforcement plan is an acceptable price to pay for  
11 hindering or blocking competition."

12 **Q. HAS BELL SOUTH ADDRESSED WHETHER PERFORMANCE MEASURES MIGHT**  
13 **BE APPROPRIATELY SET IN AN ARBITRATION IN ITS COMMENTS AT THE**  
14 **FEDERAL LEVEL?**

15 A. Yes. At page 3 of BellSouth's comments on the FCC's NPRM in the Matter of Performance  
16 Measurements and Reporting Requirements for Operations Support Systems Interconnection and  
17 Operator Services and Directory Assistance, BellSouth indicated that:

18 Congress chose to rely on market participants to negotiate (or arbitrate where  
19 necessary) access to ILEC networks and services, including performance  
20 measures and standards that fit the systems of the particular local carriers  
21 involved.

22  
23 Appropriate enforcement mechanisms go hand-in-hand with performance measures, which  
24 BellSouth previously has recognized are subject to negotiation and arbitration.

1 **Q. WOULD THE MEASURES AND STANDARDS SET IN TEXAS BE APPLICABLE TO**  
2 **BELLSOUTH?**

3 A. Yes. In my direct testimony, I describe specific operational areas that underpin Section 251  
4 obligations. These operational areas such as pre-ordering, ordering, provisioning and database  
5 maintenance are applicable to arrangements between a CLEC and any ILEC, regardless whether  
6 that ILEC is BellSouth or Southwestern Bell. The only modification that possibly would be  
7 required is an adjustment in the response times of the OSS systems. That slight modification is  
8 insignificant in comparison with the completeness and overall applicability of the Texas  
9 Performance Standards and Remedy Plan.

10 **Q. MR. HENDRIX USES THE TERMS "LIQUIDATED DAMAGES" AND "PENALTIES"**  
11 **INTERCHANGEABLY. DOES THE TEXAS REMEDY PLAN DISTINGUISH**  
12 **BETWEEN LIQUIDATED DAMAGES AND PENALTIES?**

13 A. Yes, the Texas Remedy Plan distinguishes between liquidated damages and penalties. Tier 1  
14 payments for performance failures are awarded to the aggrieved CLEC as liquidated damages,  
15 while Tier 2 payments are remitted to the state as penalties. As a general matter, penalties are  
16 used to punish a party for doing wrong (or to deter a party from doing wrong), while liquidated  
17 damages are designed to provide an easily determined remedy to a party that has been injured  
18 by wrongful conduct.

19 Liquidated damages are often appropriate and employed as a contractual remedy, especially  
20 in supplier-purchaser agreements where the harm resulting from a breach may be significant but  
21 hard to quantify. BellSouth employs liquidated damages provisions in many of its customer  
22 service agreements, and the same concept underlies many of the early termination charges in its

1 tariffs. Liquidated damages provisions recognize that a breach of contract by one party injures  
2 the other party and provide a remedy without the necessity of establishing precisely the actual  
3 damages incurred where those actual damages may be significant but very difficult to quantify.

4 **Q. AT PAGE 53 OF HIS TESTIMONY, MR. HENDRIX CITES THE COMMISSION'S**  
5 **AT&T ARBITRATION ORDER. CAN YOU COMMENT ON THIS?**

6 A. Yes. As I stated in my direct testimony, the Commission's prior rejection of both performance  
7 measures and liquidated damages should be reconsidered. The measures provide an objective  
8 reflection of the ILEC's performance with its own retail customers and with its CLEC customers.  
9 Unless the CLECs and the regulators have this type of objective barometer, none of us, including  
10 the ILEC, truly knows whether the ILEC is providing non-discriminatory treatment to CLECs.  
11 The Act was intended specifically to establish local competition. That is the policy goal.  
12 Whether robust local service competition can truly be established will depend on a myriad of  
13 operational details. Consumers have to perceive that changing their service to a new provider  
14 is a viable alternative. If a change in service providers is accompanied by service installation  
15 delays, loss of dial tone, recurring static on the line, the lack of directory assistance listings, and  
16 incorrect 911 information, consumers will never perceive a competitor as a viable alternative to  
17 the ILEC. Performance measurements provide an overall picture of whether the goal of  
18 establishing local competition by ensuring a seamless operational flow is being achieved.  
19 Performance measurements consequently serve the public interest by ensuring that the  
20 operational details support and foster the overall policy goal of establishing local competition.

21 But performance measurements standing alone have only marginal value. Enforcement  
22 mechanisms such as those adopted by the Texas Commission are also necessary to act as a

1 deterrent to non-performance of the performance measurements and to provide incentive to  
2 BellSouth to fulfill its contractual and statutory obligations to provide parity of service. As  
3 stated previously, BellSouth has every incentive not to live up to these obligations. The system  
4 needs teeth to ensure BellSouth's compliance, without which the Telecommunication Act's  
5 policy goal of robust local competition will never be fulfilled.

6 **Q. ARE YOU AWARE THAT BELLSOUTH'S PROPOSAL TO THE FCC IS BASED ON**  
7 **A MODIFICATION OF THE TEXAS PLAN?**

8 A. It is my understanding that BellSouth has represented that its June 18, 1999 proposal to the FCC  
9 is based on a modified version of the Texas Plan. The proposal retains Tier 1 damages payable  
10 to the CLECs and Tier 2 assessments payable to the state. However, the proposal is not an  
11 adoption of the complete Texas Plan. The damages and penalties assessed are based on a  
12 calculation that was not included in the Texas Plan. In addition, BellSouth apparently limited  
13 its performance plan to a scant 24 measurements, while the Texas Plan provides for a  
14 comprehensive set of 121 measurements.

15 BellSouth's proposal to the FCC acknowledges the validity of the Texas Plan. However, the  
16 FCC's proposal is still a work in progress. It would be preferable for the Commission to adopt  
17 a plan that can be immediately implemented in order to protect the growth of local competition.

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

19 A. Yes, it does.

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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**REBUTTAL TESTIMONY  
OF BRUCE HOLDRIDGE  
ON BEHALF OF  
ICG TELECOM GROUP, INC.**

ICG Telcom Group, Inc.  
Rebuttal Testimony of Bruce Holdridge  
Kentucky Public Service Commission  
Docket No. 99-218  
December 2, 1999

1 **Q. ARE YOU THE BRUCE HOLDRIDGE WHO CAUSED DIRECT TESTIMONY TO**  
2 **BE FILED IN THIS PROCEEDING?**

3 A. Yes, I am.

4 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?**

5 A. I would like to take this opportunity to rebut a number of arguments made by BellSouth's  
6 witnesses on access to packet-switching capabilities as unbundled network elements  
7 ("UNEs") (Issue 3), access to the enhanced extended link ("EEL") as a UNE (Issue 4), and  
8 the need for performance standards with effective remedies for non-performance (Issues 5  
9 and 19-26).

10 **Q. DURING NEGOTIATIONS BETWEEN ICG AND BELLSOUTH REGARDING THE**  
11 **AVAILABILITY OF PACKET-SWITCHING CAPABILITIES AS UNES, DID**  
12 **BELLSOUTH STATE THAT IT WOULD NOT MAKE SUCH CAPABILITIES**  
13 **AVAILABLE AS UNES?**

14 A. Yes. BellSouth's position in the negotiations with ICG was that BellSouth would provide a  
15 "finished frame relay service" under tariff and access to limited disaggregated segments of  
16 the service under a commercial services contract. BellSouth also represented that it would not



1 allow a CLEC to purchase UNEs to access service to the BellSouth frame relay product  
2 unless the CLEC is physically collocated in the same central office as the BellSouth frame  
3 relay switch. Under this approach, if access between the non-contiguous central office and  
4 CLEC collocation site is required, the CLEC must purchase tariff-based access service.

5 **Q. HAS BELLSOUTH CHANGED ITS POSITION ON THE AVAILABILITY OF**  
6 **PACKET-SWITCHING CAPABILITIES AS UNES SINCE ITS NEGOTIATIONS**  
7 **WITH ICG?**

8 A. Yes, it appears that BellSouth has changed its position. Mr. Hendrix states that, subject to the  
9 conditions stated in his testimony, BellSouth has agreed to provide unbundled Packet-  
10 Switching Frame Relay Service. at the rates set forth in Exhibit JH 9.

11 **Q. IS THIS NEW POSITION ON THE AVAILABILITY OF PACKET-SWITCHING**  
12 **CAPABILITIES AS UNES ACCEPTABLE TO ICG?**

13 A. Yes, it is.

14 **Q. WILL BELLSOUTH PROVIDE ACCESS TO THE ENHANCED EXTENDED LINK**  
15 **("EEL") AS A UNE?**

16 A. No. Mr. Hendrix, at page 8 of his testimony, states that "this Commission should not require  
17 BellSouth to provide EELs to ICG."

18 **Q. WHY IS IT NECESSARY FOR ICG TO RECEIVE ACCESS TO THE EEL AS A**  
19 **UNE?**

1 A. An EEL combines a loop cross-connected to line-side transport. As I indicated in my direct  
2 testimony, without an EEL, if an ICG customer is served out of Central Office A yet the ICG  
3 collocation site is in Central Office B, ICG cannot link the customer to the ICG collocation  
4 site in Central Office B without first collocating in Central Office A. However, with an EEL,  
5 ICG could provide service from the ICG collocation at Central Office B to the ICG customer  
6 served out of Central Office A without having to create a collocation at Central Office A.  
7 This is similar to BellSouth's use of EELs to provide ISDN services to customers served out  
8 of Central Office A using an ISDN-capable switch located at Central Office B.

9 Without the EEL, ICG would be forced to collocate in each and every BellSouth central  
10 office in which ICG finds a customer. This would be cost prohibitive and require ICG to  
11 duplicate the public switched telephone network by collocating equipment in every  
12 conceivable central office, including those that may serve only a few ICG customers or  
13 prospective customers. If a carrier is required to incur the large expense of collocation at  
14 every central office, then the expansion of facilities-based competition and related new  
15 products will be unduly slowed. This would be similar to prohibiting BellSouth from  
16 providing ISDN services to customers served by central offices where it has not yet installed  
17 ISDN-capable switches, which would artificially slow the availability of ISDN services  
18 within BellSouth's network.

19 **Q. HOW ELSE WOULD ICG'S USE OF THE EEL BE BENEFICIAL TO EMERGING**  
20 **COMPETITION AND THE EFFICIENT USE OF RESOURCES?**

1 A. Access to the EEL as a UNE would free up central office space by obviating the need for a  
2 CLEC to collocate everywhere. The EEL could, therefore, be an invaluable tool in ensuring  
3 that there is enough central office space for most, if not all carriers who seek to collocate at  
4 an ILEC's premises.

5 **Q. AT PAGE 9 OF HIS TESTIMONY, MR HENDRIX STATES:**

6 Furthermore, to provide EELs as requested by ICG, BellSouth will have to  
7 combine UNEs. There is no facility currently in place that would convert a  
8 BellSouth customer to ICG's collocation space. If a customer is connected to  
9 ICG's space, the customer is receiving service from ICG, not BellSouth. The  
10 facility requested by ICG must be created by BellSouth; it does not already exist.

11  
12 **PLEASE ADDRESS MR. HENDRIX'S STATEMENT.**

13 A. Mr. Hendrix's position is that there are no "currently combined" UNEs that constitute an  
14 extended loop. If I understand what Mr. Hendrix is stating here, he is taking the position that the  
15 mere act of moving a cross-connect in a BellSouth central office to reroute an ISDN  
16 configuration (depicted on BH Rebuttal Exhibit No. 1) from the BellSouth switch to the ICG  
17 equipment collocated in that same central office will result in an extended loop that is not  
18 "currently combined" (and thus one that BellSouth asserts it need not provide to ICG).

19 To illustrate what I believe is Mr. Hendrix's point, refer to ICG's BH Rebuttal Exhibit No. 1.  
20 Assume a BellSouth customer takes ISDN service from BellSouth using a configuration that  
21 comprises the loop from point H (Customer's Premises) to Point G (the BellSouth Central Office  
22 A where ICG is not collocated) to the cross-connect at Point F (also at BellSouth Central Office  
23 A) thence via dedicated transport from BellSouth Central Office A to Point E (BellSouth Central

1 Office B where ICG is collocated) and then to Point C (BellSouth's switch in Central Office B).  
2 Assume also that ICG succeeded in attracting the customer, and simply requested BellSouth to  
3 connect the customer's extended loop at ICG's equipment collocated in Central Office B instead  
4 of the BellSouth switch at Central Office B. What Mr. Hendrix appears to be saying is that  
5 BellSouth would refuse ICG's request, even though neither the loop nor the interoffice transport  
6 were reconfigured.

7 Under Mr. Hendrix's description, the term "current combination" would be rendered  
8 meaningless except for CLEC-ordered special access arrangements in place. This clearly is  
9 inconsistent with the FCC's recently released UNE Order which states (paragraph 481):

10 [S]ection 251(c)(3)'s nondiscrimination requirement means that access  
11 provided by the incumbent LEC must be at least equal in quality to that  
12 which the incumbent LEC provides to itself. We note that incumbent  
13 LECs routinely combine loop and transport elements for themselves. For  
14 example, incumbent LECs routinely provide combinations of loop and  
15 transport elements for themselves in order to: (1) deliver data traffic to  
16 their own packet switches; (2) provide private line services; and (3)  
17 provide foreign exchange service.

18  
19 Accordingly, if I correctly understand Mr. Hendrix's testimony, BellSouth's position on this  
20 point is wrong, and the Commission should discard it. Additionally, under Section 251(c)(3), the  
21 Commission can, and should, require BellSouth to offer EELs in order to achieve access parity  
22 between BellSouth and CLECs and thereby further the development of local competition in  
23 Kentucky.

24

1       **Q. IS BELLSOUTH WILLING TO MAKE THE EEL AVAILABLE ON A NON-UNE**  
2       **BASIS?**

3       A. Mr. Hendrix states at page 10 of his testimony that BellSouth is willing to provide  
4       combinations for certain functions through voluntary agreements that are not subject to the  
5       Act.

6       **Q. IS THE AVAILABILITY OF THE EEL UNDER SUCH A VOLUNTARY**  
7       **AGREEMENT ACCEPTABLE TO ICG?**

8       A. No, it is not. A voluntary agreement outside the context of an interconnection agreement is  
9       not a cost effective way for ICG to receive the EEL, because BellSouth's voluntary  
10       agreements do not incorporate TELRIC-based rates, and such agreements are subject to  
11       annual review which can cause prices to increase, and can result in complete withdrawal of  
12       the agreements. ICG cannot plan a business on such uncertain terms.

13       **Q. WHY IS IT NECESSARY THAT THE EEL BE AVAILABLE AT TELRIC RATES?**

14       A. Whatever benefits that carriers receive from access to the EEL would be undercut  
15       significantly if the EEL were not available as a UNE at TELRIC rates. If ICG were to obtain  
16       the EEL only at retail rates for a finished service, the correct choice between replicating the  
17       existing public switched network and relying on the EEL would not be as clear. If the EEL  
18       were available only at retail rates, ICG might find it economically impractical to collocate in  
19       a greater number of central offices. As a result, fewer customers in this state would benefit  
20       from ICG's plans, as well as the business plans of other CLECs, to introduce innovative

1 telecommunications services.

2 **Q. SHOULD THE COMMISSION IN THIS PROCEEDING NOT ONLY ORDER THAT**  
3 **BELLSOUTH BE REQUIRED TO PROVIDE THE EEL AS AN UNBUNDLED**  
4 **NETWORK ELEMENT, BUT ALSO THAT IT BE REQUIRED TO PROVIDE THE**  
5 **EEL AT COST-BASED RATES?**

6 A. Yes, it should. As shown in Cindy Schonhaut rebuttal testimony, the Commission has the  
7 requisite authority to direct BellSouth to provide the EEL to ICG in Kentucky. In addition to  
8 ordering that BellSouth must provide to ICG the EEL as an unbundled network element, the  
9 Commission should further order that the appropriate price for an EEL be subject to the  
10 following equation:

$$\begin{aligned} 11 & \text{TELRIC for an unbundled loop} \\ 12 & + \text{TELRIC for a cross connect of appropriate capacity} \\ 13 & \underline{+} \text{TELRIC for interoffice transport of appropriate capacity} \\ 14 & = \text{TELRIC price of an EEL.} \end{aligned}$$

15 **Q. CAN YOU EXPLAIN THE EQUATION ABOVE?**

16 A. The equation above simply sums the TELRIC prices of the individual unbundled elements  
17 that BellSouth currently combines within its network to provide this functionality (*i.e.*, an  
18 unbundled loop, a cross-connect and unbundled interoffice transport). I place the phrase “. . .  
19 . of appropriate capacity” in the equation above simply to highlight the fact that the EEL can

1 be a combination of DS0 or larger bandwidth circuits. Obviously, TELRIC prices for DS0  
2 and larger capacity services are priced differently such that the EEL would have a different  
3 TELRIC price based upon the capacity of the circuit chosen by the interconnecting carrier.

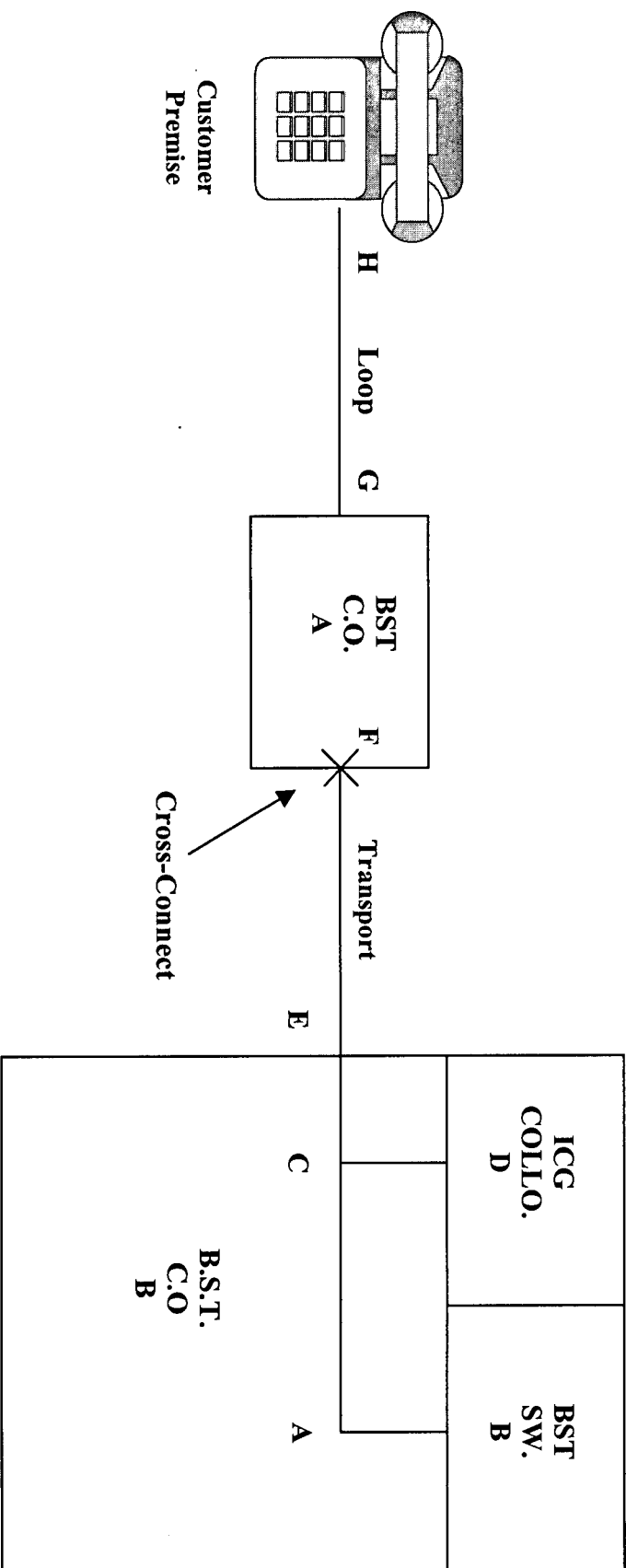
4 **Q. DO YOU WISH TO RESPOND TO MR. HENDRIX'S TESTIMONY ON THE**  
5 **PERFORMANCE STANDARD ISSUES IN THIS PROCEEDING?**

6 A. Yes. At page 52 of his testimony, Mr. Hendrix states that "[e]ven if a guarantee, penalty or  
7 liquidated damage award could be arbitrated, such award is completely unnecessary." Mr.  
8 Hendrix continues by asserting that "State law and State and Federal Commission procedures  
9 are available, and are perfectly adequate, to address any breach of contract situation should it  
10 arise." Mr. Hendrix's assertions are wrong. As I stated in my direct testimony, BellSouth has  
11 every incentive to provide a competitor, such as ICG, inadequate service for use of its  
12 bottleneck facilities. BellSouth can — and does — fail to meet deadlines for installations  
13 ICG requires to serve its customers or prospective customers. It is no remedy for ICG to file  
14 and prosecute a complaint with the Commission, and await the issuance of an order directing  
15 BellSouth to meet an installation deadline that is long since past. Instead, BellSouth needs the  
16 economic incentive of liquidated damages to assure it works diligently to meet its agreed  
17 upon performance standards. The need for performance standards and effective remedies has  
18 become a matter of vital importance with CLECs. As noted in the testimony of Gwen  
19 Rowling, the FCC and certain state commissions have begun to recognize that such standards  
20 and remedies must be established if competition in the local exchange market is to grow.

1 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

2 A. Yes, it does.





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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**REBUTTAL TESTIMONY  
OF PHILIP W. JENKINS  
ON BEHALF OF  
ICG TELECOM GROUP, INC.**

ICG TELECOM GROUP, INC.

REBUTTAL TESTIMONY OF PHILIP W. JENKINS

BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION

DOCKET No. 99-218

DECEMBER 2, 1999

1     **Q. ARE YOU THE PHILIP JENKINS WHO CAUSED DIRECT TESTIMONY TO BE**  
2     **FILED IN THIS PROCEEDING?**

3     A. Yes, I am.

4     **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?**

5     A. The purpose of my testimony today is to rebut the argument made by BellSouth's witness Jerry  
6     Hendrix in his direct testimony on the binding forecast issue.

7     **Q. HAVE YOU REVIEWED MR. HENDRIX'S TESTIMONY CONCERNING BINDING**  
8     **FORECASTS?**

9     A. Yes.

10    **Q. DO YOU UNDERSTAND BELLSOUTH'S POSITION AS DESCRIBED BY MR.**  
11    **HENDRIX?**

12    A. No. I do not understand BellSouth's reluctance to agree to ICG's request. ICG is not asking  
13    BellSouth to take any risk. ICG is willing to commit to BellSouth for a specified volume of  
14    interconnection trunks as a part of a binding forecast, whether or not ICG's traffic volume  
15    achieves the forecasted levels. If the traffic volume falls short of the forecast, ICG will pay  
16    BellSouth its full cost for the unused trunks. In other words, ICG will take all of the risk,  
17    BellSouth will assume no risk. At page 50 of Mr. Hendrix's testimony, he states that "BellSouth

1 has not yet completed the analysis needed to determine if this is a feasible offering.” Because  
2 ICG would bear all of the risk, I do not understand what remains to be analyzed in order to  
3 determine the feasibility of such binding forecasts.

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

5 A. Yes, it does.

**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 style="text-align: center;">Docket No. 99-218</p>
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**REBUTTAL TESTIMONY  
OF CINDY Z. SCHONHAUT  
ON BEHALF OF  
ICG TELECOM GROUP, INC.**

ICG Telecom Group, Inc.

Rebuttal Testimony of Cindy Z. Schonhaut

Before the Kentucky Public Service Commission

Docket No. 99-218

December 2, 1999

1 **Q. ARE YOU THE CINDY SCHONHAUT WHO CAUSED DIRECT TESTIMONY TO BE**  
2 **FILED IN THIS PROCEEDING?**

3 A. Yes, I am.

4 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?**

5 A. I would like to take this opportunity to respond to the testimony of Mr. Hendrix, particularly his  
6 analysis of the various orders of the Federal Communications Commission ("FCC") and court  
7 opinions that have some bearing on the instant proceeding. I will also respond to Mr. Hendrix's  
8 testimony about reciprocal compensation for calls to ISPs and about the availability of the EEL  
9 as a UNE.

10 **Q. WHAT IS THE PROBLEM, IN GENERAL TERMS, WITH MR. HENDRIX'S**  
11 **TESTIMONY?**

12 A. Mr. Hendrix spends a good deal of time discussing various FCC orders and corresponding court  
13 decisions. In virtually every case, Mr. Hendrix's point is that this Commission should not

1 become involved in this issue because the concerns may one day be addressed elsewhere. Under  
2 Mr. Hendrix's approach, the existence of any legal uncertainty is cause for competitive paralysis.  
3 Mr. Hendrix preaches inaction and offers no prescription to break the current regulatory gridlock.

4 The regulatory vacuum that would result from this Commission's inaction would have  
5 significant effects on both ICG and competition within this state. The carriers would be left to  
6 fight out their differences among themselves, with BellSouth the all-but-certain winner in every  
7 instance. In addition, if this Commission does not act on the issues in ICG's petition for  
8 arbitration, it will either be a very long time indeed before ICG is able to win relief (as in the  
9 case of UNEs or UNE combinations), or ICG will be forever foreclosed from relief for the period  
10 before the FCC finally acts (as in the case of reciprocal compensation for ISP calls). The delay  
11 that ICG and other CLECs face in having these issues addressed will dictate the speed with  
12 which competition begins to flourish in this state. ICG hopes to continue to provide more  
13 innovative services to more customers at better prices, but this can occur only if the regulatory  
14 environment is supportive and attentive to competitive concerns. To this end, ICG respectfully  
15 requests that this Commission act in this proceeding to bring much needed certainty to the  
16 competitive playing field in Kentucky.

1     **Q. DO YOU AGREE WITH MR. HENDRIX'S ARGUMENT THAT IT WOULD BE**  
2     **FRUITLESS FOR THIS COMMISSION TO ADDRESS THE ISSUE OF RECIPROCAL**  
3     **COMPENSATION FOR CALLS TO ISPS?**

4     A. No. While the FCC will eventually take up the issue of how calls to ISPs are to be compensated,  
5     its rule will be prospective only. *See Declaratory Ruling and Notice of Proposed Rulemaking*  
6     in CC Docket 96-98, released on February 26, 1999 ("Declaratory Ruling"). If this Commission  
7     does not take action to compensate for calls to ISPs, ICG will *never* be compensated for the calls  
8     it delivers to ISPs during the interim until the FCC adopts a rule, because the FCC rule will be  
9     prospective only in application. To compound the adverse impact on ICG, the interim period  
10    until the FCC acts could stretch for several months or even a year. It previously took the FCC  
11    almost two years (20 months) to respond to the June 1997 request for clarification that led to the  
12    Declaratory Ruling. Letter from Richard Metzger, General Counsel for the Association for Local  
13    Telecommunications Services to Regina Keeney, Chief, Common Carrier Bureau, FCC (June  
14    20, 1997). If reciprocal compensation for calls to ISPs were foreclosed as a source of revenue  
15    for several months or more, ICG would be forced to re-think its options concerning its further  
16    investment in this state.

17           For its part, the FCC has given the state commissions the proverbial green light to consider  
18    reciprocal compensation for ISP-bound traffic until the FCC adopts a prospective rule. The



1 Declaratory Ruling states that:

2 Although reciprocal compensation is mandated under section 251(b)(5) only  
3 for the transport and termination of local traffic, neither the statute nor our  
4 rules prohibit a state commission from concluding in an arbitration that  
5 reciprocal compensation is appropriate in certain instances not addressed by  
6 section 251(b)(5), so long as there is no conflict with governing federal law.  
7 A state commission's decision to impose reciprocal compensation obligations  
8 in an arbitration proceeding -- or a subsequent state commission decision  
9 that those obligations encompass ISP-bound traffic -- does not conflict with  
10 any [FCC] rule regarding ISP-bound traffic.

11  
12 Declaratory Ruling, ¶ 26 (citations omitted). This language makes clear that this Commission's  
13 consideration of reciprocal compensation would not be fruitless as suggested by Mr. Hendrix.

14 Mr. Hendrix's argument that the Commission would waste its efforts in addressing reciprocal  
15 compensation for calls to ISPs is particularly weak. He states that the FCC's authority "to confer  
16 this ability on the states is being challenged in court." Hendrix's Direct at 11. He then adds that  
17 "states could find they do not have the authority to create even an interim compensation  
18 arrangement" and that the "authority is valid only until the FCC completes its rulemaking." *Id.*  
19 In making this argument, however, Mr. Hendrix concedes that the present state of the law is such  
20 that this Commission has the requisite authority to order reciprocal compensation for calls to  
21 ISPs. Until the FCC acts, only a court order can remove this authority, but no court has thus far  
22 given any indication that it will change the existing situation before the FCC adopts a rule. Mr.  
23 Hendrix's theory would cause any legal challenge to an FCC decision to result in competitive

1       paralysis. That is precisely the outcome that this Commission should act to preclude.

2       **Q. WHAT ARE THE CONSEQUENCES TO ICG, OTHER CLECS, AND ISPS IF THIS**  
3       **COMMISSION DECLINES TO ADDRESS THE ISSUE OF RECIPROCAL**  
4       **COMPENSATION FOR CALLS TO ISPS?**

5       A. In my direct testimony, I set forth a number of the consequences that will befall ICG and other  
6       CLECs if the Commission declines to address reciprocal compensation or otherwise precludes  
7       such compensation. In brief, without reciprocal compensation for delivering traffic to ISPs, ICG  
8       and other CLECs would be left to raise their rates or absorb their costs -- either of which would  
9       be destructive to their ability to attract and keep customers. The remaining option would be to  
10      decline to provide service to ISPs. Because CLECs have been much more responsive to the  
11      needs of ISPs than ILECs have, the result would likely be a reduction in the rate of growth of the  
12      Internet in Kentucky.

13       ISPs would also be required to make strategic business decisions. If CLECs like ICG are  
14      forced to raise their rates to ISPs because the CLECs are not recovering their cost of terminating  
15      the traffic, it could result in increased costs to end-users. There is no way of knowing how ISPs  
16      would handle rate increases, and whether ISP rate increases would artificially suppress demand  
17      for services in such a way that the growth of the Internet in this state would not reach the levels  
18      it otherwise would have.

1 **Q. WHAT IS WRONG WITH MR. HENDRIX'S VIEW THAT SINCE ISP-BOUND**  
2 **TRAFFIC IS NOT LOCAL TRAFFIC IT IS NOT SUBJECT TO THE RECIPROCAL**  
3 **COMPENSATION OBLIGATIONS?**

4 A. Mr. Hendrix misses the point of the recent FCC Declaratory Ruling. In that ruling, the FCC  
5 made a *jurisdictional* finding that calls to ISPs when exchanged between two carriers within the  
6 same local calling area in a state are "jurisdictionally mixed and appear to be largely interstate."  
7 FCC Ruling at ¶¶ 18-20. For compensation purposes, however, the FCC concluded that calls to  
8 ISPs are to be compensated in accordance with the actions of the *state commission* unless and  
9 until the FCC adopts a further order governing compensation. Any FCC order will have  
10 prospective application only. Declaratory Ruling ¶¶ 21-27. In the interim, the FCC permitted  
11 state commissions to *treat calls to ISPs as local for purposes of reciprocal compensation. Id.*

12 **Q. IS THERE ANY BASIS FOR MR. HENDRIX'S CLAIM THAT RECIPROCAL**  
13 **COMPENSATION FOR ISP CALLS IS NOT A PROPER SUBJECT OF A STATE**  
14 **ARBITRATION PROCEEDING UNDER SECTION 252 OF THE ACT?**

15 A. No. This is simply a variation of Mr. Hendrix's argument that calls to ISPs are not local. Mr.  
16 Hendrix reasons that because calls to ISPs are not local, the reciprocal compensation provisions  
17 of Sections 251 and 252 are not implicated, so calls to ISPs cannot be the subject of a Section  
18 252 arbitration proceeding under his theory. Hendrix's Direct at 12. The FCC has already

1 provided the answer to Mr. Hendrix's theory -- calls to ISPs may be treated as local for purposes  
2 of reciprocal compensation until the FCC adopts a new rule with prospective application only.

3 The FCC concluded in the Declaratory Ruling that:

4 [S]tate commission authority over interconnection agreements pursuant to  
5 section 252 "extends to both interstate and intrastate matters." Thus the mere  
6 fact that ISP-bound traffic is largely interstate does not necessarily remove  
7 it from the section 251/252 negotiation and arbitration process.

8  
9 Declaratory Ruling, ¶ 25 (citations omitted).

10 **Q. DO YOU AGREE WITH MR. HENDRIX'S STATEMENT THAT ISPS ARE CARRIERS**  
11 **THAT PURCHASE ACCESS SERVICE?**

12 A. No. ISPs purchase business services out of local exchange tariffs. Mr. Hendrix attempts to show  
13 that ISPs are carriers, because if they are considered as such, according to Mr. Hendrix, the ISPs  
14 would be purchasing access service and the CLEC serving them would not be eligible for  
15 reciprocal compensation. The Declaratory Ruling provides the answer to Mr. Hendrix's  
16 argument:

17 In the *Access Charge Reform Order*, the Commission decided to maintain the  
18 existing pricing structure pursuant to which ESPs are treated as end users for  
19 the purpose of applying access charges. Thus, *the [FCC] continues to*  
20 *discharge its interstate regulatory obligations by treating ISP-bound traffic*  
21 *as though it were local.*

22  
23 Declaratory Ruling, ¶ 5.

24 Elsewhere in the ruling, the FCC makes clear that, until it adopts a prospective rule, the

1 consequence of "treating ISP-bound traffic as if it were local" under the access charge regime  
2 suggests that calls to ISPs are subject to reciprocal compensation:

3 While to date the Commission has not adopted a specific rule  
4 governing the matter, we note that our policy of treating ISP-bound  
5 traffic as local for purposes of interstate access charges would, if  
6 applied, in the separate context of reciprocal compensation, suggest  
7 that such compensation is due for the traffic.  
8

9 Declaratory Ruling, ¶ 25.

10 **Q. SHOULD THIS COMMISSION ADOPT BELLSOUTH'S INTERIM PROPOSAL AS**  
11 **DESCRIBED BEGINNING ON PAGE 14 OF MR. HENDRIX'S TESTIMONY**  
12 **CONCERNING COMPENSATION FOR CALLS TO ISPS?**

13 A. No. For the reasons set forth in Mr. Starkey's rebuttal testimony, the interim inter-carrier  
14 mechanism suggested by BellSouth is inappropriate.

15 **Q. IN DR. TAYLOR'S TESTIMONY, AT PAGES 16 AND 17, HE MENTIONS THAT**  
16 **THREE STATE COMMISSIONS – MASSACHUSETTS, NEW JERSEY AND SOUTH**  
17 **CAROLINA – HAVE ADOPTED POSITIONS CONTRARY TO THAT URGED BY ICG**  
18 **ON RECIPROCAL COMPENSATION FOR ISP BOUND TRAFFIC. PLEASE**  
19 **COMMENT.**

20 A. What Dr. Taylor fails to mention is since the FCC's February 26, 1999 declaratory ruling, at  
21 least 16 other state commissions have adopted decisions consistent with that urged by ICG.

1 These states include Alabama, California, Delaware, Florida, Hawaii, Indiana, Maryland,  
2 Minnesota, Nevada, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island and  
3 Tennessee. With regard to Dr. Taylor's reference to the Massachusetts' decision, I also note that  
4 the Department of Telecommunications and Energy's ("DTE's") order did not reach the merits.  
5 The DTE merely overruled its earlier order which had been premised on the "two-call" theory,  
6 because that theory had been undercut by the FCC's declaratory ruling.

7 **Q. HAVE ANY STATE COMMISSIONS REACHED DECISIONS IN ICG/BELLSOUTH**  
8 **ARBITRATION PROCEEDINGS ON THE ISSUE OF RECIPROCAL**  
9 **COMPENSATION FOR ISP-BOUND TRAFFIC?**

10 A. Yes, both the Alabama Public Service Commission and the North Carolina Utilities Commission  
11 recently issued orders resolving, among other issues, the question of whether BellSouth is  
12 obliged to pay ICG reciprocal compensation for ISP-bound traffic. See Alabama Public Service  
13 Commission, *Final Order on Arbitration*, Docket No. 27069 (issued and effective November 10,  
14 1999) and North Carolina Utilities Commission, *Recommended Arbitration Order*, Docket P-  
15 582, SUB 6 (issued November 4, 1999).

16 **Q. HOW DID THE ALABAMA AND NORTH CAROLINA COMMISSIONS RESOLVE**  
17 **THE ISSUE?**

18 A. Both Commissions found that BellSouth is obligated to pay ICG reciprocal compensation for

1 ISP-bound traffic.

2 **Q. WHAT ARE THE UNES AND UNE COMBINATIONS AT ISSUE IN THIS**  
3 **PROCEEDING?**

4 A. In this proceeding, the availability of UNEs and UNE combinations arise with regard to two  
5 specific issues. First, ICG has requested that packet-switching capabilities be available as UNEs.  
6 Mr. Holdridge discusses in his rebuttal testimony this particular issue and BellSouth's apparent  
7 agreement to provide these capabilities on a UNE basis.

8 Second, ICG has requested that BellSouth provide the enhanced extended loop ("EEL") as  
9 a UNE. Mr. Holdridge reviews ICG's need for the EEL in his rebuttal testimony. BellSouth's  
10 position is that an EEL is a "combination of loops and dedicated transport" that would allegedly  
11 replicate private line and/or special access services. Hendrix's Direct at 8. Mr. Hendrix argues  
12 that BellSouth is not required to perform this combination for ICG. *Id.*

13 **Q. SHOULD BELLSOUTH BE REQUIRED TO PROVIDE ICG THE EEL AS A UNE?**

14 A. Yes. During negotiations, BellSouth offered to provide the EEL, which is an existing  
15 combination of UNEs, to ICG on a contract basis outside of the interconnection agreement  
16 context. This Commission has the option of requiring BellSouth to make available existing UNE  
17 combinations for the interim until the FCC adopts a new UNE rule. BellSouth need not  
18 "perform" the UNE combination, as stated by Mr. Hendrix; it should merely provide the EEL,

1 a UNE combination that already exists in the network, anywhere ICG requests it at TELRIC  
2 rates.

3 In any event, the EEL simply combines two UNEs (loop and line-side transport) that are key  
4 elements in the competitive telecommunications scheme. As evidence of their centrality to the  
5 ability to compete, the local loop and transport (albeit trunk side) are two of the essential  
6 elements included in the Act's 14 point checklist. 47 U.S.C. § 271.

7 **Q. SINCE THE FILING OF DIRECT TESTIMONY IN THIS PROCEEDING, HAS THE**  
8 **FCC RELEASED THE FULL TEXT OF ITS ORDER IN THE UNE PROCEEDING IN**  
9 **CC DOCKET 96-98?**

10 A. Yes, on November 5, 1999, the FCC released the full text of its Third Report and Order and  
11 Fourth Further Notice of Proposed Rulemaking *In the Matter of Implementation of the Local*  
12 *Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98 ("UNE  
13 Order" or "Order").

14 **Q. WHAT DOES THE FCC'S UNE ORDER GENERALLY PROVIDE WITH REGARD TO**  
15 **THE EEL?**

16 A. In declining to define the EEL as a separate network element at this time, the FCC observed that  
17 the Eighth Circuit is currently reviewing Sections 51.315(c)-(f) of the FCC's rules on remand  
18 from the Supreme Court to determine if those rules should be reinstated. Order, ¶ 478. Sections



1 51.315(c)-(f) require incumbent LECs to combine UNEs in any manner, even if those elements  
2 are not currently combined. While the FCC declined to reinstate rules 51.315(c)-(f) because of  
3 the pendency of the Eighth Circuit remand proceeding, the FCC observed that the basis upon  
4 which the Eighth Circuit invalidated the rules has been called into question by the Supreme  
5 Court's decision to reinstate Section 51.315(b). The FCC stated that it believed the "that the  
6 reasoning of the Supreme Court's decision to reinstate rule 51.315(b) based on the  
7 nondiscrimination language of section 251(c)(3) applies equally to rules 51.315(c)-(f)." Order,  
8 ¶ 481. The FCC then went on to say that it believed that "section 251(c)(3) provides a sound  
9 basis for reinstating rules 51.315(c)-(f)." Order, ¶ 482.

10 Since the EEL is a combination of two UNEs -- loop and transport -- the question of whether  
11 it should be defined as an independent network element will be mooted if the Eighth Circuit  
12 reinstates the combination rules.

13 The FCC did, however, say that where the loop and transport elements are currently  
14 combined, Section 51.315(b) requires incumbent LECs to provide the EEL as a UNE  
15 combination at UNE prices. Order, ¶ 480. Unfortunately, the FCC provided no guidance as to  
16 what "currently combines" means, again noting that the matter is pending before the Eighth  
17 Circuit. Order, ¶ 479.

18 In discussing the pending case before the Eighth Circuit in light of the reasoning of the

1 Supreme Court's decision, the FCC observed (¶ 481):

2 [S]ection 251(c)(3)'s nondiscrimination requirement means that access  
3 provided by the incumbent LEC must be at least equal in quality to that  
4 which the incumbent LEC provides to itself. We note that incumbent LECs  
5 routinely combine loop and transport elements for themselves. For example,  
6 incumbent LECs routinely provide combinations of loop and transport  
7 elements for themselves in order to: (1) deliver data traffic to their own  
8 packet switches; (2) provide private line services; and (3) provide foreign  
9 exchange service.

10  
11 It follows that under these circumstances, the EEL must be provided to requesting carriers  
12 pursuant to Section 51.315(b).

13 **Q. AT PAGE 8 OF HIS TESTIMONY, MR. HENDRIX STATES THAT "THERE IS NO**  
14 **QUESTION THAT AN EEL IS NOT A SINGLE NETWORK ELEMENT, BUT IS A**  
15 **COMBINATION OF LOOPS AND DEDICATED TRANSPORT." PLEASE COMMENT**  
16 **ON MR. HENDRIX'S STATEMENT IN LIGHT OF THE FCC'S UNE ORDER.**

17 A. Contrary to Mr. Hendrix's statement, the EEL as a separate UNE was very much at issue in the  
18 UNE remand proceeding. As the FCC stated, "competitive LECs and state commissions  
19 argue[d] that the [FCC] should either identify a new network element [the EEL] or, alternatively,  
20 reinstate rules 51.315(c) - (f)." Order, ¶ 477. Although the FCC declined for the time being to  
21 adopt the EEL as a single UNE, that is not to say that it will not revisit the issue after the Eight  
22 Circuit rules on the pending issue of reinstatement of Sections 51.315(c)-(f).

23 Most importantly for purposes of this arbitration, the Commission itself can establish the

1 EEL as a single UNE provided that it meets the "requirements of section 251 and the national  
2 policy framework instituted by this Order" as reflected in FCC rule 51.317 as amended by the  
3 Order.

4 **Q. WOULD ACTION BY THE COMMISSION TO ESTABLISH THE EEL AS A SINGLE**  
5 **UNE MEET THE "NECESSARY" AND "IMPAIR" STANDARDS OF SECTION 251 IN**  
6 **LIGHT OF THE SUPREME COURT'S DIRECTIVE ON THIS ISSUE?**

7 A. Yes, it would meet the "necessary" and "impair" standard. The "necessary" standard applies only  
8 to elements that are proprietary in nature (Order, ¶¶ 32-40) which does not apply to the loop and  
9 transport that comprise the EEL. As for the "impair" standard, the FCC adopted the following  
10 meaning (Order, ¶ 51):

11 We conclude that the failure to provide access to a network element would  
12 "impair" the ability of a requesting carrier to provide the services it seeks to  
13 offer if, taking into consideration the availability of alternative elements  
14 outside the incumbent's network, including self-provisioning by a requesting  
15 carrier or acquiring an alternative from a third-party supplier, lack of access  
16 to that element materially diminishes the requesting carrier's ability to  
17 provide the services it seeks to offer.

18  
19 As explained in Bruce Holdridge's direct and rebuttal testimony, without the EEL, ICG cannot  
20 economically provide service to those prospective customers whose BellSouth serving central  
21 office are not ones at which ICG has collocated. Because collocation in every BellSouth central  
22 office in Kentucky (or any area of Kentucky) would be prohibitively expensive, unnecessarily

1 duplicative of BellSouth's network and wasteful of scarce collocation space, if ICG lacks access  
2 to the EEL as a UNE, its ability to provide service to many of the prospective customers it seeks  
3 to serve will be materially diminished.

4 **Q. SHOULD THE COMMISSION ESTABLISH THE EEL AS A SINGLE UNE?**

5 A. Yes, it should. The ability of CLECs, such as ICG, to use the EEL will be an important step in  
6 promoting the development of local exchange competition in Kentucky.

7 **Q. AT PAGE 10 OF HIS TESTIMONY, MR. HENDRIX SUGGESTS THAT BELL SOUTH**  
8 **MIGHT BE WILLING TO PROVIDE AN "ENHANCED EXTENDED LINK" (EEL) TO**  
9 **ICG PURSUANT TO A COMMERCIAL "AGREEMENT ... THAT IS NOT SUBJECT**  
10 **TO THE ACT." WHY IS THIS NOT ACCEPTABLE?**

11 A. This approach is unacceptable because it allows BellSouth to avoid its obligations under  
12 Section 251 of the Act to provide access to unbundled network elements at cost-based rates. The  
13 enhanced extended link is an existing combination of unbundled network elements that exist  
14 within the BellSouth network. As such, BellSouth is required to provide the EEL to ICG at  
15 TELRIC based prices. BellSouth's attempt to provide the EEL outside of the requirements of the  
16 Act is a transparent attempt to levy prices for these elements that are in excess of its TELRIC  
17 based prices as adopted by the Commission.

18 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

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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**REBUTTAL TESTIMONY  
OF MICHAEL STARKEY  
ON BEHALF OF  
ICG TELECOM GROUP, INC.**

1 **Q. Please state your name.**

2 A. My name is Michael Starkey.

3

4 **Q. Are you the same Michael Starkey who previously filed direct**  
5 **testimony in this proceeding?**

6 A. Yes, I am.

7

8 **Q. What is the purpose of your rebuttal testimony?**

9 A. My rebuttal testimony will respond to a number of arguments made by  
10 BellSouth Telecommunications, Inc. ("BellSouth") in its direct testimony  
11 regarding ICG Issues No. 1, 6, 7 and 8.

12

13 **Q. What is Issue Number 1?**

14 A. Issue Number 1, as well as Issue Number 8, addresses a difference  
15 between the parties regarding the extent to which traffic carried to an  
16 Internet Service Provider (ISP) should be subject to compensation at the  
17 reciprocal compensation rate agreed to for local traffic.

18

19 **Q. What is Issue Number 6?**

20 A. Issue Number 6 originally framed a disagreement regarding the extent to  
21 which BellSouth should be required to provide volume and term discounts  
22 for ICG's purchase of unbundled network elements (UNEs). It is my  
23 understanding that ICG has, since the filing of direct testimony, removed  
24 this issue from the arbitration. Hence, my rebuttal testimony will not  
25 provide additional information regarding this issue.

26

27 **Q. Please explain Issue Number 7.**

28 A. ICG believes that it meets the FCC's standard for purposes of assessing a  
29 reciprocal compensation rate equal to the rate BellSouth charges for  
30 connection to its tandem switch. BellSouth disagrees.

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**Q. Please provide a summary of the issues addressed in your testimony.**

A. The majority of my testimony is centered around BellSouth's position that its should not be required to compensate ICG for traffic originated on the BellSouth network and ultimately carried to an ISP served by ICG. As such, my testimony rebuts the following BellSouth arguments:

- I. I respond to arguments raised by BellSouth witness Jerry Hendrix describing BellSouth's duty (or lack thereof) to compensate ICG for ISP-bound traffic. Specifically, I disagree with BellSouth's position that the Kentucky Public Service Commission (hereafter "the Commission") should simply not address this extremely important issue within the context of this arbitration.<sup>1</sup>
- II. I address a number of arguments raised both by Mr. Hendrix and by Dr. Taylor as to why ICG should, instead of receiving reciprocal compensation payments for carrying BellSouth's traffic, pay BellSouth for carrying that traffic or revert to a bill-and-keep arrangement. I conclude that Mr. Hendrix, Dr. Taylor and BellSouth have, with this argument, so twisted the FCC's decisions and the rubric of common sense to the point where BellSouth's proposals can't be taken seriously.
- III. I respond to Dr. Taylor's argument that "the principle of cost causation" requires the Commission to view calls made to an ISP in the same context as calls made to an interexchange carrier. I disagree with Dr. Taylor that cost causation, or any other principle based on good economics or common sense, requires the Commission to view calls to an ISP as anything other than a local call.
- IV. I address the arguments regarding market distortion and subsidization that Dr. Taylor raises in his testimony. I conclude that requiring reciprocal compensation for ISP-bound traffic terminated on ICG's network does not distort the market, that the Internet is not subsidized as a result of such compensation, and that not allowing reciprocal compensation would result in permanent and

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<sup>1</sup> Direct Testimony of Jerry Hendrix on behalf of BellSouth Telecommunications, Inc., page 3.

1 far-reaching market distortions that would jeopardize the  
2 development of competition in Kentucky.

3  
4 V. Finally, I respond to Mr. Hendrix's arguments regarding whether, for  
5 purposes of reciprocal compensation, ICG should be compensated  
6 for end office, tandem, and transport elements of termination where  
7 ICG's switch services a geographic area comparable to the area  
8 served by BellSouth's tandem switch.  
9

10 **Q. Before you explain your position on each of the issues above, can**  
11 **you first summarize your response to BellSouth's position that ICG**  
12 **should pay BellSouth for carrying BellSouth's customers' ISP bound**  
13 **traffic?**

14 A. BellSouth's argument is without merit. Using orders from the FCC that are  
15 nearly 20 years old, and a switched access charge regime that is currently  
16 being overhauled by the FCC under the notion that it is out of touch with  
17 the reality of today's network costs, BellSouth has attempted to structure  
18 an argument where CLECs actually pay BellSouth to carry its traffic.  
19 BellSouth's position is an obvious attempt to shift the Commission's  
20 attention away from the proper cost recovery mechanisms required to  
21 ensure that carriers like ICG are compensated for carrying traffic  
22 generated by BellSouth's end users. At its heart, BellSouth's position  
23 makes obvious the fact that while it continues to sell enormous amounts of  
24 second access lines and generally does everything it can to reap windfall  
25 profits from its customers' Internet usage, it is unwilling to pay the carriers  
26 that end up carrying the brunt of its end users' traffic – the ICGs of the  
27 marketplace (i.e. CLECs). Not only is BellSouth unwilling to pay these  
28 carriers for carrying the traffic generated by its expanding customer base  
29 (from which it profits greatly), it now, in Mr. Hendrix's and Dr. Taylor's  
30 testimony in this case, is attempting to charge those carriers for the  
31 privilege of carrying its customers' traffic. BellSouth's plan must be  
32 dismissed *in toto* before the Commission can address the issue of  
33 reciprocal compensation for ISP bound traffic in a manner consistent with



1 good economics, good public policy and good common sense. I discuss  
2 at greater length, later in my testimony, why on every front BellSouth's  
3 argument in support of its "switched access sharing" proposal is  
4 inaccurate and inappropriate.  
5

6 **Q. Can you reiterate ICG's position regarding the issue of proper**  
7 **payment for traffic originated on the network of one interconnecting**  
8 **LEC and passed to an ISP served by the other interconnecting LEC?**

9 A. It is ICG's position that sound economic and public policy rationales  
10 require that a carrier be compensated for its costs incurred when other  
11 carriers use its network for purposes of delivering their originating  
12 customers' traffic. BellSouth's customers use ICG's network whenever  
13 they dial an ICG customer, regardless of whether that customer is a  
14 residential customer or an ISP. BellSouth's use of ICG's network  
15 generates costs that ICG must recover, just as ICG's use of the BellSouth  
16 network generates costs for which ICG is willing to compensate BellSouth.  
17 As I fully explain in my direct testimony, the costs generated by a call  
18 bound for an ISP customer do not differ from those generated by calls  
19 bound for other types of ICG customers. Hence, BellSouth should be  
20 required to compensate ICG for its use of ICG's network regardless of  
21 whether the call is bound for an ISP or any other type of local customer.  
22 Because calls to an ISP are identical to local calls, the reciprocal  
23 compensation rate applicable to local traffic is the best cost-based rate  
24 available for purposes of establishing reasonable compensation for ISP-  
25 bound traffic.

26  
27 **Q. Do you agree with BellSouth's position that reciprocal compensation**  
28 **rates are not applicable to ISP bound traffic?**

29 A. No, I do not. It is clear from reading the FCC's *Declaratory Ruling in C.C.*  
30 *Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No.*  
31 *96-98* (hereafter "*Declaratory Ruling*"), that while the FCC made a number

1 of critical decisions impacting compensation for ISP bound traffic, the FCC  
2 left to the states an enormous responsibility to determine the proper  
3 compensation that carriers should receive for this traffic until a national  
4 rule is established. The following excerpt from paragraph 26 of the FCC's  
5 *Declaratory Ruling* best frames a state commission's responsibility in this  
6 regard:

7  
8 Although reciprocal compensation is mandated under Section  
9 251(b)(5) only for the transport and termination of local traffic,  
10 neither the statute nor our rules prohibit a state commission from  
11 concluding in an arbitration that reciprocal compensation is  
12 appropriate in certain instances not addressed by section 251(b)(5),  
13 so long as there is no conflict with governing federal law. A state  
14 commission's decision to impose reciprocal compensation  
15 obligations in an arbitration proceeding – or a subsequent state  
16 commission decision that those obligations encompass ISP-bound  
17 traffic – does not conflict with any Commission rule regarding ISP-  
18 bound traffic. *By the same token, in the absence of governing*  
19 *federal law, state commissions also are free not to require the*  
20 *payment of reciprocal compensation for this traffic and to adopt*  
21 *another compensation mechanism.* [footnotes omitted, emphasis  
22 added]  
23

24 **Q. Why did you highlight the last sentence of the quote above?**

25 A. I think there is an important point the FCC is making in the last sentence  
26 that it reiterates more directly in paragraph 29:

27  
28 We acknowledge that, no matter what the payment arrangement,  
29 LECs incur a cost when delivering traffic to an ISP that originates  
30 on another LEC's network.  
31

32 It seems clear from these two paragraphs that while a state Commission is  
33 "...free not to require the payment of reciprocal compensation for this  
34 traffic...", if it chooses this path it must "adopt another compensation  
35 mechanism" to recognize the fact that LECs incur costs when delivering  
36 traffic to an ISP. It appears clear that the FCC does not sanction simply  
37 ignoring the issue.

1

2 **Q. Hasn't the FCC specifically held that ISP-bound traffic is generally**  
3 **interstate in nature, that reciprocal compensation is applicable only**  
4 **to local traffic, and hence, that the reciprocal compensation**  
5 **requirements of Section 251(b)(5) of the Act do not govern inter-**  
6 **carrier compensation for this traffic?**

7 A. Generally, it has. However, the issue of determining the appropriate level  
8 of compensation for ISP bound traffic isn't simplified by this finding.  
9 Throughout its *Declaratory Ruling* the FCC makes it clear that in the past it  
10 has treated ISP bound traffic as local in nature and encourages state  
11 commissions to establish compensation mechanisms based upon this  
12 assumption in the future.

13

14 **Q. If the FCC has made this determination, how can you suggest that**  
15 **reciprocal compensation rates may still be applicable to ISP-bound**  
16 **traffic?**

17 A. The FCC has obviously left the state commissions to determine an  
18 appropriate rate of compensation one LEC should pay another for ISP-  
19 bound traffic. It appears that it has given the state commissions an option  
20 to either adopt the reciprocal compensation rates that they have adopted  
21 as reasonable payment for all other types of local traffic, or to construct  
22 another means of compensation specific to ISP-bound traffic. Hence,  
23 even if ISP-bound traffic doesn't meet the legal definition of "local traffic,"  
24 the FCC has given a strong indication that reciprocal compensation rates  
25 are a good place to start when determining reasonable rates for ISP-  
26 bound traffic. Indeed, the FCC goes so far at paragraph 23 of the  
27 Declaratory Ruling as to say that it has consistently in the past treated  
28 ISP-bound traffic "...as if it were local." This is part and parcel of the  
29 FCC's encouragement to states that they adopt reciprocal compensation

1 rates as reasonable rates for purposes of compensating carriers for  
2 carrying ISP-bound traffic – regardless of the jurisdiction of that traffic.  
3

4 **Q. Have other state commissions made decisions in this respect since**  
5 **the FCC issued its Declaratory Ruling?**

6 A. Yes, since the FCC's issuance of its Declaratory Ruling, at least 15 states  
7 have issued decisions concluding that carriers are entitled to reciprocal  
8 compensation for delivery of ISP-bound traffic. Amongst those that have  
9 interpreted the FCC's Declaratory Ruling for purposes of governing  
10 interconnection agreements within their intra-state jurisdictions is the  
11 Maryland Public Service Commission. In my opinion, the Maryland  
12 Commission provides the most reasoned reading to date of the FCC's  
13 intentions. In *Order No. 75280* at pages 16 and 17 the Maryland  
14 Commission finds as follows:

15  
16 Thus, under the FCC's *ISP Order*, it is incumbent upon the  
17 Commission to determine an interim cost recovery methodology  
18 which may be used until the FCC completes its rulemaking on this  
19 issue and adopts a federal rule governing inter-carrier  
20 compensation arrangements.  
21

22 In fact, according to the FCC, "State commissions are free to  
23 require reciprocal compensation for ISP-bound calls, or not require  
24 reciprocal compensation and **adopt another compensation**  
25 **mechanism**, bearing in mind that ISP/ESPs are exempt from  
26 paying access charges." This directive does not leave us the  
27 option of providing for no compensation for ISP-bound calls. State  
28 commissions must either require reciprocal compensation or  
29 develop another compensation mechanism. To fail to provide for  
30 any compensation would violate the 1996 Act, which states:  
31

32 *A State commission shall not consider the*  
33 *terms and conditions for reciprocal*  
34 *compensation to be just and reasonable unless*  
35 *such terms and conditions provide for the*  
36 *mutual and reciprocal recovery by each carrier*  
37 *of costs associated with the transport and*  
38 *termination on each carrier's network facilities*

1                                    *of calls that originate on the network facilities of*  
2                                    *the other carrier. 47 USC § 252(d)(2)(A).*  
3

4                                    We are very concerned that the adoption of BA-MD'S position will  
5                                    result in CLECs receiving no compensation for terminating ISP-  
6                                    bound traffic. Such an effect will be detrimental to our efforts to  
7                                    encourage competition in Maryland. No one disputes that local  
8                                    exchange carriers incur costs to terminate the traffic of other  
9                                    carriers over their network. In the absence of finding that reciprocal  
10                                    compensation applies, a class of calls (ISP traffic) will exist for  
11                                    which there is no compensation. The reciprocal compensation  
12                                    rates established by our arbitration order and contained in the  
13                                    approved Statement of Generally Available Terms ("SGAT") reflect  
14                                    the costs of this termination. Until the FCC establishes an  
15                                    appropriate inter-carrier compensation mechanism for ISP-bound  
16                                    traffic, we find that it is in the public interest to require BA-MD to  
17                                    pay our arbitrated reciprocal compensation rates contained in the  
18                                    SGAT as an **interim** compensation mechanism. [footnotes  
19                                    omitted, emphasis in original]  
20

21    **Q.    Mr. Hendrix and Dr. Taylor mention 3 states that have decided that**  
22                                    **carriers should not compensate one another for ISP bound traffic at**  
23                                    **reciprocal compensation rates. Do you have any comments**  
24                                    **regarding their testimony in this regard?**

25    **A.    Yes, I do. First, Mr. Hendrix and Dr. Taylor in their respective testimonies**  
26                                    identify 3 states that arguably support their position with respect to  
27                                    compensation for ISP-bound traffic.<sup>2</sup> They fail to describe, however, that  
28                                    at least 16 other state commission decisions, including two related  
29                                    ICG\BellSouth arbitration proceedings (North Carolina and Alabama)  
30                                    rejected many of the exact same arguments BellSouth proffered in this  
31                                    proceeding before ultimately finding that compensation, at reciprocal  
32                                    compensation rates, is reasonable and lawful for ISP-bound traffic.  
33

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<sup>2</sup> See the discussion of the South Carolina order included in Ms. Schonhaut's testimony for purposes of understanding why even the three decisions quoted by Mr. Hendrix and Dr. Taylor don't necessarily support BellSouth's position in this case before the Commission.

1 **Q. Mr. Hendrix suggests in his testimony that “Compensation for ISP**  
2 **bound traffic is not subject to a Section 252 arbitration.” Do you**  
3 **agree?**

4 **A.** No, I do not agree and neither does the FCC. In footnote 87, found in  
5 paragraph 26 of the FCC’s *Declaratory Ruling*, the FCC states as follows:

6  
7 As discussed, *supra*, in the absence of a federal rule, state  
8 commissions have the authority under section 252 of the Act to  
9 determine inter-carrier compensation for ISP-bound traffic.

10  
11 Moreover, in its *Notice of Proposed Rulemaking* included as a portion of  
12 its *Declaratory Ruling*, the FCC tentatively concludes that even as a result  
13 of the federal policy it ultimately adopts in a federal rule, states should still  
14 play the role of setting inter-carrier compensation rates for ISP-bound  
15 traffic:

16  
17 30. We tentatively conclude that, as a matter of federal policy, the  
18 inter-carrier compensation for this interstate telecommunications  
19 traffic [ISP-bound traffic] should be governed prospectively by  
20 interconnection agreements negotiated and arbitrated under  
21 sections 251 and 252 of the Act. Resolution of failures to reach  
22 agreement on inter-carrier compensation for interstate ISP-bound  
23 traffic then would occur through arbitrations conducted by state  
24 commissions, which are appealable to federal district courts.

25  
26 **Q. Mr. Hendrix believes that reciprocal compensation for ISP-bound**  
27 **traffic is inconsistent with sound public policy. Do you agree?**

28 **A.** No, I do not. In my direct testimony, I explained at length why sound  
29 economic and public policy rationales support payment for ISP-bound  
30 traffic originating on the network of one local carrier and passed to the  
31 network of another. I won’t duplicate my arguments here. However, in my  
32 response to Dr. Taylor, included later in this testimony, I provide further  
33 basis for the fact that good public policy and sound economic principles  
34 (including the principle of cost causation) require the Commission to reject

1 BellSouth's proposal and find that ICG must be allowed to recover from  
2 BellSouth costs it incurs for carrying BellSouth's traffic.

3

4 **Q. Beginning at page 14 of his Direct Testimony, Mr. Hendrix includes**  
5 **three specific options the Commission could follow in resolving the**  
6 **dispute surrounding compensation for ISP bound traffic. Do you**  
7 **agree with any of Mr. Hendrix's recommendations?**

8 A. No, I do not. Each of Mr. Hendrix's three options ignore the fact that ICG  
9 is today carrying large amounts of traffic generated by BellSouth's local  
10 customers without any compensation. As such, each of Mr. Hendrix's  
11 proposals is inconsistent with sound economics, good public policy and  
12 the FCC's encouragement that carriers be allowed to recover their costs  
13 from the parties causing those costs.

14

15 **BELLSOUTH OPTION 1**

16

17 **Q. Please discuss Mr. Hendrix's first proposal.**

18 A. Mr. Hendrix's first proposal would require carriers to track the ISP-bound  
19 traffic at issue, establish no compensation for that traffic at this point in  
20 time, but allow for a "true-up" whenever a "nonappealable order of the  
21 FCC" becomes available. There are several problems with this approach.  
22 First, ICG is incurring costs for carrying BellSouth's traffic now. While  
23 BellSouth, as an enormous multi-national firm, may be able to forego cost  
24 recovery for long periods of time without adverse financial consequences,  
25 ICG is not equally positioned.

26

27 Second, there is no established timeframe by which the FCC, which is  
28 currently swamped with a myriad of other issues, will adopt an order in this  
29 regard. Likewise, by including the position that only a "nonappealable"  
30 order would suffice to allow for compensation, it is clear that BellSouth

1 could follow its common practice of appealing an FCC order that wasn't  
2 consistent with its liking thereby further extending the amount of time  
3 before compensation is paid. All the while, ICG continues to carry  
4 BellSouth's traffic without compensation.

5

6 Further still, it is possible, even likely given the FCC's comments in the  
7 Further Notice of Proposed Rulemaking (NPRM) section of its Declaratory  
8 Ruling, that the FCC may relegate a final decision to state commissions.  
9 As such, under BellSouth's proposal, not only would ICG need to wait until  
10 after a "nonappealable" order from the FCC is available, it may also have  
11 to await another state proceeding resulting from the FCC's relegation of  
12 the issue before it can expect to be paid. This could take some significant  
13 period of time, within which ICG is not being paid for carrying BellSouth  
14 traffic. This simply is not an equitable solution given the financial  
15 investment that will be required of a newer, smaller carrier like ICG during  
16 this timeframe. It is clear that some interim form of compensation is  
17 necessary.

18

19 **BELLSOUTH OPTION II**

20

21 **Q. Please describe BellSouth's second option.**

22 A. BellSouth's second option would require a carrier who serves an ISP to  
23 allocate a portion of the ISP's local service revenue to be shared with the  
24 carrier whose local service customers call that ISP. In effect, under  
25 BellSouth's second option, ICG would be required to pay BellSouth for  
26 carrying the traffic generated by its local service customers.

27

28 **Q. Do you agree with Mr. Hendrix's second option?**

29 A. No, I do not. This argument is part and parcel of BellSouth's position that  
30 switched access charges should apply to traffic passed to ISP customers



1 and that the switched access charge regime is the proper framework  
2 within which to view ISP traffic and its proper compensation.<sup>3</sup> Within the  
3 switched access charge regime, long distance carriers compensate local  
4 exchange carriers both to originate and terminate calls placed over their  
5 networks. Unlike the switched access regime, reciprocal compensation  
6 obligates the local exchange carrier originating the call to compensate the  
7 carrier terminating the call for carrying the traffic on its network. The  
8 switched access charge regime is an old model that is currently being  
9 challenged in every state and is being revised substantially by the FCC.  
10 While it is advantageous for BellSouth to lump as much traffic as it can  
11 into the switched access pot (because that pot is simply a slush fund of  
12 revenues that recover amounts magnitudes greater than any costs that  
13 are actually incurred), I do not agree that the switched access framework  
14 is an appropriate framework within which to view ISP-bound traffic. The  
15 FCC and a growing number of states have found the switched access  
16 framework to be significantly out-of-line with cost causation and badly in  
17 need of repair.

18  
19 Even without a recognition that the switched access charge structure is  
20 out of date and overpriced, as I describe in more detail later, calls to an  
21 ISP customer do not resemble switched access traffic, they are not  
22 purchased as switched access traffic and the FCC has already found that  
23 switched access charges do not apply to such traffic. Hence, it is  
24 important that the Commission decides that the reciprocal compensation  
25 rate paid for local traffic is also applicable to ISP-bound traffic.

26  
27 **Q. In support of its second option, BellSouth contends that the FCC has**  
28 **for over 30 years regulated data carriers as interstate carriers and**  
29 **has held that while these carriers are being provided access**

---

<sup>3</sup> See BellSouth's *Comments* to the FCC in C.C. Docket No. 99-68, pages 8-9, as well as Mr. Hendrix's

1           **services, they are allowed to collect traffic at the prices for business**  
2           **services. Can you comment?**

3       A.     Regardless of how the FCC has regulated "data carriers," ISPs, to the  
4           extent they compare to the "data carriers" to which BellSouth refers, are  
5           not purchasing or being provided interstate access services when they  
6           purchase connection to the public switched network.

7  
8           The FCC has held, in an order far more recent than 30 years old, that  
9           Enhanced Service Providers (ESPs), a larger group within which ISPs  
10          generally fall, are providing *interstate* service, not access or toll services,  
11          and that they purchase their connections to the public switched network  
12          via local business tariffs.<sup>4</sup> Indeed, the FCC has provided an exemption  
13          such that ISPs are not required to pay switched access charges that  
14          would normally be assessed. BellSouth concludes from this information  
15          that ISP-bound traffic is subject to switched access charges, yet, the FCC  
16          has simply suspended the requirement that ISPs pay these charges  
17          pursuant to an access charge exemption. Indeed, BellSouth goes so far  
18          as to suggest that the rates ISPs pay local carriers like ICG are actually  
19          access charges assessed on a per month, instead of a per minute basis.  
20          As such, local carriers like ICG should be responsible for sharing those  
21          monthly access charges with BellSouth in compliance with industry  
22          standard access sharing arrangements.<sup>5</sup> This analysis is tortured and  
23          self-serving.

24  
25  
26

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testimony starting at page 16.

<sup>4</sup> *Declaratory Ruling*, paragraphs 9, 20, 23 and 36.

<sup>5</sup> Carriers often share switched and special access revenues through "meet point billing" arrangements wherein the percentage ownership of facilities required to provision the service is determined and the access charge revenues are divided amongst the carriers based on this percentage.

1 **Q. Please explain in greater detail why you disagree that ICG should**  
2 **share revenues received from an ISP with BellSouth.**

3 A. First, the revenue ICG, or any other local exchange carrier, receives from  
4 an ISP is not switched or special access revenue charged on a monthly  
5 instead of a per minute of use basis. The FCC has stated on numerous  
6 occasions that ISPs are allowed to obtain access to the public switched  
7 network using intrastate, local exchange tariffs and that is exactly what  
8 they buy and pay for.<sup>6</sup> The fact that these intrastate local exchange  
9 services may supplant some type of switched access service for which  
10 BellSouth would prefer to charge, does not render these services as  
11 access services or make their revenues available for sharing under some  
12 type of switched access, meet-point billing arrangement.

13  
14 Second, the FCC in its Declaratory Ruling makes clear that the proper  
15 framework within which to view compensation for ISP-bound traffic is the  
16 reciprocal compensation framework wherein the carrier originating a call is  
17 responsible for the costs of carrying the call.<sup>7</sup> Therefore, it seems clear  
18 that the FCC does not agree that compensation for ISP-bound traffic  
19 should be subject to the switched access framework or that ICG should be  
20 required to share local revenues garnered from ISP customers with  
21 BellSouth.

22  
23 Third, switched access charges are assessed on toll traffic generated by a  
24 local exchange carrier's customer and passed to an interexchange carrier.  
25 The traffic at issue here, traffic to an ISP, is not toll traffic. The end user  
26 customer dialing the call is not assessed toll charges, the ISP to which the

<sup>6</sup> Declaratory Ruling, paragraph 20.

<sup>7</sup> Declaratory Ruling, paragraph 30. The FCC states: "We tentatively conclude that, as a matter of federal policy, the inter-carrier compensation for this interstate telecommunications traffic should be governed prospectively by interconnection agreements negotiated and arbitrated under sections 251 and 252 of the Act." Switched access services are not part and parcel of section 251 and 252 as held by the FCC in its *First Report and Order* in C.C. Docket No. 96-98, hence, it is clear that the FCC considers reciprocal

1 traffic is ultimately passed is not purchasing switched access service, and  
2 perhaps most importantly, none of the revenues generated by either the  
3 ILEC or the CLEC can be considered toll or access revenue. Hence,  
4 despite BellSouth's arguments, there is little if any relationship between  
5 traffic bound for an ISP customer and traffic bound for an IXC. All  
6 technical, economic and regulatory comparisons between local traffic, ISP  
7 traffic and long distance/access traffic indicate that local traffic and ISP  
8 traffic share far more similarities than do ISP traffic and toll/access traffic.  
9

10 **Q. Can you explain in greater detail why none of the revenues**  
11 **generated by either the ILEC or the CLEC in a call to an ISP can be**  
12 **considered toll or access revenue?**

13 A. The FCC has specifically held that revenues and costs generated by traffic  
14 to an ISP must be considered to be intrastate, not interstate, traffic. In  
15 fact, both SBC and Bell Atlantic have attempted to reclassify costs and  
16 revenues from traffic to an ISP provider as interstate traffic and on both  
17 occasions, the FCC has rejected their filing. In the most recent attempt  
18 made by Bell Atlantic in this regard the FCC's Common Carrier Bureau  
19 had the following to say:<sup>8</sup>

20  
21 As I recently explained to SBC Communications, the Commission  
22 requires carriers to classify the costs and revenues associated with  
23 ISP-bound traffic as intrastate for jurisdictional separations and  
24 reporting purposes.  
25

26 It is interesting to note that Mr. Strickling, the Chief of the FCC's common  
27 Carrier Bureau and the author of the Commission's letter to Bell Atlantic,  
28 cited the FCC's *Declaratory Ruling* as the authority for requiring Bell  
29 Atlantic to classify its ISP bound traffic as intrastate traffic.

---

compensation requirements, as exclusively included in sections 252 and 252 of the Act, as the model by which "this (i.e. ISP-bound traffic) interstate telecommunications traffic should be governed...."

<sup>8</sup> July 29, 1999 Letter from Lawrence E. Strickling, Chief, Common Carrier Bureau to Don Evans, Vice President - Regulatory Affairs, Bell Atlantic.

1

2

The FCC's declaratory ruling states as follows (paragraph 9):

3

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As explained above, under the ESP exemption, LECs may not impose access charges on ISPs; therefore, there are no access revenues for interconnecting carriers to share. Moreover, the Commission has directed states to treat ISP traffic as if it were local, by permitting ISPs to purchase their PSTN links through local business tariffs.

11

**Q. If all technical, economic and regulatory comparisons indicate that traffic bound for ISP providers more closely resembles local traffic as opposed to switched access traffic, on what basis does BellSouth contend that this traffic is switched access traffic for which reciprocal compensation is not required?**

12

13

14

15

16

**A.** BellSouth's entire rationale for refusing to pay reciprocal compensation for ISP bound traffic is based upon a legal/jurisdictional argument, i.e., that ISP bound traffic is interstate, not local, traffic. It is not based upon sound public policy. Certainly sound economic and public policy must recognize that when a carrier uses another carrier's network and costs result, the carrier upon whose network the call originates (the true cost causer) must be responsible for compensating the other carrier for the costs it incurs. BellSouth's position has no basis in sound economic or public policy rationale and as such, is nothing more than a legalistic strawman.

17

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19

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26

**Q. Even if it were appropriate to discard sound economic and public policy rationale, do you agree with BellSouth's argument?**

27

28

**A.** I don't agree with BellSouth's position. I've discussed the jurisdictional nature of ISP-bound traffic and the extent to which the FCC has placed responsibilities on state commissions for determining an appropriate compensation mechanism earlier in my testimony. My intention is not to restate those arguments here though I believe they do provide relevant information in contradicting BellSouth's argument. My response above is

29

30

31

32

33

1 simply meant to make one point. BellSouth's position regarding the  
2 payment of reciprocal compensation is based solely upon  
3 jurisdictional/legal argumentation. BellSouth's position should not be  
4 mistaken to promote the public interest or to further sound economic  
5 policy. In fact, BellSouth's position is in direct conflict with the cost-based  
6 compensation mechanism upon which the TA96 and the FCC's Local  
7 Competition Order are so appropriately based.

8  
9 **Q. Has BellSouth always maintained the argument that ISP-bound traffic**  
10 **is not local?**

11 **A.** No. In a press release dated March 12, 1997, hailing a strategic  
12 agreement between BellSouth and IBM which would provide a  
13 comprehensive set of internet/intranet services to customers in the  
14 Southeast, John Robinson, president of BellSouth.net, Inc. said,

15  
16 By connecting to the Internet through the IBM Global Network,  
17 BellSouth customers will get an important benefit – the ability to  
18 access the Internet from more than 830 locations in 49 counties  
19 with just a local call. [emphasis added]<sup>9</sup>  
20

21 As I mentioned above, when marketing the Internet to its own customers  
22 BellSouth makes every effort to make access the Internet as easy as  
23 possible. Indeed, in the excerpt above, BellSouth is not only admitting  
24 that a call made to its wholly owned ISP (BellSouth.net) is a local call, it is  
25 marketing this fact as a major advantage of BellSouth.net.

26  
27  
28  
29  
30  

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<sup>9</sup> BellSouth.net Website.

1 **BELLSOUTH OPTION III**

2  
3 **Q. Please respond to Mr. Hendrix's third proposal wherein the**  
4 **Commission would require a "bill and keep" arrangement between**  
5 **the parties.**

6 A. My first reaction to Mr. Hendrix's proposal is that this is a new proposal on  
7 the part of BellSouth. Though ICG has now completed the hearing phase  
8 of its arbitrations with BellSouth in North Carolina, Alabama and Florida,  
9 this is the first time, to my knowledge, that BellSouth has ever suggested  
10 that bill and keep would be an effective method by which to resolve this  
11 issue (BellSouth did raise this new proposal in its arbitration proceeding  
12 with ICG in Tennessee at approximately the same time it filed its direct  
13 testimony regarding the issue in Kentucky.)<sup>10</sup> More importantly, however,  
14 Mr. Hendrix's recommendation for a "bill and keep" arrangement is  
15 inconsistent with the FCC's rules and with BellSouth's previous positions.

16  
17 **Q. Why do you believe Mr. Hendrix's recommendation for a "bill and**  
18 **keep" arrangement is inconsistent with the FCC's rules?**

19 A. First, bill and keep, as recognized by the FCC in rule 51.713 is a  
20 reasonable arrangement only if the traffic exchanged between the two  
21 carriers is balanced. Indeed, FCC rule §51.713 requires a state that  
22 chooses to impose a bill and keep arrangement to find that the traffic  
23 between the two carriers in question is balanced:

24  
25 **§ 51.713 Bill-and-keep arrangements for reciprocal**  
26 **compensation**

27  
28 (b) A state commission may impose bill-and-keep  
29 arrangements if the state commission determines that the amount  
30 of local telecommunications traffic from one network to the other is

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<sup>10</sup> To my knowledge BellSouth has also failed to proffer this option in the ITC^DeltaCom arbitrations which are occurring concurrently with the ICG arbitrations in many states. For example, I don't believe BellSouth has proffered this position in either South Carolina or Louisiana.

1 roughly balanced with the amount of local telecommunications  
2 traffic flowing in the opposite direction, and is expected to remain  
3 so, and no showing has been made pursuant to § 51.711(b) of this  
4 part.  
5

6 Clearly BellSouth has provided no evidence in this proceeding that would  
7 allow the Commission to find that ISP-bound traffic passed between itself  
8 and ICG is balanced. And, as I explained in my Direct Testimony,  
9 because ICG and other CLECs have been notably successful in winning  
10 ISP providers as customers, it is unlikely that the traffic between BellSouth  
11 and ICG is balanced. As such, a bill-and-keep arrangement would not be  
12 efficient, equitable or allowed by FCC rule §51.713.  
13

14 **Q. Why do you believe BellSouth's proposal to adopt a bill-and-keep**  
15 **arrangement is inconsistent with its previous position?**

16 A. Simply put, BellSouth's policies regarding the appropriate application of  
17 bill-and-keep arrangements appear to have changed by 180° since  
18 realizing that it might, in some circumstances, actually be required to pay,  
19 instead of only receive, reciprocal compensation payments. The following  
20 question and answer is taken from BellSouth witness Scheye's testimony  
21 before the Tennessee Regulatory Authority in Docket No. 96-01152:<sup>11</sup>  
22

23 Q. DOES BELL SOUTH AGREE WITH AT&T'S  
24 POSITION THAT BILL AND KEEP SHOULD BE  
25 IMPLEMENTED AS A COMPENSATION MECHANISM FOR  
26 LOCAL INTERCONNECTION?  
27

28 A. First and most fundamentally, it is my understanding  
29 that mandatory bill and keep violates Section 252 of the Act.  
30 The Act clearly allows negotiating parties to relinquish the  
31 mutual recovery of costs voluntarily should they so desire  
32 and enter voluntarily into bill and keep arrangements. The  
33 Act does not authorize a state commission to mandate that a  
34 party accept bill and keep as the method of cost recovery.

<sup>11</sup> Before the Tennessee Regulatory Authority, *Direct Testimony of Robert C. Scheye*, Docket No. 96-01152, October 11, 1996, see pages 24 and 25.



1  
2 Second, with this arrangement there is no mechanism for the  
3 recovery of costs associated with the termination of local  
4 calls. For example, if it costs BellSouth three cents per  
5 minute to terminate a local call and it costs a new entrant  
6 five cents a minute to terminate a local call, this arrangement  
7 will not allow either party to recover its costs. At best, in the  
8 situation illustrated, if the traffic were perfectly balanced, the  
9 carrier with the lower cost might be able to conclude that it  
10 was somehow okay because the payments it avoided  
11 making to the other carrier exceeded its own costs. Using  
12 the numbers above, however, the new entrant would be  
13 unable to recover the net difference of two cents per minute  
14 under any theory. This problem could be accentuated if  
15 there is a traffic imbalance.

16  
17 Third, a compensation arrangement of this type prevents  
18 BellSouth from being compensated for access to, and use  
19 of, its valuable network. Also, it does not recognize different  
20 types of technical interconnection arrangements that may  
21 exist. Because there will be varying interconnection  
22 arrangements, there must be a way to differentiate the  
23 charges based upon these differences. Under bill and keep,  
24 there would be no way to differentiate the charges and this  
25 would discourage the development of efficient networks by  
26 the new entrants. New entrants would simply take  
27 advantage of the functionalities in BellSouth's network,  
28 having no incentive to build their own capabilities because  
29 they could obtain them for free from BellSouth.

30  
31 Fourth, the distinction between local and toll calls no longer  
32 be assured. The industry must move to a common  
33 interconnection structure. Bill and keep cannot serve that  
34 function. Adoption of bill and keep will undermine long  
35 distance competition as well as local competition.

36  
37 Finally, bill and keep establishes an inappropriate  
38 arrangement between competing carriers. Bill and keep is  
39 similar to a barter arrangement, which is not a typical  
40 method used for compensating businesses for services  
41 provided.

42  
43 Mr. Scheye makes a number of important points in his testimony above.  
44 Most importantly, however, Mr. Scheye (and apparently BellSouth at some

1 point in the past) recognized that bill and keep does not compensate a  
2 carrier for its costs associated with carrying another carrier's traffic even in  
3 some circumstances where traffic may be perfectly balanced, much less  
4 when the traffic is heavily imbalanced, as is the case with traffic  
5 exchanged by ICG and BellSouth.

6

7 **Q. Mr. Hendrix at page 40 of his Direct Testimony includes a table which**  
8 **he believes describes the market distorting effects of reciprocal**  
9 **compensation payments made for ISP-bound traffic. Do you agree**  
10 **with Mr. Hendrix's analysis?**

11 **A. No. I do not. Mr. Hendrix at page 40 of his testimony includes the**  
12 **following chart:**

13

	<b>SERVING AN ISP AND RECEIVING RECIPROCAL COMPENSATION</b>	<b>SERVING AN ISP WITHOUT RECEIVING RECIPROCAL COMPENSATION</b>
REVENUE FROM ISP FOR SERVICE	\$600	\$900
RECIPROCAL COMPENSATION REVENUE PAID	\$300	\$0
COST OF PROVIDING SERVICE TO ISP	(\$600)	(\$600)
NET MARGIN	\$300	\$300

14

15

16

17

18

19

20

21

In my direct testimony I argued that the absence of reciprocal  
compensation payments would distort the marketplace. Mr. Hendrix  
attempts to use the table above to show that reciprocal compensation paid  
for ISP bound traffic is actually the culprit responsible for distorting the  
competitive marketplace. However, properly viewed, Mr. Hendrix's table  
actually undermines his point and supports mine.

1 **Q. Why do you believe the above table shows that the absence of**  
2 **reciprocal compensation payments for ISP bound traffic would**  
3 **distort the marketplace?**

4 **A.** The table above makes a number of assumptions: (1) that it costs a  
5 CLEC \$300 to carry traffic originated on the ILECs network to the ISP, (2)  
6 that it costs a CLEC \$600 to provide an access line to an ISP, and (3) that  
7 the CLEC receives a \$300 margin. Using these assumptions let's review  
8 two scenarios: (1) the Commission requires BellSouth to compensate ICG  
9 for delivering BellSouth's customers' traffic to ICG ISPs, and (2) the  
10 Commission decides to not require reciprocal compensation for such ISP  
11 bound traffic.

12  
13 Under scenario (1), ICG would receive \$600 from its ISP customer for an  
14 access line allowing the ISP to connect to the network. Likewise, it would  
15 receive \$300 from BellSouth for carrying traffic originated from BellSouth  
16 customers to the ISP (a total of \$900 in revenue). All told, the CLEC  
17 would incur \$600 in costs (\$300 for provisioning the access line and \$300  
18 for carrying BellSouth's traffic) and receive \$900 in revenue while charging  
19 its ISP customer \$600. If the Commission were to decide not to require  
20 BellSouth to pay for ICG's carriage of its traffic, scenario number (2) would  
21 look much different.

22  
23 Under scenario number 2, ICG would receive \$0 from BellSouth for  
24 carrying its traffic. Regardless, it would still incur both its own \$300 in cost  
25 for providing an access line to the ISP and it would continue to incur \$300  
26 in costs associated with carrying BellSouth's traffic. Hence, in order to  
27 maintain its \$300 net margin, ICG would be required to charge \$900 to its  
28 ISP instead of the \$600 it charged earlier.

29

1           You need only compare scenario 2 above with a scenario wherein the ICG  
2           customer in question is a large business user instead of an ISP to  
3           appreciate the market distortion. The following table compares a scenario  
4           very much like Mr. Hendrix's, except that it compares a business customer  
5           and an ISP customer served by ICG and assumes reciprocal  
6           compensation payments for ISP bound traffic are not required:

1

	<b>SERVING A BUSINESS CUSTOMER WITH LARGE INBOUND CALLING PATTERNS</b>	<b>SERVING AN ISP</b>
REVENUE FROM ACCESS LINE SERVICE	\$600	\$900
RECIPROCAL COMPENSATION REVENUE PAID	\$300	\$0
COST OF PROVIDING SERVICE	(\$600)	(\$600)
NET MARGIN	\$300	\$300

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Because BellSouth agrees that calls to ICG business users are subject to reciprocal compensation, it would reimburse ICG for the \$300 in costs associated with carrying its traffic. Hence, serving a large business user would look very much like scenario number 1 above, in which ICG was required to charge only \$600 for a network access line to serve the customer. In the marketplace under scenario 2, however, assuming the Commission allowed BellSouth to avoid reimbursing ICG for carrying its traffic, ICG could offer the exact same business line to a business customer at \$600 that it must offer to an ISP at \$900 to receive the same net margin. Or, looking at it another way, ICG could charge \$600 to a business customer for an access line and receive \$300 in net margin while offering the same access line to an ISP for \$600 and receiving \$0 in net margin. It is easy to see that under such a scenario, ISPs would become less attractive than any customer for which reciprocal compensation would be paid. Further, it is likely rates to ISPs would go up or carriers serving

1 large numbers of ISPs would find themselves with a large population of  
2 unprofitable customers.

3

4 **Q. How would this situation be affected by BellSouth's proposal that**  
5 **ICG pay BellSouth for originating calls to its ISP customers?**

6 A. This aspect further reveals the ludicrous nature of BellSouth's proposition.  
7 If ICG were required to pay BellSouth for carrying large amounts of  
8 BellSouth's traffic to its ISP customers, ISPs would not be merely  
9 unprofitable (i.e. generating \$0 in net margin); they would be a financial  
10 burden. Under such a circumstance, ICG would be providing a great  
11 service to BellSouth's customers (i.e. carrying traffic bound for the  
12 Internet) and incurring substantial costs to do so, while at the same time  
13 being required to pay BellSouth for the "opportunity." It simply doesn't  
14 make any sense.

15

16 **Q. Would such a situation benefit BellSouth?**

17 A. Undoubtedly. Such a circumstance would greatly benefit BellSouth at the  
18 expense of the CLECs and the marketplace. This is exactly the point I  
19 made in my direct testimony. When the Commission attempts to  
20 understand BellSouth's underlying rationale for its somewhat bizarre  
21 recommendation regarding reciprocal compensation, it should keep in  
22 mind the likely results of adopting such a recommendation. In a world  
23 where CLECs are required to pay BellSouth for delivering BellSouth's  
24 customers' Internet traffic, ISPs will undoubtedly pay higher rates for the  
25 same services offered to other businesses and they are likely to simply  
26 become far less attractive. As a result, fewer and fewer carriers would  
27 attempt to serve them. In general, life becomes hard as an ISP.  
28 However, there is a class of ISPs in the market that would be somewhat  
29 insulated from this effect. Any ISP that had an affiliation with a local  
30 exchange carrier and provided services primarily to customers served by

1        the local exchange carrier, would create a situation wherein the LEC  
2        rarely, if ever, was required "share" ISP revenues with another LEC. This  
3        lack of sharing would lower the costs of providing services to the ISP and  
4        would increase the profitability not only of the LEC serving the ISP, but  
5        also of the ISP itself. This type of ISP would be a powerful competitor  
6        against ISPs without such an "on-net" customer base. It could charge  
7        prices significantly below ISP competitors who were paying higher rates to  
8        CLECs while maintaining profitability. To illustrate, BellSouth would be  
9        such a competitor. Because BellSouth still maintains a near monopoly  
10       market position in the provision of services to residential and small  
11       business customers (the primary customer base responsible for dial-up  
12       Internet access), BellSouth.net would, under BellSouth's compensation  
13       proposal, rarely if ever need to share ISP revenues with other local  
14       carriers. Rarely would a CLEC customer dial into BellSouth.net (at least  
15       compared to the number of BellSouth customers calling non-BellSouth  
16       ISPs) such that BellSouth would be required to share revenues with the  
17       local exchange carrier. In the vast majority of circumstances,  
18       BellSouth.net would serve BellSouth's local exchange customers so that  
19       BellSouth would receive all revenues.

20  
21       **Q.    Is there any requirement that BellSouth.net serve all customers that**  
22       **request its service?**

23       **A.**    I am not aware of any such requirement. However, it is not likely that  
24       BellSouth.net would turn customers away simply because they happen to  
25       obtain local service from another carrier. What is more likely, is that  
26       BellSouth would attempt to provide better ISP prices and services to its  
27       own local exchange customers as opposed to local exchange customers  
28       of other carriers. In that way, BellSouth.net would be an attractive  
29       alternative only to BellSouth local customers and customers of other local  
30       carriers would unlikely subscribe to BellSouth.net. Not only is this likely, it

1 happens today. BellSouth currently offers promotions that tie its local  
2 exchange services and its Internet services together at discounted rates.  
3 Indeed, it is my understanding that e.spire and the Competitive  
4 Telecommunications Association (Comptel) have filed a complaint with the  
5 Florida Commission highlighting BellSouth's marketing efforts in this  
6 regard.

7

8 **Q. If BellSouth offered services to ISPs other than BellSouth.net,**  
9 **wouldn't this force BellSouth to share revenues with CLECs whose**  
10 **customers dialed those non-BellSouth affiliated ISPs?**

11 A. Yes, if BellSouth were to serve a non-BellSouth affiliated ISP that had no  
12 incentive to serve primarily BellSouth customers, it is likely BellSouth,  
13 under its own proposal, would be required to share the revenues  
14 associated with serving the ISP with other CLECs. However, I already  
15 highlighted in my direct testimony the fact that BellSouth has lost an  
16 enormous number of ISP providers (or new providers have chosen never  
17 to obtain service from BellSouth). This results from the fact that CLECs  
18 provide those ISPs with more flexible service offerings and work directly  
19 with the ISPs to enhance their business. BellSouth, because of  
20 BellSouth.net, has no incentive to assist the ISPs in their business.  
21 Likewise, it has no incentive (indeed it has a disincentive) to provide those  
22 ISPs with quality services at reasonable rates. A primary example of  
23 BellSouth's unwillingness to accommodate the unique needs of ISPs is  
24 BellSouth's unwillingness to allow ISPs to collocate in its central offices.  
25 ISPs prefer to share the environmental controlled offices used by local  
26 exchange carriers to aggregate traffic. These offices provide efficient  
27 means by which to connect to the public switched network. Many CLECs  
28 allow the ISPs, just like they allow other large users, to use their central  
29 office space to house equipment. To this point, however, BellSouth has  
30 refused to allow similar access to its central offices. In this way, and



1 simply by not meeting the needs of ISPs, BellSouth could, and would have  
2 an incentive to, dissuade non-BellSouth affiliated ISPs from using its  
3 services and thereby requiring that BellSouth share revenues with other  
4 CLECs.

5

6 **Q. Did you review the testimony provided by Dr. Taylor on behalf of**  
7 **BellSouth?**

8 A. Yes, I did.

9

10 **Q. Please summarize Dr. Taylor's testimony before responding to his**  
11 **arguments.**

12 A. Dr. Taylor's testimony is primarily intended, in my opinion, to support  
13 BellSouth's argument that BellSouth should be paid for allowing ICG to  
14 carry the traffic BellSouth's local customers generate. Dr. Taylor attempts  
15 to bolster this argument by using what he refers to as "the principle of cost  
16 causation." However, much like BellSouth's primary argument, Dr.  
17 Taylor's testimony has less to do with economics than it has to do with  
18 jurisdictional and regulatory law. The majority of Dr. Taylor's testimony  
19 revolves around his comparison of two separate regulatory/jurisdictional  
20 constructs that could be used by the Commission to decide whether, and  
21 how, carriers should compensate one another for traffic bound for an ISP  
22 customer. Which model the Commission chooses, according to Dr.  
23 Taylor, will necessarily guide its decisions with respect to whether  
24 reciprocal compensation is due to the carrier serving the ISP (i.e. the  
25 CLEC in this circumstance), or, that compensation is due from the carrier  
26 serving the ISP to the carrier serving the customer originating the ISP call  
27 (i.e. to BellSouth from ICG).<sup>12</sup>

28

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<sup>12</sup> Direct Testimony of William H. Taylor, Ph.D., Case No. 99-218, October 21, 1999, pages 7-16.

1 **Q. Please summarize the two conceptual constructs used by Dr. Taylor**  
2 **in support of his argument.**

3 A. The first construct, what Dr. Taylor refers to as the *ILEC-CLEC*  
4 *Interconnection Model*, relies, according to Dr. Taylor, on two primary  
5 assumptions:

- 6
- 7 1. The ILEC subscriber that calls the Internet is acting as a  
8 customer of the originating LEC, even when the call goes  
9 through the ISP to which it pays monthly access fees.
- 10
- 11 2. The ISP itself is an end-user (not a carrier) of the CLEC and  
12 the Internet call terminates at the ISP.<sup>13</sup>
- 13
- 14

15 The second construct, what Dr. Taylor refers to as the *ILEC-IXC*  
16 *Interconnection Model*, also relies, according to Dr. Taylor, on two primary  
17 assumptions:

- 18
- 19 1. The ILEC subscriber that calls the Internet is acting as a  
20 customer of the ISP to which it pays monthly access fees,  
21 even though the call is facilitated by the originating ILEC and  
22 the CLEC serving the ISP.
- 23
- 24 2. The ISP is viewed as a carrier – akin to an enhanced service  
25 provider (“ESP”) – that routes the Internet call through the  
26 backbone network to its final destination. The ISP performs  
27 the standard carrier functions such as transport and routing,  
28 as well as maintains leased facilities within the backbone  
29 network. It is therefore not an end user of the CLEC.<sup>14</sup>
- 30
- 31

32 Dr. Taylor believes that the latter of these two examples is the proper  
33 regulatory and economic construct by which the Commission should view  
34 traffic bound for an ISP customer. He believes that the second construct  
35 supports BellSouth’s position that ICG should share revenues received  
36 from its ISP local users with BellSouth. In other words, because, in Dr.

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<sup>13</sup> Taylor Direct Testimony, page 8.

<sup>14</sup> Id. page 9.

1 Taylor's opinion, ISPs are really IXCs, and the traffic they carry is actually  
2 toll traffic (delivered to them via switched access services provided by  
3 ICG), ICG should share those switched access revenues with BellSouth to  
4 compensate BellSouth for originating the call.  
5

6 **Q. Why is Dr. Taylor's assumption, that the ILEC subscriber making an**  
7 **Internet call is acting as a customer of the ISP and not as a customer**  
8 **of the ILEC not valid?**

9 A. Because it is simply not true. A BellSouth customer making an Internet  
10 call is acting as a customer of BellSouth both economically and  
11 contractually.  
12

13 For example, a customer who elects to receive local service from  
14 BellSouth in the form of measured service incurs local service charges  
15 when he or she makes an Internet call. In accordance with the contract  
16 between BellSouth and its customers, BellSouth charges the customer for  
17 the call, and collects those charges from the customer. As a customer of  
18 BellSouth, that end-user is contractually obligated to pay BellSouth for the  
19 duration of that call. This obligation applies whether the call is made from  
20 the BellSouth customer's handset or the customer's computer. The point  
21 is that there is an existing business relationship between BellSouth and  
22 the end-user that obligates the end-user to pay BellSouth for the service.  
23 Therefore, by definition, when making an ISP-bound call, the end-user is  
24 BellSouth's customer. While it is true that when making such a call, the  
25 end-user (at some point) is also acting as a customer of the ISP, there can  
26 be no denying the contractual customer/provider relationship that exists  
27 between the end user and BellSouth.  
28

29 To illustrate this point further, consider BellSouth's reaction if a customer  
30 attempted to deduct the charges associated with Internet calls from his or

1 her monthly bill (this would be a logical thing to do if the end-user is not  
2 acting as a BellSouth customer when placing an ISP-bound call).  
3 BellSouth would undoubtedly require that customer to pay that portion of  
4 the bill along with the portion of the bill associated with making non-  
5 Internet calls. BellSouth would have every right to demand payment for  
6 the ISP-bound calls because of the contractual relationship that exists  
7 between the end-user and BellSouth. If the end-user did not pay his or  
8 her bills, BellSouth would terminate the business relationship (cut off the  
9 service). Only after that occurred, would the end-user not be acting as a  
10 customer of BellSouth.

11

12 The fact of the matter is that when a customer of BellSouth makes a call to  
13 a local number, that customer understands that he or she is both  
14 contractually and economically liable to BellSouth for the call. This  
15 obligation is no different whether the BellSouth customer makes the call  
16 from a handset or a computer.

17

18 **Q. Is the business relationship between BellSouth and its customer**  
19 **when a customer places a call to the Internet the same as the**  
20 **business relationship between BellSouth and its customers when a**  
21 **customer utilize the services of an IXC (makes a long distance call)?**

22 **A.** No, it is entirely different. When placing a long-distance call a BellSouth  
23 customer does not incur charges from BellSouth for local usage during  
24 that call<sup>15</sup>. The end-user is not obligated to pay BellSouth for the usage,  
25 and BellSouth has no contractual relationship with the end-user that would  
26 justify demanding payment. Unlike the example above, when an end-user  
27 makes a call to the Internet and is economically and contractually a  
28 customer of BellSouth, the end-user making a long-distance call is indeed  
29 not acting as a customer of BellSouth, but as a customer of the IXC. The

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<sup>15</sup> Even assuming measured service.

1 fact is, that when making an IXC-bound call, the end-user is acting as a  
2 customer of the IXC, but when making an ISP-bound call, the end-user is  
3 acting as a customer of BellSouth.  
4

5 **Q. Does Dr. Taylor acknowledge this crucial difference?**

6 A. Yes. At page 14 of his testimony Dr. Taylor acknowledges the differences  
7 between an IXC-bound call and an ISP-bound call, but characterizes it as  
8 a "theoretical" difference. Of course it is necessary for him to minimize  
9 this glaring hole in his argument somehow, but just saying it is "theoretical"  
10 does not change the facts. The checks written to BellSouth from the end  
11 user for the provision of local service are not "theoretical", but real. What  
12 stands out in this comparison is not how similar the ILEC-IXC model is to  
13 the ILEC-ISP real world situation, but how totally different it is. The  
14 differences are stark and real from a contractual and economic standpoint  
15 and are far from theoretical.  
16

17 **Q. Is Dr. Taylor's characterization of the ISP as a carrier – not an end-  
18 user – consistent with FCC rulings regarding the status of ISP  
19 carriers?**

20 A. No. Dr. Taylor characterizes ISPs as carriers in his *ILEC-IXC*  
21 *Interconnection Model*, and Mr. Hendrix even represents that the FCC has  
22 treated ISPs as carriers for over 30 years.<sup>16</sup> Based on these  
23 representations, research was conducted in order to establish a factual  
24 basis for this testimony. However, the results of our research did not  
25 support the testimony of Dr. Taylor and Mr. Hendrix, in fact, our research  
26 strongly contradicts the representations they make with respect to the  
27 appropriate regulatory treatment of ISPs.  
28

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<sup>16</sup> Hendrix Direct Testimony page 34.

1 First, based on FCC rules, it is not appropriate to treat ISPs as carriers. In  
2 the FCC's *Computer II Inquiry* (77 FCC 2 d 384, 387 – released May 2,  
3 1980), the FCC found that ESPs (of which ISPs are a subset) are not  
4 common carriers within the meaning of Title II of the Communications Act.  
5 This FCC decision was codified in FCC rule 64.702. Section 64.702 of the  
6 FCC rules provides:

7

8 [T]he term enhanced service shall refer to services offered over  
9 common carrier transmission facilities used in interstate  
10 communications which employ computer processing applications  
11 that act on the format, content, code, protocol or similar aspects of  
12 the subscriber's transmitted information; provide the subscriber  
13 additional, different or restructured information, or involve  
14 subscriber interaction with stored information. Enhanced services  
15 are not regulated under Title II of the Act. [emphasis added]  
16

17 Second, FCC regulations clearly specify that ISPs are to be treated as end  
18 users. The FCC's declaratory ruling at paragraph 15 specifically  
19 comments on the status of ISPs:

20

21 The Commission's treatment of ESP [enhanced service providers,  
22 of which ISPs are a subset] traffic dates from 1983 when the  
23 Commission first adopted a different access regime for ESPs.  
24 Since then, the Commission has maintained the ESP exemption,  
25 pursuant to which it treats ESPs as end users under the access  
26 charge regime and permits them to purchase their links to the  
27 PSTN through intrastate local business tariffs rather than through  
28 interstate access tariffs. As such, the Commission discharged its  
29 interstate regulatory obligations through the applications of local  
30 business tariffs. Thus, although recognizing that it was interstate  
31 access, the Commission has treated ISP-bound traffic as though it  
32 were local. [emphasis added]  
33

34 This plain language clearly discredits the testimony of Dr. Taylor and Mr.  
35 Hendrix with respect to their characterization of ISPs as carriers rather  
36 than end users and nullifies their arguments that ICG should share  
37 revenues it receives from its ISP customers with BellSouth.

1

2 **Q. Even if you were to ignore the FCC's clear language that ISPs are**  
3 **properly treated as end users – not carriers, would you agree with**  
4 **Dr. Taylor's analysis?**

5 A. No, I would neither agree that his analysis is the proper method of  
6 evaluating proper ISP compensation nor, given his analysis, that he  
7 reaches the proper conclusions. Even if we were to accept Dr. Taylor's  
8 analysis as relevant, Dr. Taylor chooses the wrong conceptual construct  
9 with which to appropriately evaluate this issue. As I described above, the  
10 FCC's order as well as sound public policy decision making and common  
11 sense indicate that traffic bound for an ISP is far more comparable to  
12 traffic bound for a local end user (i.e. the *ILEC-CLEC Interconnection*  
13 *Model*) than toll traffic carried by and IXC (i.e. the *ILEC-IXC*  
14 *Interconnection Model*).

15

16 **Q. Please describe in more detail why you disagree with Dr. Taylor**  
17 **regarding the use of the second construct (i.e. the *ILEC-IXC***  
18 ***Interconnection Model*) for purposes of analyzing traffic bound for an**  
19 **ISP served by ICG.**

20 A. In addition to the legal and economic differences I discuss above, each  
21 individual assumption relied upon by Dr. Taylor in reaching his conclusion  
22 that the *ILEC-IXC Interconnection Model* is the appropriate model to be  
23 used when evaluating traffic bound for an ISP customer is inaccurate.

24

25 First, ISPs are not IXCs contrary to the terminology Dr. Taylor places on  
26 the *ILEC-IXC Interconnection Model*. ISPs neither market, sell nor do they  
27 carry toll traffic. ISPs do not purchase switched access services and they  
28 do not establish physical switched access arrangements with the local  
29 exchange carriers that serves them. IXCs, on the other hand, do market,  
30 sell and carry toll traffic. In fact, that is the very nature of an IXC.

1 Likewise, IXCs do purchase switched access and establish physical  
2 switched access arrangements with the LECs that serve them. These  
3 arrangements are very different from the physical arrangements used by  
4 ISPs (i.e. switched access trunk groups as opposed to local, end user  
5 services). The fact that ISPs share none of these defining characteristics  
6 with an IXC simply highlights the point that Dr. Taylor and BellSouth are  
7 trying to fit a square peg into a round hole.

8  
9 Second, customers who subscribe to an ISP (whether they be customers  
10 served by BellSouth or ICG) do not purchase toll services from the ISP or  
11 from their local exchange carrier. They, like the ISP, purchase local  
12 exchange services.

13  
14 Third, contrary to Dr. Taylor's assumption, the ISP is an end user of the  
15 CLEC. Dr. Taylor's assumes the following as a fundamental basis for  
16 supporting the *ILEC-IXC Interconnection Model* as the most appropriate  
17 model for evaluating ISP bound traffic:

18  
19 2. The ISP is viewed as a carrier – akin to an enhanced service  
20 provider ("ESP") – that routes the Internet call through the  
21 backbone network to its final destination. The ISP performs  
22 the standard carrier functions such as transport and routing,  
23 as well as maintains leased facilities within the backbone  
24 network. It is therefore not an end user of the CLEC<sup>17</sup>.  
25 [emphasis added]  
26

27 Dr. Taylor is simply wrong. The FCC has already specifically found that  
28 the ISP is indeed an end user of the ILEC (or the CLEC, depending upon  
29 who provides the ISP access to the public switched network). In addition  
30 to the language I cited above, the following excerpt from paragraph 36 of

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<sup>17</sup> Taylor Direct Testimony. page 9



1 the FCC's Declaratory Ruling removes any doubt about the services ISPs  
2 purchase from local exchange carriers and their status as end users:

3

4 With respect to current arrangements, we note that this order does  
5 not alter the long-standing determination that ESPs (including ISPs)  
6 can procure their connections to LEC end offices under intrastate  
7 end-user tariffs, and thus for those LECs subject to jurisdictional  
8 separations both the costs and the revenues associated with such  
9 connections will continue to be accounted for as intrastate.

10

11 **Q. Does Dr. Taylor use the principle of cost causation to support the**  
12 **argument that the *ILEC-IXC Interconnection Model* is superior to the**  
13 ***ILEC-CLEC Interconnection Model*?**

14 **A.** Yes. Dr. Taylor uses this principle to support his contention that the  
15 second construct described above (i.e. the *ILEC-IXC Interconnection*  
16 *Model*) is the appropriate model to use for purposes of resolving these  
17 issues. Specifically, Dr. Taylor uses his "principle of cost causation" to  
18 suggest that:

19

20 ...for purposes of an Internet call, the subscriber is properly viewed  
21 as a customer of the ISP, not of the originating ILEC (or even of the  
22 CLEC serving the ISP). The ILEC and the CLEC simply provide  
23 access-like functions to help the Internet call on its way, just as they  
24 might provide originating or terminating carrier access to help an  
25 IXC carry an interstate long distance call. Therefore, with the  
26 proper network model being analogous to ILEC-IXC interconnection  
27 (access), rather than to ILEC-CLEC interconnection, the proper  
28 form of intercarrier compensation should be usage-based charges  
29 analogous to carrier access charges for long distance calls, rather  
30 than reciprocal compensation.<sup>18</sup>

31

32 In further describing his theory of "cost causation" at page 13 of his  
33 testimony Dr. Taylor provides additional guidance with respect to  
34 evaluating the actions of the "cost causer" within the two scenarios  
35 described above:

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<sup>18</sup> *Id.* page 10

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The major difference [between the two constructs above] is that in the ILEC-CLEC local interconnection regime, the cost-causing ILEC subscriber is also a customer of the originating ILEC for local services, while in the ILEC-IXC regime, that cost-causing subscriber acts as a customer of the IXC for long distance service.

8  
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10  
11

In addition to his "cost causation" theory, Dr. Taylor uses the following points in an attempt to further strengthen his plea that the Commission use construct number two above in basing a decision regarding the proper compensation for ISP bound traffic:

12  
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The FCC has characterized the link from an end-user to an ISP as an interstate access service and, absent other considerations, ISPs would be subject to charges analogous to interstate access charges.<sup>19</sup>

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From an economic perspective, then, the party that causes the cost associated with ISP bound traffic is the originating ILEC's subscriber who acts in the capacity of an ISP customer. In this sense, ISP-bound traffic has the same characteristics as IXC-bound traffic in the ILEC-IXC regime and has characteristics opposite to CLEC-bound traffic in the ILEC-CLEC local interconnection regime.<sup>20</sup>

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**Q. Obviously you disagree that the second construct described above (i.e. the *ILEC-IXC Interconnection Model*) is the appropriate model upon which to base a decision regarding payments for ISP bound traffic. Do you disagree with Dr. Taylor's points above?**

**A.** Yes, I do. First, Dr. Taylor's entire cost causation argument can be summed up as follows: because the BellSouth "subscriber" is acting as a customer of the ISP when he/she makes a call to the ISP, the ISP should be responsible for compensating everyone involved in routing and transporting the call to the ISP's location. Because the ISP is the CLEC's

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<sup>19</sup> *Id.* page 12

<sup>20</sup> *Id.* page 14

1 customer, the CLEC should be responsible for charging the ISP some rate  
2 for delivering traffic to the ISP. The CLEC should then be responsible for  
3 compensating the LEC for originating the call.  
4

5 Dr. Taylor's theory has many holes. First, as I have noted, the BellSouth  
6 "subscriber" is not a customer only of the ISP but also of BellSouth. In  
7 fact, Dr. Taylor uses the word subscriber so as to avoid making obvious  
8 this first hole in his theory. Indeed, the "subscriber" is a *local exchange*  
9 *customer* of BellSouth. As a local exchange customer of BellSouth that  
10 local customer is allowed access to the public switched network and is  
11 capable of calling other parties and being called. Likewise, the ISP is a  
12 local exchange customer of the CLEC. As a local exchange customer of  
13 the CLEC the ISP is allowed access to the public switched network and is  
14 capable of making and receiving calls. When the BellSouth subscriber  
15 calls the CLEC ISP, both customers are using the local exchange facilities  
16 of BellSouth and the CLEC to carrying and transport traffic between the  
17 subscriber and the ISP. Not until the call reaches the ISP does the ISP  
18 actually provide the customer any service. Hence, contrary to Dr. Taylor's  
19 theory, the BellSouth subscriber is not acting as a customer of the ISP  
20 until he/she reaches the ISP's location (after having exercised his/her  
21 customer privileges provided by BellSouth). To get there, the subscriber  
22 is acting as a customer of BellSouth. As such, BellSouth is switching and  
23 routing the call pursuant to the subscriber's dialed directions. In doing so,  
24 BellSouth uses the CLEC (ICG) network and generates costs for the  
25 CLEC. It is these costs that the CLEC must be allowed to recover from  
26 BellSouth as the provider of the customer who is the true cost causer – i.e.  
27 the local subscriber who first places a call.  
28

29 **Q. Has Dr. Taylor appropriately applied of the principle of cost**  
30 **causation in this case to support his arguments?**

1 A. No, he has not. The principle of cost causation as described by Dr. Taylor  
2 can be applied in order to identify the source (cost causer) from which  
3 costs are appropriately recovered. In general, the principle is  
4 economically sound, however, in his effort to shift all cost responsibility  
5 away from BellSouth, Dr. Taylor has misapplied the principle.

6

7 **Q. Has Dr. Taylor described the principle of cost causation incorrectly?**

8 A. No. Dr. Taylor appears to have an understanding of the principle. In fact,  
9 I am in complete agreement with Dr. Taylor that "Cost causation is the  
10 fundamental economic principle on which all pricing and cost recovery  
11 efforts should be based"<sup>21</sup>. However, throughout his testimony, Dr. Taylor  
12 exhibits a tendency to incorrectly apply the principle in real world  
13 situations. For instance, in effort to explain the principle of cost causation  
14 and its relevance to cost recovery, Dr. Taylor provides an example at page  
15 6 of his testimony in which his conclusions regarding cost causation are  
16 completely wrong.

17

18 **Q. How has Dr. Taylor's misapplied the principle of cost causation?**

19 A. In the example of cost causation he provides on page 6 of his testimony,  
20 Dr. Taylor describes the activities involved and the costs incurred that are  
21 associated with his travel to Louisville – presumably to sponsor testimony  
22 in this case. In his example, he estimates that the costs associated with  
23 airfare, lodging, car rental etc. would amount to \$2,000, and that because  
24 he is the cost causer, those costs are recoverable from him<sup>22</sup>. At first  
25 glance, this conclusion appears to make sense, however, a closer  
26 examination of the facts reveals that Dr. Taylor has applied the concept of  
27 cost causation incorrectly, leading him to erroneous conclusions.

28

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<sup>21</sup> *Id.*, page 6.

<sup>22</sup> It is critical to correctly identify the cost causer, because according to the principle of cost causation, costs are recoverable from the cost causer.

1 **Q. Please describe Dr. Taylor's error.**

2 A. Dr. Taylor's example is fatally flawed in that he has (not for the last time in  
3 his testimony) incorrectly identified the cost causer. The actual cost  
4 causer in Dr. Taylor's example is BellSouth, not Dr. Taylor. If it were not  
5 for BellSouth's participation in this case, or if BellSouth hired another  
6 economist, those costs would not have been incurred by Dr. Taylor. If  
7 BellSouth does not ask Dr. Taylor to make the trip to Kentucky, South  
8 Carolina, Florida, or any other state utility commission location where Dr.  
9 Taylor's clients are involved in state regulatory proceedings, it is unlikely  
10 that the trip would be made at all. The ultimate source of the costs  
11 associated with Dr. Taylor's travels is therefore not Dr. Taylor, but  
12 BellSouth. If I am correct in identifying the ultimate cost causer to be  
13 BellSouth, then BellSouth should (consistent with the principle of cost  
14 causation) be the party from which Dr. Taylor's travel expenses are  
15 ultimately recovered. The question therefore is . . . who ultimately pays  
16 Dr. Taylor's expenses?

17

18 Dr. Taylor testifies that these costs are appropriately born by him, but (as  
19 he is well aware) he doesn't pay these costs, BellSouth does. When  
20 BellSouth sends Dr. Taylor to Louisville (in accordance with the business  
21 relationship that exists between Dr. Taylor and BellSouth), BellSouth as  
22 the true cost causer, compensates Dr. Taylor for the expenses associated  
23 with the trip. What is most puzzling about the mistake Dr. Taylor makes in  
24 this example is that it is Dr. Taylor who has a vested interest in making  
25 sure that the costs are recovered from the true cost causer.

26

27 Although Dr. Taylor's example does demonstrate how the principle of cost  
28 causation works, I doubt that Dr. Taylor intended to highlight the fact that  
29 when the principle is misapplied it can create the appearance that costs  
30 should be recovered from non-cost causers.

1

2 **Q. In the example provided by Dr. Taylor, does the market function**  
3 **properly?**

4 A. Yes. In the free and open market for consulting economists, airlines, hotel  
5 rooms, etc., the costs associated with terminating Dr. Taylor's travels are  
6 recovered from the cost causer – BellSouth – not some intermediate party  
7 (Dr Taylor).

8

9 **Q. Can Dr. Taylor's example be used as an analogy to this case?**

10 A. Yes. In addition to demonstrating Dr. Taylor's propensity to assign cost  
11 causing responsibility to anyone other than BellSouth (including himself),  
12 the example can be used to make conclusions regarding who the cost  
13 causer is when a BellSouth customer makes an ISP-bound call. Just as  
14 Dr. Taylor would not have burdened the airline etc., absent the business  
15 relationship between he and BellSouth, BellSouth local customers would  
16 not have burdened the CLEC network absent the business relationship  
17 they have with BellSouth. In both cases, BellSouth is economically and  
18 contractually liable for the costs it has caused. Consistent with the  
19 principle of cost causation, BellSouth pays the costs for Dr. Taylor's trip.  
20 According to the same exact principle, BellSouth should pay reciprocal  
21 compensation to ICG.

22

23 **Q. Please discuss the shortcomings of Dr. Taylor's cost causation**  
24 **argument further as it relates to the specifics of this case.**

25 A. As noted above, Dr. Taylor's argument revolves around the assumption  
26 that a customer of an ISP, when using the Internet, is acting solely as a  
27 customer of the ISP and not as a customer of the ILEC. Dr. Taylor's  
28 conclusions rely entirely on this assumption, because if the Internet user is  
29 acting as a customer of the ILEC when he or she makes the local call to  
30 the ISP, the ILEC (who recovers costs from its customer) would have

1           caused costs, and therefore, be responsible for reciprocal compensation  
2           to the CLEC on whose system the call was terminated. Therefore, in  
3           order to accept Dr. Taylor's argument and his conclusions, it is critical to  
4           fully accept that an Internet user is not, during any portion of a call to an  
5           ISP, acting as a customer of the ILEC.

6  
7           As I have previously demonstrated, such an assumption is not valid from  
8           an economic or contractual standpoint. In addition, Dr. Taylor's cost  
9           causation argument flies in the face of common sense. While it is clear  
10          that an ISP customer is acting as a customer of the ISP when using the  
11          Internet (when the call reaches the ISP), that same level of clarity does not  
12          exist when assuming the customer is not acting as a customer of the ILEC  
13          when dialing the seven-digit local number to reach the ISP's local POP. In  
14          fact, in order to use the Internet, the caller is completely reliant on the  
15          ILEC, and therefore, the argument could be made that the caller is acting  
16          *entirely* as a customer of the ILEC and simply contracting with a third party  
17          to provide a complimentary service, much the same as if a BellSouth  
18          customer contracted with an answering service (i.e., the answering service  
19          would be of little use to the customer without first and foremost being a  
20          customer of the ILEC). In fact, to be a subscriber of any service which is  
21          complimentary to basic local telephone service, such as voice messaging,  
22          caller ID, call waiting and Internet services, it is a pre-existing condition (in  
23          the real world) that the subscriber of those services must first and  
24          foremost, act as a customer of an originating LEC. Certainly, at best, the  
25          portrayal of the Internet caller's customer status as put forth by Dr. Taylor  
26          is not as cut and dry as he would indicate. In fact, it would be much more  
27          reasonable to assume that the Internet caller is a customer of both the ISP  
28          and the ILEC and the services are inextricably commingled and really  
29          inseparable in the context of making an Internet call. This intrinsic  
30          relationship undoubtedly played a vital role in the FCC's determination in

1 its ISP Order that ISP-bound traffic is jurisdictionally mixed. Because Dr.  
2 Taylor's assumptions cannot be validated in the real world, the  
3 Commission should reject his resulting conclusions.  
4

5 **Q. Does BellSouth make a clear distinction between a customer of its**  
6 **ISP and a customer of its ILEC services, consistent with Dr. Taylor's**  
7 **cost causation argument?**

8 A. No, it does not. The *BellSouth.net* website advertises promotions  
9 designed to attract customers to use the BellSouth ISP service, BellSouth  
10 ILEC services or both. These promotions offer customers free installation,  
11 significant monthly discounts on various BellSouth ILEC services if  
12 customers sign multi-year ISP contracts. One such promotion offers  
13 customers of BellSouth unlimited Internet access for \$15 per month. In  
14 order to qualify for this offer, BellSouth customers must subscribe to the  
15 BellSouth *Complete Choice* bill plan. One of the benefits of participating  
16 in this plan is that the customer's BellSouth Internet service is charged to  
17 the same telephone line, and appears on the same bill, as their Complete  
18 choice service.  
19

20 BellSouth's actions in making this offering with respect to the  
21 jurisdictionally mixed nature of ISP-bound traffic are consistent with the  
22 FCC's treatment of such traffic. The two services are so intrinsically  
23 related that BellSouth offers a special service to users of its Internet and  
24 ILEC services that actually bills both charges to the same local line. This  
25 offering is a reflection of the actual cost causing status of the parties  
26 involved, and is entirely inconsistent with Dr. Taylor's view that Internet  
27 callers act solely as customers of the ISP.  
28

29 **Q. Are CLECs such as ICG the only carriers who have ISPs as**  
30 **customers?**



1 A. No. ILECs such as BellSouth also have ISP customers.

2

3 **Q. Does BellSouth model its pricing and cost recovery efforts on the**  
4 **cost causation rationale Dr. Taylor advocates in this case?**

5 A. No. BellSouth charges its ISP customers local business line rates for local  
6 telephone exchange service that enables the ISPs' customers to access  
7 their service via a local call. In fact, as we saw above, BellSouth even  
8 markets the access to its ISP as being available via a "local call." The  
9 service provided to ISP customers by BellSouth falls under BellSouth's  
10 local exchange tariffs and calls to ISPs are rated and billed just as any  
11 other local call placed via a seven digit local telephone number.

12

13 **Q. Dr. Taylor beginning at page 17 of his testimony describes why he**  
14 **believes the "ILEC-CLEC" model will "harm economic efficiency."**  
15 **Do you agree with Dr. Taylor's testimony in this respect?**

16 A. No, I do not. But before I explain the flaw in Dr. Taylor's argument I think  
17 it is interesting to note that in this section of his testimony (page 20) Dr.  
18 Taylor as much as concedes that the parties who cause the costs that ICG  
19 incurs in carrying traffic bound for the Internet, are the persons making  
20 calls to the internet (i.e. primarily BellSouth local exchange customers).

21

22 The subsidy to Internet use can be eliminated by charging  
23 differently for such use than for voice calls.<sup>23</sup>

24

25 Obviously, what Dr. Taylor is saying in the quote above is that by  
26 changing a different price for calls made to the Internet, the cost causers  
27 (i.e. the originating caller) will be better attuned to the costs they generate  
28 on the network, thereby, removing the harmful affects that a subsidy would  
29 create (i.e. prices that were unable to reflect underlying costs thereby  
30 removing economically efficient decision making). This is directly

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<sup>23</sup> *Id.*, page 19.

1 inconsistent with Dr. Taylor's earlier argument that it is instead the ISPs  
2 who actually "cause" the costs of Internet usage.

3

4 **Q. In light of this concession that it is BellSouth's rates that create**  
5 **market distortions, is it appropriate for Dr. Taylor to continue to**  
6 **argue that subsidies should be eliminated through charges levied on**  
7 **ISPs or CLECs?**

8 A. No, absolutely not. First, if, as Dr. Taylor implies at page 18 of his  
9 testimony, local calls placed on BellSouth's network do not cover cost,  
10 BellSouth should demonstrate that that is the case in the context of a full  
11 rate case, in which all of BellSouth's rates would be reviewed. Second, if  
12 it was determined that a subsidy did exist, and that rates BellSouth  
13 charges its customers for local calls, including Internet calls, do not cover  
14 costs, the subsidy should be eliminated by recovering the costs from the  
15 cost causer (BellSouth customers), not some intermediate party.  
16 Economic inefficiencies resulting from BellSouth's current rate design are  
17 not the financial responsibility of ISPs, CLECs, or anyone else, other than  
18 BellSouth and its customers.

19

20 **Q. Does Dr. Taylor's inconsistent view of who actually causes the costs**  
21 **of Internet usage taint his entire analysis?**

22 A. Yes, it does. Dr. Taylor's arguments regarding economic efficiency and  
23 market distortion all revolve around his inconsistent, and mistaken,  
24 premise that ISPs are actually the cost causers of Internet usage. If,  
25 however, we properly view the caller originating the Internet call as the  
26 cost causer (as Dr. Taylor does in a moment of lucidity in the excerpt  
27 above), the remainder of his arguments fall apart. If the Internet caller is  
28 ever to be properly attuned to the costs he/she causes on the network, it is  
29 self-evident that those costs must be made known to the caller and he/she  
30 must be required to bear them. This however, is not the result of

1 BellSouth's or Dr. Taylor's proposal in this case. Instead, Dr. Taylor's  
2 proposal would simply have those costs borne solely by ICG. Such a  
3 proposal in no way adds to economic efficiency, even tangentially. ICG's  
4 proposal, on the other hand, would place costs associated with callers'  
5 access to the Internet where they belong; on the service provider who  
6 provides those callers (i.e. the cost causers) access to the network (i.e.  
7 BellSouth).

8  
9

10 **Q. Please comment on Dr. Taylor's suggestion that reciprocal**  
11 **compensation for ISP-bound traffic would distort the local market**  
12 **and provide perverse incentives for CLECs to arbitrage the system?**

13 A. Dr. Taylor's arguments in this area revolve around his contention that  
14 CLECs such as ICG terminate more traffic than they originate, and that  
15 the termination costs of ISP-bound calls are less than BellSouth's average  
16 costs of termination. Therefore, according to Dr. Taylor, CLECs are  
17 overcompensated. He then goes on to argue that, given this current  
18 situation, CLECs have an economic incentive to arbitrage the system and  
19 to terminate as much ISP traffic as possible – to essentially specialize in  
20 serving exclusively ISP customers.

21

22 First, Dr. Taylor simply asserts, without providing even as much as  
23 circumstantial evidence or authority, that ICG's costs for carrying ISP  
24 bound traffic are less than the reciprocal compensation rate. It has been  
25 the experience of our firm that this assertion simply isn't true. Regardless,  
26 without some type of evidence provided by Dr. Taylor regarding the  
27 validity of his assumption, upon which the remainder of his argument  
28 regarding arbitrage is based, his argument can't be given any weight.

29

30 **Q. Is there a danger of market distortion without reciprocal**  
31 **compensation for ISP-bound traffic?**

1 A. Yes. I address this issue exhaustively in my direct testimony. As I noted  
2 in my direct testimony, BellSouth has agreed to provide reciprocal  
3 compensation for ICG's local business and residential traffic. Even though  
4 the cost characteristics of these calls and ISP-bound calls are identical,  
5 BellSouth distinguishes between these calls when paying reciprocal  
6 compensation as if the costs were different. As I described in my direct  
7 testimony, this would cause significant market distortion because by  
8 denying CLECs the ability to be compensated for the costs incurred in  
9 serving ISP customers, those customers become unattractive.

10

11 The result of this market distortion has far reaching impacts. Because the  
12 ISP market segment often provides an important revenue stream to new  
13 market entrants, a significant blow would be dealt to the development of  
14 local competition in Kentucky if reciprocal compensation for ISP-bound  
15 traffic was not permitted. Without compensation for the costs incurred to  
16 carry BellSouth's traffic bound for the Internet, it may be very difficult for  
17 new entrants to expand their operations or to maintain current marketing  
18 initiatives.

19

20 **Q. Dr. Taylor at page 21 of his testimony states that "...when traffic**  
21 **between the ILEC and the CLEC is grossly unbalanced, e.g., when**  
22 **the CLEC originates little or no traffic, the accuracy of the TELRIC**  
23 **study for the traffic served by that CLEC is critical." Do you have**  
24 **any comments regarding this testimony?**

25 A. In my Direct Testimony I suggested that one benefit of requiring reciprocal  
26 compensation payments for ISP bound traffic was that it provided  
27 BellSouth a rare incentive to more accurately estimate its own costs.  
28 Because it is BellSouth's cost studies that generally provide the basis for  
29 reciprocal compensation rates, in situations where BellSouth is required to  
30 pay (instead of receive payments) based on those rates, it has an

1 incentive to "re-evaluate" its studies to ensure they are as accurate (i.e.  
2 not over-estimated) as possible. In nearly every other circumstance,  
3 BellSouth's incentives are always to over-estimate its costs. Dr. Taylor's  
4 testimony above proves my point. Dr. Taylor now, because there is a  
5 possibility they will be used to set rates which BellSouth will be required to  
6 pay, questions the accuracy of the BellSouth studies. It is of further  
7 interest to note that even though Dr. Taylor implies throughout his  
8 testimony at pages 21 and 22 that BellSouth's cost studies may  
9 overestimate costs associated with carrying local traffic, instead of  
10 requesting that a new study be done, he instead simply uses this fact as  
11 another reason why BellSouth should pay nothing. This simply isn't a  
12 reasonable or consistent position.  
13

14 **Q. Earlier in your testimony, you stated that BellSouth and its witnesses**  
15 **in this case have twisted the FCC's recent decisions to the point that**  
16 **the BellSouth proposal cannot be taken seriously. Would you please**  
17 **expand upon that?**

18 **A.** Yes. BellSouth and its witnesses have constructed their arguments based  
19 on something that is simply not true. For example, Dr. Taylor has based  
20 his arguments regarding the reciprocal compensation issue, in large part,  
21 on the erroneous conclusion that "ISP-bound traffic is not local and,  
22 therefore, not eligible for reciprocal compensation"<sup>24</sup>. Dr. Taylor supports  
23 this conclusion by citing language from paragraphs 10 and 12 of the  
24 recent FCC *Declaratory Ruling*.

25  
26 This argument falls flat however if one reads the entire ISP Order. In fact,  
27 in my direct testimony, I acknowledged the findings of the FCC regarding  
28 the unique nature of Internet traffic<sup>25</sup>. However, if one were to read the

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<sup>24</sup> *Id.* page 21.

<sup>25</sup> *Testimony of Michael Starkey, Page 7.*

1 entire ISP Order, one would find that in spite of the FCC finding regarding  
2 the nature of ISP-bound traffic, the FCC has concluded at paragraph 20:

3

4 Our determination that at least a substantial portion of dial-up ISP-  
5 bound traffic is interstate does not, however, alter the current ESP  
6 exemption. ESPs, including ISPs, continue to be entitled to  
7 purchase their PSTN links through intrastate (local) tariffs rather  
8 than through interstate access tariffs. Nor, as we discuss below, is  
9 it dispositive of interconnection disputes currently before state  
10 commissions<sup>26</sup>. [emphasis added, footnotes removed]

11

12 From this statement, it is evident that the FCC recognizes the  
13 jurisdictionally mixed nature of ISP-bound traffic, and then clearly and  
14 plainly goes on to reach conclusions that are not only inconsistent with the  
15 conclusions reached by Dr. Taylor, they are on completely opposite ends  
16 of the spectrum. Further, in order to be clear that the FCC does not intend  
17 to pre-empt state commissions ability to require reciprocal compensation  
18 for ISP-bound traffic, the FCC states at paragraph 25:

19

20 Even where parties to interconnection agreements do not  
21 voluntarily agree on an inter-carrier compensation mechanism for  
22 ISP-bound traffic, state commissions nonetheless may determine in  
23 their arbitration proceedings at this point that reciprocal  
24 compensation should be paid for this traffic. The passage of the  
25 1996 Act raised the novel issue of the applicability of its local  
26 competition provisions to the issue of inter-carrier compensation for  
27 ISP-bound traffic. Section 252 imposes upon state commissions  
28 the statutory duty to approve voluntarily-negotiated interconnection  
29 agreements and to arbitrate interconnection disputes. As we  
30 observed in the Local Competition Order, state commission  
31 authority over interconnection agreements pursuant to section 252  
32 "extends to both interstate and intrastate matters." Thus the mere  
33 fact that ISP-bound traffic is largely interstate does not necessarily  
34 remove it from the section 251/252 negotiation and arbitration  
35 process. However, any such arbitration must be consistent with  
36 governing federal law. While to date the Commission has not  
37 adopted a specific rule governing the matter, we do note that our  
38 policy of treating ISP-bound traffic as local for purposes of

<sup>26</sup> FCC Docket No. 96-98, Declaratory Ruling, Released February 26, 1999.

1 interstate access charges would, if applied in the separate context  
2 of reciprocal compensation, suggest that such compensation is due  
3 for that traffic<sup>27</sup>. [emphasis added, footnotes removed]  
4

5 This very clear language from the FCC was included in my direct  
6 testimony. I include it again here only to ensure that the Commission isn't  
7 mislead by Dr. Taylor's selectively interpreting the FCC's ISP Order, while  
8 completely ignoring the FCC's conclusions. The FCC has plainly  
9 determined that – even allowing for the unique characteristics of ISP-  
10 bound calls –states have jurisdiction and that states should allow  
11 reciprocal compensation for such traffic. Therefore, Dr. Taylor's testimony  
12 that the FCC has found ISP-bound calls more likely to be interstate than  
13 local is totally irrelevant to the issue of whether reciprocal compensation  
14 should be allowed for that traffic, and should be disregarded by the  
15 Commission.  
16

17 **Q. In effort to avoid paying reciprocal compensation for ISP-bound**  
18 **traffic in the past, has BellSouth mounted this same attack?**

19 **A.** Yes. In a recent proceeding before the Alabama Public Service  
20 Commission (APSC), BellSouth challenged the reciprocal compensation  
21 provisions of interconnection agreements it had entered into with ICG and  
22 other carriers regarding ISP-bound traffic. In that case, BellSouth argued  
23 that under federal law, ISP-bound traffic does not fall under reciprocal  
24 compensation provisions and therefore, BellSouth refused to pay  
25 reciprocal compensation for ISP-bound calls to ICG and others.  
26

27 ICG and other CLECs subsequently petitioned the APSC seeking a  
28 determination as to whether calls from BellSouth customers that happen  
29 to be ISP-bound are eligible for reciprocal compensation. The APSC  
30 issued an Order in this case on March 4, 1999 in which it determined that

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<sup>27</sup> *Id.*, Paragraph 25.

1 contrary to the arguments of BellSouth, ISP-bound traffic is subject to  
2 reciprocal compensation.

3

4 **Q. Did BellSouth challenge the APSC's Order?**

5 A. Yes. BellSouth unsuccessfully challenged the decision of the ASPC in  
6 Federal District Court. As is the case in this docket, BellSouth relied  
7 heavily on the recent determination by the FCC that Internet traffic is  
8 interstate rather than local, and therefore, not eligible for reciprocal  
9 compensation. The Court rejected this argument.

10

11 BellSouth continues to cling to this argument, and has attempted to  
12 support it with equally unconvincing arguments in this case by including  
13 the "cost causer" testimony of Dr. Taylor. I have clearly shown that these  
14 arguments are without merit, and that the arguments and conclusions  
15 reached by BellSouth and its witnesses with respect to reciprocal  
16 compensation for ISP-bound traffic should be disregarded by the  
17 Commission.

18

19 **Q. Has the Commission in Alabama recently issued an Order directly**  
20 **contradicting Dr. Taylor's theory that ICG's ISP customers are the**  
21 **"cost causers" responsible for expenses resulting from ISP-bound**  
22 **traffic?**

23 A. Yes, it has. The Alabama Commission in its November 10, 1999 Order in  
24 ICG's arbitration with BellSouth (Case No. 27069) has decided that ICG  
25 and BellSouth should compensate one another for ISP bound traffic.  
26 However, it is of further interest to note the Commission's rationale located  
27 at page 18 of the Order states as follows:

28 We are also persuaded that reciprocal compensation is  
29 economically efficient because it is cost based and imposes the  
30 cost of delivering traffic on the carrier whose subscriber causes the  
31 cost by initiating the call.

32



1 This conclusion is consistent with the FCC's finding in paragraph 29 of its  
2 Declaratory Ruling that LECs incur costs when delivering another carrier's  
3 traffic to an ISP, and therefore, state commissions should adopt a  
4 mechanism allowing those LECs to recover those costs.  
5

6 **Q. Is the ability of ICG to charge BellSouth a symmetrical, reciprocal**  
7 **compensation rate including charges associated with end office,**  
8 **transport and tandem switching an issue in this arbitration?**

9 A. Yes it is. This issue is framed as Issue Number 6.  
10

11 **Q. Can you reiterate ICG's position on this issue?**

12 A. BellSouth should pay ICG a reciprocal compensation rate based upon the  
13 recovery of tandem, transport and end office switching costs. The FCC at  
14 paragraph 1090 of its *First Report and Order in C.C. Docket No. 96-98*  
15 (hereafter referred to as the FCC's Local Competition Order) provides the  
16 following guidance with respect to the appropriate rate of reciprocal  
17 compensation ICG should receive from BellSouth:  
18

19 1090. We find that the "additional costs" incurred by a LEC when  
20 transporting and terminating a call that originated on a competing  
21 carrier's network are likely to vary depending upon whether tandem  
22 switching is involved. We, therefore, conclude that states may  
23 establish transport and termination rates in the arbitration process  
24 that vary according to whether the traffic is routed through a  
25 tandem switch or directly to an end-office switch. In such event,  
26 states shall also consider whether new technologies (e.g. fiber ring  
27 or wireless networks) perform functions similar to those performed  
28 by an incumbent LEC's tandem switch and thus, whether some or  
29 all calls terminating on the new entrant's network should be priced  
30 the same as the sum of transport and termination via the incumbent  
31 LEC's tandem switch. Where the interconnecting carrier's switch  
32 serves a geographic area comparable to that served by the  
33 incumbent LEC's tandem switch, the appropriate proxy for the  
34 interconnecting carrier's additional costs is the LEC tandem  
35 interconnection rate. [emphasis added]  
36

1 ICG's switch serves a comparable geographic area to that served by  
2 BellSouth's tandem. BellSouth never disputes this singularly critical fact.  
3 As such, ICG is entitled to charge a rate equal to BellSouth's tandem  
4 switching, transport and end office switching rates.  
5

6 **Q. BellSouth frames this issue as an attempt on ICG's part to "be**  
7 **compensated for the cost of equipment it does not own and for**  
8 **functionality it does not provide<sup>28</sup>." Can you respond to BellSouth's**  
9 **contention?**

10 A. ICG is in no way attempting to recover costs for equipment it does not own  
11 nor to be paid for functionality it does not provide. ICG's switching  
12 platform switches traffic within a region comparable in size to that served  
13 by a BellSouth tandem, and ICG incurs costs associated with transporting  
14 calls within that area. ICG experiences the same types of transport costs  
15 that BellSouth incurs within its network over a comparable geographic  
16 area. I have included a diagram with my testimony (Schedule 1), that  
17 describes the ICG network and compares it with the BellSouth network,  
18 showing that both networks, though engineered somewhat differently,  
19 provide the same functionality (and generate comparable costs) over a  
20 comparable geographic region. Alternatively, Mr. Hendrix provides no  
21 explanation for his contention that somehow ICG is attempting to recover  
22 costs it doesn't incur; he does not identify the equipment ICG doesn't own  
23 but whose costs ICG is asking to recover; nor does he rebut the fact that  
24 ICG's switch performs the same function and serves a comparable area to  
25 the BellSouth tandem. In short, from what I've read within his testimony,  
26 Mr. Hendrix provides no evidence upon which the facts surrounding this  
27 issue can be better understood.  
28

---

<sup>28</sup> Hendrix Direct Testimony page 46.

1 **Q. Is there further evidence supporting ICG's receipt of tandem**  
2 **interconnection rates?**

3 A. Yes, there is. In addition to serving a geographic area comparable to that  
4 served by the BellSouth tandem, ICG's switch performs the same  
5 functionality as does the BellSouth tandem. ICG's switching platform  
6 transfers traffic amongst discrete network nodes that exist in the ICG  
7 network for purposes of serving groups of its customers in exactly the  
8 same fashion that BellSouth's tandem switch distributes traffic.

9

10 ICG's network serves a comparable geographic area to that served by  
11 BellSouth's tandem, provides the same functionality and generates  
12 comparable costs. There is no reason why ICG should charge anything  
13 other than the tandem interconnection rate.

14

15 **Q. Does the FCC impose as strict a standard as you've described above**  
16 **in terms of whether ICG should be compensated at BellSouth's**  
17 **tandem interconnection rate?**

18 A. No, it doesn't. Even though I've explained that in addition to serving a  
19 comparable geographic area to that served by BellSouth's tandem the  
20 ICG switch also performs similar functionality, this is information beyond  
21 what is required by the FCC for ICG to receive an interconnection rate  
22 equal to BellSouth's tandem interconnection rate. At paragraph 1090 of  
23 its Local Competition Order, as included above, the FCC requires only that  
24 ICG's switch serve a geographic area comparable to that served by the  
25 incumbent's tandem switch in order to receive an interconnection rate  
26 equal to the incumbent's tandem interconnection rate. The actual FCC  
27 rule that discusses this issue is even more direct:

28

29 **§ 51.711 Symmetrical reciprocal compensation**

30

31

32

(3) Where the switch of a carrier other than an incumbent LEC  
serves a geographic area comparable to the area served by the incumbent

1 LEC's tandem switch, the appropriate rate for the carrier other than an  
2 incumbent LEC is the incumbent LEC's tandem interconnection rate.<sup>29</sup>  
3

4 My discussion above regarding the fact that ICG's switching platform also  
5 performs functions similar to the BellSouth tandem is not meant to expand  
6 the FCC's single criteria, but instead merely to point out that ICG's  
7 switching platform meets this criteria and more.  
8

9 **Q. Has BellSouth's testimony regarding this issue changed as ICG and**  
10 **BellSouth have litigated this issue in other states?**

11 A. Yes, it has. BellSouth's testimony in both North Carolina and Alabama  
12 held that BellSouth would not pay a carrier the tandem interconnection  
13 rate unless that carrier's switch was included in the LERG (Local  
14 Exchange Routing Guide) as a tandem. [See for example page 33 of  
15 BellSouth witness Alphonso Varner's Direct Testimony before the  
16 Alabama Public Service Commission in Case No. 27069] In the Florida  
17 proceeding Ms. Schonhaut clarified that ICG's switches, including those in  
18 Kentucky, are included in the LERG as a tandem. Regardless of his  
19 previous criteria that appears to have been met by ICG, Mr. Hendrix and  
20 BellSouth in this proceeding continue to refute BellSouth's obligation to  
21 compensate ICG at the tandem rate.  
22

23 **Q. What is the LERG?**

24 A. The LERG is an acronym which stands for the Local Exchange Routing  
25 Guide. It is a document published by the Traffic Routing Administration (a  
26 Bellcore – now Telecordia Technologies, Inc. – organization). It is the tool  
27 by which network engineers determine the numerous telephone number  
28 assignments and subsequent routing needs of the public switched  
29 network. The LERG reports area code (NPA) and central office (NXX)

---

<sup>29</sup> Rule 51.711 also includes subparts (a)(1) and (a)(2) that have been excluded from the excerpt above.

1 numbering assignments as identified by the North American Numbering  
2 Plan (NANP) and administered by the North Ameritech Numbering Council  
3 (NANC), as well as carrier identification codes (CIC) and specialty dialing  
4 codes (e.g., \*67 – caller identification blocking).  
5

6 **Q. Can you explain how ICG's Lucent 5ESS switching platform meets**  
7 **the definition and performs the functions identified within the LERG**  
8 **for a tandem office?**

9 A. The LERG at Section 1, Page 44 of its General Information  
10 documentation, defines its "TDM" office identification nomenclature that it  
11 uses to identify a tandem office in the public switched network. It defines  
12 the TDM nomenclature as that identifying a Tandem office wherein "one or  
13 more of the following functions or homing relationships..." exist within the  
14 office:

- 15  
16 - Feature Group B Tandem  
17 - Feature Group C Tandem  
18 - Feature Group D Tandem  
19 - Operator Services Tandem  
20 - Signalling Transfer Points  
21 - End Office Host  
22 - 800 SSP Tandem  
23 - 500 SSP Tandem  
24 - Intermediate Office  
25

26 ICG's Lucent 5ESS is not only capable of performing nearly all of these  
27 functions, it is used within the ICG network to perform many of these  
28 functions and does so on a daily basis. For example, ICG uses its  
29 switching platform as its Feature Group D access point for originating and  
30 terminating traffic to and from IXCs. Likewise, ICG uses its 5ESS as its  
31 *Operator Services* access point for all of its local customers.  
32

1 **Q. Is there additional information in the LERG that supports ICG's office**  
2 **being defined as a tandem and for ICG receiving tandem**  
3 **interconnection rates for terminating BellSouth traffic?**

4 A. Yes, there is. In addition to its traditional definition of a tandem found at  
5 Page 44 of its General Information documentation, the LERG at page 14  
6 defines its "Class 4/5" identification nomenclature. The LERG defines a  
7 Class 4/5 office as follows:  
8

9 A switching entity that performs both a Class 4 and Class 5  
10 function. The Class 4/5 office is a single processor switching entity  
11 that provides line side and trunk/toll side capabilities to its end  
12 users. The Class 4 function allows the switching entity to perform  
13 tandem type functions, which may include FG B/C/D access  
14 service, and data base query functions, operator services functions,  
15 etc. It also provides access on a toll basis to subtending offices  
16 below the Class 4 office including host/remote arrangements. The  
17 Class 5 function allows the switching entity to perform at the lowest  
18 level of switching within the LEC network. This function allows end  
19 users to receive dial tone, pass digits for call routing, provide line-  
20 side features, such as call waiting, call forwarding, etc. and  
21 provides telephone number association for terminating calls.  
22

23 This definition is almost exactly the same as the manner by which I  
24 described ICG's switching platform in my direct testimony, and the manner  
25 by which ICG uses its switch within its network.  
26

27 **Q. Please summarize your testimony regarding this issue.**

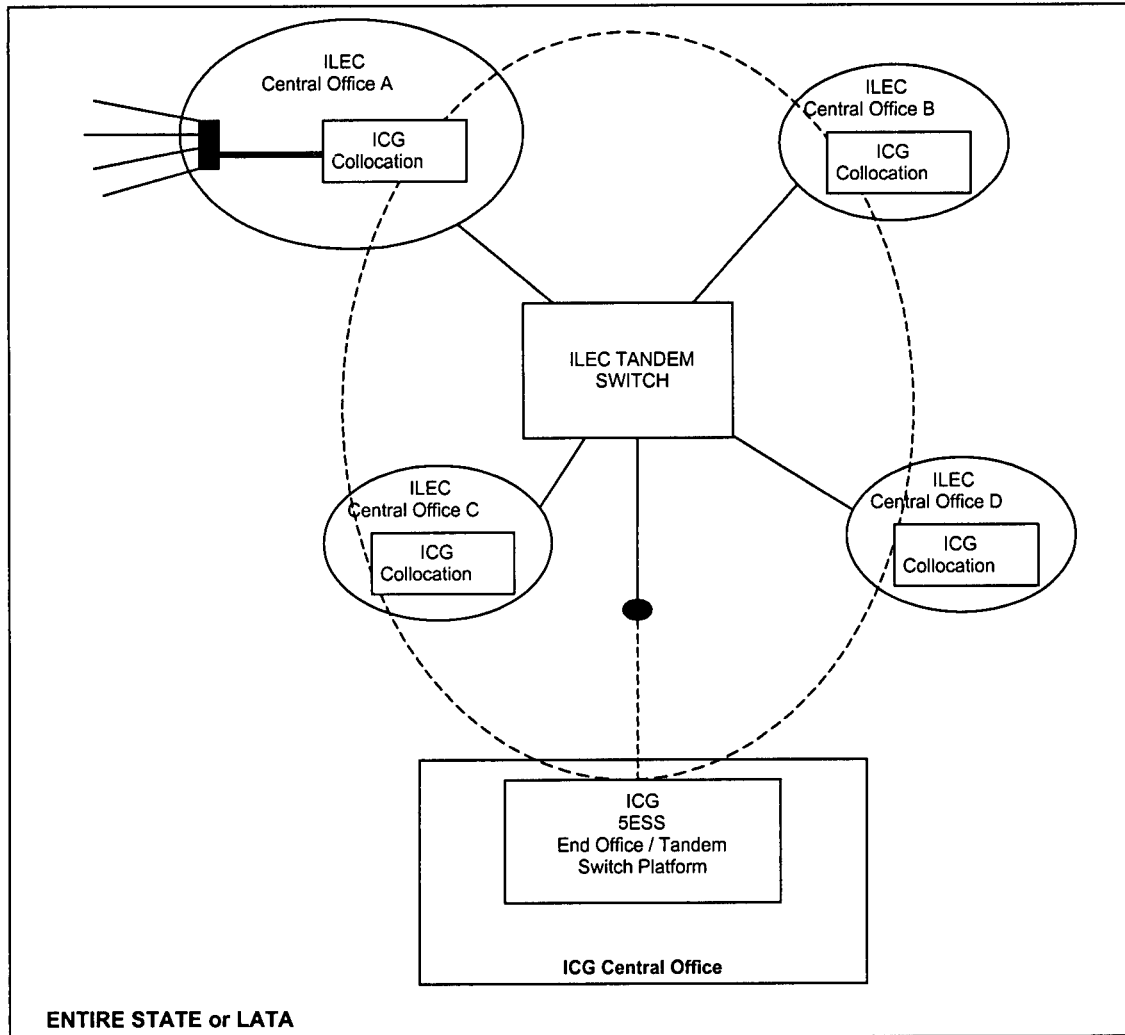
28 A. Simply put, ICG meets the FCC's single criterion that allows it to charge a  
29 reciprocal compensation rate equal to BellSouth's tandem, transport and  
30 end office switching rates. That is, ICG's switch serves a geographic area  
31 comparable to the area served by BellSouth's tandem. However, in  
32 addition to meeting this criterion, ICG's switch also provides similar  
33 functionality to the BellSouth tandem switch and performs the same  
34 function within the ICG network that BellSouth's tandem serves within the  
35 BellSouth network. Therefore, contrary to Mr. Hendrix's testimony, the

1 Commission should require the parties to compensate one another for  
2 purposes of reciprocal compensation, at a symmetrical rate equal to  
3 BellSouth's tandem switching, transport and end office switching rates.

4

5 **Q. Does this conclude your rebuttal testimony?**

6 **A. Yes, it does.**







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Creighton E. Mershon, Sr.  
General Counsel - Kentucky

BellSouth Telecommunications, Inc.  
601 West Chestnut Street, Room 407  
Louisville, Kentucky 40203

November 19, 1999

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

RECEIVED  
NOV 19 1999  
PUBLIC SERVICE  
COMMISSION

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 above-captioned case are the original and  
ten (10) copies of the rebuttal testimony of BellSouth  
Telecommunications, Inc.'s witnesses: D. Daonne Caldwell, Jerry  
Hendrix, Dr. William E. Taylor, and David A. Coon.

BellSouth advises the Commission that ICG's filing today will  
address that portion of the Commission's September 23, 1999, Order  
requiring any additional agreed upon contract language to be filed  
today.

Sincerely

  
Creighton E. Mershon, Sr.

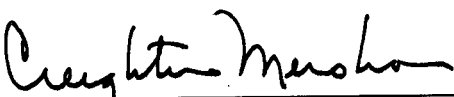
Enclosures

cc: Parties of Record

187072

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 19th day of November 1999.

  
\_\_\_\_\_  
Creighton E. Mershon, Sr.

SERVICE LIST - PSC 99-218

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Washington, DC 20037-1526

Bruce Holdridge  
ICG Communications, Inc.  
180 Grand Avenue  
Suite 1000  
Oakland, CA 94612


STATE OF GEORGIA     )  
                                  )  
                                  )  
COUNTY OF FULTON    )

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared D. Daonne Caldwell, who, being by me first duly sworn deposed and said that:

She is appearing as a witness on behalf of BellSouth Telecommunications, Inc., before the Kentucky Public Service Commission in Case No. 99-218, ICG Petition for Arbitration, and if present before the Commission and duly sworn, her rebuttal testimony would be set forth in the annexed transcript consisting of   6   pages and   0   exhibits.

  
\_\_\_\_\_  
D. Daonne Caldwell

SWORN TO AND SUBSCRIBED BEFORE ME this   18<sup>th</sup>   day of   November  , 1999.

  
\_\_\_\_\_

**MICHEALE F. HOLCOMB**  
Notary Public, Douglas County, Georgia  
My Commission Expires November 3, 2001

**BELLSOUTH TELECOMMUNICATIONS, INC.**  
**REBUTTAL TESTIMONY OF D. DAONNE CALDWELL**  
**BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION**  
**CASE NO. 99-218**  
**NOVEMBER 19, 1999**

**Q. PLEASE STATE YOUR NAME, ADDRESS AND OCCUPATION.**

A. My name is D. Daonne Caldwell. My business address is 675 W. Peachtree St., N.E., Atlanta, Georgia. I am a Director in the Finance Department of BellSouth Telecommunications, Inc. (hereinafter referred to as "BellSouth"). My area of responsibility relates to economic costs.

**Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?**

A. Yes. I filed direct testimony on October 25, 1999 in which I presented the cost study results for the network capabilities requested in the ICG Telecom Group, Inc. ("ICG") petition.

**Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

A. The purpose of my rebuttal testimony is to respond to ICG's claim that BellSouth realizes cost savings from volume and term commitments. Specifically, I discuss allegations made by ICG witness, Mr. Michael Starkey.

**Q. BASED ON BELLSOUTH'S COST METHODOLOGY, ARE VOLUME AND TERM DISCOUNTS APPROPRIATE?**

A. No. Arguments for additional discounts are based on perceived savings that BellSouth obtains from "economies of scale". However, BellSouth already recognizes the only applicable "economies of scale" in developing costs for unbundled network elements ("UNEs"). The only savings arise from differences in provisioning activities (and costs) when orders contain more than one unit. Thus, the savings only apply to nonrecurring costs. The rate structure and the cost study reflect these cost differences by differentiating between first and additional nonrecurring costs.

**Q. SHOULD ANY ADDITIONAL REDUCTION TO THE NONRECURRING COSTS BE CONSIDERED? ALSO, IS IT APPROPRIATE TO REDUCE RECURRING COSTS DUE TO VOLUME COMMITMENTS?**

A. No. Any additional reduction beyond what is reflected in BellSouth's cost studies to nonrecurring costs and any attempt to reduce recurring costs are unjustified for the following reasons:

- 1) BellSouth does not receive additional material discounts beyond those already contained in the studies for deploying additional unbundled elements. Thus, there is no room for providing an additional discount.

- 2) The state commissions have ordered rates below what BellSouth filed. Thus, BellSouth does not fully recover the incremental cost when selling unbundled network elements. Any additional reduction beyond the mandated rates will only compound the problem.
  
- 3) Fulfillment of this request would obligate BellSouth to restudy the cost for those customers not receiving volume and term discounts since the cost methodology is currently based on a statewide average. This would exacerbate the shortfall between BellSouth's cost and the state mandated rate even further.
  
- 4) Volume discounts would violate §51.511 of the FCC order, which states that the forward-looking economic cost per unit is derived from "a reasonable projection of the sum of the total number of units of the element." Purchases from ICG, as well as from all CLECs, must be incorporated into that equation. Thus, discounts based on "volume commitments" from one CLEC are not appropriate.

BellSouth witness, Mr. Hendrix, elaborates further on why volume and term discounts are inappropriate in his rebuttal testimony.

**Q. ON PAGE 38 OF HIS TESTIMONY, MR. STARKEY ARGUES THAT ICG'S COMMITMENT TO A VOLUME PURCHASE WILL INCREASE**

**BELLSOUTH'S NETWORK UTILIZATION AND THUS, REDUCE COST.  
IS HE CORRECT?**

A. No. First, in Case Nos. 96-431 and 96-482, the Kentucky Public Service Commission ("Commission") has already reviewed utilization and fill factors with respect to the Federal Communication Commission's ("FCC's") directives in the Local Competition Order ("Order"). A major objective in those cases was to evaluate BellSouth's cost methodology for compliance with the principles outlined in the FCC Order which mandates a forward-looking perspective with respect to utilization. In Case Nos. 96-431 and 96-482, the Commission accepted BellSouth's proposed factors which reflected future trends in utilization, including any orders from ICG.

Second, Mr. Starkey's mathematical exercise is flawed. Mr. Starkey uses a hypothetical example with no substance, nor real world application. Utilization factors are developed for the entire network, not for isolated elements or areas. ICG's commitment to purchase bulk (volume) quantities will have little impact on the utilization of BellSouth's entire network in the state of Kentucky. Additionally, ICG's commitment will become part of BellSouth's planned network deployment. Thus, if ICG's bulk purchase increases the utilization substantially, BellSouth would find it necessary to initiate a relief project to reinforce the area to maintain quality service. The overall impact of an ICG volume commitment on utilization would be minimal.



**Q. ON PAGES 39-40 OF HIS TESTIMONY, MR. STARKEY ARGUES THAT COMMON COSTS WILL BE REDUCED DUE TO VOLUME COMMITMENTS. IS HE CORRECT?**

A. No. First, Mr. Starkey's method of recovering common cost is not valid. BellSouth appropriately developed common cost factors based on a relationship between expenses and investments using FCC-approved allocation methods. Additionally, the expenses and investments used in the BellSouth calculation reflect forward-looking projections, whereas, Mr. Starkey's calculation only displays one point in time. By utilizing future projections, any fluctuation in demand, and thus investment, has already been considered. Second, it is improbable that ICG's commitment to purchase bulk quantities of elements would effect BellSouth's calculation. The denominator (i.e. investment-related costs) used to calculate the common factor in BellSouth's filing in Kentucky in Case Nos. 96-431 and 96-482 was in excess of \$15 billion. Additionally, this Commission has already investigated BellSouth's development of common cost factors in Case Nos. 96-431 and 96-482 and accepted the underlying methodology. Mr. Starkey offers no compelling argument to revisit that decision.

**Q. ON PAGE 40 OF HIS TESTIMONY, MR. STARKEY ALSO ARGUES THAT TERM COMMITMENTS WOULD MINIMIZE THE POTENTIAL FOR STRANDED INVESTMENTS. FROM A COST METHODOLOGY PERSPECTIVE, IS HIS ARGUMENT VALID?**

A. No. One of the guidelines of the TELRIC methodology is that the cost studies are long-run in nature and in the long-run all costs are variable (i.e., reusable). Thus, Mr. Starkey's argument has no foundation in determining TELRIC economic costs since no investment is assumed to be stranded under these cost methodology guidelines.

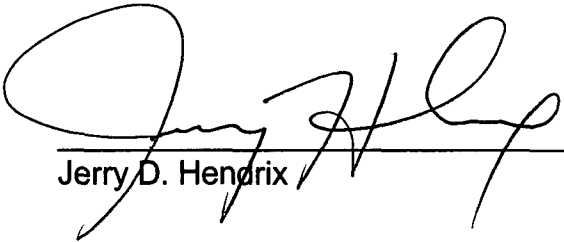
**Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

A. Yes.

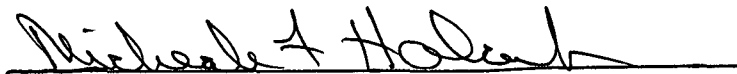
STATE OF GEORGIA     )  
                                  )  
                                  )  
COUNTY OF FULTON    )

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Jerry D. Hendrix, who, being by me first duly sworn deposed and said that:

He is appearing as a witness on behalf of BellSouth Telecommunications, Inc., before the Kentucky Public Service Commission in Case No. 99-218, ICG Petition for Arbitration, and if present before the Commission and duly sworn, his rebuttal testimony would be set forth in the annexed transcript consisting of 50 pages and 2 exhibits.

  
Jerry D. Hendrix

SWORN TO AND SUBSCRIBED BEFORE ME this  
18<sup>th</sup> day of November, 1999.



MICHEALE F. HOLCOMB  
Notary Public, Douglas County, Georgia  
My Commission Expires November 3, 2001

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BELLSOUTH TELECOMMUNICATIONS, INC.  
REBUTTAL TESTIMONY OF JERRY HENDRIX  
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION  
CASE NO. 99-218  
NOVEMBER 19, 1999

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

A. My name is Jerry Hendrix. I am employed by BellSouth as Senior Director – Interconnection Services Revenue Management, Network and Carrier Services. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

A. Yes. I filed direct testimony and nine exhibits on October 21, 1999.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My testimony rebuts portions of the direct testimony filed by ICG Telecom Group, Inc. ("ICG") witnesses on October 21, 1999.

1

2 Treatment of Internet Service Provider ("ISP") Traffic

3 Q. ICG ADVOCATES PAYMENT OF RECIPROCAL COMPENSATION FOR  
4 ISP-BOUND TRAFFIC. IS IT REASONABLE FOR RECIPROCAL  
5 COMPENSATION TO BE PAID FROM LOCAL SERVICE REVENUES?

6

7 A. No. The Federal Communications Commission ("FCC") has clearly  
8 established that traffic bound for the Internet via Internet Service Providers  
9 ("ISP-bound traffic") is access traffic, not local traffic. As I discussed in my  
10 direct testimony, the local exchange rates paid by end user customers were  
11 never intended to recover costs associated with providing access service and  
12 were established long before the Internet became popular. Basic local  
13 exchange service customers buy access to the Internet directly from their ISP,  
14 typically for a recurring monthly charge. The ISP, therefore receives its  
15 revenue directly from end user customers. Further, LECs that serve the ISPs  
16 are compensated for the service they provide directly from the ISP through  
17 business exchange service rates.

18

19 In addition to the compensation ICG receives directly from its ISP customers,  
20 ICG wants additional compensation from BellSouth even though BellSouth  
21 doesn't collect revenues for this service. This compensation purportedly  
22 recovers some unknown cost that ICG claims it does not receive from its ISP

1 customers, but never successfully identifies.

2

3 Q. MR. STARKEY (PPS. 14-15) DISCUSSES MARKET SEGMENT  
4 DISTORTIONS THAT WOULD BE CAUSED BY NOT REQUIRING  
5 BELLSOUTH TO PAY RECIPROCAL COMPENSATION FOR ISP-  
6 BOUND TRAFFIC. PLEASE COMMENT.

7

8 A. Dr. Taylor provides a more thorough analysis of the resulting marketplace if  
9 reciprocal compensation is not paid for ISP-bound traffic. However, I would  
10 like to address Mr. Starkey's dark portrayal of the situation that would exist in  
11 that situation, because I do not believe that he provides a complete or accurate  
12 picture.

13

14 First, the prices that BellSouth charges its ISP customers do not reflect receipt  
15 of any reciprocal compensation, and it is those prices that ICG is competing  
16 against. ICG provides no evidence to show that it needs reciprocal  
17 compensation to compete for ISP customers, and in fact, ignores the role of  
18 price in its analysis of why ICG and other Competitive Local Exchange  
19 Carriers ("CLECs") have been successful in attracting ISPs as customers.

20

21 Second, as I demonstrated in my direct testimony through the following chart,  
22 reciprocal compensation allows the CLEC to offer lower prices to ISPs without

1 reducing their net margins. Thus, reciprocal compensation subsidizes the prices  
 2 the CLEC charges the ISP. Removing reciprocal compensation wouldn't force  
 3 ICG to raise its rates; it would simply put ICG's margins in the same range as  
 4 BellSouth's.

	<i>SERVING AN ISP AND RECEIVING RECIPROCAL COMPENSATION</i>	<i>SERVING AN ISP WITHOUT RECEIVING RECIPROCAL COMPENSATION</i>
REVENUE FROM ISP FOR SERVICE	\$600	\$900
RECIPROCAL COMPENSATION REVENUE PAID	\$300	\$0
COST OF PROVIDING SERVICE TO ISP	(\$600)	(\$600)
NET MARGIN	\$300	\$300

5 Q. SHOULD THIS COMMISSION ESTABLISH A POLICY FOR TREATING  
 6 ISP-BOUND TRAFFIC ON A CASE-BY-CASE BASIS?  
 7  
 8 A. No. This decision is really a policy determination that affects more than just  
 9 BellSouth and ICG. The compensation that should be paid for ISP-bound  
 10 traffic affects incumbents, CLECs, ISPs, internet users, and local ratepayers,  
 11 among others. Because this issue has industry-wide significance, the  
 12 Commission should consider the full impact of any inter-carrier compensation  
 13 decision on the industry, rather than on a case-by-case basis.  
 14

1 Q. WHAT IS THE ESTIMATED FINANCIAL IMPACT TO INCUMBENT  
2 LOCAL EXCHANGE CARRIERS IF ISP TRAFFIC WERE SUBJECT TO  
3 THE PAYMENT OF RECIPROCAL COMPENSATION?  
4

5 A. If Internet traffic were subject to the payment of reciprocal compensation,  
6 BellSouth conservatively estimates that the annual reciprocal compensation  
7 payments by incumbent local exchange carriers in the United States for ISP  
8 traffic could easily reach \$2.6 billion by the year 2002. This estimate is based  
9 on 64 million Internet users in the United States, an average Internet usage of  
10 6.5 hours per week, and a low reciprocal compensation rate of \$.002/minute.  
11 This is a totally unreasonable and unacceptable financial liability on the local  
12 exchange companies that serve residential and small business users who access  
13 ISPs that are customers of other LECs. CLECs that are targeting large ISPs for  
14 this one-way traffic and that can decline to serve residential customers will  
15 benefit at the expense of those carriers like BellSouth that have carrier of last  
16 resort obligations.  
17

18 Q. DO YOU HAVE ANY DATA THAT REFLECTS THE IMPACT OF  
19 PAYING RECIPROCAL COMPENSATION FOR ISP TRAFFIC IN  
20 KENTUCKY?  
21

22 A. The following charts demonstrate the minutes of use and billings from



1

November 1998 through October 1999 for ISP and non-ISP traffic:

<b>ISP-BOUND TRAFFIC (11/98 – 10/99)</b>			
<b>Billed Minutes of Use</b>		<b>Billed Revenue</b>	
<b>BST Sends to CLECs<sup>1</sup></b>	<b>CLECs Send to BST</b>	<b>CLECs Bill BST<sup>2</sup></b>	<b>BST Bills CLECs</b>
1,299,980,978	13,769,492	\$13,834,002	\$0

<b>NON-ISP LOCAL TRAFFIC (11/98 – 10/99)</b>			
<b>Billed Minutes of Use</b>		<b>Billed Revenue</b>	
<b>BST Sends to CLECs</b>	<b>CLECs Send to BST</b>	<b>CLECs Bill BST</b>	<b>BST Bills CLECs</b>
135,627,331	97,839,265	\$693,943	\$239,595

2 Q. WHAT DO THESE CHARTS SHOW RELATIVE TO THE COMPETITIVE  
3 MARKETPLACE IN KENTUCKY?

4

5 A. These charts clearly demonstrate that the payment of reciprocal compensation  
6 for ISP-bound traffic distorts the marketplace. First, it reduces the incentive  
7 for CLECs to serve residential and business customers, particularly those that  
8 are Internet subscribers. Why would a CLEC serve a customer that would cost  
9 them a significant portion of the local revenue they obtained from that  
10 customer? Second, it subsidizes the CLEC. The revenues obtained from the

---

<sup>1</sup> This figure also includes MOUs disputed because the parties do not agree on the number of MOUs which were exchanged.

<sup>2</sup> This figure also includes amounts in dispute because the parties do not agree on the number of MOUs which were exchanged and/or because the parties do not agree on the rate that should have been applied.

1 end user by its local service provider go directly into the pocket of the CLEC  
2 or the ISP. Third, it distorts the pricing of services to ISPs. Using reciprocal  
3 compensation payments, the CLEC could pass along price breaks to the ISP  
4 that would not normally occur in a non-distorted, competitive market.

5  
6 Q. PLEASE DESCRIBE HOW THE DATA IN YOUR CHARTS SHOW THAT  
7 THE MARKET IN KENTUCKY IS DISTORTED?

8  
9 A. The charts demonstrate that during the previous 12 month period in Kentucky,  
10 CLECs delivered 94 times as much traffic to their ISPs as they sent to ISPs  
11 served by BellSouth. Such a disparity might be reasonable if CLECs were  
12 providing service to the majority of ISPs. However, such is not the case;  
13 BellSouth is providing the majority of service to ISPs.

14  
15 These charts make two points very clear: (1) the size of the subsidy to CLECs  
16 serving ISPs is very large; and (2) CLECs are targeting ISP customers in lieu  
17 of end users.

18  
19 The charts indicate that the size of the subsidy in Kentucky was almost \$14  
20 million for the past year. As reflected in Rebuttal Exhibit JH-10, that amount  
21 is growing rapidly.

22

1 Clearly, the non-ISP amounts are small in both directions. In fact, the net non-  
2 ISP reciprocal compensation amounts for both companies are miniscule  
3 compared to the ISP amounts. The fact that BellSouth provides the majority of  
4 ISP service, while CLECs actually deliver more ISP traffic than BellSouth  
5 does, plus the fact that the amount of non-ISP traffic is small, is convincing  
6 evidence that CLECs are targeting ISP customers.

7

8 Q. ON PAGES 10 AND 16, MR. STARKEY ASSERTS THAT ISP-BOUND  
9 TRAFFIC IS FUNCTIONALLY NO DIFFERENT THAN LOCAL VOICE  
10 CALLS FOR WHICH BELL SOUTH HAS AGREED TO PROVIDE  
11 RECIPROCAL COMPENSATION. PLEASE ADDRESS THAT CLAIM.

12

13 A. The equipment utilized is similar for ISP and voice calls, but that is irrelevant  
14 to establishing an inter-carrier compensation mechanism. For example, a call  
15 directed to an interexchange carrier's ("IXC's") point of presence ("POP") uses  
16 similar equipment to a local call. Mr. Starkey would agree that such calls to an  
17 IXC's POP are not subject to reciprocal compensation. It is not the technical  
18 use of the facilities that is relevant here; rather it is the nature of the traffic.  
19 Just like IXC traffic, ISP-bound traffic is originating access traffic. As a result,  
20 both access service providers should be compensated by the cost causer, i.e.,  
21 the ISP. On local calls originated by a BellSouth end user, BellSouth is the  
22 only carrier collecting revenues. Conversely, on calls directed to ISPs served

1 by ICG, only ICG is collecting revenue.

2

3 Q. AT PAGE 8 OF HIS TESTIMONY, MR. STARKEY QUOTES FROM  
4 PARAGRAPH 25 OF THE FCC'S DECLARATORY RULING IN AN  
5 ATTEMPT TO SHOW THAT THE COMMISSION SHOULD APPLY  
6 RECIPROCAL COMPENSATION TO ISP-BOUND TRAFFIC IN THE  
7 PARTIES' INTERCONNECTION AGREEMENT. PLEASE COMMENT.

8

9 A. Mr. Starkey's interpretation of Paragraph 25 is incorrect. The basis for  
10 Paragraph 25 is to advise the state commissions that, in the absence of a federal  
11 rule governing ISP-bound traffic, states may "at this point" determine how ISP  
12 traffic should be treated in interconnection agreements. In other words, to do  
13 so would not violate any federal rule "at this point." However in its NPRM,  
14 the FCC asked for comment from the parties as to whether it is proper for  
15 states to address ISP traffic in arbitration proceedings. BellSouth believes it is  
16 not within the states' authority to do so and the FCC lacks the power to vest  
17 that authority with the state commissions. In any event, the FCC notes that  
18 decisions by the states must be consistent with federal law and that states must  
19 comply with the FCC's rules when adopted.

20

21 In light of this instruction to the states, it is important to emphasize the FCC's  
22 position as stated in footnote 87 of its Declaratory Ruling:

1                   *We conclude in this Declaratory Ruling, however, that ISP-bound*  
2                   *traffic is non-local interstate traffic. Thus, the reciprocal compensation*  
3                   *requirements of section 251(b)(5) of the Act and Section 51, Subpart H*  
4                   *(Reciprocal Compensation for Transport and Termination of Local*  
5                   *Telecommunications Traffic) of the Commission's rules do not govern*  
6                   *inter-carrier compensation for this traffic. [Emphases added]*

7  
8                   The inescapable conclusion that this Commission must reach is that the FCC  
9                   has exercised jurisdiction over ISP-bound traffic and footnote 87 states that  
10                  ISP-bound traffic is not subject to reciprocal compensation obligations of the  
11                  Act. Instead, ISP-bound traffic should be subject to an inter-carrier  
12                  compensation mechanism more appropriate to interstate access traffic.

13  
14                  Q.     AT PAGE 9, MR. STARKEY FURTHER QUOTES FROM PARAGRAPH 25  
15                  IN AN ATTEMPT TO SHOW THAT THE FCC IS ENCOURAGING  
16                  STATES TO APPLY RECIPROCAL COMPENSATION TO ISP-BOUND  
17                  TRAFFIC. DO YOU AGREE?

18  
19                  A.     No. The FCC is not encouraging the states to adopt reciprocal compensation  
20                  for ISP-bound traffic in Paragraph 25. The FCC is simply explaining why it  
21                  believes those states that ruled that reciprocal compensation is applicable to  
22                  ISP-bound traffic could have done so. Paragraph 25 states in part, “[w]hile to

1 date the Commission has not adopted a specific rule governing the matter, we  
2 do note that our policy of treating ISP-bound traffic as local for purposes of  
3 interstate access charges would, if applied in the separate context of reciprocal  
4 compensation, suggest that such compensation is due for that traffic.” The rest  
5 of the Declaratory Ruling, however, goes on to say conclusively that such a  
6 conclusion is inaccurate. Footnote 87, which I quoted above, clearly  
7 demonstrates the fallacy of Mr. Starkey’s conclusion. Further, Paragraph 26  
8 states, in part, “...in the absence of governing federal law, state commissions  
9 also are free not to require the payment of reciprocal compensation for this  
10 traffic and to adopt another compensation mechanism.” The FCC was simply  
11 advising the states that it could understand how its failure to adopt a specific  
12 rule could be a reason that the states might not have fully understood the  
13 FCC’s previous decisions that Enhanced Service Provider/Internet Service  
14 Provider (“ESP/ISP”) traffic is access traffic.

15  
16 Q. DO THE FCC’S REFERENCES TO TREATING ISPs AS END USERS OR  
17 TREATING ISP-BOUND TRAFFIC AS LOCAL FOR ACCESS CHARGE  
18 PURPOSES IMPLY THAT RECIPROCAL COMPENSATION SHOULD  
19 APPLY TO ISP-BOUND TRAFFIC?

20  
21 A. No. These references must be interpreted in light of the way the terms are used  
22 in the access charge regime. Under the access charge regime, designation as a

1 carrier means that the party so designated must pay access charges. If a party  
2 does not pay carrier access charges, they are treated as an end user for purposes  
3 of assessing access charges because end users don't pay carrier access charges.  
4 Likewise, access traffic that is not assessed access charges is treated as local  
5 for access charge purposes because access charges don't apply to local traffic.  
6 Neither of these references means that the carrier is an end user or that the  
7 access traffic is local traffic. Nowhere in the FCC's Declaratory Ruling does  
8 the FCC reach such a conclusion. On the contrary, the FCC clearly states in  
9 Paragraph 16 that the exemption from paying access charges does not  
10 transform this access traffic into local traffic.

11

12 Q. MR. STARKEY AT PAGE 16 IMPLIES THAT A CLEC WOULD NOT  
13 RECOVER ANY COST ASSOCIATED WITH SERVING AN ISP  
14 PROVIDER IF NOT FOR THE RECIPROCAL COMPENSATION IT  
15 RECEIVES FROM ILECs. DO YOU AGREE?

16

17 A. No. ISPs obtain access services from their serving local exchange carrier  
18 ("LEC"), in this case, ICG. The rates ISPs pay their serving LEC covers the  
19 full charge for the service provided to them. When an IXC or an ISP purchases  
20 access service, it is the IXC or the ISP, not the end user, who is the customer of  
21 the LEC for that service. The revenue the LEC receives from the ISP for  
22 access services is the only means to recover the costs of delivering the traffic to

1 the ISP. Any additional compensation would only serve to augment the  
2 revenues the LEC receives from its ISP customer at the expense of the  
3 originating LEC's end user customers. In other words, paying ICG reciprocal  
4 compensation for ISP-bound traffic would result in BellSouth's end user  
5 customers subsidizing ICG's operations. Indeed, the FCC has recognized that  
6 the source of revenue for transporting ISP-bound traffic is the charge that the  
7 ISP pays for the access service. Further compensation to the ISP-serving LEC  
8 is inappropriate and is not in the public interest.

9  
10 If ICG is not recovering its cost from the ISPs it serves, it is likely that ICG is  
11 charging below cost rates to those ISPs. Apparently, ICG's complaint is that it  
12 will no longer be able to charge below-cost rates without the subsidy it is  
13 requesting from BellSouth in the form of reciprocal compensation. Obviously,  
14 such complaint provides no basis for establishing or continuing the subsidy.  
15 However, it does clearly show why such subsidies should not be established,  
16 because people receiving the revenue are reluctant to give up that revenue.

17  
18 It is difficult to empathize with ICG's situation. BellSouth has been an access  
19 service provider for Enhanced Service Providers ("ESPs") and ISPs for years.  
20 Although BellSouth has been unable to collect the otherwise applicable  
21 switched access charges due to the FCC's exemption, BellSouth's source of  
22 cost recovery has been the FCC's required substitute rates (i.e. business



1 exchange service rates) it charges ISPs. When ICG provides the service for an  
2 ISP, it collects these substitute rates from the ISP and BellSouth has no means  
3 of recovering its costs in carrying calls to that ISP. Yet ICG is asking this  
4 Commission to require BellSouth to not only carry this traffic without  
5 compensation but to compensate ICG for its costs, for which it has already  
6 received revenue from the ISP.

7  
8 Q. DOES MR. STARKEY CONTRADICT HIS OWN CLAIM THAT CLECs  
9 DO NOT RECOVER COSTS FROM ISPs?

10  
11 A. Yes. Interestingly, Mr. Starkey directly contradicts his contention that  
12 competitive local exchange carriers ("CLECs") do not recover their costs from  
13 ISPs. The contradiction is found in the following comment at page 13:  
14 "Indeed, ISPs and other technologically reliant customer groups are, in many  
15 cases, providing the revenue and growth potential that will fund further CLEC  
16 expansion into other more traditional residential and business markets." If  
17 CLECs are not recovering their cost to provide service to ISPs, what is the  
18 source of the revenue to fund expansion? The revenue comes from CLECs like  
19 ICG demanding from ILECs inappropriate reciprocal compensation payments  
20 on non-local ISP-bound access traffic. The Commission should see this  
21 situation for what it is. ICG is asking this Commission to require BellSouth to  
22 fund ICG's business operations and expansion plans. Such a scheme creates a

1 market distortion that should not be allowed to occur. If ICG's  
2 recommendation is adopted, ICG wins, ISPs win and BellSouth's end user  
3 customers lose and, ultimately, competition in the local exchange suffers.  
4 Reciprocal compensation for ISP-bound traffic sets up a win-win-lose  
5 situation, versus an appropriate inter-carrier compensation sharing mechanism,  
6 which establishes a win-win-win situation.

7  
8 Q. AT PAGE 19, MR. STARKEY TAKES A DIFFERENT TACK, SETTING  
9 UP A HYPOTHETICAL SITUATION WHERE BELLSOUTH IS THE  
10 ONLY LOCAL PROVIDER AND SERVES ALL ISP CUSTOMERS. HE  
11 CONTENDS THAT FOR BELLSOUTH TO MEET THE INCREASED  
12 NETWORK REQUIREMENTS CAUSED BY ISPs, BELLSOUTH WOULD  
13 "UNDOUBTEDLY BE ASKING STATE COMMISSIONS AND THE FCC  
14 FOR RATE INCREASES INTENDED TO RECOVER THOSE  
15 ADDITIONAL INVESTMENT COSTS." DO YOU AGREE?

16  
17 A. No. BellSouth is not arguing that routing traffic through an ISP should be  
18 done for free. In Mr. Starkey's hypothetical case, BellSouth would be  
19 receiving revenues from the ISP for the access service. When ICG serves that  
20 ISP, BellSouth no longer collects any revenue; ICG does. A portion of those  
21 revenues collected by ICG should be used to compensate BellSouth for the cost  
22 it incurs to transport this access traffic to ICG.

1

2 Q. ON PAGE 18, MR. STARKEY STATES THAT BELLSOUTH SHOULD BE  
3 "ECONOMICALLY INDIFFERENT AS TO WHETHER IT ITSELF  
4 INCURS THE COST TO TERMINATE THE CALL ON ITS OWN  
5 NETWORK OR WHETHER IT INCURS THAT COST THROUGH A  
6 RECIPROCAL COMPENSATION RATE PAID TO ICG". PLEASE  
7 RESPOND.

8

9 A. Mr. Starkey leaves out one very important point. When BellSouth uses its own  
10 network to route calls to a BellSouth-served ISP, it charges the ISP business  
11 exchange rates. It is not allowed to recover those costs from the ISP end user  
12 who places the call. When a CLEC serves the ISP, only the CLEC receives  
13 revenues for the access service provided to the ISP. Although BellSouth incurs  
14 cost for delivering calls to the CLEC that are destined for the Internet, under  
15 reciprocal compensation, BellSouth is unable to recover that cost. As I stated  
16 earlier, ICG should reimburse the originating carrier (BellSouth) for its cost of  
17 transporting the ISP-bound call to ICG's point of interconnection. Instead,  
18 ICG wants BellSouth to incur even more of the costs without receiving any of  
19 the compensation. This is a perversion of the entire access charge system that  
20 this Commission should not allow to occur.

21

22 Q. MR. STARKEY STATES ON PAGE 16 THAT IT IS A SIMPLE

1 ECONOMIC REALITY THAT BOTH ISP-BOUND CALLS AND OTHER  
2 CALLS GENERATE COSTS THAT MUST BE RECOVERED BY THE  
3 RECIPROCAL COMPENSATION RATE PAID FOR THEIR CARRIAGE.  
4 DO YOU AGREE?

5  
6 A. No, this statement is wrong. Costs for calls directed to ISPs are to be  
7 recovered from the ISP, rather than the originating end user. Costs for local  
8 calls are recovered from the originating end user. This fact means that  
9 reciprocal compensation is inappropriate for ISP-bound calls. In the case of a  
10 call sent from BellSouth to an ISP served by ICG, ICG is the only carrier  
11 collecting revenue for the ISP-bound calls. In the case of a local call directed  
12 from a BellSouth end user to an ICG end user, BellSouth would be the only  
13 carrier collecting revenue. Mr. Starkey ignores this important point and claims  
14 that the only carrier collecting revenue for ISP-bound calls should receive even  
15 more revenue.

16  
17 Q. CONTRARY TO MR. STARKEY'S CONTENTION ON PAGES 9-11,  
18 WHY IS IT POOR PUBLIC POLICY TO REQUIRE THE PAYMENT OF  
19 RECIPROCAL COMPENSATION FOR ISP-BOUND TRAFFIC?

20  
21 A. In Paragraph 33 of its Declaratory Ruling, the FCC stated its desire that any  
22 inter-carrier compensation plan advance the FCC's "goals of ensuring the

1           broadest possible entry of efficient new competitors, eliminating incentives for  
2           inefficient entry and irrational pricing schemes, and providing to consumers as  
3           rapidly as possible the benefits of competition and emerging technologies.” In  
4           fact, payment of reciprocal compensation on ISP-bound traffic would be an  
5           irrational pricing scheme and contrary to the FCC’s stated goals because it  
6           would:

- 7           • Reduce incentives to serve residence and business end user customers;
- 8           • Further subsidize ISPs;
- 9           • Encourage uneconomic preferences for CLECs to serve ISPs due to the fact  
10           that CLECs can choose the customers they want to serve and CLECs could  
11           offer lower prices to ISPs without reducing the CLEC’s net margin;
- 12           • Increase the burden on end user customers;
- 13           • Establish unreasonable discrimination among providers (IXCs versus  
14           ISPs);
- 15           • Fail to compensate the ILEC for any costs incurred in transporting ISP-  
16           bound traffic; and
- 17           • Create incentives to arbitrage the system, such as schemes designed solely  
18           to generate reciprocal compensation.

19  
20    Q.    ON PAGES 11 AND 12, MR. STARKEY ATTEMPTS TO BUILD A CASE  
21           FOR WHY ISP PROVIDERS SEEK OUT CLECs. PLEASE COMMENT.  
22

1 A. In attempting to show why ISPs seek out CLECs to provide their access  
2 service versus ILECs such as BellSouth, Mr. Starkey merely succeeds in  
3 demonstrating why CLECs should not be subsidized by the ILEC through  
4 reciprocal compensation. Mr. Starkey says that CLECs attract ISPs' business  
5 because CLECs provide the service, products, technology, capacity, flexibility  
6 and low prices that ISPs desire. If, in fact, all of his claims are true, ICG  
7 should be able to attract ISP business even more easily than they attract other  
8 business customers. Why then is it necessary for ICG to receive a subsidy  
9 from BellSouth when it can so easily attract ISPs due to ICG's inherent  
10 advantages? In fact, if these advantages are so significant, ICG should be able  
11 to charge a higher price than BellSouth charges and still win the ISPs'  
12 business.

13  
14 Q. FURTHER, ON PAGE 21, MR. STARKEY STATES, "HOWEVER, IN THE  
15 CASE OF RECIPROCAL COMPENSATION, IT HAS COME TO BST'S  
16 ATTENTION THAT IT HAS BECOME, IN MANY CASES, A NET PAYOR  
17 OF TERMINATION CHARGES BECAUSE CLECs HAVE BEEN  
18 SUCCESSFUL IN ATTRACTING ISP PROVIDERS AND OTHER  
19 TECHNOLOGICALLY DEMANDING CUSTOMERS. HENCE, IF  
20 INDEED ITS RATES FOR TRAFFIC TRANSPORT AND TERMINATION  
21 ARE OVERSTATED, IT BECOMES THE PARTY MOST LIKELY TO BE  
22 HARMED." WHAT IS YOUR RESPONSE?

1

2 A. The above statement is wrong. Reciprocal compensation does not apply to  
3 access traffic. BellSouth is not arguing for a lower reciprocal compensation  
4 rate for this traffic. Nor is BellSouth objecting to paying reciprocal  
5 compensation because ISPs have a high volume of incoming traffic. BellSouth  
6 has not objected to paying reciprocal compensation for end users with high  
7 volumes of incoming, truly local traffic (e.g., mail order companies, etc.).  
8 BellSouth, however, is objecting to paying reciprocal compensation on access  
9 traffic because it is not applicable and is not in the public interest.

10

11 Q. WHAT IS YOUR RESPONSE TO MR. STARKEY'S ARGUMENT ON  
12 PAGES 25 AND 26 THAT, BECAUSE OF BELLSOUTH'S SUCCESS IN  
13 ADDING SECOND LINES, BELLSOUTH SHOULD PAY RECIPROCAL  
14 COMPENSATION FOR ISP-BOUND TRAFFIC?

15

16 A. None of this discussion is relevant to the issue at hand. These second lines are  
17 no different from first lines when it comes to the question of how carriers  
18 should share the revenue received when access service is jointly provided.  
19 This entire discussion is irrelevant to the issue of reciprocal compensation.  
20 BellSouth's success in selling additional services to its customers has no  
21 bearing on whether there is justification for payment of reciprocal  
22 compensation to CLECs for ISP-bound traffic. Despite the irrelevance of his

1 point, if forced to pay CLECs reciprocal compensation, BellSouth would end  
2 up paying CLECs a substantial portion of the revenue it collects for providing  
3 a second line.

4  
5 Q. HOW DO YOU RESPOND TO MR. STARKEY'S CONTENTION AT PAGE  
6 25 THAT BELLSOUTH.NET'S "UNLIMITED USAGE" RATES ARE FAR  
7 BELOW OTHER COMPETITORS?

8  
9 A. Mr. Starkey is clearly misinformed. It is obvious by the advertisements  
10 contained in Rebuttal Exhibit JH-11 attached to this testimony, that  
11 BellSouth.net's rates are not out of line with other ISPs. Rebuttal Exhibit JH-  
12 11 includes three ISP offerings for unlimited internet access at rates ranging  
13 from 16% to 23% less than BellSouth.net's rate for unlimited access and one  
14 for 99.9% less.

15  
16 Q. WHAT OPTIONS DOES BELLSOUTH RECOMMEND FOR THE  
17 HANDLING OF ISP TRAFFIC ON AN INTERIM BASIS, UNTIL THE FCC  
18 ESTABLISHES AN INTER-CARRIER COMPENSATION MECHANISM?

19  
20 A. As I discussed in my direct testimony, in the absence of a final ruling by the  
21 FCC, BellSouth proposes that the Commission direct the parties to create a  
22 mechanism to track ISP-bound calls originating on each parties' respective



1 networks on a going-forward basis. The parties would agree to apply the inter-  
2 carrier compensation mechanism established by a final and effective order of  
3 the FCC retroactively from the date of the Interconnection Agreement  
4 approved by the Commission, and the parties would "true-up" any  
5 compensation that may be due for ISP-bound calls.

6  
7 Another option outlined in my direct testimony would be to implement an  
8 inter-carrier revenue sharing compensation arrangement for ISP-bound access  
9 traffic that is consistent with the proposal BellSouth filed with the FCC. This  
10 proposal is also consistent with the inter-carrier compensation mechanisms that  
11 apply for other access traffic. This option is based on apportionment of  
12 revenues collected for the access service among the carriers incurring costs to  
13 provide the service. The revenue to be apportioned among carriers is the  
14 charge for the business exchange service that the ISP pays.

15  
16 As a third option, the Commission could direct the parties to implement a bill-  
17 and-keep arrangement for ISP-bound traffic until such time as the FCC's  
18 rulemaking on inter-carrier compensation is completed. By definition, a bill-  
19 and-keep arrangement is a mechanism in which neither of the two  
20 interconnecting carriers would charge the other for ISP-bound traffic that  
21 originates on the other carrier's network. Under all three options, the CLEC  
22 serving the ISP is being compensated by the ISP.

1

2 Application of Reciprocal Compensation Elements

3 Q. PLEASE SUMMARIZE THE ACTION THE COMMISSION SHOULD  
4 TAKE ON THE ISSUE OF THE APPROPRIATE RECIPROCAL  
5 COMPENSATION DUE ICG BASED ON ITS NETWORK DESIGN.

6

7 A. Consistent with FCC rules and industry standards, the Commission should  
8 determine that ICG does not qualify for tandem switching or common transport  
9 because its network design does not perform the functions of a tandem switch  
10 as outlined by industry standards and by the FCC's rules.

11

12 ICG is asking the Commission to compensate it for the cost of equipment it  
13 does not own and for tandem switching functions it does not perform. The  
14 Commission should reject this "money for nothing" proposal. If a call is not  
15 handled by a switch on a tandem basis, it is not appropriate to pay reciprocal  
16 compensation for the tandem switching function.

17

18 Q. ON WHAT BASIS DOES MR. STARKEY CLAIM THAT ICG IS  
19 ENTITLED TO BE COMPENSATED AT THE TANDEM  
20 INTERCONNECTION RATE FOR CALLS THAT BELLSOUTH  
21 DELIVERS TO ITS SWITCH?

22

1 A. Beginning at page 26 of his testimony, Mr. Starkey claims ICG is entitled to  
2 the tandem interconnection rate because ICG's switch serves a geographic area  
3 comparable to the area served by BellSouth's tandem switches. Although he  
4 says that serving the same geographic area is the only criteria for being eligible  
5 for tandem switching, he says ICG's switch also performs tandem switching  
6 functions. Mr. Starkey fails to recognize that tandem switching compensation  
7 requires two criteria: the CLEC switch must serve a comparable geographic  
8 area, and it must "perform functions similar to those performed by an ILEC's  
9 tandem switch." Although Mr. Starkey claims ICG's switch performs tandem  
10 functions, I will discuss shortly why ICG's switch does not perform tandem  
11 functions as described in generally accepted industry standards. Upon  
12 inspection of the FCC's First Report and Order in CC Docket 96-98, released  
13 August 8, 1996 ("First Report and Order"), Paragraph 1090 speaks directly to  
14 the application of Rule 51.711 as follows:

15 *We find that the "additional costs" incurred by a LEC when transporting*  
16 *and terminating a call that originated on a competing carrier's network*  
17 *are likely to vary depending on whether tandem switching is involved.*  
18 *We, therefore, conclude that states may establish transport and*  
19 *termination rates in the arbitration process that vary according to*  
20 *whether the traffic is routed through a tandem switch or directly to the*  
21 *end-office switch. In such event, states shall also consider whether new*  
22 *technologies (e.g., fiber ring or wireless networks) perform functions*

1                    similar to those performed by an incumbent LEC's tandem switch and  
2                    thus, whether some or all calls terminating on the new entrant's network  
3                    should be priced the same as the sum of transport and termination via the  
4                    incumbent LEC's tandem switch. Where the interconnecting carrier's  
5                    switch serves a geographic area comparable to that served by the  
6                    incumbent LEC's tandem switch, the appropriate proxy for the  
7                    interconnecting carrier's additional costs is the LEC tandem  
8                    interconnection rate. [Emphasis added]

9  
10                  Paragraph 1090 identifies the two requirements that a CLEC must meet in  
11                  order to be compensated at the tandem interconnection rate: (1) ICG's network  
12                  must perform functions similar to those performed by BellSouth's tandem  
13                  switch; and (2) ICG's switch must serve a geographic area comparable to  
14                  BellSouth's. The fact is, ICG may be capable of serving a geographic area  
15                  comparable to BellSouth's tandem switch; however, ICG does not perform  
16                  functions similar to those performed by BellSouth's tandem switch.

17  
18                  Q.        WHAT IS LOCAL TANDEM INTERCONNECTION?

19  
20                  A.        Interconnection at a local tandem permits a CLEC to terminate to a single  
21                  location all of its local traffic to end offices served by that tandem without the  
22                  CLEC having to place individual facilities to each end office served by that

1 tandem. When the CLEC elects to interconnect at a tandem, transport and  
2 termination costs associated with terminating a CLEC-originated call to a  
3 BellSouth end user will apply. Such charges include: (1) tandem switching at  
4 the tandem; (2) common transport between the tandem and end office; and (3)  
5 end office switching. Obviously, if a CLEC elects to interconnect directly at a  
6 BellSouth end office, tandem switching and common transport charges would  
7 not be applicable.

8  
9 Q. EXPLAIN, IN GENERAL TERMS, INTERCONNECTION AT AN END  
10 OFFICE SWITCH.

11  
12 A. Carriers interconnect through the use of trunks, which are telecommunications  
13 circuits that connect to a switch at each end. The connection at each end office  
14 switch is called a trunk termination. Examples of the use of trunk terminations  
15 are: (1) those that connect BellSouth end office switches; (2) BellSouth end  
16 office switches to a CLEC's switch; or (3) interconnection trunks between  
17 BellSouth's tandem switches and a CLEC's switch. Conversely, a line side  
18 termination is used to terminate such facilities as basic business and residence  
19 service, most PBX trunks and unbundled network element loops. In simple  
20 terms, trunks connect switches, tandem switches connect trunks to each other  
21 and end office switches connect trunks to customer lines.

22

1 Q. YOU POINTED OUT EARLIER THAT PARAGRAPH 1090 REQUIRES A  
2 CLEC TO PERFORM TANDEM FUNCTIONS IN ORDER TO BE  
3 COMPENSATED AT THE TANDEM INTERCONNECTION RATE.  
4 COULD YOU PROVIDE A MORE DETAILED DESCRIPTION OF  
5 TANDEM SWITCH FUNCTIONALITIES AS SET FORTH BY THE FCC?  
6

7 A. Yes. According to the recently released Order No. FCC 99-238, the FCC's  
8 rules at 51.319(c)(2) state:  
9 *Local Tandem Switching Capability.* The tandem switching capability network  
10 element is defined as:

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

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

15 (C) The functions that are centralized in tandem switches (as distinguished  
16 from separate end office switches), including but not limited, to call  
17 recording, the routing of calls to operator services, and signaling  
18 conversion features.

19

20 Q. YOUR PREVIOUS ANSWER IDENTIFIES THE FUNCTIONS THAT THE  
21 FCC STATES ARE PERFORMED BY A TANDEM SWITCH. ON PAGE  
22 28 OF HIS TESTIMONY, MR. STARKEY STATES THAT ICG's

1 SWITCHING PLATFORM PERFORMS THE SAME FUNCTIONS AS AN  
2 ILEC TANDEM SWITCH. DO YOU AGREE?

3

4 A. No. ICG's switch may be capable of performing such functions when  
5 connected to end office switches, however, as outlined below, ICG's 5ESS  
6 switch as shown in Mr. Starkey's Diagram 3 does not perform those functions  
7 identified by the FCC's rule as tandem switching functions:

- 8 • ICG does not interconnect end offices or perform trunk-to-trunk  
9 switching, but rather performs line-to-trunk or trunk-to-line switching.
- 10 • ICG has only one switch, and it performs only end office switching  
11 functions. It uses lines to connect its end users to its switch and it uses  
12 trunks to connect with BellSouth. It does not switch BellSouth's traffic  
13 to another ICG switch.
- 14 • Insofar as I am able to judge, based on the information provided in Mr.  
15 Starkey's testimony, ICG's switch does not provide centralization  
16 functions, namely call recording, routing of calls to operator services and  
17 signaling conversion for other switches, as BellSouth's tandems do and  
18 as required by the FCC's rule 51.319(c)(2).

19

20 Q. YOU STATED THAT ICG'S SWITCH DOES NOT INTERCONNECT END  
21 OFFICES OR PERFORM TRUNK-TO-TRUNK SWITCHING. PLEASE  
22 ELABORATE.

1  
2 A. One of the primary distinguishing characteristics of a tandem switch as set  
3 forth in the FCC's rules quoted above is that a tandem switch interconnects end  
4 offices. ICG does not interconnect end offices or perform trunk-to-trunk  
5 switching, but rather performs line-to-trunk or trunk-to-line switching.

6  
7 ICG provides a diagram attached to Mr. Starkey's testimony that explains their  
8 current network design. The design clearly shows that each of ICG's  
9 collocation arrangements serve only as an intermediate point in ICG's loop  
10 plant. Without specific information from ICG to the contrary, the "piece of  
11 equipment" in ICG's collocation cage appears to be nothing more than a  
12 Subscriber Loop Carrier which is part of loop technology and provides no  
13 "switching" functionality. ICG's switch is not providing a transport or tandem  
14 function, but is switching traffic through its end office for delivery of traffic  
15 from that switch to the called party's premises. No switching is performed in  
16 these collocation arrangements. These lines are simply long loops transported  
17 to ICG's switch; they are not trunks. Long loop facilities do not qualify as  
18 facilities over which local calls are transported and terminated as described by  
19 the Act and therefore are not eligible for reciprocal compensation.

20  
21 BellSouth is proposing to pay reciprocal compensation to ICG on the same  
22 basis that BellSouth bills reciprocal compensation to ICG. As noted earlier,



1           when a CLEC elects to interconnect directly its switch to a BellSouth end  
2           office via trunk facilities, BellSouth does not charge the CLEC for tandem  
3           switching. When such direct end office interconnection is made, BellSouth  
4           does not perform a tandem function to terminate calls from the CLEC's end  
5           users. Because there is no tandem function performed, there are no costs for  
6           tandem switching and common transport to be recovered.

7  
8           Mr. Starkey suggests that BellSouth should compensate ICG for transporting  
9           its traffic from the point of interconnection to each of the ICG collocation  
10          arrangements. Collocation arrangements, however, in this instance are not  
11          switching points or end offices. There are no trunks interconnecting ICG's  
12          switch with these collocation arrangements. Instead, these are simply end user  
13          customer lines transported from the customer to the ICG 5ESS switch. There  
14          is no similarity between this situation and direct connection of ICG's switch  
15          with a BellSouth end office.

16  
17    Q.    NOW THAT YOU HAVE EXPLAINED THE FUNCTIONAL  
18           DIFFERENCES BETWEEN TANDEM SWITCHES AND THE METHOD  
19           BY WHICH ICG SERVES ITS CUSTOMERS, HOW IS THIS RELEVANT  
20           TO THIS ISSUE NO. 7?

21  
22    A.    Reciprocal compensation was designed to compensate a carrier for the cost of

1 transporting and terminating local calls when the originating carrier collects the  
2 revenue. ICG's collocation site is not a switching point because no switching  
3 is performed at that site. Therefore, the lines that ICG carries from its  
4 collocation arrangements are not trunks from one end office to another, but  
5 simply part of the loops that terminate at the ICG 5ESS switch. Reciprocal  
6 compensation does not compensate a carrier for loop costs. Loop costs, which  
7 are non-traffic sensitive costs, are recovered in the rates charged by the LEC to  
8 its end user customers. In Paragraph 1057 of the First Report and Order, the  
9 FCC clearly indicates what should be charged for terminating a call:

10 *We find that, once a call has been delivered to the incumbent LEC end*  
11 *office serving the called party, the 'additional cost' to the LEC of*  
12 *terminating a call that originated on a competing carrier's network*  
13 *primarily consists of the traffic-sensitive component of local switching.*

14 *The network elements involved with the termination of traffic include the*  
15 *end-office switch and local loop. The costs of local loops and line ports*  
16 *associated with local switches do not vary in proportion to the number of*  
17 *calls terminated over these facilities. We conclude that such non-traffic*  
18 *sensitive costs should not be considered 'additional costs' when a LEC*  
19 *terminates a call that originated on the network of a competing carrier.*

20

21 As the FCC explains above, the loops that serve ICG's end user customers do  
22 not qualify as either transport or termination for the purpose of reciprocal

1 compensation.

2

3 Q. CAN YOU PROVIDE AN EXAMPLE WHERE BELLSOUTH SERVES  
4 CUSTOMERS IN A SIMILAR MANNER TO ICG?

5

6 A. Yes. As I explained above, ICG is doing nothing more than providing long  
7 loops from its end user customers to its end office switch by way of collocation  
8 arrangements. BellSouth often serves its end user customers via long loops as  
9 well. For long loop situations, BellSouth typically runs the loop from the  
10 customer's premises to a remote terminal in the field where it is placed on  
11 digital loop carrier (DLC) with other loops and transported to the serving end  
12 office.

13

14 The ICG and BellSouth situations are analogous. ICG's collocation  
15 arrangements are simply gathering points for loops where they can be placed  
16 onto another loop technology, such as DLC, to be carried to the ICG 5ESS  
17 switch. This function is the same function performed by a remote terminal or  
18 other intermediate loop device such as a distribution interface in BellSouth's  
19 loop plant. ICG has simply chosen to locate this loop plant in a collocation  
20 space. Consistent with this understanding, for ICG's calls transported and  
21 terminated to a BellSouth end user customer, BellSouth receives the applicable  
22 reciprocal compensation rate to the serving end office. BellSouth does not

1 charge additional reciprocal compensation beyond the end office simply  
2 because BellSouth has served its end user customer with a long loop. As  
3 explained previously, BellSouth receives compensation for its loop cost  
4 through monthly service rates paid by the end user customer. This same  
5 situation should hold true for ICG. BellSouth should not compensate ICG  
6 because ICG has elected to haul all of its customers' service via long loop  
7 facilities to ICG's end office switch. ICG should recover its loop costs from its  
8 end user customers just as BellSouth does. Again, as the FCC explained in  
9 Paragraph 1057, the FCC does not allow a carrier to be compensated for loop  
10 costs through reciprocal compensation.

11

12 Q. HAVE ANY STATE COMMISSIONS IN BELLSOUTH'S REGION  
13 PREVIOUSLY RULED THAT TANDEM SWITCHING COMPENSATION  
14 SHOULD NOT BE PAID WHEN TANDEM SWITCHING IS NOT  
15 PERFORMED?

16

17 A. Yes. The Florida Public Service Commission, in Order No. PSC-97-0297-  
18 FOF-TP, Docket 962120-TP, dated March 14, 1997, concluded at pages 10-11:

19

*We find that the Act does not intend for carriers such as MCI to be*

20

*compensated for a function they do not perform. Even though MCI*

21

*argues that its network performs 'equivalent functionalities' as Sprint*

22

*in terminating a call, MCI has not proven that it actually deploys both*

1                    *tandem and end office switches in its network. If these functions are*  
2                    *not actually performed, then there cannot be a cost and a charge*  
3                    *associated with them. Upon consideration, we therefore conclude that*  
4                    *MCI is not entitled to compensation for transport and tandem switching*  
5                    *unless it actually performs each function.*

6

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

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

16

17                    Reinstatement of the FCC's rules does not alter the correctness of the Florida  
18                    Commission's conclusions. This Commission should reach a similar  
19                    conclusion in this proceeding.

20

21                    Q.    DID THE CALIFORNIA PUBLIC UTILITIES COMMISSION REACH A  
22                    SIMILAR CONCLUSION ON THIS ISSUE?

1

2 A. Yes. In its Decision No. 99-09-069, dated September 16, 1999, the Public  
3 Utilities Commission of California determined in an arbitration proceeding  
4 between MFS/WorldCom and Pacific Bell (Application 99-03-047) that “a  
5 party is entitled to tandem and common transport compensation only when the  
6 party actually provides a tandem or common transport function” (Page 16).

7 The California Commission further found unpersuasive MFS/WorldCom’s  
8 argument that its network serves a geographic area comparable in size to the  
9 that served by Pacific Bell’s tandem switch.

10

11 *Packet Switching as UNEs*

12 A. ON PAGES 6 AND 7 OF HIS TESTIMONY, MR. HOLDRIDGE  
13 ACKNOWLEDGES THAT IN ITS SEPTEMBER 15, 1999, DECISION, THE  
14 FCC DECLINED TO UNBUNDLE PACKET SWITCHING. DID THE FCC  
15 ADDRESS THIS ISSUE IN ITS RECENT THIRD REPORT AND ORDER  
16 AND FOURTH FURTHER NOTICE OF PROPOSED RULEMAKING?

17

18 A. Yes. The FCC states at Paragraph 306 of that Order (“Third Report and Order”  
19 and “Fourth FNPRM”) that “[w]e decline at this time to unbundle the packet  
20 switching functionality, except in limited circumstances.” The limited  
21 circumstance to which the FCC refers relates to DSLAMs (Third Report and  
22 Order, Paragraph 313). The FCC also specifically stated that “[w]e further

1 decline to unbundle specific packet switching technologies incumbent LECs  
2 may have deployed in their networks... [w]e reject e.spire/Intermedia's  
3 request for a packet switching or frame relay unbundled network element"  
4 (Third Report and Order, paragraphs 311-312).

5  
6 Consequently, there is no general obligation to unbundle packet switching.  
7 DSLAMs may be required to be unbundled in certain circumstances. For  
8 DSLAMs to be unbundled there are criteria that must be met. One of those is  
9 that there are no spare copper loops capable of supporting the xDSL services  
10 the requesting carrier seeks to offer. The requirement to unbundle the DSLAM  
11 component of packet switching is limited to those specific cases where there is  
12 no alternative means available to ICG to access the customer. This situation  
13 occurs in few, if any, circumstances in BellSouth's network.

14  
15 Q. DID THE FCC ADDRESS WHETHER THE STATE COMMISSIONS  
16 SHOULD BE INVOLVED IN THIS ISSUE?

17  
18 A. Yes. The FCC stated that "e.spire/Intermedia are free to demonstrate to a state  
19 commission that lack of unbundled access to the incumbent's frame relay  
20 network element impairs their ability to provide the services they seek[s] to  
21 offer" (Third Report and Order, Paragraph 312). The FCC went on to state,  
22 however, that the state commission must look at this issue "consistent with the

1 principles set forth in this order.” (Third Report and Order, Paragraph 312).

2

3 Q. DID THE FCC ADDRESS THE NATURE OF THE ADVANCED  
4 SERVICES MARKET?

5

6 A. Yes. The FCC states that “[c]ompetitive LECs and cable companies appear to  
7 be leading the incumbent LECs in their deployment of advanced services”  
8 (Third Report and Order, Paragraph 307). The FCC also recognized “that  
9 equipment needed to provide advanced services, such as DSLAMs and packet  
10 switches, are available on the open market at comparable prices to incumbents  
11 and requesting carriers alike” (Third Report and Order, Paragraph 308).  
12 Finally, the FCC stated that the “record demonstrates that competitors are  
13 actively deploying facilities used to provide advanced services to serve certain  
14 segments of the market – namely, medium and large business – and hence they  
15 cannot be said to be impaired in their ability to offer service, at least to these  
16 segments without access to the incumbent’s facilities” (Third Report and  
17 Order, Paragraph 306).

18

19 Q. WHY DO ADVANCED SERVICES FAIL TO MEET THE NECESSARY  
20 AND IMPAIR STANDARDS?

21

22 A. Advanced services represent a new market where ILECs such as BellSouth



1 have no competitive advantage. As stated in the Third Report and Order,  
2 Paragraph 307, "Both the record in this proceeding, and our findings in the *706*  
3 *Report*, establish that advanced services providers are actively deploying  
4 facilities to offer advanced services such as xDSL across the country.  
5 Competitive LECs and cable companies appear to be leading the incumbent  
6 LECs in their deployment of advanced services." ILECs are not the  
7 predominant providers in the advanced services market. Both cable and  
8 wireless providers are ahead of ILECs in rolling out advanced services and  
9 market facts referred to in BellSouth's Comments filed in the FCC's 319  
10 proceeding demonstrate that advanced services may be provided equally well,  
11 or better, over other networks. The FCC in its *Advanced Services Report*  
12 suggested that cable providers are farthest ahead, followed by wireless  
13 providers, then CLECs.

14  
15 Further, any requirement to unbundle advanced services would apply to  
16 BellSouth's investment dollars and not to existing networks and equipment. If  
17 BellSouth invests in advanced services only to have to unbundle that  
18 investment at cost-based prices, such action destroys the incentive to further  
19 invest in innovative advanced services. On the other hand, it discourages other  
20 potential providers of such services from investing in networks and equipment  
21 because they can get a free-ride on the ILEC. This surely is not the outcome  
22 intended by the 1996 Act. In the Supreme Court's January decision *in Iowa*

1           *Utilities Board*, Justice Breyer said it best when he stated, "A totally  
2 unbundled world...is a world in which competitors would have little, if  
3 anything, to compete about. Such a world is not what the Act envisions." 525  
4 U.S. \_\_\_, 142 L. Ed. 2d 834, 880.

5  
6 Q.   ON PAGE 8, MR. HOLDRIDGE STATES THAT PACKET SWITCHING  
7 CAPABILITIES SHOULD BE PRICED AT TELRIC TO INSURE THAT  
8 "RATES FOR THE FINISHED SERVICES ICG PROVIDES TO ITS  
9 CUSTOMERS WILL BE COMPETITIVE WITH ANY POTENTIAL  
10 OFFERINGS FROM BELLSOUTH." PLEASE COMMENT.

11  
12 Q.   As explained above, the advanced services market is a new market for all  
13 providers of telecommunications services, including BellSouth. As such,  
14 BellSouth holds no competitive advantage over provision of advanced services  
15 to end user customers. As the FCC's September 15, 1999, Press Release  
16 stated:

17           *Given the nascent nature of this market and the desire of the Commission*  
18           *to do nothing to discourage the rapid deployment of advanced services,*  
19           *the Commission declined to impose an obligation on incumbents to*  
20           *provide unbundled access to packet switching or DSLAMs at this time.*  
21           *The Commission further noted that competing carriers are aggressively*  
22           *deploying such equipment in order to serve this emerging market sector.*

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[Emphases added]

Given the aggressive deployment of advanced services equipment, companies such as ICG should have no problem in obtaining competitive prices for the capabilities they desire for the provision of competitive advanced services.

Enhanced Extended Links (EELs)

Q. SHOULD THE ENHANCED EXTENDED LINK BE CONSIDERED A UNE AS SUGGESTED BY MR. HOLDRIDGE ON PAGE 9 OF HIS TESTIMONY?

A. No. The FCC did not include the EEL on the UNE list. To provide EELs as requested by ICG, BellSouth would have to combine UNEs, an activity that BellSouth is not required to do.

Q. DID THE FCC ADDRESS THIS ISSUE IN THE THIRD REPORT AND ORDER?

A. Yes. The FCC held that “[w]e decline to define the EEL as a separate network element in this Order. As discussed above, the Eighth Circuit is currently reviewing whether rules 51.315(c)-(f) should be reinstated. We see no reason to decide now whether the EEL should be a separate network element, in light

1 of the Eighth Circuit's review of those rules" (Third Report and Order,  
2 Paragraph 478).

3

4 Q. TO WHAT EXTENT ARE THERE CURRENTLY COMBINED UNEs  
5 THAT CONSTITUTE AN EXTENDED LOOP AS MR. HOLDRIDGE  
6 CONTENDS?

7

8 A. The only potential circumstances where there may be currently combined  
9 UNEs that constitute an EEL are where ICG has previously purchased special  
10 access services that terminate in its collocation space. BellSouth is still  
11 determining whether even this circumstance does, in fact, constitute currently  
12 combined UNEs. Even if it does, it is unclear whether ICG can convert the  
13 special access to UNEs prior to completion of the FCC's Fourth FNPRM.

14

15 Q. MR. HOLDRIDGE STATES THAT BY USING EELS, ICG COULD SERVE  
16 CUSTOMERS LOCATED IN AREAS WHERE ICG HAS INSUFFICIENT  
17 CUSTOMERS TO JUSTIFY THE COST OF COLLOCATION. PLEASE  
18 RESPOND.

19

20 A. ICG should look to Section 251 of the Act for guidance, where the resale  
21 provisions of the Act are made to order for this situation. In drafting the Act,  
22 Congress recognized that there would be situations in which a CLEC might be

1           unable to economically serve customers using UNEs until such time as the  
2           CLEC developed sufficient customers in a location to justify placing a  
3           collocation arrangement. Resale allows a CLEC to obtain customers and,  
4           when it has a sufficient number of customers to justify a collocation  
5           arrangement, the CLEC can convert those customers to the CLEC's service.  
6           BellSouth should not be required to fund a CLEC's expansion plans by  
7           requiring BellSouth to provide EELs to CLECs at TELRIC pricing.

8  
9    Q.    ON PAGE 9, MR. HOLDRIDGE STATES THAT ICG INTENDS TO USE  
10       EELs FOR PROVIDING SPECIAL ACCESS. WHAT DID THE FCC  
11       CONCLUDE REGARDING ARBITRAGE OF SPECIAL ACCESS IN ITS  
12       RECENT THIRD REPORT AND ORDER?

13  
14   A.    In Paragraph 489, the FCC stated:

15                   *We conclude that the record in this phase of the proceeding is*  
16                   *insufficient for us to determine whether or how our rules should*  
17                   *apply in the discrete situation involving the use of dedicated*  
18                   *transport links between the incumbent LEC's serving wire center*  
19                   *and an interexchange carrier's switch or point of presence (or*  
20                   *"entrance facilities"). Only a handful of parties commented on*  
21                   *the special access arbitrage issue that was first raised by*  
22                   *BellSouth's August 9, 1999, ex parte filing. We believe that we*

1                    *should fully explore the policy ramifications of applying our rules*  
2                    *in a way that potentially could cause a significant reduction of*  
3                    *the incumbent LECs' special access revenues prior to full*  
4                    *implementation of access charge and universal service reform.*

5  
6                    Consequently, it does not appear that UNEs can be substituted for special  
7                    access services which include entrance facilities at this time. According to Mr.  
8                    Holdridge, ICG plans to use the EEL, which would contain UNE transport  
9                    service, as a substitute for access service. The extent to which UNE transport  
10                    can be used to replace access service will be examined in the FCC's  
11                    proceeding on the Fourth FNPRM. In the interim, UNE transport can not be  
12                    substituted for access service. Therefore, it is not clear whether ICG can use  
13                    UNE transport, either alone or as part of the EEL, in the manner they have  
14                    requested.

15  
16    Q.            DOES THE FCC PLAN TO REVISIT THE ISSUE OF LIMITATIONS ON  
17                    SPECIAL ACCESS?

18  
19    A.            Yes. The Commission issued the Fourth FNPRM to consider, in part,  
20                    "whether there is any basis in the statute or our rules under which incumbent  
21                    LECs could decline to provide entrance facilities at unbundled network  
22                    element prices" (Third Report and Order, Paragraph 494). The NPRM will

1 address the concern "that allowing requesting carriers to obtain combinations  
2 of loop and transport unbundled network elements based on forward-looking  
3 cost would provide opportunities for arbitrage of special access services"  
4 (Third Report and Order, Paragraph 494).

5

6 Volume and Term Discounts

7 Q. ON PAGE 34, MR. STARKEY SUGGESTS THAT NEGOTIATIONS WITH  
8 BELLSOUTH ARE AIMED AT OBTAINING A COMMERCIAL  
9 RELATIONSHIP SIMILAR TO THOSE ICG HAS WITH OTHER  
10 SUPPLIERS. PLEASE RESPOND.

11

12 A. Mr. Starkey states that one of the common commercial arrangements ICG  
13 enters into is volume and term discounts. Mr. Starkey fails to acknowledge  
14 one critical point: the baseline prices that ICG's other suppliers negotiate from  
15 are not cost-based prices. BellSouth is in a unique position as supplier to ICG  
16 and other CLECs in that BellSouth's prices are already set at cost-based prices.  
17 Other suppliers simply reduce their profit margin to offer volume and term  
18 discounts. Prices based on TELRIC do not contain any profit margin.  
19 Therefore, it is not appropriate to require BellSouth to further reduce prices  
20 that are already set at cost. Further, if Congress or the FCC intended for  
21 CLECs to receive volume and term discounts, they could easily have included  
22 such a specific requirement in the Act and/or the FCC's rules. They did not.

1

2 Q. MR. STARKEY SUGGESTS THAT BELLSOUTH USES VOLUME AND  
3 TERM DISCOUNTS IN ITS RETAIL PRICING STRUCTURE AND THAT  
4 COMPETITIVE MARKETS REQUIRE SUCH PRICING. PLEASE  
5 RESPOND.

6

7 A. Once again Mr. Starkey misses a critical point. If UNEs were provided in a  
8 competitive market, they wouldn't be UNEs. At such time as UNEs are  
9 available from a variety of sources, they should no longer be required to be  
10 provided by BellSouth and certainly not at TELRIC prices. Tariffed services,  
11 with the exception of certain basic local exchange services, are priced above  
12 cost and contain some amount of contribution that might be able to forego  
13 under volume and term arrangements. No such latitude exists with UNEs  
14 priced at cost.

15

16 Q. PLEASE RESPOND TO MR. STARKEY'S CONTENTION THAT  
17 VOLUME AND TERM COMMITMENTS BY ICG WOULD REDUCE  
18 TELRIC PRICES.

19

20 A. There is no rational basis for ICG's position. The basic flaw in Mr. Starkey's  
21 analysis is that he assumes that TELRIC prices were based on network costs as  
22 they are instead of what they are projected to be. For example, Mr. Starkey's



1 claim that a volume commitment by ICG would increase the utilization of  
2 plant ignores the way the costs were developed. Plant utilization in the study  
3 represents this Commission's view of plant utilization in the future. Any  
4 impact of volume requested by ICG is already included in this utilization  
5 percentage. Ms. Caldwell addresses this subject in greater detail in her rebuttal  
6 testimony.

7

8 Q. PLEASE RESPOND TO MR. STARKEY'S CONTENTION THAT LONG-  
9 TERM COMMITMENTS BY ICG WOULD MINIMIZE BELL SOUTH'S  
10 RISK OF STRANDED INVESTMENT.

11

12 A. Mr. Starkey is basing his conclusion on an incorrect understanding of the cost  
13 studies. He is correct that in the retail world the risk of stranded plant costs  
14 would be reduced by a term commitment. However, none of the costs that a  
15 term commitment would reduce are included in TELRIC. Therefore, the  
16 impact of any reduction, even if it exists, is irrelevant with respect to UNE  
17 prices. The other major point that Mr. Starkey misses is that retail prices  
18 typically exceed costs. Consequently, discounts due to term commitments  
19 simply reduce the level of contribution, not the level of costs. UNE prices do  
20 not include any contribution. And since there are no savings of TELRIC costs,  
21 there is no basis for offering term discounts.

22

1 Performance Standards and Enforcement Mechanisms

2 Q. MS. ROWLING ADDRESSES PERFORMANCE MEASURES AND  
3 ENFORCEMENT MECHANISMS IN HER TESTIMONY, SPECIFICALLY  
4 RECOMMENDING THAT THE COMMISSION APPROVE THE TEXAS  
5 PLAN PER EXHIBITS 1 AND 2 TO HER TESTIMONY. PLEASE  
6 RESPOND.

7  
8 A. Performance measurements and performance guarantees, or penalties, in the  
9 "Texas Plan" are two separate and distinct issues. The issue of performance  
10 measurements is addressed in Mr. Coon's testimony. My direct testimony  
11 addresses several reasons why ICG's request for penalties should be denied. It  
12 is unnecessary for the Commission to mandate recourse through a penalty  
13 mechanism.

14  
15 Q. CAN DISPUTES OVER PERFORMANCE BE HANDLED IN ANOTHER  
16 MANNER?

17  
18 A. Yes. For example, the Georgia Public Service Commission ("GPSC")  
19 established an expedited dispute resolution process in its proceeding on  
20 performance measures (Docket No. 7892-U). This process specifies that, when  
21 a performance dispute arises, BellSouth and the CLEC will immediately  
22 assemble a Joint Investigative Team to be co-chaired by representatives of

1 BellSouth and the CLEC. The investigative team will conduct a root-cause  
2 analysis to determine the source of the problem, if one exists, and then develop  
3 a plan for remedying it. If the dispute cannot be resolved between the  
4 companies, then either party to the dispute may file a formal complaint with  
5 the GPSC for binding mediation. A ruling must be made within 15 days of the  
6 filing of the complaint. Such a mechanism solves the problem. It is interesting  
7 to note, however, that ICG has not availed itself of the process in Georgia. All  
8 ICG's proposal does is create another set of issues to dispute. In addition,  
9 remedies also exist through the FCC and the courts if BellSouth is not  
10 performing.

11

12 Q. IF THE COMMISSION CHOOSES TO IMPOSE ENFORCEMENT  
13 MECHANISMS, WHAT IS BELLSOUTH'S ALTERNATIVE?

14

15 A. As stated in my direct testimony, BellSouth is currently working with the FCC  
16 to finalize BellSouth's proposal for self-effectuating enforcement measures. It  
17 would be fruitless to include a penalty plan in an interconnection agreement  
18 until BellSouth has reasonable assurance that the plan will satisfy the FCC's  
19 concerns under Section 271 of the Act. Once finalized, and upon grant of 271  
20 relief in Kentucky, these voluntary enforcement mechanisms would be made  
21 available to all CLECs with interconnection agreements in Kentucky.

22

1 Q. WHAT ARE SOME GENERAL CONCERNS WITH THE TEXAS PLAN?

2

3 A. There are several concerns with the performance remedies of the Texas Plan,  
4 aside from the concerns BellSouth has already raised. First, the penalties are  
5 arbitrary. Second, penalties are applied on a daily basis, so the amounts can be  
6 unjustifiably huge, with no opportunity for BellSouth to mitigate the problem.  
7 Third, concerns have been raised regarding the proposed statistical tests during  
8 the Louisiana collaborative process, in which the parties have been working on  
9 an appropriate test for months. Fourth, the remedies create an incentive for  
10 ICG to cause poor performance.

11

12 *Binding Forecasts*

13 Q. MR. JENKINS CONTENDS ON PAGE 4 THAT BELLSOUTH IS  
14 UNWILLING TO AGREE TO ICG'S PROPOSAL FOR A BINDING  
15 FORECAST. IS BELLSOUTH UNWILLING TO PROVIDE BINDING  
16 FORECASTS?

17

18 A. No. BellSouth is agreeable to continuing to negotiate with ICG to meet their  
19 forecasting needs. Although not required under the Act or by FCC rules,  
20 BellSouth has recently developed Trunk Port Commitment Service, whereby  
21 BellSouth will commit to provisioning the necessary DS1 trunk ports when the  
22 Parties agree to the requirements of a CLEC-provided DS1 trunk port forecast.

1 BellSouth is now in the process of developing implementation procedures and  
2 contract language, and upon completion of this development, BellSouth will  
3 begin offering the service. It should be noted, however, that at this point in  
4 time, BellSouth is not offering binding forecast commitments for network  
5 services and facilities other than DS1 trunk ports.

6

7 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

8

9 A. Yes.

AMOUNTS BILLED BY KENTUCKY CLECS TO BILLSOUTH

<b>Invoice Date</b>	<b>ISP Usage<sup>1</sup></b>	<b>Local Usage</b>	<b>ISP MOUs<sup>2</sup></b>	<b>Local MOUs</b>
Nov-98	\$968,134	\$36,517	86,342,866	9,593,746
Dec-98	\$1,006,857	\$66,086	92,658,230	10,295,342
Jan-99	\$963,490	\$14,978	86,209,775	9,578,864
Feb-99	\$768,227	\$64,725	81,682,126	9,075,793
Mar-99	\$1,387,090	\$36,623	100,205,288	4,514,027
Apr-99	\$907,954	\$67,586	99,330,895	12,034,588
May-99	\$1,449,798	\$59,696	133,070,943	15,045,186
Jun-99	\$1,312,438	\$72,193	124,798,366	13,078,666
Jul-99	\$1,471,071	\$77,379	138,227,570	14,784,908
Aug-99	\$1,418,936	\$74,199	134,415,426	15,646,934
Sep-99	\$1,361,585	\$61,445	127,056,825	13,937,150
Oct-99	\$818,422	\$62,516	95,982,668	8,042,127
<b>Total</b>	<b>\$13,834,002</b>	<b>\$693,943</b>	<b>1,299,980,978</b>	<b>135,627,331</b>

---

<sup>1</sup> This figure also includes MOUs disputed because the parties do not agree on the number of MOUs which were exchanged and/or because the parties do not agree on the rate which should have been applied.

<sup>2</sup> This figure also includes MOUs disputed because the parties do not agree on the number of MOUs which were exchanged.



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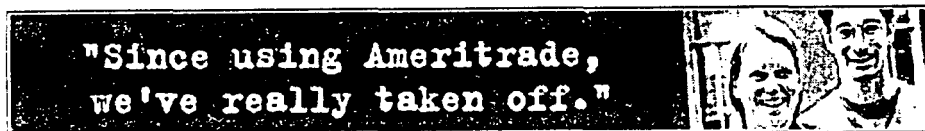
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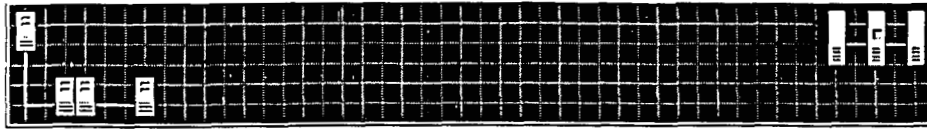
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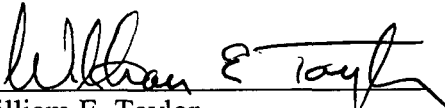
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STATE OF MASSACHUSETTS

COUNTY OF MIDDLESEX

BEFORE, ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared William E. Taylor, who being by me first duly sworn, deposed and said that:

He is appearing as a witness before the Kentucky Public Service Commission in Case No. 99-218 on behalf of BellSouth Telecommunications, Inc., and if present before the Commission and duly sworn, his testimony would be as set forth in the annexed rebuttal testimony consisting of 33 pages and 0 exhibit (s).

  
William E. Taylor

SWORN TO AND  
SUBSCRIBED BEFORE ME  
this the 5<sup>th</sup> day  
of November, 1999.

  
NOTARY PUBLIC

My Commission expires: July 7, 2000

BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION

IN RE:	)	
PETITION FOR ARBITRATION OF ICG TELECOM	)	
GROUP, INC. WITH BELLSOUTH	)	CASE NO. 99-218
TELECOMMUNICATIONS, INC. PURSUANT TO	)	
THE TELECOMMUNICATIONS ACT OF 1996	)	

REBUTTAL TESTIMONY

OF

WILLIAM E. TAYLOR, Ph.D.

ON BEHALF OF

BELLSOUTH TELECOMMUNICATIONS, INC.

NOVEMBER 19, 1999

**REBUTTAL TESTIMONY OF WILLIAM E. TAYLOR, Ph.D.**

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**ON BEHALF OF BELL SOUTH TELECOMMUNICATIONS, INC.**

**REBUTTAL TESTIMONY OF WILLIAM E. TAYLOR, Ph.D.**

**BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION**

**CASE NO. 99-218**

**NOVEMBER 19, 1999**

**I. INTRODUCTION AND SUMMARY**

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND CURRENT POSITION.**

A. My name is William E. Taylor. I am Senior Vice President of National Economic Research Associates, Inc. ("NERA"), head of its Communications Practice, and head of its Cambridge office located at One Main Street, Cambridge, Massachusetts 02142.

**Q. HAVE YOU FILED TESTIMONY PREVIOUSLY IN THIS PROCEEDING?**

A. Yes, I filed direct testimony in this proceeding on October 21, 1999.

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

A. I have been asked by BellSouth Telecommunications, Inc. ("BellSouth")—an incumbent local exchange carrier ("ILEC")—to address economic and regulatory issues raised in this proceeding to arbitrate an interconnection agreement between BellSouth and ICG Telecom Group, Inc. ("ICG")—a competitive local exchange carrier ("CLEC"). Specifically, I respond to testimony from ICG witnesses Cindy Z. Schonhaut and Michael Starkey. The issue in question is reciprocal compensation for traffic sent to Internet service providers ("ISPs").

**II. INTER-CARRIER COMPENSATION FOR ISP-BOUND CALLS**

**Q. PLEASE SUMMARIZE HOW YOUR OWN POSITION ON INTER-CARRIER COMPENSATION FOR ISP-BOUND TRAFFIC DIFFERS FROM THAT OF THE ICG WITNESSES.**

1 A. Contrary to the ICG position on this issue in this proceeding, my position is that reciprocal  
2 compensation should *not* be paid for ISP-bound calls. While reciprocal compensation is  
3 the proper form of inter-carrier compensation for local calls originated (on behalf of its  
4 customers) by one carrier and terminated (to its customers) by another carrier, it is *not* so if  
5 calls to Internet destinations originated by the first carrier are switched by the second  
6 carrier to an ISP which then routes those calls through the Internet's backbone network to  
7 their destination. Even though local calls and ISP-bound calls may *resemble* each other at  
8 a functional level, they are not the same in two fundamental respects: (1) the cost per  
9 minute to carry each type of call, on average, is not the same, and (2) the pattern of cost  
10 causation for the two types of calls is different and, therefore, requires different modes of  
11 cost recovery (compensation). This contrasts with the ICG position that the two types of  
12 calls are functionally identical and should, therefore, both be subject to reciprocal  
13 compensation.

14 The Federal Communications Commission ("FCC") has ruled that ISP-bound calls are  
15 *jurisdictionally* mixed and mostly interstate. As long as those calls are not local from a  
16 jurisdictional standpoint, they cannot be subject to reciprocal compensation, the form of  
17 inter-carrier compensation that applies to local traffic only. However, there is also a  
18 compelling *economic* basis for seeking an alternative form of inter-carrier compensation  
19 for ISP-bound calls. That is, even without the FCC's jurisdictional distinctions, one need  
20 only appreciate the incontrovertible fact that cost is caused differently for Internet traffic  
21 than for local traffic and, therefore, should be recovered differently. There is, in fact, a  
22 strong parallel between how cost is caused when an ILEC subscriber places a long distance  
23 call over the network of an inter-exchange carrier ("IXC") and the cost caused when that  
24 same subscriber places an Internet call over the network of an ISP. The salient fact is that  
25 the ISP is a carrier that facilitates access to the Internet just as the IXC facilitates long  
26 distance "access" to another telephone subscriber at a distant location. The ISP (like the  
27 IXC) is *not* an end-user of any local exchange carrier (such as a CLEC) that serves it.  
28 Therefore, just as the IXC compensates all local carriers for partial carriage of long  
29 distance calls through switched access charges, so too should the ISP compensate all local



1 carriers (including both the ILEC and the CLEC) for partial carriage (within the circuit-  
2 switched network) of Internet calls through analogous charges. Under this model of  
3 compensation, the cost-causing Internet customer (who is also a subscriber of the ILEC)  
4 pays for the entire cost of the Internet call to the ISP that provides Internet access, and that  
5 ISP in turn compensates the ILEC and the CLEC for all costs incurred on the ISP's behalf.

6 The proper form of inter-carrier compensation depends on how cost is caused, not on  
7 whether ISP-bound calls are functionally equivalent to local calls or whether they cost the  
8 same to carry. The ICG witnesses fail to make this distinction. The greatest danger in that  
9 failure is to create a set of perverse incentives under which the carrier *receiving* reciprocal  
10 compensation for ISP-bound calls (e.g., the CLEC) finds it increasingly profitable to  
11 specialize in carrying only ISP-bound traffic. This is not mere speculation as it is already  
12 occurring. For example, the increasing dependence of CLECs on reciprocal  
13 compensation for ISP-bound calls was recently highlighted in an earnings report.

14 In the meantime, it appeared that CLEC earnings would be hurt significantly if  
15 Bell companies are released from their obligation to pay reciprocal  
16 compensation. So far, two CLECs have reported second-quarter earnings in  
17 which they emphasized that a large portion of their revenues was derived from  
18 such payments.<sup>1</sup>

19 Specializing in market niches is often a welfare-enhancing form of arbitrage and can  
20 generate real gains in economic efficiency and strengthen competition. That is not,  
21 however, the case when the market signals encouraging such arbitrage are distortions  
22 created by regulation which give one set of competitors an undeserved or unearned  
23 comparative advantage over another set of competitors. The increasing allure of reciprocal  
24 compensation revenues is understandable for CLECs who are considerably less constrained  
25 by regulation than ILECs and are, therefore, able to both (1) maximize the ratio of inbound  
26 to outbound traffic (which the ILECs cannot do) and (2) maximize the average duration of

---

<sup>1</sup> *Telco Business Report*, August 2, 1999. Focal Communications reported that its second-quarter revenues increased to \$30.3 million and that 71 percent of this amount came from reciprocal compensation paid by ILECs. For US LEC, the corresponding figure was 84 percent.

1 inbound traffic. In plain terms, reciprocal compensation for ISP-bound traffic is simply a  
2 transfer payment from BellSouth to ICG that reduces economic welfare, not increase it.

3 As regulators in Massachusetts and Louisiana have already recognized, this creates  
4 opportunities for uneconomic arbitrage and entry solely to serve ISPs and collect reciprocal  
5 compensation payments. As I indicated in my direct testimony, the result is a subsidy to—  
6 and inefficient consumption of—Internet services and insufficient offerings of—and  
7 competition for—the full slate of local exchange services. The overall economic effect on  
8 society is, therefore, clearly detrimental.

9 **Q. IF YOUR POSITION THAT RECIPROCAL COMPENSATION SHOULD NOT**  
10 **APPLY TO ISP-BOUND TRAFFIC IS ACCEPTED, WOULD THE COMMISSION**  
11 **BE IGNORING THE COSTS ICG INCURS WHEN IT ROUTES ISP-BOUND**  
12 **TRAFFIC AND DENYING IT FAIR PAYMENT FOR USE OF ITS NETWORK?**

13 A. Absolutely not. The point at issue here is whether it should be up to *BellSouth* (the ILEC)  
14 to compensate ICG (the CLEC) for the cost the latter incurs in carrying Internet calls to  
15 ISPs it serves. As I explained in my direct testimony and repeat below, while ICG is  
16 entitled to recover fully the cost it incurs for ISP-bound calls, such recovery  
17 (compensation) ought to come—in accordance with cost causation—from *the ISP or ISPs*  
18 *it serves, not from BellSouth*. To have it otherwise—particularly in current circumstances  
19 in which CLECs frequently share reciprocal compensation revenues with the ISPs they  
20 serve—would only reinforce the perverse incentive to specialize in providing “termination”  
21 services for ISPs, to the exclusion of virtually all other local exchange services.

22 **Q. PLEASE COMMENT ON MR. STARKEY’S POSITIONS ON RECIPROCAL**  
23 **COMPENSATION FOR ISP-BOUND TRAFFIC.**

24 A. Mr. Starkey’s purported “economic” testimony tries to provide as many “reasons” as  
25 possible for the Kentucky Public Service Commission (“Commission”) to adopt reciprocal  
26 compensation for ISP-bound traffic. However, as I demonstrate below, Mr. Starkey’s  
27 arguments either miss or ignore the all-important principle of cost causation and fail to  
28 provide a sound economic perspective on inter-carrier compensation for ISP-bound traffic.

1 As I demonstrate below, the economic illogic and contextual flaws in Mr. Starkey's  
2 arguments are readily apparent from claims like:

- 3 1. Local and ISP-bound calls are functionally identical and should, therefore, be subject to  
4 the same form of reciprocal compensation.
- 5 2. BellSouth is getting free use out of ICG's network by refusing to compensate it for ISP-  
6 bound calls originated by BellSouth's subscribers.
- 7 3. ISPs are gravitating in large numbers to CLECs because, unlike ILECs, only CLECs  
8 can serve the "technologically demanding" needs of ISPs and data customers.
- 9 4. BellSouth's not being economically indifferent between "terminating" ISP-bound traffic  
10 itself or having it "terminated" by ICG shows that it has set an excessive "termination"  
11 rate which works to its disadvantage when the balance of ISP-bound traffic is in ICG's  
12 favor.

13 **Q. MR. STARKEY'S BASIC PREMISE [AT 10] IS THAT ISP-BOUND TRAFFIC**  
14 **AND LOCAL VOICE TRAFFIC ARE "FUNCTIONALLY IDENTICAL."**  
15 **THEREFORE, HE ARGUES, RECIPROCAL COMPENSATION OUGHT TO**  
16 **APPLY TO ISP-BOUND TRAFFIC JUST AS IT DOES FOR LOCAL VOICE**  
17 **TRAFFIC. DO YOU AGREE?**

18 A. No. First, Mr. Starkey's basic premise is incorrect because it completely ignores cost  
19 causation. In my direct testimony, I explained at length the cost-causative differences  
20 between ISP-bound traffic and local traffic despite a superficial *functional* resemblance  
21 between them. The all-important distinction between the ILEC-CLEC and ILEC-IXC  
22 models of interconnection that emerges from an analysis based on cost causation is clearly  
23 that reciprocal compensation is ill-suited to ISP-bound traffic.<sup>2</sup> Moreover, Mr. Starkey  
24 misses or ignores the fundamental point: cost recovery necessarily depends on who causes  
25 the cost in question, *not* on the level of cost. Technical characteristics of production or the  
26 level of cost may be items of interest in themselves, but they are totally irrelevant for

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<sup>2</sup> In my direct testimony [at 6-15], I explained in great detail why the applicable "model" of interconnection for ISP-bound traffic is *not* ILEC-CLEC interconnection (for which reciprocal compensation is the appropriate form of inter-carrier compensation) but rather ILEC-IXC interconnection. I argued that viewing ILEC-CLEC-ISP interconnection as closely analogous to ILEC-IXC interconnection, the form of inter-carrier compensation should also be analogous to that in place for ILEC-IXC interconnection.

1 determining who should be made to pay for the cost. Even if the two types of traffic were  
2 functionally identical and generated the same level of cost, it would still be economically  
3 inappropriate to apply reciprocal compensation to both.

4 Second, if the cost *per minute* to terminate a local voice call were truly the same as that  
5 cost for an ISP-bound call,<sup>3</sup> I would have no hesitation in accepting Mr. Starkey's claim [at  
6 13]:

7 A ten minute call originated on the [BellSouth] network and directed to the ICG  
8 network travels exactly the same path, requires the use of exactly the same  
9 facilities and generates exactly the same level of cost regardless of whether that  
10 call is dialed to an ICG local residential customer or to an ISP provider.

11 However, as I explained in my direct testimony [at 20-21 and fn. 21], the costs per minute  
12 for the two types of calls are *not* the same because of significant differences between them  
13 in (1) average call durations and (2) customer, service, and service location characteristics.  
14 This alone would invalidate Mr. Starkey's highly simplistic premise about functional  
15 equivalence.

16 **Q. PLEASE EXPLAIN WHY THE ECONOMICALLY APPROPRIATE FORM OF**  
17 **INTER-CARRIER COMPENSATION SHOULD DEPEND ON COST**  
18 **CAUSATION, NOT ON THE LEVEL OF COST OR FUNCTIONAL**  
19 **EQUIVALENCE.**

20 A. *How* cost is recovered must always depend on cost causation, i.e., the economic decision or  
21 transaction that is the source of the cost. *How much* cost should be recovered (i.e., the  
22 level of cost) is of only incidental interest to this issue: it determines the *magnitude* of  
23 recovery but not the form of compensation or recovery itself. To explain this point, I note  
24 first that the cost-causer for both a local voice call and an Internet call is the same entity:

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<sup>3</sup> As I noted in my direct testimony [at 5], the FCC takes the view that an Internet call, when viewed from end to end, does *not* terminate in any meaningful sense at the CLEC's switch. For this reason, I prefer to describe the function performed by the CLEC as "switching" or "delivery" to the ISP, rather than as "termination." In the rest of this testimony, any reference to "terminate" or "termination" should be understood as reflecting the *erroneous* view of what happens when an Internet-bound call traverses the CLEC's switch before reaching the ISP.

1 the ILEC subscriber that places either type of call. That same subscriber is also the cost-  
2 causer when he places a *long distance* call through an IXC. Therefore, in all three cases,  
3 cost recovery must start with that subscriber (the source of the economic decision to make  
4 a call that gives rise to cost). The question is: how should the payment received from that  
5 subscriber be used to compensate various carriers that participate in carrying each type of  
6 call?

7 The answer to that question is provided by cost causation. For a local voice call, the  
8 ILEC subscriber is also a *customer* of the ILEC (the supplier of local voice connections).<sup>4</sup>  
9 For a long distance call, the ILEC subscriber is a customer of the IXC (the supplier of long  
10 distance connections). And, for an Internet call, the ILEC subscriber is a customer of the  
11 ISP (the supplier of Internet connections). This trichotomy indicating how the same ILEC  
12 subscriber can be a customer of different carriers for different services is particularly  
13 important. Indeed, it determines which supplier has the right to charge (recover cost) from  
14 the end-user for each service and helps to understand how cost causation works. As a  
15 subscriber to the ILEC, that individual maintains a link to the public switched network  
16 over which all three types of services are delivered. With that link in place, that individual  
17 has the *option* to purchase various types of telecommunications services. Without that  
18 link, he cannot consume any of the three services. However, without the ILEC, the IXC,  
19 and the ISP offering and marketing the three types of services to that subscriber, there  
20 wouldn't be any service to consume.

21 The long practice of the IXC recovering the cost of a long distance call from the ILEC  
22 subscriber and then using that payment to compensate all facilitating carriers (e.g., those  
23 providing switched access) is economically sensible and serves as the proper model for  
24 compensation in the other two cases. For a local voice call, the ILEC must recover the cost  
25 of that call directly from its subscriber (acting as its customer) and then compensate all  
26 other facilitating carriers (e.g., the CLEC that provides interconnection if the local call

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<sup>4</sup> I made, and explained, this distinction between a subscriber and a customer in my direct testimony [fn. 6].

1 crosses network boundaries). In the same vein, the ISP must recover the cost of the  
2 Internet call directly from the ILEC subscriber (acting as the ISP's customer) and then  
3 compensate all other facilitating carriers (e.g., the ILEC, the CLEC, the backbone network  
4 providers, etc.).

5 **Q. IS COST CAUSATION-BASED COMPENSATION THE ONLY FORM OF INTER-**  
6 **CARRIER COMPENSATION FOR ISP-BOUND CALLS THAT THE**  
7 **COMMISSION SHOULD CONSIDER?**

8 A. Yes. From the economic standpoint, any method of inter-carrier compensation for ISP-  
9 bound calls should be based on cost causation. Ideally, such compensation should occur in  
10 the form of usage-based charges (analogous to carrier access charges) paid by the ISP to  
11 the ILEC and the CLEC that transport and switch Internet calls to it. However, because the  
12 FCC currently exempts ISPs from paying access charges, the next-best cost-causative form  
13 of compensation would be an equitable sharing (between the ILEC and the CLEC) of  
14 revenues earned by the CLEC from the lines and local exchange usage that it sells to the  
15 ISP. This form of revenue sharing may not be sufficient for the ILEC and CLEC that  
16 jointly provide access service to fully recover their costs, but the degree to which they  
17 under-recover those costs (or, equivalently, subsidize Internet service) will be the same  
18 proportion of their respective costs and, hence, competitively neutral. The third-best and a  
19 reasonable interim form of compensation would be bill and keep or, in effect, exchange of  
20 ISP-bound traffic between the ILEC and the CLEC at no charge to each other. In my  
21 opinion, because it is not based on cost causation, reciprocal compensation for ISP-bound  
22 traffic should not be an option at all.

23 **Q. PLEASE EXPLAIN WHETHER THE ENHANCED SERVICE PROVIDER ("ESP")**  
24 **EXEMPTION AFFECTS THE COST-CAUSATION PRINCIPLE AND, IN**  
25 **PARTICULAR, WHETHER THE EXEMPTION PRECLUDES THE**  
26 **ASSESSMENT OF ACCESS CHARGES ON ISPS?**

27 A. As far back as 1983, the FCC concluded that ESPs (which today would include ISPs) are  
28 "among a variety of users of access service" in that they "obtain local exchange services or

1 facilities which are used, in part or in whole, for the purpose of completing interstate  
2 calls.”<sup>5</sup> While ESPs are exempt from paying usage-based access charges to ILECs and,  
3 therefore, do not face the *full* costs that use by their customers imposes on the network,  
4 they do not escape entirely from their obligation to compensate the ILEC (or ILECs) that  
5 originates ESP-directed traffic. The revenues that LECs are able to recover from ESPs for  
6 their use of the network are limited to the local exchange business rates contained in the  
7 intrastate tariffs approved by state Commissions and to subscriber line charges.<sup>6</sup> The  
8 practical effect of this policy is that the costs that are unrecovered from ESPs (mainly  
9 usage-sensitive costs) are instead recovered from remaining customers even though they do  
10 not necessarily cause the costs experienced by the ESPs. Therefore, there is a  
11 misalignment between the party that causes costs to be incurred and the party that pays the  
12 costs, and the end result is that an implicit subsidy is generated for users of ESPs.

13 The ESP exemption has prevented state Commissions from implementing the  
14 economically correct approach to inter-carrier compensation for Internet-bound traffic.  
15 Instead, many Commissions have approved reciprocal compensation as the inter-carrier  
16 compensation regime for Internet-bound traffic to the detriment of economic efficiency.  
17 While, from an economic perspective, efficient usage-based access charges constitute the  
18 preferred inter-carrier compensation scheme for ISP-bound traffic, an equitable sharing  
19 (between the ILEC and the CLEC) of revenues earned by the CLEC from the lines and  
20 local exchange usage that it sells to the ISP is a “second-best” solution to the inefficiencies  
21 caused by the ESP exemption. That is, it minimizes the loss in economic efficiency from  
22 not being able to implement the preferred approach. Furthermore, it is entirely consistent  
23 with federal and state policy.

24 **Q. IS IT IMPORTANT TO YOUR ANALYSIS WHETHER THE ISP IS VIEWED AS**  
25 **A CARRIER OR END USER?**

<sup>5</sup> MTS/WATS Order, 1983, 711.

<sup>6</sup> Amendments of Part 69 of the Commission’s Rules Relating to Enhanced Service Providers, CC Docket No. 87-215, Order (“ESP Exemption Order”), 3 FCC Rcd 2631, 2635 n. 8, 2637 n. 53, 1988.

1 A. In my direct testimony [at 9] I argued that the ILEC-IXC model is the correct view of the  
2 relationship among the ILEC, CLEC and ISP. Specifically, I stated that this economically  
3 correct view rests on two assumptions:

- 4 1. The ILEC subscriber that calls the Internet is acting as a customer of the ISP to which it  
5 pays monthly access fees, even though the call is facilitated by the originating ILEC and  
6 the CLEC serving the ISP.
- 7 2. The ISP is viewed as a *carrier*—akin to an enhanced service provider (“ESP”)—that  
8 routes the Internet call through the backbone network to its final destination. The ISP  
9 performs standard carrier functions such as transport and routing, as well as maintains  
10 leased facilities within the backbone network. It is, therefore, *not* an end-user of the  
11 CLEC.

12 The assumption that the ISP is viewed as a carrier is based not on an arbitrary legal or  
13 regulatory perspective but rather on an economic one. The economic functions performed  
14 by an ISP are more similar to the economic functions performed by a carrier than an end  
15 user. I described these functions at length in my direct testimony [at 11-14]. To the extent  
16 that ESPs are viewed as end-users because of the ESP exemption, this has no bearing on  
17 my analysis because it does not change the fact that the economic functions performed by  
18 ISPs make it a carrier and not an end-user.<sup>7</sup>

19 **Q. EARLIER YOU STATED THAT THE COST PER MINUTE TO TERMINATE A**  
20 **LOCAL VOICE CALL WILL LIKELY NOT BE THE SAME AS THAT FOR AN**  
21 **ISP-BOUND CALL. PLEASE EXPLAIN ON WHAT BASIS MR. STARKEY**  
22 **APPEARS TO DISAGREE WITH YOU AND WHETHER YOU ACCEPT HIS**  
23 **ARGUMENT.**

24 A. The best example of Mr. Starkey’s reasoning in this respect, as found in his testimony, is  
25 as follows:

26 Both [local voice and ISP-bound] calls use the same path and exactly the same

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<sup>7</sup> Louisiana regulators recently acknowledged that the FCC treats ISPs as end-users *only for the purposes of the ESP exemption*. That is, the end-user status is merely a regulatory device for getting special treatment for ISPs, not necessarily an accurate technical description of ISPs. Louisiana Public Service Commission, *In Re: Petition of KMC Telecom, Inc. Against BST to Enforce Reciprocal Compensation Provisions of the Parties’ Interconnection Agreement*, Docket No. U-23839, Order, October 13, 1999, at 13 (Factual Finding No. 17).



1 equipment to reach their destinations. Most importantly, the costs to terminate  
2 the calls made to the residential customer and the ISP customer are identical. As  
3 such, the rates associated with recovering those costs should be identical.<sup>8</sup>

4 Unfortunately, this argument rests on generalizations and fails to consider the structure of  
5 costs. For every call, there are broadly two types of cost: a *fixed* cost (invariant to the  
6 length of the call) for call setup at both ends of the call, and an *incremental* or variable cost  
7 that arises for every minute a call passes through a switch.<sup>9</sup> The *per minute* cost of that call  
8 is the sum of the incremental cost of that minute plus the fixed cost averaged over the total  
9 length of the call. The latter component would obviously diminish as the fixed cost is  
10 averaged over an increasing number of minutes. Thus, if the average ISP-bound call is  
11 between five and seven times longer than the average voice call, the average *fixed* cost  
12 component for the former would be considerably smaller than that for the latter. *Even if*  
13 *the incremental cost component of both types of calls were the same, the per minute cost of*  
14 *the average ISP-bound call would still end up being considerably less than that for the*  
15 *average voice call. A simple numerical example illustrates this fact.*<sup>10</sup>

16 Suppose the incremental cost for each minute is 0.5¢. Then, a 3-minute call would have  
17 a total incremental cost of  $3 \times 0.5 = 1.5¢$  and a 20-minute call would have a total  
18 incremental cost of  $20 \times 0.5 = 10¢$ . Suppose the fixed cost of call setup—which does not  
19 vary with the length of the call—is 2¢. Then the *total* cost of the 3-minute call (inclusive  
20 of call setup) would be  $1.5 + 2 = 3.5¢$ , and that for the 20-minute call would be  $10 + 2 = 12¢$ .  
21 To figure what each call costs on a per-minute basis, simply divide the total cost of each  
22 call by the respective number of minutes. Thus, the 3-minute call would cost  $3.5 \div 3 =$   
23  $1.66¢$  per minute and the 20-minute call would cost  $12 \div 20 = 1.2¢$  per minute. That is, as  
24 the call duration increases, the cost per minute would fall. This is simply common sense

<sup>8</sup> Direct testimony of Michael Starkey in this proceeding, at 16.

<sup>9</sup> It is of some interest whether that incremental cost itself declines, stays constant, or rises with the length of the call. However, I do not get into that issue here.

<sup>10</sup> For this example, I use average call durations that are typical for local and Internet calls. See, e.g., Kevin Werbach, "Digital Tornado: The Internet and Telecommunications Policy," *OPP Working Paper Series No. 29*, Federal Communications Commission, March 1997, at 59 (Figure 9).

1 and a conclusion reached by all who seriously consider the cost structure underlying each  
2 type of call.

3 Furthermore, even the incremental cost for the two types of calls may differ. The  
4 incremental cost of the local call (which is part of the foundation for BellSouth's  
5 termination rate) is itself a *composite* that reflects how the cost of local calls varies among  
6 different types of customers and customer locations. Unlike ICG, BellSouth must be  
7 prepared to provide local service to any or all such customers, regardless of their usage or  
8 location. In contrast, the incremental cost of an ISP-bound call is *not* a composite. Even  
9 though, at some elementary level, the two types of calls (as depicted in Exhibit No. MS-2  
10 of Mr. Starkey's testimony) may appear to resemble each other, a more serious analysis  
11 reveals the differences in their cost structures and levels.

12 **Q. IS THERE ANY CIRCUMSTANTIAL EVIDENCE THAT ICG'S COSTS FOR**  
13 **CARRYING ISP-BOUND TRAFFIC IS LESS THAN THE RECIPROCAL**  
14 **COMPENSATION RATE?**

15 A. Yes, there is. ICG witnesses have made a point of emphasizing that CLECs often provide  
16 ISPs the option of collocating ISP equipment in the CLEC's central offices thereby  
17 reducing the costs to carry traffic to ISPs. In rebuttal testimony in Tennessee, Mr. Starkey  
18 stated:

19 A primary example of BellSouth's unwillingness to allow ISPs to accommodate  
20 the unique needs of ISPs is BellSouth's unwillingness to allow ISPs to collocate  
21 in its central offices...Many CLECs allow the ISPs, just like they allow other  
22 large users to use their central office space to house equipment.<sup>11</sup>

23 In fact, Ms. Schonhaut states in her direct testimony in this proceeding [at 5]:

24 In addition, ICG offers ISPs the option of collocating ISP equipment alongside  
25 ICG equipment in ICG's central office.

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<sup>11</sup> Tennessee Regulatory Authority, *In re: Petition of ICG Telecom Group, Inc. for Arbitration with BellSouth Telecommunications, Inc. Pursuant to Section 252 of the Telecommunications Act of 1996*, Docket No. 99-00377, Rebuttal testimony of Michael Starkey, at 26.

1 Q. MR. STARKEY CLAIMS [AT 20-21] THAT BELLSOUTH HAS AN INCENTIVE  
2 TO OVERESTIMATE ITS COST OF TERMINATION AND, THEREFORE, TO  
3 SET A "HIGH" TERMINATION RATE EVEN THOUGH, WITH THAT RATE  
4 SET "CORRECTLY," BELLSOUTH SHOULD BE "ECONOMICALLY  
5 INDIFFERENT" BETWEEN EITHER "TERMINATING" AN ISP-BOUND CALL  
6 ITSELF OR HAVING IT "TERMINATED" BY ICG. DO YOU ACCEPT EITHER  
7 THIS CLAIM OR HIS INFERENCE THAT BELLSOUTH'S REFUSAL TO PAY  
8 RECIPROCAL COMPENSATION MUST MEAN THAT THE TERMINATION  
9 RATE IS NOT SET CORRECTLY?

10 A. No. Mr. Starkey's reasoning and inference are rather convoluted. The confusion stems  
11 from failure on two fronts:

- 12 1. Failure to distinguish between the per-minute cost to terminate an average local call  
13 (upon which BellSouth bases its termination rate) and the *lower* per-minute cost to  
14 "terminate" an ISP-bound call (which ICG experiences).
- 15 2. Failure to understand that BellSouth has no economic incentive to set (i.e., nothing to  
16 gain from setting) a termination rate in excess of cost. Nor has it an opportunity to do  
17 so because the rate is set by the Commission. When only a single and symmetrical  
18 termination rate (based on the *higher* cost experienced by BellSouth) is used to  
19 compensate both carriers, *any* termination rate in excess of the CLEC's per-minute cost  
20 to "terminate" ISP-bound traffic will create a strong economic incentive for the CLEC  
21 to specialize only in serving ISPs or to engage in some form of profitable arbitrage.

22 Q. PLEASE EXPLAIN MR. STARKEY'S FAILURE TO APPRECIATE THE  
23 DIFFERENCES IN COST.

24 A. Mr. Starkey starts out by reasoning [at 18] that the

25 only difference between a call made between two BellSouth local customers and  
26 the call made from a BellSouth customer to an ICG customer is that ICG's  
27 central office serves the terminating switching function that was originally  
28 performed by the BellSouth switch. In this way, BellSouth avoids those  
29 terminating switching costs and ICG incurs them. Hence, if BellSouth has  
30 accurately established its terminating reciprocal compensation rate based upon  
31 its own costs of terminating a call, it should be economically indifferent with  
32 respect to whether a call both originates and terminates on its own network or  
33 whether a call terminates on the ICG network.

34 This reasoning would be correct if Mr. Starkey were to compare BellSouth's with ICG's

1 per minute cost of termination *for exactly the same type of local call*. However, the  
2 comparison at issue here is not what Mr. Starkey apparently believes it is. Rather, while  
3 the single, symmetrical rate for reciprocal compensation is based on BellSouth's cost to  
4 terminate an average local call, it reflects neither BellSouth's nor ICG's cost to "terminate"  
5 specifically an ISP-bound call. As I explained earlier, these two termination costs can be  
6 quite different with the cost to "terminate" an ISP-bound call being lower on a per-minute  
7 basis. Hence, the termination cost BellSouth incurs when it terminates an average local  
8 call itself is *not* the same as that it incurs upon "terminating" an ISP-bound call. More  
9 importantly, it is also not the "termination" cost BellSouth *avoids* when ICG, not  
10 BellSouth, "terminates" the ISP-bound call instead.

11 By overlooking this subtle but all-important difference, Mr. Starkey reaches his  
12 erroneous inference about economic "indifference." He also reaches the mistaken  
13 conclusion [at 20] that BellSouth "has a competitive interest in not providing a cost  
14 recovery mechanism for its competitors regardless of the extent to which it is economically  
15 indifferent on any given call." From an economic perspective, even if reciprocal  
16 compensation were the right form of inter-carrier compensation for ISP-bound traffic  
17 (which it is not), the culprit is the single, symmetrical termination rate. When termination  
18 costs differ between the two interconnecting carriers, a single rate applied both ways  
19 cannot prevent inefficient subsidies or opportunities for uneconomic but profitable  
20 arbitrage.

21 **Q. PLEASE EXPLAIN MR. STARKEY'S APPARENT FAILURE TO APPRECIATE**  
22 **THIS POINT.**

23 A. Mr. Starkey looks for clues about potential BellSouth behavior in all the wrong places.  
24 First, he speculates [at 20-21] that BellSouth set a termination rate on the basis—in his  
25 opinion—of an overestimated cost because doing so would allow BellSouth to (1) increase  
26 its revenues and (2) raise its competitor's (i.e., CLEC's) costs. Second, he surmises [at 21]  
27 that when that high rate works to BellSouth's detriment (such as when BellSouth becomes  
28 a net payer of reciprocal compensation), BellSouth would simply refuse to pay

1 compensation to the CLEC. Mr. Starkey is wrong on both counts.

2 In the first place, BellSouth's alleged anti-competitive strategy of raising rivals' costs  
3 by setting a high reciprocal compensation rate would not simply raise BellSouth's rivals'  
4 costs to terminate traffic. It would also raise their *revenues*, because CLECs collect the  
5 reciprocal compensation rate for every minute of local traffic they terminate on their  
6 networks. And for CLECs which terminate far more traffic than they originate,  
7 BellSouth's alleged anti-competitive strategy (of setting a high termination rate) would  
8 amount to raising rivals' profits, not their costs.

9 Second, Mr. Starkey's surmise implies that by setting a high interconnection rate,  
10 BellSouth was gambling on the balance of local traffic being in its favor and on receiving,  
11 as a result, substantial revenues from local compensation. The flip side of that surmise is  
12 that BellSouth's refusal to pay reciprocal compensation to ICG must indicate that the  
13 balance of local traffic has gone in favor of ICG instead, thus making BellSouth a net  
14 payer. This is too sweeping a conclusion because it is based on Mr. Starkey's mistaken  
15 belief that BellSouth's avoided cost for all local traffic terminated by a CLEC, avoided cost  
16 of ISP-bound traffic "terminated" by a CLEC, and the CLEC's actual incremental cost of  
17 "terminating" ISP-bound traffic are all the same. When BellSouth's own cost to terminate  
18 exceeds a CLEC's cost to "terminate" ISP-bound calls—and, as I explain below, BellSouth  
19 cannot choose its customers or influence the mix of terminating to originating traffic the  
20 way ICG or any CLEC can—then BellSouth faces the strong possibility that the balance of  
21 traffic (fueled in large part by ISP-directed traffic) will not be in its favor. Hence, it cannot  
22 have a strong economic incentive to play anti-competitive games based on an excessive  
23 termination rate. Such a game would be too risky and too fraught with prospects of  
24 adverse financial results for BellSouth.

25 Mr. Starkey misses the obvious reasons for BellSouth's refusal to pay reciprocal  
26 compensation for ISP-directed traffic: (1) from a jurisdictional standpoint, most of such  
27 traffic is not local and, therefore, not subject to inter-carrier compensation mechanisms  
28 designed for local traffic, and (2) from an economic standpoint, reciprocal compensation  
29 wrongly shifts the burden of the CLEC's cost recovery from the cost-causer (namely, ISPs

1 and their customers) to the ILEC that originates ISP-bound traffic.

2 **Q. PLEASE EXPLAIN WITH A NUMERICAL EXAMPLE YOUR POINT THAT**  
3 **WHEN ACTUAL "TERMINATION" COST (FOR ISP-BOUND CALLS) DIFFERS**  
4 **BETWEEN THE ILEC AND THE CLEC, A SINGLE SYMMETRICAL**  
5 **TERMINATION RATE CAN ACTUALLY FAVOR THE CARRIER WITH THE**  
6 **LOWER "TERMINATION" COST AND DISCOURAGE THE OTHER CARRIER**  
7 **FROM OVERSTATING ITS "TERMINATION" COST.**

8 A. At issue here is whether, under the circumstances described, the ILEC can benefit *at the*  
9 *CLEC's expense* by overstating its termination cost (and setting a "high" termination rate)  
10 when the CLEC, in fact, has a lower "termination" cost for ISP-bound traffic. The answer  
11 is "no," as the following numerical example using hypothetical termination costs, rates,  
12 and volumes demonstrates.

13 For this example, the parameters of interest are the unit prices charged by either carrier  
14 for "local" (including ISP-bound) calls, the unit origination cost of each carrier, the unit  
15 termination cost of each carrier, and the total volume of calls and each carrier's share of  
16 that volume. I assume that the CLEC is more efficient than the ILEC, i.e., has lower unit  
17 costs than the ILEC and can, consequently, charge a slightly lower price for calls it  
18 originates.<sup>12</sup> Second, I assume that all calls originating with one carrier are terminated by  
19 the other carrier, i.e., no call is terminated within the network in which it originates.<sup>13</sup>  
20 Finally, I assume that the unit price charged by either carrier is compensatory and equals  
21 (or exceeds) the sum of its respective unit origination and termination costs. Specifically, I  
22 assume the following hypothetical values (all expressed *per minute of call*):

---

<sup>12</sup> The background assumption is that all entry is efficient, i.e., the entrant must have the same or lower costs as the incumbent in order for its entry to be socially beneficial. In particular, I assume that the entrant can choose its customers, service locations, and the services it offers (including the option of offering only termination services for ISPs). In contrast, the ILEC cannot be selective about customers, service locations, and services offered. For these reasons, the unit costs of the ILEC may be higher.

<sup>13</sup> This assumption helps to simplify the example while putting a sharper focus on the outcomes of greatest interest. It also creates a scenario in which all ISP-bound calls cross network boundaries.

- |   |                                  |    |                               |      |
|---|----------------------------------|----|-------------------------------|------|
| 1 | 1. ILEC's unit price:            | 2¢ | CLEC's unit price:            | 1.5¢ |
| 2 | 2. ILEC's unit origination cost: | 1¢ | CLEC's unit origination cost: | 0.5¢ |
| 3 | 3. ILEC's unit termination cost: | 1¢ | CLEC's unit termination cost: | 0.5¢ |

4 Next, I consider three scenarios about the volume of "local" (ISP-bound) calls  
 5 "terminated":

- 6 1. ILEC terminates 10,000 minutes, CLEC terminates 0 minutes (all traffic one-way  
 7 toward the ILEC),
- 8 2. ILEC terminates 0 minutes, CLEC terminates 10,000 minutes (all traffic one-way  
 9 toward the CLEC), and
- 10 3. ILEC and CLEC terminate 5,000 minutes each (balanced traffic).

11 These three scenarios depict the two extremes and the mid-point in the possible  
 12 distribution of traffic between the two carriers. It is easy to extend the analysis to scenarios  
 13 which lie in the range between either extreme and the mid-point (e.g., the ILEC terminates  
 14 2,500 minutes and the CLEC terminates 7,500 minutes).

15 Suppose, at first, that the ILEC sets the termination rate (which is applied both ways) at  
 16 its *true* termination cost of 1¢ per minute. The revenue, cost, and profit outcomes of each  
 17 carrier would then take into account what either carrier would

- 18 1. receive in revenue from its own customers by originating their calls,
- 19 2. receive in revenue from the other carrier by terminating calls from its customers,
- 20 3. incur in cost by originating calls by its own customers, and
- 21 4. incur in cost by terminating calls from customers of the other carrier.

22 Those revenue, cost, and profit outcomes of the two carriers would then be as follows:

	Scenario 1: ILEC terminates all traffic		Scenario 2: CLEC terminates all traffic		Scenario 3: Balanced traffic	
	ILEC	CLEC	ILEC	CLEC	ILEC	CLEC
Revenue	\$100	\$150	\$200	\$100	\$150	\$125
Cost	\$100	\$150	\$200	\$50	\$150	\$100
Profit	\$0	\$0	\$0	\$50	\$0	\$25

23 This table makes the obvious point that as long as the single, symmetrical termination  
 24 rate is set equal to the ILEC's true termination cost, the ILEC cannot profit *from its*  
 25 *termination service*. For it to earn any profit at all, the ILEC's unit price would have to  
 26 exceed the sum of its unit origination and termination costs. Given my assumptions above,

1 that possibility too is ruled out. Hence, the ILEC makes no profit in any of the three  
2 scenarios, i.e., regardless of whether the traffic terminated is balanced or skewed or, in the  
3 extreme, all one-way.

4 In contrast, if (as assumed above) the CLEC's cost to "terminate" ISP-bound calls is  
5 lower than the ILEC's true termination cost (therefore, lower than the termination rate),  
6 then that CLEC can actually make a profit in the second and third scenarios (CLEC  
7 terminates all traffic and balanced traffic, respectively). In fact, even with balanced traffic  
8 (the mid-point), the CLEC would earn a positive profit that would actually *increase* as the  
9 traffic becomes increasingly one-way in the direction of that CLEC. Going the other way  
10 (traffic increasingly one-way in the direction of the ILEC), the CLEC's profit would  
11 decline but still stay positive. While at that other extreme (all one-way traffic to the  
12 ILEC), the CLEC's profit would fall eventually to zero, the CLEC would never be at risk  
13 of making a negative profit (i.e., loss).

14 Next consider what would happen if (as Mr. Starkey alleges) the ILEC were to  
15 overstate its termination cost and, consequently, set a higher (inflated) termination rate,  
16 say, 1.5¢ per minute. Assuming that all other costs and volumes remain the same, the  
17 revenue, cost, and profit outcomes of each carrier in the three scenarios would now be as  
18 follows:

	Scenario 1: ILEC terminates all traffic		Scenario 2: CLEC terminates all traffic		Scenario 3: Balanced traffic	
	ILEC	CLEC	ILEC	CLEC	ILEC	CLEC
Revenue	\$150	\$150	\$200	\$150	\$175	\$150
Cost	\$100	\$200	\$250	\$50	\$175	\$125
Profit	\$50	-\$50	-\$50	\$100	\$0	\$25

19 This table shows revised outcomes with a termination rate that the ILEC deliberately  
20 sets higher than it should be. First, note that with balanced traffic there is *no* change in the  
21 profit performance of *either* carrier.<sup>14</sup> For the ILEC, that is because its revenue from  
22 termination of traffic from the CLEC is exactly equal to its cost of terminating that traffic,

<sup>14</sup> I first discussed this outcome in my direct testimony, at 20-21.



1 regardless of the actual *level* of the termination rate. In this scenario, the ILEC's *total*  
2 revenue rises by \$25—from \$150 to \$175—due to a higher termination rate (as correctly  
3 claimed by Mr. Starkey) but *so does its total cost* (a fact overlooked by Mr. Starkey).<sup>15</sup> For  
4 the CLEC, although the termination rate is now even higher than its true termination cost,  
5 its total cost rises by \$25—from \$100 to \$125—(as correctly claimed by Mr. Starkey) but  
6 *so does its total revenue* (a fact overlooked by Mr. Starkey). Therefore, at least with  
7 balanced traffic, neither carrier experiences any net gain or loss from a higher or  
8 “overstated” termination rate.

9 How does this finding change when traffic is not balanced? The outcomes for the other  
10 two (extreme) scenarios provide the answer. When the direction of traffic gets skewed  
11 toward the ILEC, the inflated termination rate increasingly benefits that ILEC (profit gain)  
12 and hurts the CLEC (profit reduction and an eventual loss). However, when the direction  
13 of traffic goes the other way, i.e., is skewed toward the *CLEC*, precisely the opposite  
14 picture emerges: the ILEC increasingly loses money while the CLEC gains additional  
15 profit. These results for the ILEC and the CLEC are best seen by comparing the profit  
16 outcomes for the two carriers under scenarios 1 and 2 (the two extremes).

17 **Q. PLEASE EXPLAIN THE SIGNIFICANCE OF THESE OUTCOMES FROM YOUR**  
18 **NUMERICAL EXAMPLE.**

19 A. These findings are significant for two reasons. First, they expose the fallacy in Mr.  
20 Starkey's arguments that BellSouth has a financial incentive to overstate its termination  
21 cost and that the effect of an inflated termination rate on ICG is necessarily detrimental.  
22 Instead, as the example clearly shows, the outcomes also depend on other factors that Mr.  
23 Starkey neglects to consider in his analysis. Most importantly, BellSouth cannot use an  
24 inflated termination rate to its financial advantage *and to ICG's detriment* unless the traffic  
25 in question is badly skewed in the direction of BellSouth. The example also clearly shows

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<sup>15</sup> Note that, when traffic is balanced, revenue and cost both arise from two sources: origination and termination. Hence, revenues and costs referred to in this context are totals from both sources.

1 that when traffic is skewed in the direction of ICG, BellSouth would do itself harm rather  
2 than good by overstating its termination cost and setting an inflated termination rate.  
3 Having noted this possibility himself, Mr. Starkey chooses to explain BellSouth's refusal  
4 to pay reciprocal compensation for ISP-bound calls thus:

5 Hence, if indeed [BellSouth's] rates for traffic transport and termination are  
6 overstated, it becomes the party most likely to be harmed. Given this scenario it  
7 has two basic options, either (1) reduce its charges to more appropriately cost-  
8 based rates, or (2) remove from the equation the reason for its "net payor" (sic)  
9 status. It is apparent that BellSouth has opted for the second option by refusing  
10 to pay reciprocal compensation for calls directed to ISP providers served by its  
11 CLEC competitors.<sup>16</sup>

12 This brings me to the second reason that my findings are significant. BellSouth has not  
13 only recognized that there is nothing to be gained from an inflated termination rate but also  
14 that because of the fundamental asymmetry between its own circumstances and those of  
15 any CLEC, it will always be at a significant financial disadvantage if reciprocal  
16 compensation were required for the "termination" of ISP-bound calls. As I explained  
17 earlier, BellSouth is not free to select its customers, service locations, and the type of local  
18 services it offers. With the considerable latitude and freedom enjoyed by a CLEC in these  
19 respects, it is possible for any equally or more efficient CLEC to turn reciprocal  
20 compensation for ISP-bound calls to its financial advantage by deliberately skewing the  
21 balance of traffic in its direction (to the point of making it one-way). The CLEC can  
22 accomplish this by choosing to specialize in providing only "termination" services for ISPs  
23 and minimizing its offer of other, more traditional local exchange services. My numerical  
24 example clearly shows that a powerful incentive for that course of action exists whenever  
25 reciprocal compensation is required for ISP-bound calls. Moreover, the more inflated the  
26 termination rate is, the greater that incentive is likely to be. But, even with the termination  
27 rate set equal to BellSouth's true termination cost, as long as a single, symmetrical  
28 termination rate is applied to ISP-bound traffic and the CLEC has a lower cost of

<sup>16</sup> Direct testimony of Michael Starkey, at 21.

1 “termination” for ISP-bound traffic, reciprocal compensation for such traffic will almost  
2 guarantee an uneven playing field for a regulation-constrained ILEC relative to its  
3 unconstrained competitors.

4 **Q. MR. STARKEY CLAIMS [AT 19] THAT WERE BELLSOUTH TO ORIGINATE**  
5 **AND TERMINATE ALL LOCAL CALLS, IT WOULD BE ASKING THIS**  
6 **COMMISSION AND THE FCC FOR RATE INCREASES TO PAY FOR**  
7 **ADDITIONAL CAPACITY INVESTMENTS. WHAT INFERENCE DOES MR.**  
8 **STARKEY DRAW FROM THIS, AND DOES THAT INFERENCE MAKE SENSE?**

9 A. Mr. Starkey’s point is that BellSouth’s refusal to pay reciprocal compensation to ICG for  
10 local traffic it terminates from BellSouth smacks of a double standard. If BellSouth had to  
11 terminate the calls that are presently terminated by ICG, BellSouth would supposedly have  
12 to invest in new network facilities. To pay for those facilities, Mr. Starkey believes,  
13 BellSouth would seek rate increases from regulators. Therefore, BellSouth’s refusal to pay  
14 reciprocal compensation to ICG amounts, in Mr. Starkey’s opinion, to denying ICG a  
15 legitimate opportunity to recover the costs that it incurs (and BellSouth avoids) whenever  
16 ICG terminates local traffic from BellSouth.

17 The inference that BellSouth would seek any means possible to recover its costs but  
18 deny ICG the same opportunity does not make sense. To recover the cost of additional  
19 facilities, BellSouth need *not* seek rate increases from regulators. The additional cost of  
20 those facilities would be recovered from the source of that cost: from BellSouth’s own  
21 subscribers for a local call and from the ISP for an ISP-directed call. The incremental  
22 revenue from the additional service provided would be expected to recover the incremental  
23 cost of capacity expansion. There is nothing automatic about seeking cost recovery  
24 through rate increases. Similarly, a CLEC that incurs network facility costs should ideally  
25 seek recovery of those costs from the appropriate cost-causers. If the calls it switches are  
26 ISP-bound, then the CLEC should recover its costs with usage-based charges levied on the  
27 ISP, rather than from BellSouth in the form of reciprocal compensation payments.

28 BellSouth has never contended that a CLEC should be denied the chance to recover its

1 costs to "terminate" ISP-bound traffic. Its refusal to pay reciprocal compensation for such  
2 traffic merely reflects BellSouth's economically correct belief that the CLEC (here, ICG)  
3 should seek recovery from the cost-causer (here, the ISP and its customers) rather than  
4 from BellSouth.

5 **Q. DOES THE INFERENCE DRAWN BY MR. STARKEY LEAD TO OTHER**  
6 **ERRONEOUS CONCLUSIONS?**

7 A. Yes. Perhaps the most telling is Mr. Starkey's conclusion [at 15] that were ICG to be  
8 denied reciprocal compensation payments for ISP-bound traffic by BellSouth, it would be  
9 forced to raise its rates for lines leased by ISPs and that, in turn, would drive those ISPs  
10 back into the arms of BellSouth where somehow "[BellSouth's] more mature customer  
11 base can be used to offset the costs of "terminating" the ISPs' traffic without raising ISP  
12 local rates." Also, according to Mr. Starkey, the ISPs that do not move back to BellSouth  
13 would then be compelled to raise their rates to their customers (for Internet service) and, in  
14 the process, fail to remain competitive with *BellSouth.net*, BellSouth's ISP service. This is  
15 an excellent example of tortured logic and of an unmitigated doomsday scenario.

16 As I have explained, if cost recovery follows cost causation as is economically  
17 appropriate, then ISPs should certainly be asked to bear the share of costs they cause when  
18 they market to and sign up customers for Internet service from among BellSouth's  
19 subscribers. The central problem with applying the ILEC-CLEC local interconnection  
20 view to ISP-bound traffic (as Mr. Starkey would have the Commission do) is that cost-  
21 causers would not be held responsible and the burden of cost recovery would be shifted  
22 instead to the ILEC which, for Internet service, is *not* the cost-causer. This would be no  
23 different from asking the ILEC to bear the costs caused when a subscriber uses an IXC's  
24 network to place long distance calls.

25 Ironically, the situation that Mr. Starkey laments is, in fact, the economically efficient  
26 and socially desirable outcome. Otherwise, if BellSouth is forced to bear a cost that should  
27 legitimately be borne by the ISP and its customers, an unwarranted subsidy is created for  
28 Internet use. As I explained earlier in my direct testimony [at 17-23], this subsidy not only

1 distorts economic efficiency (by encouraging over-consumption of Internet service and  
2 under-consumption of other services), it also enables arbitrage-seeking CLECs to  
3 specialize in serving only ISPs and thereby distorts competition in the local exchange  
4 market. If ISPs were to face the true cost of their operations (including the cost of their  
5 leased lines) rather than be subsidized, uneconomic and inefficient entry by ISPs—created  
6 specifically for the purpose of generating reciprocal compensation revenues—would not be  
7 possible.

8 Mr. Starkey implies that *BellSouth.net*, BellSouth's ISP service, will gain an unfair  
9 competitive advantage if the ISPs served by ICG (or other CLECs) were asked to pay more  
10 for their leased lines. Quite the opposite is true. The *current* situation which calls for  
11 reciprocal compensation payments by BellSouth for ISP-bound traffic is competitively  
12 unfair. That is so because the ISPs that do not bear the full share of cost caused by them  
13 are being subsidized, even though *BellSouth.net* receives no such subsidy.<sup>17</sup> That is why  
14 ISPs seem so naturally to gravitate to CLECs (and not because, as Mr. Starkey claims,  
15 CLECs are inherently superior at meeting ISPs' needs). Removal of that subsidy would  
16 allow *BellSouth.net* to compete more evenly with other ISPs in the provision of Internet  
17 service, and BellSouth to compete more evenly with ICG and other CLECs to provide  
18 "termination" service to ISPs.

19 Finally, ISPs that return to BellSouth for call "termination" service would not be at a  
20 disadvantage relative to *BellSouth.net*. All call "termination" services received from

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<sup>17</sup> Mr. Starkey alleges [at 25] that BellSouth has been able to offer a promotional price of \$12.95 for the *BellSouth.net* ISP service by bundling its purchase with BellSouth's local access line and vertical services. In other words, Mr. Starkey implies that BellSouth has used such bundling to lower the price of its ISP service (if not actually subsidize it). This implication is false. The fact of bundling alone is not evidence of any commingling of revenues from BellSouth's regulated and ISP services. In fact, the promotional discount offered for its ISP service stands on its own and is not made possible by any revenue support from the regulated services. BellSouth is obliged to account for its regulated and unregulated (e.g., ISP) services separately and, therefore, does not have any opportunity to cross-subsidize its unregulated services. While Mr. Starkey is careful not to claim that *BellSouth.net*'s price is predatory (i.e., below incremental cost), he relies on innuendo to create the impression that it is. Ironically, examples abound of other carriers offering discounted Internet service in packages with other services (e.g., AT&T and AllTel bundle discounted Internet service with long distance and wireless services in Florida). In fact, a CLEC could quite easily resell BellSouth's access line and vertical services along with its own discounted Internet access service.

1 BellSouth by *BellSouth.net* are tariffed and available on non-discriminatory terms to any  
2 ISP that competes with *BellSouth.net*.

3 **Q. MR. STARKEY APPARENTLY BELIEVES [AT 24] THAT ALL CARRIERS**  
4 **HAVE THE SAME OPPORTUNITY TO COMPETE FOR “THE BUSINESS OF**  
5 **CUSTOMERS THAT GENERATE MORE INBOUND THAN OUTBOUND**  
6 **CALLING.” IS THAT TRUE?**

7 A. Absolutely not. The significant asymmetry—to which I have alluded—in the manner in  
8 which the ILEC and its CLEC competitors serve customers clearly implies that, in a regime  
9 of reciprocal compensation for ISP-bound traffic, CLECs would find it to their advantage  
10 to maximize inbound relative to outbound calling. This would most likely mean a greater  
11 emphasis on serving ISPs than on serving any other type of customer. In contrast, an ILEC  
12 like BellSouth is *obliged* to serve any individual or entity that demands service and cannot  
13 manipulate the mix of terminating and originating traffic in the manner that CLECs can.  
14 The advantage enjoyed by CLECs in this respect is two-pronged. First, by maximizing  
15 terminating relative to originating traffic, CLECs can also maximize their revenues from  
16 reciprocal compensation. Second, by selecting customers (such as ISPs) for whom the per  
17 minute cost to terminate is lower than for the average local call, CLECs can ensure the  
18 greatest possible profit margin between the going termination rate and their lower  
19 termination cost. Because of this reality, it is clearly disingenuous to suggest, as Mr.  
20 Starkey does [at 24], that:

21 The appropriate way for BellSouth to mitigate its “net payor” (sic) status for  
22 reciprocal compensation is not simply to refuse to pay for its customer’s use of  
23 the ICG network, but instead to follow the demands of the competitive  
24 marketplace just as ICG and the long distance companies have (i.e., to actively  
25 compete for customers that use its own network and require other carriers to use  
26 it as well).

27 As I explained before, BellSouth subscribers that use the ICG network to receive Internet  
28 service are customers of the ISPs that ICG serves, not of BellSouth. The analogy with long  
29 distance companies is fortuitous because it makes precisely the opposite point from the one  
30 Mr. Starkey intends to make. When the IXCs market to end-users for the provision of long

1 distance service, those end-users become customers of the IXC's even though they may  
2 subscribe to BellSouth for network access. Similarly, ISPs that market to end-users for the  
3 provision of Internet service turn those end-users into their customers.

4 **Q. MR. STARKEY CLAIMS REPEATEDLY [AT 6, 10, 11-12, 14, 20, AND**  
5 **ELSEWHERE] THAT ICG (AND OTHER CLECs) HAVE BEEN FAR MORE**  
6 **SUCCESSFUL AT SECURING THE BUSINESS OF ISPs THAN BELLSOUTH**  
7 **BECAUSE THEY ARE BETTER ABLE TO MEET THE NEEDS OF THOSE ISPs.**  
8 **IS THAT A CREDIBLE CLAIM?**

9 A. Such a claim may never be possible to verify. I do not have direct evidence on the  
10 strengths and weaknesses of BellSouth's efforts to serve ISPs relative to the efforts of ICG  
11 and other CLECs, and Mr. Starkey certainly does not offer any. While his claim may  
12 appear to put a clever spin on the observation that CLECs are increasingly signing up to  
13 serve ISPs (sometimes to the exclusion of all other local customers), it may also be a good  
14 example of putting the cart before the horse. A more likely explanation, in my opinion, is  
15 the one I offered earlier. The combination of a lower "termination" per minute cost for  
16 ISP-bound traffic and a healthier profit margin from ISP "termination" services produces a  
17 bountiful harvest of reciprocal compensation revenues. As long as CLECs can receive  
18 reciprocal compensation for ISP-bound traffic, choose their customers, and manipulate  
19 their mix of terminating-to-originating traffic (all of which an ILEC cannot do), arbitrage  
20 in the form of ISP specialization will continue to be most profitable for CLECs. Even  
21 though such specialization is undesirable from the standpoint of overall social welfare,  
22 CLECs only bent on maximizing their private profits may continue to seek out such  
23 opportunities, perhaps to the point of vertically integrating with the ISPs they currently  
24 serve. ISPs too can benefit from such a relationship by receiving a subsidy on their leased  
25 lines (in the form of a share of the reciprocal compensation revenues earned by the CLECs  
26 that serve them) which, in turn, they can use to lower their monthly charges to their  
27 customers and further stimulate the demand for Internet service. Greater Internet usage by  
28 the ILEC's subscribers will then reinforce this cycle by generating even greater reciprocal

1 compensation revenues for CLECs and, through sharing, for ISPs as well. Because of this,  
2 I sincerely doubt that CLECs are somehow inherently better at serving ISPs than  
3 BellSouth. Indeed, Mr. Starkey's own fear that any increase in the CLEC's line charges to  
4 ISPs would drive those ISPs back to BellSouth suggests that there is very little outside of a  
5 subsidized price to bind those ISPs to ICG and other CLECs. My belief is that the  
6 apparent trend of ISPs signing up with CLECs reflects merely arrangements of  
7 convenience that are based on arbitrage opportunities created by the requirement of  
8 reciprocal compensation for ISP-bound traffic.

9 **Q. IN A SIMILAR VEIN, MS. SCHONHAUT CLAIMS [AT 5-6] THAT "ICG HAS**  
10 **FREQUENTLY BEEN ABLE TO OFFER ISPs SERVICE PACKAGES THAT ARE**  
11 **CAREFULLY TAILORED TO THE ISPs' OPERATIONS" AND THAT "WITH**  
12 **RECIPROCAL COMPENSATION FOR CALLS TO ISPs PRECLUDED AS A**  
13 **SOURCE OF REVENUE, ICG WOULD FIND IT NECESSARY TO WEIGH**  
14 **WHETHER IT WOULD BE A WISE BUSINESS DECISION TO EXPAND ITS**  
15 **INVESTMENT AND PROVIDE INCREASED SERVICES IN KENTUCKY." HOW**  
16 **DO YOU RESPOND?**

17 A. While ICG's efforts to provide customized service to ISPs may be laudable, it does not—  
18 and should not—follow that, in the absence of reciprocal compensation for ISP-bound  
19 calls, all of those efforts would mean nothing or that ICG would even cease operations in  
20 Kentucky. The latter "implication" is, in my reading, a veiled threat that ICG's continued  
21 competitive presence in Kentucky can only be assured if the Commission were to keep in  
22 place the lucrative money pump that reciprocal compensation for ISP-bound calls has  
23 become. While I agree with Ms. Schonhaut's request [at 7] that ICG "be allowed to recoup  
24 its costs incurred on behalf of other carriers," it would be unwise to allow such cost  
25 recoupment through reciprocal compensation, rather than on a cost-causative basis. Also,  
26 Ms. Schonhaut confuses certain economically distinct issues: cost recovery must follow  
27 cost causation, and can have nothing to do with whether ICG provides a different kind of  
28 value-adding service. The essence of competition is that rival firms attempt to interest



1 potential customers by differentiating their product, pricing the product attractively,  
2 providing customer service, etc. But they must still recover their costs from cost-causers,  
3 not from other entities (as I have explained in my direct testimony) that are neither cost-  
4 causers nor their agents. Instead of insisting that ICG receive "fair compensation" from  
5 BellSouth for ISP-bound calls, ICG should insist on receiving such compensation from the  
6 ISPs it serves and their customers.

7 **Q. CALLING IT "NOT ACCURATE" TO BLAME CLECs FOR THE INCREASED**  
8 **COSTS THAT ILECs ARE EXPERIENCING IN THE FACE OF INCREASED**  
9 **INTERNET CALL VOLUMES, MR. STARKEY [AT 24-25] ATTRIBUTES THAT**  
10 **INCREASE TO THE "PUBLIC'S SEEMINGLY UNQUENCHABLE THIRST FOR**  
11 **THE INTERNET AND OTHER ELECTRONIC COMMUNICATIONS MEDIUMS**  
12 **...." IS THAT ATTRIBUTION ACCURATE?**

13 A. Of course not. Again, Mr. Starkey is quick to shift attention from what is causing possibly  
14 a significant part of the rapid growth in demand for the "Internet and other electronic  
15 communications mediums." For example, Mr. Starkey asserts [at 25] that "... it is  
16 important to note that companies like [BellSouth] are on the front lines marketing these  
17 services to feed the public's demand." It is clearly disingenuous to suggest that only  
18 "companies like [BellSouth]" are caught up in this gold rush or feeding frenzy, and that the  
19 ISPs themselves or the CLECs that serve them have relatively less interest or a less direct  
20 role in stimulating the public's demand for the Internet or electronic media. While much  
21 of the growth of such demand is typical and characteristic of the early stages of growth of a  
22 useful and popular product, as I explained earlier, it is also in part the result of subsidies to  
23 the use of the Internet and other electronic media. Those subsidies owe themselves in large  
24 part to the sharing of reciprocal compensation revenues among CLECs and ISPs. It is  
25 precisely because CLECs receive reciprocal compensation for ISP-bound calls that their  
26 rates to ISPs (and the ISPs' monthly access charges to ISP customers) are below  
27 economically correct (cost-based) levels. That is also why possible removal of those  
28 subsidies leads Ms. Schonhaut to fear [at 6] that "ICG and other CLECs would be left to

1 raise their rates to absorb their costs.”<sup>18</sup> There is nothing wrong with asking each  
2 competing firm to absorb its true costs. If providing a subsidy to end-users is still in the  
3 public interest, then that subsidy should be made explicit and competitively-neutral, not  
4 selectively channeled through CLECs by means of an ill-advised reciprocal compensation  
5 scheme.

6 **III. PERFORMANCE BENCHMARKS AND PENALTIES**

7 **Q. WHAT HAS ICG PROPOSED FOR ENSURING COMPLIANCE BY BELLSOUTH**  
8 **WITH PERFORMANCE TARGETS EMBODIED IN ITS INTERCONNECTION**  
9 **AGREEMENT WITH BELLSOUTH?**

10 A. Even though penalties or liquidated damages are not required by the 1996 Act to ensure  
11 that an ILEC complies with performance standards, ICG has supported adopting a two-  
12 tiered performance enforcement mechanism based on such penalties that was recently  
13 adopted by the Texas Public Utility Commission (“Texas PUC”) (Rowling, at 10-18).

14 The Texas PUC performance enforcement plan relies on two tiers of penalties. As  
15 Ms. Rowling points out [at 10], Tier 1 penalties are paid to the CLEC, while Tier 2  
16 penalties are paid to the state. Performance measures are designated as “high,” “medium,”  
17 “low,” or “none” and penalties in both tiers are calibrated according to this designation.  
18 While the performance measures are subject to monthly caps on penalties to be paid by the  
19 ILEC, the caps themselves are quite generous, leaving the ILEC liable for a maximum of  
20 \$3 million per month to a single CLEC and a maximum of \$10 million per month to all  
21 CLECs. Ms. Rowling makes no mention of caps for Tier 2 penalties paid to the state. Ms.

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<sup>18</sup> Ms. Schonhaut also contends [at 6] that denying ICG reciprocal compensation for ISP-bound calls would force ICG to raise its rates to ISPs and, in the process, depress the growth of demand for Internet use in Kentucky. Taken to its logical extreme, this argument suggests that the growth of demand for Internet use could only be maximized by making such use essentially free (i.e., zero price). Economic efficiency is best served by putting valuable scarce resources to their best possible use and pricing resources to at least recover their true costs. Giving something away for free or at a price below cost (subsidy) is necessarily economically inefficient, unless it can be proved that various unmeasured benefits from the subsidy is enough to overcome the loss of economic efficiency. That demonstration has not been made by any party in this proceeding.

1 Rowling's recommendation of the Texas PUC performance guarantee plan to this  
2 Commission is significant because, regardless of penalties paid to the state of Kentucky,  
3 ICG would remain the *direct beneficiary* (up to \$3 million per month) of failures by  
4 BellSouth to meet the performance benchmarks.

5 **Q. DO YOU AGREE THAT SUCH A PENALTY-BASED SYSTEM IS NECESSARY**  
6 **TO ENSURE BELL SOUTH'S COMPLIANCE AND TO SECURE COMPETITIVE**  
7 **PARITY?**

8 A. No. As Mr. Hendrix's testimony explains, enforcement measures based on penalties or  
9 liquidated damages are completely unnecessary and inappropriate. Apart from the fact that  
10 legal and other remedies are already available, ICG's proposed performance enforcement  
11 plan suffers from an important incentive problem known in economics as *moral hazard*.  
12 From the economic standpoint, therefore, ICG's proposal cannot be justified.

13 **Q. WHAT IS MORAL HAZARD AND WHY DOES IT CREATE AN INCENTIVE**  
14 **PROBLEM?**

15 A. Moral hazard is a form of gaming by which one party to a contract may resort to actions—  
16 within the framework of the existing contract—that create an unanticipated competitive or  
17 financial advantage for that party *at the expense of the other party* to the contract. This  
18 type of behavior usually arises when one of two parties to a contract possesses special  
19 information that the other does not.<sup>19</sup> There is then an incentive for the better-informed  
20 party to act in ways that raise the risk of default by—or loss to—the other party. Such  
21 behavior may be illustrated by the following simple examples:

- 22 1. A homeowner that insures his home against accidental fire damage may actually raise  
23 the risk of such damage by failing to take precautions or to maintain the pre-insurance  
24 level of vigilance against accidental fires.
- 25 2. A customer that purchases an appliance or automobile under a comprehensive warranty  
26 may actually raise the risk of needing repairs by failing to accord the level of care that

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<sup>19</sup> For an extensive discussion of moral hazard, see Jean Tirole, *The Theory of Industrial Organization*,  
Cambridge, MA: The MIT Press, 1993.

1 would have been given without the warranty.

2 **Q. HOW CAN THE MORAL HAZARD PROBLEM BE PREVENTED IN INTER-**  
3 **CARRIER RELATIONSHIPS?**

4 A. The total prevention of moral hazard may require an extraordinary level of monitoring and  
5 policing of the private conduct of all parties to a contract. For that reason, it may never be  
6 possible to completely eliminate all opportunities for moral hazard-based behavior. It is  
7 important, however, that all parties to a contract realize that their private *individual*  
8 conduct may have both positive and negative consequences for *all*. This would be  
9 particularly true when the contracting parties are engaged in a supplier-customer  
10 relationship *within* the contract and as competitors *outside* the contract.

11 **Q. PLEASE EXPLAIN WHY YOU BELIEVE THAT ICG'S PROPOSED**  
12 **PERFORMANCE ENFORCEMENT PLAN CREATES AN INCENTIVE FOR**  
13 **MORAL HAZARD LEADING TO AN UNDUE ADVANTAGE FOR ICG.**

14 A. There are a number of important defects in the ICG-supported performance guarantee plan.  
15 First, ICG is unilaterally pushing a set of performance measures that BellSouth may or may  
16 not be able to meet. BellSouth has developed a comprehensive set of Service Quality  
17 Measurements ("SQMs") for use in interconnection agreements generally. It is not feasible  
18 for BellSouth to design, negotiate, and implement a separate set of those basic SQMs for  
19 every CLEC with which it interconnects. With CLECs free to impose their own particular  
20 set of performance measures, BellSouth would face the impossible task of trying to meet  
21 those varying standards by, in effect, setting performance goals and operating—for  
22 purposes of interconnection—like several different carriers. However, I understand that  
23 BellSouth would consider negotiating reasonable additional performance measurements  
24 that go beyond those already included if ICG were willing to reimburse BellSouth for the  
25 investigation, development, and delivery of those additional measurements.

26 Second, ICG can hardly expect an enthusiastic response from BellSouth when the  
27 proposed performance enforcement plan can so obviously have the effect of enriching ICG.  
28 Whether or not the *size* of the proposed penalty at each level is appropriate, the real

1 sticking point is the *manner* in which ICG proposes to exercise the proposed penalties. As  
2 currently structured, Tier 1 penalties would be directly a source of unearned income for  
3 ICG. ICG provides no insight whatsoever into the level of economic "harm" that it might  
4 suffer from "non-parity performance" at either level. In other words, ICG makes no  
5 attempt to link the size of the penalty at either of those levels to the actual financial loss or  
6 damage it would supposedly suffer. Without such an accounting, it is impossible to  
7 determine whether ICG has proposed fair compensation or created a lucrative non-market  
8 unearned revenue opportunity for itself.

9 If it is the latter, then the problem of moral hazard is clearly manifest in the ICG-  
10 supported performance enforcement plan. That plan lacks symmetry in two ways: it (1)  
11 disproportionately favors ICG and (2) sets up no system of rewards for superior  
12 performance to correspond to the proposed consequences for non-compliance. In fact, Ms.  
13 Rowling decries the fact [at 10] that when the Texas PUC's remedy plan first emerged, it  
14 actually proposed to award credits to the ILEC for "good performance" which the ILEC  
15 could then use as offsets against any penalties. As a result, ICG would have every  
16 incentive to maximize unearned income through this performance enforcement plan by  
17 creating conditions that cause BellSouth to be in non-compliance.

18 **Q. WHAT ARE THESE CONDITIONS THAT ICG (OR OTHER CLECs SEEKING**  
19 **INTERCONNECTION AGREEMENTS WITH BELL SOUTH) MAY CREATE AS**  
20 **A RESULT OF MORAL HAZARD?**

21 A. The prospect—or promise—of payments unrelated to the actual size of economic loss or  
22 damage could trigger moral hazard-based behavior in at least five directions:

- 23 1. *Reward lack of cooperation.* Interconnecting carriers would have less incentive to  
24 report operational problems to BellSouth in a timely manner. By ICG's proposal, the  
25 longer a problem goes uncorrected, the greater the compensation available.
- 26 2. *Discourage investment by CLEC.* ICG's proposal, if implemented, would generate  
27 several opportunities for unearned income. Such income could discourage ICG and  
28 other interconnecting carriers from investing in their own facilities, especially if such  
29 investment were to cause those carriers to lose a lucrative source of income.
- 30 3. *Encourage inefficient entry.* Firms that are inefficient relative to BellSouth may  
31 nevertheless see an opportunity to enter the market in the expectation of receiving

1 penalty payments from BellSouth. This would be precisely the same effect as providing  
2 a subsidy would have in inducing entry by inefficient firms.

- 3 4. *Entrapment by CLEC.* Interconnecting carriers would have an incentive to force  
4 BellSouth into situations of non-compliance. For example, by choosing to provision  
5 hard-to-serve end-users, presenting service requests that are calculated to cause  
6 bottlenecks and delays in BellSouth's response, or basing service requests on  
7 deliberately underestimated service requirements (with a subsequent upward revision in  
8 those requests that BellSouth could not possibly fulfill quickly), those carriers could  
9 increase the risk of BellSouth non-compliance.

10 **Q. AS MR. HOLDRIDGE POINTS OUT IN HIS TESTIMONY [AT 13], HASN'T**  
11 **BELLSOUTH RECOGNIZED "THE NEED FOR MONETARY DAMAGES TO BE**  
12 **PAID TO A COMPETITIVE CARRIER FOR FAILURE TO MEET**  
13 **PERFORMANCE STANDARDS"?**

- 14 A. In the context of this arbitration, BellSouth has not agreed to the payment of such damages,  
15 a fact Mr. Holdridge also acknowledges [at 13]. There are several reasons for this,  
16 explained both here and in Mr. Hendrix's testimony. As Mr. Hendrix makes clear, there  
17 are already methods available to ICG for dispute resolution over BellSouth's performance  
18 in supplying UNEs. Ms. Rowling herself acknowledges [at 13] that this Commission has  
19 in the past declined to set performance measurements and penalties. The alleged  
20 recognition by BellSouth (of the need to pay damages directly to the CLEC) to which Mr.  
21 Holdridge alludes is contained in a proposal on performance enforcement—which has been  
22 neither approved nor implemented—that BellSouth presented to the FCC as a possible  
23 compromise for meeting the Competitive Checklist requirements in Section 271 of the  
24 1996 Act prior to receiving approval to offer interstate long distance services. I  
25 understand, however, that BellSouth continues to believe—as I do—that the payment of  
26 penalties directly to the alleged aggrieved party (the CLEC) creates perverse incentives like  
27 moral hazard that vitiate the very purpose of ensuring parity performance.

28 **Q. ARE THERE OTHER PROBLEMS WITH THE PERFORMANCE**  
29 **ENFORCEMENT MECHANISM RECOMMENDED BY ICG?**

- 30 A. Yes, there are two other fundamental problems. First, the ICG-supported system of

1 penalties is not tied to cost or based on economics, so that BellSouth and ICG would face  
2 distorted incentives to provide quality service, on the one hand, and to cooperate in jointly  
3 provisioning services for customers, on the other. The proposed penalties appear arbitrary  
4 and are, perhaps, set at the estimated revenue that would be lost if a end-user served by  
5 ICG were to drop ICG service because of a BellSouth performance failure, although even  
6 that is not evident. But, not every service failure causes an end-user to permanently change  
7 suppliers and, even if the end-user left, the net cost to ICG would be lost profit, not lost  
8 revenue. Moreover, the proposed costly penalties and guarantees would take effect  
9 irrespective of whether the fault was BellSouth's, ICG's, the end-user's, or of no one in  
10 particular.

11 Second, the proposed system of penalties appears to assume that BellSouth's cost to  
12 supply UNEs to ICG or other CLECs is the same when performance enforcement  
13 mechanisms are established as when they are not. In fact, the cost of supplying UNEs with  
14 draconian performance mechanisms and penalties is different from the cost without such  
15 conditions. If ICG requires a higher grade of service or a higher assurance of service  
16 quality than that which BellSouth supplies to its own retail customers or other CLECs,  
17 then, as I stated above, it should be obliged to pay for that difference.

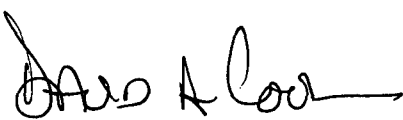
18 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

19 A. Yes.


STATE OF GEORGIA     )  
                                  )  
                                  )  
COUNTY OF FULTON    )

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared David A. Coon, who, being by me first duly sworn deposed and said that:

He is appearing as a witness on behalf of BellSouth Telecommunications, Inc., before the Kentucky Public Service Commission in Case No. 99-218, ICG Petition for Arbitration, and if present before the Commission and duly sworn, his rebuttal testimony would be set forth in the annexed transcript consisting of 9 pages and 2 exhibits.

  
\_\_\_\_\_  
David A. Coon

SWORN TO AND SUBSCRIBED BEFORE ME this  
15<sup>th</sup> day of November, 1999.

  
\_\_\_\_\_  
NOTARY PUBLIC

**MICHEALE F. HOLCOMB**  
Notary Public, Douglas County, Georgia  
My Commission Expires November 3, 2001



1 BELL SOUTH TELECOMMUNICATIONS, INC.

2 REBUTTAL TESTIMONY OF DAVID A. COON

3 BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION

4 CASE NO. 99-218

5 NOVEMBER 19, 1999

6  
7 Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELL SOUTH  
8 TELECOMMUNICATIONS, INC. ("BELL SOUTH") AND YOUR BUSINESS  
9 ADDRESS.

10  
11 A. My name is David A. Coon. I am employed by BellSouth as Director –  
12 Interconnection Services for the nine-state BellSouth region. My business  
13 address is 675 West Peachtree Street, Atlanta, Georgia 30375.

14  
15 Q. WHAT IS YOUR PROFESSIONAL EXPERIENCE AND EDUCATIONAL  
16 BACKGROUND?

17  
18 A. My career at BellSouth spans over 20 years and includes positions in Network,  
19 Regulatory, Finance, Corporate Planning, Small Business Services and  
20 Interconnection Operations. Prior to BellSouth I performed a variety of functions  
21 in the Network, Regulatory and Marketing Support organizations of C&P  
22 Telephone Company-Washington. I have extensive experience in the

1 development and use of quantitative measurements and results including the  
2 establishment, analysis and monitoring of BellSouth process measures.  
3 I received a Bachelors Degree in Civil Engineering from Ohio University and a  
4 Masters Degree in Engineering Administration from George Washington  
5 University. I received the Certified Management Accountant (CMA) designation  
6 in 1996 from the Institute of Management Accountants.

7

8 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

9

10 A. No.

11

12 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

13

14

15 A. I will respond to the direct testimony of ICG witness Gwen Rowling as it relates  
16 specifically to performance measures. Although Ms. Rowling says performance  
17 measurements are related to Issues 5, and 19-26, Ms. Rowling is confusing  
18 performance measures with performance penalties. There is no issue that directly  
19 addresses performance measurements. Nonetheless, I will address the  
20 measurements aspect of this issue. BellSouth witness Jerry Hendrix will address  
21 the issue of enforcement mechanisms.

22

23 Q. ON PAGE 2 OF HER TESTIMONY, MS. ROWLING ALLEGES THAT  
24 "BELLSOUTH HAS INDICATED THAT IT IS ONLY WILLING TO ENGAGE  
25 IN DISCUSSIONS WITH THE FEDERAL COMMUNICATIONS

1 COMMISSION ("FCC") ON ISSUES RELATING TO PERFORMANCE  
2 MEASURES. THEREFORE, COMMISSION INTERVENTION IS NEEDED  
3 TO RESOLVE THIS CONTROVERSY." HOW DO YOU RESPOND TO THIS  
4 ALLEGATION?

5  
6 A. Ms. Rowling's statement is certainly misleading. She appears to believe that  
7 performance measures and enforcement mechanisms are interlocked and cannot  
8 be considered as separate issues. BellSouth views these issues as related but  
9 certainly separate issues. Again, BellSouth witness Jerry Hendrix will  
10 specifically address enforcement mechanisms. As for performance measures,  
11 BellSouth is, and always has been, willing to negotiate issues associated with  
12 performance measures. This is evidenced by BellSouth's continued participation  
13 in the Louisiana performance measurements workshops in which BellSouth and a  
14 consortium of CLECs actively negotiate and resolve issues associated with  
15 performance measures as relates to the CLEC industry in general.

16  
17 Q. DO YOU AGREE THAT PERFORMANCE MEASURES ARE AN  
18 IMPORTANT ISSUE AS CITED BY MS. ROWLING ON PAGE 2 OF HER  
19 TESTIMONY?

20  
21 A. Absolutely. Ms. Rowling cites five (5) essential elements (preordering, ordering,  
22 provisioning, billing, and repair and maintenance) as elements upon which ICG is  
23 dependent on BellSouth's performance. BellSouth's current Service Quality

1 Measurements (SQMs), the measurements BellSouth has proposed to ICG,  
2 address all 5 of these elements plus four (4) additional elements, namely, 1)  
3 operator services toll and directory assistance, 2) E911, 3) trunk group  
4 performance and 4) collocation on which ICG can gauge BellSouth's  
5 performance. BellSouth's measurements are the result of nearly two years of  
6 work with several state commissions, direction provided by the FCC and input  
7 from the CLECs. The SQMs are sufficient for the CLEC industry as a whole and  
8 should be sufficient for ICG as well. In fact, in excess of 70 CLECs currently  
9 have Agreements with BellSouth in Kentucky and these Agreements include  
10 BellSouth's SQMs. Attached, as Rebuttal Exhibit DAC-1, is a copy of  
11 BellSouth's Service Quality Measurements.

12  
13 Q. WAS THIS ISSUE RECENTLY RESOLVED IN GEORGIA?

14  
15 A. Yes. In the Georgia arbitration proceeding, ICG agreed to accept BellSouth's  
16 SQMs as the performance measures for the Agreement. The parties also agreed to  
17 amend the Agreement if additional measures are adopted by agreement of the  
18 parties; order of the Georgia or Louisiana Commission; or written consensus  
19 between the CLECs and BellSouth in the Louisiana workshops. BellSouth  
20 believes that if this agreement was sufficient for ICG in Georgia, it should also be  
21 sufficient for ICG in Kentucky.

22

1 Q. ON PAGE 3 OF HER TESTIMONY, MS. ROWLING CITES THREE  
2 EXAMPLES OF STATE COMMISSIONS OUTSIDE OF BELLSOUTH'S  
3 REGION THAT HAVE ADOPTED PERFORMANCE MEASURES. DO YOU  
4 KNOW OF ANY STATE COMMISSIONS INSIDE OF BELLSOUTH'S  
5 REGION WHO HAVE ADOPTED PERFORMANCE MEASURES AND/OR  
6 PLAYED A PART IN THE DEVELOPMENT OF BELLSOUTH'S SERVICE  
7 QUALITY MEASUREMENTS?  
8

9 A. Yes. First, it is important to note that all three states referenced by Ms. Rowling  
10 adopted performance measurements as the result of a collaborative process rather  
11 than a two-party proceeding, a method ICG advocated in its arbitration in North  
12 Carolina. In the BellSouth region, hearings were held in several states in which  
13 BellSouth and all CLECs had an opportunity to present their respective positions  
14 on Performance Measurements. Following those hearings, Commission Orders  
15 were issued by the Georgia Commission (Docket 7892-U) and the Louisiana  
16 Commission (Docket U-22252, SubDocket C) specifying the Performance  
17 Measurements to be used. The Mississippi Commission adopted BellSouth's  
18 recommended performance measurements as attached to its SGAT in Docket 97-  
19 AD-0321. The Alabama Commission (Docket 25835) issued a Procedural Ruling  
20 on December 11, 1998, requiring BellSouth to file monthly performance  
21 measurements results for Alabama based on the BellSouth SQMs.  
22

1 Q. WHY SHOULD THE KENTUCKY COMMISSION ADOPT BELLSOUTH'S  
2 SERVICE QUALITY MEASUREMENTS AS OPPOSED TO MANDATING  
3 THE MEASUREMENTS ADOPTED BY THE TEXAS COMMISSION AS  
4 SUGGESTED BY MS. ROWLING ON PAGE 3 OF HER TESTIMONY?  
5

6 A. In order to monitor non-discriminatory access, the Kentucky Public Service  
7 Commission must have a set of Performance Measurements that is consistent for  
8 all CLECs and for the retail units of BellSouth. If each CLEC has a separate set  
9 of mandated Performance Measurements for its Interconnection Agreement as  
10 ICG is suggesting, comparisons between the service quality provided to the  
11 CLECs and to BellSouth retail units would be impossible. As previously stated,  
12 in excess of 70 CLECs in Kentucky already have signed Agreements with  
13 BellSouth that include the BellSouth SQMs.  
14

15 Furthermore, there is the more practical matter of how to administer all the data  
16 required for multiple sets of measurements. BellSouth has invested in excess of  
17 \$50M developing the capability required for the current set of Performance  
18 Measurements. As of October 1, 1999, 817 CLECs have signed Agreements with  
19 BellSouth in BellSouth's region. To attempt to produce a separate set of  
20 mandated performance measurements for each one of them would be a near  
21 impossibility. It would be inconsistent with the FCC's desire that performance  
22 measurements and reporting requirements should "balance our goal of detecting  
23 possible instances of discrimination with our goal of minimizing, to the extent

1 possible, burdens imposed on incumbent LECs". (Notice of Proposed Rule  
2 Making, CC Docket 98-56 at Paragraph 36)

3

4 Q. IN ADDITION TO THE NEED FOR CONSISTENCY, ARE THERE OTHER  
5 REASONS THIS COMMISSION SHOULD ADOPT BELLSOUTH'S SQMs?

6

7 A. Yes. BellSouth's SQMs are similar in content and at least as comprehensive as  
8 the measurements proposed by ICG. Thus, the SQMs provide ICG all of the  
9 information it needs to evaluate BellSouth's performance for itself, and the  
10 Commission with the consistency it needs to evaluate performance to the CLEC  
11 community as a whole.

12

13 Q. ON PAGES 7 AND 8 OF HER TESTIMONY, MS. ROWLING DELINEATES  
14 THE CATEGORIES OF ACTIVITIES THAT ARE MONITORED BY THE  
15 TEXAS PERFORMANCE MEASUREMENTS. HAS ICG MADE ANY  
16 COMPARISON OF THE TEXAS MEASUREMENTS AND THE BELLSOUTH  
17 SQMs?

18

19 A. No. I have not seen any comparison of the two performance measurement plans  
20 by ICG.

21

22 Q. HAS BELLSOUTH COMPARED THE TEXAS PLAN PROPOSED BY MS.  
23 ROWLING TO THE BELLSOUTH SERVICE QUALITY MEASUREMENTS?

1  
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22

A. Yes, attached as Rebuttal Exhibit DAC-2, is a detailed, explicit measurement by measurement comparison of the Texas performance measurements with BellSouth's Service Quality Measurements attached to this testimony as Rebuttal Exhibit DAC-1. I have attempted to structure this comparison according to the Table of Contents in the Texas Plan (Ms Rowling's Exhibit 1) even though this structure is somewhat misleading in that it duplicates measurements under fifteen broad categories. As I stated previously, Rebuttal Exhibit DAC-2 demonstrates that the BellSouth SQMs are very similar in content and are at least as comprehensive as the performance measurements proposed by ICG.

Q. ON PAGES 8 AND 9 OF HER TESTIMONY, MS. ROWLING EXPLAINS HOW THE TEXAS PERFORMANCE MEASUREMENTS ARE DELINEATED. HOW DOES THIS COMPARE WITH HOW BELLSOUTH DELINEATES THE PERFORMANCE MEASUREMENTS IN THE BELLSOUTH SQMs?

A. BellSouth's SQMs have all six (6) levels of delineation described in Ms. Rowling's testimony; 1) Clearly Defined Business Rules, 2) Exclusions, if Any, 3) The Method of Calculation, 4) Report Structure, 5) Levels of Disaggregation and 6) Benchmarks. In fact, the BellSouth SQMs have two (2) additional levels of delineation; 7) Data Retained Relating to CLEC Experience and 8) Data Retained



1 Relating to BST Experience. Thus, if anything, BellSouth's SQMs are more  
2 complete than ICG's proposed measurements.

3

4 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

5

6 A. Yes

7

8

BellSouth  
Service Quality Measurements  
Regional Performance Reports

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\* These reports are subject to change due to regulatory requirements or to correct errors and etc.

BellSouth  
Service Quality Measurements  
Regional Performance Reports

**PRE-ORDERING - OSS**

<b>Report/Measurement :</b>	
Average OSS Response Time and Response Interval	
<b>Definition:</b>	
Average response time and response intervals are the average times and number of requests responded to within certain intervals for accessing legacy data associated with appointment scheduling, service & feature availability, address verification, request for Telephone Numbers (TNs), and Customer Service Records (CSRs).	
<b>Exclusions:</b>	
None	
<b>Business Rules:</b>	
The average response time for retrieving pre-order/order information from a given legacy system is determined by summing the response times for all requests submitted to the legacy during the reporting period and dividing by the total number of legacy requests for that day X 100. The response interval starts when the client application (LENS or TAG for CLECs and RNS for BST) submits a request to the legacy system and ends when the appropriate response is returned to the client application. The number of legacy accesses during the reporting period, which take less than 2.3 seconds and the number, which take more than 6 seconds are also captured.	
<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>• RSAG – Address (Regional Street Address Guide- Address) - stores street address information used to validate customer addresses</li> <li>• RSAG – TN (Regional Street Address Guide- Telephone Number) – contains information about facilities available and telephone numbers working at a given address.</li> <li>• ATLAS (Application for Telephone Number Load Administration and Selection) - acts as a warehouse for storing telephone numbers that are available for assignment by the system. It enables CLECs and BST service reps to select and reserve telephone numbers.</li> <li>• COFFI (Central Office Feature File Interface) – stores information about product and service offerings and availability.</li> <li>• DSAP (DOE Support Application) – provides due date information.</li> <li>• HAL (Hands-Off Assignment Logic) – a system used to access the Business Office Customer Record Information System (BOCRIS). It allows BST servers, including LENS, access to legacy systems.</li> <li>• P/SIMS (Product/Services Inventory Management System) – provides information on capacity, tariffs, inventory and service availability.</li> <li>• OASIS (Obtain Available Services Information Systems ) - Information on feature and rate availability.</li> </ul>	
<b>Calculation:</b>	
$\Sigma[(\text{Date \& Time of Legacy Response}) - (\text{Date \& Time of Request to Legacy})] / (\text{Number of Legacy Requests During the Reporting Period}) \times 100$	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• Not CLEC Specific</li> <li>• Not product/service specific</li> <li>• Regional Level</li> </ul>	
<b>Data Retained Relating to CLEC Experience:</b>	<b>Data Retained Relating to BST Performance:</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Legacy Contract (per reporting dimension)</li> <li>• Response Interval</li> <li>• Regional Scope</li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Legacy Contract (per reporting dimension)</li> <li>• Response Interval</li> <li>• Regional Scope</li> </ul>
<b>Retail Analog/Benchmark</b>	
CLEC Average Response Interval is comparable to BST Average Response Interval	

Revision date: 09/14/99 (lg)

BellSouth  
Service Quality Measurements  
Regional Performance Reports

**LEGACY SYSTEM ACCESS TIMES FOR RNS**

System	Contract	Data	< 2.3 sec	> 6 sec	Avg. Sec	# of Calls
RSAG	RSAG-TN	Address	x	x	x	x
RSAG	RSAG-ADDR	Address	x	x	x	x
ATLAS	ATLAS-TN	TN	x	x	x	x
DSAP	DSAP-DDI	Schedule	x	x	x	x
CRIS	CRSACCTS	CSR	x	x	x	x
OASIS	OASISBSN	Feature/Service	x	x	x	x
OASIS	OASISCAR	Feature/Service	x	x	x	x
OASIS	OASISLPC	Feature/Service	x	x	x	x
OASIS	OASISMTN	Feature/Service	x	x	x	x
OASIS	OASISBIG	Feature/Service	x	x	x	x

**LEGACY SYSTEM ACCESS TIMES FOR LENS**

System	Contract	Data	< 2.3 sec	> 6 sec	Avg. Sec	# of Calls
RSAG	RSAG-TN	Address	x	x	x	x
RSAG	RSAG-ADDR	Address	x	x	x	x
ATLAS	ATLAS-TN	TN	x	x	x	x
DSAP	DSAPDDI	Schedule	x	x	x	x
HAL	HAL/CRIS	CSR	x	x	x	x
COFFI	COFFI/USOC	Feature/Service	x	x	x	x
P/SIMS	PSIMS/ORB	Feature/Service	x	x	x	x

**LEGACY SYSTEM ACCESS TIMES FOR TAG**

System	Contract	Data	< 2.3 sec	> 6 sec	Avg. Sec	# of Calls
RSAG	RSAG-TN	Address	x	x	x	x
RSAG	RSAG-ADDR	Address	x	x	x	x
ATLAS	ATLASTN	TN	x	x	x	x
DSAP	DSAPDDI	Schedule	x	x	x	x
HAL	HAL/CRIS	CSR	x	x	x	x
CRIS	CRSEINIT	CSR	x	x	x	x
CRIS	CRSECSR	CSR	x	x	x	x

Revision date: 08/10/99 (lg)

BellSouth  
Service Quality Measurements  
Regional Performance Reports

**PRE-ORDERING - OSS**

<b>Report/Measurement:</b>	
OSS Interface Availability	
<b>Definition:</b>	
Percent of time OSS interface is functionally available compared to scheduled availability. Availability percentages for CLEC interface systems and for all Legacy systems accessed by them are captured	
<b>Exclusions:</b>	
None	
<b>Business Rules:</b>	
This measurement captures the availability percentages for the BST systems, which are used by CLECs during Pre-Ordering functions. Comparison to BST results allow conclusions as to whether an equal opportunity exists for the CLEC to deliver a comparable customer experience.	
<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>Regional Level</li> </ul>	
<b>Calculation:</b>	
$(\text{Functional Availability}) / (\text{Scheduled Availability}) \times 100$	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>Not CLEC Specific</li> <li>Not product/service specific</li> <li>Regional Level</li> </ul>	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>Report Month</li> <li>Legacy contract type (per reporting dimension)</li> <li>Regional Scope</li> </ul>	<ul style="list-style-type: none"> <li>Report Month</li> <li>Legacy contract type (per reporting dimension)</li> <li>Regional Scope</li> </ul>
<b>Retail Analog/Benchmark:</b>	
CLEC OSS Interface Availability is comparable to BST OSS Interface Availability	

Revision date: 09/14/99 (lg)

**OSS Interface Availability**

OSS Interface	% Availability
LENS	X
LEO Mainframe	X
LEO UNIX	X
LESOG	X
EDI	X
HAL	X
BOCRIS	X
ATLAS/COFFI	X
RSAG/DSAP	X
SOCS	X
TAG	X

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## ORDERING

<b>Report/Measurement:</b>
Percent Flow Through Service Requests (Summary)
<b>Definition:</b>
The percentage of Local Service Requests (LSR) submitted electronically via the CLEC mechanized ordering process that flow through to SOCS without manual intervention
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Fatal Rejects</li> <li>• Auto Clarification</li> <li>• Manual Fallout</li> <li>• CLEC System Fallout</li> <li>• Supplements (subsequent versions) to cancel LSRs that are not LESOG eligible (Under development)</li> </ul>
<b>Business Rules:</b>
<p>The CLEC mechanized ordering process includes all LSRs, including supplements (subsequent versions) which are submitted through one of the three gateway interfaces (TAG, EDI, and LENS), and flow through to SOCS without manual intervention. These LSRs can be divided into two classes of service; Business and Residence, and three types of service; Resale, Unbundled Network Elements (UNE), and specials. The CLEC mechanized ordering process does not include LSRs, which are, submitted manually (e.g., fax, and courier), or are not designed to flow through, i.e., Manual Fallout.</p> <p><b>Definitions:</b></p> <p><b>Fatal Rejects:</b> Errors that prevent an LSR, submitted by the CLEC, from being processed further. When an LSR is submitted by a CLEC, LEO will perform edit checks to ensure the data received is correctly formatted and complete. For example, if the PON field contains an invalid character, LEO will reject the LSR and the CLEC will receive a Fatal Reject.</p> <p><b>Auto-Clarification:</b> errors that occur due to invalid data within the LSR. LESOG will perform data validity checks to ensure the data within the LSR is correct and valid. For example, if the address on the LSR is not valid according to RSAG, the CLEC will receive an Auto-Clarification.</p> <p><b>Manual Fallout:</b> errors that occur by design. Certain LSRs are designed to fallout of the Mechanized Order Process due to their complexity. These LSRs are manually processed by the LCSC. When a CLEC submits an LSR, LESOG will determine if the LSR should be forwarded to LCSC for manual handling. Following are the categories for Manual Fallout.</p> <ol style="list-style-type: none"> <li>1. Complex services*</li> <li>2. Expedites (requested by the CLEC)</li> <li>3. Special pricing plans</li> <li>4. Denials-restore and conversion, or disconnect and conversion orders</li> <li>5. Partial migrations</li> <li>6. Class of service invalid in certain states with some types of service</li> <li>7. New telephone number not yet posted to BOCRIS</li> <li>8. Low volume such as activity type "T" (move)</li> <li>9. Pending order review required</li> <li>10. More than 25 business lines</li> <li>11. Restore or suspend for UNE combos</li> <li>12. Transfer of calls option for the CLEC's end users</li> <li>13. CSR inaccuracies such as invalid or missing CSR data in CRIS</li> </ol> <p>* Attached is a list of services, including complex services, and whether LSRs issued for the services are eligible to flow through.</p> <p><b>Total System Fallout:</b> Errors that require manual review by the LCSC to determine if the error is caused by the CLEC, or is due to system functionality. If it is determined the error is caused by the CLEC, the LSR will be sent back to the CLEC as clarification. If it is determined the error is BST caused, the LCSC representative will correct the error.</p>

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**ORDERING – (Percent Flow Through Service Requests (Summary) – Continued)**

<b>Calculation:</b>	
Percent Flow Through Service Requests = $\Sigma[(\text{Total number of valid service requests that flow-through to SOCS})] / (\text{Total number of valid service requests delivered to SOCS}) \times 100$	
<b>Description:</b> Percent Flow Through = $(\text{The total number of LSRs that flow through LESOG to SOCS}) / (\text{the number of LSRs passed from LEO to LESOG}) - \Sigma[(\text{the number of LSRs that fall out for manual processing}) + (\text{the number of LSRs that are returned to the CLEC for clarification}) + (\text{the number of LSRs that contain errors made by CLECs})] \times 100.$	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC Aggregate             <ul style="list-style-type: none"> <li>➢ Region</li> </ul> </li> </ul>	
<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>• Geography             <ul style="list-style-type: none"> <li>➢ Region</li> </ul> </li> <li>• Product (Under Development)             <ul style="list-style-type: none"> <li>➢ Residence</li> <li>➢ Business</li> <li>➢ UNE</li> <li>➢ Special</li> </ul> </li> </ul>	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>• Report month</li> <li>• Total number of LSRs received, by interface, by CLEC:             <ul style="list-style-type: none"> <li>➢ TAG</li> <li>➢ EDI</li> <li>➢ LENS</li> </ul> </li> <li>• Total number of errors by type, by CLEC:             <ul style="list-style-type: none"> <li>➢ Fatal rejects</li> <li>➢ Total fallout for manual processing</li> <li>➢ Auto clarification</li> <li>➢ CLEC caused system fallout</li> </ul> </li> <li>• Total number of errors by error code</li> </ul>	<ul style="list-style-type: none"> <li>• Report month</li> <li>• Total number of errors by type:             <ul style="list-style-type: none"> <li>➢ BST system error</li> </ul> </li> </ul>
<b>Retail Analog/Benchmark:</b>	
CLEC Flow Through/benchmark comparison (Under Development)	

Revision Date: 09/03/99 (tm)

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**ORDERING**

<b>Report/Measurement:</b>
Percent Flow Through Service Requests (Detail)
<b>Definition:</b>
A detailed list by CLEC of the percentage of Local Service Requests (LSR) submitted electronically via the CLEC mechanized ordering process that flow through to SOCS without manual or human intervention.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Fatal Rejects</li> <li>• Auto Clarification</li> <li>• Manual Fallout</li> <li>• CLEC System Fallout</li> <li>• Supplements (subsequent versions) to cancel LSRs that are not LESOG eligible(Under development)</li> </ul>
<b>Business Rules:</b>
<p>The CLEC mechanized ordering process includes all LSRs, including supplements (subsequent versions) which are submitted through one of the three gateway interfaces (TAG, EDI, and LENS), and flow through to SOCS without manual intervention. These LSRs can be divided into two classes of service; Business and Residence, and three types of service; Resale, Unbundled Network Elements (UNE) and specials. The CLEC mechanized ordering process does not include LSRs, which are, submitted manually (e.g., fax, and courier), or are not designed to flow through, i.e., Manual Fallout.</p> <p><b>Definitions:</b></p> <p><b>Fatal Rejects:</b> Errors that prevent an LSR, submitted by the CLEC, from being processed further. When an LSR is submitted by a CLEC, LEO will perform edit checks to ensure the data received is correctly formatted and complete. For example, if the PON field contains an invalid character, LEO will reject the LSR and the CLEC will receive a Fatal Reject.</p> <p><b>Auto-Clarification:</b> errors that occur due to invalid data within the LSR. LESOG will perform data validity checks to ensure the data within the LSR is correct and valid. For example, if the address on the LSR is not valid according to RSAG, the CLEC will receive an Auto-Clarification.</p> <p><b>Manual Fallout:</b> errors that occur by design. Certain LSRs are designed to fallout of the Mechanized Order Process due to their complexity. These LSRs are manually processed by the LCSC. When a CLEC submits an LSR, LESOG will determine if the LSR should be forwarded to LCSC for manual handling. Following are the categories for Manual Fallout:</p> <ol style="list-style-type: none"> <li>1. Complex services*</li> <li>2. Expedites (requested by the CLEC)</li> <li>3. Special pricing plans</li> <li>4. Denials-restore and conversion, or disconnect and conversion orders</li> <li>5. Partial migrations</li> <li>6. Class of service invalid in certain states with some types of service</li> <li>7. New telephone number not yet posted to BOCRIS</li> <li>8. Low volume such as activity type "T" (move)</li> <li>9. Pending order review required</li> <li>10. More than 25 business lines</li> <li>11. Restore or suspend for UNE combos</li> <li>12. Transfer of calls option for the CLEC's end users</li> <li>13. CSR inaccuracies such as invalid or missing CSR data in CRIS</li> </ol> <p>*Attached is a list of services, including complex services, and whether LSRs issued for the services are eligible to flow through.</p> <p><b>Total System Fallout:</b> Errors that require manual review by the LCSC to determine if the error is caused by the CLEC, or is due to system functionality. If it is determined the error is caused by the CLEC, the LSR will be sent back to the CLEC as clarification. If it is determined the error is BST caused, the LCSC representative will correct the error.</p>



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**ORDERING – (Percent Flow Through Service Requests (Detail) – Continued)**

**Calculation:**

Percent Flow Through Service Requests = (Total number of valid service requests that flow-through to SOCS) / (Total number of valid service requests delivered to SOCS) X 100

**Description:**

Percent Flow Through = The total number of LSRs that flow through LESOG to SOCS / (the number of LSRs passed from LEO to LESOG) – Σ[(the number of LSRs that fall out for manual processing + the number of LSRs that are returned to the CLEC for clarification + the number of LSRs that contain errors made by CLECs)] X 100.

**Report Structure:**

- Provides the flow through percentage for each CLEC (by alias designation) submitting LSRs through the CLEC mechanized ordering process. The report provides the following:
  - CLEC (by alias designation)
  - Number of fatal rejects
  - Mechanized interface used
  - Total mechanized LSRs
  - Total manual fallout
  - Number of auto clarifications returned to CLEC
  - Number of validated LSRs
  - Number of BST caused fallout
  - Number of CLEC caused fallout
  - Number of Service Orders Issued
  - Base calculation
  - CLEC error excluded calculation

**Level of Disaggregation:**

- CLEC Specific (by alias designation to protect CLEC specific proprietary data)
- Geographic:
  - Region
- Product (Under development)
  - Residence
  - Business
  - UNE
  - Special

**Data Retained Relating to CLEC Experience**

- Report month
- Total number of LSRs received, by interface, by CLEC
  - TAG
  - EDI
  - LENS
- Total number of errors by type, by CLEC
  - Fatal rejects
  - Total fallout for manual processing
  - Auto clarification
  - CLEC errors
- Total number of errors by error code

**Data Retained Relating to BST Experience**

- Report month
- Total number of errors by type:
  - BST system error

**Retail Analog/Benchmark:**

CLEC Flow Through/benchmark comparison (Under development)

Revision Date: 09/03/99 (tm)

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**ORDERING**

<b>Report/Measurement:</b>	
Flow Through Error Analysis	
<b>Definition:</b>	
An analysis of each error type (by error code) that was experienced by the LSRs that did not flow through to SOCS.	
<b>Exclusions:</b>	
Each Error Analysis is error code specific; therefore exclusions are not applicable.	
<b>Business Rules:</b>	
The CLEC mechanized ordering process includes all LSRs, including supplements (subsequent versions) which are submitted through one of the three gateway interfaces (TAG, EDI, and LENS), and flow through to provisioning SOCS without manual intervention. These LSRs can be divided into two classes of service; Business and Residence, and two types of service; Resale and Unbundled Network Elements (UNE). This measurement captures the total number of errors by type. The CLEC mechanized ordering process does not include LSRs, which are, submitted manually (e.g., fax, and courier).	
<b>Calculation:</b>	
Σ Of errors by type.	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• Provides an analysis of each error type (by error code). The report is in descending order by count of each error code and provides the following: <ul style="list-style-type: none"> <li>➢ Error Type (by error code)</li> <li>➢ Count of each error type</li> <li>➢ Percent of each error type</li> <li>➢ Cumulative percent</li> <li>➢ Error Description</li> <li>➢ CLEC Caused Count of each error code</li> <li>➢ Percent of aggregate by CLEC caused count</li> <li>➢ Percent of CLEC by CLEC caused count</li> <li>➢ BST Caused Count of each error code</li> <li>➢ Percent of aggregate by BST caused count</li> <li>➢ Percent of BST by BST caused count</li> </ul> </li> </ul>	
<b>Level of Disaggregation:</b>	
Region	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>• Report month</li> <li>• Total number of LSRs received</li> <li>• Total number of errors by type ( by error code) <ul style="list-style-type: none"> <li>➢ CLEC caused error</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Report month</li> <li>• Total number of errors by type (by error code) <ul style="list-style-type: none"> <li>➢ BST system error</li> </ul> </li> </ul>
<b>Retail Analog/Benchmark:</b>	
Not Applicable	

Revision Date: 09/03/99 (tm)

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**Attachment**  
**BellSouth Flow-through Analysis**  
**For CLECs LSRs placed via EDI or TAG**

	BellSouth Service Offered to CLEC via resale or UNE	Flow-through if no BST or CLEC Errors (Yes/No)	Complex Service (Yes/No)	Complex Order (Yes/No)	Design Service (Yes/No)	Can ordering this service cause fall out for a reason other than errors or complex? If so, what reason?
1	Flat Rate/Residence	Yes	No	No	no	
2	Flat Rate/Business	Yes	No	No	no	
3	Pay Phone Provider	No	No	No	no	
4	Measured Rate/Res.	Yes	No	No	no	
5	Measured Rate/Bus.	Yes	No	No	no	
6	Area Plus	Yes	No	No	no	
7	Package/Complete Choice and area plus	Yes	No	No	no	
8	Optional Calling Plan	Yes	No	No	no	
9	Ga. Community Calling	Yes	No	No	no	
10	Call Waiting Deluxe	Yes	No	No	no	
11	Call Waiting	Yes	No	No	no	
12	Caller ID	Yes	No	No	no	
13	Speed Calling	Yes	No	No	no	
14	3 Way Calling	Yes	No	No	no	
15	Call Forwarding-Variable	Yes	No	No	no	
16	Remote Access to CF	Yes	No	No	no	
17	Enhanced Caller ID	Yes	No	No	no	
18	Memory Call	Yes	No	No	no	
19	Memory Call Ans. Svc.	Yes	No	No	no	
20	MTS	Yes	No	No	no	
21	RCF	Yes	No	No	no	
22	Ringmaster	Yes	No	No	no	
23	Call Tracing	Yes	No	No	no	
24	Call Block	Yes	No	No	no	
25	Repeat Dialing	Yes	No	No	no	
26	Call Selector	Yes	No	No	no	
27	Call Return	Yes	No	No	no	
28	Preferred Call Forward	Yes	No	No	no	
29	Touchtone	Yes	No	No	no	
30	Visual Director	Yes	No	No	no	
31	INP (all types?)	Yes	UNE	No	no	
32	Unbundled Loop-Analog 2W, SL1, SL2	Yes	UNE	No	Yes-designed, no-non-designed	
33	2 wire analog port	Yes	UNE	No	no	
34	Local Number Portability (always?)	Yes	UNE	No	no	
35	Accupulse	No	Yes	Yes	yes	See note at bottom of matrix.
36	Basic Rate ISDN	No	Yes	Yes	yes	LSR electronically submitted; no flow through

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	BellSouth Service Offered to CLEC via resale or UNE	Flow-through if no BST or CLEC Errors (Yes/No)	Complex Service (Yes/No)	Complex Order (Yes/No)	Design Service (Yes/No)	Can ordering this service cause fall out for a reason other than errors or complex? If so, what reason?
37	DID	No*	Yes	Yes	Yes	* yes with OSS'99
38	Frame Relay	No	Yes	Yes	yes	
39	Megalink	No	Yes	Yes	yes	
40	Megalink-T1	No	Yes	Yes	yes	
41	Native Mode LAN Interconnection (NMLI)	No	Yes	Yes	yes	
42	Pathlink Primary Rate ISDN	No	Yes	Yes	yes	
43	Synchronet	No	Yes	Yes	yes	LSR electronically submitted; no flow through
44	PBX Trunks	No	Yes	Yes	Yes	LSR electronically submitted; no flow through
45	LightGate	No	Yes	Yes	yes	
46	Smartpath	No	Yes	Yes	yes	
47	Hunting	No	Yes	no	no	LSR electronically submitted; no flow through
48	CENTREX	No	Yes	Yes	no	
49	FLEXSERV	No	Yes	Yes	yes	
50	Multiserv	No	Yes	Yes	yes	
51	Off-Prem Stations	No	Yes	Yes	yes	
52	SmartRING	No	Yes	Yes	yes	
53	FX	No	Yes	Yes	yes	
54	Tie Lines	No	Yes	Yes	Yes	
55	WATS	No	Yes	Yes	yes	
56	4 wire analog voice grade loop	No	UNE	Yes	yes-designed, no-non-designed	
57	4 wire DS1 & PRI digital loop	No	UNE	Yes	yes	
58	2 wire ISDN digital loop	No	UNE	Yes	yes	
59	4 wire DS1 & PRI digital loop	No	UNE	Yes	yes	
60	ADSL	No*	UNE	Yes	yes	* yes as of OSS'99?
61	HDSL	No	UNE	Yes	yes	
62	2 wire analog DID trunk port	No	UNE	Yes	Yes	
63	2 wire ISDN digital line side port	No	UNE	Yes	yes	
64	4 wire ISDN DSI digital trunk ports	No	UNE	Yes	yes	
65	UNE Combinations	y-loop+port	UNE	Yes	yes	
66	Directory Listings (simple)	No*	UNE	Yes	no	* yes as of OSS'99

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	BellSouth Service Offered to CLEC via resale or UNE	Flow-through if no BST or CLEC Errors (Yes/No)	Complex Service (Yes/No)	Complex Order (Yes/No)	Design Service (Yes/No)	Can ordering this service cause fall out for a reason other than errors or complex? If so, what reason?
67	Directory Listings (complex)	No*	UNE	yes	no	* yes as of OSS'99, captions and indentions
68	ESSX	No	Yes	Yes	no	

Note for last column: For all services that indicate 'No' for flow-through, the following reasons, in addition to errors or complex services, also prompt manual handling: Expedites from CLECs, special pricing plans, for denials – restore and conversion or disconnect and conversion both required, partial migrations (although conversions-as-is flow through), class of service invalid in certain states with some TOS – e.g. gov't, or cannot be changed when changing main TN on C activity, low volume – e.g. activity type T=move, pending order review required, more than 25 business lines, restore or suspend for UNE combos, transfer of calls option for CLEC end user – fixed with release 6.0, new TN not yet posted to BOCRIS. All but the last one are unique to the CLEC environment.

BellSouth  
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**ORDERING**

<b>Report/Measurement:</b>	
Percent Rejected Service Requests	
<b>Definition:</b>	
Percent Rejected Service Request is the percent of total Local Service Requests (LSRs) received which are rejected due to error or omission. An LSR is considered valid when it is electronically submitted by the CLEC and passes LEO edit checks to insure the data received is correctly formatted and complete.	
<b>Exclusions:</b>	
Service Requests canceled by the CLEC prior to being rejected/clarified.	
<b>Business Rules:</b>	
<p><b>Fully Mechanized:</b> An LSR is considered "rejected" when it is submitted electronically but does not pass LEO edit checks in the ordering systems (EDI, TAG, LEO, LESOG) and is returned to the CLEC. There are two types of "Rejects" in the Mechanized category:</p> <ul style="list-style-type: none"> <li>• A Fatal Reject occurs when a CLEC attempts to electronically submit an LSR but required fields are not populated correctly and the request is returned to the CLEC before it is considered an LSR. Fatal Rejects are included in the calculation for regional reports only.</li> <li>• An Auto Clarification is a valid LSR, which is electronically submitted but rejected from LESOG because it does not pass further edit checks for order accuracy.</li> </ul> <p><b>Partially Mechanized:</b> A valid LSR, which is electronically submitted (via EDI or TAG), but cannot be processed electronically and "falls out" for manual handling. It is then put into "clarification" and (rejected) sent back to the CLEC.</p> <p><b>Total Mechanized:</b> Combination of Fully Mechanized and Partially Mechanized LSRs.</p> <p><b>Non Mechanized:</b> An LSR which is faxed or mailed to the LCSC for processing and is "clarified" (rejected) back to the CLEC by the BST service representative.</p> <p>LNP: Under Development</p>	
<b>Calculation:</b>	
Percent Rejected Service Requests = (Total Number of Rejected Service Requests) / (Total Number of Service Requests Received) X 100 during the month.	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• Fully Mechanized, Partially Mechanized, Total Mechanized, Non-Mechanized</li> <li>• State and Region</li> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> </ul>	
<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>• Resale Residence</li> <li>• Resale Business</li> <li>• Resale Specials</li> <li>• UNE</li> <li>• UNE Loop with NP</li> <li>• Other</li> <li>• Trunks</li> </ul>	
<b>Data Retained Relating to CLEC Experience:</b>	<b>Data Retained Relating to BST Performance:</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Total number of LSRs</li> <li>• Total number of Rejects</li> <li>• Total Number of Errors</li> <li>• State and Region</li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Total number of LSRs</li> <li>• Total number of Errors</li> <li>• Adjusted Error Volume</li> <li>• State and Region</li> </ul>
<b>Retail Analog/Benchmark:</b>	
Benchmark is under development. Retail Analog also under development	

Revision date: 09/13/99 (lg)

BellSouth  
Service Quality Measurements  
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**ORDERING**

<b>Report/Measurement:</b>	
Reject Interval	
<b>Definition:</b>	
Reject Interval is the average reject time from receipt of an LSR to the distribution of a Reject. An LSR is considered valid when it is electronically submitted by the CLEC and passes LEO edit checks to insure the data received is correctly formatted and complete.	
<b>Exclusions:</b>	
Service Requests canceled by CLEC prior to being rejected/clarified	
<b>Business Rules:</b>	
<p><b>Fully Mechanized:</b> The elapsed time from receipt of a valid LSR (date and time stamp in ED or TAG) until the LSR is rejected (date and time stamp of reject in LEO). Fatal Rejects and Auto Clarifications are considered in the Fully Mechanized category.</p> <p><b>Partially Mechanized:</b> The elapsed time from receipt of a valid LSR (date and time stamp in EDI or TAG) until it falls out for manual handling. The stop time on partially mechanized LSRs is when the LCSC Service Representative clarifies the LSR back to the CLEC via LEO.</p> <p><b>Total Mechanized:</b> Combination of Fully Mechanized and Partially Mechanized LSRs.</p> <p><b>Non-Mechanized:</b> The elapsed time from receipt of a valid LSR (date and time stamp from FAX stamp) until notice of the reject is returned to the CLEC via LON.</p> <p><b>LNP:</b> Under development.</p>	
<b>Calculation:</b>	
$\text{Reject Interval} = \frac{\sum[(\text{Date and Time of Service Request Rejection}) - (\text{Date and Time of Service Request Receipt})]}{(\text{Number of Service Requests Rejected in Reporting Period})}$	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> <li>• Fully Mechanized, Partially Mechanized, Total Mechanized, Non-Mechanized, Trunks</li> </ul>	
<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>• Product Reporting Levels <ul style="list-style-type: none"> <li>➢ Interconnection Trunks</li> <li>➢ Resale – Residence</li> <li>➢ Resale – Business</li> <li>➢ Resale – Design</li> <li>➢ UNE Design</li> <li>➢ UNE Non- Design</li> <li>➢ UNE Loop with and w/o NP</li> </ul> </li> <li>• Geographic Scope <ul style="list-style-type: none"> <li>➢ State, Region and further geographic disaggregation as required by State Commission Order</li> </ul> </li> <li>• Mechanized: 0-4 minutes, 4-8 minutes, 8-12 minutes, 12-60 minutes, 0-1 hour 1-8 hours, 8-24 hours, &gt;24 hours.</li> <li>• Non-mechanized: 0-1 hour, 1-4 hours, 4-8 hours, 8-12 hours, 12-16 hours, 16-20 hours, 20-24 hours &gt;24 hours</li> <li>• Average Interval in Days.</li> <li>• Trunks:</li> </ul>	
<b>Data Retained Relating to CLEC Experience:</b>	<b>Data Retained Relating to BST Performance:</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Reject Interval</li> <li>• Total Number of LSRs</li> <li>• Total number of Errors</li> <li>• State and Region</li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Reject Interval</li> <li>• Total number of LSRs</li> <li>• Total number of Errors</li> <li>• State and Region</li> </ul>
<b>Retail Analog/Benchmark:</b>	
Benchmark is under development. Retail Analog also under development	

Revision date: 09/13/99 (lg)

**ORDERING**

<b>Report/Measurement:</b>
Firm Order Confirmation Timeliness
<b>Definition:</b>
Interval for Return of a Firm Order Confirmation (FOC Interval) is the average response time from receipt of valid LSR to distribution of a firm order confirmation.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Rejected LSRs</li> <li>• Partially Mechanized or Non-Mechanized LSRs received and/or FOCd outside of normal business hours.</li> </ul>
<b>Business Rules:</b>
<ul style="list-style-type: none"> <li>• <b>Mechanized</b> - The elapsed time from receipt of a valid electronically submitted LSR (date and time stamp in LENS, EDI, TAG) until the LSR is processed and appropriate service orders are generated in SOCS.</li> <li>• <b>Partially Mechanized</b> – The elapsed time from receipt of a valid electronically submitted LSR which falls out for manual handling by the LCSC personnel until appropriate service orders are issued by a BST service representative via Direct Order Entry (DOE) or Service Order Negotiation Generation System (SONGS) to SOCS.</li> <li>• <b>Total Mechanized</b> - Combination of Fully Mechanized and Partially Mechanized LSRs</li> <li>• <b>Non-Mechanized</b> - The elapsed time from receipt of a valid LSR (fax receive date and time stamp) until appropriate service orders are issued by BST service representative via Direct Order Entry (DOE) or Service Order Negotiation Generation System (SONGS) to SOCS.</li> <li>• <b>LNP</b>: Under development.</li> </ul>
<b>Calculation:</b>
Firm Order Confirmation Timeliness = $\Sigma[(\text{Date and Time of Firm Order Confirmation}) - (\text{Date and Time of Service Request Receipt})] / (\text{Number of Service Requests Confirmed in Reporting Period})$
<b>Report Structure:</b>
<ul style="list-style-type: none"> <li>• Fully Mechanized, Partially Mechanized, Total Mechanized, Non-Mechanized</li> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> </ul>
<b>Level of Disaggregation:</b>
<ul style="list-style-type: none"> <li>• Product Reporting Levels             <ul style="list-style-type: none"> <li>➢ Interconnection Trunks</li> <li>➢ Resale – Residence</li> <li>➢ Resale – Business</li> <li>➢ Resale – Design</li> <li>➢ UNE Design</li> <li>➢ UNE Non- Design</li> <li>➢ UNE Loop with and w/o NP</li> <li>➢ Trunks</li> </ul> </li> <li>• Geographic Scope             <ul style="list-style-type: none"> <li>➢ State, Region and further geographic disaggregation (MSA) as required by State Commission Order</li> </ul> </li> <li>• Mechanized: 0-15 minutes, 15-30 minutes, 30-45 minutes, 45-60 minutes, 60-90 minutes, 90-120 minutes, 120-240 minutes, 4-8 hours, 8-12 hours, 12-16 hours, 16-20 hours, 20-24 hours, 24-48 hours, &gt; 48 hours.</li> <li>• Non-mechanized: 0-4 hours, 4-8 hours, 8-12 hours, 12-16 hours, 16-20 hours, 20-24 hours, 24-48 hours, &gt; 48 hours.</li> <li>• Trunks: 0-5 days, 6-8 days, 9-11 days, 12-14 days, 15-17 days, 18-20 days, &gt;20 days</li> <li>• &lt; 10 and &gt; 10 Circuits / Lines</li> <li>• Average Interval in Days.</li> </ul>



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**ORDERING - (Firm Order Confirmation Timeliness – Continued)**

<b>Data Retained Relating to CLEC Experience:</b>	<b>Data Retained Relating to BST Performance:</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Interval for FOC</li> <li>• Total number of LSRs</li> <li>• State and Region</li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Interval for FOC</li> <li>• Total Number of LSRs</li> <li>• State and Region</li> </ul>
<b>Retail Analog/Benchmark:</b>	
Benchmark is under development. Retail Analog also under development	

Revision date: 09/13/99 (lg)

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**ORDERING**

<b>Report/Measurement:</b>	
Speed of Answer in Ordering Center	
<b>Definition:</b>	
Measures the average time a customer is in queue.	
<b>Exclusions:</b>	
None	
<b>Business Rules:</b>	
The clock starts when the appropriate option is selected (i.e. 1 for Resale Consumer, 2 for Resale Multiline, and 3 for UNE-LNP, etc.) and the call enters the queue for that particular group in the LCSC. The clock stops when a BST service representative in the LCSC answers the call. The speed of answer is determined by measuring and accumulating the elapsed time from the entry of a CLEC call into the BellSouth automatic call distributor (ACD) until the a service representative in BSTs Local Carrier Service Center (LCSC) answers the CLEC call.	
<b>Calculation:</b>	
$(\text{Total time in seconds to reach the LCSC}) / (\text{Total Number of Calls})$ in the Reporting Period.	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC Aggregate</li> <li>• BST Aggregate (Combination of Residence Service Center and Business Service Center data under development)</li> </ul>	
<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>• CLEC Aggregate</li> <li>• BST Aggregate (Combination of Residence Service Center and Business Service Center data under development)</li> </ul>	
<b>Data Retained Relating to CLEC Experience:</b>	<b>Data Retained Relating to BST Performance:</b>
<ul style="list-style-type: none"> <li>• Mechanized tracking through LCSC Automatic Call Distributor</li> </ul>	<ul style="list-style-type: none"> <li>• Mechanized tracking through BST Retail center support systems</li> </ul>
<b>Retail Analog/Benchmark:</b>	
For CLEC, Speed of Answer in Ordering Center (LCSC) is comparable to Speed of Answer in BST Business Offices.	

Revision date: 09/13/99 (1g)

**PROVISIONING**

<b>Report/Measurement:</b>
Mean Held Order Interval & Distribution Intervals
<b>Definition:</b>
When delays occur in completing CLEC orders, the average period that CLEC orders are held for BST reasons, pending a delayed completion, should be no worse for the CLEC when compared to BST delayed orders.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Any order canceled by the CLEC will be excluded from this measurement.</li> <li>• Order Activities of BST associated with internal or administrative use of local services.</li> </ul>
<b>Business Rules:</b>
<p><b>Mean Held Order Interval:</b> This metric is computed at the close of each report period. The held order interval is established by first identifying all orders, at the close of the reporting interval, that both have not been reported as completed in SOCS and have passed the currently committed due date for the order. For each such order, the number of calendar days between the committed due date and the close of the reporting period is established and represents the held order interval for that particular order. The held order interval is accumulated by the standard groupings, unless otherwise noted, and the reason for the order being held. The total number of days accumulated in a category is then divided by the number of held orders within the same category to produce the mean held order interval.</p> <p>CLEC Specific reporting is by type of held order (facilities, equipment, other), total number of orders held, and the total and average days.</p> <p><b>Held Order Distribution Interval:</b> This measure provides data to report total days held and identifies these in categories of &gt;15 days and &gt; 90 days. (orders counted in &gt;90 days are also included in &gt;15 days).</p>
<b>Calculation:</b>
<p><b>Mean Held Order Interval:</b>  <math display="block">\Sigma (\text{Reporting Period Close Date} - \text{Committed Order Due Date}) / (\text{Number of Orders Pending and Past The Committed Due Date})</math> for all orders pending and past the committed due date.</p> <p><b>Held Order Distribution Interval:</b>  <math display="block">(\# \text{ of Orders Held for } \geq 90 \text{ days}) / (\text{Total } \# \text{ of Orders Pending But Not Completed}) \times 100</math> <math display="block">(\# \text{ of Orders Held for } \geq 15 \text{ days}) / (\text{Total } \# \text{ of Orders Pending But Not Completed}) \times 100</math></p>
<b>Report Structure:</b>
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> <li>• BST Aggregate</li> </ul>
<b>Level of Disaggregation:</b>
<ul style="list-style-type: none"> <li>• Product Reporting Levels <ul style="list-style-type: none"> <li>➢ POTS – Residence</li> <li>➢ POTS – Business</li> <li>➢ DESIGN</li> <li>➢ PBX</li> <li>➢ CENTREX</li> <li>➢ ISDN</li> <li>➢ UNE 2 Wire Loop with NP (Design and Non-Design)</li> <li>➢ UNE 2 Wire Loop without NP (Design and Non-Design)</li> <li>➢ UNE Loop Other with NP (Design and Non-Design)</li> <li>➢ UNE Loop Other without NP (Design and Non-Design)</li> <li>➢ UNE Other (Design and Non-Design)</li> <li>➢ Switching (Under development)</li> <li>➢ Local Transport (Under development)</li> <li>➢ Combos (Under development)</li> <li>➢ NP (Under development as separate category)</li> <li>➢ Local Interconnection Trunks</li> </ul> </li> <li>• Geographic Scope <ul style="list-style-type: none"> <li>➢ State, Region, and further geographic disaggregation (MSA) as required by State Commission Order</li> </ul> </li> </ul>

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**PROVISIONING – (Mean Held Order Interval & Distribution Intervals – Continued)**

Data Retained Relating to CLEC Experience	Data Retained Relating to BST Experience
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• CLEC Order Number and PON (PON)</li> <li>• Order Submission Date (TICKET_ID)</li> <li>• Committed Due Date (DD)</li> <li>• Service Type(CLASS_SVC_DESC)</li> <li>• Hold Reason</li> <li>• Total line/circuit count (under development)</li> <li>• Geographic Scope</li> </ul> <p><b>NOTE:</b> Code in parentheses is the corresponding header found in the raw data file.</p>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• BST Order Number</li> <li>• Order Submission Date</li> <li>• Committed Due Date</li> <li>• Service Type</li> <li>• Hold Reason</li> <li>• Geographic Scope</li> </ul>
<p><b>Retail Analog/Benchmark:</b></p>	
<p>CLEC Residence Resale / BST Residence Retail                      CLEC Business Resale / BST Business Retail                      CLEC Design / BST Design                      CLEC PBX, CENTREX, ISDN/ BST PBX, CENTREX, ISDN                      Interconnection Trunks-CLEC / Interconnection Trunks –BST                      UNEs-Retail Analog (under development at this time)</p>	

Revision date: 06/24/99 (taf)

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**PROVISIONING**

<b>Report/Measurement:</b>
Average Jeopardy Notice Interval & Percentage of Orders Given Jeopardy Notice
<b>Definition:</b>
When BST can determine in advance that a committed due date is in jeopardy, it will provide advance notice to the CLEC.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Any order canceled by the CLEC will be excluded from this measurement</li> <li>• Orders held for CLEC end user reasons</li> <li>• Orders submitted to BST through non-mechanized methods</li> </ul>
<b>Business Rules:</b>
When BST can determine in advance that a committed due date is in jeopardy it will provide advance notice to the CLEC. The number of committed orders in a report period is the number of orders that have a due date in the reporting period.
<b>Calculation:</b>
<p><b>Average Jeopardy Interval</b> = <math>\Sigma</math> [ (Date and Time of Scheduled Due Date on Service Order) - (Date and Time of Jeopardy Notice)] / [Number of Orders Notified of Jeopardy in Reporting Period].</p> <p><b>Percent of Orders Given Jeopardy Notice</b> = <math>\Sigma</math> [ (Number of Orders Given Jeopardy Notices in Reporting Period) / (Number of Orders Confirmed (due) in Reporting Period)</p>
<b>Report Structure:</b>
<ul style="list-style-type: none"> <li>• CLEC Specific and CLEC Aggregate</li> <li>• BST Aggregate (under development with estimated release date of 8/15/99 for June reporting)</li> </ul>
<b>Level of Disaggregation:</b>
<ul style="list-style-type: none"> <li>• Product Reporting Levels <ul style="list-style-type: none"> <li>➤ POTS – Residence</li> <li>➤ POTS – Business</li> <li>➤ DESIGN</li> <li>➤ PBX</li> <li>➤ CENTREX</li> <li>➤ ISDN</li> <li>➤ UNE 2 Wire Loop with NP (Design and Non-Design)</li> <li>➤ UNE 2 Wire Loop without NP (Design and Non-Design)</li> <li>➤ UNE Loop Other with NP (Design and Non-Design)</li> <li>➤ UNE Loop Other without NP (Design and Non-Design)</li> <li>➤ UNE Other (Design and Non-Design)</li> <li>➤ Switching (Under development)</li> <li>➤ Local Transport (Under development)</li> <li>➤ Combos (Under development)</li> <li>➤ NP (Under development as separate category)</li> <li>➤ Local Interconnection Trunks</li> <li>➤ Geographic Scope</li> <li>➤ State, Region, and further geographic disaggregation (MSA) as required by State Commission Order</li> </ul> </li> </ul>

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**PROVISIONING –**  
**(Average Jeopardy Notice Interval & Percentage of Orders Given Jeopardy Notice – Continued)**

Data Retained Relating to CLEC Experience	Data Retained Relating to BST Experience
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• CLEC Order Number and PON</li> <li>• Date and Time Jeopardy Notice sent</li> <li>• Committed Due Date</li> <li>• Service Type</li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• CLEC Order Number and PON</li> <li>• Date and Time Jeopardy Notice sent</li> <li>• Committed Due Date</li> <li>• Service Type</li> </ul>
<p><b>NOTE:</b> Code in parentheses is the corresponding header found in the raw data file.</p>	<p><b>NOTE:</b> Code in parentheses is the corresponding header found in the raw data file.</p>
<p><b>Retail Analog/Benchmark:</b></p>	
<p>CLEC Residence Resale / BST Residence Retail                      CLEC Business Resale / BST Business Retail                      CLEC Design / BST Design                      CLEC PBX, CENTREX, ISDN/ BST PBX, CENTREX, ISDN                      Interconnection Trunks-CLEC / Interconnection Trunks –BST                      UNEs-Retail Analog (under development at this time)</p>	

Revision date: 09/15/99 (taf)

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**PROVISIONING**

<b>Report/Measurement:</b>
Percent Missed Installation Appointments
<b>Definition:</b>
“Percent missed installation appointments” monitors the reliability of BST commitments with respect to committed due dates to assure that CLECs can reliably quote expected due dates to their retail customer as compared to BST.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Canceled Service Orders</li> <li>• Order Activities of BST or the CLEC associated with internal or administrative use of local services (Record Orders, Test Orders, etc.)</li> <li>• Disconnect (D) &amp; From (F) orders</li> </ul>
<b>Business Rules:</b>
Percent Missed Installation Appointments is the percentage of total orders processed for which BST is unable to complete the service orders on the committed due dates. Missed Appointments caused by end-user reasons will be included and reported separately. A business day is any time period within the same date frame, which means there cannot be a cutoff time for commitments as certain types of orders are requested to be worked after standard business hours. Also, during Daylight Savings Time, field technicians are scheduled until 9PM in some areas and the customer is offered a greater range of intervals from which to select.
<b>Calculation:</b>
Percent Missed Installation Appointments = $\frac{\Sigma (\text{Number of Orders Not Complete by Committed Due Date in Reporting Period})}{(\text{Number of Orders Completed in Reporting Period})} \times 100$
<b>Report Structure:</b>
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> <li>• BST Aggregate</li> </ul>
<b>Report explanation:</b> The difference between End User MA and Total MA is the result of BST caused misses. Here, Total MA is the total % of orders missed either by BST or CLEC end user and End User MA represents the percentage of orders missed by the end user

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**PROVISIONING – (Percent Missed Installation Appointments – Continued)**

<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>• Reported in categories of &lt;10 line/circuits; &gt; 10 line/circuits</li> <li>• Dispatch / No Dispatch</li> <li>• Product Reporting Levels             <ul style="list-style-type: none"> <li>➢ POTS – Residence</li> <li>➢ POTS – Business</li> <li>➢ DESIGN</li> <li>➢ PBX</li> <li>➢ CENTREX</li> <li>➢ ISDN</li> <li>➢ UNE 2 Wire Loop with NP (Design and Non-Design)</li> <li>➢ UNE 2 Wire Loop without NP (Design and Non-Design)</li> <li>➢ UNE Loop Other with NP (Design and Non-Design)</li> <li>➢ UNE Loop Other without NP (Design and Non-Design)</li> <li>➢ UNE Other (Design and Non-Design)</li> <li>➢ Switching (Under development)</li> <li>➢ Local Transport (Under development)</li> <li>➢ Combos (Under development)</li> <li>➢ NP (Under development as separate category)</li> <li>➢ Local Interconnection Trunks</li> <li>➢ Geographic Scope</li> <li>➢ State, Region, and further geographic disaggregation (MSA) as required by State Commission Order</li> </ul> </li> </ul>	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• CLEC Order Number and PON (PON)</li> <li>• Committed Due Date (DD)</li> <li>• Completion Date (CMPLTN DD)</li> <li>• Status Type</li> <li>• Status Notice Date</li> <li>• Standard Order Activity</li> <li>• Geographic Scope</li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• BST Order Number</li> <li>• Committed Due Date</li> <li>• Completion Date</li> <li>• Status Type</li> <li>• Status Notice Date</li> <li>• Standard Order Activity</li> <li>• Geographic Scope</li> </ul>
<p><b>NOTE:</b> Code in parentheses is the corresponding header found in the raw data file.</p>	
<b>Retail Analog/Benchmark:</b>	
<p>CLEC Residence Resale / BST Residence Retail            CLEC Business Resale / BST Business Retail            CLEC Design / BST Design            CLEC PBX, CENTREX, ISDN/ BST PBX, CENTREX, ISDN            Interconnection Trunks-CLEC / Interconnection Trunks –BST            UNEs-Retail Analog (under development at this time)</p>	

Revision date: 06/24/99 (taf)



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Service Quality Measurements  
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**PROVISIONING**

<b>Report/Measurement :</b>
Average Completion Interval (OCI) & Order Completion Interval Distribution
<b>Definition:</b>
The "average completion interval" measure monitors the interval of time it takes BST to provide service for the CLEC or its' own customers. The "Order Completion Interval Distribution" provides the percentage of orders completed within certain time periods.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Canceled Service Orders</li> <li>• Order Activities of BST or the CLEC associated with internal or administrative use of local services (Record Orders, Test Orders, etc.)</li> <li>• D (Disconnect) and F (From) orders. (From is disconnect side of a move order when the customer moves to a new address).</li> <li>• "L" Appointment coded orders (where the customer has requested a later than offered interval)</li> </ul>
<b>Business Rules:</b>
The actual completion interval is determined for each order processed during the reporting period. The completion interval is the elapsed time from when the order is electronically entered into SOCS after the FOC on a CLEC order, or the date time stamp receipt into SOCS by BST on retail orders to the order completion date. The clock starts when a valid order number is assigned by SOCS and stops when the technician or system completes the order in SOCS. Elapsed time for each order is accumulated for each reporting dimension. The accumulated time for each reporting dimension is then divided by the associated total number of orders completed
<b>Calculation:</b>
<p><b>Average Completion Interval:</b>  <math display="block">\frac{\sum [ (\text{Completion Date \&amp; Time}) - (\text{Order Issue Date \&amp; Time}) ]}{\sum (\text{Count of Orders Completed in Reporting Period})}</math></p> <p><b>Order Completion Interval Distribution:</b>  <math display="block">\frac{\sum (\text{Service Orders Completed in "X" days})}{(\text{Total Service Orders Completed in Reporting Period})} \times 100</math></p>
<b>Report Structure:</b>
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> <li>• BST Aggregate</li> </ul>

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**PROVISIONING –  
(Average Completion Interval (OCI) & Order Completion Interval Distribution – Continued)**

<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>• Dispatch/No Dispatch categories applicable to all levels except trunks.</li> <li>• Residence &amp; Business reported in day intervals = 0,1,2,3,4, 5, 5+</li> <li>• UNE and Design reported in day intervals = 0-5, 5-10, 10-15, 15-20, 20-25, 25-30, 30+</li> <li>• All Levels are reported &lt;10 line/circuits; &gt;10 line/circuits</li> <li>• Product Reporting Levels             <ul style="list-style-type: none"> <li>➢ POTS – Residence</li> <li>➢ POTS – Business</li> <li>➢ DESIGN</li> <li>➢ PBX</li> <li>➢ CENTREX</li> <li>➢ ISDN</li> <li>➢ UNE 2 Wire Loop with NP (Design and Non-Design)</li> <li>➢ UNE 2 Wire Loop without NP (Design and Non-Design)</li> <li>➢ UNE Loop Other with NP (Design and Non-Design)</li> <li>➢ UNE Loop Other without NP (Design and Non-Design)</li> <li>➢ UNE Other (Design and Non-Design)</li> <li>➢ Switching (Under development)</li> <li>➢ Local Transport (Under development)</li> <li>➢ Combos (Under development)</li> <li>➢ NP (Under development as separate category)</li> <li>➢ Local Interconnection Trunks</li> <li>➢ Geographic Scope</li> <li>➢ State, Region, and further geographic disaggregation (MSA) as required by State Commission Order</li> </ul> </li> </ul>	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• CLEC Company Name</li> <li>• Order Number (PON)</li> <li>• Submission Date &amp; Time (TICKET_ID)</li> <li>• Completion Date (CMPLTN_DT)</li> <li>• Service Type (CLASS_SVC_DESC)</li> <li>• Geographic Scope</li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• CLEC Order Number</li> <li>• Order Submission Date &amp; Time</li> <li>• Order Completion Date &amp; Time</li> <li>• Service Type</li> <li>• Geographic Scope</li> </ul>
<p><b>NOTE:</b> Code in parentheses is the corresponding header found in the raw data file.</p>	
<b>Retail Analog/Benchmark</b>	
<p>CLEC Residence Resale / BST Residence Retail            CLEC Business Resale / BST Business Retail            CLEC Non-UNE Design / BST Design            CLEC PBX, CENTREX, ISDN/ BST PBX, CENTREX, ISDN            Interconnection Trunks-CLEC / Interconnection Trunks-BST            UNEs-Retail Analog (under development at this time)</p>	

Revision date: 09/08/99 (taf)

BellSouth  
Service Quality Measurements  
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**PROVISIONING**

<b>Report/Measurement:</b>
Average Completion Notice Interval
<b>Definition:</b>
The Completion Notice Interval is the elapsed time between the BST reported completion of work and the issuance of a valid completion notice to the CLEC.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Non-mechanized Orders</li> <li>• Cancelled Service Orders</li> <li>• Order Activities of BST associated with internal or administrative use of local services</li> <li>• D &amp; F orders</li> </ul>
<b>Business Rules:</b>
Measurement of interval of completion date and time by a field technician on dispatched orders, and 5PM on the due date for non-dispatched orders; to the release of a notice to the CLEC/BST of the completion status. On all orders (mechanized and non-mechanized) the field technician notifies the CLEC by telephone the work was complete and then he enters the work order completion information and completion time in his computer. This information switches through to the SOCS systems either completing the order or rejecting the order to the Work Management Center (WMC). If the completion is rejected, it is manually corrected and then completed by the WMC. The notice is returned on each individual order submitted and as the notice is sent electronically, it can only be switched to those orders that were submitted by the CLEC electronically.
<b>Calculation:</b>
$\frac{\Sigma (\text{Date and Time of Notice of Completion}) - (\text{Date and Time of Work Completion})}{(\text{Number of Orders Completed in Reporting Period})}$
<b>Report Structure:</b>
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> <li>• BST Aggregate (in development-expected release date 08/15/99 reporting)</li> </ul>
<b>Level of Disaggregation:</b>
<ul style="list-style-type: none"> <li>• Reporting intervals in Hours: 0-1, 1-2, 2-4, 4-8, 8-12, 12-24, &gt; 24, plus Overall Average Hour Interval</li> <li>• Reported in categories of &lt;10 line/circuits; &gt; 10 line/circuits</li> <li>• Product Reporting Levels <ul style="list-style-type: none"> <li>➤ POTS – Residence</li> <li>➤ POTS – Business</li> <li>➤ DESIGN</li> <li>➤ PBX</li> <li>➤ CENTREX</li> <li>➤ ISDN</li> <li>➤ UNE 2 Wire Loop with NP (Design and Non-Design)</li> <li>➤ UNE 2 Wire Loop without NP (Design and Non-Design)</li> <li>➤ UNE Loop Other with NP (Design and Non-Design)</li> <li>➤ UNE Loop Other without NP (Design and Non-Design)</li> <li>➤ UNE Other (Design and Non-Design)</li> <li>➤ Switching (Under development)</li> <li>➤ Local Transport (Under development)</li> <li>➤ Combos (Under development)</li> <li>➤ NP (Under development as separate category)</li> <li>➤ Local Interconnection Trunks</li> <li>➤ Geographic Scope</li> <li>➤ State, Region, and further geographic disaggregation (MSA) as required by State Commission Order</li> </ul> </li> </ul>

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**PROVISIONING – (Average Completion Notice Interval – Continued)**

Data Retained Relating to CLEC Experience	Data Retained Relating to BST Experience
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• CLEC Order Number</li> <li>• Work Completion Date</li> <li>• Work Completion Time</li> <li>• Completion Notice Availability Date</li> <li>• Completion Notice Availability Time</li> <li>• Service Type</li> <li>• Activity Type</li> <li>• Geographic Scope</li> </ul> <p><b>NOTE:</b> Code in parentheses is the corresponding header found in the raw data file.</p>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Service Order Number</li> <li>• Work Completion Date</li> <li>• Work Completion Time</li> <li>• Completion Notice Availability Date</li> <li>• Completion Notice Availability Time</li> <li>• Service Type</li> <li>• Activity Type</li> <li>• Geographic Scope</li> </ul> <p><b>NOTE:</b> Code in parentheses is the corresponding header found in the raw data file.</p>
<p><b>Retail Analog/Benchmark:</b></p>	
<p>CLEC Residence Resale / BST Residence Retail                      CLEC Business Resale / BST Business Retail                      CLEC Non-UNE Design / BST Design                      CLEC PBX, CENTREX, ISDN/ BST PBX, CENTREX, ISDN                      Interconnection Trunks-CLEC / Interconnection Trunks-BST                      UNEs-Retail Analog (under development at this time)</p>	

Revision date: 09/15/99 (taf)

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**PROVISIONING**

<b>Report/Measurement:</b>	
Coordinated Customer Conversions	
<b>Definition:</b>	
This category measures the average time it takes BST to disconnect an unbundled loop from the BST switch and cross connect it to a CLEC's equipment. This measurement applies to service orders with and without NP, and where the CLEC has requested BST to provide a coordinated cutover.	
<b>Exclusions:</b>	
<ul style="list-style-type: none"> <li>• Any order canceled by the CLEC will be excluded from this measurement.</li> <li>• Delays due to CLEC following disconnection of the unbundled loop</li> <li>• Unbundled Loops where there is no existing subscriber loop</li> </ul>	
<b>Business Rules:</b>	
Where the service order includes NP, the interval includes the total time for the cutover including the translation time to place the line back in service on the ported line. The interval is calculated for the entire cutover time for the service order and then divided by items worked in that time to give the average per item interval for each service order.	
<b>Calculation:</b>	
$\Sigma$ [(Completion Date and Time for Cross Connection of an Unbundled Loop)- (Disconnection Date and Time of an Unbundled Loop)] / Total Number of Unbundled Loop Items for the reporting period.	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> </ul>	
<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>• Reported in intervals &lt;=5 minutes; &gt;5,&lt;15 minutes; &gt;15 minutes, plus Overall Average interval</li> <li>• Product Reporting Levels                         <ul style="list-style-type: none"> <li>&gt; UNE Loops without NP</li> <li>&gt; UNE Loops with NP</li> <li>&gt; Geographic Scope</li> <li>&gt; State, Region, and further geographic disaggregation as required by State Commission Order</li> </ul> </li> </ul>	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• CLEC Order Number</li> <li>• Committed Due Date (DD)</li> <li>• Service Type (CLASS_SVC_DESC)</li> <li>• Cutover Start Time</li> <li>• Cutover Completion time</li> <li>• Portability start and completion times (NP orders)</li> <li>• Total Items</li> </ul>	<ul style="list-style-type: none"> <li>• No BST Analog Exists</li> </ul>
<b>NOTE:</b> Code in parentheses is the corresponding header found in the raw data file.	
<b>Retail Analog/Benchmark:</b>	
There is no retail analog for this measurement because it measures cutting loops to the CLEC. Benchmark under development.	

Revision date: 09/09/99 (taf)

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Service Quality Measurements  
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**PROVISIONING**

<b>Report/Measurement:</b>
% Provisioning Troubles within 30 days of Service Order Activity
<b>Definition:</b>
Percent Provisioning Troubles within 30 days of Installation measures the quality and accuracy of installation activities.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Canceled Service Orders</li> <li>• Order Activities of BST or the CLEC associated with internal or administrative use of local services (R Orders, Test Orders, etc.)</li> <li>• D &amp; F orders</li> </ul>
<b>Business Rules:</b>
Measures the quality and accuracy of completed orders. The first trouble report from a service order after completion is counted in this measure. Subsequent trouble reports are measured in Repeat Report Rate. Reports are calculated searching in the prior report period for completed service orders and following 30 days after completion for a trouble report. D & F orders are excluded as there is no subsequent activity following a disconnect.
<b>Calculation:</b>
$\% \text{ Provisioning Troubles within 30 days of Service Order Activity} = \frac{\Sigma (\text{Trouble reports on all completed orders} \leq 30 \text{ days following service order(s) completion})}{(\text{All Service Orders completed in the calendar month})} \times 100$
<b>Report Structure:</b>
<ul style="list-style-type: none"> <li>• CLEC Specific, CLEC Aggregate, BST Aggregate</li> </ul>
<b>Level of Disaggregation:</b>
<ul style="list-style-type: none"> <li>• Reported in categories of &lt;10 line/circuits; &gt; 10 line/circuits</li> <li>• Dispatch / No Dispatch</li> <li>• Product Reporting Levels             <ul style="list-style-type: none"> <li>➢ POTS – Residence</li> <li>➢ POTS – Business</li> <li>➢ DESIGN</li> <li>➢ PBX</li> <li>➢ CENTREX</li> <li>➢ ISDN</li> <li>➢ UNE 2 Wire Loop with NP (Design and Non-Design)</li> <li>➢ UNE 2 Wire Loop without NP (Design and Non-Design)</li> <li>➢ UNE Loop Other with NP (Design and Non-Design)</li> <li>➢ UNE Loop Other without NP (Design and Non-Design)</li> <li>➢ UNE Other (Design and Non-Design)</li> <li>➢ Switching (Under development)</li> <li>➢ Local Transport (Under development)</li> <li>➢ Combos (Under development)</li> <li>➢ NP (Under development as separate category)</li> <li>➢ Local Interconnection Trunks</li> <li>➢ Geographic Scope</li> <li>➢ State, Region, and further geographic disaggregation (MSA) as required by State Commission Order</li> </ul> </li> </ul>

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**PROVISIONING – (% Provisioning Troubles within 30 days of Service Order Activity – Continued)**

Data Retained Relating to CLEC Experience	Data Retained Relating to BST Experience
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• CLEC Order Number and PON</li> <li>• Order Submission Date(TICKET_ID)</li> <li>• Order Submission Time (TICKET_ID)</li> <li>• Status Type</li> <li>• Status Notice Date</li> <li>• Standard Order Activity</li> <li>• Geographic Scope</li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• BST Order Number</li> <li>• Order Submission Date</li> <li>• Order Submission Time</li> <li>• Status Type</li> <li>• Status Notice Date</li> <li>• Standard Order Activity</li> <li>• Geographic Scope</li> </ul>
<p><b>NOTE:</b> Code in parentheses is the corresponding header found in the raw data file.</p>	
<p><b>Retail Analog/Benchmark:</b>                  CLEC Residence Resale / BST Residence Retail                  CLEC Business Resale / BST Business Retail                  CLEC Design / BST Design                  CLEC PBX, CENTREX, ISDN/ BST PBX, CENTREX, ISDN                  Interconnection Trunks-CLEC / Interconnection Trunks –BST                  UNEs-Retail Analog (Under Development at this time)</p>	

Revision date: 09/09/99 (taf)

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**PROVISIONING**

<b>Report/Measurement :</b>
Total Service Order Cycle Time (TSOCT) (under development 3Q99)
<b>Definition:</b>
This is a new measurement under development to measure the total service order cycle time from receipt of a valid service order request to the completion of the service order.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Canceled Service Orders</li> <li>• Order Activities of BST or the CLEC associated with internal or administrative use of local services (Record Orders, Test Orders, etc.)</li> <li>• D (Disconnect) and F (From) orders. (From is disconnect side of a move order when the customer moves to a new address).</li> <li>• "L" Appointment coded orders (where the customer has requested a later than offered interval)</li> <li>• Orders with CLEC/Subscriber caused delays or CLEC/Subscriber requested due date changes.</li> </ul>
<b>Business Rules:</b>
The interval is determined for each order processed during the reporting period. This measurement combines two reports: FOC (Firm Order Confirmation) with Average Order Completion Interval. This interval starts with the receipt of a valid service order request and stops when the technician or system completes the order in SOCS. Elapsed time for each order is accumulated for each reporting dimension. The accumulated time for each reporting dimension is then divided by the associated total number of orders completed
<b>Calculation :</b>
Total Service Order Cycle Time (under development)
<b>Report Structure:</b>
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> <li>• BST Aggregate</li> </ul>
<b>Level of Disaggregation:</b>
<ul style="list-style-type: none"> <li>• ISDN Orders included in Non Design - GA Only</li> <li>• Dispatch/No Dispatch categories applicable to all levels except trunks.</li> <li>• Intervals under development</li> <li>• Product Reporting Levels             <ul style="list-style-type: none"> <li>➢ Interconnection Trunks</li> <li>➢ POTS – Residence</li> <li>➢ POTS – Business</li> <li>➢ DESIGN</li> <li>➢ PBX</li> <li>➢ CENTREX</li> <li>➢ ISDN</li> <li>➢ UNE 2 Wire Loop with NP (Design and Non-Design)</li> <li>➢ UNE 2 Wire Loop without NP (Design and Non-Design)</li> <li>➢ UNE Loop Other with NP (Design and Non-Design)</li> <li>➢ UNE Loop Other without NP (Design and Non-Design)</li> <li>➢ UNE Other (Design and Non-Design)</li> <li>➢ Switching (Under development)</li> <li>➢ Local Transport (Under development)</li> <li>➢ Combos (Under development)</li> <li>➢ NP (Under development as separate category)</li> <li>➢ Local Interconnection Trunks</li> </ul> </li> <li>• Geographic Scope             <ul style="list-style-type: none"> <li>➢ State, Region and further geographic disaggregation as required by State Commission Order</li> </ul> </li> </ul>



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**PROVISIONING – (Total Service Order Cycle Time (TSOCT) – Continued)**

Data Retained Relating to CLEC Experience	Data Retained Relating to BST Experience
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Interval for FOC</li> <li>• CLEC Company Name</li> <li>• Order Number (PON)</li> <li>• Submission Date &amp; Time (TICKET_ID)</li> <li>• Completion Date (CMPLTN_DT)</li> <li>• Service Type (CLASS_SVC_DESC)</li> <li>• Geographic Scope</li> </ul> <p><b>NOTE:</b> Code in parentheses is the corresponding header found in the raw data file.</p>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• CLEC Order Number</li> <li>• Order Submission Date &amp; Time</li> <li>• Order Completion Date &amp; Time</li> <li>• Service Type</li> <li>• Geographic Scope -</li> </ul>
<p><b>Retail Analog/Benchmark</b></p>	
<p>Under development (BST retail analog available at this time would be Average Completion Interval)</p>	

Revision date: 09/08/99 (taf)

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Service Quality Measurements  
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**MAINTENANCE & REPAIR**

<b>Report/Measurement:</b>	
Missed Repair Appointments	
<b>Definition:</b>	
The percent of trouble reports not cleared by the committed date and time.	
<b>Exclusions:</b>	
<ul style="list-style-type: none"> <li>• Trouble tickets canceled at the CLEC request.</li> <li>• BST trouble reports associated with internal or administrative service.</li> <li>• Customer Provided Equipment (CPE) troubles or CLEC Equipment Trouble.</li> </ul>	
<b>Business Rules:</b>	
<p>The negotiated commitment date and time is established when the repair report is received. The cleared time is the date and time that BST personnel clear the trouble and closes the trouble report in his Computer Access Terminal (CAT) or workstation. If this is after the Commitment time, the report is flagged as a "Missed Commitment" or a missed repair appointment. When the data for this measure is collected for BST and a CLEC, it can be used to compare the percentage of the time repair appointments are missed due to BST reasons. Note: Appointment intervals vary with force availability in the POTS environment. Specials and Trunk intervals are standard interval appointments of no greater than 24 hours.</p>	
<b>Calculation:</b>	
$\text{Percentage of Missed Repair Appointments} = \frac{\Sigma (\text{Count of Customer Troubles Not Cleared by the Quoted Commitment Date and Time})}{\Sigma (\text{Total Trouble reports closed in Reporting Period})} \times 100$	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> <li>• BST Aggregate</li> </ul>	
<b>Level of Disaggregation:</b>	
<p><b>ISDN Troubles included in Non-Design – GA ONLY</b></p> <ul style="list-style-type: none"> <li>• Product Reporting Levels <ul style="list-style-type: none"> <li>➢ POTS – Residence, Business</li> <li>➢ Design</li> <li>➢ PBX, CENTREX and ISDN</li> <li>➢ UNE 2 Wire Loop (Design and Non – Design)</li> <li>➢ UNE Loop Other (Design and Non Design)</li> <li>➢ UNE Other (Design and Non – Design)</li> <li>➢ Switching, Local Transport and Combos (under development)</li> <li>➢ Local Interconnection Trunks</li> </ul> </li> <li>• Dispatch/No Dispatch categories applicable to all product levels</li> <li>• Geographic Scope <ul style="list-style-type: none"> <li>➢ State, Region and further geographic disaggregation as required by State Commission Order (e.g. Metropolitan Service Area - MSA)</li> </ul> </li> </ul>	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• CLEC Company Name</li> <li>• Submission Date &amp; Time ( TICKET_ID)</li> <li>• Completion Date (CMPLTN_DT)</li> <li>• Service Type (CLASS_SVC_DESC)</li> <li>• Disposition and Cause (CAUSE_CD &amp; CAUSE_DESC)</li> <li>• Geographic Scope</li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• BST Company Code</li> <li>• Submission Date &amp; Time</li> <li>• Completion Date</li> <li>• Service Type</li> <li>• Disposition and Cause (Non-Design / Non-Special Only)</li> <li>• Trouble Code (Design and Trunking Services)</li> <li>• Geographic Scope</li> </ul>
<p><b>NOTE:</b> Code in parentheses is the corresponding header found in the raw data file.</p>	

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**MAINTENANCE & REPAIR – (Missed Repair Appointments – Continued)**

**Retail Analog/Benchmark**

CLEC Residence-Resale / BST Residence-Retail  
CLEC Business-Resale / BST Business-Retail  
CLEC Design-Resale / BST Design-Retail  
CLEC PBX, Centrex, and ISDN Resale/ BST PBX, Centrex, and ISDN Retail  
CLEC Trunking-Resale / BST Trunking-Retail  
UNEs - Retail Analog (under development at this time.)

Revision date: 06/09/99 (see)

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**MAINTENANCE & REPAIR**

<b>Report/Measurement:</b>	
Customer Trouble Report Rate	
<b>Definition:</b>	
Initial and repeated customer direct or referred troubles reported within a calendar month per 100 lines/circuits in service.	
<b>Exclusions:</b>	
<ul style="list-style-type: none"> <li>• Trouble tickets canceled at the CLEC request.</li> <li>• BST trouble reports associated with administrative service.</li> <li>• Customer provided Equipment (CPE) troubles or CLEC equipment troubles.</li> </ul>	
<b>Business Rules:</b>	
Customer Trouble Report Rate is computed by accumulating the number of maintenance initial and repeated trouble reports during the reporting period. The resulting number of trouble reports are divided by the total "number of service" lines, ports or combination of existing for the CLEC's and BST respectively at the end of the report month.	
<b>Calculation:</b>	
Customer Trouble Report Rate = (Count of Initial and Repeated Trouble Reports in the Current Period) / (Number of Service Access Lines in service at End of the Report Period) X 100	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> <li>• BST Aggregate</li> </ul>	
<b>Level of Disaggregation:</b>	
<p><b>ISDN Troubles included in Non Design – GA Only</b></p> <ul style="list-style-type: none"> <li>• Product Reporting Levels <ul style="list-style-type: none"> <li>➢ POTS Residence and Business</li> <li>➢ Design</li> <li>➢ PBX, CENTREX, and ISDN</li> <li>➢ UNE 2 Wire Loop (Design and Non – Design)</li> <li>➢ UNE Loop Other (Design and Non – Design)</li> <li>➢ UNE Other (Design and Non – Design)</li> <li>➢ Switching , Local Transport, and Combos (under development)</li> <li>➢ Local Interconnection Trunks</li> </ul> </li> <li>• Dispatch/No Dispatch categories applicable to all product levels</li> <li>• Geographic Scope <ul style="list-style-type: none"> <li>➢ State, Region and further geographic disaggregation as required by State Commission Order (e.g. Metropolitan Service Area - MSA)</li> </ul> </li> </ul>	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• CLEC Company Name</li> <li>• Ticket Submission Date &amp; Time (TICKET_ID)</li> <li>• Ticket Completion Date (Cmpltn_DT)</li> <li>• Service Type (CLASS_SVC_DESC)</li> <li>• Disposition and Cause (CAUSE_CD &amp; CAUSE_DESC)</li> <li>• # Service Access Lines in Service at the end of period</li> <li>• Geographic Scope</li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• BST Company Code</li> <li>• Ticket Submission Date &amp; Time</li> <li>• Ticket Completion Date</li> <li>• Service Type</li> <li>• Disposition and Cause (Non-Design / Non-Special Only)</li> <li>• Trouble Code (Design and Trunking Services)</li> <li>• # Service Access Lines in Service at the end of period</li> <li>• Geographic Scope</li> </ul>
<p><b>NOTE:</b> Code in parentheses is the corresponding header found in the raw data file.</p>	

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**MAINTENANCE & REPAIR – (Customer Trouble Report Rate – Continued)**

<b>Retail Analog/Benchmark:</b>
CLEC Residence-Resale / BST Residence -Retail
CLEC Business-Resale / BST Business-Retail
CLEC Design-Resale / BST Design-Retail
CLEC PBX, Centrex and ISDN Resale/ BST PBX, Centrex, and ISDN Retail
CLEC Trunking-Resale / BST Trunking-Retail
UNEs - Retail Analog (under development at this time)

Revision date: 06/09/99 (see)

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**MAINTENANCE & REPAIR**

<b>Report/Measurement:</b>
Maintenance Average Duration
<b>Definition:</b>
The Average duration of Customer Trouble Reports from the receipt of the Customer Trouble Report to the time the trouble report is cleared.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Trouble reports canceled at the CLEC request</li> <li>• BST trouble reports associated with administrative service</li> <li>• Customer Provided Equipment (CPE) troubles or CLEC Equipment Troubles.</li> <li>• Trouble reports greater than 10 days</li> </ul>
<b>Business Rules:</b>
For Average Duration the clock starts on the date and time of the receipt of a correct repair request. The clock stops on the date and time the service is restored (when the technician completes the trouble ticket on his/her CAT or work system).
<b>Calculation:</b>
Maintenance Average Duration = $\Sigma(\text{Date and Time of Service Restoration}) - (\text{Date and Time Trouble Ticket was Opened}) / \Sigma(\text{Total Closed Troubles in the reporting period})$
<b>Report Structure:</b>
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• BST Aggregate</li> <li>• CLEC Aggregate</li> </ul>
<b>Level of Disaggregation:</b>
<p><b>ISDN Troubles included in Non Design – GA Only</b></p> <ul style="list-style-type: none"> <li>• Product Reporting Levels             <ul style="list-style-type: none"> <li>➢ POTS– Residence and Business</li> <li>➢ Design</li> <li>➢ PBX, CENTREX, and ISDN</li> <li>➢ UNE 2 Wire Loop (Design Non – Design)</li> <li>➢ UNE Loop Other (Design Non – Design)</li> <li>➢ UNE Other (Design Non – Design)</li> <li>➢ Switching, Local Transport and Combos (under development)</li> <li>➢ Local Interconnection Trunks</li> </ul> </li> <li>• Dispatch/No Dispatch categories applicable to all product levels</li> <li>• Geographic Scope             <ul style="list-style-type: none"> <li>➢ State, Region and further geographic disaggregation as required by State Commission Order (e.g. Metropolitan Service Area – MSA)</li> </ul> </li> </ul>

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**MAINTENANCE & REPAIR – (Maintenance Average Duration – Continued)**

Data Retained Relating to CLEC Experience	Data Retained Relating to BST Experience
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Total Tickets (LINE_NBR)</li> <li>• CLEC Company Name</li> <li>• Ticket Submission Date &amp; Time (TIME_ID)</li> <li>• Ticket Completion Date (CMPLTN_DT)</li> <li>• Service Type (CLASS_SVC_DESC)</li> <li>• Disposition and Cause (CAUSE_CD &amp; CAUSE_DESC)</li> <li>• Geographic Scope</li> </ul> <p><b>NOTE:</b> Code in parentheses is the corresponding header found in the raw data file.</p>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Total Tickets</li> <li>• BST Company Code</li> <li>• Ticket Submission Date</li> <li>• Ticket submission Time</li> <li>• Ticket completion Date</li> <li>• Ticket Completion Time</li> <li>• Total Duration Time</li> <li>• Service Type</li> <li>• Disposition and Cause (Non – Design / Non-Special Only)</li> <li>• Trouble Code (Design and Trunking Services)</li> <li>• Geographic Scope</li> </ul>
<b>Retail Analog/Benchmark:</b>	
CLEC Residence-Resale / BST Residence-Resale CLEC Business-Resale / BST Business-Retail CLEC Design-Resale / BST Design-Retail CLEC PBX, Centrex and ISDN Resale / BST PBX, Centrex and ISDN Retail CLEC Trunking-Resale /BST Trunking-Retail UNEs - Retail Analog (under development at this time)	

Revision date: 06/09/99 (see)

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**MAINTENANCE & REPAIR**

<b>Report/Measurement:</b>	
Percent Repeat Troubles within 30 Days	
<b>Definition:</b>	
Trouble reports on the same line/circuit as a previous trouble report received within 30 calendar days as a percent of total troubles reported.	
<b>Exclusions:</b>	
<ul style="list-style-type: none"> <li>• Trouble Reports canceled at the CLEC request</li> <li>• BST Trouble Reports associated with administrative service</li> <li>• Customer Provided Equipment (CPE) Troubles or CLEC Equipment Troubles.</li> </ul>	
<b>Business Rules:</b>	
Includes Customer trouble reports received within 30 days of an original Customer trouble report.	
<b>Calculation:</b>	
Percentage of Missed Repair Appointments = (Count of Customer Troubles where more than one trouble report was logged for the same service line within a continuous 30 days) / ( Total Trouble Reports Closed in Reporting Period) X 100	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> <li>• BST Aggregate</li> </ul>	
<b>Level of Disaggregation:</b>	
<p><b>ISDN Troubles included in Non Design – GA Only</b></p> <ul style="list-style-type: none"> <li>• Product Reporting Levels <ul style="list-style-type: none"> <li>➢ POTS Residence and Business</li> <li>➢ Design</li> <li>➢ PBX, CENTREX and ISDN</li> <li>➢ UNE 2 Wire Loop (Design and Non – Design)</li> <li>➢ UNE Loop Other (Design and Non – Design)</li> <li>➢ UNE Other (Design Non – Design)</li> <li>➢ Switching, Local Transport and Combos (under development)</li> <li>➢ Local Interconnection Trunks</li> </ul> </li> <li>• Dispatch/No Dispatch categories applicable to all product levels</li> <li>• Geographic Scope <ul style="list-style-type: none"> <li>➢ State, Region and further geographic disaggregation as required by State Commission Order (e.g. Metropolitan Service Area - MSA)</li> </ul> </li> </ul>	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Total Tickets (LINE_NBR)</li> <li>• CLEC Company Name</li> <li>• Ticket Submission Date &amp; Time (TICKET_ID)</li> <li>• Ticket Completion Date (CMPLTN_DT)</li> <li>• Total and Percent Repeat Trouble Reports within 30 Days (TOT_REPEAT)</li> <li>• Service Type</li> <li>• Disposition and Cause (CAUSE_CD &amp; CAUSE_DESC)</li> <li>• Geographic Scope</li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Total Tickets</li> <li>• BST Company Code</li> <li>• Ticket Submission Date</li> <li>• Ticket Submission Time</li> <li>• Ticket Completion Date</li> <li>• Ticket Completion Time</li> <li>• Total and Percent Repeat Trouble Reports within 30 Days</li> <li>• Service Type</li> <li>• Disposition and Cause (Non – Design/ Non-Special only)</li> <li>• Trouble Code (Design and Trunking Services)</li> <li>• Geographic Scope</li> </ul>
<p><b>NOTE:</b> Code parentheses is the corresponding header format found in the raw data file.</p>	



BellSouth  
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**MAINTENANCE & REPAIR – (Percent Repeat Troubles within 30 Days - Continued)**

**Retail Analog/Benchmark:**

- CLEC Residence-Resale / BST Residence-Retail
- CLEC Business- Resale / BST Business-Retail
- CLEC Design-Resale / BST Design-Retail
- CLEC PBX, Centrex and ISDN Resale / BST PBX, Centrex and ISDN Retail
- CLEC Trunking-Resale / BST Trunking-Retail
- UNEs - Retail Analog (under development at this time)

Revision date: 06/09/99 (see)

BellSouth  
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**MANTENANCE & REPAIR**

<b>Report/Measurement:</b>	
Out of Service (OOS) > 24 Hours	
<b>Definition:</b>	
For Out of Service Troubles (no dial tone, cannot be called or cannot call out) the percentage of troubles cleared in excess of 24 hours. (All design services are considered to be out of service).	
<b>Exclusions:</b>	
<ul style="list-style-type: none"> <li>• Trouble Reports canceled at the CLEC request</li> <li>• BST Trouble Reports associated with administrative service</li> <li>• Customer Provided Equipment (CPE) Troubles or CLEC Equipment Troubles.</li> </ul>	
<b>Business Rules:</b>	
Customer Trouble reports that are out of service and cleared in excess of 24 hours. The clock begins when the trouble report is created in LMOS and the trouble is counted if the time exceeds 24 hours.	
<b>Calculation:</b>	
Out of Service (OOS) > 24 hours = ( Total Troubles OOS > 24 Hours) / Total OOS Troubles in Reporting Period) X 100	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• BST Aggregate</li> <li>• CLEC Aggregate</li> </ul>	
<b>Level of Disaggregation:</b>	
<p><b>ISDN Troubles included in Non Design – GA Only</b></p> <ul style="list-style-type: none"> <li>• Product Reporting Levels <ul style="list-style-type: none"> <li>➢ POTS Residence and Business</li> <li>➢ Design</li> <li>➢ PBX and CENTREX and ISDN</li> <li>➢ UNE 2 Wire Loop (Design and Non – Design)</li> <li>➢ UNE Loop Other (Design and Non – Design)</li> <li>➢ UNE Other (Design and Non – Design)</li> <li>➢ Switching, Local Transport and Combos (under development)</li> <li>➢ Local Interconnection Trunks</li> </ul> </li> <li>• Dispatch/No Dispatch categories applicable to all product levels</li> <li>• Geographic Scope <ul style="list-style-type: none"> <li>➢ State, Region and further geographic disaggregation as required by State Commission Order (e.g. Metropolitan Service Area - MSA)</li> </ul> </li> </ul>	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Total Tickets</li> <li>• CLEC Company Name</li> <li>• Ticket Submission Date &amp; Time (TICKET_ID)</li> <li>• Ticket Completion Date (CMPLTN_DT)</li> <li>• Percentage of Customer Troubles out of Service &gt; 24 Hours (OOS&gt;24_FLAG)</li> <li>• Service type (CLASS_SVC_DESC)</li> <li>• Disposition and Cause (CAUSE_CD &amp; CAUSE-DESC)</li> <li>• Geographic Scope</li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Total Tickets</li> <li>• BST Company Code</li> <li>• Ticket Submission Date</li> <li>• Ticket Submission time</li> <li>• Ticket Completion Date</li> <li>• Ticket Completion Time</li> <li>• Percent of Customer Troubles out of Service &gt; 24 Hours</li> <li>• Service type</li> <li>• Disposition and Cause (Non – Design/ Non-Special only)</li> <li>• Trouble Code (Design and Trunking Services)</li> <li>• Geographic Scope</li> </ul>
NOTE: Code in parentheses is the corresponding header found in the raw data file.	

BellSouth  
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**MANTENANCE & REPAIR – (Out of Service (OOS) > 24 Hours – Continued)**

**Retail Analog/Benchmark:**

CLEC Residence-Resale / BST Residence- Retail  
CLEC Business- Resale / BST Business-Retail  
CLEC Design-Resale / BST Design-Retail  
CLEC PBX, Centrex and ISDN Resale / BST PBX, Centrex and ISDN Retail  
CLEC Trunking-Resale /BST Trunking- Retail  
UNEs Retail Analog (under development at this time.)

Revision date: 06/09/99 (see)

BellSouth  
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**MAINTENANCE & REPAIR**

<b>Report/Measurement:</b>	
OSS Interface Availability	
<b>Definition:</b>	
The percentage of time the OSS Interface is functionally available compared to scheduled availability. Availability percentage for the CLEC and BST interface systems and for the legacy systems accessed by them are captured.	
<b>Exclusions:</b>	
None	
<b>Business Rules:</b>	
This measure is designed to compare the OSS availability versus scheduled availability of BST's legacy systems.	
<b>Calculation:</b>	
OSS Interface Availability = (Actual System Functional Availability) / (Actual planned System Availability) X 100	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC Aggregate</li> <li>• BST Aggregate</li> <li>• BST/CLEC</li> </ul>	
<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>• Region</li> </ul>	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>• Availability of CLEC TAFI</li> <li>• Availability of LMOS HOST, MARCH and SOCS</li> <li>• CRIS, PREDICTOR, LNP, and OSPCCM (under development at this time)</li> </ul>	<ul style="list-style-type: none"> <li>• Availability of BST TAFI</li> <li>• Availability of LMOS HOST, MARCH and SOCS</li> </ul>
<b>Retail Analog/Benchmark:</b>	
Parity by design; Retail Analog	

Revision date: 06/09/99 (see)

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**MAINTENANCE & REPAIR**

<b>Report/Measurement:</b>	
OSS Response Interval and Percentages	
<b>Definition:</b>	
The response intervals are determined by subtracting the time a request is received on the BST side of the interface until the response is received from the legacy system. Percentages of requests falling into each interval category are reported, along with the actual number of requests falling into those categories.	
<b>Exclusions:</b>	
Queries received during scheduled system maintenance time.	
<b>Business Rules:</b>	
This measure is designed to monitor the time required for the CLEC and BST interface system to obtain from BST's legacy systems the information required to handle maintenance and repair functions. The clock starts on the date and time when the request is received and the clock stops when the response has been transmitted through that same point to the requester.	
<b>Calculation:</b>	
OSS Response Interval = (Query Response Date and Time for Category "X") - (Query Request Date and Time for Category "X") / (Number of Queries Submitted in the Reporting Period) where, "X" is 0-4, ≥ 4 to 10, > 10, > 30 seconds.	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC</li> <li>• BST Residence</li> <li>• BST Business (BST Total is under development at this time) by interface for each legacy system and function as appropriate.</li> </ul>	
<b>Level of Disaggregation:</b>	
Region	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>• CLEC Transaction Intervals</li> </ul>	<ul style="list-style-type: none"> <li>• BST Business and Residence transaction Intervals</li> </ul>
<b>Retail Analog/Benchmark:</b>	
Retail Analog Audit Verification	

Revision date: 06/09/99 (see)

BellSouth  
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**MAINTENANCE & REPAIR**

<b>Report/Measurement:</b>	
Average Answer Time – Repair Centers	
<b>Definition:</b>	
This measure demonstrates an average response time for the CLEC representative to contact a BST representative. The average time a CLEC Rep is in queue waiting for the LCSC or UNE Center Rep to answer.	
<b>Exclusions:</b>	
None	
<b>Business Rules:</b>	
This measure is designed to measure the time required for CLEC & BST from the time of the ACD choice to the time of being answered. The clock starts when the CLEC Rep makes a choice to be put in queue for the next repair attendant and the clock stops when the repair attendant answers the call.	
<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>Region. CLEC/BST Service Centers and BST Repair Centers are regional.</li> </ul>	
<b>Calculation:</b>	
Average Answer Time for BST's Repair Centers = (Time BST Repair Attendant Answers Call) – (Time of entry into queue until ACD Selection) / (Total number of calls by reporting period)	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>CLEC Aggregate</li> <li>BST Aggregate</li> <li>CLEC Aggregate</li> </ul>	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>CLEC Average Answer Time</li> </ul>	<ul style="list-style-type: none"> <li>BST Average Answer Time</li> </ul>
<b>Retail Analog/Benchmark:</b>	
Retail Analog Audit Verification	

Revision date: 06/09/99 (see)

BellSouth  
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**BILLING**

<b>Report/Measurement:</b>	
Invoice Accuracy	
<b>Definition:</b>	
This measure provides the percentage of accuracy of the billing invoices rendered to CLECs during the current month.	
<b>Exclusions:</b>	
<ul style="list-style-type: none"> <li>• Adjustments not related to billing errors (e.g., credits for service outage, special promotion credits, adjustments to satisfy the customer)</li> </ul>	
<b>Business Rules:</b>	
The accuracy of billing invoices delivered by BST to the CLEC must enable them to provide a degree of billing accuracy comparative to BST bills rendered to retail customers BST. CLECs request adjustments on bills determined to be incorrect. The BellSouth Billing verification process includes manually analyzing a sample of local bills from each bill period. The bill verification process draws from a mix of different customer billing options and types of service. An end-to-end auditing process is performed for new products and services. Internal measurements and controls are maintained on all billing processes.	
<b>Calculation:</b>	
$\text{Invoice Accuracy} = \frac{(\text{Total Billed Revenues during current month}) - (\text{Billing Related Adjustments during current month})}{\text{Total Billed Revenues during current month}} \times 100$	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> <li>• BST Aggregate</li> </ul>	
<b>Level of Disaggregation :</b>	
<ul style="list-style-type: none"> <li>• Product / Invoice Type <ul style="list-style-type: none"> <li>&gt; Resale</li> <li>&gt; UNE</li> <li>&gt; Interconnection</li> </ul> </li> <li>• Geographic Scope <ul style="list-style-type: none"> <li>&gt; Region</li> </ul> </li> </ul>	
<b>Data Retained Relating to CLEC Experience:</b>	<b>Data Retained Relating to BST Performance:</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Invoice Type</li> <li>• Total Billed Revenue</li> <li>• Billing Related Adjustments</li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Retail Type <ul style="list-style-type: none"> <li>&gt; CRIS</li> <li>&gt; CABS</li> </ul> </li> <li>• Total Billed Revenue</li> <li>• Billing Related Adjustments</li> </ul>
<b>Retail Analog/Benchmark</b>	
CLEC Invoice Accuracy is comparable to BST Invoice Accuracy	

Revision date: 09/15/99 (lg)

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**BILLING**

<b>Report/Measurement:</b>	
Mean Time to Deliver Invoices	
<b>Definition:</b>	
This measure provides the mean interval for billing invoices	
<b>Exclusions:</b>	
Any invoices rejected due to formatting or content errors.	
<b>Business Rules:</b>	
Measures the mean interval for timeliness of billing records delivered to CLECs in an agreed upon format. CRIS-based invoices are measured in business days, and CABS-based invoices in calendar days.	
<b>Calculation:</b>	
$\text{Mean Time To Deliver Invoices} = \frac{\sum [(\text{Invoice Transmission Date}) - (\text{Close Date of Scheduled Bill Cycle})]}{(\text{Count of Invoices Transmitted in Reporting Period})}$	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> <li>• BST Aggregate</li> </ul>	
<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>• Product / Invoice Type                         <ul style="list-style-type: none"> <li>&gt; Resale</li> <li>&gt; UNE</li> <li>&gt; Interconnection</li> </ul> </li> <li>• Geographic Scope                         <ul style="list-style-type: none"> <li>&gt; Region</li> </ul> </li> </ul>	
<b>Data Retained Relating to CLEC Experience:</b>	<b>Data Retained Relating to BST Performance:</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Invoice Type</li> <li>• Invoice Transmission Count</li> <li>• Date of Scheduled Bill Close</li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Retail Type                             <ul style="list-style-type: none"> <li>&gt; CRIS</li> <li>&gt; CABS</li> </ul> </li> <li>• Invoice Transmission Count</li> <li>• Date of Scheduled Bill Close</li> </ul>
<b>Retail Analog/Benchmark:</b>	
<ul style="list-style-type: none"> <li>• CRIS-based invoices will be released for delivery within six (6) business days</li> <li>• CABS-based invoices will be released for delivery within eight (8) calendar days.</li> <li>• CLEC Average Delivery Intervals for both CRIS and CABS Invoices are comparable to BST Average delivery time for both systems.</li> </ul>	

Revision date: 09/15/99 (lg)



BellSouth  
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**BILLING**

<b>Report/Measurement:</b>	
Usage Data Delivery Accuracy	
<b>Definition:</b>	
This measurement captures the percentage of recorded usage that is delivered error free and in an acceptable format to the appropriate Competitive Local Exchange Carrier (CLEC). These percentages will provide the necessary data for use as a comparative measurement for BellSouth performance. This measurement captures Data Delivery Accuracy rather than the accuracy of the individual usage recording.	
<b>Exclusions:</b>	
None	
<b>Business Rules:</b>	
The accuracy of the data delivery of usage records delivered by BST to the CLEC must enable them to provide a degree of accuracy comparative to BST bills rendered to their retail customers. If errors are detected in the delivery process, they are investigated, evaluated and documented. Errors are corrected and the data retransmitted to the CLEC.	
<b>Calculations:</b>	
$\text{Usage Data Delivery Accuracy} = \frac{\Sigma [(Total\ number\ of\ usage\ data\ packs\ sent\ during\ current\ month) - (Total\ number\ of\ usage\ data\ packs\ requiring\ retransmission\ during\ current\ month)]}{(Total\ number\ of\ usage\ data\ packs\ sent\ during\ current\ month)} \times 100$	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> <li>• BST Aggregate</li> </ul>	
<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>• Geographic Scope <ul style="list-style-type: none"> <li>&gt; Region</li> </ul> </li> </ul>	
<b>Data Retained Relating to CLEC Experience:</b>	<b>Data Retained Relating to BST Performance:</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Record Type <ul style="list-style-type: none"> <li>&gt; BellSouth Recorded</li> <li>&gt; Non BellSouth Recorded</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Record Type</li> </ul>
<b>Retail Analog/Benchmark:</b>	
CLEC Usage Data Delivery Accuracy is comparable to BST Usage Data Delivery Accuracy	

Revision date: 09/15/99 (lg)

BellSouth  
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**BILLING**

<b>Report/Measurement:</b>	
Usage Data Delivery Completeness	
<b>Definition:</b>	
This measurement provides percentage of complete and accurately recorded usage data (usage recorded by BellSouth and usage recorded by other companies and sent to BST for billing) that is processed and transmitted to the CLEC within thirty (30) days of the message recording date. A parity measure is also provided showing completeness of BST messages processed and transmitted via CMDS. BellSouth delivers its own retail usage from recording location to billing location via CMDS as well as delivering billing data to other companies. Timeliness, Completeness and Mean Time to Deliver Usage measures are reported on the same report.	
<b>Exclusions:</b>	
None	
<b>Business Rules:</b>	
The purpose of these measurements is to demonstrate the level of quality of usage data delivered to the appropriate CLEC. Method of delivery is at the option of the CLEC.	
<b>Calculation:</b>	
Usage Data Delivery Completeness = $\frac{\Sigma(\text{Total number of Recorded usage records delivered during the current month that are within thirty (30) days of the message recording date})}{\Sigma(\text{Total number of Recorded usage records delivered during the current month})} \times 100$	
<b>Report Structure</b>	
<ul style="list-style-type: none"> <li>• CLEC Specific</li> <li>• CLEC Aggregate</li> <li>• BST Aggregate</li> </ul>	
<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>• Geographic Scope <ul style="list-style-type: none"> <li>➢ Region</li> </ul> </li> </ul>	
<b>Data Retained Relating to CLEC Experience:</b>	<b>Data Retained Relating to BST Performance:</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Record Type <ul style="list-style-type: none"> <li>➢ BellSouth Recorded</li> <li>➢ Non BellSouth Recorded</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Report Monthly</li> <li>• Record Type</li> </ul>
<b>Retail Analog/Benchmark:</b>	
CLEC Usage Delivery Completeness is comparable to BST Usage Delivery Completeness	

Revision date: 09/15/99 (lg)

BellSouth  
Service Quality Measurements  
Regional Performance Reports

**BILLING**

<b>Report/Measurement:</b>	
Usage Data Delivery Timeliness	
<b>Definition:</b>	
This measurement provides a percentage of recorded usage data (usage recorded by BST and usage recorded by other companies and sent to BST for billing) that is delivered to the appropriate CLEC within six (6) calendar days from the receipt of the initial recording. A parity measure is also provided showing timeliness of BST messages processed and transmitted via CMDS. Timeliness, Completeness and Mean Time to Deliver Usage measures are reported on the same report.	
<b>Exclusions:</b>	
None	
<b>Business Rules:</b>	
The purpose of this measurement is to demonstrate the level of timeliness for processing and transmission of usage data delivered to the appropriate CLEC. The usage data will be mechanically transmitted or mailed to the CLEC data processing center once daily. The Timeliness interval of usage recorded by other companies is measured from the date BST receives the records to the date BST distributes to the CLEC. Method of delivery is at the option of the CLEC.	
<b>Calculation:</b>	
Usage Data Delivery Timeliness = $\frac{\Sigma (\text{Total number of usage records sent within six (6) calendar days from initial recording/receipt})}{\Sigma (\text{Total number of usage records sent})} \times 100$	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC Aggregate</li> <li>• CLEC Specific</li> <li>• BST Aggregate</li> </ul>	
<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>• Geographic Scope             <ul style="list-style-type: none"> <li>&gt; Region</li> </ul> </li> </ul>	
<b>Data Retained Relating to CLEC Experience:</b>	<b>Data Retained Relating to BST Performance:</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Record Type             <ul style="list-style-type: none"> <li>&gt; BellSouth Recorded</li> <li>&gt; Non-BellSouth Recorded</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Report Monthly</li> <li>• Record Type</li> </ul>
<b>Retail Analog/Benchmark:</b>	
CLEC Usage Data Delivery Timeliness is comparable to BST Usage Data Delivery Timeliness	

Revision date: 09/15/99 (lg)

BellSouth  
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**BILLING**

<b>Report/Measurement:</b>	
Mean Time to Deliver Usage	
<b>Definition:</b>	
This measurement provides the average time it takes to deliver Usage Records to a CLEC. A parity measure is also provided showing timeliness of BST messages processed and transmitted via CMDS. Timeliness, Completeness and Mean Time to Deliver Usage measures are reported on the same report.	
<b>Exclusions:</b>	
None	
<b>Business Rules:</b>	
The purpose of this measurement is to demonstrate the average number of days it takes BST to deliver Usage data to the appropriate CLEC. Usage data is mechanically transmitted or mailed to the CLEC data processing center once daily. Method of delivery is at the option of the CLEC.	
<b>Calculation:</b>	
Mean Time to Deliver Usage = $\Sigma$ (Record volume X estimated number of days to deliver the Usage Record) / total record volume	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• CLEC Aggregate</li> <li>• CLEC Specific</li> <li>• BST Aggregate</li> </ul>	
<b>Level of Disaggregation:</b>	
<ul style="list-style-type: none"> <li>• Geographic Scope                             <ul style="list-style-type: none"> <li>➢ Region</li> </ul> </li> </ul>	
<b>Data Retained Relating to CLEC Experience:</b>	<b>Data Retained Relating to BST Performance:</b>
<ul style="list-style-type: none"> <li>• Report Month</li> <li>• Record Type                             <ul style="list-style-type: none"> <li>➢ BellSouth Recorded</li> <li>➢ Non-BellSouth Recorded</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Report Monthly</li> <li>• Record Type</li> </ul>
<b>Retail Analog/Benchmark:</b>	
Mean Time to Deliver Usage to CLEC is comparable to Mean Time to Deliver Usage to BST	

Revision date: 09/15/99 (lg)

BellSouth  
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**OPERATOR SERVICES AND DIRECTORY ASSISTANCE**

<b>Report/Measurement:</b>
Speed to Answer Performance/Average Speed to Answer – Toll
<b>Definition:</b>
Measurement of the average time in seconds calls wait before answered by a toll operator.
<b>Exclusions:</b>
Calls abandoned by customers are not reflected in the average speed to answer but are reflected in the conversion tables where the percent answered within "X" seconds is determined.
<b>Business Rules:</b>
The call waiting measurement scan starts when the customer enters the queue and ends when a BST representative answers the call. The average speed to answer is determined by measuring and accumulating the seconds of wait time from the entry of a customer into the BST call management system queue until the customer is transferred to a BST representative. No distinction is made between CLEC customers and BST customers.
<b>Calculation:</b>
The Average Speed to Answer for toll is calculated by using data from monthly system measurement reports taken from the centralized call routing switches. The "total call waiting seconds" is a sub-component of this measure which BST systems calculate by monitoring the number of calls in queue throughout the day multiplied by the time (in seconds) between monitoring events. The "total calls served" is the other sub-component of this measure, which BST systems record as the total number of calls handled by Operator Services toll centers. Since calls abandoned are not reflected in the calculation, the percent answered within the required timeframe is determined by using conversion tables with input for the abandonment rate.
<b>Report Structure:</b>
Reported for the aggregate of BST and CLECs
<ul style="list-style-type: none"> <li>• State</li> </ul>
<b>Level of Disaggregation:</b>
None
<b>Data Retained (on Aggregate Basis)</b>
For the items below, BST's Performance Measurement Analysis Platform (PMAP) receives a final computation; therefore, no raw data file is available in PMAP.
<ul style="list-style-type: none"> <li>• Month</li> <li>• Call Type (Toll)</li> <li>• Average Speed of Answer</li> </ul>
<b>Retail Analog/Benchmark</b>
Parity by Design

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**OPERATOR SERVICES AND DIRECTORY ASSISTANCE**

<b>Report/Measurement:</b>
Speed to Answer Performance/Percent Answered within "X" Seconds – Toll
<b>Definition:</b>
Measurement of the percent of toll calls that are answered in less than "X" seconds. The number of seconds represented by "X" is thirty, except where a different regulatory benchmark has been set against the Average Speed to Answer by a State Commission.
<b>Exclusions:</b>
Calls abandoned by customers are not reflected in the average speed to answer but are reflected in the conversion tables where the percent answered within "X" seconds is determined.
<b>Business Rules:</b>
The call waiting measurement scan starts when the customer enters the queue and ends when a BST representative answers the call. The average speed to answer is determined by measuring and accumulating the seconds of wait time from the entry of a customer into the BST call management system queue until the customer is transferred to a BST representative. No distinction is made between CLEC customers and BST customers.
<b>Calculation:</b>
The Percent Answered within "X" Seconds measurement for toll is derived by using the BellCore Statistical Answer Conversion Tables, to convert the Average Speed to Answer measure into a percent of calls answered within "X" seconds. The BellCore Conversion Tables are specific to the defined parameters of work time, number of operators, max queue size and call abandonment rates.
<b>Report Structure:</b>
Reported for the aggregate of BST and CLECs
<ul style="list-style-type: none"> <li>• State</li> </ul>
<b>Level of Disaggregation:</b>
None
<b>Data Retained (on Aggregate Basis)</b>
For the items below, BST's Performance Measurement Analysis Platform (PMAP) receives a final computation; therefore, no raw data file is available in PMAP.
<ul style="list-style-type: none"> <li>• Month</li> <li>• Call Type (Toll)</li> <li>• Average Speed of Answer</li> </ul>
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**OPERATOR SERVICES AND DIRECTORY ASSISTANCE**

<b>Report/Measurement:</b>
Speed to Answer Performance/Average Speed to Answer – Directory Assistance (DA)
<b>Definition:</b>
Measurement of the average time in seconds calls wait before answer by a DA operator.
<b>Exclusions:</b>
Calls abandoned by customers are not reflected in the average speed to answer but are reflected in the conversion tables where the percent answered within “X” seconds is determined.
<b>Business Rules:</b>
The call waiting measurement scan starts when the customer enters the queue and ends when a BST representative answers the call. The average speed to answer is determined by measuring and accumulating the seconds of wait time from the entry of a customer into the BST call management system queue until the customer is transferred to a BST representative. No distinction is made between CLEC customers and BST customers.
<b>Calculation:</b>
The Average Speed to Answer for DA is calculated by using data from monthly system measurement reports taken from the centralized call routing switches. The “total call waiting seconds” is a sub-component of this measure which BST systems calculate by monitoring the number of calls in queue throughout the day multiplied by the time (in seconds) between monitoring events. The “total calls served” is the other sub-component of this measure, which BST systems record as the total number of calls handled by Operator Services DA centers. Since calls abandoned are not reflected in the calculation, the percent answered within the required timeframe is determined by using conversion tables with input for the abandonment rate.
<b>Report Structure:</b>
Reported for the aggregate of BST and CLECs
<ul style="list-style-type: none"> <li>• State</li> </ul>
<b>Level of Disaggregation:</b>
None
<b>Data Retained (on Aggregate Basis)</b>
For the items below, BST’s Performance Measurement Analysis Platform (PMAP) receives a final computation; therefore, no raw data file is available in PMAP.
<ul style="list-style-type: none"> <li>• Month</li> <li>• Call Type (DA)</li> <li>• Average Speed of Answer</li> </ul>
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**OPERATOR SERVICES AND DIRECTORY ASSISTANCE**

<b>Report/Measurement:</b>
Speed to Answer Performance/Percent Answered within "X" Seconds – Directory Assistance (DA)
<b>Definition:</b>
Measurement of the percent of DA calls that are answered in less than "X" seconds. The number of seconds represented by "X" is twenty, except where a different regulatory benchmark has been set against the Average Speed to Answer by a State Commission.
<b>Exclusions:</b>
Calls abandoned by customers are not reflected in the average speed to answer but are reflected in the conversion tables where the percent answered within "X" seconds is determined.
<b>Business Rules:</b>
The call waiting measurement scan starts when the customer enters the queue and ends when a BST representative answers the call. The average speed to answer is determined by measuring and accumulating the seconds of wait time from the entry of a customer into the BST call management system queue until the customer is transferred to a BST representative. No distinction is made between CLEC customers and BST customers.
<b>Calculation:</b>
The Percent Answered within "X" Seconds measurement for DA is derived by using the BellCore Statistical Answer Conversion Tables, to convert the Average Speed to Answer measure into a percent of calls answered within "X" seconds. The BellCore Conversion Tables are specific to the defined parameters of work time, number of operators, max queue size and call abandonment rates.
<b>Report Structure:</b>
Reported for the aggregate of BST and CLECs
<ul style="list-style-type: none"> <li>• State</li> </ul>
<b>Level of Disaggregation:</b>
None
<b>Data Retained (on Aggregate Basis)</b>
For the items below, BST's Performance Measurement Analysis Platform (PMAP) receives a final computation; therefore, no raw data file is available in PMAP.
<ul style="list-style-type: none"> <li>• Month</li> <li>• Call Type (DA)</li> <li>• Average Speed of Answer</li> </ul>
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E911

<b>Report/Measurement:</b>
E911/Timeliness
<b>Definition:</b>
Measures the percentage of batch orders for E911 database updates (to CLEC resale and BST retail records) processed successfully within a 24-hour period.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Any resale order canceled by a CLEC</li> <li>• Facilities-based CLEC orders</li> </ul>
<b>Business Rules:</b>
The 24-hour processing period is calculated based on the date and time processing starts on the batch orders and the date and time processing stops on the batch orders. Mechanical processing starts when SCC (BST's E911 vendor) receives E911 files containing batch orders extracted from BST's Service Order Communication System (SOCS). Processing stops when SCC loads the individual records to the E911 database. No distinctions are made between CLEC resale records and BST retail records.
<b>Calculation:</b>
$E911 \text{ Timeliness} = \Sigma (\text{Number of batch orders processed within 24 hours} \div \text{Total number of batch orders submitted}) \times 100$
<b>Report Structure:</b>
Reported for the aggregate of CLEC resale updates and BST retail updates <ul style="list-style-type: none"> <li>• State</li> <li>• Region</li> </ul>
<b>Levels of Disaggregation:</b>
None
<b>Data Retained</b>
<ul style="list-style-type: none"> <li>• Report month</li> <li>• Aggregate data</li> </ul>
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**E911**

<b>Report/Measurement:</b>
E911/Accuracy
<b>Definition:</b>
Measures the individual E911 telephone number (TN) record updates (to CLEC resale and BST retail records) processed successfully for E911 with no errors.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Any resale order canceled by a CLEC</li> <li>• Facilities-based CLEC orders</li> </ul>
<b>Business Rules:</b>
Accuracy is based on the number of records processed without error at the conclusion of the processing cycle. Mechanical processing starts when SCC (BST's E911 vendor) receives E911 files containing telephone number (TN) records extracted from BST's Service Order Communication System (SOCS). No distinctions are made between CLEC resale records and BST retail records.
<b>Calculation:</b>
$E911 \text{ Accuracy} = \frac{\Sigma(\text{Number of record individual updates processed with no errors}}{\text{Total number of individual record updates}} \times 100$
<b>Report Structure:</b>
Reported for the aggregate of CLEC resale updates and BST retail updates
<ul style="list-style-type: none"> <li>• State</li> <li>• Region</li> </ul>
<b>Level of Disaggregation:</b>
None
<b>Data Retained</b>
<ul style="list-style-type: none"> <li>• Report month</li> <li>• Aggregate data</li> </ul>
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**E911**

<b>Report/Measurement:</b>
E911/Mean Interval
<b>Definition:</b>
Measures the mean interval processing of E911 batch orders (to update CLEC resale and BST retail records).
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Any resale order canceled by a CLEC</li> <li>• Facilities-based CLEC orders</li> </ul>
<b>Business Rules:</b>
The processing period is calculated based on the date and time processing starts on the batch orders and the date and time processing stops on the batch orders. Data is posted in 4-hour increments up to and beyond 24 hours. No distinctions are made between CLEC resale records and BST retail records.
<b>Calculation:</b>
$E911 \text{ Mean Interval} = \frac{\sum (\text{Date and time of batch order completion} - \text{Date and time of batch order submission})}{\text{Number of batch orders completed}}$
<b>Report Structure:</b>
Reported for the aggregate of CLEC resale updates and BST retail updates
<ul style="list-style-type: none"> <li>• State</li> <li>• Region</li> </ul>
<b>Level of Disaggregation:</b>
None
<b>Data Retained (on Aggregate Basis)</b>
<ul style="list-style-type: none"> <li>• Report month</li> <li>• Aggregate data</li> </ul>
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**TRUNK GROUP PERFORMANCE**

<b>Report/Measurement:</b>	
Trunk Group Service Report	
<b>Definition:</b>	
A report of the percent blocking above the Measured Blocking Threshold (MBT) on all final trunk groups between CLEC Points of Termination and BST end offices or tandems.	
<b>Exclusions:</b>	
<ul style="list-style-type: none"> <li>• Trunk groups for which valid traffic data is not available</li> <li>• High use trunk groups</li> </ul>	
<b>Business Rules:</b>	
Traffic trunking data measurements are validated and processed by the Total Network Data System/Trunking (TNDS/TK), a Telcordia (BellCore) supported application, on an hourly basis for Average Business Days (Monday through Friday). The traffic load sets, including offered load and observed blocking ratio (calls blocked divided by calls attempted), are averaged for a 20 day period, and the busy hour is selected. The busy hour average data for each trunk group is captured for reporting purposes. Although all trunk groups are available for reporting, the report highlight those trunk groups with blocking greater than the Measured Blocking Threshold (MBT) and the number of consecutive monthly reports that the trunk group blocking has exceeded the MBT. The MBT for CTTG is 2% and the MBT for all other trunk groups is 3%.	
<b>Calculation:</b>	
Measured blocking = (Total number of blocked calls) / (Total number of attempted calls) X 100	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• BST Aggregate                             <ul style="list-style-type: none"> <li>➢ CTTG</li> <li>➢ Local</li> </ul> </li> <li>• CLEC Aggregate                             <ul style="list-style-type: none"> <li>➢ BST Administered CLEC Trunk</li> <li>➢ CLEC Administered CLEC Trunk</li> </ul> </li> <li>• CLEC Specific                             <ul style="list-style-type: none"> <li>➢ BST Administered CLEC Trunk</li> <li>➢ CLEC Administered CLEC Trunk</li> </ul> </li> </ul>	
<b>Level of Disaggregation:</b>	
State	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>• Report month</li> <li>• Total trunk groups</li> <li>• Total trunk groups for which data is available</li> <li>• Trunk groups with blocking greater than the MBT</li> <li>• Percent of trunk groups with blocking greater than the MBT</li> </ul>	<ul style="list-style-type: none"> <li>• Report month</li> <li>• Total trunk groups</li> <li>• Total trunk groups for which data is available</li> <li>• Trunk groups with blocking greater than the MBT</li> <li>• Percent of trunk groups with blocking greater than the MBT</li> </ul>
<b>Retail Analog/Benchmark:</b>	
CLEC Trunk Blockage/BST Trunk Blockage	

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**TRUNK GROUP PERFORMANCE**

<b>Report/Measurement:</b>	
Trunk Group Service Detail	
<b>Definition:</b>	
A detailed list of all final trunk groups between CLEC Points of Presence and BST end offices or tandems, and the actual blocking performance when the blocking exceeds the Measured Blocking Threshold (MBT) for the trunk groups.	
<b>Exclusions:</b>	
<ul style="list-style-type: none"> <li>• Trunk groups for which valid traffic data is not available</li> <li>• High use trunk groups</li> </ul>	
<b>Business Rules:</b>	
Traffic trunking data measurements are validated and processed by the Total Network Data System/Trunking (TNDS/TK), a Telcordia (Bellcore) supported application, on an hourly basis for Average Business Days (Monday through Friday). The traffic load sets, including offered load and observed blocking ratio (calls blocked divided by calls attempted), are averaged for a 20 day period, and the busy hour is selected. The busy hour average data for each trunk group is captured for reporting purposes. Although all trunk groups are available for reporting, the report highlight those trunk groups with blocking greater than the Measured Blocking Threshold (MBT) and the number of consecutive monthly reports that the trunk group blocking has exceeded the MBT. The MBT for CTTG is 2% and the MBT for all other trunk groups is 3%.	
<b>Calculation:</b>	
Measured Blocking = (Total number of blocked calls) / (Total number of attempted calls) X 100	
<b>Report Structure:</b>	
<ul style="list-style-type: none"> <li>• BST Specific                             <ul style="list-style-type: none"> <li>➢ Traffic Identity</li> <li>➢ TGSN</li> <li>➢ Tandem</li> <li>➢ End Office</li> <li>➢ Description</li> <li>➢ Observed Blocking</li> <li>➢ Busy Hour</li> <li>➢ Number Trunks</li> <li>➢ Valid study days</li> <li>➢ Number reports</li> <li>➢ Remarks</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• CLEC Specific                             <ul style="list-style-type: none"> <li>➢ Traffic Identity</li> <li>➢ TGSN</li> <li>➢ Tandem</li> <li>➢ CLEC POT</li> <li>➢ Description</li> <li>➢ Observed Blocking</li> <li>➢ Busy Hour</li> <li>➢ Number Trunks</li> <li>➢ Valid study days</li> <li>➢ Number reports</li> <li>➢ Remarks</li> </ul> </li> </ul>
<b>Level of Disaggregation:</b>	
State	
<b>Data Retained Relating to CLEC Experience</b>	<b>Data Retained Relating to BST Experience</b>
<ul style="list-style-type: none"> <li>• Report month</li> <li>• Total trunk groups</li> <li>• Total trunk groups for which data is available</li> <li>• Trunk groups with blocking greater than the MBT</li> <li>• Percent of trunk groups with blocking greater than the MBT</li> <li>• Traffic identity, TGSN, end points, description, busy hour, valid study days, number reports</li> </ul>	<ul style="list-style-type: none"> <li>• Report month</li> <li>• Total trunk groups</li> <li>• Total trunk groups for which data is available</li> <li>• Trunk groups with blocking greater than the MBT</li> <li>• Percent of trunk groups with blocking greater than the MBT</li> <li>• Traffic identity, TGSN, end points, description, busy hour, valid study days, number reports</li> </ul>
<b>Retail Analog/Benchmark:</b>	
CLEC Trunk Blockage/BST Trunk Blockage	

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**COLLOCATION**

<b>Report/Measurement:</b>
Collocation/Average Response Time
<b>Definition:</b>
Measures the average time (counted in business days) from the receipt of a complete and accurate collocation application (including receipt of application fees) to the date BellSouth responds in writing.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Requests to augment previously completed arrangements</li> <li>• Any application cancelled by the CLEC</li> </ul>
<b>Business Rules:</b>
The clock starts on the date that BST receives a complete and accurate collocation application accompanied by the appropriate application fee. The clock stops on the date that BST returns a response. The clock will restart upon receipt of changes to the original application request.
<b>Calculation:</b>
Average Response Time = $\Sigma(\text{Request Response Date}) - (\text{Request Submission Date}) / \text{Count of Responses Returned within Reporting Period.}$
<b>Report Structure:</b>
<ul style="list-style-type: none"> <li>• Individual CLEC (alias) aggregate</li> <li>• Aggregate of all CLECs</li> </ul>
<b>Level of Disaggregation:</b>
<ul style="list-style-type: none"> <li>• State, Region and further geographic disaggregation as required by State Commission Order</li> <li>• Virtual</li> <li>• Physical</li> </ul>
<b>Data Retained:</b>
<ul style="list-style-type: none"> <li>• Report period</li> <li>• Aggregate data</li> </ul>
<b>Retail Analog/Benchmark:</b>
Under development

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**COLLOCATION**

<b>Report/Measurement:</b>
Collocation/Average Arrangement Time
<b>Definition:</b>
Measures the average time (counted in business days) from the receipt of a complete and accurate Bona Fide firm order (including receipt of appropriate fee) to the date BST completes the collocation arrangement.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Any Bona Fide firm order cancelled by the CLEC</li> <li>• Bona Fide firm orders to augment previously completed arrangements</li> <li>• Time for BST to obtain permits</li> <li>• Time during which the collocation contract is being negotiated</li> </ul>
<b>Business Rules:</b>
The clock starts on the date that BST receives a complete and accurate Bona Fide firm order accompanied by the appropriate fee. The clock stops upon submission of the permit request and restarts upon receipt of the approved permit. Changes (affecting the provisioning interval or capital expenditures) that are submitted while provisioning is in progress may alter the completion date. The clock stops on the date that BST completes the collocation arrangement.
<b>Calculation:</b>
Average Arrangement Time = $\Sigma(\text{Date Collocation Arrangement is Complete}) - (\text{Date Order for Collocation Arrangement Submitted}) / \text{Total Number of Collocation Arrangements Completed during Reporting Period.}$
<b>Report Structure:</b>
<ul style="list-style-type: none"> <li>• Individual CLEC (alias) aggregate</li> <li>• Aggregate of all CLECs</li> </ul>
<b>Level of Disaggregation:</b>
<ul style="list-style-type: none"> <li>• State, Region and further geographic disaggregation as required by State Commission Order</li> <li>• Virtual</li> <li>• Physical</li> </ul>
<b>Data Retained:</b>
<ul style="list-style-type: none"> <li>• Report period</li> <li>• Aggregate data</li> </ul>
<b>Retail Analog/Benchmark:</b>
Under development

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**COLLOCATION**

<b>Report/Measurement:</b>
Collocation/Percent of Due Dates Missed
<b>Definition:</b>
Measures the percent of missed due dates for collocation arrangements.
<b>Exclusions:</b>
<ul style="list-style-type: none"> <li>• Any Bona Fide firm order cancelled by the CLEC</li> <li>• Bona Fide firm orders to augment previously completed arrangements</li> <li>• Time for BST to obtain permits</li> <li>• Time during which the collocation contract is being negotiated</li> </ul>
<b>Business Rules:</b>
The clock starts on the date that BST receives a complete and accurate Bona Fide firm order accompanied by the appropriate fee. The clock stops on the date that BST completes the collocation arrangement.
<b>Calculation:</b>
$\% \text{ of Due Dates Missed} = \frac{\Sigma (\text{Number of Orders not completed w/i ILEC Committed Due Date during Reporting Period})}{\text{Number of Orders Completed in Reporting Period}} \times 100$
<b>Report Structure:</b>
<ul style="list-style-type: none"> <li>• Individual CLEC (alias) aggregate</li> <li>• Aggregate of all CLECs</li> </ul>
<b>Level of Disaggregation:</b>
<ul style="list-style-type: none"> <li>• State, Region and further geographic disaggregation as required by State Commission Order</li> <li>• Virtual</li> <li>• Physical</li> </ul>
<b>Data Retained:</b>
<ul style="list-style-type: none"> <li>• Report period</li> <li>• Aggregate data</li> </ul>
<b>Retail Analog/Benchmark:</b>
Under development

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Appendix A: Reporting Scope\*

<p><b>Standard Service Groupings</b></p>	<p><u>Pre-Order, Ordering</u></p> <ul style="list-style-type: none"> <li>• Resale Residence</li> <li>• Resale Business</li> <li>• Resale Special</li> <li>• Local Interconnection Trunks</li> <li>• UNE</li> <li>• UNE - Loops w/LNP</li> </ul> <p><u>Provisioning</u></p> <ul style="list-style-type: none"> <li>• UNE Non-Design</li> <li>• UNE Design</li> <li>• UNE Loops w/LNP</li> <li>• Local Interconnection Trunks</li> <li>• Resale Residence</li> <li>• Resale Business</li> <li>• Resale Design</li> <li>• BST Trunks</li> <li>• BST Residence Retail</li> <li>• BST Business Retail</li> </ul> <p><u>Maintenance and Repair</u></p> <ul style="list-style-type: none"> <li>• Local Interconnection Trunks</li> <li>• UNE Non-Design</li> <li>• UNE Design</li> <li>• Resale Residence</li> <li>• Resale Business</li> <li>• BST Interconnection Trunks</li> <li>• BST Residence Retail</li> <li>• BST Business Retail</li> </ul> <p><u>Local Interconnection Trunk Group Blockage</u></p> <ul style="list-style-type: none"> <li>• BST CTTG Trunk Groups</li> <li>• CLEC Trunk Groups</li> </ul>
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Appendix A: Reporting Scope

<p><b>Standard Service Order Activities</b></p> <p><i>These are the generic BST/CLEC service order activities which are included in the Pre-Ordering, Ordering, and Provisioning sections of this document. It is not meant to indicate specific reporting categories.</i></p>	<ul style="list-style-type: none"> <li>• New Service Installations</li> <li>• Service Migrations Without Changes</li> <li>• Service Migrations With Changes</li> <li>• Move and Change Activities</li> <li>• Service Disconnects (Unless noted otherwise)</li> </ul>
<p><b>Pre-Ordering Query Types:</b></p>    <p><b>Maintenance Query Types:</b></p>	<ul style="list-style-type: none"> <li>• Address</li> <li>• Telephone Number</li> <li>• Appointment Scheduling</li> <li>• Customer Service Record</li> <li>• Feature Availability</li> </ul>
<p><b>Report Levels</b></p>	<ul style="list-style-type: none"> <li>• CLEC RESH</li> <li>• CLEC MSA</li> <li>• CLEC State</li> <li>• CLEC Region</li> <li>• Aggregate CLEC State</li> <li>• Aggregate CLEC Region</li> <li>• BST State</li> <li>• BST Region</li> </ul>

\* Scope is report, data source and system dependent, and, therefore, will differ with each report.

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Appendix B: Glossary of Acronyms and Terms

<b>A</b>	<b>ACD</b>	Automatic Call Distributor - A service that provides status monitoring of agents in a call center and routes high volume incoming telephone calls to available agents while collecting management information on both callers and attendants.
	<b>AGGREGATE</b>	Sum total of all items in like category, e.g. CLEC aggregate equals the sum total of all CLECs' data for a given reporting level.
	<b>ASR</b>	Access Service Request - A request for access service terminating delivery of carrier traffic into a Local Exchange Carrier's network.
	<b>ATLAS</b>	Application for Telephone Number Load Administration System - The BellSouth Operations System used to administer the pool of available telephone numbers and to reserve selected numbers from the pool for use on pending service requests/service orders.
	<b>ATLASTN</b>	ATLAS software contract for Telephone Number
	<b>AUTO CLARIFICATION</b>	The number of LSRs that were electronically rejected from LESOG and electronically returned to the CLEC for correction.
<b>B</b>	<b>BILLING</b>	The process and functions by which billing data is collected and by which account information is processed in order to render accurate and timely billing.
	<b>BOCRIS</b>	Business Office Customer Record Information System - A front-end presentation manager used by BellSouth organizations to access the CRIS database.
	<b>BRC</b>	Business Repair Center - The BellSouth Business Systems trouble receipt center which serves large business and CLEC customers.
	<b>BST</b>	BellSouth Telecommunications, Inc.
<b>C</b>	<b>CKTID</b>	A unique identifier for elements combined in a service configuration
	<b>CLEC</b>	Competitive Local Exchange Carrier
	<b>CMDS</b>	Centralized Message Distribution System - BellCore administered national system used to transfer specially formatted messages among companies.
	<b>COFFI</b>	Central Office Feature File Interface - A BellSouth Operations System database which maintains Universal Service Order Code (USOC) information based on current tariffs.

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Appendix B: Glossary of Acronyms and Terms - Continued

<b>C</b>	<b>COFIUSOC</b>	COFFI software contract for feature/service information
	<b>CRIS</b>	Customer Record Information System - The BellSouth proprietary corporate database and billing system for non-access customers and services.
	<b>CRSACCTS</b>	CRIS software contract for CSR information
	<b>CSR</b>	Customer Service Record
	<b>CTTG</b>	Common Transport Trunk Group - Final trunk groups between BST & Independent end offices and the BST access tandems.
<b>D</b>	<b>DESIGN</b>	Design Service is defined as any Special or Plain Old Telephone Service Order which requires BellSouth Design Engineering Activities
	<b>DISPOSITION &amp; CAUSE</b>	Types of trouble conditions, e.g. No Trouble Found, Central Office Equipment, Customer Premises Equipment, etc.
	<b>DLETH</b>	Display Lengthy Trouble History - A history report that gives all activity on a line record for trouble reports in LMOS
	<b>DLR</b>	Detail Line Record - All the basic information maintained on a line record in LMOS, e.g. name, address, facilities, features etc.
	<b>DOE</b>	Direct Order Entry System - An internal BellSouth service order entry system used by BellSouth Service Representatives to input business service orders in BellSouth format.
	<b>DSAP</b>	DOE (Direct Order Entry) Support Application - The BellSouth Operations System which assists a Service Representative or similar carrier agent in negotiating service provisioning commitments for non-designed services and UNES.
	<b>DSAPDDI</b>	DSAP software contract for schedule information
<b>E</b>	<b>E911</b>	Provides callers access to the applicable emergency services bureau by dialing a 3-digit universal telephone number.
	<b>EDI</b>	Electronic Data Interchange - The computer-to-computer exchange of inter and/or intra company business documents in a public standard format.
<b>F</b>	<b>FATAL REJECT</b>	The number of LSRs that were electronically rejected from LEO, which checks to see if the LSR has all the required fields correctly populated
	<b>FLOW-THROUGH</b>	In the context of this document, LSRs submitted electronically via the CLEC mechanized ordering process that flow through to the BST OSS without manual or human intervention.
	<b>FOC</b>	Firm Order Confirmation - A notification returned to the CLEC confirming that the LSR has been received and accepted, including the specified commitment date.

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Appendix B: Glossary of Acronyms and Terms - Continued

<b>G</b>		
<b>H</b>	<b>HAL</b>	"Hands Off" Assignment Logic - Front end access and error resolution logic used in interfacing BellSouth Operations Systems such as ATLAS, BOCRIS, LMOS, PSIMS, RSAG and SOCS.
	<b>HALCRIS</b>	HAL software contract for CSR information
<b>I</b>	<b>ISDN</b>	Integrated Services Digital Network
<b>K</b>		
<b>L</b>	<b>LCSC</b>	Local Carrier Service Center - The BellSouth center which is dedicated to handling CLEC LSRs, ASRs, and Preordering transactions along with associated expedite requests and escalations.
	<b>LEGACY SYSTEM</b>	Term used to refer to BellSouth Operations Support Systems (see OSS)
	<b>LENS</b>	Local Exchange Negotiation System - The BellSouth LAN/web server/OS application developed to provide both preordering and ordering electronic interface functions for CLECs.
	<b>LEO</b>	Local Exchange Ordering - A BellSouth system which accepts the output of EDI, applies edit and formatting checks, and reformats the Local Service Requests in BellSouth Service Order format.
	<b>LESOG</b>	Local Exchange Service Order Generator - A BellSouth system which accepts the service order output of LEO and enters the Service Order into the Service Order Control System using terminal emulation technology.
	<b>LMOS</b>	Loop Maintenance Operations System - A BellSouth Operations System that stores the assignment and selected account information for use by downstream OSS and BellSouth personnel during provisioning and maintenance activities.
	<b>LMOS HOST</b>	LMOS host computer
	<b>LMOSupd</b>	LMOS updates
	<b>LNP</b>	Local Number Portability - In the context of this document, the capability for a subscriber to retain his current telephone number as he transfers to a different local service provider.
<b>L</b>	<b>LOOPS</b>	Transmission paths from the central office to the customer premises.
	<b>LSR</b>	Local Service Request - A request for local resale service or unbundled network elements from a CLEC.
	<b>MAINTENANCE &amp; REPAIR</b>	The process and function by which trouble reports are passed to BellSouth and by which the related service problems are resolved.
<b>M</b>	<b>MARCH</b>	A BellSouth Operations System which accepts service orders, interprets the coding contained in the service order image, and constructs the specific switching system Recent Change command messages for input into end office switches.

BellSouth  
Service Quality Measurements  
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Appendix B: Glossary of Acronyms and Terms – Continued

N	NC	"No Circuits" - All circuits busy announcement
O	<p><b>OASIS</b></p> <p><b>OASISBSN</b> <b>OASISCAR</b> <b>OASISLPC</b> <b>OASISMTN</b> <b>OASISNET</b> <b>OASISOCP</b></p> <p><b>ORDERING</b></p> <p><b>OSPCM</b></p> <p><b>OSS</b></p> <p><b>OUT OF SERVICE</b></p>	<p>Obtain Availability Services Information System - A BellSouth front-end processor, which acts as an interface between COFFI and RNS. This system takes the USOCs in COFFI and translates them to English for display in RNS.</p> <p>OASIS software contract for feature/service OASIS software contract for feature/service OASIS software contract for feature/service OASIS software contract for feature/service OASIS software contract for feature/service OASIS software contract for feature/service</p> <p>The process and functions by which resale services or unbundled network elements are ordered from BellSouth as well as the process by which an LSR or ASR is placed with BellSouth.</p> <p>Outside Plant Contract Management System - Provides Scheduling Information.</p> <p>Operations Support System - A support system or database which is used to mechanize the flow or performance of work. The term is used to refer to the overall system consisting of hardware complex, computer operating system(s), and application which is used to provide the support functions.</p> <p>Customer has no dial tone and cannot call out.</p>
P	<p><b>POTS</b></p> <p><b>PREDICTOR</b></p> <p><b>PREORDERING</b></p> <p><b>PROVISIONING</b></p> <p><b>PSIMS</b></p> <p><b>PSIMSORB</b></p>	<p>Plain Old Telephone Service</p> <p>The BellSouth Operations system which is used to administer proactive maintenance and rehabilitation activities on outside plant facilities, provide access to selected work groups (e.g. RRC &amp; BRC) to Mechanized Loop Testing and switching system I/O ports, and provide certain information regarding the attributes and capabilities of outside plant facilities.</p> <p>The process and functions by which vital information is obtained, verified, or validated prior to placing a service request.</p> <p>The process and functions by which necessary work is performed to activate a service requested via an LSR or ASR and to initiate the proper billing and accounting functions.</p> <p>Product/Service Inventory Management System - A BellSouth database Operations System which contains availability information on switching system features and capabilities and on BellSouth service availability. This database is used to verify the availability of a feature or service in an NXX prior to making a commitment to the customer.</p> <p>PSIMS software contract for feature/service</p>

BellSouth  
 Service Quality Measurements  
 Regional Performance Reports

Appendix B: Glossary of Acronyms and Terms – Continued

<b>Q</b>		
<b>R</b>	<b>RNS</b>	Regional Negotiation System - An internal BellSouth service order entry system used by BellSouth Consumer Services to input service orders in BellSouth format.
	<b>RRC</b>	Residence Repair Center - The BellSouth Consumer Services trouble receipt center which serves residential customers.
	<b>RSAG</b>	Regional Street Address Guide - The BellSouth database, which contains street addresses validated to be accurate with state and local governments.
	<b>RSAGADDR</b>	RSAG software contract for address search
	<b>RSAGTN</b>	RSAG software contract for telephone number search
<b>S</b>	<b>SOCS</b>	Service Order Control System - The BellSouth Operations System which routes service order images among BellSouth drop points and BellSouth Operations Systems during the service provisioning process.
	<b>SOIR</b>	Service Order Interface Record - any change effecting activity to a customer account by service order that impacts 911/E911.
<b>T</b>	<b>TAFI</b>	Trouble Analysis Facilitation Interface - The BellSouth Operations System that supports trouble receipt center personnel in taking and handling customer trouble reports.
	<b>TAG</b>	Telecommunications Access Gateway – TAG was designed to provide an electronic interface, or machine-to-machine interface for the bi-directional flow of information between BellSouth’s OSSs and participating CLECs.
	<b>TN</b>	Telephone Number
	<b>TOTAL MANUAL FALLOUT</b>	The number of LSRs which are entered electronically but require manual entering into a service order generator.
<b>U</b>	<b>UNE</b>	Unbundled Network Element
<b>V</b>		
<b>W</b>	<b>WTN</b>	A unique identifier for elements combined in a service configuration
<b>X</b>		
<b>Y</b>		
<b>Z</b>		
<b>Σ</b>		Sum of:

BellSouth  
Service Quality Measurements  
Regional Performance Reports

**Appendix C**

**BELLSOUTH'S AUDIT POLICY:**

BellSouth currently provides many CLECs with audit rights as a part of their individual interconnection agreements. However, it is not reasonable for BellSouth to undergo an audit for every CLEC with which it has a contract. As of June, 1999, that would equate to over 732 audits per year and that number is continually growing. BellSouth has developed a proposed Audit Plan for use by the parties to an audit. If requested by a Public Service Commission, BellSouth will agree to undergo a comprehensive audit of the aggregate level reports for both BellSouth and the CLECs for each of the next five (5) years (1999 – 2005), to be conducted by an independent third party. The results of that audit will be made available to all the parties subject to proper safeguards to protect proprietary information. This aggregate level audit includes the following specifications:

1. The cost shall be borne 50% by BellSouth and 50% by the CLECs.
2. The independent third party auditor shall be selected with input from BellSouth, the PSC, if applicable, and the CLEC(s).
3. BellSouth, the PSC and the CLECs shall jointly determine the scope of the audit.

BellSouth reserves the right to make changes to this audit policy as growth and changes in the industry dictate.



**PERFORMANCE MEASUREMENT COMPARISON  
 BELLSOUTH (BST) vs. ICG Proposal**

<b>PERFORMANCE MEASURES</b>	
<b>BST's Existing Measurements</b>	<b>ICG Proposal (Based on Texas Measurements)</b>
<b>I. RESALE POTS, RESALE SPECIALS AND UNES</b>	
<b>A. Pre-Ordering/Ordering</b>	
Average OSS Response Interval (Pre-Ordering)	Average Response Time for OSS Pre-Order Interfaces
Percent Response received within "X" Seconds	Percent Response received within "X" Seconds
LENS Average Response Time	EASE Average Response Time
OSS Interface Availability	OSS Interface Availability
Firm Order Confirmation Timeliness	% FOCs Received within "X" Hours
FOC Average Interval (Days)	Average Time to Return FOC
Average Completion Notice Interval (Hours)	% Mechanized Completions Returned within 1 Hour
% Rejected Service Requests	Average Time to Return Mechanized Completions
Reject Distribution Interval-Mechanized	% Rejects
Reject Distribution Interval-Non Mechanized	% Mech. Rejects within 1 Hour of EDI/LASR
Average Reject Interval-Mechanized	Mean Time to Return Mechanized Rejects
Average Reject Interval-Non Mechanized	Mechanized Provisioning Accuracy
% Flow-Through Service Requests	Order Process % Flow-Through
<b>B. Billing</b>	
Invoice Accuracy	Billing Accuracy
Mean Time to Deliver Invoices	% of Accurate and Complete Formatted Mech. Bills
Usage Data Delivery Accuracy	% of Usage Records Transmitted Correctly
Usage Data Delivery Timeliness	Billing Completeness
Usage Record Completeness	Billing Timeliness (Wholesale Bill)
Mean Time to Deliver Usage	Daily Usage Feed Timeliness
	Unbillable Usage
<b>C. Miscellaneous Administrative</b>	
Speed of Answer in Ordering Center (LCSC)	LSC (Local Svc. Ctr.) Average Speed of Answer
Average Answer Time – UNE Center	LSC Grade of Service (GOS)
Average Answer Time – Resale Maint. Center	% Busy in the Local Service Center
<i>% Busy and Grade of Service are of little value to the CLEC. The primary measure of nondiscriminatory treatment is how long does it take to answer the call.</i>	(Local Opns. Ctr.) LOC Average Speed of Answer
	LOC Grade of Service (GOS)
	% Busy in the LOC
<b>II. RESALE POTS AND UNE LOOP AND PORT COMBINATIONS COMBINED BY ILEC</b>	
<b>A. Provisioning</b>	
Average Order Completion Interval	Mean Installation Interval
Order Completion Interval Distribution	% Installations completed within "X" Business Days
Average Completion Notice Interval	% SWBT Caused Missed Due Dates
Mean Held Order Interval	% Company Missed Due Dates due to lack of Facilities
Held Order Interval Distribution	Ave. Delay Days for Missed DD due to lack of Fac.
Held for Facilities	Average Delay Days for SWBT Missed Due Dates
Held for Equipment	% SWBT Caused Missed Due Dates > 30 Days
Held for Other	# of Orders canceled after the DD caused by SWBT
% of Orders in Jeopardy	% Trouble Reports within 10 Days (1-10) of Installation
Average Jeopardy Notification Interval	% No Access (Trouble Reports with No Access)
% Missed Installation Appointments – total	
% Missed Appointments caused by end-user	
% Provisioning Troubles within 4 days	

**PERFORMANCE MEASUREMENT COMPARISON  
 BELLSOUTH (BST) vs. ICG Proposal**

<b>B. Maintenance</b>	
Customer Trouble Report Rate	Trouble Report Rate
% Missed Repair Appointments	% Missed Repair Commitments
Maintenance Average Duration	Receipt to Clear Duration
% Out of Service (OOS) > 24 Hours	% Out of Service (OOS) < 24 Hours
% Repeat Troubles within 30 Days	% Repeat Reports
	% No Access (% of Trouble Reports with No Access)
<b>III. RESALE SPECIALS AND UNE LOOP AND PORT COMBINATIONS COMBINED BY ILEC</b>	
<b>A. Provisioning</b>	
Average Order Completion Interval	Average Installation Interval
Order Completion Interval Distribution	% Installations completed within "X" Business Days
Average Completion Notice Interval	% SWBT Caused Missed Due Dates
Mean Held Order Interval	% Trouble Reports within 30 Days (1-30) of Installation
Held Order Interval Distribution	% Company Missed Due Dates due to lack of Facilities
Held for Facilities	Delay Days for Missed DDs due to lack of Facilities
Held for Equipment	Delay Days for SWBT Missed Due Dates
Held for Other	% SWBT Caused Missed Due Dates > than 30 Days
% of Orders in Jeopardy	# of Orders canceled after the DD caused by SWBT
Average Jeopardy Notification Interval	
% Missed Installation Appointments – total	
% Missed Appointments caused by end-user	
% Provisioning Troubles within 4 days	
<b>B. Maintenance</b>	
Customer Trouble Report Rate	Mean Time to Restore
% Missed Repair Appointments	% Repeat Reports
Maintenance Average Duration	Failure Frequency
% Out of Service (OOS) > 24 Hours	
% Repeat Troubles within 30 Days	
<b>IV. UNBUNDLED NETWORK ELEMENTS (UNEs)</b>	
<b>A. Provisioning</b>	
Average Order Completion Interval	Average Installation Interval
Order Completion Interval Distribution	% Installations completed within "X" Business Days
Average Completion Notice Interval	Average Response Time for Loop Make-Up Information
Mean Held Order Interval	% SWBT Caused Missed Due Dates
Held Order Interval Distribution	% Trouble Reports within 30 Days (1-30) of Installation
Held for Facilities	% Missed Due Dates due to lack of Facilities
Held for Equipment	Ave. Delay Days for Missed DDs due to lack of Facilities
Held for Other	Ave. Delay Days for SWBT Missed Due Dates
% of Orders in Jeopardy	% SWBT Caused Missed Due Dates > than 30 Days
Average Jeopardy Notification Interval	# of Orders canceled after the DD caused by SWBT
% Missed Installation Appointments – total	Trouble Report Rate
% Missed Appointments caused by end-user	% Missed Repair Commitments
% Provisioning Troubles within 4 days	Mean Time to Restore
Customer Trouble Report Rate	% Out of Service (OOS) < X Hours
% Missed Repair Appointments	% Repeat Reports
Maintenance Average Duration	
% Out of Service (OOS) > 24 Hours	
% Repeat Troubles within 30 Days	

PERFORMANCE MEASUREMENT COMPARISON  
 BELLSOUTH (BST) vs. ICG Proposal

<b>V. INTERCONNECTION TRUNKS</b>		
Average Order Completion Interval		% Trunk Blockage
Order Completion Interval Distribution		Common Transport Trunk Blockage
% Missed Installation Appointments		Distribution of Common Transport Trunk Groups Exceeding 2%
% Provisioning Troubles within 4 days		Percent Missed Due Dates
% Missed Repair Appointments		Average Delay Days for Missed Due Dates
Customer Trouble Report Rate		% SWBT Caused Missed Due Dates > 30 Days
Maintenance Average Duration		Average Trunk Restoration Interval
% Repeat Troubles within 30 Days		Average Trunk Restoration Interval for Service Affecting Trunk Groups
% Out of Service (OOS) > 24 Hours		Average Interconnection Trunk Installation Interval
Trunk Group Service Summary		
83. Local Trunk Groups > 3% Blocking		
84. Common Transport Trk. Grps > 2% Blocking		
85. Trunk Group Service Detail		
<b>VI. DIRECTORY ASSISTANCE (DA) AND OPERATOR SERVICES (OS)</b>		
Directory Assistance Average Speed of Answer		Directory Assistance Grade of Service
% Answered within "X" Seconds		Directory Assistance Average Speed of Answer
Operator Services (Toll) Average Speed of Answer		Operator Services Grade of Service
% Answered within "X" Seconds		Operator Services Average Speed of Answer
<i>Parity by Design - All calls go to the same Operator pool.</i>		% Calls Abandoned
		% Calls Deflected
		Average Work Time
		Non-Call Busy Work Volumes
<b>VII. INTERIM NUMBER PORTABILITY (INP)</b>		
Average Order Completion Interval		% Installation Completed within X (3,7,10) Bus. Days
Order Completion Interval Distribution		Average INP Installation Interval
% Missed Installation Appointments		% INP I-Reports within 30 Days
		% Missed Due Dates
<b>VII. LOCAL NUMBER PORTABILITY (LNP)</b>		
Today	As of December 15, 1999	% LNP Due Dates within Industry Guidelines
FOC Timeliness (Manual)	Add Mechanized	% of time the old Service Provider releases Subscription prior to the expiration of the second 9 hour timer
Average Reject Interval (Manual)	Add Mechanized	% of Customer account restructured prior to LNP due date
Reject Interval Distribution (Manual)	Add Mechanized	% FOCs received within "X" hours
% Rejected Service Requests (Manual)	Add Mechanized	Average Response Time for Non-mechanized Rejects Returned with complete and accurate codes
Today - included in UNE Non-Design	As of Dec. 15, 1999 - LNP specific measures in addition to those Today	% Premature Disconnects for LNP Orders
Mean Held Order Interval and Distribution Interval	Average Disconnect Interval	% of Time SWBT applies the 10-digit trigger prior to the LNP Order Due Date
Average Jeopardy Notice Interval and % of Orders given Jeopardy Notice	Disconnect Timeliness Distribution	% LNP I-Reports in 10 days
% Missed Installation Appointments	% Missed Installation Appointments	Average Delay Days for SWBT Missed Due Dates
Average Completion Interval and Completion Interval Distribution		Average Time of Out of Service for LNP conversions
Average Completion Notice Interval		% Out of Service < 60 Minutes
Coordinated Customer Conversions		
% Provisioning Troubles w/i 30 days		
Total Service Order Cycle Time	Total Service Order Cycle Time	

**PERFORMANCE MEASUREMENT COMPARISON  
 BELL SOUTH (BST) vs. ICG Proposal**

<b>VIII. 911</b>	
E911 Mean Interval and Interval Distribution	Average Time to Clear Errors
% E911 Accuracy	% Accuracy for 911 database updates
E911 Timeliness (% within 24 hours)	Average Time Required to Update 911 Database
<b>IX. POLES, CONDUIT AND RIGHTS OF WAY</b>	
<i>All CLECs centrally processed via a standard license Agreement by CSPC in Birmingham, Alabama</i>	% of requests processed within 35 days
	Average Days required to Process a Request
<b>X. COLLOCATION</b>	
Average Response Time	% Missed Collocation Due Dates
Average Arrangement Time	Average Delay Days for SWBT Missed Due Dates
% of Due Dates Missed	% of Requests processed within the tariffed timelines
<b>XI. DIRECTORY ASSISTANCE DATABASE</b>	
<i>Parity by Design – No distinction is made between retail and wholesale customers.</i>	% of updates completed into the DA Database within 72 hours for facility based CLECs
	Average Update Interval for DA database for facility based CLECs
	% DA Database Accuracy for Manual Updates
	% of electronic updates that flow through the DSR without manual intervention.
<b>XII. COORDINATED CONVERSIONS</b>	
%Conversions ≤ 5 Minutes	% Pre-mature disconnects (Coordinated Cutovers)
%Conversions > 5 Minutes ≤ 15 Minutes	% SWBT caused delayed Coordinated Cutovers
%Conversions > 15 Minutes	% Missed mechanized INP conversions
Average Cutover Interval	
<b>XIII. NXX</b>	
<i>These measurements would have little or no meaning to the CLECs since BellSouth only has control of the updates to BellSouth switches and both retail and wholesale customers are impacted equally by BellSouth's performance in updating its own switches. CLECs are responsible for loading their own switches.</i>	% NXXs loaded and tested prior to the LERG effective date.
	Average Delay Days for NXX loading and testing
	Mean Time to Repair
<b>XIV. BONA FIDE REQUEST PROCESS (BFRs)</b>	
<i>YTD September 1999, BellSouth has only received a total of 48 BFRs from ALL CLECs in ALL 9 states. Therefore this measurement would have little value and would have to be manually tracked due to lack of activity to justify mechanization.</i>	% of Requests processed within 30 Business Days
	% Quotes Provided for Authorized BFRs within 45 Business Days
<b>Misc. Maintenance OSS</b>	
OSS Interface Availability	
OSS Response Interval & Percentages	



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
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**Ronald B. McCloud, Secretary**  
**Public Protection and**  
**Regulation Cabinet**

**Helen Helton**  
**Executive Director**  
**Public Service Commission**

**Paul E. Patton**  
**Governor**

November 9, 1999

Creighton E. Mershon, Sr.  
General Counsel-Kentucky  
BellSouth Telecommunications, Inc.  
601 West Chestnut Street  
P. O. Box 32410  
Louisville, KY 40232

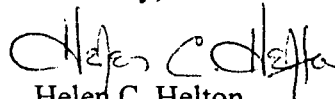
RE: Petition for Confidential Protection  
99-218

Dear Mr. Mershon:

The Commission has received your petition filed October 21, 1999, to protect as confidential that portion of exhibit DDC-1 to Caldwell's testimony containing vendors-specific pricing information and confidential business information. A review of the information has determined that it is entitled to the protection requested on the grounds relied upon in the petition, and it shall be withheld from public inspection.

If the information becomes publicly available or no longer warrants confidential treatment, you are required by 807 KAR 5:001, Section 7(9)(a) to inform the Commission so that the information may be placed in the public record.

Sincerely,

  
Helen C. Helton  
Executive Director



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**Ronald B. McCloud, Secretary**  
**Public Protection and**  
**Regulation Cabinet**

**Helen Helton**  
**Executive Director**  
**Public Service Commission**

**Paul E. Patton**  
**Governor**

October. 29, 1999

Henry S. Alford, Esq.  
Middleton & Reutlinger  
2500 Brown & Williamson Tower  
Louisville, Kentucky 40202

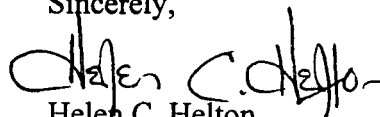
RE: Petition for Confidential Protection  
Case Number: 99-218

Dear Mr. Alford:

The Commission has received your petition filed October 18, 1999, to protect as confidential the cost and revenue information, inter alia, as revealed in BellSouth's interrogatory numbers 6,7,8,9, 10, 11, 12, 13, 22 and 25. A review of the information has determined that it is entitled to the protection requested on the grounds relied upon in the petition, and it shall be withheld from public inspection.

If the information becomes publicly available or no longer warrants confidential treatment, you are required by 807 KAR 5:001, Section 7(9)(a) to inform the Commission so that the information may be placed in the public record.

Sincerely,

  
Helen C. Helton  
Executive Director





COMMONWEALTH OF KENTUCKY  
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**Ronald B. McCloud, Secretary**  
**Public Protection and**  
**Regulation Cabinet**

**Helen Helton**  
**Executive Director**  
**Public Service Commission**

**Paul E. Patton**  
**Governor**

October 29, 1999

Creighton E. Mershon, Sr.  
General Counsel-Kentucky  
BellSouth Telecommunications, Inc.  
601 West Chestnut Street  
P. O. Box 32410  
Louisville, KY 40232

RE: Petition for Confidential Protection  
Case Number: 99-218

Dear Mr. Mershon:

The Commission has received your petition filed October 15, 1999, to protect as confidential that cost study information filed in response to ICG's data request No. 95. A review of the information has determined that it is entitled to the protection requested on the grounds relied upon in the petition, and it shall be withheld from public inspection.

If the information becomes publicly available or no longer warrants confidential treatment, you are required by 807 KAR 5:001, Section 7(9)(a) to inform the Commission so that the information may be placed in the public record.

Sincerely,

A handwritten signature in black ink that reads "Helen C. Helton".

Helen C. Helton  
Executive Director



Before the  
COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION  
Frankfort, Kentucky

RECEIVED

OCT 18 1999

In the Matter of )  
)  
PETITION BY ICG TELECOM GROUP, INC. )  
FOR ARBITRATION OF AN ) Docket No. 99-218  
INTERCONNECTION AGREEMENT WITH )  
BELLSOUTH TELECOMMUNICATIONS, INC. )  
PURSUANT TO SECTION 252(B) OF THE )  
TELECOMMUNICATIONS ACT OF 1996 )

PUBLIC SERVICE  
COMMISSION

CONFIDENTIALITY PETITION PURSUANT TO 807 KAR 5:001, § 7

Petitioner, ICG Telecom Group, Inc. ("ICG"), by counsel, hereby moves the Kentucky Public Service Commission ("Commission"), pursuant to 807 KAR 5:001, § 7, to treat the below-referenced confidential and proprietary business information which was provided by ICG in response to BellSouth Telecommunications, Inc.'s ("BellSouth") First Set of Interrogatories as confidential in accordance with the Commission's regulations and the applicable statutes. In particular, ICG requests confidential and proprietary treatment of its customer information, revenue information, billing and collection information, plant and infrastructure investment information, network information, information concerning negotiations with other Incumbent Local Exchange Carriers ("ILECs"), and access line placement information produced in response to BellSouth's Interrogatory Nos. 6, 7, 8, 9, 10, 11, 12, 13, 18, 22, and 25 (collectively the "Confidential Interrogatory Responses").



## ARGUMENT

I: ICG WOULD BE PLACED AT A COMPETITIVE DISADVANTAGE AND WOULD BE IRREPARABLY HARMED IF THE CONFIDENTIAL INTERROGATORY RESPONSES WERE SUBJECT TO GENERAL PUBLIC DISSEMINATION

The Kentucky Open Records Act exempts certain commercial information from the public disclosure requirements of the Act. KRS 61.878(1)(b). To qualify for this commercial information exemption, a party must establish that unfettered public disclosure of the commercial information at issue would permit an unfair advantage to the requesting party's competitors. KRS 61.878(1)(b) and 807 KAR 5:001, § 7. The Commission has taken the position that the statute and applicable rules require the requesting party to demonstrate actual competition and a likelihood of competitive injury if the information is disclosed.

The information which ICG seeks to protect in this docket clearly satisfies the standard. The competitively sensitive business information contained in the Confidential Interrogatory Responses includes the following: 1) the total number of ICG's end-use customers in Kentucky (Interrogatory No. 6); 2) the total number of end-use customers that ICG serves from its own network ("on-net customers") in Kentucky (Interrogatory No. 7); 3) the total number of ICG's "on-net" customers in Kentucky that are Internet Service Providers ("ISPs") (Interrogatory No. 8); 4) the percentage of ICG's customers in Kentucky that are residential customers (Interrogatory No. 9); 5) the total amount of revenue ICG has received by providing services within Kentucky (Interrogatory No. 10); 6) the total amount of revenue that ICG has received

from providing services within Kentucky to its "on-net," end-use customers (Interrogatory No. 11); 7) the total amount billed to all ICG's on-net customers, the amounts of any credits or rebates provided to these customers, and the total amount of revenue collected from such customers (Interrogatory No. 12); 8) ICG's total dollar investment in Kentucky broken down into various subcategories including switches, outside plant, and support assets (Interrogatory No. 13); 9) the types of frame relay elements necessary to provide the packet-switch services that ICG has requested from BellSouth (Interrogatory No. 18); 10) information concerning ICG's negotiations with other ILECs (Interrogatory No. 22); and the total number of ICG access lines in place in each of the BellSouth Southeastern states (Interrogatory No. 25). This information concerning ICG customers, revenue stream, billings, plant and asset allocation and investment, and negotiations with other ILECs is clearly the type of confidential and proprietary business information that the commercial information exemption was intended to protect from general public disclosure. Such competitively sensitive information would be extremely valuable to ICG's competitors in the Commonwealth in that it would not only give these competitors a clear snapshot of ICG's current business structure in Kentucky, but would also aid in their development of competitive business strategies, networks and operations, and in designing their service offerings and marketing plans in Kentucky -- all to the detriment of ICG.

As the Commission is well aware, these competitors include not only BellSouth and other ILECs, but also other CLECs and potentially a host of other local service providers including

television companies, cellular service providers, personal communication service providers, and customer-owned, coin-operated telephone providers. In sum, public disclosure of ICG's proprietary and confidential business information contained in the confidential Interrogatory Responses would cause irreparable harm to ICG by adversely affecting its market, revenue potential, and competitive position.

As further grounds for this Petition, ICG states that:

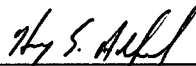
1. The information as to which ICG is requesting confidential treatment is not known outside of ICG;
2. The information is not generally disseminated within ICG and is only known by those ICG employees who have a legitimate business need to know;
3. ICG seeks to preserve the confidentiality of this information through all appropriate means, including the maintenance of appropriate security at its offices;
4. Disclosure of this information would cause competitive injury to ICG in that it would provide ICG's competitors with sensitive financial data with respect to ICG's market position in this jurisdiction and its Kentucky-specific investments, customer information, and revenues stream; and
5. By granting ICG's Petition, there would be no damage to the public's interest. In fact, non-disclosure actually promotes telecommunications competition and, therefore, the public interest in this context.

CONCLUSION

For the following reasons, ICG respectfully requests that the Petition for Confidential Treatment of the Confidential Interrogatory Responses be granted in all respects.

Respectfully submitted to the Kentucky Public Service Commission on this 18th day of October, 1999.

ICG TELECOM GROUP, INC.



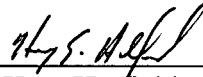
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C. Kent Hatfield  
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(202) 887-0689 (fax)

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 18th day of October, 1999.



---

C. Kent Hatfield  
Henry S. Alford

COUNSEL FOR ICG TELECOM GROUP, INC.

**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

October 14, 1999

RECEIVED  
OCT 15 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:

Further in connection with BellSouth's Responses to ICG's  
Data Requests filed October 12, 1999, enclosed for filing is the  
attachment to BellSouth's Response to Item No. 95. Portions of  
the attachment contain confidential, commercial, or proprietary  
information and, pursuant to 807 KAR 5:001, Section 7, enclosed  
is BellSouth Telecommunications' Petition for Confidentiality.

One copy of the proprietary information and ten (10) copies  
of the redacted information are provided to the Commission. A  
copy of the proprietary information will be provided to ICG  
pursuant to the execution and return of the attached Protective  
Agreement.

Sincerely,

*Creighton E. Mershon, Sr.*  
Creighton E. Mershon, Sr.

*by*  
*Dorothy J. [Signature]*

Enclosures

cc: Parties of Record

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

OCT 15 1999

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 )

CONFIDENTIALITY PETITION  
PURSUANT TO 807 KAR 5:001, SECTION 7

Petitioner, BellSouth Telecommunications, Inc., ("BellSouth" or the "Company"), by counsel, hereby moves the Public Service Commission of the Commonwealth of Kentucky (the "Commission"), pursuant to 807 KAR 5:001, Section 7, to treat BellSouth's cost study information filed October 14, 1999, in response to ICG's Data Request No. 95 as confidential in accordance with the Commission's regulations.

The Kentucky Open Records Act exempts certain commercial information from the public disclosure requirements of the Act. KRS 61.878(1)(b). To qualify for this commercial information exemption and, therefore, keep the information confidential, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors of the party seeking confidentiality if openly discussed. KRS 61.878(1)(b); 807 KAR 5:001, § 7. The Commission has taken the position that the statute and rules require the party to

demonstrate actual competition and a likelihood of competitive injury if the information is disclosed.

On September 8, 1988, the Company filed tariff revisions to restructure its LightGate® service. A cost study was filed with that tariff and the Commission afforded that cost study confidential treatment in accordance with the rules for the protection of information in existence at that time. The new LightGate® cost study contains updated investment and expense quantities but is methodologically equivalent to the previous study. The grounds for granting confidential treatment have not changed.

On September 20, 1995, the Company filed a tariff to introduce SmartRing® in the Private Line tariff. A summary of the cost study for SmartRing® was filed at that time along with a petition for confidentiality. The confidentiality petition was granted in an order in case number 95-419 dated November 3, 1995. The SmartRing® cost study filed with the response to ICG data request number 95 is the underlying detailed investment and expense data that was summarized in the September 1995 filing. The grounds for granting confidential treatment to this detailed information are the same as those filed in the petition accompanying the summary information.

On December 8, 1998, the Company filed a tariff to introduce SmartGate® in the Intrastate Access tariff. A summary of the cost study for SmartGate® was filed at that time along with a



petition for confidentiality. The confidentiality petition was granted in a letter from the Commission in case number 98-03283 dated December 22, 1998. The SmartGate® cost study filed with the response to ICG data request number 95 is the underlying detailed investment and expense data that was summarized in the December 1998 filing. The grounds for granting confidential treatment to this detailed information are the same as those filed in the petition accompanying the summary information.

On October 30, 1998, the Company filed a tariff to introduce SmartRing® in the Intrastate Access tariff. A summary of the cost study for SmartRing® was filed at that time along with a petition for confidentiality. The confidentiality petition was granted in a letter from the Commission in case number 98-03031 dated November 13, 1998. The SmartRing® cost study filed with the response to ICG data request number 95 is the underlying detailed investment and expense data that was summarized in the October 1998 filing. The grounds for granting confidential treatment to this detailed information are the same as those filed in the petition accompanying the summary information.

Several of BellSouth's current competitors, including AT&T and MCI, have publicly announced their intention to enter the local exchange market. Additionally, several potential competitors have likewise indicated their intention to enter the local exchange market to compete with BellSouth. Cost information such as that requested here would be extremely

valuable to competitors in developing competitive business strategies, networks and operations, designing their service offerings and, marketing plans for those services. In addition, BellSouth is not able to obtain its competitor's cost to provide service assigned to various business units and, therefore, it is inequitable and unfair for BellSouth's competitors to have access to the Company's cost information. The Company's present and potential competitors for its local exchange services include cable television companies, cellular service providers, personal communications service providers, customer-owned coin operated telephone providers and others.

Public disclosure of any of the proprietary confidential information contained in the cost studies cited in this petition will be harmful to BellSouth by adversely affecting the market, revenue potential and competitive position of its services.

As further grounds for this Petition, BellSouth states as follows:

(1) The information as to which BellSouth is requesting confidential treatment is not known outside of BellSouth;

(2) The information is not disseminated within BellSouth and is known only by those BellSouth's employees who have a legitimate business need to know and act upon the information;

(3) BellSouth seeks to preserve the confidentiality of this information through all appropriate means, including the maintenance of appropriate security at its offices;

(4) The disclosure of this information would cause competitive injury to BellSouth in that it would provide BellSouth's competitors with sensitive financial data with respect to certain of BellSouth's services; and

(5) By granting BellSouth's Petition there would be no damage to any public interest in disclosure. In fact, the public would be best served by non-disclosure because competition would thereby be promoted.

For the foregoing reasons, BellSouth asks that its petition for confidential treatment of BellSouth's cost studies filed October 14, 1999, in response to ICG's Data Request No. 95 be granted.

Respectfully submitted,

*Creighton E. Mershon, Sr.*  
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General Counsel-Kentucky  
601 W. Chestnut Street, Room 407  
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Louisville, KY 40232

R. Douglas Lackey  
Bennett L. Ross  
A. Langley Kitchings  
General Attorneys  
Suite 4300, BellSouth Center  
675 W. Peachtree Street, NE  
Atlanta, GA 30375

COUNSEL FOR BELL SOUTH  
TELECOMMUNICATIONS, INC.

COMMONWEALTH OF KENTUCKY

RECEIVED

BEFORE THE PUBLIC SERVICE COMMISSION

OCT 15 1999

In the Matter of:

PUBLIC SERVICE  
COMMISSION

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 )

**PROTECTIVE AGREEMENT**

**STIPULATION AND AGREEMENT**

To expedite the flow of discovery material, facilitate the prompt resolution of disputes over confidentiality, adequately protect material entitled to be kept confidential, and ensure that the protection is afforded to material so entitled, the undersigned parties, through their respective attorneys, hereby stipulate and agree as follows:

1. *Exchange of Confidential Information.* The signatory parties will be bound by the terms of this Protective Agreement upon executing it. Parties may exchange Confidential Information pursuant to discovery upon executing this Protective Agreement. Any party, including Third Parties (as defined in paragraph 2), shall be entitled to seek enforcement of (or other appropriate relief pertaining to) this Protective Agreement before the Kentucky Public Service Commission ("KPSC"), a member of the KPSC, or any other authority having competent jurisdiction, for any breach or threatened breach of this Protective Agreement. This Protective Agreement shall control the production and disclosure of all materials deemed confidential pursuant to paragraphs 2 and 3 below, including both materials and information belonging to the parties of this Protective Agreement as well as Confidential Information belonging to Third Parties as defined more fully in paragraph 2 below.

2. *Confidential Information from Third Parties.* For the purposes of this Protective Agreement, "Third Party Confidential Information" shall mean information held by any party subject to existing, nondisclosure obligations to a third party ("Third Party"). Any Third Party Confidential Information that is produced pursuant to the conduct of discovery in This Proceeding may be produced as "Confidential Information" pursuant to paragraph 3 below. A Third Party under this Protective Agreement shall include, but is not limited to, the following companies:

- ADC Telecommunications Inc.
- Alcatel Network Systems Corporation
- Amdahl Corporation
- Apertus Technologies, Incorporated
- Apple Computer Systems
- BGS Systems, Inc.
- Control Data Systems, Inc.
- Mercury Interactive Corporation
- NCR Corporation
- Netscape Communications Corporation
- NeXT Software Inc.
- Northern Telecom Inc.
- Pitney Bowes, Inc.
- Rational Software Corporation

- Digital Equipment Corporation
- DSC Communications Corporation
- Ericsson Inc.
- Fujitsu Network Communications, Inc.
- Hewlett Packard Company
- Homaco, Inc.
- International Business Machines Corporation
- Informix Software, Inc.
- Iona Technologies, Inc.
- Lucent Technologies Inc.
- RELTEC Corporation
- Rogue Wave Software, Inc.
- Security Dynamics Technology
- Siemens Stromberg-Carlson
- Software Spectrum
- Sterling Software, Inc.
- Storage Technology Corporation
- Sun Microsystems, Inc.
- Suttle Apparatus Corporation
- Tellabs, Inc.
- Visio Corporation

3. ***Confidential Information.*** Any materials generated or provided by a party in response to discovery may be designated as "Confidential Information" by that party if the party believes in good faith that the materials are confidential or proprietary and are entitled to protection from disclosure under Kentucky's trade secret law or any other provision of Kentucky or Federal law, or are subject to existing non-disclosure obligations to a Third Party. The parties to this Protective Agreement agree that the designation of materials as "Confidential Information," or the failure to designate materials as "Confidential Information," shall in no way affect the right of the producing party to challenge the release of such materials by the United States in response to a request pursuant to the Freedom of Information Act, 5 U.S.C. § 552, et seq. In particular, the designation of materials as "Confidential Information," or the failure to designate materials as "Confidential Information" shall in no way affect the right of the producing party to assert that such materials are exempt from disclosure under one or more of the exemptions to disclosure contained in the Freedom of Information Act, 5 U.S.C. § 552(b)(1-9)." Any party asserting confidentiality for such material shall so indicate by clearly marking each page, or portion thereof, for which a Confidential Information designation is claimed with a marking such as "Confidential-Subject to Protective Agreement in Docket No. 99-218 before the Kentucky Public Service Commission" or other markings that are reasonably calculated to alert custodians of the material to its confidential or proprietary nature. Except with the prior written consent of the party or other person who has designated a document to be stamped as Confidential Information, or as hereinafter provided, no Confidential Information may be disclosed to any person. For purposes of the Protective Agreement, the term "document" means all written, recorded or graphic material, and non-paginated items such as computer tapes, diskettes, and CD ROMs, whether produced or created by a party or another person, whether produced pursuant to the KPSC's rules, subpoena, by agreement or otherwise. Interrogatory answers, responses to requests for admission, deposition transcripts and exhibits, pleadings, motions, affidavits, and briefs that quote, summarize, or contain materials entitled to protection are accorded status as a stamped confidential document, and to the extent feasible, shall be prepared in such a manner that the Confidential Information is bound separately from that not entitled to protection.

4. ***Permissible Disclosure of Confidential Information.***

(a) Notwithstanding paragraph 3, Confidential Information provided pursuant to this Protective Agreement may be disclosed without prior consent only to the following persons, only in prosecuting this Proceeding, and only to the extent necessary to assist in prosecuting this Proceeding:

(1) Counsel of record representing a party in this Proceeding, any legal support personnel (e.g., paralegals and clerical employees) employed by such attorneys provided that all portions of the record containing the Confidential Information shall only be accessible to those having access thereto under this Protective Agreement.

(2) Other employees, officers, or directors of a party, or consultants or experts retained by a party, who are not currently involved in the marketing, procurement, manufacturing, pricing, or development of telecommunications equipment or software, including switch hardware and software, for which price data are disclosed, or equipment and software that may be substituted for such equipment or software, or are not currently involved in network planning and operations staff (including, but not limited to, the purchasing of telecommunications equipment or software) (with the persons described in the previous sentence being called the "reviewing representative"), provided that all portions of the record containing the Confidential Information shall only be accessible to those having access thereto under this Protective Agreement. Individuals who become reviewing representatives under this paragraph agree that they will not use the Confidential Information made available in this Proceeding to plan, develop, or market any computerized telecommunications costing models. Nor will individuals who become reviewing representatives under this paragraph use the Confidential Information to engage or consult in the marketing, procurement, manufacturing, pricing, or development of telecommunications equipment or software, including switch hardware and software, for which price data are disclosed, or equipment or software that may be substituted for such equipment or software.

(3) The KPSC or its staff, pursuant to the rules of the KPSC.

(4) Court reporters, stenographers, or persons operating audio or video recording equipment at hearings or depositions provided that all parts of the record having the Confidential Information shall only be accessible to those having access thereto under this Protective Agreement.

(5) Any person designated by the KPSC in the interest of justice, upon such terms as the KPSC may deem proper, and pursuant to the rules of the KPSC.

(6) Persons noticed for depositions or designated as witnesses, to the extent reasonably necessary in preparing to testify or for the purpose of examination in this Proceeding, provided that all portions of the record containing the Confidential Information shall only be accessible to those having access thereto under this Protective Agreement.

(b) Persons obtaining access to Confidential Information under this Protective Agreement shall not disclose information designated as Confidential Information to any person who is not authorized under this section to receive such information, and shall not use the information in any activity or function other than in prosecuting this Proceeding before this KPSC or any arbitrator appointed by this KPSC. Each individual who is provided access to Confidential Information pursuant to paragraph 4(a), (1), (2), (5), or (6), must first sign, and have notarized, a statement affirmatively stating that the individual has reviewed this Protective Agreement and

understands and agrees to be bound by the limitations it imposes on the signing party. The form of the notarized statement to be used is attached as Attachment A to this Agreement.

(c) No copies or notes of materials marked as Confidential Information may be made except copies or notes to be used by persons designated in paragraph (a) of this section. Each party shall maintain a log, recording the number of copies made of all Confidential Information, and the persons to whom the copies have been provided. Any note memorializing or recording of Confidential Information shall, immediately upon creation, become subject to all provisions of this Protective Agreement.

(d) Within ninety (90) days of termination of this Proceeding, including all appeals and petitions, all originals and reproductions of any Confidential Information, along with the log recording persons who received copies of such materials, shall be returned to the producing party. In addition, upon such termination, any notes or other work product, derived in whole or in part from the Confidential Information shall be destroyed, and counsel of record for the receiving party shall notify counsel for the party who produced the materials in writing that this has been completed upon written request of the producing party. If materials are destroyed rather than returned to the producing party, a written statement to that effect by counsel of record for the receiving party shall be provided to the producing party. A limited exception to the provisions of this Section is recognized for the KPSC wherein the Secretary of the KPSC shall be allowed to retain, under seal, one copy of all Confidential Information for purposes of preserving the official record of the Commission. Further, all KPSC staff notes or work product shall be accumulated and kept under seal with all other confidential information which compiles the official record of the KPSC.

(e) Before disclosing a document marked as Confidential Information to any person listed in subparagraph 4(a)(5) or (a)(6) who is a competitor (or an employee or officer of a competitor) of the party, including a Third Party, that so designated the document, the party wishing to make such disclosure shall give at least ten (10) days advance notice in writing to the counsel who designated such information as Confidential, stating the names and addresses of the person(s) to whom the disclosure will be made, identifying with particularity the documents to be disclosed, and stating the purposes of such disclosure. If, within the ten day period, a motion is filed objecting to the proposed disclosure, a disclosure is not permissible unless and until the KPSC has denied such motion.

(f) The number of reviewing representatives designated by a party to review Confidential Information under paragraphs 4(a) and 4(a)(2) may not exceed twenty (20) individuals (excluding paralegals and clerical employees) unless (i) the party producing the Confidential Information, and any third party whose Confidential Information is being disclosed, consent to additional reviewing representatives, or (ii) the KPSC or the Prehearing Officer denies a motion to bar disclosure of the Confidential Information to additional reviewing representatives. Failure to file such a motion within ten days after receiving written Notice that a reviewing party intends to designate additional reviewing representative(s) shall constitute consent to the designation. The written Notice shall (a) identify the additional reviewing representative(s), (b) identify the Confidential Information that is proposed to be disclosed, and (c) provide the current employment and position of the proposed additional reviewing representative(s).

Notwithstanding the foregoing, the parties may designate in writing within ten (10) days from the entry of this Protective Agreement, not more than twenty (20) individuals from its legal support and/or consulting team which shall have access to the Confidential Information. If within five (5) days after the list is supplied to opposing parties, a motion is made objecting to the proposed disclosure, disclosure is not permissible unless and until the KPSC or the Prehearing Officer has denied the Motion. For any additional reviewing representatives, the parties must serve notice as specified above.

5. *Declassification.* A party may apply, to the KPSC for a ruling that documents, categories of documents, or deposition transcripts, stamped or designated as confidential, are not entitled to such status and protection. The party or other person that designated the document or testimony as Confidential Information shall be given notice of the application and an opportunity to respond.

6. *Confidential Information in Depositions.* In the event that depositions are to be taken in This Proceeding:

(a) A deponent may, during the deposition, be shown and examined about Confidential Information if the deponent already knows the Confidential Information contained therein or if the provisions of paragraph 4 above are complied with.

(b) Parties (and deponents) may, within fifteen (15) days after receiving a deposition transcript, designate pages of the transcript (and exhibits thereto) as Confidential Information. Confidential Information within the deposition transcript may be designated by marking the portions of the pages that are confidential and marking such pages with the following legend: "Confidential - Subject To Protective Agreement in Docket No. 99-218 before the Kentucky Public Service Commission." Until expiration of the 15-day period, the entire deposition will be treated as Confidential Information subject to protection against disclosure under this Protective Agreement. If no party or deponent timely designates Confidential Information in a deposition, then none of the transcript or its exhibits shall be filed (to the extent such filing may be required) under seal separately from the portions and exhibits not so marked.

7. *Confidential Information Offered in Evidence or Filed in the Record.* Subject to the KPSC's rules and applicable state statutes, Confidential Information may be offered into evidence or in the record made by the parties and submitted to the KPSC (or to an arbitrator appointed by the KPSC) in this Proceeding, provided that the proponent does so in the manner set forth in this Protective Agreement and provides reasonable advance written notice of the party's intent to do so. Pursuant to this Agreement, any party may move before the KPSC (or a presiding officer of the KPSC, or an arbitrator appointed by the KPSC) for any order that the evidence being received shall only be accessible to those having access thereto under the Protective Agreement or in camera or under other conditions to prevent unnecessary disclosure. The KPSC, presiding officer, or arbitrator will then determine whether the proffered evidence should continue to be treated as Confidential Information and, if so, what protection, if any, may be afforded such information at any hearing or other proceeding.

8. *Subpoena by Courts or Other Agencies.* If a court or other administrative agency subpoenas or orders production of Confidential Information which a party has obtained under the terms



of this Protective Agreement, such party shall promptly (within two (2) business days) notify the party (or other person who designated the document as confidential) of the pendency of such subpoena or order to allow that party time to object to that production or seek a protective order.

9. *Filing.* Confidential Information need not be filed with the KPSC's Secretary except when required in connection with motions under the KPSC's rules and regulations or other matters pending before the KPSC or an arbitrator appointed by the KPSC. If filed, such information shall be filed under seal and shall remain sealed while in the Secretary's office or such other office as the KPSC may designate so long as they retain their status as Confidential Information.

10. *Client Consultation.* Nothing in this Protective Agreement shall prevent or otherwise restrict counsel from rendering advice to their clients and, in the course thereof, relying generally on examination of Confidential Information provided, however, that in rendering such advice and otherwise communicating with such client, counsel shall not make specific disclosure or reference to any Confidential Information except under the procedures or paragraph 4 above.

11. *Use.* Persons obtaining access to Confidential Information under this Protective Agreement shall use the information only for preparation of and the conduct of litigation in this Proceeding and any related appeals or review proceedings, and shall not use such information for any other purpose, including business or commercial purposes, or governmental or other administrative or judicial proceedings.

12. *Non-Termination.* The provisions of this Protective Agreement shall not terminate at the conclusion of this Proceeding.

13. *Modification Permitted.* Nothing in this Protective Agreement shall prevent any party from objecting to discovery that it believes to be otherwise improper.

14. *Responsibilities of the Parties.* The parties are responsible for employing reasonable measures to control, consistent with this Protective Agreement, duplication of, access to, and distribution of Confidential Information.

15. *Definition of "This Proceeding".* For the purposes of this Protective Agreement, the phrase "This Proceeding" shall only include KPSC Docket No. 99-218 and any appeals thereof.

16. *Damages.* Because the Third-Party Confidential Information represents substantial commercial value to the current and future business of the Third Parties, the parties agree that any material disclosure of the Third Party Confidential Information may result in substantial damages to the commercial operations of the Third Parties. In the event that Third Party Confidential Information is disclosed in violation of this Protective Agreement by any employee, agent, attorney, expert or consultant for a party to this Protective Agreement, then such party agrees that it will serve as a guarantor for the payment of any damages caused by the violation. The parties agree to submit to the jurisdiction of state or federal courts within the State of Kentucky.

17. *Counterparts.* This Protective Agreement may be executed by one or more parties to this Protective Agreement on any number of separate counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument binding on and inuring to the benefit of each

party so executing this Protective Agreement with the same effect as if all such parties had signed the same instrument at the same time and place.

Dated: \_\_\_\_\_, 1999

MIDDLETON & REUTLINGER

BELLSOUTH TELECOMMUNICATIONS, INC.

Counsel for:

ICG TELECOM GROUP, INC.

By: \_\_\_\_\_

By: Creighton E. Mershon Sr.  
Creighton E. Mershon, Sr.  
(Print Name)

(Print Name)

(Print Name)

Title: \_\_\_\_\_

Title: General Counsel - Kentucky

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

**CERTIFICATE OF AUTHORIZED REVIEWING REPRESENTATIVE**

BEFORE ME , the undersigned authority, duly Commissioned and qualified in and for the State and County aforesaid, personally came and appeared \_\_\_\_\_  
\_\_\_\_\_(insert name), who, being by me first duly sworn, deposed and said as follows:

I certify my understanding that Confidential Protected Materials are provided to me pursuant to the terms and restrictions of the Protective Agreement in Kentucky Public Service Commission Docket No. 99-218, that I have been given a copy of and have read the Protective Agreement, and that I agree to be bound by it. I understand that the contents of " Confidential Information", and any notes, memoranda, or any other form of information regarding or derived from Confidential Information shall not be disclosed to anyone other than in accordance with the Protective Agreement and shall be used only for the purposes of the proceedings in Docket No. 99-218.

Signature:

\_\_\_\_\_

Date of Execution: \_\_\_\_\_  
(Type or Print below)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Requesting Party: \_\_\_\_\_

SWORN TO AND SUBSCRIBED BEFORE ME on this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
(NOTARY PUBLIC)

(SEAL)

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 14th day of October 1999.

  
Creighton E. Mershon, Sr.

SERVICE LIST - PSC 99-218

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BellSouth Telecommunications, Inc.  
Kentucky Public Service Commission  
Docket No. 99-218  
ICG's 1<sup>st</sup> Data Requests  
September 29, 1999  
Item No. 95 **ATTACHMENT**

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

3 Public Pages  
164 Confidential Pages

Redacted versions do not include proprietary pages.

## LightGate® Service

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### Section 1 - Introduction and Overview

LightGate® service is a high capacity digital transport service consisting of DS3, DS1, and OC3 Channels. LightGate® service local channels are provided in three system sizes: OC-1 service systems, OC-3 service systems and OC-12 service systems. Interoffice channels are provided in two system sizes, OC-1 and OC-3 service systems.

This is a three year levelized incremental cost study. The costs are developed on a monthly and nonrecurring basis. Monthly costs are based on a 13.20% cost of money.



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### Section 3 - Description of Procedures

#### Monthly Cost Development

Monthly costs result from the capital investment necessary to provide a service. The first step in developing a recurring cost study is to determine the forward looking network architecture. Material prices for the equipment are defined. In plant factors are applied to material prices to develop installed investments which include engineering and installation labor. Deployment probabilities and utilization are also considered. Plant account specific Levelized Inflation Factors are applied to the installed investments to trend the base year, or study year, investments to levelized amounts that are valid for a three year planning period. Miscellaneous common equipment and power factors, as well as land and building loading factors, are applied to the installed investments. Next, annual cost factors are used to calculate the direct cost of capital, plant specific expenses and taxes. Annual Costs for both reusable and nonreusable investments are developed from annual cost factors based on location life per contract period. Account specific factors for each field reporting code are applied to these levelized investments by account code, yielding an annual cost per account code. Annual costs by account code are then summed and divided by twelve to arrive at a monthly cost.

#### Nonrecurring Cost Development

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 cost element. The work functions can be grouped into four categories. These are service order, engineering, connect and test, and technician travel time. The work function times, as identified by individuals knowledgeable about and/or responsible for performing these functions, are used to describe the flow of work within the various work 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.

Utilizing work functions, work times, and directly assigned labor rates, disconnect costs are calculated in the same manner as the installation costs. Since the labor costs will occur in the future, the current 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 and gross receipts tax is applied to develop the nonrecurring cost.

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### Section C - Rationale for Proprietary Classification

The cost study for this service is classified proprietary because public disclosure of this information would provide BellSouth's competitors with an 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 cost study is considered proprietary.