

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